INFORMATION REDACTED PURSUANT TO THE FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)

U.S. Department of Transportation
National Highway Traffic Safety Administration

1200 New Jersey Avenue SE.
Washington, DC 20590

August 9, 2021

Mr. Tony Bruzzese, General Counsel
Goodbaby International Holdings Ltd
225 Byers Road
Miamisburg OH 45342

NEF-0102sw
PE21-014

Dear Mr. Bruzzese:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has received complaints describing, and opened a Preliminary Evaluation (PE21-014) to investigate, head rest foam exposure, potentially allowing children to pick, remove, and ingest pieces of certain Cybex Sirona M child seats, and is requesting certain information.

This office has received two (2) consumer complaints and multiple death and injury claims describing child occupants accessing a foam material, used in the subject child seat headrest, via an opening in its covering material. The children subsequently pick off pieces of the foam and put it in their mouths thereby resulting in coughing, gagging, vomiting, or passing by means of bowel movements. The reports indicate the children were in Cybex Sirona M child seats which were manufactured in 2018. The reports constitute the basis for this letter. A copy of the reports and related materials will be sent to you electronically for your review and information.

Unless otherwise stated in the text, the following definitions apply to these information requests:

- **Subject child seat:** All Cybex Sirona M child seats, manufactured for sale in the United States during the 2016-2019 calendar years, including, but not limited to, the District of Columbia, and current U.S. territories and possessions.

- **Alleged defect:** An opening in the headrest covering of the subject child seat that allows child occupants to access and pick off small pieces of foam material.

- **Cybex**: Cybex (Goodbaby International Holdings Ltd.) all of their past and present officers and employees, whether assigned to their principal offices or any of their field or other locations, including all of their divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of their headquarters, regional, zone and other offices and their employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the control of Cybex (including all business units and persons previously referred to), who are or, in or after January 1, 2010, were involved in any way with any of the following related to the alleged defect in the subject child seat:

  a. Design, engineering, analysis, modification or production (e.g. quality control);

b. Testing, assessment or evaluation;
c. Consideration, or recognition of potential or actual defects, reporting, record-keeping and information management, (e.g., complaints, field reports, warranty information, part sales), analysis, claims, or lawsuits; or
d. Communication to, from or intended for zone representatives, fleets, dealers, or other field locations, including but not limited to people who have the capacity to obtain information from dealers.

- **Document:** "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by Cybex, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by Cybex or not. If a document is not in the English language, provide both the original document and an English translation of the document.

- **Other Terms:** To the extent that they are used in these information requests, the terms "claim," "consumer complaint," "dealer field report," "field report," "fire," "fleet," "good will," "make," "model," "model year," "notice," "property damage," "property damage claim," "rollover," "type," "warranty," "warranty adjustment," and "warranty claim,"

whether used in singular or in plural form, have the same meaning as found in 49 CFR 579.4.

In order for my staff to evaluate the alleged defect, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests. Insofar as Cybex has previously provided a document to ODI, Cybex may produce it again or identify the document, the document submission to ODI in which it was included and the precise location in that submission where the document is located. When documents are produced, the documents shall be produced in an identified, organized manner that corresponds with the organization of this information request letter (including all individual requests and subparts). When documents are produced, and the documents would not, standing alone, be self-explanatory, the production of documents shall be supplemented and accompanied by explanation.

Please repeat the applicable request verbatim above each response. After Cybex's response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State, by model and model year, the number of subject child seat Cybex has manufactured for sale in the United States. Separately, for each subject child seat manufactured to date by Cybex, state the following:

   a. Brand name;
   b. Model name;
   c. Model number;
   d. Serial number; and
   e. Date of manufacture.

   Provide the table in Microsoft Access 2010, or a compatible format, entitled "PRODUCTION DATA."

2. State the number of each of the following, received by Cybex, or of which Cybex is otherwise aware, which relate to, or may relate to, the alleged defect in the subject child seat:

   a. Consumer complaints;
   b. Field reports, including retailer field reports;
   c. Reports from retailers and distributors, and from seat providers and installers (including Child Passenger Seat Technician (CPST), but not limited to hospital, police department, SAFEKIDS, field reports etc.);
   d. Property damage claims;
   e. Third-party arbitration proceedings where Cybex is or was a party to the arbitration; and
   f. Lawsuits, both pending and closed, in which Cybex is or was a defendant or codefendant.

