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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

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June 2, 2017

The Honorable Elaine L. Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, Northwest
Washington, D.C. 20590

Dear Secretary Chao:

We write to highlight the importance of the Department of Transportation's continued leadership in the repair of defective Takata air bag inflators, which are subject to the largest and arguably most complex safety recalls of any consumer product in U.S. history. As you know, defective Takata inflators have been linked to 11 deaths and approximately 180 injuries nationwide. Unfortunately, just recently, Honda confirmed that another Takata air bag inflator ruptured in Las Vegas, Nevada, causing serious injury to the driver.

Both civil and criminal litigation surrounding the recalls has been ongoing. On February 27, 2017, Takata agreed to plead guilty to one count of wire fraud related to falsification of its inflators' safety performance and to pay \$1 billion in criminal penalties. Three Takata executives face criminal charges for their alleged connection with the Takata fraud scheme. Takata has also been required to implement greater internal controls and to retain an independent monitor to ensure the company's compliance. Also, on May 18, 2017, four automakers involved in multi-district civil litigation reached a settlement agreement to pay \$553 million to compensate vehicle owners affected by the recalls.

The National Highway Traffic Safety Administration (NHTSA) has been overseeing Takata and automaker efforts to conduct the recalls. Current available studies of the root cause of the Takata inflator failures indicate that the risk of failure increases as a result of long-term exposure to environmental moisture and high temperature fluctuations. Therefore, not all Takata inflators represent the same level of danger. For this reason, NHTSA established a recall prioritization schedule to ensure the repair of higher risk vehicles first and the availability of replacement parts in order to protect the driving public.

Pursuant to its jurisdiction over motor vehicle safety and consumer protection, the Committee has also been actively monitoring these recalls through a hearing in June 2015, oversight letters,

and regular briefings with the independent monitor of Takata and NHTSA's coordinated remedy program, automakers, suppliers, independent expert researchers, and NHTSA.

While much work and attention have surrounded the Takata air bag recalls since the discovery of the defect, there is much more to be done. According to NHTSA, as of April 28, 2017, 36.4 percent of recalled Takata air bag inflators had been repaired. Additionally, just this past December, the Takata independent monitor provided a number of recommendations for consistent messaging principles in recall outreach. The monitor noted that the complexity of the recalls could create consumer confusion, especially with varying messages coming from different entities. On April 27, 2017, the Department of Justice appointed the independent monitor of Takata to also oversee Takata's global operations in conjunction with the company's guilty plea.

We urge the new administration to continue to work toward the objectives of the coordinated recall effort, focusing on the repair of the highest risk vehicles as soon as possible, while easing potential consumer confusion. While the Committee awaits the nomination of a new NHTSA administrator, which we hope will take place soon, progress on repairing defective Takata inflators must continue.

To assist the Committee in its oversight, and to update the public with an accurate and current understanding of the status of the Takata recalls, please provide responses to the following:

- 1) What is the current number of vehicles affected by the Takata air bag recalls that have not yet been repaired? Please categorize the number by manufacturer, vehicle, and inflator type.
- 2) Does NHTSA believe that a gap exists between the number of inflators in need of repair and the availability of replacement parts? If so, describe the number and types of vehicles for which replacement parts are unavailable, as well as NHTSA's efforts to work with automakers and suppliers to increase the availability of replacements to meet demand.
- 3) Is NHTSA satisfied that the phased approach to the recalls – replacing certain higher risk inflators first before launching all recalls by 2019 – strikes an appropriate balance between maintaining the availability of replacement parts and ensuring vehicle occupant safety?
- 4) Describe NHTSA's efforts to increase consumer awareness and reduce potential confusion with respect to the Takata recalls.

- 5) Describe any efforts NHTSA has taken to encourage implementation of any recommendations from the independent monitor to automakers and/or Takata with regard to overall recall effectiveness.
- 6) What is the current status of Takata's investigation, pursuant to paragraph 30 of the November 2015 Consent Order, into the safety of its desiccated ammonium nitrate-based inflators?
- 7) What steps has NHTSA taken to implement the Motor Vehicle Safety Whistleblower Act, enacted as part of the FAST Act (Pub. L. 114-94)?

Please provide your response by July 7, 2017. We look forward to working with you on this important matter.

Sincerely,



JOHN THUNE
Chairman



BILL NELSON
Ranking Member