

Exhibit A

Plaintiff Alliance for Automotive Innovation's Responses to
Attorney General Maura Healey's Third Set of Interrogatories
(January 4, 2022)

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ALLIANCE FOR AUTOMOTIVE INNOVATION,

Plaintiff,

v.

MAURA HEALEY, ATTORNEY GENERAL OF
THE COMMONWEALTH OF
MASSACHUSETTS in her official capacity,

Defendant.

CIVIL ACTION
NO. 1:20-cv-12090-DPW

**PLAINTIFF ALLIANCE FOR AUTOMOTIVE INNOVATION'S RESPONSES TO
ATTORNEY GENERAL MAURA HEALEY'S THIRD SET OF INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff Alliance for Automotive Innovation (“Auto Innovators”) hereby objects and responds to Defendant Attorney General Maura Healey’s (“Defendant”) Third Set of Interrogatories (the “Interrogatories,” and each individual interrogatory contained therein, an “Interrogatory”) as follows:

PRELIMINARY STATEMENT

Auto Innovators’ responses to the Interrogatories are made solely for the purpose of this action. Each response is made subject to all objections as to competence, relevance, materiality, propriety, admissibility, and the like, and any and all other objections on grounds that would require the exclusion of any response herein if such were offered in Court, all of which objections and grounds are reserved and may be interposed at any time. Auto Innovators’ responses are not intended to be, and shall not be construed as, a waiver by Auto Innovators of any or all objections to the Interrogatories. Auto Innovators’ objection or response to any Interrogatory should not be taken as an admission that Auto Innovators accepts or admits the existence of any fact(s) or any information assumed by that Interrogatory or that such objection or response constitutes admissible evidence.

Certain of the information requested in the Interrogatories is within the unique knowledge of persons and entities other than Auto Innovators. Nevertheless, where appropriate, Auto Innovators is providing information requested in the Interrogatories that relates specifically to certain of its members.

Auto Innovators reserves the right to supplement these responses as may be appropriate. The following responses are based upon information known at this time to Auto Innovators and are given without prejudice to Auto Innovators’ right to amend, supplement, or revise these responses with any subsequently discovered information.

GENERAL OBJECTIONS

Auto Innovators makes and hereby incorporates by reference the following general objections, whether or not separately set forth, in response to each Interrogatory:

1. Auto Innovators objects to the Interrogatories because they were served after the May 7, 2021 close of fact discovery established under the Court's Amended Scheduling Order. Dkt. 138. Although the Court granted Defendant's motion to reopen evidence to admit certain documents related to Subaru of America, Inc., the Court has not reopened discovery on any other issues, let alone authorized service of the Interrogatories. Dkt. 253. In providing these Responses, Auto Innovators preserves all objections as to the appropriateness of service of the Interrogatories after the close of discovery without authorization by the Court.

2. Auto Innovators objects to the Interrogatories because they seek information from entities other than Auto Innovators and the members designated to provide fact witnesses at trial, namely FCA US LLC ("FCA") and General Motors LLC ("GM"). Auto Innovators provides the information herein based on its understanding of the policies implemented by each of its members. In providing these Responses, Auto Innovators preserves all objections as to the provision of information in the unique knowledge of its members other than FCA and GM.

3. Auto Innovators objects to the Interrogatories because they seek information that is not relevant to any party's claims or defenses. As explained in Auto Innovators' Opposition to Defendant's Motion to Reopen the Evidence (Dkt. No. 250) (the "Opposition"), evidence related to Auto Innovator members' disabling of telematics units in response to the Data Access Law is irrelevant to this action and not in dispute, and by providing these Responses, Auto Innovators does not concede the relevance of this information.

4. Auto Innovators objects to the deadline for responses stated in the Interrogatories, as the fifteen-day response deadline outlined in the Court's Amended Scheduling Order no longer applies given the close of fact discovery. Auto Innovators is providing these Responses on the timeline agreed in meet-and-confers between the parties, and does not waive any objections by providing its Responses on that timeline.

5. Auto Innovators objects to each Interrogatory to the extent it seeks information that is subject to the attorney-client privilege or the work product doctrine or that is otherwise privileged or protected pursuant to any applicable doctrine, statute, or rule. Such responses as may hereafter be given shall not include any information protected by such privileges, doctrines, statutes, or rules, and inadvertent disclosure of such information shall not be deemed a waiver of any such privilege or protection.

