

CL-10905413-8199

To: U.S. Department of Transportation National Highway Traffic Safety Administration
1200 New Jersey Ave, SE Washington, DC 20590

Date: August 17, 2016

SEP - 8 2016

RE: **Business communicating Fraudulent NHTSA recall information to consumers**
Business taking unfair advantage of consumers during an emergency/safety recall

Background

As you are aware, last month I received a preliminary recall notice from Lexus Corporation regarding a faulty airbag in my Lexus vehicle. Based on my vehicle's age and given temperature fluctuations in California, my car was shown to be at the top of the recall list/ most at risk. The notice informed me to stand by for recall information and to avoid using the passenger seat.

***On August 16, I received a large (approx. 6" X 10" postcard) with large, all capital, bold lettering across the top stating: **RECALL NOTICE** (followed by specific information on my vehicle year, make, and model.) The card featured an **ACTION REQUIRED** statement in red, followed by the line: **Schedule your service appointment** at Lexus Santa Monica 1501 Santa Monica Blvd, Santa Monica, CA 90404 (copy of post card attached). The postcard was mailed to my home in Los Angeles, CA [REDACTED]

The mailer went on to encourage me to call to schedule an appointment, and in a Q&A format, stated that there is no cost to repair/replace the airbag and that it would take 6-7 hours. The next step, per the ad, was to confirm my car is part of the NHTSA recall on **SaferCar.gov** and to call to schedule an appointment. It mentioned that instead of repairing, there was an **option** to receive a \$1,000 upgrade certificate should I want to trade my car.

Since this is a **safety issue of grave concern** (I cannot have a passenger in the passenger seat of my vehicle, which drastically hampers me in using my vehicle for employment) I placed a call first thing the following morning to schedule an appointment to have the airbag replaced as soon as possible.

I was told by the service department that no appointments in relation to the pending airbag recall were being offered as the airbag parts would not be available till 2017, that the "misleading" postcard came from SALES. "I can transfer you to sales!"

I am shocked that Lexus would take advantage of consumers during a pending safety recall by sending out fraudulent NHTSA RECALL information to bait consumers with the promise of a no cost airbag replacement into a new car purchase. This is fraud; this postcard was intended to look like a NHTSA RECALL Notice.

This postcard references Lexus Santa Monica but the return address states: **Lexus Program Operations** PO Box 890 Ashburn, VA 20146. I called Lexus corporate customer relations, they took down my complaint, but offered no solution or explanation; they stated that no recall had been issued as airbag parts are NOT available and weren't expected to be available till next year. I don't know if this is a Lexus corporate scam or a scam perpetrated by the Santa Monica dealer exclusively.

Regards,

[REDACTED]
LA, CA

NM
9916
SMP
→

RECALL NOTICE

on select 2007 Lexus ES 350 vehicles

Lexus and The National Highway Transportation Safety Administration (NHTSA) has issued a recall to repair or replace defective passenger side airbags on select 2007 Lexus ES 350. Our records indicate you may own one of the affected models. Please call 855-766-9731 to confirm your vehicle is part of the recall group and schedule an appointment. Below are the answers to many frequently asked questions.

Q: Is there any cost to repair or replace the air bag?

A: No.

Q: How long does it take?

A: Approximately 6-7 hours.

Q: Instead of repairing my vehicle, could I trade it in?

A: Yes. The dealership will repair your vehicle, provide you with fair market value for your trade, and issue you a \$1,000 upgrade certificate. See other side for details.

Q: What are the next steps?

A: Call 855-766-9731 or visit www.SaferCar.gov to confirm your 2007 Lexus ES 350 is part of this recall and to schedule an appointment.

