

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of General Motors LLC, General Motors Holdings LLC, and OnStar, LLC
File No. 2423052

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from General Motors LLC, General Motors Holdings LLC, and OnStar, LLC (collectively “Respondents”).

The proposed consent order (“Proposed Order”) has been placed on the public record for 30 days for receipt of public comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement, along with the comments received, and will decide whether it should make the Proposed Order final or withdraw from the agreement and take appropriate action.

Respondent General Motors LLC is a Delaware limited liability company with its principal office or place of business at 300 Renaissance Center in Detroit, Michigan 48243. General Motors LLC is a wholly owned subsidiary of General Motors Company, a Delaware corporation. Respondent General Motors Holdings LLC is a Delaware limited liability company with its principal office or place of business at 300 Renaissance Center in Detroit, Michigan 48243. General Motors Holdings LLC is a wholly owned subsidiary of General Motors Company, a Delaware corporation. Respondent OnStar, LLC is a Delaware limited liability company with its principal office or place of business at 400 Renaissance Center in Detroit, Michigan. OnStar, LLC is a wholly owned subsidiary of General Motors Company, a Delaware corporation 48243. Respondents manufacture and sell vehicles under the Chevrolet, GMC, Cadillac, and Buick brands (collectively, the “GM-branded” vehicles) in the United States. Respondents offer connected car services for GM-branded vehicles under the OnStar brand.

Respondents collect precise geolocation and driver behavior data from the GM-branded vehicles and then use and sell that data to third parties. Respondents do not obtain consumers’ specific consent for using precise geolocation and driver behavior data and sell that same data to third parties, including consumer reporting agencies that compile consumer reports with the data for insurance purposes. As a result of these practices, consumers have experienced loss of auto insurance coverage, unexpected increases in insurance premiums, as well as the loss of privacy about sensitive locations they visit and their day-to-day movements.

The Commission’s proposed a two-count complaint alleges that Respondents violated Section 5(a) of the FTC Act by (1) unfairly using and disclosing precise geolocation and driver behavior data without taking reasonable steps to obtain consumers’ affirmative express consent prior to collection, and (2) deceptively failing to disclose Respondents’ uses and disclosure of that same data. With respect to the first count, the proposed complaint alleges that Respondents do not obtain affirmative express consent to sell consumers’ precise geolocation and driver behavior data to third parties, including consumer reporting agencies. The proposed complaint alleges that this practice caused, or is likely to cause, substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers themselves. With respect to the second count, the proposed complaint alleges that Respondents’ failure to disclose their actual use and sharing of drivers’ precise

geolocation and driver behavior data was deceptive; Respondents did not disclose to consumers that it would be sharing this data with third parties, including consumer reporting agencies for insurance purposes, which led to consumers being denied auto insurance coverage and having their auto insurance premiums increased.

Summary of Proposed Order with Respondents

The Proposed Order contains injunctive relief designed to prevent Respondents from engaging in the same or similar acts or practices in the future.

- **Provision I** prohibits Respondents for five years from sharing certain geolocation and driver behavior data with consumer reporting agencies.
- **Provision II** requires Respondents to obtain affirmative express consent prior to the collection, use, and sharing of certain geolocation and driver behavior data. This provision includes carve-outs for, among other things, responding to consumer-initiated communication, safety-enhancing research and development, diagnostics and prognostics, and providing necessary information in case of an emergency.
- **Provision III** requires that Respondents provide consumers the ability to withhold or withdraw affirmative express consent to the collection, use, and sharing of certain geolocation and driver behavior data.
- **Provision IV** limits Respondents' data collection to that which is reasonably necessary to fulfill the specific purpose for which it was collected.
- **Provision V** requires Respondents to create a retention schedule for certain geolocation and driver behavior data they collect that is tied to the purpose for which the data is collected, the business need for retaining it, and the timeframe for deleting it.
- **Provision VI** requires Respondents to delete certain geolocation and driver behavior data previously collected without consumers' affirmative express consent. It also provides Respondents the opportunity to obtain consumers' affirmative express consent to retain previously collected geolocation and driver behavior data. This provision includes exceptions for safety, warranties, prognostics and diagnostics, legal or regulatory requirements, and research and development.
- **Provision VII** requires Respondents to provide all consumers the ability to request a copy of their geolocation and driver behavior data and to request that such data be deleted.
- **Provision VIII** requires Respondents to request third parties with whom it has previously shared certain geolocation and driver behavior data to delete that data and to not engage in further sharing with third parties that fail to respond to such requests.
- **Provision IX** requires Respondents to ensure consumers can disable collection of precise geolocation data from their vehicles. The provision includes exceptions for emergency response and responding to consumer-initiated requests.

- **Provision X** provides consumers the ability to fully opt out of collection of all data with narrow exclusions for consumer-initiated communication, safety, and over-the-air updates. This provision is unique to the Proposed Order.
- **Provision XI** prohibits Respondents from misrepresenting information regarding their collection, use, sharing, and deletion of consumers' geolocation and driver behavior data.
- **Provisions XII-XV** are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondents to provide information or documents necessary for the Commission to monitor compliance.
- **Provision XVI** states that the Proposed Order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the Proposed Order, and it is not intended to constitute an official interpretation of the complaint or Proposed Order, or to modify the Proposed Order's terms in any way.