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LEGISLATIVE HEARING ON VIN

DATABASE AND AUTO WHISTLEBLOWER BILLS

FRIDAY, SEPTEMBER 25, 2015

House of Representatives,

Subcommittee on Commerce, Manufacturing, and Trade,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 10:05 a.m., in Room 2322, Rayburn House Office Building, Hon. Michael C. Burgess, M.D., [chairman of the subcommittee] presiding.

Present: Representatives Burgess, Lance, Guthrie, Bilirakis, Brooks, Mullin, Schakowsky, Kennedy, Butterfield, and Pallone (ex officio).

Staff Present: James Decker, Policy Coordinator, CMT; Melissa Froelich, Counsel, CMT; Kirby Howard, Legislative Clerk, Paul

Nagle, Chief Counsel, CMT; Olivia, Trusty, Professional Staff, CMT; Dylan Vorbach, Staff Assistant; Michelle Ash, Minority Chief Counsel, Commerce, Manufacturing, and Trade; Jeff Carroll, Minority Staff Director; Lisa Goldman, Minority Counsel; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; and Adam Lowenstein, Minority Policy Analyst.

Mr. Burgess. The Subcommittee on Commerce, Manufacturing, and Trade will now come to order. The chair will recognize himself for 5 minutes for the purpose of an opening statement.

And I do want to welcome everyone to our hearing this morning on the draft companion legislation to the Motor Vehicle Safety Whistleblower Act, and the discussion draft of the Improving Recall Tracking Act. In 2014, there were over 63 million vehicles recalled in the United States due to safety concerns. This represents the highest number of vehicle recalls in more than three decades. Under current law, vehicle manufacturers are required to report defects and noncompliance to the National Highway Traffic Safety Administration.

The chairman of the full committee, Mr. Upton, has seen to it with the good work he did on the TREAD Act, but there have been times when the reporting has been slow. The Motor Vehicle Safety Whistleblower Act is intended to foster greater attention and greater responsiveness to vehicle safety defects. It does so by providing an incentive to automotive employees and to contractors who report potential safety violations to the United States Department of Transportation that otherwise would be concealed or unreported. The bill encourages employees to report safety problems within their companies first to allow the automaker the opportunity to address safety issues. This is an important point because it keeps the incentive to work within the system.

The bill is meant to enhance current early reporting systems

that have already been instituted by Congress. Furthermore, the bill is designed with the express purpose of exposing and stopping instances of wrongdoing and protecting the safe and well-being of the public. In addition to the Motor Vehicle Safety Whistleblower Act, we have an opportunity to examine the discussion draft of the Improving Recall Tracking Act. This proposal would direct the Department of Transportation to establish a national database of vehicle identification numbers and driver registration information. It is intended to facilitate the consumer notification process in the event of a safety recall.

In light of recent recalls, it has become apparent that one of the main challenges of removing defective vehicles from the road is making certain that the right consumers are notified of the defect in a timely manner. This hearing will give us an opportunity to discuss how a national database housing current driver registration information and current vehicle identification numbers could help improve the consumer recall notification process beyond that which is in place today. We will also hear how the industry is currently responding to these challenges so we can factor in improvements of the system.

Vehicle safety is a serious issue. It continues to be a concern for this subcommittee and for the driving public. In past hearings on this subject, I have said that Americans deserve better, Americans deserve more. The legislative proposals we will consider today are a step in the right direction towards providing

the driving public with confidence that the vehicles they are driving are safe and that the recall process works.

I will, in anticipation, thank the witnesses for their testimonies. And I look forward to an engaging discussion on these measures. With that, the chair yields back and recognizes the subcommittee ranking member, Ms. Schakowsky, for 5 minutes for an opening statement.

[The prepared statement of Mr. Burgess follows:]

***** COMMITTEE INSERT *****

Ms. Schakowsky. Thank you, Mr. Chairman. It is so nice to meet on a quiet day where there is no real news to be talking about except for this. But even in connection with this, I did want to mention that I think this committee can also be focusing on very big issues and big news. And I look forward, I hope, to focusing on Volkswagen and their fraudulent emissions testing, cheating, that was revealed earlier this month.

As you pointed out, that the law already does require auto manufacturers to report defects. And here we have a situation of deliberately building in a defect. And we need to talk about that. I have a piece of legislation, the Vehicle Safety Improvement Act, which I think would actually do the real deal in terms of making sure that we deal with auto safety.

I want to recognize and welcome a friend of mine, Will Wallace, and a friend of this committee, who is testifying today on behalf of Consumers Union. He is an outstanding former staffer of the subcommittee and I know will bring important insight to this issue.

With more than 95 million American vehicles subject to safety recall over the past 2 years, we obviously have to improve the oversight of the auto industry and the efficacy and timeliness of recalls. I believe, unfortunately, that these bills miss the mark. While I support efforts to enhance the communication between auto companies and drivers whose cars are subject to recall, I don't believe that the vehicle identification number,

VIN Database, discussion draft would achieve this goal.

Manufacturers are already able to access the names and addresses of drivers whose vehicles are subject to a recall. The difference in the discussion draft is that those records would be free of charge to the auto companies. And, yet, the bill would impose significant costs on NHTSA and the States with no funding provided to implement the new database. The Illinois Secretary of State's Office has communicated to us that he has serious concerns about the lack of financial support.