ACTION REQUIRED

Schedule your service appointment at **Lexus Santa Monica**
1501 Santa Monica Blvd, Santa Monica, CA 90404
Sales: 855-766-9731

LexusSantaMonicaOffers.com/Login | Your PIN: [REDACTED]



Program Operations
PO Box 890
Ashburn, VA 20146

01041_1_4020

PRESORTED
STANDARD
U.S. POSTAGE
PAID
DALLAS, VA
PERMIT NO. 202



[REDACTED]
Los Angeles, CA [REDACTED]

14

Subject: Bait and Switch Advertising confirmation

From: [REDACTED]

To: LAcarGUY@lexussantamonica.com;

Cc: mattunger@lacarguy.com;

Date: Tuesday, August 23, 2016 12:10 PM

Dear Matthew,

Thank you for your response.

To be clear, what you actually sent is an advertisement via U.S. Mail, disguised as RECALL NOTICE, **claiming to offer no/ charge airbag replacement in 6-7 hours.**

You confirm that you offer **no such service** -so the offer in the advertisement is obviously false/ fraudulent.

Trying to switch customers into purchasing a new car is what makes it "Bait and Switch Advertising".

Your altruistic interpretation of the "discount" you offer (\$1,000 - which basically translates to a fraction of a percentage of the cost of the car) to get consumers to buy a new car doesn't change that fact; I'm guessing you know that already, hence your reference to the seriousness of my e-mail.

RECALL NOTICE
on select 2007 Lexus ES 350 vehicles

ACTION REQUIRED
Schedule your service appointment at Lexus Santa Monica
1501 Santa Monica Blvd, Santa Monica, CA 90404
Sales: 855-766-9731
LexusSantaMonicaOnline.com/Login | Your PIN [REDACTED]

Q: Is my car still to repair or replace defective passenger side airbags on select 2007 Lexus ES 350?
A: No.

Q: How long does it take?
A: Approximately 6-7 hours.

Q: Instead of repairing my vehicle, could I trade it in?
A: Yes, the dealership will repurchase your vehicle, provide you with fair market value for your trade, and issue you a \$1,000 upgrade certificate. See other ads for details.

Q: What are the next steps?
A: Call 855-766-9731 or visit www.SantaMonica.com to confirm your 2007 Lexus ES 350 is part of this recall and to schedule an appointment.

instead →

LEXUS Program Operations
800 Ave 6th
Bellingham, WA 98204

14
Los Angeles, CA [REDACTED]

From: Lexus Santa Monica <LAcarGUY@lexussantamonica.com>

To: [REDACTED]

Cc: mattunger@lacarguy.com

Sent: Tuesday, August 23, 2016 10:08 AM

Subject: RE:RECALL NOTICE or Bait and Switch Advertising ?

Good morning [REDACTED]

My name is Matthew Stein, Sales Manager at Lexus Santa Monica. Mr Unger is out of the office today, but wanted me to get back to you regarding the seriousness of your issue.

In regards to the recall, there is unfortunately no immediate fix. Because these airbags were used in almost every auto make, including Lexus, the replacement parts will be done in stages. The older your vehicle, the sooner you will be called in for replacement.

As you can imagine, we have been inundated with concerned customers who want to trade in their vehicles. As a courtesy, we sent out letters and postcards to let people know that we will not be taking advantage of the situation and instead will try and help them get into a new car. Most dealerships will give you half of what your vehicle is worth because it can not be sold until the airbag is fixed.

