

United States Senate
WASHINGTON, DC 20510

November 9, 2015

The Honorable Mark Rosekind
Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE, West Building
Washington, DC 20590

Dear Administrator Rosekind:

We write with grave concerns about the potential that Takata may be unable to execute the terms of its consent decree with NHTSA, and the impact this could have on the safety of millions of American drivers in vehicles equipped with Takata airbags. Specifically, we have concerns about Takata's financial solvency, which is now at risk as a direct result of the events that led to the consent decree, and that as a result, consumers could be left with defective airbags that no one will be forced to fix.

As you know, multiple automakers have announced their decisions to drop Takata as the supplier of airbags to their vehicles over concerns with both the instability of ammonium nitrate and the company's reported manipulation of test data.¹

Following the November 5th announcement that Honda plans to cut ties with the company, Takata Corporation lost a quarter of its value in a single day. The company continues to face further financial penalties in the U.S., the costs of recalling and replacing airbags in as many as 34 million cars, and damage claims from the families of people killed or injured by their defective products. These developments raise the concern that these liabilities could overwhelm the company and lead Takata Corporation to bankrupt its U.S. subsidiary "TK Holdings, Inc." – the company on which NHTSA has imposed fines and entered into its consent decree.

We request information about what steps NHTSA will take to ensure that the millions of American consumers with vehicles containing Takata airbags will retain the ability to remedy this defect free of charge, and that the appropriate civil penalties will be paid to the U.S. Government in the event of a TK Holdings, Inc. bankruptcy. If such assurances are not currently in place, we additionally request that you take immediate action to remedy this oversight. We also request that your response address the following questions and concerns:

- 1) American automakers still need Takata to continue making replacement inflators for the millions of vehicles already under recall, and the many millions more that are likely to be recalled in the

¹ Soble, Jonathan and Hiroko Tabuchi. "Toyota and Nissan to Drop Takata as Supplier of Airbag Inflators." New York Times. Nov 6, 2015. Accessed online: <http://nyti.ms/1lg6No9>.

coming years. As the Wall Street Journal reported on Friday, "For certain types of air-bag modules, other suppliers cannot easily offer a matching type of inflator due to differences in shapes, auto makers and officials said." If TK Holdings announces bankruptcy, how can we assure American drivers replacement airbags can be retrofitted for their vehicles, and who will bear the costs?

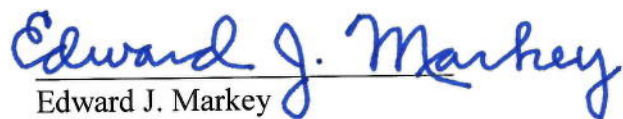
- 2) According to NHTSA's consent decree, "Takata shall continue its current service life and safety testing of Takata PSAN inflators...[and] provide frequent updates to NHTSA on the status of this effort and test results..." While we believe Takata has engaged in several examples of reckless concealment and obfuscation during their eight year investigation for the "root cause" of their airbag's defects, their independently monitored testing has provided the rupture results that led NHTSA to expand the population of recalled Takata airbags on several occasions. If TK Holdings announces bankruptcy, who will bear the cost of future testing to understand the impact of time and moisture on the newer ammonium nitrate based airbags, which have been in the stream of commerce only a short time?
- 3) \$130 million of the \$200 million fine NHTSA announced last week against Takata is tied to TK Holdings meeting certain deadlines or deferred unless NHTSA discovers additional violations of the Motor Vehicle Safety Act. If TK Holdings announces bankruptcy, what entity will pay the U.S. Government if these deadlines aren't met or if future violations are uncovered?
- 4) Lastly, please detail any statutory changes or revisions that could be helpful, in order to hold foreign owners of bankrupt U.S. subsidiaries accountable when American consumers are deceived, injured or killed.

Thank you for your prompt consideration of these requests. Please respond to our offices no later than close of business on Friday December 4.

Sincerely,



Richard Blumenthal
United States Senator



Edward J. Markey
United States Senator