The second bill is intended to encourage auto industry whistleblowers. And while I appreciate the inclusion of language allowing whistleblowers to receive compensation and anonymity for coming forward, I have concerns about the bill's stipulations. Mr. Chairman, you said that it is good that the whistleblower has to report their concerns directly to the company first internally. And while one could make an argument that this might speed things up, I also really worry that provisions would discourage whistleblowers from acting and put them at professional risk for doing so, which really has been the history of whistleblowers. They have not done well vis-a-vis the companies that they work for.

There is a broader and more impactful legislative alternative to improve auto safety, as I said. My Vehicle Safety Improvement Act, which is cosponsored by Ranking Member Pallone and nine other members of this committee, is the alternative. It increases the

amount and accessibility of information auto manufacturers must share with NHTSA and the public, and the public, about vehicle safety issues, and provides new authority to expedite auto recalls if they pose an imminent hazard of serious injury or death.

So that is what I am hoping that we are going to be able to do rather than I believe these bills, which kind of nibble around the margins. I am not just disappointed, I am actually frustrated. And I again urge the subcommittee to take up the Vehicle Safety Improvement Act. And I look forward to a discussion about what Volkswagen has been doing. And I yield back.

Mr. Burgess. The chair thanks the gentlelady. The gentlelady yields back.

[The prepared statement of Ms. Schakowsky follows:]

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Mr. Burgess. Does anyone on the Republican side seek time for an opening statement? Seeing none. Any further members on the Democratic side that seek time for an opening statement? Seeing none.

Again, we want to thank our witnesses for being here today and for being willing to take time to give testimony before the subcommittee. Our witness panel for today's hearing includes: Mr. John Bozzella, the President and CEO for the Alliance of Global Automakers; Mr. Joe LaFeir, Senior Vice President at IHS Automotive; Mr. Cleveland Lawrence, III, the Co-Director of Taxpayers Against Fraud; Mr. William Wallace, the Policy Analyst at the Consumers Union; Mr. Shane Karr, Vice President for Federal Affairs at the Alliance of Automotive Manufacturers.

We do appreciate all of you being here today. We will begin the panel with Mr. Bozzella. He will be recognized -- each will be recognized for 5 minutes to summarize your testimony. Mr. Bozzella, you are recognized for 5 minutes. Thank you.

STATEMENTS OF JOHN BOZELLA, PRESIDENT AND CEO, ASSOCIATION OF GLOBAL AUTOMAKERS; JOE LAFEIR, SVP, his AUTOMOTIVE IS&S, INC.; CLEVELAND LAWRENCE III, CO-DIRECTOR, TAXPAYERS AGAINST FRAUD; WILLIAM WALLACE, POLICY ANALYST, CONSUMERS UNION; AND SHANE KARR, VICE PRESIDENT, FEDERAL AFFAIRS, ALLIANCE OF AUTOMOBILE MANUFACTURERS

STATEMENT OF JOHN BOZELLA

Mr. Bozzella. Thank you, Mr. Chairman, Ranking Member Schakowsky, members of the subcommittee, thank you very much for the opportunity to testify today.

I am John Bozzella, CEO and President of the Association of Global Automakers. As the ranking member has mentioned, the very troubling facts that have come to light involving Volkswagen will likely have significant implications for the industry. And I look forward to working with the subcommittee and discussing these issues as we move on.

I have been asked for our perspective on two bills, the Motor Vehicle Safety Whistleblower Act and the Improving Recall Tracking Act. In 2012, Congress included strong whistleblower provisions in MAP-21. We agree that whistleblower protection is a valuable tool for ensuring that safety concerns will be promptly identified, investigated, and remedied. The bill before the

subcommittee builds on this law. Whistleblower protections have been incorporated into the safety practices of our members because they recognize that the manufacturer and its employees are the first line of defense in identifying and remedying safety concerns. Our member companies have instituted internal controls that empower employees to communicate with their employer about any problem they observe that could impair product quality or safety. For example, manufacturers train their employees specifically on product defect and safety issues and have dedicated safety officers who are responsible for following up on concerns raised by employees.

In addition, manufacturers have established hotlines that empower employees to communicate potential problems. Such systems allow the company to take appropriate remedial steps, in many cases before the affected vehicles leave the factory. But no system is foolproof. We recognize that whistleblower statutes can play an important role in improving motor vehicle safety.

The implementing regulations should give companies every reason and incentive to be informed of the problems promptly so that they can investigate the issues and make any repairs that are needed. While it is important for whistleblowers to be able to report safety issues directly to NHTSA, the process should ensure that employees are not incentivized to shortcut or circumvent internal systems that would result in quicker problem resolution. Our shared goal is to address defects, find remedies, and take

care of the customer as quickly as possible. This is why the manufacturer needs to be a critical part of the process from the beginning.

The second bill before the subcommittee would establish a national VIN database using registration data collected by State DMV offices. We agree DMVs could help improve recall completion rates. This bill would allow manufacturers access to the most up to date information from the DMVs, which they could use to more effectively communicate recall notices to vehicle owners. In addition, DMVs could be encouraged to notify everyone who registers a motor vehicle about the recall status of their vehicle.

This bill also directs NHTSA to enable batch searching and processing of VINs on its SaferCar.gov Web site. We are aware that the current NHTSA system has limitations. But it is our understanding that some vendors have developed tools that enable batch processing. We believe the subcommittee should ensure that the processes created by this bill are not unnecessarily duplicative.

