January 9, 2020

The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science and Transportation
U.S. Senate
Washington, DC 20510

Dear Senator Cantwell:

I am writing on behalf of NAFA Fleet Management Association (NAFA) to provide comments on the draft “Consumer Online Privacy Rights Act.”

NAFA represents more than 2,000 individual fleet manager Members who are employed by corporations, universities, government agencies (federal, state, municipal, provincial), utilities, and any other entity that uses vehicles in its normal conduct of business or needs to move people or goods from one place to another.

The fleets managed by NAFA’s Members run the gamut from light-, to medium-, and even heavy-duty vehicles, including sedans, vans, emergency response vehicles, utility trucks, delivery vehicles, buses, and specialized equipment.

When an employer provides a motor vehicle to an employee as a condition of employment, the employer remains responsible and liable for the operation of the vehicle. Therefore, NAFA believes the employer must be able to monitor how and where the vehicle is operated.

NAFA urges that federal privacy legislation reflect the following principles:

1. NAFA agrees that the term “covered data” should include an exclusion for “employee data.”

2. NAFA recommends that the definition of “employee data” means information that is collected processed or transferred by the employer for purposes related to the individual’s status as an employee rather than information solely necessary for the individual’s employment.

Vehicle-generated data is essential for the safe and efficient operation of company vehicles. To limit the “employee data” exclusion to data “solely necessary for the individual’s employment” would unreasonably restrict the ability of an employer to collect and process vehicle data. This is because the vehicle data collection is not solely needed for the individual’s employment, but is also necessary for public safety, for the employee and employer’s protection, and for efficient use of company property.
Therefore, NAFA suggests utilizing the term “solely related to” the individual’s status as an employee. Vehicle-generated data directly relates to the individual’s status as an employee driving a company vehicle and, thus would be included in the “employee data” exclusion.

3. NAFA recommends that the employer have a transparent written driver policy that clearly outlines how vehicle data, including driver behavior, will be generated, accessed, and used. The policy should explain expectations for what metrics the company will use to rate driving behavior and what the rewards and/or consequences are for following or ignoring these expectations.

4. NAFA recommends that as a condition of employment, a driver should acknowledge and accept the employer’s driving policy.

5. NAFA recommends that contractual agreements with third parties should provide that personally identifiable vehicle-generated data is expressly intended for use solely by the fleet vehicle owner or lessee and shall not be used or shared for any other purpose.

Discussion; Vehicle-generated data is an integral part of fleet management. The fleet manager relies on telematics to collect vehicle data to manage the fleet efficiently. Telematics can monitor the location, movement, and status of a vehicle and the driving behavior of a driver. Telematics can tell when a vehicle starts and shuts down, as well as its idling status, location, and speed. Frequent incidents of harsh braking, speeding, and "jackrabbit starts" can all be indications of distracted driving.

Location data can be used to plan daily or weekly routes and improve efficiency and customer service by proactively updating the customer if the driver is ahead of or falling behind schedule.

By monitoring driving behaviors, as well as vehicle health and maintenance intervals, telematics help minimize collisions, speeding tickets, and downtime. Improved driver safety is the goal of every fleet manager. Telematics can help identify unsafe driving practices and then target those habits for training, rather than relying on a general safety seminar. With the ability to track fleet vehicles in real-time the fleet manager is also given the ability to track vehicles that are stolen, used without authorization, or cross a predetermined geographic boundary.

Thank you for your consideration of NAFA’s comments. If your staff has any questions, please feel free to have them contact NAFA’s U.S. Legislative Counsel Patrick O’Connor at 703-351-6222 or by email at patoconnor@kentoconnor.com.

Sincerely,

Bill Schankel
Interim Chief Executive Officer

cc: The Honorable Ed Markey
The Honorable Amy Klobuchar
The Honorable Brian Schatz