

March 27, 2024

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
District of Columbia, 20580

Dear Chair Khan,

In February 2024, U.S. Senator Edward Markey wrote to the Federal Trade Commission (“FTC”) urging the agency to launch an investigation of the auto industry’s privacy practices.¹ The National Consumers League (“NCL”), the nation’s pioneering consumer and worker advocacy organization, echoes this request that the FTC investigate the commercial surveillance practices of vehicle manufacturers and act to protect consumers’ data privacy.

Modern cars can collect an enormous amount of private data, from the locations they frequent to the messages on their phone. The Mozilla Foundation’s review of 25 car brands’ data practices found the auto industry to be the worst category of products for privacy the Foundation ever reviewed.² Albert Fox Cahn of Harvard’s Carr Center for Human Rights Policy called cars “wiretaps on wheels.”³ Most consumers are unaware of this surveillance, which manufacturers “explain” and “disclose” via fine print agreements.

Drivers are often surprised to learn that their vehicle tracks their driving habits and the companies may share this data with third parties, including insurance companies. One

¹ “Senator Markey Urges FTC to Investigate Invasive Data Privacy Practices of Automakers,” *United States Senator Ed Markey*, February 28, 2024. <https://www.markey.senate.gov/news/press-releases/senator-markey-urges-ftc-to-investigate-invasive-data-privacy-practices-of-automakers>

² “It’s official: Cars Are the Worst Product Category We Have Ever Reviewed for Privacy,” *Mozilla Foundation*, September 6, 2023. <https://foundation.mozilla.org/en/privacynotincluded/articles/its-official-cars-are-the-worst-product-category-we-have-ever-reviewed-for-privacy/>

³ “Carmakers are failing the privacy test. Owners have little or no control over data collected,” *CBS News*, September 6, 2023. <https://www.cbsnews.com/sacramento/news/carmakers-fail-privacy-test-give-owners-little-or-no-control-on-personal-data-they-collect/>

consumer was shocked to learn that a 21% increase in his insurance costs was attributed to more than 130 pages containing data collected from his last six months of driving.⁴ Manufacturers are not limited to monitoring just driving-related data; they are also able to intercept and record consumers' private messages and call logs, apparently without limitation.⁵

Instances where drivers are talked into the monitoring in exchange for a chance at lower premiums without knowing the full level of data-gathering that this will trigger are problematic as well. Consumers may consent to the installation of an insurance tracker in their vehicle, believing that providing access to their data will result in cheaper insurance costs despite there being no such guarantee.⁶ Once companies collect drivers' data, there is an absence of laws or protections to regulate the transfer of those data. Data brokers have been known to sell consumer data to anyone who will pay for it—including fraudsters, allowing them to better target potential victims.⁷

The spread of insurance trackers may result in a concerning divide in privacy rights for drivers, with one class of consumers who decline the discount because the invasion of privacy is unacceptable and can afford the higher costs and another class of consumers who need to take advantage of savings, however small, and so sacrifice their privacy for a potentially lower premium. Drivers who may not be able to afford the higher tier of privacy protections would likely be increasing their risk of data-based exploitation, particularly by

⁴ "Automakers Are Sharing Consumers' Driving Behavior With Insurance Companies," *New York Times*, March 11, 2024. <https://www.nytimes.com/2024/03/11/technology/carmakers-driver-tracking-insurance.html>

⁵ "Your car can keep collecting your data after a judge dismissed a privacy lawsuit," *The Verge*, November 9, 2023. <https://www.theverge.com/2023/11/9/23953798/automakers-collect-record-text-messages-federal-judge-ruling>

⁶ "How Do Those Car Insurance Tracking Devices Work?" *U.S. News & World Report*, January 26, 2024. <https://www.usnews.com/insurance/auto/how-do-those-car-insurance-tracking-devices-work>

⁷ "Marketing Company Agrees to Pay \$150 Million for Facilitating Elder Fraud Schemes," *U.S. Department of Justice*, January 27, 2021. <https://www.justice.gov/opa/pr/marketing-company-agrees-pay-150-million-facilitating-elder-fraud-schemes>; "Principal Deputy Assistant Attorney General Brian Boynton Delivers Remarks at White House Roundtable on Protecting Americans from Harmful Data Broker Practices," *U.S. Department of Justice*, August 15, 2023. <https://www.justice.gov/opa/speech/principal-deputy-assistant-attorney-general-brian-boynton-delivers-remarks-white-house>

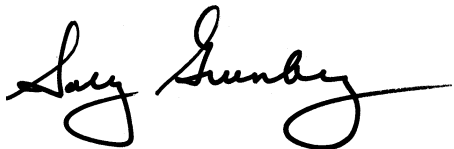
the hands of companies seeking profits from selling their customers' data, including to scammers who too often purchase consumer information from data brokers.

As digitally connected vehicles become more commonplace, the risks they pose to consumer privacy will only grow—absent regulatory and legal safeguards. NCL urges the FTC to investigate vehicle makers' commercial surveillance practices and to protect consumers' data privacy rights, particularly when auto companies facilitate the sale of deeply personal consumer information without the customers' knowledge and informed consent.

Thank you for your attention to our concerns.

Sincerely,

Sally Greenberg
Chief Executive Officer
National Consumers League

A handwritten signature in black ink, appearing to read "Sally Greenberg". The signature is fluid and cursive, with a long horizontal stroke extending to the right from the end of the name.