Increasing recall completion rates is a priority for Global Automakers. That is why we are conducting research along with the Auto Alliance to help understand what drives consumers to respond to recall campaigns. We look forward to briefing the subcommittee on the research findings soon.

Thank you again for the opportunity to appear before you

today. And I would be happy to answer any questions that you might have.

Mr. Burgess. The gentleman yields back. The chair thanks the gentleman.

[The prepared statement of Mr. Bozella follows:]

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Mr. Burgess. Mr. LaFeir, you are recognized for 5 minutes to summarize your testimony please.

STATEMENT OF JOE LEFEIR

Mr. LaFeir. Chairman Burgess, Ranking Member Schakowsky, thank you for allowing me to testify, and members of the subcommittee.

I am Joe LaFeir, Senior Vice President, Information Systems and Solutions for IHS, where I lead the company's automotive data solutions business, which includes recall processing. IHS's foundation in the automotive industry reaches back to the advent of the automobile. Since then, IHS has worked with nearly all manufacturers to facilitate the recall process.

IHS remains an industry leader in vehicle recall data processing and provides this service to most manufacturers today. The draft Improving Recall Tracking Act proposes to establish a national VIN database and driver information to aid in recall notification. In addition, the bill requires batch searching of the current SaferCar.gov.

To be clear, we do not oppose the batch searching provision. We are here today to express our opposition to the proposed new database. As with any good idea, the private sector has already developed a highly effective and robust solution. So the legislation simply directs the Federal Government to attempt to

replicate what already exists. If enacted, the legislation will limit innovation and use taxpayer funds to create a Federally-run database that would be less efficient and likely less capable than current market solutions.

Today, the private sector's real time data processing is accomplished utilizing best in class system technologies. Using processes developed over decades, companies like IHS process billions of records each year from tens of thousands of sources and thousands of file formats. Companies like IHS also employ thousands of people, many of whom are devoted to data processing to support recall.

IHS acquires, standardizes, assembles data to create mailing lists to provide notice to affected consumers. We assist with the fulfillment of recall notices, measurement of campaigns through their completion. We provide real time reporting to our OEM customers. Further, following completion of recall notice mailings, we gather open recall information and provide that to the public through our subsidiary CARFAX and its vehicle history report service.

This bill would require registration information to be gathered from each State. Automotive data companies use registration as just one data point and many proprietary sources to determine the best possible address to contact the owner of a recalled vehicle. As proposed, this database would not provide the same level of data that we can provide today in the private

sector. Using private sector data solutions, we can identify and provide addresses for the vast majority of car owners. While there are a few exceptions, recall notification return mail rates typically range in the single digits. And the private sector continues to innovate further to reduce these numbers. Given the private sector's success in providing notice, perhaps the focus should be placed on addressing why some notified consumers get their cars remedied and others do not.

In conclusion, the legislation, while well-intended, does not create a better solution than what exists today. In an era where Federal budgets are limited, this bill would direct NHTSA to attempt to duplicate a product and service that the market, using private capital, has created decades ago. The private sector continues to innovate, going well beyond the requirements of this legislation.

I appreciate the invitation to testify, and look forward to your comments.

Mr. Burgess. The gentleman yields back. The chair thanks the gentleman.

[The prepared statement of Mr. LeFeir follows:]

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Mr. Burgess. The chair recognizes Mr. Lawrence for 5 minutes for a summary of your testimony please.

STATEMENT OF CLEVELAND LAWRENCE, III

Mr. Lawrence. Good morning, Mr. Chairman, Ranking Member Schakowsky, Ranking Member Pallone, and members of this subcommittee. And thank you for inviting me to testify at today's hearing on the proposed Motor Vehicle Safety Whistleblower Act. My comments will be restricted to that bill only.

My name is Cleveland Lawrence, III. I am a Co-Executive Director of Taxpayers Against Fraud and its sister organization, TAFEF Education Fund, which are two non-profit public interest organizations dedicated to combatting fraud against taxpayer dollars through the promotion and protection of False Claims Act laws and qui tam provisions, which allow whistleblowers with evidence of fraud against government entities, to file suit on behalf of the government in exchange for financial rewards of at least 15 and up to 30 percent of the government's recovery if their suits are successful.

My organizations also support the goals of the IRS, SEC, and CFTC whistleblower programs, which do not have qui tam provisions but still offer monetary rewards to whistleblowers in exchange for original information about significant tax, securities, and commodities fraud.

I first joined TAF in 2008 and became co-executive director in 2013. I am an attorney by training and spent the first 6 years of my career as an associate at the international law firm of Weil, Gotshal & Manges, where, among other things, my practice included defending whistleblower claims brought under the False Claims Act. Having examined whistleblower claims from both sides over the past 15 years, I can say without reservation that the Federal False Claims Act is the model statute for any effective whistleblower law or program.

Since that law was overhauled in 1986, the False Claims Act has returned more than \$40 billion to the U.S. Treasury. This result is in large part due to the significant role that whistleblowers have played in exposing fraud on the Federal fisc. For example, according to the U.S. Department of Justice, False Claims Act cases have recovered \$5.69 billion for the Federal Government just last fiscal year alone, with nearly \$3 billion of that total resulting from lawsuits filed by whistleblowers. The success of the False Claims Act over a near 30-year period should not and has not been ignored. More than half of the States have False Claims Act statutes now. And at the government's urging, most of these laws mimic the Federal statute.

