

United States Senate

WASHINGTON, DC 20510

July 26, 2024

The Honorable Lina S. Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chair Khan:

We write to urge the Federal Trade Commission (FTC) to investigate automakers' disclosure of millions of Americans' driving data to data brokers, and to share new details about the practice uncovered in a recent oversight investigation. If the FTC determines that these companies violated the law, we urge you to hold the companies and their senior executives responsible.

Recent investigative stories published by the New York Times have raised public awareness into automakers' sharing of data from their customers' internet-connected cars with data brokers for subsequent resale to insurance companies. Although General Motors (GM) has been the focus of much of the news coverage, it is not the only auto manufacturer to have shared driver data. Senator Wyden's office conducted follow-up oversight into three auto manufacturers — GM, Honda, and Hyundai — that shared data with the data broker Verisk Analytics. Each of these three automakers confirmed their disclosure of drivers' data to Verisk, such as acceleration and braking data. GM also confirmed that it disclosed customer location data to two other companies, which it refused to name.

Verisk essentially acts as a credit agency for drivers. One of the company's products, which it shut down in April 2024 following New York Times' reporting, scored drivers on their safe driving habits using data from internet-connected cars. Automakers shared drivers' data with Verisk, which mined it to prepare Driving Behavior Data History Reports. Verisk sold these reports to auto insurance companies and also provided automakers with some of this information, including a driving score and safe driving suggestions, to provide to their customers. GM and Honda confirmed that they required consumers to enroll in a specific voluntary program, in which Verisk's role was obscured, before sharing their data. Hyundai enrolled all consumers who activated their new car's internet connection into the company's driving score program, which included sharing their data with Verisk.

General Motors

GM failed to obtain informed consent from consumers before sharing their data, and used manipulative design techniques, known as dark patterns, to coerce consumers into enrolling in its Smart Driver program, according to information the company provided Senator Wyden's office. The attached screenshots provided by GM show that the company combined the opt-in for its Smart Driver program with consent to receive important emails notifying the driver when their car's theft alarm goes off, and to receive safety reports identifying vehicle problems and necessary repairs. The lengthy disclosures presented by GM before the opt-in did not disclose to consumers that as part of enrolling in Smart Driver, their driving data would be shared with data brokers and resold to insurance companies.

GM declined to confirm how many cars' data it shared with data brokers — the New York Times reported 8 million vehicles — or the price it was paid. GM has publicly confirmed that between 2015 and 2024, it shared data from cars enrolled by drivers in the company's Smart Driver program with Verisk and, between 2018 and 2024, with LexisNexis Risk Solutions.

In addition to sharing data on drivers enrolled in its Smart Driver program to Verisk, GM also confirmed to Senator Wyden's staff that it shared location data on all drivers who activated the internet connection for their GM car, even if they did not enroll in Smart Driver. These disclosures of location data — to other, unnamed third parties — have been going on for years.

In a May 13, 2021 oversight call with Senator Wyden's staff which has not previously been made public, GM officials confirmed that the company was providing bulk, de-identified location data from GM cars to an unnamed commercial partner, which GM officials would not identify and referred to as "Company A." During that oversight call, GM confirmed it did not seek informed consent from consumers for sharing this data. Company officials told Senator Wyden's staff that the only way consumers could opt out of the data sharing was by disabling the car's internet connection entirely.

In a follow-up phone call three years later, on May 16, 2024, GM confirmed that it stopped sharing location data with Company A in May 2023. GM continues to refuse to identify this partner; however, Sky News reported in 2019 that GM provided an "in kind" investment of driver data to a British data broker named Wejo, alongside a cash investment in the company. Wejo shut down operations in May 2023, the same month and year that GM told Senator Wyden's office that it stopped providing location data to its unnamed partner.

During that May 16, 2024, follow-up call, GM officials also revealed that the automaker is now sharing customer location data with a different company, which they also refused to identify.

