Vice President
Aftersales Craig Westbrook

December 30, 2014

Mr. Kirby Howard, Legislative Clerk
Committee on Energy and Commerce
2125 Rayburn House Office Building,
Washington, D.C. 20515.

Re: 2014 "Takata Airbag Ruptures and Recalls."
Hearing of the Subcommittee on Commerce, Manufacturing, and Trade

Dear Mr. Howard:

In accordance with the Honorable Lee Terry's request, I am submitting my response on behalf of BMW of North America, to the additional questions raised by The Honorable Lee Terry, The Honorable Adam Kinzinger and The Honorable Jan Schakowsky, in connection with the referenced hearing which took place on December 3, 2014. I have also included BMW's response to the open questions raised during the hearing by The Honorable John Yarmath, The Honorable Gus Bilirakis and The Honorable David McKinley.

Pursuant to the Rules of the Committee on Energy and Commerce, we have listed the name of the Member whose question we are addressing with the complete text of the question in bold. Our answer immediately follows the question in plain text.

Thank you again for allowing us to participate in the hearing and to supplement our response, as collectively we seek to advance the goal of vehicle safety and customer satisfaction.

Sincerely,

Craig Westbrook
Vice President, Aftersales
BMW of North America, LLC

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CRAIG WESTBROOK
VICE PRESIDENT, AFTERSALES
BMW OF NORTH AMERICA

December 30, 2014

Additional Questions for the Record

The Honorable Lee Terry

1. Was BMW aware of the 2003 airbag inflator incident reported in one of its vehicles in Switzerland? If so, was the rupture in a driver's or passenger's frontal airbag? Was NHTSA informed of this incident? Were there any deaths linked to the rupture? Did BMW do any follow up with Takata about the cause of the rupture? If so, what was the cause of the rupture? Please provide a detailed explanation.

I was unaware of the 2003 airbag inflator incident when I testified at the Subcommittee of Commerce, Manufacturing, and Trade Hearing on "Takata Airbag Ruptures and Recall" on December 3, 2014 . However, following an internal review, I can confirm that there was a 2003 incident in Switzerland involving a BMW 3 Series vehicle. In that case, the driver-side frontal airbag inflator ruptured without causing injury or death.

BMW contacted Takata in 2003 when it became aware of the incident. Takata informed BMW that its analysis revealed that a most likely root cause was propellant overload (i.e., the overfilling of the inflator with excessive wafers during the production process).

Following subsequent root cause analysis, Takata advised that it has concluded that the 2003 event is not related to the current long term high temperature and humidity issues.

NHTSA was not informed of the incident in 2003 because the TREAD Act only requires the reporting of foreign fatalities. No death was associated with this event.

2. Mr. Westbrook's testimony states that Takata informed BMW of production issues with certain inflators in May 2013. Did Takata specify what those production issues were? If so, please describe them. Did Takata inform BMW of what it was doing to remedy the production issues? Did Takata provide any documentation to verify that those remedies were implemented? Did BMW take steps to independently verify?

Takata informed BMW of two production issues: (i) propellant wafers manufactured from April 2000 until September 2002 may have been produced with low compaction force; and (ii) inflators assembled from October 2001 through October 2002 may have been exposed to an uncontrolled environment involving excessive moisture.

BMW had several discussions with Takata and requested detailed technical information from Takata, including a failure analysis report, component production information, end-

of-life component recycling records and requested that Takata conduct system performance tests, where possible.

Takata provided BMW with preliminary technical information indicating that it was unaware of any unusual deployments during the end-of-life component recycling process and also confirmed that the system design configuration that it produced for BMW was not identical to the configuration produced for other vehicle manufacturers. BMW reviewed the information provided by Takata and requested additional analyses and technical information.

Subsequent thereto, Takata provided BMW with the final requested technical information, including a detailed failure analysis which indicated that the root cause for both issues was insufficient quality controls (i.e., an operator could manually switch off the pressure control unit and the air dryer could be switched off manually). Takata also informed BMW that the control mechanisms were corrected and manual manipulation was prevented by a process optimization.

Based on the information provided and the final analyses performed, on May 2, 2013, BMW decided to conduct a voluntary recall on the passenger-side frontal airbag system.

3. Did BMW receive a letter from Takata in 2010 informing BMW that its inflators were not impacted by the defects attributed to the 2008 – 2011 recalls? If so, how did Takata verify that claim?