Similarly, the IRS, SEC, and CFTC now have provisions that reward whistleblowers, all of which are modeled on the False Claims Act. While I applaud and fully endorse the effort to enact whistleblower legislation to make automobiles and road travel

safer, I cannot support the proposed Motor Vehicle Safety Whistleblower Act in its current form, as it suffers from many of the deficiencies that have already been corrected under the False Claims Act, IRS, SEC, and CFTC arenas. I will discuss two of the primary weakness of the bill, either of which is enough to significantly derail the program.

First, the bill lacks guaranteed minimum rewards and gives the Secretary of Transportation unfettered discretion over the amount of an award up to a maximum to give to whistleblowers whose information resulted in monetary sanctions recovered by the government from an automobile manufacturer, parts supplier, or dealership, including the option to award no award at all. Decades of experience make clear that any whistleblower program will inevitably fail unless it guarantees minimum rewards for those who risk their careers to come forward.

Before the False Claims Act was overhauled in 1986, it did not guarantee minimum rewards either. And the program did not effectively remedy fraud, bringing in only about \$54 million dollars in the year before it was amended. But since then, we have seen the outstanding success of the statute, bringing in billions of dollars each year in the recent years. Whistleblowers are simply unable to risk their livelihood without the assurance of some compensation for doing so and reporting fraud or misconduct by their companies to the government. The SEC and CFTC, similarly, have guaranteed minimum rewards to whistleblowers

for their information, as has the IRS. The concept of incentivized integrity works. But a whistleblower program that does not ensure minimum rewards can offer little more than an illusory promise.

The second issue with the bill is the internal reporting requirement. I can think of no other effective law enforcement paradigm that requires that the target of the investigation is notified before the government can investigate. In my experience, whistleblowers often prefer to report internally. But since not all internal compliance programs are equal, they have to make the choice about whether or not reporting internally to the company will target them for retaliation. In addition, by requiring a whistleblower to report internally, the government effectively cuts off access to continued information about the misconduct within the company, giving the company an opportunity to coach further witnesses, destroy evidence, or otherwise thwart what could be an effective secret government internal investigation.

I urge the committee to correct these two issues, because without these corrections the program is doomed to failure. I am happy to answer your questions. Thank you.

Mr. Burgess. The gentleman yields back. The chair thanks the gentleman.

[The prepared statement of Mr. Lawrence follows:]

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Mr. Burgess. Mr. Wallace, you are recognized for 5 minutes for your testimony. Thank you.

STATEMENT OF WILLIAM C. WALLACE

Mr. Wallace. Good morning, Chairman Burgess, Ranking Member Schakowsky, and members of the subcommittee.

I am Will Wallace, a policy analyst for Consumers Union, the advocacy arm of Consumer Reports. We are an independent, non-profit organization that works with consumers and for consumers for a fair, just, and safe marketplace, and to empower consumers to protect themselves. Consumers Union and Consumer Reports have fought for decades to make cars safer and hold companies accountable for the products they sell. We have pushed for effective rules and laws and for safety features such as seatbelts, air bags, and electronic stability control.

Our auto test center works every day to evaluate safety technologies. And we communicate with millions of consumers to help them make informed choices and stay safe. We appreciate the opportunity to testify.

Today's hearing is timely, given the news lately about auto safety and corporate wrongdoing. The Federal settlement with General Motors over ignition switches linked to at least 174 deaths was very disappointing because it didn't nearly go far enough to hold auto companies accountable for hiding the truth.

Right on its heels came the news that Volkswagen had cheated on emissions control testing for some 11 million diesel vehicles and covered it up. These news items are sending shock waves through the industry, our government, and the public. The resulting erosion of confidence can't be overstated. And lawmakers need to take action to address this corporate accountability crisis.

The discussion draft and bill before you today attempt to address pieces of the problem. One, the Improving Recall Tracking Act aims to tackle low recall completion rates, while the other, the Motor Vehicle Safety Whistleblower Act, seeks to root out concealed defects. While we are pleased that the subcommittee is pursuing these worthy goals, Consumers Union believes that the two proposals fall far short both in terms of meeting their objectives and in terms of improving the flawed system that is supposed to ensure safety defects are identified and repaired before people get hurt.

The GM fiasco, along with crises involving defects in Toyota, Takata, and Chrysler products among others, made clear that auto companies must do far more to ensure their vehicles are safe. And NHTSA must do far more to hold auto companies accountable. Yet, the drafts before the subcommittee today are strikingly limited in their ambition.

The Improving Recall Tracking Act could possibly help companies reach owners of older vehicles in case of a recall if it were fully funded. But the bill doesn't authorize that funding,

despite requiring NHTSA and the States to carry out a substantial amount of new work. NHTSA, in particular, needs to be able to hire more staff to protect the public the way we all expect, not have them stretched more than they already are.

Similarly, the Whistleblower Act could incentivize auto industry employees to give NHTSA information about concealed defects. Just imagine how much suffering could have been prevented if a GM engineer had reported the flawed ignition switch to NHTSA in 2006 or 2007. However, we are concerned the bill may not be as effective as it could be, primarily because of the lack of an established minimum award that at least covers the loss of earnings a whistleblower could face by sacrificing his or her career.