Honda

Between 2020 and 2024, Honda shared data from 97,000 cars with Verisk, which paid Honda \$25,920, or 26 cents per car, and it did so without obtaining informed consent from consumers, according to information Honda provided Senator Wyden's office. Consumers were not enrolled in this data sharing program automatically but had to enroll in an optional Driver Feedback program through the company's mobile app, according to Honda. The attached screenshots, which Honda provided, show the use of dark patterns that obscured Honda's disclosure of customer data to Verisk. On the enrollment screen, Honda asked consumers for consent for the company to track them so that it could determine the consumer's driving score and their eligibility for insurance discounts. Users who provided consent were then prompted to accept the company's lengthy legal terms, in which Honda stated that Verisk would receive the consumer's data. However, Honda buried the disclosures about its business relationship with Verisk, which did not appear on the first page, and were not likely to be seen by many consumers.

Hyundai

Between 2018 and 2024, Hyundai shared data from 1.7 million vehicles with Verisk, which paid Hyundai \$1,043,315.69, or 61 cents per car. Hyundai did not seek informed consent from consumers before sharing their data. Hyundai provided this information and other answers to questions posed by Senator Wyden's office, as well as screenshots of the enrollment process, which are attached. Hyundai confirmed that, by default, the company shared data with Verisk from consumers who enabled internet connectivity, by automatically enrolling those drivers in its Driving Score program without telling them. Hyundai required drivers to click through a consent form to enable the internet connection for a new car, but the company did not disclose that it would also share consumers' data with Verisk if they agreed. Once enrolled, drivers could disenroll from the program through the company's website or app.

Deceptive Claims Implied Driving Data Would Only Lower Insurance Bills

Some automakers may have also deceived consumers by exclusively advertising these programs as a way to lower their insurance bills, without revealing that some insurers might charge some drivers more based on their telematics data. Honda described its program to

consumers as a way to “get rewards for better driving” and that their information would be used to “determine your eligibility for insurance discounts.” Hyundai described its program as a way for consumers to “get rewarded for good driving habits” and that “Driving Score helps save you money.” But automakers could not guarantee that this data would only be used by insurance companies to provide discounts and that consumers would not pay more than if they had never enrolled in these programs. Moreover, Verisk officials confirmed to Senator Wyden’s office that the company’s contracts with automakers and insurers did not require that driver telematics data only be used to provide discounts.

Senator Wyden’s office spoke with a national expert at an insurance industry trade association, who confirmed that some insurance companies do in fact use driver data from telematics programs to raise premiums above the rate a consumer would have paid without telematics data. The insurance industry association expert also stated that only two states — Louisiana and Montana — currently prohibit the use of telematics data to raise insurance premiums, while California only permits telematics data to be used for mileage verification. Determining if insurance companies in fact used telematics data sold by Verisk to raise premiums, as opposed to using this data solely for discounts, would require a manual review of insurance industry filings to state insurance regulators, which are not easily searchable. However, Oregon’s state insurance regulator confirmed to Senator Wyden’s office that they are aware of insurers using telematics as a component in determining rates. They added that, in some cases, rates that incorporate telematics may result in higher premiums for consumers.

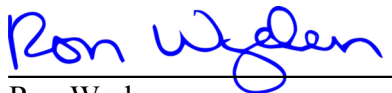
The problematic practices we have uncovered and documented in this letter are likely just the tip of the iceberg. We focused this recent oversight effort on automakers’ relationship with one specific data broker in order to determine if there is a problem that warrants further oversight by federal regulators. Verisk has publicly confirmed it sold driver data from three automakers, but the media has reported that other data brokers, like LexisNexis, are still selling driver data.

Companies should not be selling Americans’ data without their consent, period. But it is particularly insulting for automakers that are selling cars for tens of thousands of dollars to then squeeze out a few additional pennies of profit with consumers’ private data. The FTC has already taken action against data brokers that have committed unfair and deceptive acts or practices by selling location data obtained without consumers’ informed consent. Although two cases this year involved location data collected from smartphone apps, the same principle applies to location data collected from internet-connected cars. Moreover, given the potential harm to consumers from increased insurance prices, the same standard should apply to vehicle telematics data.

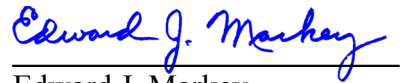
Accordingly, we urge the FTC to broadly investigate these auto industry practices. The FTC should hold accountable the automakers, which shared their customers' data with data brokers without obtaining informed consent, as well as the data brokers, which resold data that had not been obtained in a lawful manner. Given the high number of consumers impacted, and the outrageous manipulation of consumers using dark patterns, the FTC should also hold senior company officials responsible for their flagrant abuse of their customers' privacy.

