



**Statement of Laura MacCleery
Vice President, Consumer Policy and Mobilization, Consumer Reports
Before the U.S. House of Representatives Committee on Energy and Commerce
Subcommittee on Commerce, Manufacturing, and Trade**

**“Disrupter Series: Self-Driving Cars”
Tuesday, November 15, 2016**

Summary

- Traffic deaths on U.S. roads rose to 35,092 last year and are estimated to have jumped another 10% in the first half of 2016. This is a public health crisis. We urgently need to find ways to prevent more traffic deaths and injuries and meaningfully counter this trend.
- Crashworthiness improvements should continue or even be accelerated as an accompaniment to technological advances, and defects and recalls should be more aggressively overseen and pursued as warranted by the facts.
- Automated driving systems—intended to yield self-driving cars—are advancing rapidly, and may be part of the solution. However, there is much more work that needs to be done to test and demonstrate safety benefits and protect consumers from novel risks.
- This is particularly true regarding cars with semi-autonomous features, which if deployed irresponsibly can give consumers a dangerously false sense of security.
- As the industry’s regulator, NHTSA can ensure that companies put consumers first by setting robust safety standards. NHTSA’s recent guidance rightly covers a wide range of important subjects, but it is light on specific steps companies must take to assure safety.
- To protect the public and build trust in automated driving features, Congress should provide NHTSA the resources to independently and thoroughly assess the safety of automated systems and better understand how drivers interact with these new features.
- Members also should push for fundamental steps to be taken that go beyond the Federal Automated Vehicles Policy. In particular, companies should give their safety data to NHTSA and the public to demonstrate the benefits of these technologies and allow public examination, and NHTSA’s enforcement capabilities should be strengthened.

Testimony

Good morning, Chairman Burgess, Ranking Member Schakowsky, and members of the Subcommittee. My name is Laura MacCleery, and I am Vice President of Consumer Policy and Mobilization for Consumer Reports, an independent, nonprofit organization that works side by side with consumers to create a fairer, safer, and healthier world. My career includes more than fifteen years as an advocate for public health and consumer safety, with a number of those spent specializing in auto safety issues.

I want to start today by honoring the life and legacy of Clarence Ditlow, who died last week of cancer. As executive director of the Center for Auto Safety, Clarence was a tireless advocate for consumers who made immeasurable contributions through his years of service to the public good. He single-handedly was responsible for pushing automakers and regulators to conduct countless life-saving recalls. While his influence dates back to the Ford Pinto, Clarence's work in just the last three years helped get to the bottom of concealed defects in Chrysler, GM, and Takata products, and ensured that consumers finally will be able to publicly access all technical service bulletins from manufacturers to dealers about safety and other defects.

Clarence's dogged persistence was legendary, and his accomplishments spanned decades. He will be sorely missed by the advocate community and consumers nationwide, whose cars are safer because of his work. At Consumer Reports, we consider it a responsibility and a privilege to carry forward our shared dedication to safer cars and accountability for corporate malfeasance.

We will keep pushing for ever safer cars and help consumers make informed choices that assist them in staying safe on the road, through evaluations at our Auto Test Center, journalism, policy work, and consumer mobilization.

As you know, traffic deaths on U.S. roads rose to 35,092 last year and are estimated to have jumped another 10% in the first half of 2016.¹ This is a public health crisis. We urgently need to find ways to prevent more traffic deaths and injuries and meaningfully counter this trend. Past experience shows that facing this challenge will demand strong, evidence-based strategies, which can be based at least in part on emerging technologies.

