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OFFICE OF CHIEF COUNSEL
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November 20, 2019

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

Daimler Trucks North America
Andy Jones
Manager
Product Compliance and Regulatory Affairs

**Re: Request for Confidential Treatment of Daimler Trucks North America LLC's
Response to NHTSA Audit Query AQ18-002, Request Nos. 18-20**

Dear Mr. Morrison:

Pursuant to 49 C.F.R. Part 512 and Exemptions 4 and 6 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4) and (b)(6), Daimler Trucks North America LLC ("DTNA") respectfully requests confidential treatment for the confidential and proprietary DTNA information contained in DTNA's response to Request Nos. 18-20 in AQ18-002. Pursuant to 49 C.F.R. 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 (hereinafter referred to as "Confidential DTNA Material"). The specific information for which confidential treatment is requested is 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 includes descriptions of DTNA's internal plans, procedures, and corporate deliberations, analyses and processes, and internal systems and strategies. Competitors could use this information to evaluate DTNA's internal structure and processes and to improve their own processes, plans, and market position. In addition, the Confidential DTNA Material includes personally identifying information that is the type of material that is protected from disclosure under Exemption 6 of FOIA.

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. Additionally, personally identifying information is exempt from disclosure under Exemption 6 of FOIA, 5 U.S.C. § 552(b)(6), and therefore would be entitled to confidential treatment under 49 C.F.R. § 512.15(e).

49 C.F.R. § 512.8(c)(2) – What the harmful effects of disclosure would be and why the effects should be viewed as substantial

Disclosure of the Confidential DTNA Material would likely cause substantial competitive harm. The trucking industry is highly competitive. “Because competition in business turns on the relative costs and opportunities faced by members of the same industry, there is a potential windfall for the competitors to whom valuable information is released under FOIA. If those competitors are charged only minimal FOIA retrieval cost for the information, rather than the considerable costs of private reproduction, they may be getting quite a bargain. Such bargains could easily have competitive consequences not contemplated as part of FOIA’s principal aim of promoting openness in government.” *Worthington Compressors, Inc. v. Costle*, 662 F.2d 45, 51 (D.C. Cir. 1981). Substantial competitive harm may also result from disclosures that reveal a company’s strengths and weaknesses to competitors.

The Confidential DTNA Material could allow a competitor to improve a process or create a marketing strategy that without the Confidential DTNA Material the competitor would not. These consequences have been recognized as competitively significant and have been deemed to constitute substantial competitive harm. DTNA’s competitors would greatly benefit, at DTNA’s expense, from disclosure of the Confidential DTNA Material. The disclosure of this information would cause substantial harm to DTNA’s competitive position.

This request for confidentiality pertains to portions of the AQ18-002 response and supporting files related to AQ18-002:

1. Information and Documents responsive to Request No. 18.
2. Information and Documents responsive to Request No. 19.
3. Information responsive to Request No. 20.
4. Privilege Log and Document Index for AQ18-002 Response.

Item #1 – Information and Documents related to the part of the chronology in the Part 573 Report for Recall 18V-157 when a dealership reported the wheelchair lift issue to DTNA, and DTNA began an investigation of the issue. (Request No. 18)

In response to Request No. 18, DTNA is providing a description of how DTNA was informed of the wheelchair lift issue by one of its dealerships; the documentation and information provided by the dealership; the nature of DTNA’s investigation to determine the scope and consequences of the issue; whether the action is one routinely taken in instances where a safety defect may exist; conclusions of DTNA’s investigation; and documents related to DTNA’s investigation. The DTNA response and corresponding documents related to Request No. 18 include descriptions and explanations about DTNA processes, analyses, investigations, and internal deliberations. DTNA asserts that this information is proprietary and confidential information about DTNA processes, analyses, investigations, and internal deliberations, which would harm DTNA’s competitive

position if released. Disclosure of the information also could reveal strategic strengths and weaknesses of the company. The Request No. 18 documents also include personally identifying information that is the type of material that is protected from disclosure under Exemption 6 of FOIA. *See* 5 U.S.C § 552(b)(6). DTNA therefore asserts that the information and documents are entitled to confidential treatment under 49 C.F.R. § 512.15.

