Statement of the
U.S. Vehicle Data Access Coalition
To the
Subcommittee on Consumer Protection and Commerce
Of the
House Committee on Energy and Commerce
Hearing on
"Autonomous Vehicles: Promises and Challenges of Evolving Vehicle Technologies"

February 11, 2020

Good morning, Chair Schakowsky, Ranking Member McMorris Rodgers, and Members of the Consumer Protection and Commerce Subcommittee. The U.S. Vehicle Data Access Coalition ("Coalition") is pleased to present this statement to the Subcommittee with respect to your hearing on "Autonomous Vehicles: Promises and Challenges of Evolving Vehicle Technologies." The Coalition respectfully asks that this statement be made a part of the official record of this hearing.

THE U.S. VEHICLE DATA ACCESS COALITION

The Coalition is a voluntary group of diverse stakeholders – consumer protection and privacy advocates, vehicle fleet owners (both light- and heavy-duty), vehicle equipment suppliers, distributors and repair facilities, telematics and fleet management companies, insurers and others

U.S. Vehicle Data Access Coalition
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– united by our common belief that vehicle owners must control access to the motor vehicle data generated and stored by the motor vehicles they own.

VEHICLE DATA ACCESS AND AUTONOMOUS VEHICLES

As we collectively move towards the deployment of more connected and automated driving system-equipped vehicles – both light- and heavy-duty – in the coming years, the importance of data access and control by vehicle owners, and other parties, will only increase. The Coalition commends the Subcommittee for calling this hearing and urges its members to focus your collective attention on the issue of data access as you consider broader policy issues of autonomous vehicles.

The vast majority of motor vehicles on the road today – ranging from passenger cars to buses to heavy-duty trucks – are equipped with technology that permits the vehicle to collect and store data generated by the vehicle operational systems. This data is related to nearly every aspect of the vehicle's operation and currently is accessed through a physical "on-board diagnostics" (OBD) port. In addition, a growing number of vehicles are now coming with connected technology enabling vehicle data to be accessed wirelessly, without the need to access a physical port.

This vehicle data – whether accessed through a physical port or wirelessly -- already provides many benefits to both consumers who own individual cars and companies that own dozens or thousands of vehicles. The benefits include improved safety, improved logistics, enhanced productivity, more efficient and effective vehicle repair (and even predictive vehicle repairs), as

well as the promise of innovative mobility services in the future. And these benefits will only expand in the future as motor vehicles become increasingly connected and more autonomous, and as our ability to interpret and apply the data collected by the vehicle is enhanced.

But these benefits will only be realized if vehicle owners: (1) retain the ability to securely access and control the data their vehicles (and equipment attached to their vehicles) generate, collect and store; (2) without artificial barriers that reduce consumer choice or competition; (3) in real-time through in-vehicle access; and, (4) without obtaining consent from, or paying a fee to, an entity that does not own the vehicle.

COMPETITION IN THE MOBILITY MARKET:

Two significant public policy challenges are on the near-term horizon with respect to owner access to vehicle-generated data: (1) the danger of reduced consumer choice if access to vehicle-generated data is controlled by entities other than the owner or lessee of the vehicle; and, (2) a high risk of reduced competition for mobility services – in fact of vertical monopolization -- if entities that do not own the vehicles – such as vehicle manufacturers or software providers -- are permitted to restrict and control access to vehicle-generated data that is created by the vehicle owner's use of a vehicle.

CYBERSECURITY IN MOTOR VEHICLES, INCLUDING CONNECTED AND AUTONOMOUS VEHICLES

There is nothing more important than safety and security when discussing motor vehicles, including securing the data collected and stored by vehicles. Unfortunately, cybersecurity as it

relates to these vehicles is often viewed as an "either/or" proposition in terms of data access. It is factually incorrect to posit that data access cannot be provided to vehicle owners due to the need to protect the integrity of a vehicle's data system. In fact, industry standards are already in place that will permit data to be both accessible and controllable by vehicle owners while still ensuring a high level of cyber security.

