



TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED

A.C.N. 009 686 097 A.B.N. 64 009 686 097

Mr Neville Matthew
General Manager
Consumer Product Safety Branch
Australian Competition & Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

18 December 2017

BY EMAIL: ev@accc.gov.au

Dear Mr Matthew

RE: ACCC Proposed Recall Notice: Motor vehicles with specified Takata airbag inflators and specified salvaged Takata airbag inflators

We refer to your email dated 21 September 2017 attaching a draft recall notice (the **Proposed Recall Notice**) for a compulsory recall in Australia of specified consumer goods, namely motor vehicles with Affected Takata Airbag Inflators and motor vehicle spare parts that comprise of or contain Affected Takata Airbag Inflators.

In accordance with the invitation in your email for suppliers to make submissions in writing regarding the Proposed Recall Notice, we set out below the public written submission of Toyota Motor Corporation Australia Limited (**Toyota Australia**).

The questions in your email have been set out in full in this response, together with Toyota Australia's responses to each. All answers set out below are correct as at the date of Toyota Australia's confidential response, to the best of Toyota Australia's knowledge and based on having made reasonable enquiries and searches of its records as set out in the response below.

Kindly note that unless otherwise defined herein, capitalised terms have the meaning attributed to them in the Proposed Recall Notice.

Please also note that some data has been updated since Toyota Australia previously provided its confidential submission to the Australian Competition and Consumer Commission (**ACCC**). The updated information is included in this public submission.

Finally, we advise that Confidential information concerning the business, commercial and financial affairs of Toyota Australia and its parent company, Toyota Motor Corporation in Japan (**Toyota Japan**), and related entities elsewhere, including in North America, has been removed from this public version of Toyota Australia's submission. The disclosure of such information without Toyota Australia's consent would unreasonably and adversely affect Toyota Australia, in respect of its lawful business, commercial and financial affairs.

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INTRODUCTORY COMMENTS

At the outset, we respectfully submit that Toyota Australia has been committed to the replacement of Affected Takata Airbag Inflators for some years, having commenced its voluntary recall campaigns in April 2013 utilising a risk prioritisation approach. It has dedicated significant resources to its replacement scheme and has continued to develop and improve the scheme with each recall campaign. Toyota Australia's commitment is demonstrated by the following:

- Its current completion rate of approximately 60% is higher than the aggregate replacement rate as noted in the Proposed Recall Notice.¹
- ***[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]***
- ***[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]***

It is important to note that manufacturers announce recalls at different times, therefore direct comparisons are difficult. For example, Toyota Australia added approximately 179,710 vehicles to the Takata recall in October 2016 and in 2017 has added approximately 121,552 additional vehicles to the recall. We therefore respectfully submit that rectification rates should be calculated and compared based on the number of vehicles rectified vs the total number of vehicles affected in current and planned Affected Takata Airbag Inflator recall campaigns.

Toyota Australia also submits that the measures set out in the Proposed Recall Notice ought to be considered in view of (i) global parts allocation and (ii) their anticipated effectiveness relative to the increased costs to implement them. The reality faced by the manufacturers is that 100% completion is unlikely due to a number of factors, including difficulty in identification of older vehicles (because many of these enter the used car market and owner identification becomes increasingly challenging) and the lack of engagement of some vehicle owners despite concerted efforts to engage with them (a low response rate is also more common in owners of older vehicles).

We also respectfully submit that the Proposed Recall Notice introduces the prospect that parts will be allocated on a 'first in, best dressed' basis instead of the optimal risk-based allocation process which has been successfully adopted to date.

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

¹ This rate is measured at a point in time and should be understood in the context of the 2 recall expansion campaigns announced in October 2016 and March 2017, which placed more than 300,000 vehicles on Toyota Australia's voluntary recall list.

Notwithstanding the above, Toyota Australia recognises that some of the measures identified in the Proposed Recall Notice have the potential to, we believe, marginally increase rectification rates industry-wide. We submit that any improvements to Toyota Australia's rectification rates would be potentially only marginal for two reasons. First, Toyota Australia has already been conducting voluntary recall campaigns for some years applying many of the measures set out in the Proposed Recall Notice. **[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]**

We submit that a phased approach with focus on eliminating the highest risk, ie drivers 'alpha' Affected Takata Airbag Inflators in regions of high absolute humidity, as proposed at the Supplier Conference on 9 October 2017, is a practical alternative first step to the compulsory recall as set out in the Proposed Recall Notice.

