

NOV 6 2003

Mr. Michael X. Cammisa
Director, Safety
Association of International Automobile Manufacturers, Inc.
1001 19th Street North, Suite 1200
Arlington, VA 22209

Dear Mr. Cammisa:

This is in response to your August 29, 2003 letter on behalf of the Technical Affairs Committee of the Association of International Automobile Manufacturers, Inc. (AIAM), requesting clarification and interpretation of the Early Warning Reporting (EWR) regulations, as set forth in 49 CFR Part 579, with respect to the submission of certain marketing survey information. In your letter, you described certain consumer survey forms that are provided by manufacturers to consumers that elicit consumer opinions of their vehicles' performance. As described, these forms are in a "bubble" format, are machine-read, often contain spaces for comment, and consumers sometimes attach separate pages in response. You raised four specific points with respect to the information gathered from these forms, that I repeat below, followed by NHTSA's interpretation.

1. "Machine-read 'bubble form' responses to consumer surveys, requesting scaled, qualitative evaluations or product performance." You request our confirmation that these not be counted in consumer complaint totals.

You explained that "[t]he purpose of the 'bubble form' surveys is to seek qualitative evaluations of consumer preferences, so that future vehicles may be designed to better meet consumer needs and desires." The forms request consumers' ratings of their vehicles' performance (e.g., on a scale of 1 to 5) in particular areas, with typical questions addressing engine sound, smoothness, acceleration, steering effort, and seat comfort, among others. Although you have not provided pro forma exemplars of the "bubble forms," you explained that they are completed in a manner analogous to a standardized test and the responses are machine-read.

You note that these surveys are submitted at the request of the manufacturer, but recognized our previously expressed view to the Alliance of Automobile Manufacturers of March 25, 2003, that the manufacturer's initiation of a communication is not determinative as to whether a communication is a complaint. Based on your description of the

information sought in the forms used by your constituent manufacturers, the responses are likely to be “qualitative and general in nature.”

In our view, the bubble portions of these consumer surveys do not fall within the meaning of “consumer complaint” as defined in the EWR regulations, 49 CFR § 579.4(c). As you note, it would be unclear as to when or if a low a rating rises to the level of a “complaint,” which would be dependent on the definitions and views of the consumers, and which would not be communicated by the standardized part of the form. As such, it is NHTSA’s interpretation that the bubble portions of the survey forms, as you have described them, do not fall within NHTSA’s definition of “consumer complaint.” This is consistent with our letter of March 25, 2003 cited above.

2. “Comments written by consumers in the space designated for comment in the bubble form and expressing a complaint about a vehicle system covered by the early warning rule.” You believe that these should be counted as consumer complaints.

You noted that the survey forms utilized by your constituent manufacturers “may have spaces at the bottom of the forms for consumers to write more detailed comments,” in addition to the bubble portion. NHTSA agrees with your understanding that the comments provided in these spaces need to be reviewed by the individual manufacturers, like other communications, to determine whether they are complaints. If so, any complaints documented in these spaces must be reported if required by 49 CFR 579.21(c).

3. “Separate pages attached by the consumer to a bubble form and expressing a cognizable complaint.” Again, you believe that these must be counted as consumer complaints.

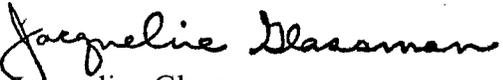
You reported that a consumer might attach separate pages to the survey form documenting specific problems or dissatisfaction with a vehicle’s performance. NHTSA agrees with your understanding, that the manufacturer is required to count any complaints contained in these separate, attached pages as “consumer complaints,” and report such complaints according to the coded categories set forth in the EWR regulations.

4. You believe that “marginal notes written in spaces on machine read bubble forms that were not designated for recording comments need not be reviewed by manufacturers for possible inclusion in the consumer complaint counts.”

You stated that consumers occasionally write comments or notes in the bubble portion of the survey forms, rather than in (or in addition to) the space designated for additional commentary or in separate pages. You further explained that the marketing contractors that manufacturers hire to tabulate the responses to these surveys are unable to capture such notes contained in the margins of the forms in their calculus of the responses. Under these circumstances, we agree that such marginal notes would not need to be counted in the manufacturer’s report.

Should you have any further questions, please contact Andrew J. DiMarsico of my staff at (202) 366-5263.

Sincerely,


Jacqueline Glassman
Chief Counsel