It is critical to note at the outset, however, that improvements to crashworthiness, while less trendy than the debate over automated vehicles, also remain far from exhausted. For example, although the Research Safety Vehicle designed by NHTSA in the late '70s was crash-safe at 50 miles per hour,² today the minimum safety standard for frontal impact is set at 30 miles per hour, with a 35-mile-per-hour test for the New Car Assessment Program (NCAP). This is not just limited to frontal impact, though; many of NHTSA's performance standards are badly dated, and should be changed to better protect the public than they do today. In the meantime, we strongly support NCAP and the tests done by the Insurance Institute for Highway Safety (IIHS) that provide more up-to-date comparative information on the safety of new vehicles to assist consumers with vehicle purchasing decisions and encourage motor vehicle

¹ National Highway Traffic Safety Administration, *Early Estimate of Motor Vehicle Traffic Fatalities for the First Half (Jan–Jun) of 2016*, Traffic Safety Facts, Report No. DOT HS 812 332 (Oct. 2016) (online at crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812332).

² See Center for Auto Safety, “Destruction of the Research Safety Vehicle (RSV)” (Sept. 9, 2002) (online at www.autosafety.org/destruction-research-safety-vehicle-rsv).

manufacturers to make safety improvements. Consumer Reports' vehicle recommendations and overall scores incorporate both NCAP and IIHS ratings and NHTSA's should update NCAP to ensure that the tests are appropriately challenging.³ Today, most vehicles receive four or five stars in NCAP's 5-star safety ratings, and so we are concerned that the ratings have become less meaningful to consumers.

As consumers will be far more likely to entrust their lives to crash-safe vehicles, these improvements should be viewed as a necessary corollary to automated crash avoidance systems. Moreover, putting consumers' lives into the hands of software updates requires agile and timely agency oversight and a far more aggressive, updated and responsive approach to defect investigation than we have seen at any time in past or recent history.

To reduce traffic deaths, automated driving systems—intended to yield fully and partially self-driving cars—are advancing rapidly, and may be part of the solution. Our auto testing team has driven thousands of miles in cars that can steer within a lane and adjust speed automatically, using increasingly prevalent technologies like automatic emergency braking and lane-keeping assist. As these features continue to lay the groundwork for automated driving, significant investments should be made in research and testing, including at the National Highway Traffic

³ See Consumers Union, *Comments of Consumers Union to the National Highway Traffic Safety Administration on the Request for Comments: New Car Assessment Program* (Feb. 16, 2016) (online at consumersunion.org/wp-content/uploads/2016/02/NHTSAComments_NCAP_216.pdf) (Docket No. NHTSA-2015-0119).

Safety Administration (NHTSA). Congress should provide the necessary funding for this endeavor, which has been requested repeatedly.⁴

There is much additional work that needs to be done as these technologies develop. Self-driving vehicles would represent the single biggest change in the relationship between cars and their passengers since the invention of the motor vehicle itself, and they warrant diligent oversight at every step of their development to ensure that they are safe. This is particularly true regarding cars with semi-autonomous features, as these vehicles may be marketed in a manner to make it seem to consumers that the car can drive itself. This technology—and the ability to take human drivers out of the equation—cannot and should not be oversold, as in reality consumers need to be prepared to take over the controls at a moment’s notice. Failing to appropriately communicate the limitations or design systems with appropriate checks on foreseeable use and misuse of the system can cost lives and give consumers a false sense of security in an automated car’s capabilities.

Some companies appear to be struggling with the responsible deployment of new technologies. For example, Tesla’s decision to market its system as “Autopilot,” and its initial choice to fail to ensure that drivers keep their hands on the wheel, was troubling to us. Tesla has taken steps to improve Autopilot, but it has thus far failed to fully address these concerns. Of course, it is not just Tesla that offers self-driving features. The December 2016 issue of Consumer Reports—currently on newsstands and at CR.org—identifies about a dozen models

⁴ See, e.g., National Highway Traffic Safety Administration, *Budget Estimates – Fiscal Year 2017* (Feb. 2016) (online www.nhtsa.gov/staticfiles/administration/pdf/Budgets/FY2017-NHTSA_CBJ_FINAL_02_2016.pdf).

with semi-autonomous technology.⁵ As more of these vehicles hit the market, we will be carefully evaluating them for safety and reporting to consumers on our findings.

