

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Rebecca Kelly Slaughter
 Alvaro M. Bedoya
 Melissa Holyoak
 Andrew Ferguson

DECISION AND ORDER

In the Matter of

DOCKET NO. C-

**GENERAL MOTORS LLC, a limited liability
company;**

**GENERAL MOTORS HOLDINGS LLC, a
limited liability company; and**

ONSTAR, LLC, a limited liability company.

DECISION

The Federal Trade Commission (“Commission”) initiated an investigation of certain acts and practices of the Respondents named in the caption. The Commission’s Bureau of Consumer Protection (“BCP”) prepared and furnished to Respondents a draft Complaint. BCP proposed to present the draft Complaint to the Commission for its consideration. If issued by the Commission, the draft Complaint would charge the Respondents with violations of the Federal Trade Commission Act.

Respondents and BCP thereafter executed an Agreement Containing Consent Order (“Consent Agreement”)

conformity with the procedure prescribed in Rule 2.34, the Commission issues its Complaint, makes the following Findings, and issues the following Order:

Findings

1. The Respondents are:

a. Respondent General Motors LLC, 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.

b. Respondent General Motors Holdings LLC, 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.

c. Respondent OnStar, LLC, a Delaware limited liability company with its principal office or place of business at 400 Renaissance Center in Detroit, Michigan 48243. OnStar, LLC is a wholly owned subsidiary of General Motors Company, a Delaware corporation.

2. The Commission has jurisdiction over the subject matter of this proceeding and over the Respondents, and the proceeding is in the public interest.

ORDER

Definitions

For purposes of this Order, the following definitions apply:

A. **“Affiliate”**

consent. The Clear and Conspicuous Disclosure must be separate from any “privacy policy,” “terms of service,” “terms of use,” or other similar document.

The following do not constitute Affirmative Express Consent:

1. Inferring consent from the hovering over, muting, pausing, or closing of a given piece of content by the consumer; or
 2. Obtaining consent through a user interface that has the effect of subverting or impairing user autonomy, decision-making, or choice.
- C.

D. **“Consumer Reporting Agency”** means

from basic service set identifiers (“BSSIDs”), WiFi Service Set Identifiers (“SSID”) information, or Bluetooth receiver information, or any unique

Provided further, however, nothing in this Provision II limits in any way the prohibition in Provision I above, titled Five-Year Prohibition Against Disclosure of Covered Driver Data to Consumer Agencies.

III. Withholding or Withdrawing Affirmative Express Consent

IT IS FURTHER ORDERED that Respondents and Respondents' officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, must not limit a U.S. consumer's ability to withhold or withdraw Affirmative Express Consent for the collection or use of Covered Driver Data, such as by degrading the quality or functionality of a product or service as a penalty for withholding or withdrawing such Affirmative Express Consent, unless the collection and use of Covered Driver Data is technically necessary to providing the quality or functionality of the product or service without such degradation.

IV. Data Minimization Requirement

IT IS FURTHER ORDERED that Respondents

C. Within 180 days of the entry of this Order, Respondents shall provide a written statement to the Commission, pursuant to Provision XIII, titled Compliance Reports and Notices, describing the retention schedules created pursuant to Provisions V.A. & B. of this Order; and

D. Prior to collecting or using any new type of Covered Driver Data that was not being collected as of the entry of this Order, Respondents must update their retention schedules created pursuant to and in compliance with Provisions V.A. & B. of this Order.

VI. Deletion of Prior-Retained Covered Driver Data

IT IS FURTHER ORDERED that Respondents and Respondents' officers, agents, and employees, who receive actual notice of this Order, whether acting directly or indirectly, must:

A. Within 180 days of the effective date of this Order, Delete or destroy all prior-retained Covered Driver Data, except when Covered Driver Data is retained for and necessary to fulfill the following purposes: (a) litigation holds; (b) to comply with lawful governmental requests, regulatory requirements, and legal orders, or for use to prepare for or defend against product liability, breach of contract, consumer protection, or warranty claims; (c) to perform diagnostics and prognostics of components of the Vehicle; (d) to conduct research or efforts to improve, repair, enhance safety of, or develop products, services, or technology, *provided, however*, that (1) only Deidentified Covered Driver Data is disclosed to Third Parties to fulfill this purpose; and (2) marketing is excluded from this purpose; and (e) to conduct investigations of potential product quality or safety issues; to determine or effectuate Vehicle field actions, including customer satisfaction campaigns, technical service bulletins, compliance recalls, and safety recalls; to detect or respond to cybersecurity incidents; or to administer and fulfill Vehicle warranties.

