

**Hogan
Lovells**

OFFICE OF CHIEF COUNSEL
RECEIVED

2020 MAR 13 P 3:41

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

March 12, 2020

Mr. Jeffrey Eyres
Office of the Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE
West Building, W41-326
Washington, DC 20590

Re: AQ18-002 Attachments for Field Reports (Recall 17V-761)

Dear Mr. Eyres:

Enclosed please find the field report attachments related to Recall 17V-761, as we discussed.

These materials are submitted pursuant to the request for confidential treatment that accompanied DTNA's original submission of the relevant field reports on October 5, 2018. A copy of that request is also enclosed.

Please let us know if you have any questions.

Sincerely,


Susan R. McAuliffe

Counsel
susan.mcauliffe@hoganlovells.com
D 202.637.5747

Enclosures

Hogan Lovells US LLP is a limited liability partnership registered in the District of Columbia. "Hogan Lovells" is an international legal practice that includes Hogan Lovells US LLP and Hogan Lovells International LLP, with offices in: Alicante Amsterdam Baltimore Beijing Birmingham Boston Brussels Colorado Springs Denver Dubai Dusseldorf Frankfurt Hamburg Hanoi Ho Chi Minh City Hong Kong Houston Johannesburg London Los Angeles Luxembourg Madrid Mexico City Miami Milan Minneapolis Monterrey Moscow Munich New York Northern Virginia Paris Perth Philadelphia Rio de Janeiro Rome San Francisco São Paulo Shanghai Silicon Valley Singapore Sydney Tokyo Warsaw Washington DC Associated offices: Budapest Jakarta Shanghai FTZ Ulsanbester Zagreb. Business Service Centers: Johannesburg Louisville. For more information see www.hoganlovells.com

DAIMLER

Daimler Trucks North America

Andy Jones

Manager

Product Compliance and Regulatory Affairs

October 5, 2018

Jonathan C. Morrison
Office of Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
West Building, W41-227
Washington, DC 20590

Re: Request for Confidential Treatment of Daimler Trucks North America LLC's Response to NHTSA Audit Query AQ18-002

Dear Mr. Morrison:

Pursuant to 49 CFR Part 512 and Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4), Daimler Trucks North America LLC ("DTNA") respectfully requests confidential treatment for the confidential and proprietary DTNA information contained in DTNA's response to AQ18-002. Pursuant to 49 CFR Part 512 and instructions provided by NHTSA, this request attaches two complete, unredacted versions of DTNA's response to AQ18-002, and a redacted version of the response. The submission is marked "CONFIDENTIAL BUSINESS INFORMATION" and confidential material is enclosed in brackets in accordance with 49 C.F.R. § 512.6(b). Supporting information under 49 C.F.R. § 512.8 is provided below.

49 C.F.R. § 512.8(a) – Describe the information for which confidentiality is being requested

The documents for which confidentiality is being requested are portions of the AQ18-002 response and supporting files related to AQ18-002 (hereinafter referred to as "Confidential DTNA Material"). The specific files for which confidential treatment is requested are listed below. These materials are marked "Confidential Business Information" on each page, as required by 49 C.F.R. § 512.6. As described in detail below, the Confidential DTNA Material reveals detailed vehicle sales and distribution figures, including information regarding model, model year, VIN, original state of sale or lease, part number, date of manufacture, warranty coverage, and owner name and contact information. It also includes descriptions of DTNA's internal document management and compliance systems and strategies, and consumer complaints, field reports and property damage claims including internal DTNA assessments. Competitors could use this information to evaluate DTNA's sales distribution, internal structure, and processes and to improve their own processes, plans, and market position.

49 C.F.R. § 512.8(b) – Identify the confidentiality standard(s)

Under § 512.15(b), information is exempt from disclosure if its disclosure would cause substantial harm to the competitive position of the submitter. Exemption 4 of FOIA, 5 U.S.C. § 552(b)(4), protects the confidentiality of information that would be likely to cause substantial competitive harm to the submitter if disclosed. *See Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (confidential commercial information is protected from disclosure under FOIA if its release is likely to cause competitive harm). The materials described below are proprietary and confidential business information, the release of which is likely to cause competitive harm to DTNA, and are therefore entitled to confidential treatment.