6. Auto Innovators objects to each Interrogatory as overbroad and unduly burdensome, including to the extent it seeks information that is more readily or equally available to Defendant from other sources for whom it is more convenient, less burdensome, or less expensive to produce the requested information, or to the extent that the information requested in these Interrogatories has been provided to Defendant through other means, including in the documents produced by Auto Innovators and the testimony of its witnesses.

7. Auto Innovators objects to each Interrogatory and to the Definitions utilized in those Interrogatories to the extent they assume facts not in evidence. By responding and objecting to each of these Interrogatories, Auto Innovators does not admit or agree with any explicit or implicit assumptions made in these Interrogatories or the Definitions utilized therein.

8. The Interrogatories seek information that is private, proprietary, trade secret, confidential business, or personal information. Auto Innovators will produce any such information

only pursuant to the protections of the Confidentiality Protective Order in this case and/or applicable provisions of the Federal Rules of Civil Procedure.

9. Auto Innovators objects to each Interrogatory to the extent it seeks information not within Auto Innovators' possession, custody, or control.

10. Auto Innovators objects to each Interrogatory to the extent it purports to impose any obligations not imposed by the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Local Rules of the U.S. District Court for the District of Massachusetts, the Court's standing orders, the Scheduling Order and Confidentiality Protective Order in this case, and any other applicable rules or law. Auto Innovators will respond to these Interrogatories in accordance with its obligations under applicable rules and law.

11. Auto Innovators objects to the definition of "You" to the extent it requires the provision of information not in the possession, custody, or control of Auto Innovators. Auto Innovators will only provide information, including information predating the merger of the Association of Global Automakers and the Alliance of Automobile Manufacturers, that is in Auto Innovators' possession, custody, or control. Further, Auto Innovators responds only on behalf of itself, and not on behalf of its officers, directors, employees, partners, corporate parents, subsidiaries, or affiliates.

12. Auto Innovators objects to the definition of "Designated Member" to the extent it purports to require the provision of information by persons other than FCA and GM, including but not limited to officers, directors, employees, partners, corporate parents, subsidiaries, or affiliates of those entities.

13. Auto Innovators objects to the definitions of "Actively Participating Member" and "Other Member" and to Instruction no. 1 to the extent they purport to require collection and

provision of information related to entities other than FCA and GM that is not already in the possession, custody, or control of Auto Innovators.

14. Auto Innovators objects to the definition of “Telematics System” as vague and ambiguous because the functionality of telematics systems varies significantly.

15. Auto Innovators objects to the Interrogatories because Rule 33(a)(1) of the Federal Rules of Civil Procedure and Rule 26.1(c) of the Local Rules of this Court limit the number of written interrogatories to twenty-five, and because certain of the Interrogatories are compound, conjunctive, disjunctive, and contain subparts..

16. Auto Innovators’ responses reflect only the current state of its knowledge or information regarding the information Defendant has requested. Further investigation may identify additional facts or information that could lead to additions to, changes in, and/or variations from, the responses herein. Without in any way obligating itself to do so, Auto Innovators expressly reserves the right to supplement, amend, correct, clarify, or modify the responses as further information becomes available.

RESPONSES TO INTERROGATORIES

Subject to the foregoing Preliminary Statement and General Objections, which are incorporated into each specific objection and response below, Auto Innovators further objects and responds as follows:

INTERROGATORY NO. 24:

For each Designated Member, Actively Participating Member, or Other Member:

- a. Please state whether or not that member has sold or distributed, is selling or distributing, or plans to sell or distribute Model Year 2022 or newer vehicles in Massachusetts;

- b. If so, please state whether or not that member has implemented, is implementing, or plans to implement any policy or practice of disabling (or refusing or forbidding the enablement of) any Telematics System in any of its Model Year 2022 or newer vehicles sold or distributed in Massachusetts; and
- c. If so, please state the scope of such policy or practice, including but not limited to:
 1. All category(ies) of vehicles and/or Telematics System(s) to which such policy or practice applies; and
 2. The actual or expected beginning and ending dates of such policy or practice.