Provided, further, however, Respondents shall have, within 90 days of the effective date of this Order, the option to request Affirmative Express Consent from consumers whose Covered Driver Data was collected and retained prior to the entry of this Order. Respondents will Delete such prior-retained Covered Driver Data where (1) a consumer does not provide or has not already provided in or after July 2024 their Affirmative Express Consent; (2) the consumer does not respond to the request within 30 days after the request is made; or (3) the data has not been Deidentified; and

B. Within 180 days of the effective date of this Order, provide a written statement to the Commission, pursuant to Provision XIII.E., confirming that all such information has been Deleted or destroyed.

VII. Consumer Requests to Obtain Copies of and to Delete Covered Driver Data

IT IS FURTHER ORDERED that Respondents, Respondents' officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, must maintain a simple, easily-located means for all U.S. consumers to request a copy of their Covered Driver Data and to request that Respondents Delete their Covered Driver Data, *provided, however*, Respondents may avail themselves of their rights, exceptions, and exemptions existing under federal law or

each requesting consumer's respective state laws. Respondents may require consumers to provide Respondents with information necessary to complete such requests but must not use, provide access to, or disclose any information collected for the request for any other purpose.

VIII. Deletion Request to Data Sharing Partners

IT IS FURTHER ORDERED that Respondents, Respondents' officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, must:

- A. Request from Third Parties with whom Respondents shared Covered Driver Data to Delete such data, except when subject to legal or regulatory requirements (including litigation holds); and
- B. Not sell or share data with any Third Party with whom Respondents previously shared Covered Driver Data until that Third Party confirms receipt of the instructions requesting it to Delete all Covered Driver Data previously obtained from Respondents.

IX. Disabling Location Setting

IT IS FURTHER ORDERED that Respondents and Respondents' officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, must allow consumers to disable the collection of Location Data from their Vehicles to the extent the Vehicle is equipped with the necessary technology, which may be accomplished by providing a mechanism (such as a toggle on the Vehicle) in the Vehicle for U.S. consumers to disable the collection of Location Data, *provided, however*, that even if the collection of Location Data is disabled on the Vehicle, Respondents may:

- A. Respond to a consumer-initiated communication originating from within the Vehicle, or an App, where Location Data may be collected, used, or disclosed only to provide that response;
- B. Respond to a Vehicle-initiated communication related to either the safe operation of that Vehicle or a theft-related alert, where Location Data may be collected, used, or disclosed only to provide that response; and
- C. Comply with lawful governmental requests, regulatory requirements, and legal orders, where Location Data may be collected, used, or disclosed as necessary for legal compliance.

X. Declining Enrollment in OnStar

IT IS FURTHER ORDERED that Respondents and Respondents' officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, must allow consumers to disable the Respondents' remote collection of all data from their Vehicles if consumers decline to enroll

or unenroll in OnStar, *provided, however*, that even if the consumer declines to enroll or unenrolls in OnStar, Respondents may:

A. Respond to a consumer-initiated communication originating from within the Vehicle, where data may be collected, used, or disclosed only to provide that response;

B. Respond to a Vehicle-initiated communication related to the safe operation of that Vehicle, where data may be collected, used, or disclosed only to provide that response((th1 (d)1 (i8)5 c 6)c-3 ,

all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Provision titled Compliance Reports and Notices. Delivery must occur within 10 days after the effective date of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Respondent delivered a copy of this Order, that Respondent must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

XIII. Compliance Reports and Notices

IT IS FURTHER ORDERED that Respondents make timely submissions to the Commission:

A. One year after the issuance date of this Order, each Respondent must submit a compliance report, sworn under penalty of perjury, in which each Respondent must: (1) identify the primary physical, postal, and email address and telephone number, as designated points of

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In re General Motors.

XIV. Recordkeeping

IT IS FURTHER ORDERED that Respondents must create certain records for 20 years after the issuance date of the Order, and retain each such record for 5 years. Specifically, Respondents must create and retain the following records:

A. Accounting records showing the revenues from all OnStar goods or services sold, and all goods or services related to Covered Driver Data sold, the costs incurred in generating

XV. Compliance Monitoring

By the Commission & RPPLVVLRRHUVRORDNDQHUIXVRQHFRUGHGDVDEVH

April J. Tabor
Secretary