

TALKING POINTS OF AMERICAN CAR RENTAL ASSOCIATION
ON THE DISCUSSION DRAFT OF THE
“AMERICAN DATA PRIVACY AND PROTECTION ACT”

1. Certain provisions of ADPPA, as approved by the House E&C Consumer Protection Subcommittee, simply cannot be applied to car rental transactions in the United States. For example:
 - a. ADPPA would prohibit a car rental company from refusing to rent a car to an individual who refused to present a valid driver’s license and agree to the car rental company storing that information during the term of the rental;
 - b. ADPPA would permit a renter to withdraw consent for a car rental company to monitor and collect covered data during in the middle of a car rental period, leaving the car rental company with no way to locate the vehicle in the event of a maintenance issue or if road side assistance is needed, to contact the individual in the event of a “do not drive” safety recall, or to track a vehicle that is overdue and might be stolen.
 - c. ADPPA would prohibit a car rental company, which owns the rental vehicle, from refusing to rent a car to an individual who did not consent to the collection of sensitive data, including the vehicle’s geolocational data, by the car rental company.

2. ACRA supports creation of an exemption to the general prohibition on collecting certain data under the definition of “covered data” and “covered entity” for rental vehicles because the individual does not own the vehicle (unlike a cell phone or a computer):
 - a. Motor vehicles are inherently different from smart phones, computers or other electronic devices; they are significantly more valuable, are owned by the car rental company (not the individual) and individuals with no contractual arrangement with the car rental company (and thus not in a position to provide consent required by ADPPA) frequently are passengers in the vehicle;
 - b. Such an exemption is necessary to provide for existing car rental, car-sharing and shared mobility services involving motor vehicles – pro-consumer (safer vehicles through preventative maintenance and better rental experience through over the air mileage and fuel level data), pro-environment (increased vehicle efficiency and maintenance) and pro-competition vehicle services;
 - c. Such an exemption is necessary to provide for the deployment of advanced autonomous vehicles in the future; ADPPA must look into the future with respect to the application of its provisions to AVs that are not owned by individuals; and,
 - d. Such an exemption is necessary to prevent fraud and illegal activity.

3. Supports a clarification that collection of motor vehicle data that is not covered data or sensitive data (including geolocational data) is excluded from provisions of ADPPA.

SUGGESTED EDITS TO COMMITTEE-APPROVED BILL TO ADDRESS ACRA CONCERNS:

1. Add a new subparagraph (iii) under Section 2(9)(C) to exclude car rental companies from the definition of covered entity:
 - a. “(iii) a car rental company as defined under this Act.”;
 - b. Add a new definition for car rental company: “A ‘car rental company’ means an entity that rents a motor vehicle without a driver for an initial period of 180 days or less to a person through:
 - i. a virtual platform that connects vehicle owners with renters,
 - ii. e-mail, SMS, MMS, a website, internet application, telephone, or other electronic means; or
 - iii. a face-to-face transaction.”

2. Add a new subparagraph (iii) under Section 2(8)(B) to exclude motor vehicle data that is not linked or reasonably linked to an individual that is collected by a car rental company from the definition of covered data:
 - a. “(iii) motor vehicle data generated or generated and retained by a motor vehicle rented by a car rental company that is not linked or reasonably linked to an individual”;
 - b. Cross-reference the definition of “car rental company” outlined above.