RESPONSE TO INTERROGATORY NO. 24:

Auto Innovators specifically incorporates by reference the above Preliminary Statement and General Objections as if fully set forth herein. Auto Innovators further reiterates its objections as to the propriety of this Interrogatory, which was served after the close of fact discovery, which seeks information from entities other than Auto Innovators, GM, and FCA, and which seeks information that is not relevant to any party's claims or defenses for the reasons explained in the Opposition. Auto Innovators further objects to this Interrogatory to the extent it seeks information subject to the attorney-client privilege, the work product protection, a common interest privilege, or any other applicable privilege or protection. Auto Innovator further objects to the phrase "policy or practice" as vague and ambiguous, and to the definitions of "Designated Member," "Actively Participating Member," "Other Member," and "Telematics System" for the reasons stated above. Auto Innovators further objects to the term "vehicle" as vague, ambiguous, and overbroad; Auto Innovators' response to this Interrogatory assumes that this term refers to "motor vehicle" as defined by Chapter 93K, Section I of the Massachusetts General Laws. Auto Innovators further

objects to this request as overbroad and unduly burdensome because it purports to require a breakdown of each Auto Innovators member's sales in Massachusetts and related policies, regardless of whether such members have instituted any changes to their sales practices in response to the Data Access Law. Auto Innovators further objects to this Interrogatory because it is compound, conjunctive, disjunctive, and contains subparts.

Subject to and without waiving said objections, Auto Innovators responds as follows:

As of the date of this interrogatory response, Auto Innovators understands that 20 of its members have sold or distributed, or currently plan to sell or distribute, Model Year 2022 or newer motor vehicles in Massachusetts.

Of those 20 members, Auto Innovators understands that two members have implemented a policy or practice of either disabling or not enabling a Telematics System in certain of their Model Year 2022 or newer vehicles sold or distributed in Massachusetts:

- Subaru of America, Inc. ("Subaru"): As described in the parties' November 26, 2021 Joint Stipulation in this action, because of the Data Access law, Subaru made its STARLINK Safety and Security system unavailable to Massachusetts residents who purchase or lease Model Year 2022 vehicles. This policy was implemented in or about June 2021, contemporaneously with those Subaru vehicles first being offered for sale or lease in Massachusetts, and applies to any Model Year 2022 Subaru vehicle that has a Massachusetts address associated with either the vehicle or the STARLINK account.
- Kia America Inc. ("Kia"): As a result of the Data Access Law, Kia has made its telematics services, which are currently called Kia Connect and formerly called UVO link, unavailable on Model Year 2022 and newer vehicles that are purchased or sold in Massachusetts. For purposes of this policy, vehicles "purchased or sold in

Massachusetts” are those for which (a) either the seller/lessor or the buyer/lessee of the vehicle is located in Massachusetts when completing the contract for sale or lease; (b) the contract for sale or lease states that the sale or lease occurred in Massachusetts; (c) the vehicle is delivered to the buyer or lessee in Massachusetts; or (d) the buyer or lessee is required to pay sales tax or use tax in Massachusetts. This policy became part of the Kia Connect (then known as UVO) Terms of Service published in February 2021, shortly before the first Model Year 2022 Kia vehicles were being offered for sale by dealers.

Auto Innovators further understands that its members may revise their policies regarding the sale of vehicles with telematics units in the future, potentially including in response to the Court’s decisions in this action, but that such revised policies have not yet been determined.

INTERROGATORY NO. 25:

For each Designated Member, Actively Participating Member, or Other Member identified in response to Interrogatory No. 24(b) as having implemented, implementing, or planning to implement a policy or practice described in Interrogatory No. 24(b), please identify the date on which You first learned that member had implemented, or had formed plans to implement, such a policy or practice.

RESPONSE TO INTERROGATORY NO. 25:

Auto Innovators specifically incorporates by reference the above Preliminary Statement and General Objections as if fully set forth herein. Auto Innovators further reiterates its objections as to the propriety of this Interrogatory, which was served after the close of fact discovery, which seeks information from entities other than Auto Innovators, GM, and FCA, and which seeks information that is not relevant to any party’s claims or defenses for the reasons explained in the

Opposition. Auto Innovators further objects to this Interrogatory to the extent it seeks information subject to the attorney-client privilege, the work product protection, a common interest privilege, or any other applicable privilege or protection. Auto Innovator further objects to the phrase “policy or practice” as vague and ambiguous, and to the definitions of “You,” “Designated Member,” “Actively Participating Member,” and “Other Member” for the reasons stated above. Auto Innovators further objects to this Interrogatory because the date(s) upon which Auto Innovators learned that its members had implemented (or had plans to implement) the policies described in the Response to Interrogatory no. 24 are not relevant to the parties’ claims or defenses in this action.

