Intelligent Car Coalition

August 24, 2016

Intelligent Car Coalition
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Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-B204
Washington, DC 20554

RE: Opposition to Petition for Rulemaking and Request for Emergency Stay of Operation of Dedicated Short-Range Communications Service in the 5.850-5.925 GHz Band (5.9 GHz Band)

RM-11771

The Intelligent Car Coalition (ICC) respectfully submits these comments in opposition to the Petition for Rulemaking and Request for Emergency Stay of Operation filed by Public Knowledge and the Open Technology Institute and asks that their requests be denied.

I. Introduction.

The merging of communications technologies with automotive transportation is creating exciting opportunities to make us safer on the roads, reduce our carbon footprints, and improve our quality of life. The ICC was formed to address public policy questions created in this new space.

The ICC gathers leading stakeholders in the automotive, communications and technology industries for cross-industry discussions of policy issues and advocates for innovations in intelligent vehicles, including advanced connected and autonomous technologies. We believe in the benefits of intelligent car technologies not just for

individual consumers, but also for our society as a whole, and we want public policies that speed beneficial technologies to market.[1]

The ICC is concerned that expansion of the Federal Communications Commission's (FCC) jurisdiction by conducting a rulemaking to establish privacy and cyber security rules for Dedicated Short Range Communications (DSRC) as advocated by the Petitioners is not only unauthorized but will also disrupt efforts to find solutions to critical public policy issues and slow the deployment of life-saving technologies.

II. The FCC Is Not the Correct Entity to Oversee Automotive Cybersecurity and Privacy.

DSRC systems for V2V do not transmit, collect, or store any information that is linked to a person or vehicle. Therefore, this information does not fall within the FCC's Customer Proprietary Network Information (CPNI) rules, nor does it fall into the FCC's proposed Customer Proprietary Information (CPI) rules.

DSRC for V2V uses a Public Key Infrastructure (PKI) based security system, which incorporates security and privacy by design. The system requires DSRC messages to contain certificates to authenticate that the message was sent from a certified device and not modified from transmission to reception of the message. To protect privacy, certificates are not linked to the Vehicle Identification Number (VIN) or any other PII.[2]

Automotive cyber security and privacy issues are, however, being handled by the National Highway Safety Traffic Administration (NHTSA) and the Federal Trade Commission (FTC). Both of these agencies have been involved in the regulation of automotive data privacy and security matters, as discussed in more detail below.

III. The Consumer is at the Center of the Merging Automotive, Telecommunications, and Technology Ecosystems.

The consumer's role in the vehicle industry is fundamentally different than it was in the past, much of which is owed to the fact that intelligent automotive technologies are generally based on digital, rather than mechanical, systems.

One of the main advantages of digital technologies is the speed with which they can be created and altered. Digital technologies can be created on far faster timelines, and modified with precise feedback. In this new marketplace,

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[1] For more information about the Intelligent Car Coalition, see http://intelligentcarcoalition.org/about/our-story/

[2] *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, Notice of Proposed Rulemaking, 31 FCC Rcd 2500 (2016) ("*Broadband Privacy NPRM*").

products are more tailored to – and under the power of – consumers, who can interface with them both more directly and more extensively than in the past.

In addition, this new marketplace has attracted companies that compete to provide an expanding array of services by leveraging these digital technologies. In turn, this competition expedites development of even more technologies. In other words, the pace at which many of these technologies can be created and modified to fit the consumer – combined with consumers' power to personalize the driving experience and the increased market presence of companies willing to create new solutions for drivers – means that consumers are now placed at the center of the automotive value chain.[3]

IV. Cross-Sector Industry Stakeholders Have Taken Proactive Steps To Resolve Challenges and Have Specifically Addressed Security and Privacy.

There are benefits to this faster-moving, more consumer-oriented space. For instance, enhanced consumer demand has sped the deployment of better and more affordable safety and security technologies, as well as protections from privacy and cyber threats.

Take the case of driver assist technologies – which are the first steps to bringing autonomous functions to vehicles. Automakers and suppliers have competed to add more assisted features to vehicles in order to keep up with consumer demand. These innovations improve safety for drivers, passengers, and roadway users.[4]

The intelligent vehicle industry has adopted collaborative methods of policy resolution – well-known in the tech industry – that speed technologies to consumers. For instance, automotive, communications, and technology stakeholders are voluntarily working together in the Automotive Information Sharing and Analysis Center (Auto-ISAC) to facilitate the exchange of important cyber threat information and countermeasures in real-time. The Auto-ISAC was formed independently by industry to stay ahead of the evolving threats in cyberspace, and includes not just vehicle manufacturers, but suppliers and communications providers as well.[5]

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[3] *See The Shifting Competitive Balance in the Automotive-Supply Industry*, Nikolaus Lang, Brian Collie, and Bob Zhai (June 24, 2015) https://www.bcgperspectives.com/content/articles/globalization-automotive-shifting-competitive-balance-automotive-supply-industry/. *See also* a similar discussion on consumers and their place in the smartphone value chain was written by Jonathan Sallet, "The Creation of Value: The Broadband Value Circle and Evolving Market Structures," April 4, 2011.

[4] *Testimony of Mitch Bainwol, President and CEO of the Alliance of Automobile Manufacturers* before the U.S. House of Representatives Judiciary Committee, Subcommittee on the Courts, Intellectual Property and the Internet, Internet of Things (July 29, 2015).

