



Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
T +1 202 637 5600
F +1 202 637 5910
www.hoganlovells.com

February 24, 2017

Mr. Stephen P. Wood
Acting Chief Counsel
National Highway Traffic Safety Administration
(NCC-111), Room W41-227
1200 New Jersey Avenue, SE
West Building
Washington, DC 20590

Re: Request for Confidentiality Concerning Mercedes-Benz USA, LLC's Response to NHTSA's January 4, 2017 Information Request Regarding Preliminary Evaluation PE16-016

Dear Mr. Wood:

This letter requests confidential treatment under 49 C.F.R. Part 512 for material contained in the response submitted by Mercedes-Benz USA, LLC ("Mercedes-Benz") to the National Highway Traffic Safety Administration's ("NHTSA") January 4, 2017 information request, concerning Preliminary Evaluation PE16-016.

Pursuant to 49 C.F.R. Part 512 this request attaches two complete versions of the submission, and one public version with confidential information redacted. The confidential materials are marked "CONFIDENTIAL BUSINESS INFORMATION" in accordance with 49 C.F.R. § 512.6(b) and (c).

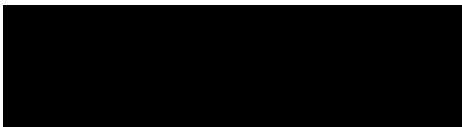
Mercedes-Benz's response includes confidential information in its Response Nos. 8 and 11, as well as confidential information in Attachments 2, 5, and 6. Response No. 8 discusses internal assessments and tests conducted by Mercedes-Benz. Response No. 11 discusses Mercedes-Benz's internal analyses of its products and potential liabilities. The confidential attachments reveal important proprietary information, including details about Mercedes-Benz's parts modifications, material composition, component depictions, assessments, and test data. This performance and assessment information is highly confidential to Mercedes-Benz and reveals facts that would not otherwise be available, or, for the test data, would not otherwise be available without independent testing. Moreover, the documents include personally identifying information that is exempt from disclosure pursuant to 5 U.S.C. § 552(b)(6) (although Mercedes-Benz has not redacted this personally identifying information from the confidential attachments). The material therefore is entitled to confidential treatment under 49 C.F.R. § 512.15(b) and (e).

The materials described above are also entitled to confidential treatment under *National Parks and Conservation Association v. Morton*, 498 F.2d 765 (D.C. Cir. 1974), because they are confidential commercial information, the release of which is likely to cause competitive harm. The *National Parks* basis for confidential treatment has been incorporated into the Agency's regulations at 49 C.F.R. § 512.3(c)(2)(i) (confidential commercial information). The information in Response Nos. 8 and 11 and Attachments 2, 5, and 6 includes analytical and performance information about Mercedes-Benz vehicles, as well as important information about internal evaluation procedures and internal product assessments. As such, these materials represent proprietary and confidential business information. This information represents a significant investment in research and development, which would cause substantial competitive harm to the company if disclosed to competitors. Because of the substantial competitive harm that would be caused, the Agency should protect the confidentiality of this information. Accordingly this information should be granted confidential treatment under 49 C.F.R. § 512.15(b).

The information contained in Response Nos. 8 and 11 and Attachments 2, 5, and 6 has not been publicly disclosed. Mercedes-Benz has taken measures to ensure that the information has not been disclosed or otherwise made available to any persons outside of the company, its parents, suppliers, and affiliates. Insofar as is known by Mercedes-Benz, this information is not known outside of the company, except by these related parties. The information has also been disclosed as necessary for the purpose of obtaining advice and assistance from counsel and other confidential advisers. Such disclosures do not compromise the confidential nature of the information because of the close business relationship between Mercedes-Benz and its parents and affiliates, nor does selective disclosure to advisers bound by obligations of confidentiality compromise such confidentiality.

We request that confidentiality be granted indefinitely for the material contained in Response Nos. 8 and 11 and Attachments 2, 5, and 6 submitted in response to the PE16-016 information request, or until such time as the information is no longer held confidential by the company. We would appreciate your notifying us of your decision regarding this confidentiality request. Thank you for your consideration of this request. Please forward your response to this request to my attention.

Sincerely,



R. Latane Montague

Partner
latane.montague@hoganlovells.com
202.637.6567