   For subparts "a" through "c," state the total number of each item (e.g., consumer complaints, field reports, etc.) separately. Multiple incidents involving the same child seat are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which property

damage occurred are to be counted as a property damage claim, a field report and a consumer complaint).

In addition, for item "e", provide a summary description of the alleged problem and causal and contributing factors and Cybex's assessment of the problem, with a summary of the significant underlying facts and evidence. For item "f", identify the parties to the action, as well as the caption, court, docket number, and date on which the complaint or other document initiating the action was filed.

3. Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 2, state the following information:

   a. Cybex's file number or other identifier used;
   b. The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);
   c. Child seat owner, street address, email address and telephone number;
   d. Child seat's serial number and date and manufacture;
   e. Child seat's brand, model name, and model number;
   f. Child seat's age at time of incident;
   g. Installation method used to secure the child seat to the vehicle;
   h. Incident date;
   i. Report or claim date;
   j. Concern stated by the customer;
   k. Number of alleged injuries, if any; and
   l. Number of alleged fatalities, if any.

   Provide this information in Microsoft Access 2010, or a compatible format, entitled "REQUEST NUMBER TWO DATA."

4. Produce copies of all documents related to each item within the scope of Request No. 2. Organize the documents separately by category (i.e., consumer complaints, field reports, etc.) and describe the method Cybex used for organizing the documents. Describe in detail the search methods and search criteria used by Cybex to identify the items in response to Request No. 2.

5. State a total count for all of the following categories of claims, collectively, that have been paid by Cybex that relate to, or may relate to, the alleged defect in the subject child seats: warranty claims; extended warranty claims; claims for good will services that were provided; or similar adjustments and reimbursements; and warranty claims or repairs made in accordance with a procedure specified in a technical service bulletin, customer satisfaction campaign, or other such activity.

   Separately, for each such claim, state the following information:
   a. Cybex's claim number;
   b. Car seat owner's name and telephone number;
   c. Car seat model name;
   d. Car seat model number;

e. Car seat model Year
f. Car seat date of manufacture;
g. Repair date;
h. Repairing facility's name, telephone number, city and state or ZIP code;
i. Labor operation number;
j. Problem code;
k. Replacement part number(s) and description(s);
l. Concern stated by the customer; and
m. Comment, if any, by the technician or person(s) making the repair, and/or the person(s) processing the claim that relate to the claim and/or repair.

Provide this information in Microsoft Access 2010, or a compatible format, entitled "WARRANTY DATA."

6. Describe in detail the search criteria used by Cybex to identify the claims identified in response to Request No. 5, including the labor operations, problem codes, part numbers and any other pertinent parameters used. Provide a list of all labor operations, labor operation descriptions, problem codes, and problem code descriptions applicable to the alleged defect in the subject child seats.

7. State the terms of the standard new child seats warranty coverage offered by Cybex on the subject child seats (i.e., the number of months for which coverage is provided and the child seats systems that are covered). Describe any extended warranty coverage option(s) related to the alleged defect that Cybex offered for the subject child seats and state by option, model, and model year, the number of child seats that are covered under each such extended warranty. State the recommended usage period (life time) for the subject child seats.

8. Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect in the subject car seats that Cybex has issued to any retailers or distributors, regional or zone offices, or other such entities. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or communications to or for Cybex customer service representatives, or consumers. Also include the latest draft copy of any of the above described documents that Cybex is planning to issue within the next 120 days.

9. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") that relate to, or may relate to, the alleged defect in the subject child seats that have been conducted, are being conducted, are planned, or are being planned by, or for, Cybex. For each such action, provide the following information:

   a. Action title or identifier;
   b. The actual or planned start date;
   c. The actual or expected end date;
   d. Brief summary of the subject and objective of the action;

e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and,
f. A brief summary of the findings and/or conclusions resulting from the action.

For each action identified, provide copies of all documents related to the action, regardless of whether the documents are in interim, draft, or final form. Organize the documents chronologically by action.

10. Describe all modifications or changes made by, or on behalf of Cybex in the design, material composition, manufacture, quality control, supply, or installation of the subject child seat, from the start of production to date, which relate to, or may relate to, the alleged defect. For each such modification or change, provide the following information:
    a. The date or approximate date on which the modification or change was incorporated into child seat production;
    b. A detailed description of the modification or change;
    c. The reason(s) for the modification or change;
    d. The part number(s) (service and engineering) of the original component;
    e. The part number(s) (service and engineering) of the modified component;
    f. Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;
    g. When the modified component was made available as a service component; and
    h. Whether the modified component can be interchanged with earlier production components.