More broadly, though, the discussion draft and bill today don't do nearly enough for consumer safety. Instead, we urge you to take up bolder legislation, such as H.R. 1181, the Vehicle Safety Improvement Act. That bill would address shortfalls in current law, such as NHTSA's inadequate civil penalties authority and the loophole that allows dealers to sell recalled used vehicles before they are repaired. In addition to these measures, Consumers Union also encourages the enactment of a criminal penalties provision to deter executives from hiding defects.

The bill would strengthen NHTSA by authorizing the additional funding it badly needs, giving it imminent hazard authority like CPSC and FDA have, and making sure it receives more detailed

information from manufacturers through early warning reporting. The bill would empower consumers by giving them free access to more safety information and by making NHTSA's existing databases, which can be clumsy, confusing, and hard for an ordinary consumer to use, more timely and more readily searchable. The Vehicle Safety Improvement Act would create an auto safety system that is proactive, identifying defects before they reach epidemic proportions. And we urge members to advance it. We also urge members to create a strong safety title for a possible highway bill. In addition to requiring that rental car companies fix recalled vehicles before they offer them to consumers, as the Senate transportation bill does, such a safety title should include the needed reforms just outlined. Thank you.

Mr. Burgess. The gentleman yields back. The chair thanks the gentleman.

[The prepared statement of Mr. Wallace follows:]

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Mr. Burgess. Mr. Karr, you are recognized for 5 minutes for your testimony please.

STATEMENT OF SHANE KARR

Mr. Karr. Thank you, Mr. Chairman, Ranking Member Schakowsky, Ranking Member Pallone. I appreciate the opportunity to testify on behalf of the Alliance of Automobile Manufacturers today.

I know that our time is limited. And my complete statement is submitted for the record. So I will limit my remarks here and try to focus on the big picture. You have asked me to testify about these two -- the discussion draft and a bill today. Let's talk first about the Improving Recall Tracking Act. Auto manufacturers are committed to keeping their products safe. And when a safety defect is identified, we want to undertake a recall. And we want all of the recalled vehicles to be repaired.

There are two challenges -- at least two challenges to completing repairs on recalled vehicles. One, of course, is consumer motivation. In this country, consumers make the choice whether or not to get their vehicles repaired. We want them all to get their vehicles repaired. We urge them to get their vehicles repaired. You all have done that from the dais over the course of the last couple of years. But, at the end of the day, consumers make that choice.

In an effort to sort of understand why people wouldn't get their vehicles repaired, my CEO, when he was testifying in front of the committee earlier this summer, noted that we were undertaking the first of its kind comprehensive study into consumer motivations. Global Automakers and the National Automobile Dealers ended up joining us. And we have been working together. And, as Mr. Bozzella stated, we are close to wrapping that up and look forward to briefing you all. We have actually been in touch about setting up a briefing for you all next month.

But putting consumer motivation aside, we know and you all saw over the last year or two that reaching all consumers in the first place is a significant challenge. It just is. One of the great things about the U.S. is we are a highly mobile economy. People move at the rate of about 17 percent a year. NHTSA, in analyzing vehicle completion -- recall completion rates, has said that for those new vehicles in the sort of zero to 4 year-old time frame, about 83 percent of those get repaired. It is a very high percentage. But as soon as you start tracking further out, the completion rate numbers fall off dramatically.

Five to ten years, 44 percent completion rate. Over 10 years, 15 percent completion rate. At least part of the explanation for that is the challenge associated with actually reaching subsequent owners of vehicles. Mr. LaFeir's testimony is terrific. My companies, I think all of them probably use his service to contact consumers. But in reading his testimony, you

know, they admit that part of the problem is there is not uniformity among the States in the records they keep with regard to registration, how quickly those are updated. That is part of the reason why his company is so effective and why my companies use it is because they reach all these different data points beyond registrations so that we can notify consumers. The draft not only requires this information to be submitted into a national VIN database that would be accessible for recall purposes, but it effectively standardizes the information that would be collected and the timetables.

So it would, in fact, ensure that when we go to undertake a recall, we have a comprehensive set of timely contact information to work from and try to reach these owners of older vehicles who are still required to register those vehicles in the States. My testimony notes some other technical issues with the bill. But I think from the big picture standpoint, you know, that is the issue that we are focused on. And it's worthy of further consideration.

With regard to the Motor Vehicle Safety Whistleblower Act, I would say just very briefly, you know, that bill was introduced in the Senate last fall. The Alliance immediately reached out to staff on both sides of the aisle and Members. That bill had very strong bipartisan support. We expressed our concerns and worked through them. I never heard, frankly, in that time the issues that are being raised here today. That bill obviously passed by unanimous consent in the Senate. And we wouldn't object to you

all taking it up and passing it over here. And with that, I will let myself open for questions.

Mr. Burgess. The gentleman yields back. The chair thanks the gentleman.

[The prepared statement of Mr. Karr follows:]

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Mr. Burgess. It occurs to the chair that I omitted to announce to the subcommittee that members, pursuant to committee rules, all members' opening statements will be made part of the record.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Burgess. And then I do want to thank all of you for your testimony this morning and sharing your observations with us. We will move into the question portion of the hearing. I will start by recognizing myself for 5 minutes.

