

Communication from Public

Name: Marlo Sandler

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Council File No: 17-1125

Comments for Public Posting: Dear Councilmembers, We write to raise concerns regarding the real-time government collection of consumer information via the Mobility Data Specification (MDS) for dockless micromobility providers. On August 1st, 2019, the California Legislative Council issued a formal opinion clarifying that the MDS standard runs contrary to the California Electronic Communications Privacy Act (CalECPA). The opinion makes a number of key observations about how the statute operates to restrict government access to electronic information without a warrant. The opinion is attached to this letter for your detailed review. The following sections are of note: ? The statute “restricts a department of a city or county from requiring a business that rents dockless bikes, scooters, or other shared mobility devices to the public to provide real-time location data from its dockless shared mobility devices as a condition of granting a permit to operate in the department’s jurisdiction.” ? The statute prohibits a government entity from “access[ing] electronic device information by means of physical interaction or electronic communication with the electronic device” without a warrant for a wiretap order, or the “specific consent” of the rider. ? In order to constitute “specific consent” for purposes of CalECPA, it is necessary for an individual or entity to provide consent directly to the government entity seeking that individual’s data. Your city currently requires JUMP, Lyft and other providers of publicly available shared mobility devices to provide their riders’ real-time geolocation data via the MDS, which may be in violation of CalECPA. Numerous privacy and civil liberties organizations are also urging caution, including the Center for Democracy and Technology, who notes that the MDS “raises serious privacy concerns that warrant further attention by regulators and the public...In the wrong hands, this information can be used to stalk or harass riders, compromising their physical safety.” We urge you to halt the implementation and further requirement for MDS until further guidance is issued or the specification is changed such that it no longer presents a potential conflict with CalECPA. We welcome the opportunity to discuss this further.



October 2, 2019

Dear Mayor Garcetti and Councilmembers,

We write to raise concerns regarding the real-time government collection of consumer information via the Mobility Data Specification (MDS) for dockless micromobility providers. On August 1st, 2019, the California Legislative Council issued a formal opinion clarifying that the MDS standard runs contrary to the California Electronic Communications Privacy Act (CalECPA).

The opinion makes a number of key observations about how the statute operates to restrict government access to electronic information without a warrant. The opinion is attached to this letter for your detailed review. The following sections are of note:

- The statute “restricts a department of a city or county from requiring a business that rents dockless bikes, scooters, or other shared mobility devices to the public to provide real-time location data from its dockless shared mobility devices as a condition of granting a permit to operate in the department’s jurisdiction.”
- The statute prohibits a government entity from “access(ing) electronic device information by means of physical interaction or electronic communication with the electronic device” without a warrant for a wiretap order, or the “specific consent” of the rider.
- In order to constitute “specific consent” for purposes of CalECPA, it is necessary for an individual or entity to provide consent directly to the government entity seeking that individual’s data.

Your city currently requires JUMP, Lyft and other providers of publicly available shared mobility devices to provide their riders’ real-time geolocation data via the MDS, which may be in violation of CalECPA. Numerous privacy and civil liberties organizations are also urging caution, including the Center for Democracy and Technology, who notes that the MDS “raises serious privacy concerns that warrant further attention by regulators and the public...In the wrong hands, this information can be used to stalk or harass riders, compromising their physical safety.” We urge you to halt the implementation and further requirement for MDS until further guidance is issued or the specification is changed such that it no longer presents a potential conflict with CalECPA.

We welcome the opportunity to discuss this further.

Best,

Colin Tooze
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