

2006 JUL 17

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EXECUTIVE SECRETARIAT

Weston, MAS [Redacted]

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7/13/06 11:11 AM

Administrator
National Highway Traffic Safety Administration
400 Seventh Street S.W.
Washington, D.C. 20590

101 636 89

Dear Sir:

Using methods I learned as a graduate student at the Massachusetts Institute of Technology and applied during Project Apollo to understand and correct an instability in the Lunar Module's Descent Propulsion System I have proven beyond the shadow of a doubt that the BMW-Siemens Engine Management System was unstable for several model years 2001 thru 2003 and apparently the first half of 2004. The degree of instability depends on atmospheric conditions. (You can check my credentials with Google.)

In the 2005 October issue of the Boston Bimmer Magazine, a publication of the Boston Chapter of the BMW Car Club of America (BMW CCA), I published an article on this problem. The article shows how anyone can expose the instability for himself/herself, and shows how this instability, in the context of throttle and clutch loops provided by the driver, causes frequent stalling of stick-shift BMWs, such as model 325i. The article was censored, laying responsibility for updating the software on drivers. The editor of that issue, [Redacted], justified the change, saying BMW CCA could not publish anything criticizing BMW without risking loss of BMW sponsorship of club events.

My wife and I bought our 2003 325i from [Redacted] and [Redacted] of Assael BMW, Monrovia California, on 2003 September 8 in anticipation of moving to Massachusetts in order to live closer to our four children. (All six members of our family have always driven primarily stick-shift automobiles, yet not one of us could drive the BMW without frequent stalling.) In about seven miles from Assael to our home in Pasadena, the car stalled about seven times. I think it was [Redacted] who suggested getting it fixed in Massachusetts, as BMW was one large happy family, and would fix it anywhere. We attempted to follow that suggestion. It didn't work.

From 2003 December thru 2005 June when the car had been driven only about 11,000 miles, we could get nothing from BMW of North America (BMW NA) beyond, 'stalling is due to "driver error" and no compensation is allowed'.

Monrovia
7/20/06

In 2005 June, I sent a report to BMW NA providing separate sections for executives and engineers. The report included a complete chronology of interactions, an analysis of the instability, and an explanation of how the instability causes stalling. The report reasoned that BMW AG, headquartered in Munich, must have already identified the problem and its cause, and issued a software update fixing the problem without additional changes, and it appealed to BMW NA to begin doing so. My reasoning proved entirely correct. Yet at the end of June I received a phone message rejecting my appeal without explanation. In reply, I requested an explanation.

Using Google, I immediately found [REDACTED], technical advisor for the Boston Chapter of BMW CCA. I made immediate contact by phone with [REDACTED] and in the first two minutes, he said, "Your car has a software problem." He said he had been fixing the problem for several months. He suggested taking the car to [REDACTED] of Autobahn East in Lexington, Massachusetts, because Lexington was closer, and [REDACTED] had better equipment. [REDACTED] later died of cancer. July fifth, in one hour, [REDACTED] downloaded the update from the BMW-Siemens Web site in the U.K. and installed it. Although a week or so before, the car had stalled three times in a round trip to the recycling station exactly three miles from our house, in the year since, the car has stalled only twice, once when in the wrong gear, and once when the emergency brake was set.

The day after the car was fixed, I received the requested explanation on my voice mail, again blaming stalling on driver error, and denying service. I had a representative of the telephone company make certified copy of the message on CD.

Although my car was fixed, I could not ignore the thousands of other drivers of these cars who must still be endangered by stalling. So December third I mailed a letter to three members of the BMW board of managers in Munich. At 10 AM on December 16 I received a call from [REDACTED] of BMW Executive Offices in New Jersey. She told me my letter had been forwarded there, and that they had been asked to resolve the problems with me and others. On December 19 she told me that BMW NA was undertaking to recall all vehicles having defective software for an update. She also said she would personally contact [REDACTED] in Seattle, who was identified in my letter. But months later I checked with the [REDACTED] the Service Director in Monrovia, [REDACTED], the Shop Foreman in Peabody, Massachusetts, and [REDACTED] and found that no bulletin regarding this problem had been issued and [REDACTED] had never been contacted by anyone at BMW. Yesterday, 2006 July 5, [REDACTED] and [REDACTED] said BMW NA has still done nothing. A year ago, [REDACTED] told me that the update fixing the problem had been issued a year earlier, i.e., about 2004 July.

I must have told at least 100 people, in small groups, about my experience with BMW, and the most frequent responses have been (1) the problem is the danger

of being run down, not the aggravation; and (2) with a solution so easy and inexpensive, why would anyone choose to continue endangering and aggravating their customers? Following is speculation as to why.

In Europe, government policy is to discourage wasting fuel by taxing it heavily. Consequently, stick-shift cars dominate. Looking at gear-shift handles in Europe shows that automatics are as rare as stick shifts are in the U.S. Thus In Europe BMW caters to stick-shift drivers. In the U.S., Administration policy is to minimize fuel cost, and current prices are still so low that drivers are not changing their driving habits. Thus in the U.S. BMW is having great success with its automatic-everything approach, and thinks of stick shifts as posing a digression that should be eliminated. BMW executives resent having lowly customers pass judgment on them regarding their lack of concern for the safety of stick-shift drivers, and regarding their continued support of five percent of the world's population using twenty-five percent of the world's energy. I have kept a dossier on General Motors since they held 57% of the U.S. market. The similarity between GM's and BMW's behavior is too great to ignore.

I would like to share with someone in your organization the complete evidence I have kept identifying all my contacts, contact dates, and other details. The evidence comprises (1) six files of reports I wrote at various milestones; (2) several letters; (3) the complete HTML issue of the Bimmer magazine; (4) the certified recording of BMW NA's phone message explaining why they were denying service; (5) contact data for all persons with whom I worked on the BMW-stalling project; and (6) email messages to and from [REDACTED]. The reports and letters total about 100 pages.

When a company demonstrates that it will not spend one hour of technician time to eliminate stalling of a car under warranty, even though the cost of parts is zero and stalling could be fatal, although it sounds paranoid, I can see no basis for trusting that company not to harm a whistle blower. So please do not reveal to anyone at BMW NA that I am still involved in pressuring them to behave ethically.