SUBMISSIONS TO ISSUES RAISED IN THE ACCC EMAIL DATED 21 SEPTEMBER 2017

- 1. The estimated costs of compliance with the Draft Recall Notice, including:**
 - (a) Details of evidence of the costs; and**
 - (b) If the supplier has already recalled all or some of the consumer goods in the Draft Recall Notice, the amount and source of costs that would be in addition to the actual costs (to date) and anticipated further costs of that voluntary recall.**

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

- 2. Whether the supplier considers it will have difficulty complying with the timetable for recall and replacement of affected Takata airbag inflators (as defined in the Draft Recall Notice) set out in Schedule 1 of the Draft Recall Notice, and, if so:**
 - (a) Identify the barriers to compliance with the timetable and what measures may be taken to remove or minimise those barriers. For example:**
 - i. if supply of replacement airbag inflators or other parts is considered a barrier, what efforts have been made to source alternative supply (if applicable), and what other efforts may be made; and**
 - ii. If there are anticipated issues regarding sourcing enough qualified personnel or appropriate facilities to meet the schedule, what efforts have been (if applicable) or may be made to source additional personnel and facilities.**
 - (b) If a supplier considers that there are insurmountable barriers to compliance with the timetable, identify an alternative timetable the supplier considers it could meet and still ensure no safety risk to consumers from affected Takata airbag inflators (along with details and any evidence to support this submission).**

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

BARRIER DUE TO INSUFFICIENT SUPPLY OF REPLACEMENT AIRBAG INFLATORS

Background

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

Efforts to date to overcome the supply shortage

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

In order to best manage the sourcing and distribution of replacement parts, Toyota Australia undertakes a daily review of stock numbers across its parts warehouses, located in Melbourne, Sydney, Brisbane, Darwin and Perth ***[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]***, and where running low will transfer parts between warehouses. This serves to ensure that there is a constant supply of replacement parts available for distribution to the dealer network across the country.

It should also be understood that Toyota Australia cannot have a complete picture of vehicle locations at all times, so it is difficult to anticipate how many replacement parts dealers will require at any one time. Therefore, it is more efficient to ship parts from warehouses to dealers rather than from dealer to dealer. Further, there are also transport challenges in moving airbag inflators because they are classified as dangerous goods so they require specific transport packaging and methods which can sometimes result in delays. We work towards a guideline of 5 days from contact from dealers to rectification.

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

It is worthwhile clarifying at this point that in cases where Affected Takata Airbag Inflators are replaced on an interim basis with airbag inflators that also use PSAN technology, these replacement airbag inflators are not unsafe until a period of time elapses². This is despite the fact that replacement airbag inflators of this type are often misleadingly referred to as 'like-for-like' replacements. In fact these replacement airbag inflators are safe for a number of years and are the best interim solution in light of the supply circumstances and risk.

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

² This period of time is approximately 6-25 years depending on the location of the vehicle, as stated in the Expert Report of Harold R. Blomquist PhD dated 4 May 2016.

Toyota Australia welcomes and supports the initiatives to develop airbag inflators using alternative technology, but also understands it will take some time for the new products to be released to the market. This lead time could be some years. Overall the global supply of replacement airbag inflators cannot change quickly. There are a limited number of manufacturers of airbags, and all vehicle manufacturers are negotiating with the same parties which necessarily requires a staged risk based approach. For this reason a hard deadline for the introduction of airbag inflators using alternative technology is, in Toyota's view, unreasonable and unrealistic.

Despite all of the above, Toyota Australia encounters difficulties in sourcing replacement airbag inflators. This has been experienced during the most recent expansion announced in March 2017, for which parts are now available as per communications with consumers.

BARRIER DUE TO ISSUES REGARDING SOURCING ENOUGH QUALIFIED PERSONNEL OR APPROPRIATE FACILITIES TO MEET THE SCHEDULE

Toyota Australia submits that there is no issue with availability of suitably qualified technicians to perform the replacement of Affected Takata Airbag Inflators. Toyota Australia and its dealers work diligently to perform replacements in a timely manner during recall campaigns. For example, the average number of replacements of Affected Takata Airbag Inflators over the last 3 months has been approximately 35,000 per month. This highlights that Toyota Australia has adequate capacity to complete replacements across the country in very short time frames.