And, Mr. Karr, let me come back to you. You mentioned in your testimony that the Auto Alliance, joined by the Global Automakers and the National Automobile Dealers Association, announced that it was conducting the study on what motivates consumers to have their recalled vehicles remedied and you mentioned that you were going to be having a briefing in the near future.

Can you pull back the curtain just a little bit and share with the subcommittee this morning some of the things, the insights you may have gained as to what motives a consumer to have a defect remedied?

Mr. Karr. I would like to be able to do that, but I just saw the preliminaries myself. And, you know, I wouldn't want to mischaracterize anything off the top of my head. We will schedule a full briefing and get the folks who actually conducted the survey in here as well, so you will all have the opportunity to ask them questions as well.

I guess one thing that is relevant to this hearing that we learned is that the vast majority of people who knew that they had had a vehicle recalled within the past 2 years, the vast majority of those people knew because they were contacted by the

manufacturer. Even more than we expected. Given all the news media and social media and everything else, the vast majority of people --

Mr. Burgess. Let me ask you a question about that if you are at liberty to answer it. So they had already been contacted. Had they done the follow through to actually schedule an appointment or had their vehicle defect remedied at that point?

Mr. Karr. Remember, part of the reason for doing the survey was to find out really why people who didn't get their vehicles repaired, you know, why they didn't -- why that didn't happen. So we talked to a lot of people who had gotten their vehicles repaired. We talked to a fair number of people who intended to get their vehicles repaired in short order. And, interestingly, there was a group of people who said, you know, I know my vehicle is under recall, but I don't intend to get it repaired. That was a small minority of the folks that we talked to. But, yes, we talked to all of those people.

Mr. Burgess. Well, you know, this is, of course, with other hearings into the air bag issues, this is one of the things that has really concerned the subcommittee, how to get the word out to people to get their vehicles repaired, the very dangerous situation that may exist in some vehicles.

Apparently the older the vehicle, the greater the risk. And the real problem of once you are on the third or fourth owner of a vehicle, it becomes very difficult to track them down. And then,

as you point out, the compliance rate may be lower. You would think with a severe safety defect, something that could blow up in your face, your family's face, you would want it fixed. And it is a little concerning that we haven't been able to do better with that.

I am going to assume, and correct me if I am wrong, that the manufacturers themselves, I mean we can legislate all we want up here, but is there any place for the manufacturer placing an incentive out there before the consumer public, hey, we would like to see your vehicle in here and we will make it worth your while to do so, half price on an oil change or vacuum the floor mats. I mean, are there incentive programs that are being looked at?

Mr. Karr. Yes, I think that there actually are even examples of incentive programs that have been undertaken by a couple of my members surrounding the recent recalls. So, absolutely, I think that that is something to look at.

You know, interestingly enough, for a lot of consumers, they apparently have concerns if they bring their vehicle in to be recalled, that they will be upsold on other things. So part of this may be assuaging those concerns going forward. There are a lot of different reasons. And it will be interesting, I think you all will find it interesting to, sort of, unpack why people do or don't do what they do.

Mr. Burgess. Well, we anxiously look forward to those briefings and perhaps have an opportunity to have you back and

discuss those. You mentioned in your testimony, the manufacturers are committed to keeping their products safe. And you believe that, right?

Mr. Karr. Absolutely.

Mr. Burgess. And, Mr. Bozzella, I mean, I spent my productive years in the healthcare industry, and we talked about something in the healthcare industry called continuous quality improvement. I mean, you all do that in the manufacturing process. Is that just a matter of course?

Mr. Bozzella. Yes, it is.

Mr. Burgess. And it just seems like it would fit in a culture of continuous quality improvement that if someone sees something that is not right, you would want them to bring it forward. I mean, I can't imagine a culture where an employee would say this is going to be a real problem. If I just hang onto this for a while, it might be a very valuable lawsuit for me in the future. Nobody wants that kind of environment, do they?

Mr. Bozzella. No. No. You are exactly right. And I think the key there is not only to create that environment but to continue to enhance and develop it through more training, hotlines, both internal and third-party hotlines, the kinds of things that I think you are seeing are -- are hearing our members companies are doing. I think it is critical.

Mr. Burgess. Great. Thank you. My time has expired. The chair will recognize the ranking member of the subcommittee, Ms.

Schakowsky, 5 minutes for your questions, please.

Ms. Schakowsky. Thank you, Mr. Chairman. Mr. Karr, with all due respect, if Ford or GM said to their stockholders, you know what, consumer motivation just isn't there. This is a free country and people are free not to buy our cars. I am having to assume that in marketing automobiles, which you can hardly turn on the television, it is either a drug ad or it is a car ad, that consumer motivation is deeply researched and figured out and a lot of money is spent to do that.

So don't you think that if the manufacturers were really serious about getting unsafe cars off the road -- I mean, I look forward to your research. But this idea that, you know, well consumers, you know, they just don't really want to do it. Really? They want to drive unsafe cars?

Mr. Karr. So, you know, I absolutely agree with you that we need to, and I think my companies are very clearly demonstrating, and actually one of my comments, I should say, in the testimony to the draft bill is actually that, the way the draft bill is written, it actually only would allow us access to that database for the owner notification letters that are required under Title 49. And my guys are doing kind of creative and innovative things to reach out and motivate consumers.