As the industry's regulator, NHTSA can ensure that companies put consumers first by collecting and publishing data on the systems, and when it has collected appropriate evidence, by setting robust safety standards. NHTSA has said that the Federal Automated Vehicles Policy guidance is an initial regulatory framework, designed to set voluntary best practices while the agency continues to research vehicle automation. The Policy rightly covers a wide range of subjects that companies should consider, but it is light on specific choices that companies must make to assure safety.

Members of Congress should have two main responses to this Policy. First, members should recognize that NHTSA remains chronically under-resourced. If members of this Subcommittee support the advancement of automated technologies, they should push for the agency to receive its requested funding—particularly for research on vehicle electronics and software, including factors related to human-machine interface—so that it can independently and thoroughly assess the safety of automated systems and better understand how drivers interact with these new features. It would help consumers to be able to trust automated technologies if NHTSA carried out this work.

⁵ Consumer Reports, “Consumer Reports Magazine – December” (Oct. 24, 2016) (online at www.consumerreports.org/cro/magazine/2016/12/index.htm); Consumer Reports, “What You Need to Know About Semi-Autonomous Technology” (Oct. 24, 2016) (online at www.consumerreports.org/self-driving-cars/what-you-need-to-know-about-semi-autonomous-technology).

Second, members should recognize the fundamental steps—beyond the Federal Automated Vehicles Policy—that should be taken to ensure effective oversight of automated driving technologies. We have made a number of recommendations in oral comments to NHTSA, addressing various issues ranging from manufacturers being clear with consumers about the limitations of automated features, to the role of the states, to how the agency should approach ethical considerations.⁶

But I want to highlight two recommendations in particular:

First, we call on companies to give their safety data to NHTSA and the public. Right now, the safety benefits of autonomous driving are entirely speculative and based on data held internally. Regulators and consumers deserve to know the basis that companies use to determine that an automated technology is safe. This kind of disclosure would only help companies build trust in their products, which right now is lacking, according to recent research.

Second, NHTSA’s enforcement capabilities should be strengthened. NHTSA makes clear in a recent Enforcement Bulletin that it has the authority to deem reasonably foreseeable automated system risks to be safety-related defects. But NHTSA’s practical ability to get unsafe cars off the road quickly has long been limited. For the agency to be the kind of tough watchdog consumers deserve, Congress should give the agency the authority to take immediate action on defects that present an imminent hazard, or those that substantially increase the likelihood of

⁶ Consumers Union, *Oral Comments of Consumers Union to the National Highway Traffic Safety Administration on the Federal Automated Vehicles Policy; Public Meeting* (Nov. 10, 2015) (Docket No. NHTSA-2016-0090).

serious injury or death. NHTSA has repeatedly requested this authority and it is included in the proposed Vehicle Safety Improvement Act.⁷

In conclusion, automotive innovation is essential and has brought about features with major benefits to consumer safety, such as automatic emergency braking. But our ambitions must be balanced with accountability. When emerging technologies bring with them new risks, it must be the company, and not the consumer, that shoulders them. This is particularly needed because consumers will be asked to trust and accept these new technologies. Public data, vigorous agency oversight, and attention to a total-vehicle and consumer-first approach, will be needed to ensure that safety keeps up with the speed of technological change.

Thank you.

⁷ See, e.g., National Highway Traffic Safety Administration, GROW AMERICA Act at 183 (Apr. 7, 2015) (online at www.transportation.gov/sites/dot.gov/files/docs/GROW_AMERICA_Act_1.pdf) and National Highway Traffic Safety Administration, Federal Automated Vehicles Policy at 75 (Sept. 20, 2016) (online at www.nhtsa.gov/nhtsa/av/pdf/Federal_Automated_Vehicles_Policy.pdf); H.R. 1181.