Item #2 – Information and Documents related to the part of the chronology in the Part 573 Report for Recall 18V-157 when DTNA decided to initiate Recall No. 18V-157. (Request No. 19)

In response to Request No. 19, DTNA is providing a description of the chronology of events that occurred between when the dealership contacted DTNA about the wheelchair lift issue and when DTNA initiated Recall 18V-157; whether the actions are ones routinely taken in instances of a dealership reporting a safety defect in DTNA vehicles; and documents associated with or used to make DTNA's safety-related defect determination. The DTNA response and corresponding documents related to Request No. 19 include descriptions and explanations about DTNA processes, analyses, investigations, and internal deliberations. DTNA asserts that this information is proprietary and confidential information about DTNA processes, analyses, investigations, and internal deliberations, which would harm DTNA's competitive position if released. Disclosure of the information also could reveal strategic strengths and weaknesses of the company. The Request No. 19 documents also include personally identifying information that is the type of material that is protected from disclosure under Exemption 6 of FOIA. *See* 5 U.S.C § 552(b)(6). DTNA therefore asserts that the information and documents are entitled to confidential treatment under 49 C.F.R. § 512.15.

Item #3 – Information related to a DTNA Part 573 Report “relating to the defect in the subject vehicles prior to March 7, 2018.” (Request No. 20)

DTNA asserts that the information in response to Request No. 20 is proprietary and confidential information regarding DTNA's internal processes, which would harm DTNA's competitive position if released. DTNA therefore asserts that the information is entitled to confidential treatment under 49 C.F.R. § 512.15.

Item #4 – Privilege Log and Document Index for AQ18-002 Response

DTNA asserts that the information in the privilege log and document index provided with its response to AQ18-002 is proprietary and confidential information regarding DTNA's internal communications, documents and processes, which would harm DTNA's competitive position if released. DTNA therefore asserts that the information is entitled to confidential treatment under 49 C.F.R. § 512.15.

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

Certain portions of Item #2 (Information and Documents related to Request No. 19) contained in Attachment 2 fall within the class determination of Part 512, Appendix B(A)(1), which provides that blueprints and engineering drawings are presumptively confidential. In addition, certain portions of Item #1 (Information and Documents related to Request No. 18) and Item #2

(Information and Documents related to Request No. 19) contained in Attachments 1 and 2 include VINs, and therefore are subject to the class determination for vehicle identification number information. *See* 49 C.F.R. Part 512, Appendix D.

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, Request Nos. 18 – 20
One redacted version of AQ18-002 information request response, Request Nos. 18 – 20
DTNA Certificate in support of confidentiality

DAIMLER

Certificate in Support of Request for Confidentiality

I, Andy Jones, pursuant to the provisions of 49 CFR Part 512, state as follows:

(1) I am Andy Jones, Manager, Product Compliance and Regulatory Affairs, for Daimler Trucks North America LLC (DTNA), and I am authorized by DTNA to execute this certificate on its behalf;

(2) I certify that the information marked confidential and contained in DTNA's November 2019 response to AQ18-002 is confidential and proprietary data and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. § 552(b)(4) (as incorporated by reference in and modified by the statute under which the information is being submitted);

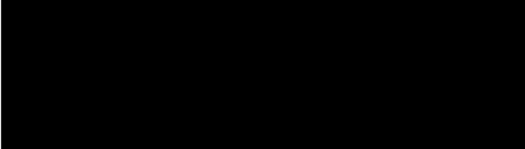
(3) I hereby request that the information marked confidential be protected on an ongoing basis;

(4) This certification is based on the information provided by the responsible DTNA personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside DTNA;

(5) Based upon that information, to the best of my knowledge, information and belief, the information for which DTNA has claimed confidential treatment has never been released or become available outside DTNA, except as hereinafter specified: the information has been made available as necessary for the purpose of obtaining advice and assistance from counsel and other confidential advisors or in the course of confidential business relationships, such as supplier relationships;

(6) I make no representations beyond those contained in this certificate and, in particular, I make no representations as to whether this information may become available outside DTNA because of unauthorized or inadvertent disclosure (except as stated in paragraph 5); and

(7) I certify under penalty of perjury that the foregoing is true and correct. Executed on this the 20th day of November 2019.