And so we would like you all to consider allowing us to use contact information for these more creative means. Having said that, I do just want to say that the owner notification letters,

they are, NHTSA fairly strictly lays out for us what we can say.

Ms. Schakowsky. I get them. I get it. And I get them. And there has to be a better way. And I wanted to ask Mr. LaFeir, one of the things that we know is that nearly 20 percent of recalled cars are never repaired, recall completion, 44 percent for vehicles 5 to 10 years old, 15 percent for vehicles over 10 years old. And, in fact, the average age of cars on the road is 11.4 years.

So what can we do? I know you have this private sector database which in my testimony I said I thought, it is sort of unusual for me, I am saying let's not have a government solution, let's have a private sector solution, sort of a reversal here. Anyway, so how do we get to the drivers of older cars?

Mr. LaFeir. I think we have good tools to get the contact and to get the notification out. I think the motivation changes as the vehicles get older. I think data and data analytics are advancing to the point where we can probably put more energy into understanding are there particular groups that are behaving differently than others? And that may be an area to focus on.

Ms. Schakowsky. Okay. Mr. Lawrence, this is speculation but it seems to me since Volkswagen quite deliberately built into their cars this fraudulent emissions switch, whatever they call it, do you think that if a whistleblower internally had said, oh, you know, this is really bad and you have got to fix it, that that would have done the trick?

Mr. Lawrence. Certainly not. In our experience, most whistleblowers actually do report the misconduct of their company up the chain of command and, generally speaking, only contact the government after they have suffered the retaliation from the company for bringing their concerns to management.

The False Claims Act takes the exact opposite approach and does not require whistleblowers to bring their information directly to the fraud feasons. Instead, it requires whistleblowers actually to submit their information under seal and only provide it to the government so as not to tip off the target that the government might be investigating potential wrongdoing or fraud.

Ms. Schakowsky. So it is possible that this requirement could actually make cars more dangerous in the sense that it would require this internal communication?

Mr. Lawrence. It certainly adds another step to the process of getting the information to the appropriate government officials. And that delay could certainly result in a more dangerous environment.

Ms. Schakowsky. One quickie for Mr. Wallace, the limit on violations and civil penalties for violations, it seems \$35 million for GM was too little. What do you think we should do?

Mr. Wallace. Well, I think we desperately need to raise those in order to provide an effective deterrent against corporate wrongdoing. Especially because we just have to make sure that

this is not the cost of doing business. These penalties cannot be considered merely the cost of doing business. It must be a real deterrent.

Ms. Schakowsky. Thank you. I yield back.

Mr. Burgess. The gentlelady yields back. The chair thanks the gentlelady. The chair recognizes the ranking member of the full committee, Mr. Pallone, 5 minutes for questions, please.

Mr. Pallone. Thank you, Mr. Chairman. While this is a hearing on legislative initiatives relating to safety, our committee has direct oversight responsibilities regarding both clean air and deceptive practices. And I would be remiss if I didn't bring up the following issue. As you know, last week, the EPA issued a notice of Clean Air Act violations to Volkswagen and its related companies stating that Volkswagen had manufactured and installed defeat devices in certain model year cars that, quote, "bypass, defeat, or otherwise render inoperable elements of the vehicle's emission control system." Volkswagen has not denied the EPA's assertion so far. In fact, the EPA has said Volkswagen has admitted it designed and installed defeat devices in these vehicles.

In my opinion, to think that one of the world's biggest and most established automakers deliberately set out to perpetrate this kind of scam on consumers is mind boggling and an outrage that harms both consumers and producers. On the one hand, we have consumers who trusted that Volkswagen played by the rules and that

purchased cars had the attributes the company said they had. You know, dare to learn the truth about clean diesel was one of Volkswagen's advertisements. The reality appears to be that its diesel isn't clean and the ads are not true.

Nearly half a million U.S. consumers and millions more around the world have been lured by the idea of a more efficient, less polluting fossil fuel vehicle that now looks to be neither. And those people who are now saddled with vehicles that if repaired, and I am not sure that is the right word, probably won't meet the fuel economy standards that these consumers thought they were paying for. And the cars, themselves, have probably lost a tremendous amount of their resale value.

On the other hand, you have Volkswagen casting doubt on the industry as a whole. The company hasn't just harmed itself, it has harmed the entire industry. Volkswagen's actions, if everybody is wondering whether Volkswagen is the only one with this problem. So to that end, EPA released a letter being sent to vehicle manufacturers notifying them that the agency is adding new evaluations designed to find potential defeat devices.

Mr. Bozzella and Mr. Karr, what do you say to the American consumer, and how do we ensure that they are compensated not just for the economic loss, but for the fraud that appears to have been perpetrated on them? Let's start with Mr. Bozzella and then Mr. Karr.

Mr. Bozzella. Ranking Member Pallone, thank you very much.

As I mentioned a few minutes ago in my testimony, the very troubling facts that have come to light involving Volkswagen will likely have significant implications for the industry. So I do look forward to working with you and the committee discussing these issues as we go forward.

Mr. Pallone. Mr. Karr, can you respond?

Mr. Karr. Thank you, Ranking Member. Unfortunately, I don't have any more insight into the facts than have been publicly recorded. I think this is a very unfortunate situation. Volkswagen is a company that has shown its commitment to the American market, including producing vehicles in the United States. But these allegations are not good. And it will clearly have ramifications going forward, as it should.