Thank you for your attention to this important matter.

Sincerely,



Ron Wyden
United States Senator



Edward J. Markey
United States Senator

Appendix A

Documents from General Motors

Customer Review: You must continue to share your screen with your customer, so they can review the information below and ensure its accuracy.



2024 GMC Sierra Crew Cab 3Y
VIN: IGTPUCEKIR2335694

Demo Demo
olesd4@jopmail.com

⚠ The customer must personally review and accept (or decline) the terms below. **This action is legally binding** and cannot be done by dealer personnel.

User Terms for Connected Vehicle Services and Privacy Statement (collectively "OnStar®Terms")

In order to start your OnStar and Connected Services trial or pre-paid plan, you'll need to accept the following terms.

User Terms for Connected Vehicle Services Print

When You accept the User Terms during our sign-up process or when You access or use the Services, You agree to the following:

- You will only use the Services when it is safe to do so, and You will only use them in compliance with the law and these User Terms;
- If others use the Services through your user account or Vehicle, You will ensure that they only use the Services when it is safe to do so, and in compliance with the law and these User Terms;
- We may suspend or discontinue your access to some or all of the Services;
- We may remotely access, deliver, install, update, or change the software used to deliver the Services or used by your Vehicle systems without additional notice or consent;
 - You will notify us when You want to cancel your Services or when You plan to sell or dispose of your Vehicle;

Privacy Statement Print

**GENERAL MOTORS U.S. CONNECTED SERVICES
PRIVACY STATEMENT**
Last Updated: July 1, 2023

The General Motors family of companies (including General Motors Holdings LLC, General Motors LLC, OnStar LLC ("OnStar"), and each of their affiliates) (collectively, "GM" or "we" or "our" or "us") provides this U.S. Connected Services Privacy Statement ("Privacy Statement") to address the personal information we collect and how we use and share that information when you use our connected products or services, such as products and services offered through our vehicles, mobile applications, call centers, and vehicle infotainment systems (collectively, the "Connected Services"). This Privacy Statement does not apply to products and services covered under separate privacy statements that do not incorporate this Privacy Statement. For example, General Motors Financial Company may offer products or services under a separate privacy statement.

I acknowledge that I am the owner of this vehicle and am aware of and agree to receive the connected services that are included with my vehicle, which collect and use data generated from the vehicle as explained in the User Terms for Connected Vehicle Services and Privacy Statement (collectively "OnStar Terms").

I accept:
I have read and agree to the OnStar Terms and, if AT&T services are available with this vehicle, the AT&T terms and conditions (including arbitration clause) and privacy policy for this vehicle available at www.att.com/USTermsandconditions. I am aware AT&T's network management practices are available at att.com/broadbandinfo.

I decline:
I do NOT agree to OnStar Terms, or, as applicable, the AT&T terms and conditions and privacy policy for this vehicle and understand that **my OnStar and, as applicable, AT&T services will be DEACTIVATED.**

Continue

Customer Review: You must continue to share your screen with your customer, so they can review the information below and ensure its accuracy.



2024 GMC Sierra Crew Cab 3500 1.27PLC32K2215556 Demo Name: alexah@jpsmail.com

The customer must personally review and accept (or decline) the terms below. This action is legally binding and cannot be done by dealer personnel.

Enrollment Preferences (Smart Driver and Notifications opt-in)

One-click Enroll into OnStar Smart Driver and Notifications

OnStar Smart Driver!
 Improve your ownership experience with access to OnStar Smart Driver. What is OnStar Smart Driver? OnStar Smart Driver provides you insights on your driving behavior and can help you recognize driving improvement opportunities. You'll earn achievements, get valuable feedback with each trip, and access your driving data. OnStar Smart Driver also gives you the opportunity to use Connected Teen Driver, which helps promote safe driving habits.
 We'll use information we collect about where and how you operate your vehicle, such as your vehicle's location, routes driven, driving schedule, fuel or charging levels, fuel economy, battery status, overall vehicle health, and driving behavior, such as hard braking, hard acceleration, tailgating, vehicle speed, late night driving, driver and passenger seatbelt status, and driver attention. Smart Driver "hard braking" and "hard acceleration" events are identified when measured vehicle speed changes rapidly, regardless of the cause of the rapid speed change. We may also use alerts from your vehicle, such as forward collision and traction control.

