

NHTSA Complete Record Information



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NHTSA #: ES04-000454	Rec'd Date: 1/16/2004	Referred By: NEC-110
XREF #:	Doc Type: PET	Doc Date: 1/11/2004
Delivery: HND	Address To: NVS200	Due Date: 5/14/2004
S10 #:	DOT/I #:	RMP #:
Subject: PETITION FOR DEFECT INVESTIGATION OF THE 2004 BMW 325XI DUE TO HESITATION IN SHIFTING OF THE AUTOMATIC TRANSMISSION WHEN VEHICLE IS IN MOTION		
Ack Date:	Ack By:	Signed For:
Sign Office: SENIOR AA VEHICLE SAFETY	Signature: RONALD MEDFORD	
Cleared Date:	Cleared By:	Cleared For:
File Loc:	XREF File:	Closed Date:
Added By: SHARRIS x62534	Modified By: EHAYDEN	

COMPLETE CONTACT INFO:



RESTON, VA
Tel: Fax: E-mail:

10055291

2004 JAN 16 PM 08

COMPLETE COMMENT INFO:

Comment Details

Comment

1/16/2004 04:04:55 PM
Entered By: SHARRIS
Comment By: Sandra Harris

PER 1/16 NOTE FM SDH H/C INTO EXEC SEC BY LARENA ODI. THIS IS A PETITION FOR CONTROLLING

1/16/2004 04:09:12 PM
Entered By: EHAYDEN
Comment By: Ethel Hayden

FWD TO NVS218/ODI FOR RESPONSE 1/16/04.

COMPLETE ROUTING INFO:

Assigned To	Task	Asgn Date	Deadline	Returned Date
NVS-200	REPLY	1/16/2004	5/14/2004	
NVS-010	INFORMATION	1/16/2004		1/16/2004

COMPLETE ATTACHMENT INFO:

Description	Added By	Date & Time
454.tif	SHARRIS	1/16/2004 04:08:11 PM

Jan 21
1/16/04

[REDACTED]
Reston, Virginia
[REDACTED]

January 11, 2004

Mr. John White
National Highway Traffic Safety Administration, DOT
Office of Defects Investigation
400 7th Street, S.W.
Washington, D.C. 20590

Dear Mr. White:

I am petitioning the National Highway Traffic Safety Administration, the Office of Defects Investigation, to investigate what I consider to be a significant safety hazard in the:

***2004 BMW 325xi (VIN #WBAEU33484PR06840)**

that I purchased on December 15, 2003 for cash from:

***BMW of Sterling
21826 Pacific Boulevard
Sterling, VA 20166
(571-434-1944)**

Very soon after taking possession of the vehicle, I experienced some hesitation in the shifting of the automatic transmission during driving, especially when accelerating after a full stop. Of more concern was what occurred after backing out of my driveway and into the street. When I shifted from reverse to drive I experienced delays of from one-half minute to two minutes before the transmission shifted into drive and vehicle would move forward. I was left sitting motionless in the middle of the street where another vehicle could have hit me, as my vehicle was uncontrollably immobile. Fortunately, this did not happen, but certainly could have. This delay scenario recurred many times from

December 15, 2003 until December 30, 2003 when I left the car at the service department of the dealership. As of this writing, I still do not have the vehicle back and have asked the dealership to return my total cash payment (\$37,980.00) to me and keep the vehicle (which had under 500 miles on it when I delivered it to the dealership for analysis and repair).

Before taking the vehicle in to the service department, I had spoken several times with the salesperson (Bill Rhodes) and the service representative (Jay Mitchell) regarding the problems I was having with the vehicle. I also reported the problems to the BMW of North America customer service survey representatives.

When I was finally able to contact the dealership service representative (Jay Mitchell), he seemed to know what the problem was and moved up the appointment from the date he originally suggested. When I took the vehicle in on December 30, 2003, the service representative again seemed to indicate that he knew what was happening. I was given a loaner vehicle and told that I would be contacted the next day.