[5] https://www.automotiveisac.com/

By the same token, automakers recently released a framework for cyber security best practices.[6] This document shows automakers' ongoing commitment to providing peace of mind to consumers by gathering to resolve potential problems before they happen, and designing security into their systems.

Yet another example of proactive solution-drafting by industry comes in the case of privacy, where auto companies worked together to create the Consumer Privacy Protection Principles in 2014.[7] The Privacy Principles are rules of the road that detail how automakers will use and protect vehicle-generated consumer data, and focus on transparency, choice, data minimization, de-identification and retention, data security, accountability, and more.

V. FCC Regulation in this Space Does Not Benefit Consumers.

Companies are well incentivized to resolve matters that could become problems for consumers before they experience them. The drive to gain consumer trust and promote adoption of new technologies, combined with motivation to create certainty in a policy world now occupied with multiple and sometimes overlapping regulators of jurisdiction, has pushed stakeholders to create solutions for consumers.

The FCC's regulatory expertise and rulemaking procedures are not geared toward the goal of ensuring safety in the process of getting automotive technologies on the road. These machines are technologically sophisticated, with many systems, both digital and mechanical, that interact. They are communications-enabled platforms, but one upon which other technologies reside – everything from navigation software, cameras, sensors, and entertainment content delivery systems, to critical functions such as brakes and steering.

Intelligent vehicle innovations will provide widely-felt benefits. Until now, most connected technologies benefitted only the consumers that bought them and used them. But intelligent vehicles have the potential to spread their benefits to all of society – not just their owners. For instance, vehicles equipped with driver assist technologies can avoid crashes, saving innocent lives. By avoiding a crashes, this technology can avoid traffic jams and reduce emissions.[8]

These vehicles will save lives, time, money, and fuel; they are more than mere conveniences or consumer toys. These powerful societal benefits – achieved by incentivizing individuals' behaviors to benefit the rest of society – have been difficult to achieve in the past relying solely on laws and regulations aimed at restricting individuals and

[6] *Automotive Cybersecurity Best Practices* Executive Summary (July 2016). https://www.automotiveisac.com/best-practices/
[7] *Consumer Privacy Protection Principles*, Alliance of Automobile Manufacturers, Assoc. of Global Automakers (Nov. 2014). file:///C:/Users/Catherine%20McCullough/Downloads/ConsumerPrivacyPrinciplesforVehicleTechnologiesServices.FINAL..pdf
[8] "U.S. Department of Transportation Releases Policy on Automated Vehicle Development," Press Release, National Highway Traffic Safety Administration (May 30, 2013).

industries' actions. So when technologies are developed that "reward" individuals for doing what is in the best interest for the group, it is something we should all support.

Adding the FCC as a regulator in this space may only increase consumer confusion. Most consumers are not familiar with multiple federal agencies, their realms of jurisdiction, or the different legal frameworks used to resolve policy matters. When the power to address consumers' concerns is spread into different and sometimes overlapping federal agencies and Congressional subcommittees of jurisdiction, it is difficult to understand how consumers will feel comfortable or empowered by being forced to address all of those entities individually to help them resolve issues in different parts of their vehicle's ecosystems.

Most importantly, adding yet another layer of governmental review to the development of intelligent vehicle technologies will certainly add time to the product creation and deployment process. This is more than an inconvenience to companies and consumers. Proceedings that slow the introduction of potentially life-saving technologies to the marketplace will, statistically, reduce the number of lives that could be saved on the road every year.

For instance, autonomous vehicles have enormous potential to increase the safety of the American public through advances in crash avoidance. The federal government estimates say that as many as 94% of all car accidents are caused by human error.[9] But several years ago, the Eno Center for Transportation released a paper projecting that if only 10 percent of all vehicles in the United States were self-driving, the number of accidents each year would be cut by 211,000, and 1,100 lives would be saved.[10]

VI. Conclusion.

We are now seeing dramatic changes to the technologies we use to get from one place to another. With consumers at the center of this new world, we will continue to see rapid innovation that will save lives, save time, save money, and save fuel, and ushering in an exciting, more productive era of transportation. The transportation, communications and technology industries understand what consumers in this space want from them – the deployment of vehicles that are safer, secure, and respect their privacy.

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[9] *Traffic Safety Facts: Critical Reasons for Crashes Investigated in the National Motor Vehicle Crash Causation Survey*, National Highway Traffic Safety Administration, U.S. Department of Transportation (Feb. 2015); *Traffic Safety Facts 2013: A Compilation of Motor Vehicle Crash Data from the Fatality Analysis Reporting System and the General Estimates System* U.S. Department of Transportation, National Highway Traffic Safety Administration.

[10] "Self-Driving Cars Could Save More than 21,700 Lives, $450B a Year," Lucas Mearian (Oct. 24 2013). http://www.computerworld.com/article/2486635/emerging-technology/self-driving-cars-could-save-more-than-21-700-lives-450b-a-year.html

The stakeholders in this space have been working proactively to give consumers what they want. The FCC should allow consumers to exercise their power, and not intervene. The ICC believes that the Petition for Rulemaking and Request for Emergency Stay of Operation filed by Public Knowledge and the Open Technology Institute is without merit and asks that their requests be denied.