Request number 3 of AQ18-002 asks DTNA to provide detailed information regarding complaints, reports, claims, notices, or matters identified in response to request number 2, including vehicle owner or fleet name, street address, email address and telephone number, VIN, make, model, and model year, and vehicle mileage. DTNA asserts that specific information regarding the subject vehicles is proprietary information, a trade secret, and would be likely to cause substantial harm to DTNA's competitive position if released. While overall vehicle sales figures are available, information regarding specific models and model years, geographic distribution, and owner information is not available outside of DTNA. Disclosure of this information would provide competitors with substantial market information they could not otherwise obtain. Competitors could also adjust their own market plans and undercut DTNA's market share and reduce competition, resulting in substantial competitive harm to DTNA. In addition, DTNA contends that information about complaints, reports, claims, notices, or matters identified in response to request number 2 constitutes proprietary information, a trade secret, and would be likely to cause substantial harm to DTNA's competitive position if released. Disclosure of this information would provide competitors with substantial market information they could not otherwise obtain and provide competitors a list of perceived "strengths" and "weaknesses" of DTNA products.

Item #7 - Description of the system and process used to gather the information for the response to request number 3

In response to request number 3 of AQ18-002, DTNA is providing information regarding its internal systems and processes for document management and compliance. DTNA asserts that this information is proprietary information regarding DTNA's internal structure and compliance strategies, which would harm DTNA's competitive position if released.

Item #8 - Attachment 3, Request Number Two Documents (Consumer Complaints); Attachment 4, Request Number Two Documents (Field Reports); and Attachment 5, Request Number Two Documents (Property Damage Claims)

Request number 4 of AQ18-002 asks DTNA to provide copies of complaints, reports, claims, notices, or matters identified in response to request number 2. DTNA contends that detailed consumer complaints, field reports and property damage claims, including DTNA's internal assessments, are proprietary information, a trade secret, and would be likely to cause substantial harm to DTNA's competitive position if released. Disclosure of this information would provide competitors with substantial market information they could not otherwise obtain and provide competitors a list of perceived "strengths" and "weaknesses" of DTNA products.

Item #9 - Description of DTNA's search methods and criteria, systems, and process used to gather the information for the response to request number 4

In response to request number 4 of AQ18-002, DTNA is providing information regarding its internal systems and processes for document management and compliance. DTNA asserts that this information is proprietary information regarding DTNA's internal structure and compliance strategies, which would harm DTNA's competitive position if released.

Mr. Jonathan C. Morrison
October 5, 2018
Page 5

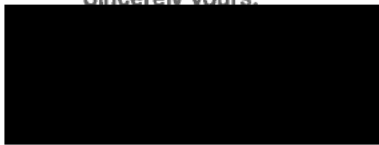
49 C.F.R § 512.8(d) – Indicate if any items of information fall within any of the class determinations included in the Appendices to Part 512

Item #2, and Item #6 above, the production and property damage claim VINs, are subject to the class determination for vehicle identification number information. To the extent VIN information is found in Item #8 – Attachment 3, Request Number Two Documents, that information also is subject to a class determination. *See* 49 CFR Part 512, Appendix D. Additionally, information in Item #1 – number of subject vehicles in the response to request number 1, and Item #8 – Attachment 3, Request Number Two Documents, is subject to a class determination under Appendix C(b)(1) and Appendix C(a)(2) and (3).

49 C.F.R § 512.8(e) – Indicate the time period for which confidential treatment is sought
DTNA anticipates that this information will continue to have great competitive value for the foreseeable future. Accordingly, DTNA requests that the information be protected from disclosure permanently.

Please contact me if you have any questions.

Sincerely yours,



Andy Jones

Attachments:

- Two confidential versions of AQ18-002 information request response
- One redacted version of AQ18-002 information request response
- Certificate in support of confidentiality