

April 5, 2017

The Honorable Jeb Hensarling, Chair
The Honorable Maxine Waters, Ranking Member
U.S. House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

RE: Hearing on “The 2016 Semi-Annual Reports of the Bureau of Consumer Financial Protection”

Dear Chairman Hensarling and Ranking Member Waters:

We write to you regarding the hearing “The 2016 Semi-Annual Reports of the Bureau of Consumer Financial Protection.”¹ The Electronic Privacy Information Center was established in 1994 to focus public attention on emerging privacy and civil liberties issues. EPIC is a leading advocate for consumer privacy and has appeared before this Committee on several occasions.²

Last month, EPIC submitted a complaint to the Consumer Financial Protection Bureau over the use of Starter Interrupt Devices (SIDs).³ SIDs are used by subprime auto lenders who attach these devices to vehicles as a condition of financing. EPIC's complaint alleges that these devices are used to "monitor borrowers' real-time location, limit borrowers' movements to prescribed boundaries via geo-fencing technology, and disable vehicles in remote or dangerous locations" in violation of the Consumer Financial Protection Act.⁴ The EPIC complaint asks the CFPB to start an investigation into the practices of two specific auto lenders and to investigate similar practices used by other auto lenders.

¹ *The 2016 Semi-Annual Reports of the Bureau of Consumer Financial Protection*, 115th Cong. (2017), H. Comm. on Financial Services.,

<http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=401705> (April 5, 2017).

² See, e.g. Marc Rotenberg, EPIC Executive Director, Testimony before the U.S. House Committee on Financial Services, *Cybersecurity and Data Protection in the Financial Sector* (Sept. 14, 2011), <http://financialservices.house.gov/uploadedfiles/091411rotenberg.pdf>; Marc Rotenberg, EPIC Executive Director, Testimony before the U.S. House Committee on Financial Services, *ICANN and the WHOIS Database: Providing Access to Protect Consumers from Phishing* (July 18, 2008),

<https://epic.org/privacy/whois/Rotenberg-Whois-Testimony-2008.pdf>; Marc Rotenberg, EPIC Executive Director, Testimony before the U.S. House Committee on Financial Services, *The Role of FCRA in Employee Background Checks and the Collection of Medical Information* (June 17, 2003), <https://epic.org/privacy/medical/feratestimony6.17.03.pdf>.

³ Complaint, Request for Investigation, Injunction, and Other Relief Submitted by The Electronic Privacy Information Center (“EPIC”) to the Consumer Financial Protection Bureau (CFPB), *In the Matter of CAG Acceptance, LLC, and Gordon Howard Associates, Inc., d/b/a/ PassTime USA* (Mar. 15, 2017), available at <https://epic.org/privacy/cfpb/EPIC-CFPB-SID-Complaint.pdf>.

⁴ *Id.*

Auto lenders, who charge interest rates as high as 30% to borrowers, install SIDs on the vehicles as a condition of financing. The lenders can then remotely disable vehicles when borrowers are late on payments or travel outside of certain geographical areas. Many SIDs also monitor the location of vehicles and record and store where the driver is traveling.

The two companies at issue in EPIC's complaint are PassTime USA, a SIDs developer, and CAG Acceptance, LLC (CAGA), a subprime lender. PassTime requires borrowers to waive any rights to location privacy, including those established in federal and state law. Once the SIDs device is installed, CAGA does not identify any restrictions on location monitoring. As such, both companies obtain substantial amount of information about borrowers such as where they work, live, worship, and socialize. These companies use SIDs devices to disable cars while they are idling at red lights, in remote locations with limited cellular or wireless service, and refueling at gas stations. The privacy and safety problems with these devices are well documented. One woman in Texas had her car repossessed by a lender after the car was located at a shelter where she was staying to escape her abusive husband.⁵ Another borrower testified before the Nevada Assembly that CAGA had twice disabled her vehicle while she was driving.⁶

As NPR explained:

For borrowers in default, the repo man is no longer the one to fear — it's Big Brother. Growing numbers of lenders are getting tech savvy, remotely disabling debtors' cars and tracking customer data to ensure timely payment of subprime auto loans. The practice has created problems for consumers and raises privacy concerns.⁷

The Consumer Financial Protection Bureau plays a critical role in protecting consumer privacy. The Committee should urge the Bureau to act on EPIC's complaint on SIDs.

We ask that this letter be entered in the hearing record. EPIC looks forward to working with the Committee on these issues.

Sincerely,

/s/ Marc Rotenberg
Marc Rotenberg
EPIC President

/s/ Caitriona Fitzgerald
Caitriona Fitzgerald
EPIC Policy Director

⁵ Michael Corkery and Jessica Silver-Greenberg, *Miss a Payment? Good Luck Moving That Car*, N.Y. Times (Sept. 24, 2014), <https://dealbook.nytimes.com/2014/09/24/miss-a-payment-good-luck-moving-that-car/>.

⁶ T. Candice Smith, Testimony before Assembly Committee on Commerce and Labor, Nev. State Assembly (Mar. 22, 2013), *available at* <http://www.leg.state.nv.us/Session/77th2013/Exhibits/Assembly/CL/ACL493I.pdf>.

⁷ Robert Szytko, *Your Car Won't Start. Did You Make The Loan Payment?*, NPR (Oct. 16, 2014), <http://www.npr.org/sections/alltechconsidered/2014/10/16/356693782/your-car-wont-start-did-you-make-the-loan-payment>.