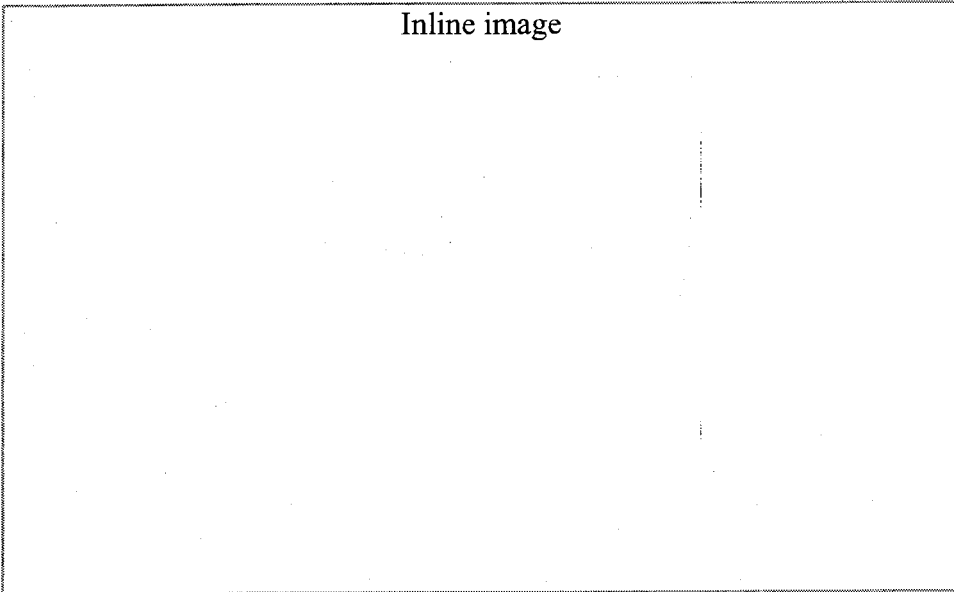
Because Lexus Corporate is so concerned with for the safety of their guests, they have empowered us to do more for you. Some dealerships will, some won't.

We at Lexus Santa Monica will do whatever it takes to make our guests comfortable. If you are interested in getting a new vehicle, I would be more than happy to assist. If you would like to wait for the replacement, we will absolutely keep you updated as to when it will be available.

If you have any questions, please don't hesitate to ask.

Sincerely,
Matthew Stein
Sales Manager
Lexus Santa Monica
310-453-9900

Inline image



Dear Mr. Unger,

I am in receipt of your notice sent me via the U.S. Postal Service, the one with the all cap headline:

RECALL NOTICE and **ACTION REQUIRED** statement in red=E2=80=A6 followed by the line:
Schedule your service appointment at Lexus Santa Monica (copy of post card attached for your reference).

So, I called your service department to schedule the airbag replacement that, per the post card in Q&A format, stated that there is **no cost to repair/replace and explained would take 6-7 hours.**

But I was told by your service representative that no appointments in relation to the pending airbag recall are being offered as the airbag parts will not be available till 2017! I was advised to await a written *Recall Notice*-odd, that is what your postcard claimed to be, a CRECALL NOTICE. The service representative went on to say the notice I received came from **SALES**.

I do see your notice advertised that instead of replacing the airbag, there was an *option* to receive a \$1,000 upgrade certificate should I want to purchase a new car.

I am hopeful that your service department was mistaken, that Lexus Santa Monica is performing free airbag replacements per the NHTSAs mandated recall; if not, this would seem to be fraudulent bait and switch advertising. And, particularly egregious to take unfair advantage of consumers during the pending recall... not to mention irresponsible (and perhaps illegal) to send out wrongful information in relation to an NHTSA RECALL.

I'm guessing this is a Lexus corporate initiative and that Lexus Santa Monica is just one of many dealer participants plugged into this scam. I am disheartened that Lexus would take advantage of consumers during a safety crisis and try to switch them to a new car purchase under the guise of a service appointment. If this is a Lexus corporate scheme, I encourage you to advise Lexus corporate that sending disingenuous notices and basically committing fraud isn't appreciated by long-time Lexus customers such as myself.

If this is not a case of Bait and Switch advertising; and that you indeed have what you advertised, a no charge airbag replacement to meet NHTSA requirements, please contact me to set up an appointment. Otherwise I will be forwarding your mailed notice to the Attorney Generals fraud division and to the NHTSA.

I was actually considering a Lexus NX purchase this year, but I'm not certainly not inclined to do so now; my perception is that Lexus is a crooked organization that cant be trusted! Please prove me wrong.

Regards,

[REDACTED]
Los Angeles, CA [REDACTED]

Attachments

- [REDACTED]

Los Angeles, CA

LOS ANGELES CA 900

21 AUG 2005 PM 3:41



U.S. Department of Transportation NHTSA
1200 New Jersey Ave
SE Washington, DC 20590

Re:
Fraudulent Advertising disguised as NHTSA Recall