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Public Interest Groups Seek to Halt Further Deployment of Connected Car Technologies

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The FCC recently issued a Public Notice (DOC-340450A1.pdf) seeking comments on a Petition for Rulemaking filed by two “public interest” advocacy groups – Public Knowledge and the Open Technology Institute at New America. The Petition requests that the FCC adopt several rules that would govern the Dedicated Short Range Communications (DSRC) service that is being deployed in support of connected car technologies and services. The Petition seeks (1) new FCC rules governing privacy and cybersecurity of DSRC services; (2) a prohibition on any services other than safety-of-life in the DSRC spectrum; and (3) a halt to any DSRC deployment until the new, proposed rules are adopted.

The Petition is flawed in a number of respects, including seeking FCC regulation where it has no authority or expertise. The petitioners fail to acknowledge the Federal Trade Commission’s expertise and authority to regulate privacy issues, and other agencies’ expertise and authority to regulate cybersecurity issues.

Moreover, the petitioners denigrate NHTSA’s capabilities to regulate in this sphere and the automobile industry’s ability or willingness to address these issues:

“Meanwhile, the auto industry and NHTSA are rushing ahead, attempting to bring first generation, pre-standards vehicles to market and impose this mandate prior to the end of the year. An agency that won’t even know if cybersecurity rules are needed, for two more years, wants to mandate connecting all of America’s already vulnerable cars together as soon as possible, without even having decided whether cybersecurity is important enough to justify rules. This is obviously untenable and contrary to the public interest.” (Petition at p. 6).

The Petition drafters approach the issue from a position that is not beneficial to the automotive industry, as seen by an excess of hyperbole and rhetoric that ignores the clear value to the public of a protected spectrum:

“This is the sort of ‘car zombie apocalypse’ that the auto industry is simply not equipped to prevent or address, and it would be enabled and streamlined by the deployment, as currently proposed, of DSRC.” (Petition at p. 5)

“In light of the facts discussed above, the danger to the public from unregulated DSRC devices transmitting malware from an infected car to any other DSRC-equipped car with which it comes in contact is real and immediate.” (Petition at p. 12)

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"Setting aside the wisdom of this policy, it is clear that there is no public interest value in continuing to allow auto makers to enjoy a spectrum windfall by offering commercial services unrelated to the core life and safety purposes of the spectrum." (Petition at p. 19)

In addition to the jurisdictional flaws and excessive rhetoric, the Petition is a backdoor attempt to push the FCC towards the "Qualcomm" solution to the DSRC sharing issue by limiting the services that can be offered over DSRC spectrum only to "safety of life," under the guise of enhancing cybersecurity.

But despite this Petition's numerous flaws, it is imperative that the automotive industry gets involved in this proceeding. Unless the FCC dismisses the Petition, the FCC could create another drawn out proceeding casting a regulatory shadow over the DSRC service. Moreover, the FCC has not been shy about arrogating authority even where Congress has placed it elsewhere.

Filings opposing the Petition are due on August 24, 2016, so there is not a lot of time to prepare a response. Please let us know how we can assist in preparing and filing any pleadings opposing this latest threat to connected cars.

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