Mr. Pallone. Thank you. Mr. Wallace, representing Consumers Union, the policy division of Consumer Reports, would you care to comment?

Mr. Wallace. Yes. I mean, this is a very serious, calculated violation of the law. We at Consumer Reports, we pulled our recommendations of the diesel versions of the Passat and the Jetta. And our CEO, Marta Tellado, recently called for the company and the government response to this betrayal to be significant enough to right the wrongs that have occurred and to bring true justice to the consumer, because this is just that egregious.

Mr. Pallone. I mean, it appears to be totally intentional.

That's the point.

Mr. Wallace. Exactly.

Mr. Pallone. That is the most important point. I don't know what you say to people at Consumer Reports who are duped into recommending some of these cars to the public and how you convince all of us and our constituents that Volkswagen is an anomaly and that we can afford to trust the industry at all. Mr. Wallace, did you want to comment? I mean, the concern now is that this isn't just one car manufacturer, there might be others.

Mr. Wallace. Well, you know, I work here in our policy office in D.C. But I know that we have a team of committed engineers and technicians up at our test track. And I can tell you that as an organization, Consumer Reports will absolutely put pressure on the manufacturer to make sure that it makes things right.

Mr. Pallone. All right. Thank you very much. Thank you, Mr. Chairman.

Mr. Burgess. The chair thanks the gentleman. The chair would note to the gentleman that his concerns are not -- they are actually shared by both sides of the dais on the subcommittee as to where the appropriateness of this investigation is. And it is a work in progress. So watch this space. Mr. Butterfield, you are recognized for 5 minutes for questions please.

Mr. Butterfield. Thank you very much, Mr. Chairman. And I apologize for being in and out of the room. But the developments

this morning regarding the Speaker's impending resignation has just caused a lot of telephone traffic in my office both from the media and from constituents. And so I have been back and forth.

But, Mr. Chairman, one of the laudable goals of the VIN look-up registration legislation is to enable manufacturers to reach more owners of recalled vehicles so that more vehicles will get repaired. And so I would like to focus my questions today on the rental car safety bill that I introduced with the support of Ranking Member Schakowsky and Congresswoman Capps, H.R. 2198. Companion legislation passed the Senate with bipartisan support as part of the Senate's highway bill.

The legislation will help maximize the number of recalled cars that get fixed. That bill is the Raechel and Jacqueline Houck Safe Rental Car Act, which is supported by the rental car industry. Yes, it is. Consumer organizations, General Motors, Honda, and others. That is very impressive. It would ensure that rental car companies fix recalled vehicles in their fleets before, before renting or selling them. And so to you, Mr. Wallace, what is the Consumers Union's position on 2198 if you all have one?

Mr. Wallace. We strongly support the bill. We think it is well past time that it passes this Congress and close this safety gap that exists. We would also note that it has very, very broad support. And it is only now, it is just up to Congress to get it through.

Mr. Butterfield. Would it be correct to say that this

legislation is critical and it is important?

Mr. Wallace. Yes.

Mr. Butterfield. All right. And to you, Mr. Karr, does your organization support 2198?

Mr. Karr. The Alliance does not support the bill as introduced. We have had numerous conversations with staff, primarily on the Senate side, where the counterpart originated, and proposed a number of possible changes to address our concerns, and would be happy to meet with you all and your staff.

Mr. Butterfield. Can you quantify this for me? What percentage of recalled vehicles are subject to a do not drive warning?

Mr. Karr. Subject to an actual do not drive, it is a small percentage, under 10 percent.

Mr. Butterfield. That is what we have been informed, yes. Are there any Federal safety standards that dictate when manufacturers must issue the do not drive warning?

Mr. Karr. There are not. However, manufacturers, when a manufacturer issues a recall, before they do that, that has to be basically approved through NHTSA. We submit the language and the proposal for the recall to NHTSA. And they review it and approve it before it goes out.

Mr. Butterfield. Thank you. I am standing between my colleagues and votes on the floor.

Mr. Chairman, I ask unanimous consent that two letters be

submitted for the record, one from LKQ Corporation and the other from the American Car Rental Association and others.

Mr. Burgess. Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Butterfield. In addition, Ms. Schakowsky, as she was leaving, asked that I present for the record a statement from the American Association of Motor Vehicle Administrators. I ask unanimous consent.

Mr. Burgess. Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Butterfield. Thank you. I yield back.

Mr. Burgess. The gentleman yields back. The chair thanks the gentleman. The chair does want to thank the panel for being here this morning and for your time and the expert testimony that you have provided to us.

Seeing no further members wishing to ask questions, I would like to take a moment to recognize the contribution of our clerk, Kirby Howard, who after many years of service to the subcommittee on the staff is leaving for new career opportunities. And we obviously wish him well in his future endeavors.

And also before we conclude, I wanted to include the following document to be submitted for the record by unanimous consent, that will be easy, a letter on improving the Recall Tracking Act submitted by Experian. Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Burgess. Pursuant to committee rules, I remind members they have 10 business days to submit additional questions for the record. I ask the witnesses to submit their responses to these questions within 10 business days upon receipt of the question.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Burgess. And, without objection, further proceedings of this subcommittee are adjourned.

[Whereupon, at 11:00 a.m., the subcommittee was adjourned.]