PAST CONGRESSIONAL ACTION ON VEHICLE DATA ACCESS

The Senate signaled its strong interest in the connected and autonomous vehicle data access and control issue in 2017 through its unanimous adoption of a bi-partisan autonomous vehicle data access amendment to the Senate autonomous vehicle bill. This data access amendment, sponsored by Senators Inhofe (R-OK) and Baldwin (D-WI), would have created a data access advisory committee comprised of a wide spectrum of stakeholders, including the Department of Transportation and the National Highway Traffic Safety Administration. The Inhofe/Baldwin Amendment was adopted by the Senate Commerce Committee unanimously in October 2017 and its inclusion of all legitimate stakeholders with an interest in connected and autonomous vehicle data access would have formed the foundation for all future discussions of data access and control of vehicle and personal data by vehicle owners – whether by the Subcommittee, by the full Committee, by other congressional committees, or by federal vehicle, consumer protection and privacy regulators.

However, federal autonomous vehicle legislation was not enacted in the 115th Congress and the Inhofe/Baldwin Amendment, along with the House and Senate autonomous vehicle legislation considered by that Congress, died at the end of 2018.

VEHICLE DATA ACCESS LEGISLATION IN THE 116TH CONGRESS

The U.S. Vehicle Data Access Coalition has adopted a position in 2020 that the time for an advisory committee on vehicle data access has passed. The Coalition has adopted this more active position due to steps taken by motor vehicle manufacturers to cut off vehicle data access for vehicle owners and entities that have the permission of vehicle owners to access that data since the adoption of the Inhofe/Baldwin Amendment by the Senate Commerce Committee in 2017. In addition, manufacturers have announced plans to charge vehicle owners for access to data from their own vehicles! In short, the time for talk has passed – it is time to legislate this important policy issue.

In the Clean Air Act, vehicle owners are guaranteed access to a vehicle's emissions data. In the 2015 FAST Act, vehicle owners were guaranteed access to a vehicle's Electronic Data Recorder ("EDR") – Congress stated that vehicle owners in fact "own" their vehicle's EDR data. However, for all other vehicle generated data, vehicle owners are in essence at the mercy of motor vehicle manufacturers – there is no federal statute or regulation guaranteeing the owners' right to access the data being generated by their vehicles. That needs to change and Congress is the entity with the authority to change the current situation in which a vehicle owner's rights to his or her vehicle's data is not protected by federal law.

The European Union partially addressed the rights of vehicle data access through Regulation 2018/858 -- which requires motor vehicle manufacturers to make vehicle data accessible to vehicle owners and entities which have the owners' permission to access that data. The E.U.

currently is considering an expansion of this 2018 regulation to encompass all vehicle generated data. The Coalition suggests it is time for Congress to follow the example set by European regulators and establish what would become the global standard guaranteeing vehicle owners access to the data being generated by their motor vehicles.

The U.S. Vehicle Data Access Coalition urges Congress to take a lead role in establishing standards for open data access for vehicle owners for all data generated, collected and stored by vehicles. The Coalition supports enactment of legislation that safeguards the rights of vehicle owners to:

- securely access and control their vehicle data (including authorizing access by third parties);
- directly, through in-vehicle access, in real-time;
- through a technology-neutral, standards-based, secured interface;
- that provides interoperable and bi-directional communication with the vehicle.

The rights of vehicle owners to control and access the data generated by their vehicles is too important to be left unaddressed by Congress. The Coalition supports bi-partisan, bi-cameral legislative efforts to establish a framework for securing the continued rights of vehicle owners – and entities that secure the express permission of vehicle owners -- to control and access vehicle-generated data on a real-time, secure and competitive basis.

Thank you for the opportunity to present this statement at this hearing. If you have questions about the Coalition, vehicle data access, or the current threats to a motor vehicle owners' access

to their vehicles' data, please contact Greg Scott of the Coalition at gscott@merevir.com or at 202-297-5123.

MEMBERS OF THE U.S. VEHICLE DATA ACCESS COALITION

American Bus Association
American Car Rental Association
American Property Casualty Insurance of America
Auto Care Association
Automotive Aftermarket Suppliers Association
Automotive Recyclers Association
Automotive Service Association
Coalition for Auto Repair Equality
MERA – The Association for Sustainable Manufacturing
NAFA Fleet Management Association
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