After enrollment, you can opt out of OnStar Smart Driver at any time by clicking "unsubscribe" in OnStar Smart Driver in your myGMC mobile app.

Notifications
 Get more connected and more protected. Simplify your ownership experience by opting into notifications that will keep you informed on services that need your attention. But first, we need your permission to send them.

- We'll keep you informed about the following:
- **Up-to-date information about your driving skills**
 - **Low tire pressure or oil change needed**
 - **Potential maintenance or performance issues**
 - **Service notifications from your dealer**
 - **Theft Alarm Notifications if your alarm is triggered**
 - **WiFi® data running out**

Details
 By providing an email and opting into notifications, we can keep you informed on the following services and features, based on your vehicle's capability/eligibility:

- **Diagnostic Report** – reports each month showing you the status of your vehicle's key operating systems.
- **Diagnostic Alerts** – alerts regarding issues with your vehicle's key operating systems.
- **Proactive Alerts** – predicts potential upcoming issues with your vehicle's systems and notifies you. (Note: You will receive an email and in-vehicle message for this alert!)
- **Dealer Maintenance Notifications** – notifies your preferred dealer, who may contact you to set up an appointment should maintenance be needed.
- **Theft Alarm Notifications** – notifies you if your vehicle's alarm is sounding. Theft Alarm Notifications are sent only to you. OnStar does not notify police of a Theft Alarm Notification; that is up to your discretion. The Theft Alarm notification service may alert you to theft in progress. Always use caution and good judgment. Do not approach the vehicle unless you are certain the situation is safe.
- **Data Usage Notifications** – alerts you when your data plan is low or about to end.

Your email address will also be used to provide you with information about your account and offers related to the features or services in your vehicle.

Please visit my.gmc.com for more information about your OnStar and GMC Connected Services. You can also change your communication preferences or un-enroll from any of these services at any time on my.gmc.com or through an Advisor, assuming opt data rates may apply.

By checking "accept", you will be enrolled in OnStar Smart Driver and we may also send you notifications related to all of the above services.

- I Accept** I agree to enroll in OnStar Smart Driver and the notification services listed above.
- I Decline** I do not agree to enroll in OnStar Smart Driver and the notification services listed above.

Text messages

Would you like to receive text messages? This includes a welcome message letting you set up your connected vehicle, as well as text alerts regarding the services above if you accepted notifications. Don't worry, you can change this preference later.
 Enrolling above Connect Media, OnStar and these acting on our behalf to send text messages for informational purposes using a manual or automatic telephone system to your telephone number shown below. This is not required as a condition to conduct business with us. Messaging and data rates may apply.

Mobile (313) 313-3331

- I Accept** I agree to enroll to receive text messages.
- I Decline** I do not agree to enroll to receive text messages for the services listed above.

OnStar Insurance Driving Program

OnStar Insurance ("OSI"), a subsidiary of General Motors Holdings LLC ("GM"), is serious about smart driving and looks for ways to reward smart driving behaviors by offering programs you can choose to participate in that use driving data to reward smart driving and price auto insurance. This literally puts you in the driver seat to "drive your insurance rate."

To participate in these programs, find out about eligible savings based on your driving data, and receive information on OSI offerings, we need your consent. To get started all you need to do is click "I Accept" below to provide permission to GM to use OSI your data while you are participating in these programs, including your account information, vehicle location, driving behavior, and other data about your vehicle such as diagnostic data. OSI will use this data to conduct research to develop and improve its insurance offerings, to evaluate offers and rates that may apply to you based on your driving behavior, and to present you with offers and related marketing for programs, services, and discounts you may be eligible for. This data will only be shared from GM to OSI and OSI's operations partners. Opting into this program will have no impact on your current insurance. Additional program details and terms can be found here: costinsurances.com/driving-program/terms and you can cancel your participation and stop this data sharing at any time by contacting us at costinsurances.com@iver.usenroll.

