



February 11, 2020

Chairwoman Jan Schakowsky
Committee on Energy and Commerce
Subcommittee on Consumer Protection
and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Ranking Member Cathy Rodgers
Committee on Energy and Commerce
Subcommittee on Consumer Protection
and Commerce
2322 Rayburn House Office Building
Washington, DC 20515

Re: Autonomous Vehicles: Promises and Challenges of Evolving Vehicle Technologies Hearing

Dear Chairwoman Schakowsky and Ranking Member Rodgers, and Honorable Members of the Consumer Protection and Commerce Subcommittee,

The Center for Auto Safety (the Center) is pleased to present this letter to the Subcommittee regarding your hearing on “Autonomous Vehicles: Promises and Challenges of Evolving Vehicle Technologies.” We respectfully request this letter be made a part of the official record of this hearing.

With almost 40,000 traffic crash deaths and over 2.5 million serious injuries on our roads every year, there is no time to waste in moving forward towards deploying safe vehicle technology, be it autonomous or otherwise. The Center firmly believes Autonomous Vehicle (AV) technology will play a significant role in a safer transportation future and is committed to seeing its successful and safe integration into our transit ecosystem. Yet, permitting the deployment of self-described self-driving vehicles on public roads, based exclusively on the marketing assurances of the auto industry, ignores that industry’s well-documented history of unsupported advertising claims clashing with reality.

This history is why the Center is so pleased your Subcommittee is holding this hearing. It is our hope today is the beginning of an honest conversation about how Congress can pave the way to improving safety on our streets for hundreds of millions of Americans instead of simply improving the stock portfolio of a few companies and the venture capital funds that support them. The time for glossy marketing brochures is over. The time for required minimum performance standards focused on safety for everyone, backed by transparency and urgency, is now.

We speak from experience. Since the Center’s founding 50 years ago, our sole mission has been improving vehicle safety through technology and consumer protection on behalf of our members across the country, and drivers, passengers, and pedestrians everywhere. As the nation’s leading independent, non-profit, advocate for car safety we have spent five decades performing oversight of the Department of Transportation (DOT) and the National Highway Traffic Safety Administration (NHTSA), as well as the auto industry itself. Sadly, this vigilance remains as necessary today as it was in the wake of the Corvair scandal when General Motors decided it preferred to hire private investigators to dig up dirt on Ralph Nader rather than fix a dangerous design issue.

While there have been lots of technological advancements since those dark days, many philosophical problems remain. None is perhaps more insidious than the idea that car companies, and their new friends in Silicon Valley, should be given the ability to sell unproven robot car technology absent proof they are meeting mandatory performance requirements.

For example, there were over 40 million vehicles recalled in 2019 alone. Those recalls were for vehicles where rules exist, and methods of testing have been established, neither of which is true for self-driving technology. But, instead of requiring new AV technology to meet performance standards NHTSA's preference appears to be removing requirements and addressing life-threatening problems after disaster strikes via recalls. Leaving aside NHTSA's current dismal record of pursuing defect violations, opening investigations, or levying civil penalties, "enforcement" is not regulation, and after-the-fact investigations will not revive the dead.

The time for Congressional leadership that gives the best chance for the safe development of AV technology is now – before any more Americans have their lives upended, or prematurely lost, due to unregulated defective AV technology. If not, today's outlandish "Full Self Driving" claims by Tesla about vehicles which do not meet any such definition will soon seem tame. Worse still, the generational opportunity to change transportation safety for everyone on the road will be inevitably delayed by legitimate public fear.

Outlandish claims by auto manufacturers, and their new Silicon Valley partners, suggest they will end all deaths on American roads by building perfect autonomous vehicles that will replace all of the dangerous drivers on our roads, as if most drivers routinely kill their fellow motorists and pedestrians. The reality is that technological changes to design and safety features, in combination with holding responsible manufacturers liable for dangerous products; educational and legal efforts to reduce drunk driving; and significant and periodic improvements in required minimum vehicle performance standards have saved hundreds of thousands of lives. The idea that tens of thousands of unproven and unregulated AV deployed quickly and without new rules, oversight, or a significant upgrade in highway and road infrastructure, will automatically be safer than a good human driver may make for a good Super Bowl ad or a few point bump in a quarterly earnings report – but it's not good transportation policy.