Andy Jones

DAIMLER

Daimler Trucks North America
Andy Jones
Manager
Compliance and Regulatory Affairs

VIA FEDERAL EXPRESS

November 20, 2019

Mr. Jonathan Morrison
Chief Counsel
Office of the Chief Counsel (NCC-100)
National Highway Traffic Safety Administration
West Building, W41-326
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Response to NHTSA Audit Query AQ18-002 Request Nos. 18 – 20 Regarding the Scope and Timeliness of DTNA's Recall Nos. 17V-761, 17V-810, 18V-157, and 18V-163, and 18V-190

Dear Mr. Morrison:

Daimler Trucks North America LLC ("DTNA") is submitting its response to the National Highway Traffic Safety Administration ("NHTSA" or "Agency") Office of Defects Investigation's Audit Query AQ18-002.

Pursuant to consultations with NHTSA, responses to Request Nos. 1 – 4 were submitted on October 5, 2018, responses to Request Nos. 30 – 46 were submitted on October 17, 2018, responses to Request Nos. 5 – 12 and 29 were submitted on August 30, 2019, and responses to Request Nos. 13-17 were submitted on October 18, 2019. Responses to Request Nos. 18-20, regarding Recall No. 18V-157, are contained in this response.

Request Nos. 18 – 20 of NHTSA's Audit Query are repeated below, followed by the corresponding response.

For ease of review, the supporting documents for this response are Bates labeled and a document index is provided; as well as a privilege log.

Regarding Recall No. 18V-157 – Wheelchair Lift Can Be Operated While Not In Park

Request No. 18:

DTNA's chronology contained in the Part 573 Report for NHTSA Recall No. 18V-157 states that at the end of November 2017 a dealership reported that a group of new buses could be moved while the wheelchair lift was in operation, and that DTNA began an investigation to understand the

potential consequences and determine the scope of the issue. Respond to the following requests relating to this part of the chronology:

- (a) Explain the manner in which the dealership notified DTNA of the subject defect;*
- (b) Describe any documentation or information provided to DTNA by the dealership relating to the subject defect;*
- (c) Identify and describe the nature of DTNA's investigation;*
- (d) Identify whether the action is one routinely taken by DTNA in instances where a safety defect may exist;*
- (e) Explain any conclusions that came from DTNA's investigation including whether it was determined that a safety defect existed; and*
- (f) Provide copies of all documents, including by not limited to presentations, executive summaries, summary findings, memoranda, agendas, or recommended actions, whether in final or draft, associated with or used to reach the conclusion in DTNA's November 2017 investigation.*

Response to Request No. 18:

- (a) On November 20, 2017 a Service Manager from Matthews Buses, an authorized Thomas Built Buses ("TBB") dealership, called the TBB Call Center to report an issue with the wheelchair lift on certain new TBB buses that had not yet been delivered to customers. The Matthews Buses employee did not report that the bus could be moved while operating the lift. Rather, the employee reported that the wheelchair lift could be operated while the vehicle was in neutral. The report was documented in the Remedy system (reference number 000000006002514), which is a DTNA/TBB database used for recording and tracking customer complaints.¹
- (b) In the telephone call from Matthews Buses, the Matthews employee indicated that during the Matthews pre-delivery inspection ("PDI") process, which occurs at the dealership prior to vehicle delivery to the customer, the wheelchair lift could be operated while the vehicle was in neutral. No additional information was provided regarding the operational characteristics of the vehicle at the time of the PDI, such as whether the other enabling conditions for operation of the wheelchair lift were present. The subject buses have multiple enabling conditions for the lift which prevent the bus from moving during lift operation. The transmission interlock is just one of several redundant fail safe features of the lift system. Specifically, in order for the lift to operate the following conditions must be met: (1) the parking brake must be set and latched; (2) the ignition switch must be in the designated position, which is "on" on standard lift configurations; (3) the lift power

¹ See Nov. 20, 2017 Customer Contact Report.]

switch must be activated; and (4) the bus's side door must be unlatched and opened from the outside of the bus.