- Take advantage of OnStar Insurance's driving program for your vehicle with 3 simple steps:
- **Enroll Now** – just click "I Accept" below. We'll take care of the rest.
 - **Drive Smart** – All you need to do is drive. No gadgets necessary to show us that you are a smart driver. The data we will receive and use includes account, location, and driving behavior data such as where you drive, how much you drive, how you drive, when you drive, and whether vehicle safety features, such as seatbelts and advanced driver assistance features, are used or are active.
 - **Enjoy Rewards** – based on your driving behavior, a smart driving score is calculated. While we can't guarantee that you will qualify for rewards, discounts or savings, we will send you offers that are available to you, if eligible, you can choose to take advantage of these offers.

- I Accept** I agree to participate in the OnStar Insurance driving program.
- I Decline** I do not agree to participate in the OnStar Insurance driving program.

Continue

[REDACTED]

From: [REDACTED]@gm.com>
Sent: Tuesday, June 25, 2024 10:44 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Fact-check request

[REDACTED]

Thank you for the call today. We greatly appreciate your attention to these issues and rest assured; we are taking a very hard, serious look at our privacy program.

We appreciate the opportunity to review the sections to correct any errors in the Senators' letter. I did want to confirm that you can use public facing screenshot documents that were shared with you, notwithstanding their confidential markings, if GM is not able to reproduce the documents in a different format.

We are happy to work with you as Sen. Wyden does legislation in this area. Please stay in touch.

[REDACTED]



[REDACTED]

Executive Director, Federal Affairs

25 Massachusetts Avenue, NW
Suite 400
Washington, DC 20001

[REDACTED]

From: [REDACTED]
Sent: Tuesday, June 25, 2024 4:41 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: [EXTERNAL] Fact-check request

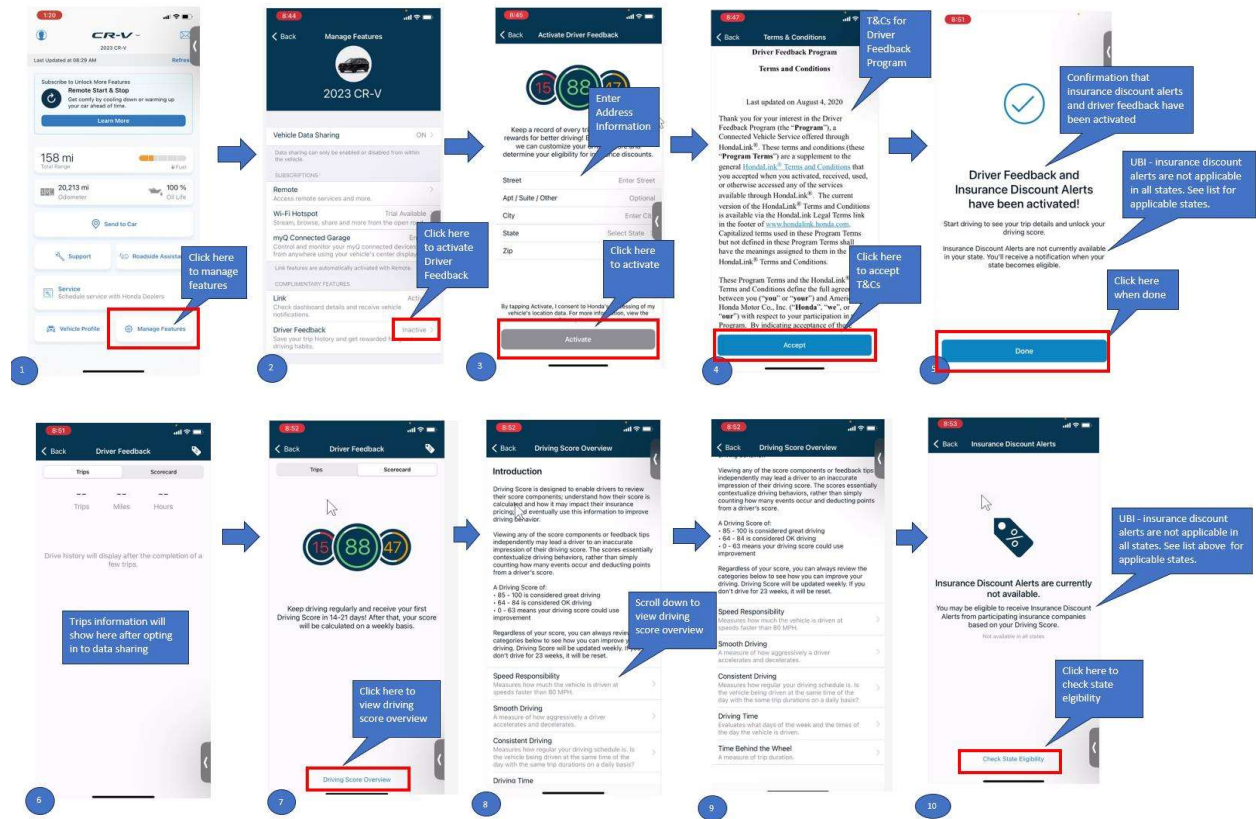
ATTENTION: This email originated from outside of GM.

