

Arent Fox

NHTSA
WASHINGTON, DC

2011 JUN -8 P 4:35

June 3, 2011

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Re: Rental Car Industry Issues with Vehicle Manufacturer Recalls

Dear Mr. Vincent:

This firm represents The Hertz Corporation ("Hertz"). We are writing in response to your letter of May 10, 2011, and to follow up on Jennifer Timian's meeting with Marc Fleischaker on May 11, 2011. We also want to suggest a process for addressing these issues going forward that includes not just the rental car companies, but also the vehicle manufacturers.

1. Hertz Safety-Related Holds of Vehicles

In your May 10 letter, you express concern that Hertz may be substituting its own judgment for that of NHTSA or vehicle manufacturers with respect to when vehicles should not be rented to customers pending completion of repairs required by a NHTSA safety recall. Please be assured that Hertz does not rent vehicles in its rental fleet after it has received a NHTSA Part 577 owner notification letter, including vehicle identification numbers, until a repair is completed or an interim remedial step recommended by a vehicle manufacturer has been taken.¹ The process described in Section A.3. of Hertz Procedure 7-55, Compliance with Manufacturer Recalls (Dec. 22, 2010), which is the Safety Committee review process for communications from vehicle manufacturers which do not amount to NHTSA safety recalls, seems to be the source of the confusion on this point. The Hertz Safety Committee reviews all communications from

¹ On occasion, a vehicle manufacturer has recommended or approved an interim remedial measure that can be taken to make a vehicle safe for driving. One example was the Toyota unsecured floor mat recall which Toyota determined had the potential to cause unintended depression of the accelerator pedal. The repair for this defect was a new floor mat design. However, after the recall was announced, it took months for the new floor mat to be sent to Hertz (and others). The interim approved measure was to remove the floor mats and allow the vehicle to be rented. Hertz did this and continued to rent the vehicle. The company has concluded that this sort of interim remedial measure recommended by the vehicle manufacturer, rendering the car safe pending the final recall fix, properly allows Hertz to get the car back on the road.

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vehicle manufacturers that may be safety related, including documents entitled "Service Bulletin," "Recall Campaign," "Technical Bulletin," "Emissions Campaign," "Emissions Recall," and makes a determination as to whether vehicles subject to these bulletins should also not be available for rental.

There have been situations in which Hertz has put rental cars on safety hold, barring further rental, because a service campaign bulletin appeared to the Safety Committee to have a safety impact on the use of the car. In issuing its communications to rental car companies with respect to safety recalls and various technical and service bulletins, Hertz's experience is that vehicle manufacturers are not at all clear about the driveability and safety issues related to the vehicle condition described in a notice. Even with respect to vehicles subject to NHTSA safety recalls, the notices received from manufacturers rarely state that a vehicle should not be driven until a repair is conducted. Less guidance is given with respect to the numerous other communications received from manufacturers, so Hertz currently considers it necessary for its Safety Committee to jointly evaluate these communications.² Hertz' clear preference, however, would be for the vehicle manufacturers to be required to make decisions and give directions about whether a particular issue identified with a vehicle recommends that the vehicle at issue should not be driven or rented.

As vehicle manufacturers have been unwilling to give this direction on their own, causing much confusion among rental car companies and other commercial and individual vehicle users, Hertz believes NHTSA should direct vehicle manufacturers, as part of their safety recall notification, and in other potentially safety-related notices to customers, to include an assessment of the impact of the issue identified on the safe handling of the vehicle and a recommendation as to whether the vehicle should be driven pending correction of the issue.

2. Availability of Parts for Recall Repairs

A major issue for Hertz in its voluntary determination to pull vehicles subject to safety recall from its rental fleet, has been the slow availability of parts for the necessary repair of vehicles under recall. Given that, unlike other commercial users or individual customers, Hertz is actually parking vehicles subject to recall, waits of 60-120 days or more for a repair to occur cause significant strain and business disruption to Hertz and its rental customers. Under 49 U.S.C. § 30120(c), NHTSA has considerable authority to require manufacturers to prioritize recalls and to conduct recalls within what NHTSA considers a reasonable time. Hertz asks that NHTSA exercise this authority to shorten the time frames from defect notification to repair for vehicle users like Hertz who lose use of their vehicles pending the defect repair.

² We also want to take this opportunity to clarify that, as an immediate consequence of our April 11, 2011, meeting, several Hertz officials, including the Maintenance and Warranty representatives on the Safety Committee, did sign up to receive email alerts from NHTSA of vehicle recalls, and have found those notifications to be useful.

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3. Recall Campaign Data Submitted to NHTSA

You also express concern in your May 10, 2011, letter that Hertz did not submit data on March 15, 2011, with respect to certain of the fourteen recall campaigns about which NHTSA was expecting to receive a report. First, the letter addressed to Hertz did not identify specific recall campaigns about which NHTSA was attempting to obtain information, so the company was not aware the agency's inquiry was limited to those campaigns. Also, the Hertz recall campaign records were only automated in 2009, so it is extremely difficult to obtain maintenance records for recalls conducted prior to that time, as there is no computerized system available to do so. While your view may be that the Hertz' March 15 submission did not "demonstrate" that the vehicle manufacturer data was deficient, we believe that Ford admitted its data was deficient. Other manufacturers have acknowledged that Polk registration data was used to determine ownership at the time of recall, and that is a source that is notoriously months behind in the transfer of vehicle ownership, and rental car companies tend to own vehicles only for a 12-24 month time frame.

4. Recommendation for Meeting with Vehicle Manufacturers

We recommend that NHTSA convene a meeting of vehicle manufacturer and rental car company industry participants to address open issues with respect to: (1) unclear communication to vehicle owners (including rental car companies) about required steps when vehicles are subject to safety recall or are subject to some other sort of notification; (2) the possibility of according rental car companies priority treatment with respect to part and repair availability for vehicles subject to safety recalls; and (3) the accuracy of vehicle manufacturer safety campaign completion data.

We believe that much can be achieved and resolved if NHTSA calls a meeting of the interested parties to work together toward a joint goal to ensure rental car companies get clear direction from vehicle manufacturers about the safety issues with vehicles; that rental car companies do not rent unsafe vehicles to an unknowing public; and that rental car companies get priority in recall-related parts availability and repairs.

We will follow up with you shortly to see if an industry meeting can be arranged.

Sincerely,


Marc L. Fleischaker


Deanne M Ottaviano

cc: Jennifer T. Timian