

Wednesday 11 October 2017

Director
Standards and Policy
Consumer Product Safety Branch
Australian Competition & Consumer Commission
Via email to takata@accc.gov.au

Dear ACCC,

RE: Proposed recall notice for a compulsory recall of certain vehicles with defective Takata airbags installed and inflators salvaged from these vehicles

I write regarding the ACCC's proposed recall notice regarding Takata airbags. CHOICE welcomes the proposed compulsory recall, and congratulates the Minister for Small Business for releasing a strong draft recall notice that will force car companies to treat consumers' safety as a priority. This should be happening already but as the voluntary recall shambles demonstrates, car manufacturers are failing in their responsibilities to the Australian public.

In late July 2017, following the conclusion of an in-depth investigation into the Takata recall, CHOICE made a complaint to the ACCC regarding specific car manufacturers. Our key concern at that stage was that consumers were not being given honest information about the fact that some consumers had been provided with like-for-like Takata replacement airbags that would be subject to further recalls.

Since launching our investigation and public complaint, we have received a flood of contacts from individual consumers across Australia. This, coupled with further investigation into the recall, has broadened our concerns. CHOICE has formed the view that the following problems are widespread and apparent in this recall, and need to be addressed urgently:

- Many consumers are being made to wait unreasonably long periods of time following the announcement of a recall before they are able to access a remedy;

- Various cars in Australia have the potentially highly dangerous Alpha inflators installed, which is vital information for a consumer to know. However, car manufacturers kept this information hidden until a CHOICE investigation uncovered it;
- Provision of remedies is not equitable - some consumers with faulty airbags are receiving prompt replacement with non-Takata airbags, while others are being made to wait long periods of time or were provided with like-for-like Takata replacements;
- Provision of remedies is not adequate. Honda consumers in the US with cars that have Alpha inflators are provided with towing services and temporary replacement vehicles. The same remedies should be provided to Australian consumers with cars that have Alpha inflators; and
- Communication from manufacturers to consumers has been opaque and counter-productive, and has contributed to the low resolution rates seen in this long-running recall campaign¹. Additionally, the lack of consistent language used by manufacturers in their individual recall notices is confusing to consumers.

The draft recall notice addresses all of these failings in a direct and effective way, and should be issued as is. It is worth stressing that the voluntary recall was first initiated in 2009 but an unacceptable number of dangerous cars remain on the roads, putting Australians at risk. It is clear that car manufacturers require greater incentives than currently exist to encourage them to communicate promptly and openly with their customers, and provide remedies in an efficient, effective and timely manner. The timeframes for the provision of replacement airbags set out in the draft recall notice, coupled with the clear statement of consumers' rights to a refund or replacement vehicle when these timeframes are not met, is the incentive needed at this point. If this recall notice is issued, more dangerous cars will be fixed at a faster rate.

Many of the companies that have been running voluntary recalls have failed to take satisfactory action to prevent their faulty goods from causing injury to Australian consumers. CHOICE is of the view that a compulsory recall in the form outlined in the draft notice is fully justified. Imposing a compulsory recall is a significant step, and one that we understand is not taken lightly. However, the way the voluntary recall has

¹ We note that some manufacturers have recently taken steps to improve their written communications, and include clear warning language and graphics depicting the risk posed by faulty airbags - we applaud this, although note that it only came about after substantial media attention and increased scrutiny from the ACCC's taskforce.

progressed to date has been highly unsatisfactory and has put lives in danger. The car manufacturers have demonstrated that they are not up to the task of effectively running this recall on their own terms. It is past time for significant action to ensure Australian consumers are protected and receive timely remedies if they are affected by this recall. CHOICE fully supports the proposed compulsory recall.

For further information please contact CHOICE on sagar@choice.com.au.

Yours sincerely,

Sarah Agar,
Acting Head of Campaigns & Policy