Hi [REDACTED]

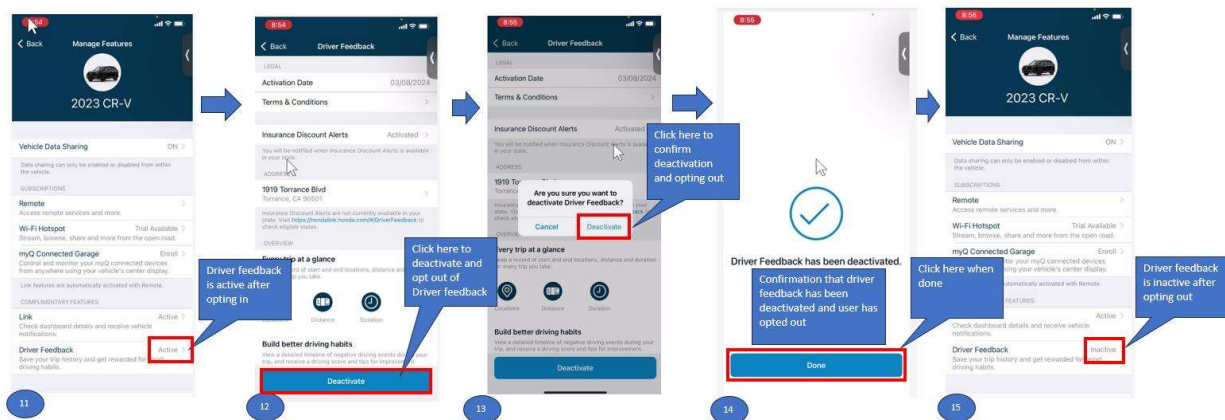
Appendix B

Documents from Honda

Enrollment in Driver Training and Insurance



Opting Out of Driver Training and In



8:45



< Back

Activate Driver Feedback



Keep a record of every trip you take and get rewards for better driving! Enter your address so we can customize your driving score and determine your eligibility for insurance discounts.

Street

Apt / Suite / Other

City

State

Zip

By tapping Activate, I consent to Honda's processing of my vehicle's location data. For more information, view the [Privacy Notice](#).

Activate

Appendix C

Documents from Hyundai

Screenshots:

#1) Terms & Conditions Opt-In

a) *Via Dealer Assisted Enrollment:*

5. Manage Hyundai Blue Link® [Waive Enrollment](#)

Complimentary Subscription

Your Hyundai includes 3 years of complimentary Blue Link services which offers a suite of safety and convenience features. This subscription includes the Connected Care, Remote, Guidance packages.

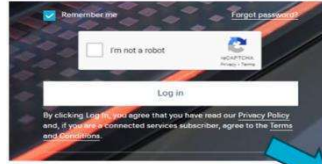
- I would like to sign up for the Wi-Fi Hotspot Trial with Verizon and agree to the following Verizon [Terms and conditions](#) and [Privacy Policy](#)
- I have read and agree to the Blue Link [Terms & Conditions](#)

Dealer Demo Only *Optional

[Enroll In Blue Link Later](#)

b) Via Login Upon Each Login to Owners Website

Opt-In : Customer is opted-in to UBI Drive score program upon accepting T&C's at the time of enrollment to Bluelink/Genesis Connected Services.