The Matthews employee reported that three vehicles identified during the PDI process had been repaired to address the issue, and eight additional vehicles identified during the PDI process were affected by the issue but currently awaiting repair/rewiring. Additionally, Matthews noted that it was waiting for nine additional vehicles of the same model to be delivered.

- (c) When the wheelchair lift issue was reported to the TBB Call Center, the report was documented into the Remedy system and a Corrective Action Request ("CAR") was created to initiate an investigation.² TBB's investigation began by reviewing the installation drawings in order to be able to verify that the jumper interface wiring harness was being properly installed per the installation drawings. The CAR team confirmed that the wiring harness drawings were correct, so if the harness was installed correctly, the lift should operate as designed.

Additionally, a warranty search was conducted; no warranty claims for the issue were identified aside from the claims reported by Matthews.

The CAR team also checked the operation of buses at the TBB production plant. The wheelchair lift on the Minotour incorporates redundant safety protections with multiple interlocks. The full functionality of the interlock systems depends on the type of lift activation configuration on the vehicle. There are three different activation options, based on state requirements. Some states require that the wheelchair lift be operational only when the ignition is in the "on" position (the standard option); some states require that the wheelchair lift be operational only when the ignition is in the "off" position; and some states allow the wheelchair lift to be operational when the ignition is in either the "on" or "off" position (this option is sometimes referred to as the West Virginia option). TBB's review included all three options.

The wheelchair lift and interlock systems operate as follows: first, the vehicle's parking brake must be set in order to operate the wheelchair lift; this is the brake interlock. Second, the vehicle must be placed in park and the driver will be unable to take the vehicle out of park once the lift door is open; this is the transmission interlock. Third, the lift power switch in the overhead cabinet must be turned on. Fourth, the lift door on the outside of the vehicle must be unlatched and opened manually from outside of the vehicle. Fifth, the door is secured with a door chain. After loading or unloading, all steps are then reversed before the vehicle is driven.³ In addition, when the lift is operated, audible and visual warnings (including a flashing red beacon) occur.

The interlock system on the Minotour is fully compliant with FMVSS 403's interlock requirements because the parking brake must be applied prior to operating the lift – thus

² See Nov. 20, 2017 CAR created by Ricky Myers.]

³ See Draft Fact Sheet – Recall Advisory Committee, Case Number 17-154 (citing Minotour Manual Page 60).]

preventing forward or rearward vehicle mobility as required by S6.10.2 even for the vehicles subject to recall. An additional feature on the Minotour, the transmission interlock, also prevents forward or rearward mobility by requiring that the vehicle be placed in park for the lift to operate. This is one of several redundant safety features of the lift. For standard configuration vehicles (those with a lift that will only function when the ignition is in the "on" position) both the brake and transmission interlocks are used.

The CAR team inspected vehicles at the plant and identified a bus on which the wheelchair lift was not operating as expected, because the lift could be operated while the vehicle was not in park. The other lift safety features – such as the parking brake interlock, the power switch, the door chain, and the audible and visual warnings – continued to operate as expected. Once the transmission interlock issue was verified to be present on a bus at the production plant, all units at the plant were placed on hold, and the affected bus was moved to the TBB test lab for further analysis. The wiring and lift function was investigated to determine the cause of the issue. The root cause was determined to be incorrect wiring of the chassis interface jumper wiring harness into the GM-supplied chassis harness, caused by inconsistent manufacturing processes due to the manual nature of the installation.