On November 25, 2009, BMW received a letter from Takata about their review of the BMW PSDI-4 inflator and its relationship to a field action which was at that time underway on another Takata product. Takata's conclusion was: "based on our current understanding of the root cause, the acceptability of data from the reviewed lots, and the placement of the BMW production lot in the reviewed lot range, Takata does not believe BMW need be concerned nor initiate any field action at this time."

In our letters to NHTSA dated March 5, 2010 and March 24, 2010, BMW informed the NHTSA Office of Defects Investigation that Takata had supplied appropriate documentation to BMW, which substantiated Takata's findings that BMW vehicles were not affected.

4. Mr. Westbrook testified that he did not believe NHTSA currently had enough evidence to support a national recall of driver's side airbags. Please explain why Mr. Westbrook reached this conclusion and what the data would need to show for BMW to support NHTSA's national recall request for driver's side airbags?

BMW has agreed to expand its regional campaign for the driver-side frontal airbag into a nationwide Improvement Campaign.

<u>The Honorable Adam Kinzinger</u>

1. There has been significant discussion about regional recalls and the movement of recalled vehicles from high humidity states to other states outside of those regions. I

believe an area that needs focus by automakers is the commerce of recycled original equipment manufacturer (OEM) parts. Each day, over a half million recycled OEM parts, the very same parts designed by your companies to meet your fit, finish and durability standards - are sold by professional automotive recyclers. These parts play an important part in the automotive supply chain and are readily sold from one state or region of the country to another.

Recently, General Motors reached out to professional automotive recyclers offering to buyback or purchase recalled GM ignition switches. To accomplish this, General Motors provided specific Original Equipment Manufacturer (OEM) part numbers for the ignition switches that were critical to ensure that automotive recyclers could identify the specific recalled parts in their company's inventories.

a. Do you agree that sharing OEM part numbers and other identifiable information with the professional automotive recycling industry would increase safety?

BMW believes that decommissioning and removing recalled airbags from the supply chain is the best way to increase vehicle safety. BMW is willing to share relevant information with the professional automotive recycling industry, as necessary to increase vehicle safety.

b. Do you agree this would assist in tracking recalled parts, such as the Takata Airbags?

BMW believes that decommissioning and removing recalled airbags from the supply chain is the best way to increase vehicle safety. BMW is willing to share relevant information with the professional automotive recycling industry, as necessary to increase vehicle safety.

c. Does BMW currently have a similar buy-back program in place with the professional automotive recyclers? If not, why not?

BMW does not have a buyback program with professional automotive recyclers but will share relevant information as necessary, to increase vehicle safety.

<u>The Honorable Jan Schakowsky</u>

1. At the Subcommittee hearing on December 3, 2014, I asked Honda about confidential settlement agreements made in lawsuits in which plaintiffs have alleged injuries or death as a result of malfunctions of the airbags supplied by Takata.

a. How many settlement agreements related to Takata airbags has BMW reached with plaintiffs? Please provide (1) the dates of these agreements and (2) the dates of the alleged injuries that were the subject of the settlement agreements.

To the best of our knowledge, BMW has not entered into any settlement agreements, with

a plaintiff, confidential or otherwise, in a lawsuit where there was an allegation of death or injuries resulting from the rupturing of a Takata airbag inflator.

b. Please list (1) the year, make, and model of the vehicles that were the subject of those settlement agreements and (2) the nature of the alleged injuries that were the subject of the settlement agreements.

N/A

c. How many of these agreements were confidential or otherwise restricted the plaintiff or plaintiff's representatives from publicly discussing the case?

N/A

2. According to a Reuter's article on December 4, 2014, titled "Toyota Expands Takata Air Bag Recall in Japan, China," Toyota announced that it would recall 185,000 vehicles across 19 models in Japan and 5,000 vehicles in China. Japan's transport ministry said that it instructed other automakers to check whether their vehicles could be affected by the same inflator problem.

a. Has BMW conducted, or is BMW planning to conduct, any recalls in Japan or China with regard to Takata airbag inflator ruptures?

BMW has issued recalls in China and Japan comparable to BMW recalls in the US for the passenger-side frontal airbag. We will also start talks regarding the driver-side frontal airbag with authorities of other countries.

b. If so, are the recalls in Japan or China being conducted pursuant to laws or regulations in those countries? What laws or regulations?

BMW acts pursuant to the applicable laws and regulations of each country in which it does business.

c. Please list the make, model, and model years of each vehicle that was recalled in China and Japan in relation to Takata airbag inflator ruptures.