I had heard nothing from the service department by 4:30 P.M. the next day, so called and spoke with the service representative (Jay Mitchell), who told me that the vehicle needed a new transmission, that a certain number of vehicles on a certain assembly line had problems with the transmissions and that BMW of North America had issued directives to the service departments as to how to repair the malfunction. I.e., replace the transmission. I expressed my unhappiness with the situation, but since it was New Year's Eve, there wasn't much I could do until January 2, 2004. (**I have since come to the conclusion that the defective transmissions seem to have been manufactured in France, as was the transmission on my vehicle, then shipped to various final assembly points - the final assembly point on my vehicle being Regensburg, Germany - and then shipped out to dealerships all over. It now seems to me that it is likely that BMW of North America, LLC knows where every one of the vehicles with defective transmissions is).

On January 2, 2004 I started on a series of telephone calls that frustrated, confused and finally alarmed me. I called the salesperson (Bill Rhodes), told him what had happened and asked him to check into it; I also said that I wanted another car, as I had paid cash for a new, functioning vehicle. He

told me that he was trying to get together with the service department personnel involved and relevant management personnel. I put in a call to the service manager (Scott Oliver) and the dealership general manager (Carroll Stewart). Near noon on January 2, 2004 I finally contacted the service manager (Scott Oliver), who told me it that the vehicle would be repaired under warranty according to the directives from BMW and that would take care of it. I told him that I wanted a new vehicle, not a repaired vehicle. He told me I would have to take that up with the general manager (Carroll Stewart).

In between trying to contact the general manager, I called customer service at BMW of North America, LLC, spoke with customer service representative Greg Hand. He was particularly unsympathetic and unhelpful. He told me basically what I had already been told by the dealership service department, that a certain number of vehicles from a certain assembly line were affected and BMW had ordered the transmissions replaced only as they presented problems. I explained that my vehicle had evidenced the problem from day one and that I wanted a new vehicle, not a new transmission. He told me that I would have to take that up with the dealership - BMW was only providing for the replacement of the faulty transmissions. I asked him what data was available on the permanence of the fix, how many vehicles had had the replacements, how many vehicles were potentially involved. I did not receive answers to these questions. The implication that the transmission replacement was a new transmission remained; I could not understand why it would work any better than the one that the car came equipped with. I was told that the transmission design had been re-thought, the problem fixed; I was still under the impression that the replacement transmission would be NEW. This, as it turned out, was not the case.

I finally contacted the dealership general manager (Carroll Stewart), who was clearly not happy to hear from me. He thought I was being difficult and over-reactive. He said I would be getting a brand new transmission, the same transmissions being used in the new BMW X3s - and would they put bad transmissions in that many vehicles? (AutoWeek estimates that BMW is producing 75,000 of the X3s in 2004). He said the new transmission for my vehicle was being flown in overnight from Germany! He put me on speaker-phone, ate his lunch, rummaged through file draws, ignoring my questions. He said, when he came back on the

4

phone, that the repair was being made under warranty and to quit complaining ... the dealership would not replace the vehicle, no matter that I had had it only two weeks and that it came fully-equipped with the defective transmission.

At 6:00 P.M. that evening (January 2, 2004), I went into the dealership to exchange loaner cars and speak with the service manager (Scott Oliver) in person. After an extensive face-to-face conversation, I learned from Mr. Oliver that BMW of North America was well-aware of the transmission problems: 1) that the transmissions had been re-worked; 2) that the transmission to be put in my vehicle was a re-manufactured transmission; 3) that it was coming from somewhere in the U.S., not Germany (the original transmission was manufactured in France, anyway); 4) that the defective transmissions were peculiar to the all-wheel drive (x1) vehicles, apparently 2003 and 2004 models; and, 5) it was again emphasized, that I should not be concerned as the repair was covered under warranty. I expressed my concern, dissatisfaction, and, by then, disgust, with the situation, but thanked Mr. Oliver for finally telling me the truth.

I fell victim to the slick marketing BMW employs, as well as the high ratings for reliability, safety and overall vehicle-excellence of the BMW products in consumer information periodicals and advertising in the media and press. I feel duped and foolish because this is not the case. Neither BMW or the BMW dealership is willing to stand behind the product or admit their mistake in not letting the public know about the transmission problems on the all-wheel drive vehicles (the sedans, not the SUVs). Although BMW knows of the problem, they have let the vehicles go to the dealerships for sale and then are counting on customers to swallow the "it's under warranty - no charge, no problem."