    Also, provide the above information for any modification or change that Cybex is aware of which may be incorporated into child seat production within the next 120 days.

11. Furnish Cybex's assessment of the alleged defect in the subject child seat, including:
    a. The causal or contributory factor(s);
    b. The failure mechanism(s)/failure mode(s);
    c. The risk to child seat safety that it poses;
    d. What warnings, if any, the child seat owner or caregiver would have that the alleged defect was occurring; and
    e. The report related to this inquiry.

Legal Authority for This Request

This letter is being sent to Cybex pursuant to 49 U.S.C. § 30166, which authorizes NHTSA to conduct any investigation that may be necessary to enforce Chapter 301 of Title 49 and to request reports and the production of things. It constitutes a new request for information.

Civil Penalties

Cybex's failure to respond promptly and fully to this letter could subject Cybex to civil penalties pursuant to 49 U.S.C. § 30165 or lead to an action for injunctive relief pursuant to 49 U.S.C. § 30163. (Other remedies and sanctions are available as well.) The Vehicle Safety Act, as amended, 49 U.S.C. § 30165(a)(3), provides for civil penalties of up to $21,780 per violation per day, with a maximum of $108,895,910 for a related series of daily violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. *See* 49 CFR 578.6 (as amended by Fixing America's Surface Transportation Act (the "FAST Act"), Pub. L. 114-94, § 24110(a)(2), 129 Stat. 1312 (Dec. 4, 2015)). This includes failing to respond completely, accurately, and in a timely manner to ODI information requests.

If Cybex cannot respond to any specific request or subpart(s) thereof, please state the reason why it is unable to do so. If on the basis of attorney-client, attorney work product, or other privilege, Cybex does not submit one or more requested documents or items of information in response to this information request, Cybex must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, the name and position of the person(s) from, and the person(s) to whom it was sent, and the name and position of any other recipient (to include all carbon copies or blind carbon copies), the nature of that information or material, and the basis for the claim of privilege and why that privilege applies.

Confidential Business Information

All business confidential information must be submitted directly to the Office of Chief Counsel as described in the following paragraph and should not be sent to this office. In addition, do not submit any business confidential information in the body of the letter submitted to this office. Please refer to DP20-003 in Cybex's response to this letter and in any confidentiality, request submitted to the Office of Chief Counsel.

If Cybex claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, Cybex must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 CFR Part 512, as amended, to the Office of Chief Counsel (NCC-100), National Highway Traffic Safety Administration, Room W41-326, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. Cybex is required to **submit two copies of the documents containing allegedly confidential information (except only one copy of blueprints) and one copy of the documents from which information claimed to be confidential has been deleted.** Please remember that the phrase "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" or "CONTAINS CONFIDENTIAL BUSINESS INFORMATION" (as appropriate) must appear at the top of each page containing information claimed to be confidential, and the information must be clearly identified in accordance with 49 CFR 512.6. If you submit a request for confidentiality for all or part of your response to this IR, that is in an electronic format (e.g., CD-ROM), your request and associated submission must conform to the new requirements in NHTSA's Confidential Business

Information Rule regarding submissions in electronic formats. *See* 49 CFR 512.6(c) (as amended by 72 Fed. Reg. 59434 (October 19, 2007)).

If you have any questions regarding submission of a request for confidential treatment, contact Daniel Rabinovitz, Trial Attorney, Office of Chief Counsel at daniel.rabinovitz@dot.gov or (202) 366-8534.

Due Date

Cybex's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by **September 20, 2021**. Cybex's response must include all non-confidential attachments and a redacted version of all documents that contain confidential information. If Cybex finds that it is unable to provide all of the information requested within the time allotted, Cybex must request an extension from me at (202) 366-6938 no later than five business days before the response due date. If Cybex M is unable to provide all the information requested by the original deadline, it must submit a partial response by the original deadline with whatever information Cybex then has available, even if an extension has been granted.

Please send email notification to Dr. Samuel Wilson at Samuel.wilson2@dot.gov and to ODI_IRresponse@dot.gov when Cybex sends its response to this office and indicate whether there is confidential information as part of Cybex's response.

If you have any technical questions concerning this matter, please call Samuel Wilson of my staff at (202) 366-9535.

Sincerely,

[redacted]

Bruce York,
Chief
VDD-B Division
Office of Defects Investigations