Subject to and without waiving said objections, Auto Innovators states that it learned that Subaru implemented the policy referenced in the Response to Interrogatory no. 24 on October 21, 2021, and it learned that Kia implemented the policy referenced in the Response to Interrogatory no. 24 on September 14, 2021.

INTERROGATORY NO. 26:

For each Designated Member, Actively Participating Member, or Other Member:

- a. Please state whether or not that member has sold or distributed, is selling or distributing, or plans to sell or distribute Model Year 2022 or newer vehicles in a state(s) other than Massachusetts;
- b. If so, please state whether or not that member has implemented, is implementing, or plans to implement any policy or practice of disabling (or refusing or forbidding the enablement of) any Telematics System in any of its Model Year 2022 or newer vehicles sold or distributed in a state(s) other than Massachusetts; and
- c. If so, please state the scope of such policy or practice, including but not limited to:

1. The actual or expected beginning and ending dates of such policy or practice;
2. All category(ies) of vehicles and/or Telematics System(s) to which such policy or practice applies;
3. The geographical scope of such policy or practice.

RESPONSE TO INTERROGATORY NO. 26:

Auto Innovators specifically incorporates by reference the above Preliminary Statement and General Objections as if fully set forth herein. Auto Innovators further reiterates its objections as to the propriety of this Interrogatory, which was served after the close of fact discovery, which seeks information from entities other than Auto Innovators, GM, and FCA, and which seeks information that is not relevant to any party's claims or defenses for the reasons explained in the Opposition. Auto Innovators further objects to this Interrogatory to the extent it seeks information subject to the attorney-client privilege, the work product protection, a common interest privilege, or any other applicable privilege or protection. Auto Innovator further objects to the phrase "policy or practice" as vague and ambiguous, and to the definitions of "Designated Member," "Actively Participating Member," "Other Member," and "Telematics System" for the reasons stated above. Auto Innovators further objects to the term "vehicle" as vague, ambiguous, and overbroad. Auto Innovators further objects to this request as overbroad and unduly burdensome, and as seeking information that is irrelevant to the parties' claims and defenses, because it seeks information relating to sales outside of the state of Massachusetts that have no bearing on the Data Access Law. Auto Innovators further objects that this twenty-sixth Interrogatory is improper under Rule 33(a)(1) of the Federal Rules of Civil Procedure and Rule 26.1(c) of the Local Rules of this Court, which

limit the number of written interrogatories to twenty-five. Auto Innovators further objects to this Interrogatory because it is compound, conjunctive, disjunctive, and contains subparts.

Subject to and without waiving said objections, Auto Innovators responds as follows:

The only relevant information sought by this Interrogatory is provided in the response to Interrogatory no. 24, above, which describes Subaru's and Kia's policies of disabling telematics units in certain vehicles.

Date: January 4, 2022

Respectfully submitted,

Alliance for Automotive Innovation

By its attorneys,

/s/ John Nadolenco

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MAURA HEALEY, ATTORNEY GENERAL OF
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VERIFICATION

I, CHARLES HAAKE, am the Vice President and General Counsel of Alliance for Automotive Innovation (“Auto Innovators”). I have the authority to execute this Verification on behalf of Plaintiff Auto Innovators. I have reviewed the contents of Plaintiff Alliance for Automotive Innovation’s Responses to Attorney General Maura Healey’s Third Set of Interrogatories. To the best of my knowledge, Auto Innovators’ responses in the foregoing document are accurate and truthful as of the day they are made.

I verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 4th day of January 2022, in Washington, D.C.



Charles Haake

CERTIFICATE OF SERVICE

I, Daniel Queen, hereby certify that on January 4, 2022, the foregoing document was served on counsel for the defendant by electronic mail.

/s/ Daniel Queen _____
Daniel Queen