8. PRIVACY

A. Information Collected and Used by Us. In providing the Connected Services to you and as more fully set forth in the Hyundai Vehicle Technologies and Services Privacy Notice and the Genesis Vehicle Technologies and Services Privacy Notice, we may collect and retain an electronic or other record of certain information about you and/or occupants of the Vehicle including: the Vehicle's description, location, speed, direction of travel, time of travel, service data, eco-related driving performance or charging data, mechanical condition or accidents involving the Vehicle (such as trouble codes, tire pressure, battery voltage, coolant temperature, eco-related driving performance or charging habits, and service requirements), your search content, information about anyone making a Connected Services call from the Vehicle or under your account, the date, time and duration of call and any Connected Services Agent notes written during a call. You agree that we may record or monitor the Vehicle's location or other information when (1) the Connected Services are active in the Vehicle for the purposes of the provision of Connected Services, analysis and product improvement, and secure monitoring, (2) your safety depends or a severe impact occurs, (3) the Vehicle is equipped to provide stolen vehicle recovery and you report the Vehicle as stolen, (4) as permitted by applicable state and federal laws, rules and regulations; (5) in connection with our attempts to communicate with you or recover the Vehicle pursuant to agreement governing the lease, financing or subscription of the Vehicle; or (6) when the Vehicle's data is aggregated for general analysis and quality improvement purposes.

We use the information we collect from you or occupants of the Vehicle to deliver the Connected Services related products and services to you, manage your Connected Services account, improve occupant and vehicle safety, conduct internal analysis and research to improve product, product quality, and security of the vehicles, improve your Connected Services experience at our dealers, identify quality and service related issues and provide service notifications alerts, participate in government subsidy or incentive programs that benefit you or HDA directly or indirectly, and enhance your overall ownership experience. We will not sell, trade, or rent your personal information to others without your authorization consistent with the terms of this Agreement. We share certain information collected from the Connected Services with our dealers or authorized repair facilities to assist in performing service diagnosis and repair and to improve your customer experience. We share the information we collect with Service Providers for purposes of providing the Connected Services and maintaining your account. We may also share information as necessary with third parties for analysis and research purposes, including our Usage Based Insurance providers (e.g. Verisk) and data analytics partners. As part of the Usage Based Insurance program, anonymized driving data will be available to other third parties for analysis. We will never provide your personal information to any non-Service Provider participants in the program without your additional express consent. All Service Providers or third parties are contractually obligated to keep your information confidential if it is identifiable to you and use such information only as we specify. We may also disclose information to individuals designated by you to be contacted in an emergency. When required, you agree we may release information, including location data, to comply with applicable laws or regulations, in legal proceedings to respond to judicial subpoenas or court orders, in cooperation with law enforcement agencies, and to enforce the terms of this Agreement and any agreement related to the lease or financing of the Vehicle. We may share certain of the Vehicle information with government entities consistent with this agreement and as permitted by applicable law. You should know that we have no control over the manner in which such a government entity may use your data. Any data which we collect or which you provide to us which is not identifiable to you, including functionality use, statistics, performance data, quality metrics, shall be owned by us.

#2) Drive Score opt-out

a) Drive Score Opt-out on the website

DRIVING SCORE PERMISSIONS

You can choose to have the driving telematics gathered by your Hyundai shared with the Hyundai-contracted analytics specialists Verisk. Verisk will analyze your data and give you a weekly driving score. You can use this to compare your driving week by week and try to improve your score. You can also choose to share this information with participating outside auto insurance companies, who may alert you to the possibility of a reduced rate based on the actual amount and quality of your driving.

DATA SHARING

Choose to whether or not you wish to share your data with Verisk so they can provide your weekly driving score. The data is shared with Verisk only. No insurance companies will see this data unless you separately consent to do so.

Share my driving data with insurance companies that I select.

Data has been shared since: 01/01/2019

INSURANCE NOTIFICATION

You can share your driving data with participating insurance companies of your choice, and provide them with the opportunity to possibly lower your insurance rate based on detailed driving information. Neither Hyundai nor any of its affiliates are auto insurance companies, brokers or agents.

Share my driving data with participating insurance companies that I select.

b. Drive Score opt-out on app