The initially identified bus at the TBB plant had a standard option wheelchair lift activation configuration, as did the vehicles originally reported by Matthews Buses. After the initial standard configuration bus was identified at the plant, TBB decided to also evaluate buses with the ignition "on" or "off" (West Virginia) activation configuration. TBB moved a bus with the West Virginia specification to the TBB test lab for further analysis, and the wiring and lift functions were investigated. The CAR team confirmed that the chassis interface wiring harness was being properly installed as specified in the installation drawings for the West Virginia configuration buses. The team further analyzed the lift interface wiring harness, and consulted TBB electrical engineers for additional technical support. The engineering analysis determined that the while properly assembled, the wiring did not contain a relay that would enable the redundant transmission interlock when the ignition was in the "on" position. Operation of the wheelchair lift would still be prevented by use of the parking brake, but the transmission interlock would not be present. This meant that if the vehicle was put in neutral or drive, the wheelchair lift could be operated. Although the parking brake should prevent movement while operating the lift, and the brake interlock is compliant with FMVSS 403 requirements, TBB determined that an additional relay for the lift interface wiring harness would enable more redundancy. As described in the response to Request No. 19, TBB and DTNA later decided to provide this additional failsafe feature in Recall 18V-157.

After identifying the cause of the issue reported by Matthews, TBB attempted to determine the potentially impacted vehicle population. Due to the individual, manual nature of the process for splicing the chassis interface jumper wiring harness into the GM chassis harness, it was not possible to identify a specific starting point for the issue. In an abundance of caution, TBB decided to use the start of production date for the identified harness design to define the potentially affected vehicle population.

CONTAINS CONFIDENTIAL BUSINESS INFORMATION

As described in the response to Request No. 19, DTNA decided to combine the wiring harness defect recall with the product improvement to the West Virginia configuration into a single safety recall to avoid confusion and expedite the upgrade to the West Virginia configuration.

- (d) This issue was investigated in a way that is consistent with the manner in which TBB and DTNA normally investigate possible defects: TBB personnel reviewed available information from the dealership, checked warranty data, and consulted engineering support personnel. TBB also investigated whether the issue was present on vehicles at the production plant, and when affected vehicles were identified, the plant population was contained and TBB conducted further analysis to determine the cause of the issue. All of these actions are ones DTNA and TBB normally take when investigating a potential safety defect.
- (e) The investigation yielded the facts related to the wheelchair lift transmission interlock issue including: verifying the existence of the issue; determining the root cause of the issue; identifying additional vehicle design configurations that lacked full redundancy; and establishing the populations of vehicles that may contain the issue. As described in the response to Request No. 19, DTNA made the determination that a safety defect existed in March 2018.]
- (f) The requested documents are provided as Attachment 1.

[Information responsive to this Request was gathered from DTNA and TBB personnel, and from the OWL warranty and Remedy customer complaint systems.] DTNA last gathered information for this Request in November 2019.

Request No. 19:

DTNA's chronology contained in the Part 573 Report for NHTSA Recall No. 18V-157 states that in March 2018 DTNA decided to voluntarily recall certain Thomas Built Buses equipped with wheelchair lifts. Respond to the following requests relating to this part of the chronology:

- (a) *Provide a detailed chronology of the events (including the principal actors) that occurred between when the dealership reported to DTNA that a group of new buses had a safety defect and when DTNA decided to initiate Recall No. 18V-157;*
- (b) *Identify whether the actions are ones routinely taken by DTNA in instances of a dealership reporting a safety defect in one or more DTNA vehicles; and*
- (c) *Provide copies of all documents, including but not limited to presentations, executive summaries, summary findings, memoranda, agendas, or recommended actions, whether in final or draft, associated with or used to reach the conclusion for DTNA to issue voluntary safety NHTSA Recall No. 18V-157.*

Response to Request No. 19:

- [(a) The Matthews Buses dealership did not "report[] to DTNA that a group of new buses had a safety defect." Rather, on November 20, 2017, a Service Manager from Matthews Buses called the TBB Call Center to report an issue with the wheelchair lift on certain new TBB vehicles, but the information provided was too incomplete to make a safety-related defect determination for a population of buses. Specifically, the Service Manager reported that on certain new buses, the wheelchair lift could be operated while the vehicle was in neutral. The functionality of other fail-safe features on the vehicle (such as the parking brake interlock, the lift power switch, the door-activated plunger switch, the door chain, and audible and visual warnings) was not reported. The report was documented into the Remedy system by a TBB Service Engineer on the same day. The Service Engineer entered a Corrective Action Request ("CAR") to initiate an engineering review. On November 28, 2017 (after the Thanksgiving holiday), a CAR team was created to investigate the issue. The CAR team consisted of an Electrical Engineer, a Service Engineer, and a Production representative.