We expect better from the Federal Government. That's why, as long-time advocates for the deployment of new car safety technology we were particularly disappointed that Secretary Chao's statement in Las Vegas in January that DOT was "all in" for AV safety was just a bluff for the purpose of a press release. More gambling with other people's lives and money came a few weeks later when NHTSA's Acting Administrator James Owens claimed the AV industry isn't self-regulating because NHTSA can always recall dangerous cars. It is hard to imagine a more irresponsible statement from the purported leader of America's car safety agency. To suggest an after-the-fact recall of a defective vehicle is as good as making sure they are safe before they hit the road reveals a callousness towards safety and a fundamental misunderstanding of how safety regulations work.

As you and your colleagues undertake the vital task of writing our nation's first autonomous vehicle law we hope the Subcommittee keeps in mind the following areas which will be necessary to successfully move forward the needle for AV safety in the decades to come:

- First, don't undermine consumer protections. There is no need to look to ancient history for examples of transportation companies making unverified and unsupervised claims about the safety of their technology – just ask the families of the Boeing MAX victims. Accordingly, an

AV bill must not preempt protections provided by state and local rules of the road regarding the operation of vehicles on their streets. Further, we have already seen deaths and injuries as a result of a cavalier attitude by companies testing AV technology on public roads. Access to courts, for victims like Elaine Herzberg, remain the final backstop in a deregulatory environment when federal regulators are turning a blind eye to a free market free-for-all.

- Second, provide access to data. Experimental drugs are not allowed to be sold in drug stores without manufacturers submitting relevant test data to the government for determining public safety. An AV bill must require test data be submitted by those using public infrastructure, free of charge, as testing grounds. Currently, motor vehicles must meet minimum safety requirements prior to being sold. The least AV manufacturers can provide is that same level of assurance to the general public. Updating the types of data elements required to be collected from these vehicles, to be shared with the appropriate investigative authorities, will also be critical to creating public confidence in a safer vehicle future.
- Third, new rules must be mandatory. The current Administration has repeatedly, in the context of transportation and elsewhere, indicated a preference for voluntary, industry written, standards. Following a voluntary standard model for AVs is a fool's errand. Industry voluntary standards can be a nice benchmark but can also be easily ignored or subverted at any time by any participant. Voluntary standards for AVs are not an acceptable substitute for strong, mandatory performance standards which allow for innovations but protect populations.
- Finally, mandate standard, and standardized, advanced driver assist systems (ADAS) right now. AV manufacturers are fixated on being first to bring the perfect robot car to market. There are more than 80 vying for that prize. Yet each of them knows that part of the road to autonomy will include driver assist systems which will not only allow for the progressive acceptance and understanding of the technology by consumers, but will allow for developers to build upon the success of features that improve human-machine-interface interactions.

For example, Automatic Emergency Braking (AEB), when it works, can reduce front end crashes by as much as 50%. Yet currently there is no standard for the feature and more than 300,000 vehicles have been subject to recall because of faulty AEB, which doesn't include over 500,000 Nissan vehicles the Center has petitioned NHTSA to recall an AEB "phantom braking" problem. The same is true for many other ADAS features such as lane keep assist, rear AEB, pedestrian AEB, intelligent speed assist, and smart headlights. The car of tomorrow could be here today, saving lives. But standards are needed, and mandates are necessary to ensure ADAS functionality and reliability.

It seems impossible that we have arrived in 2020 with no action from the federal government to protect the American people from thousands of unproven driverless vehicles being tested on public roads. Worse, it is unimaginable that nothing has been done to inhibit car and technology companies from creating an unsafe corporate culture that prizes profits over people. There's been far too much talk about deploying test cars into rush-hour traffic, when what actually needs to be deployed is an AV bill that puts substance over style and actual safety over advertising sizzle.

Yours,

A handwritten signature in black ink, appearing to read "Jason Levine". The signature is fluid and cursive, with the first name "Jason" written in a larger, more prominent script than the last name "Levine".

Jason Levine
Executive Director

cc: Chairman Frank Pallone
Ranking Member Greg Walden
All members of the Subcommittee