BMW 3 Series sedan, touring (Sports Wagon in the US), compact (not offered in US), coupe and convertible, production period from June, 1999 up to August, 2006 (end of production), model year 2000-2006.

3. On November 18, NHTSA announced its intention to expand the regional recall of driver's side airbags to a nationwide recall. On December 3, Honda announced that it would expand to a national recall only of driver's side airbags.

However, Takata's testing results submitted by Takata dated November 17, 2014, showed 63 ruptures of passenger side airbag inflators, but no ruptures of driver's side airbag

inflators. These results appear to be inconsistent with the national recall of driver's side airbags only.

a. Is BMW planning to expand its recall of driver's side airbags to a national recall?

Yes, BMW has decided to expand the regional campaign for the driver-side frontal airbag into a nationwide Improvement Campaign.

b. Is BMW planning to expand its recall of passenger side airbags to a national recall?

Yes, earlier this year, BMW implemented a nationwide recall for the passenger-side frontal airbags in model year 2000-2006 BMW 3 Series vehicles with affected Takata airbag inflators.

c. Has BMW identified the root cause of these driver's or passenger-side airbag ruptures? If so, please explain.

No, the root cause of the ruptures has not been identified. Tests at Takata are ongoing. In early December, BMW made the decision to perform its own independent testing and started the process for doing so. BMW will commence its testing program at the end of January 2015, with the Fraunhofer Institute for Chemical Technology ICT in Germany.

BMW is also participating in an industry-wide independent testing coalition to use external and impartial expertise to test inflators and analyze potential root causes. The target of these tests is to verify the tests already completed by Takata and also to provide additional test results for statistical purposes.

d. Has BMW determined that the root cause for the driver's side airbag failures is different from the cause for the passenger's side airbag failures? What are the bases for this determination? Please provide documentation of this determination.

BMW has made no independent determination as to the root case for airbag inflator rupturing on either the driver-side or passenger-side. Tests at Takata are ongoing. In early December, BMW made the decision to perform its own independent testing and started the process for doing so. BMW will commence its testing program at the end of January 2015, with the Fraunhofer Institute for Chemical Technology ICT in Germany.

BMW is also participating in an industry-wide independent testing coalition to use external and impartial expertise to test inflators and analyze potential root causes. The target of these tests is to verify the tests already completed by Takata and also to provide additional test results for statistical purposes.

4. Many members of the armed forces serve at bases located in the high absolute humidity regions, and may be stationed there or deployed from there for years, but are allowed to register their cars in their home states. In these or other cases, the vehicle may be operated in Florida for many years, but never registered in Florida.

a. Is BMW working to identify vehicles that have been operated in high-humidity regions but have never been registered in those regions? If so, how is BMW identifying such vehicles?

BMW has expanded its regional Improvement Campaign for the driver-side frontal airbag to a nationwide Improvement Campaign, so all affected vehicles will be addressed, regardless of registration location. BMW previously issued a nationwide recall for the passenger-side frontal airbag.

b. Has BMW notified owners of vehicles that have been operated in high-humidity regions but have never been registered in those regions?

BMW has expanded its regional Improvement Campaign for the driver-side frontal airbag to a nationwide Improvement Campaign, so all affected vehicles will be addressed, regardless of registration location. BMW previously issued a recall for the passenger-side frontal airbag and all affected customers have been notified.

5. BMW has expressed its commitment to ensuring that all vehicles you produce that are covered by a safety recall are repaired.

a. Do you include a provision in agreements with BMW dealerships that require them to perform safety recall repairs prior to offering used BMW vehicles or used vehicles originally produced by other vehicle manufacturers for sale to consumers?

Under the National Traffic and Motor Vehicle Safety Act of 1966, as amended, all automotive dealers must ensure that all recalls on new vehicles and new items of replacement equipment are completed before delivery to a consumer. The Safety Act also prohibits dealers from selling or leasing items of replacement equipment to a consumer, unless and until an open recall has been completed.