On January 5, 2004 I started inquiring of various State, Federal and private consumer agencies as to what my rights were and what I could do to find out more information about this vehicular defect. I received a great deal of help from:

Michael Brooks, The Center for Auto Safety (202) 328-7700

Stewart Ashby, The Office of Consumer Affairs, Commonwealth Of Virginia (804) 876-1011, who advised me to file a Complaint with the Office of Consumer Affairs, citing Code of Virginia § 59.1-207.34 (The Hidden Warranty Law) and Code of Virginia § 59.1-207.9 (The Lemon Law). I am in the process of doing just that.

Both Mr. Brooks and Mr. Ashby encouraged me to contact the Office of Defects Investigation at NHTSA and petition for an investigation of this hazardous transmission defect.

To summarize, the delays in the transmission shifting that I experienced with the above referenced vehicle were long enough and frequent enough to constitute a true vehicle/traffic safety hazard, in my estimation. Because I have been given no data or assurances from either the dealership service department or BMW of North America that the re-manufactured transmission will eliminate any future problems, nor any information as to the scope of the problem, I feel that an investigation is warranted by a governmental agency capable of assessing this defective transmission and its potential for consumer injury or death.

I am well-aware that most consumers are content to have the repair made, under warranty, and ask few questions, assuming that it is an isolated incident. I had to question, nag, cajole, bully, whine and generally use a tremendous amount of time and energy to get what little information that I have. What I do know for fact is the experience that I had with the vehicle and I know that it was very wrong and potentially hazardous.

I am grateful to the many people that have helped me to gather information and to contact the appropriate agencies. I have also spoken with staff at one the television networks who have expressed interest in following this story and getting the word out to other unsuspecting BMW owners since BMW is apparently not responsible enough to do the right thing about this defective transmission. It is not enough to make a quick fix with a re-manufactured part under warranty on a brand new vehicle. The vehicles never should have gone on the lot in the first place because of the potential safety hazard they pose to the unsuspecting consumer.

I have written to Carroll Stewart, general manager of BMW of Sterling, asking that the full purchase price of the vehicle be returned to me and that they keep the defective vehicle. I have also written to Tom Purzes, CEO, BMW of North America, LLC, describing my unsatisfactory experience and asking for an explanation, as well as outlining my intention to file this petition and complaints with the Commonwealth of Virginia. I will include copies of those letters for your information.

I have no way of verifying some of the information that was given to me by personnel at BMW of Sterling or BMW of North America, LLC, nor can I say with certainty that information, as I understand it, that I have been given by various other agencies is correct. I can say that my account of what happened with the above referenced vehicle in terms of the extended delays in the transmission function are accurate and I have witnesses to a number of the occurrences.

I have not received an response to my telephone calls, fax, e-mails or letters to the BMW of Sterling or BMW of North America, LLC and do not know if the vehicle is fully repaired or if I will be able to rescind this unfortunate transaction.

Thank you for considering this petition to investigate the defective transmission in the BMW 3-Series xi all-wheel drive sedans.

Sincerely,



Attachments

**Cc: Stewart Ashby, Virginia Office of Consumer Affairs
Michael Brooks, The Center for Auto Safety
Tom Purzes, CEO, BMW of North America, LLC**

[REDACTED]
Reston, Virginia [REDACTED]
[REDACTED]

January 11, 2004

ADDENDUM to NHTSA-OPI Petition and Virginia Office of Consumer Affairs complaint against BMW of North America, LLC and BMW of Sterling

Apparently the Quality Certification check done on the 325xi vehicle that I purchased (WBAEU3348PR06340), which is a computer check of functions, does not reveal the malfunction/defect in the vehicle transmission. Only a thorough road test would do that. The vehicle had 9 miles on it when I took possession; part of that was the test drive that I did. Further, when I was test-driving the vehicle, I noticed some hesitation and commented on it to the salesperson (Bill Rhodes) at that time (December 12, 2003). I was told that the car was cold, etc.

I do have a copy of the Quality Certification sheet - it is for 2004 5-Series and 7-Series vehicles with 325xi penciled in.

Again, thank you for taking this matter under consideration.

Sincerely,

[REDACTED]