In early December 2017, TBB conducted a warranty review to identify potentially relevant cases. No warranty claims regarding the wheelchair issue were identified, other than the ones reported by Matthews Buses. On December 6, 2017 the CAR team verified that the chassis interface wiring harness installation drawings were correct. The team also inspected vehicles at the plant to see if the wheelchair lift was operating as expected. During the inspection, the CAR team identified a vehicle with the standard wheelchair lift activation configuration that was not operating as expected because the lift could be operated with the vehicle in neutral or drive. All other lift safety features – the parking brake interlock, power switch, door-activated plunger switch, door chain, and warnings – were operating as expected. On December 8, 2017, containment at the production plant was established and all units were placed on hold. The affected bus was moved to the TBB test lab for further analysis.

A bus with a different lift activation configuration, the West Virginia option, was also analyzed at the TBB test lab. On this vehicle, there were no issues with the chassis interface wiring harness installation, but the wheelchair lift could be operated with the vehicle in neutral. Again, all other lift safety features continued to operate as expected. The CAR team further analyzed the lift interface wiring harness on this vehicle, and conducted an engineering analysis. The analysis determined that the while properly assembled, the wiring did not contain a relay that would enable the redundant transmission interlock when the ignition was in the "on" position. Operation of the wheelchair lift would still be prevented by use of the parking brake, however.

In December 2017 and (following the TBB holiday shutdown) January 2018, the CAR team investigated the wiring and lift functions on both the vehicle with the standard option wheelchair lift configuration and the vehicle with the West Virginia option wheelchair lift configuration. Two different root causes were found for the operational issues identified. One was incorrect wiring of the chassis interface jumper wiring harness into the chassis harness caused by inconsistent manufacturing processes due to the manual nature of the installation, which could occur with the standard and West

Virginia configurations. For the West Virginia option vehicle, if the transmission interlock function was to be available, an additional relay needed to be added to the system which was not originally included in the wiring design. Although the transmission interlock is supplemental to the parking brake interlock, and the operating conditions under which it might be needed would not normally be expected to occur, DTNA nonetheless later determined to include the upgrade to the West Virginia buses with the additional relay in Recall 18V-157.

In January 2018, the CAR team attempted to establish the potentially affected population of Minotour buses, built on the GM chassis, with ignition and battery powered lifts using the chassis interface jumper wiring harness (part number 147607). Due to the individual, manual nature of the splicing process, TBB was unable to determine a clean point for the incorrect wiring issue. TBB therefore decided to use the start of production date for the harness design to define the population potentially affected by the wiring issue.

TBB and DTNA continuously evaluated the potential safety consequences of the two identified wheelchair lift issues. Both issues impacted the supplemental transmission interlock; the parking brake interlock feature remained fully functional. Due to the presence of the parking brake interlock, as well as the other fail-safe features present on the vehicles, as described above, TBB and DTNA considered it highly unlikely that a wheelchair lift would actually be operated while a bus was in motion. Indeed, neither of the identified failure modes would be expected to occur under normal vehicle operating conditions. First, the bus would have to be in neutral or drive for the incorrect wiring issue to manifest. Moreover, the vehicle would always have the parking brake activated, eliminating the potential for movement. In addition, a bus operator would not be expected to leave the vehicle in drive or neutral while turning on the lift power switch (which is located in an overhead compartment), getting out of the driver's seat, exiting the vehicle and opening the exterior side door, and securing it with the door chain. Further, in the course of carrying out the several steps required to operate the lift, the bus operator would become aware that the vehicle was not in park long before the bus could be moved with the lift activated. Even if the driver remained in the driver's seat and a second person operated the lift door and latch, then the driver would be immediately available to stop the vehicle from moving if it were to somehow move with the parking brake on. The possibility of injury to any passengers using the lift or nearby therefore is extremely remote if not impossible. In addition, TBB and DTNA had not received any reports of this issue occurring in the field. Accordingly, TBB and DTNA continued to progress the topic through the company's normal safety evaluation process, rather than expedited scheduling.

