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Department of Justice

December 29, 2006

RE: Starter Interrupt and GPS

Dear:

Following our meeting in Des Moines this past August, you asked that we provide written comments regarding our views of the use by [text redacted] of a starter interrupt device employing Global Positioning System ("GPS") technology to locate vehicles subject to [text redacted] consumer loans. This response is provided both in our role as Administrator of the Iowa Consumer Credit Code ("ICCC"), and as the agency empowered by the Iowa Legislature to enforce Iowa's consumer fraud statute, Iowa Code section 714.16.

First, as we understand it, it is [text redacted] intent that the use of the starter interrupt device would conform to the requirements previously communicated by this office to other lenders or sellers of such devices, as reflected in the enclosed copy of a redacted letter of this office. Please let us know if that is not the case.

We'd also like to note that regardless of the use of GPS technology, those who use starter interrupt devices may potentially run afoul of applicable laws or otherwise face liability under various scenarios. For example, a vehicle operator may be trapped in a driveway, unable to move a vehicle in an emergency [text redacted], causing harm to individuals wishing to escape threatening situations, or facing health or other emergencies requiring immediate access to transportation. Under that scenario, tort liability might be found, as well as unfair debt collection. Another troublesome scenario might involve a debtor who is far from home with the vehicle when the starter interrupt is used and incurs substantial additional expenses to find alternative transportation to return home. Thus, although our office takes the view reflected in the attached document that use of the devices does not, per se, violate the laws we enforce, our office is not in a position to "approve" the use of the devices under all potential scenarios.

As to the use of GPS technology by creditors to locate vehicles subject to consumer loans, we do not consider this an issue that, standing alone, is limited by the Iowa Consumer Credit Code. However, the way in which the presence and use of the technology is disclosed to borrowers, and the way that it is employed in practice, could give rise to violations of various laws, including the ICCC and section

714.16. For example, unless it is clearly and conspicuously disclosed to consumers, prior to entering into a loan, that GPS technology will be used on their vehicle to locate it in the event of default, it may constitute intentional omission and an unfair practice pursuant to section 714.16 to use the technology. Section 714.16 does not specify the manner in which such a disclosure must be made. However, we'd encourage the creditor to ensure that the disclosure is made orally and in writing, in a manner the consumer may retain, and in language that is readily understandable and conveys all materials aspects of the use of the GPS technology.

Additionally, use of the GPS technology to collect a debt could potentially violate the debt collection provisions of the ICCC. For example, failure to fully disclose use of the GPS technology could constitute use of a fraudulent means to collect a debt in violation of section 537.7103(4).

Finally, it is important to note that any use of the starter interrupt or GPS technologies must be nondiscriminatory.

Thank you for your patience awaiting this correspondence. Please contact me if you have any additional questions regarding our position in this matter.

Sincerely,

William L. Brauch
Special Assistant Attorney General
Director-Consumer Protection Division
Administrator-Consumer Credit Code