In addition, BMW dealer agreements require that dealers comply with all applicable federal, state, and local laws and regulations. Further, when BMW issues a recall or an Improvement Campaign, BMW notifies all of its dealers and they are able to use a vehicle look-up function to check new and used vehicles in their inventory against the recall or Improvement Campaign VIN list. Dealers use this process to identify new and used BMW vehicles in their inventory that may be subject to a recall or Improvement Campaign and to perform the necessary repairs prior to sale or use. Dealers can also perform a VIN specific search on the NHTSA website to determine if a vehicle has an incomplete safety recall, prior to using or selling a new or used non-BMW vehicle.

b. Does compensation to BMW dealers for repairs made under a safety recall or a safety improvement campaign match their earnings for normal retail repairs, i.e., based on the same hourly rate and the same time allowed for repairs?

BMW reimburses its dealers an agreed-upon labor rate for all repairs. This labor rate is established by either linkage to: a) the Consumer Price Index; or b) to a labor rate that is up to, but not greater than the average hourly retail labor rate charged for customer paid repairs. The time allowed for any given repair is established by BMW at a uniform level for all dealers, consistent with industry practice.

c. What criteria do BMW and BMW dealers use in deciding whether to provide a loaner or rental car to a customer?

When parts are not available to immediately fix a customer's vehicle, BMW dealers are making a BMW loaner vehicle or a non-BMW rental vehicle available to customers upon request, based on the dealer's best estimate as to how long the dealer will have to wait for the replacement part. Generally, loaner vehicles are available for shorter durations.

d. What steps is BMW taking to ensure that the loaner cars are not also subject to a safety recall and, if they are subject to a safety recall, that those loaner cars were repaired before being loaned to a customer?

When BMW issues a recall or an Improvement Campaign, BMW notifies all of its dealers and they are able to use a vehicle look-up function to check new and used vehicles in their inventory against the recall or Improvement Campaign VIN list. Dealers use this process to identify new and used vehicles in their inventory that may be subject to a recall or Improvement Campaign and to perform the necessary repairs prior to sale or use.

6. Takata, NHTSA, and the automakers testified at the Subcommittee hearing on December 3, 2014, that the root cause of the airbag ruptures is still unknown. Takata claims that high humidity, high temperature, and the age of the vehicle are factors contributing to the ruptures. What is BMW doing to ensure that the new airbags currently being installed into cars in Florida will not have the same problems in five or ten years?

With the exception of a probable test anomaly, all of Takata's investigations and analysis of retrieved inflators from BMW vehicles from high absolute humidity regions showed no ruptures to date. In addition, further increased quality controls in production and new production lines, e.g., in Germany with low absolute humidity, have even further reduced the risk for production related failures. Therefore, on that basis, BMW believes that the replacement airbags currently being installed will not have the same problems in five or ten years.

In addition, tests at Takata are ongoing. BMW has also entered into a contract with the Fraunhofer Institute for Chemical Technology ICT in Germany and will commence its independent testing program at the end of January, on both new and old inflators retrieved from BMW vehicles. Furthermore, BMW is participating in an industry-wide independent testing coalition to use external and impartial expertise to test inflators, analyze potential root causes and verify the tests already completed by Takata. Test results will be shared with NHTSA.

<u>The Honorable John Yarmath</u>

1. How can you be confident that the airbags you are putting in your vehicles today are safe if you are still purchasing them from Takata?

With the exception of a probable test anomaly, all of Takata's investigations and analysis of retrieved inflators from BMW vehicles from high absolute humidity regions showed

no ruptures to date. In addition, further increased quality controls in production and new production lines, e.g., in Germany with low absolute humidity, have even further reduced the risk for production related failures. Therefore, on that basis, BMW believes that the replacement airbags currently being installed will not have the same problems.

In addition, tests at Takata are ongoing. BMW has also entered into a contract with the Fraunhofer Institute for Chemical Technology ICT in Germany and will commence its own independent testing program at the end of January, on both new and old inflators retrieved from BMW vehicles. Furthermore, BMW is participating in an industry-wide independent testing coalition to use external and impartial expertise to test inflators, analyze potential root causes and verify the tests already completed by Takata. Test results will be shared with NHTSA.

The Honorable Gus Bilirakis:

1. What measures are you taking to correctly identify customers whose vehicles have been in high humidity areas for prolonged periods? How are you contacting them?

BMW has expanded its regional campaign for the driver-side frontal airbag to a nationwide Improvement Campaign, so all affected vehicles will be addressed regardless of registration location. BMW will notify affected customers by mailing them the NHTSA-approved letter in a NHTSA-specified window envelope.

The Honorable David McKinley

1. Could you share with us a typical recall notice that you send to customers?

Attached is a sample customer notification letter and envelope that we used to inform BMW customers of the passenger-side frontal airbag recall.