During this time period, TBB and DTNA also developed and verified a new streamlined harness design for use both in production vehicles and, where needed, for field fixes.⁴ New work instructions and training procedures were also developed to ensure proper wiring harness installation.

⁴ See, e.g., February 2, 2018 email from Joseph Dominick describing current service issues and stating new harness designed for wheelchair lift.]

Once the CAR team understood the root causes of the identified functionality issues and defined the vehicle populations, TBB briefed DTNA Compliance and Regulatory Affairs ("CRA") staff about the issues in order for CRA to present the topic to the Recall Advisory Committee ("RAC"). Fact sheets and presentation materials for the RAC were developed both for the wiring issue and for the West Virginia option relay issue. The wheelchair lift topics were originally planned for RAC consideration on February 5, 2018, but TBB and DTNA needed additional time to fully develop the briefing materials and to be better able to explain the technical issues and relationship between the two root causes.⁵

On February 26, 2018, the wheelchair lift issues were presented to the RAC for consideration. The RAC voted to elevate the issues to upper management for evaluation and determination on a potential safety defect. Because of the identical consequences of the two separate wheelchair lift issues, and to avoid confusion, the two cases were combined into one presentation for the DTNA Operations Committee.⁶ On March 1, 2018, the Operations Committee voted in favor of making a safety-related defect determination. DTNA's Defect Information Report ("DIR") was submitted within five business days to NHTSA on March 7, 2018.

- (b) The actions taken in response to the Matthews Buses report are consistent with the manner in which TBB and DTNA normally investigate possible defects: TBB personnel reviewed available information from the dealership, checked warranty data, and consulted engineering support personnel. TBB also investigated whether the issue was present on vehicles at the production plant, and when an affected vehicle was identified, all vehicles at the plant were contained. TBB next conducted further analysis on the identified vehicle, and on an additional vehicle configuration to determine the cause of the issue. TBB then worked to determine the impacted vehicle populations and collaborated with CRA personnel in preparing to present the issues to the RAC. DTNA continuously monitored field data and the overall risk to safety to enable the issue to be escalated to an ad hoc RAC and management determination if necessary, which is always an alternative to the regularly scheduled meetings in appropriate circumstances. Because of the low risk associated with this redundant feature, the issue was handled at a regularly scheduled meeting. All of these actions are ones DTNA and TBB normally take when investigating a potential safety defect.]

- (c) The requested documents are provided as Attachment 2.

[Information responsive to this Request was gathered from DTNA and TBB personnel, and from the OWL warranty and Remedy customer complaint systems.] DTNA last gathered information for this Request in November 2019.

⁵ See January 25, 2018 email from Joseph Dominick noting planned RAC topic for February 2, 2018.]

⁶ See February 28, 2018 email from Product Compliance to Wilfried Achenbach and Jeff Allen.]

Request No. 20:

If you are contending that DTNA filed a Part 573 Report with NHTSA relating to the defect in the subject vehicles prior to March 7, 2018:

- (a) Produce a copy of all documents to support your contention, and*
- (b) Produce a copy of all notices, bulletins, dealer notifications, and other communications that relate to the recall, including a copy of the final owner notification letter and any subsequent owner follow-up notification letter(s) (sent to more than one manufacturer, distributor, dealer, or purchaser/owner) provided to NHTSA's Recall Management Division, along with any documentation of NHTSA's receipt of such communications.*

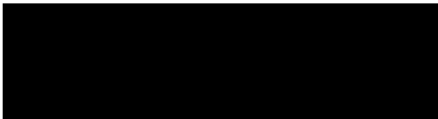
Response to Request No. 20:

[DTNA is not contending a Part 573 Report was filed with NHTSA relating to the defect in the subject vehicles prior to March 7, 2018.]

* * * *

Please do not hesitate to contact us should you have any questions regarding this response.

Sincerely,

A large black rectangular redaction box covering the signature area.

Andy Jones

cc: Jeffrey Eyers, Office of the Chief Counsel