As already stated, notwithstanding its considerable efforts to date, Toyota Australia recognises that some of the measures identified in the Proposed Recall Notice have the potential to, we believe, marginally, increase the rates of replacement industry-wide. If this occurs, Toyota Australia anticipates that there may be difficulties from time to time in meeting this increased demand, however this could be overcome by the following:

- Increased call helpline hours and employees;
- Increased communication with dealers to support their role in carrying out the replacements; and
- ***[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]***

PROPOSED ALTERNATIVE TIMETABLE

As explained above, there are certain insurmountable barriers to compliance with the timetable set out in Schedule 1 of the Proposed Recall Notice. Therefore Toyota Australia submits that the focus should be on the dates of announcing recall campaigns and obtaining sufficient parts rather than the dates of completion of recalls, in accordance with the approach of the National Highway Traffic Safety Administration (**NHTSA**) in the United States of America. It goes however without saying that suppliers should still be required to use best endeavours to maximise replacement completion rates.

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

NHTSA Schedule from the Third Amendment to the Coordinated Remedy Order

Priority Group	Sufficient Supply & Remedy Launch Deadlines
Priority Group 1	March 31, 2016
Priority Group	September 30, 2016
Priority Group 3	December 31, 2016
Priority Group 4	March 31, 2017
Priority Group 5	June 30, 2017
Priority Group 6	September 30, 2017
Priority Group 7	December 31, 2017
Priority Group 8	March 31, 2018
Priority Group 9	June 30, 2018
Priority Group 10	March 31, 2019
Priority Group 11	March 31, 2020
Priority Group 12	September 30, 2020

The Priority Groups are described in the Third Amendment to the Coordinated Remedy Order as follows³:

- (a) Priority Group 1 – Highest risk vehicles that were recalled May through December 2015.
- (b) Priority Group 2 – Second highest risk vehicles that were recalled May through December 2015.
- (c) Priority Group 3 – Third highest risk vehicles that were recalled May through December 2015.

³ See pages 15 and 16 of the Third Amendment to the Coordinated Remedy Order dated 9 December 2016.

- (d) Priority Group 4 – Highest risk vehicles that were recalled January through June 2016.
- (e) Priority Group 5 – Second highest risk vehicles that were recalled January through June 2016.
- (f) Priority Group 6 – Third highest risk vehicles that were recalled January through June 2016.
- (g) Priority Group 7 – Vehicles scheduled for recall by the Affected Vehicle Manufacturers⁴ in January 2017 that have ever been registered in Zone A.
- (h) Priority Group 8 – Vehicles scheduled for recall by the Affected Vehicle Manufacturers in January 2017 that have not ever been registered in the Zone A region during the service life of the vehicle.
- (i) Priority Group 9 – Vehicles scheduled for recall by the Affected Vehicle Manufacturers in January 2018.
- (j) Priority Group 10 – Vehicles scheduled for recall by the Affected Vehicle Manufacturers in January 2019.
- (k) Priority Group 11 – Vehicles ever registered in the HAH⁵ or Zone A that were previously remedied with a “like for like” part under a recall initiated by an Affected Vehicle Manufacturer during calendar year 2015 or before.
- (l) Priority Group 12 – Vehicles previously remedied with a “like for like” part and are not covered in Priority Group 11.

The Priority Groups are formulated based on the risks posed by the age of vehicles and the environmental conditions in which they are located, with older vehicles located in areas of high absolute humidity being given the highest priority.

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⁴ ‘Affected Vehicle Manufacturers’ is defined on page 1 of the Third Amendment to the Coordinated Remedy Order dated 9 December 2016 as: BMW of North America, LLC, FCA US, LLC (formerly Chrysler), Daimler Trucks North America, LLC, Daimler Vans USA, LLC, Ford Motor Company, General Motors, LLC, American Honda Motor Company, Mazda North American Operations, Mitsubishi Motors North America, Inc., Nissan North America, Inc., Subaru of America, Inc., and Toyota Motor Engineering and Manufacturing, Ferrari North America, Inc., Jaguar Land Rover North America, LLC, McLaren Automotive, Ltd., Mercedes-Benz US, LLC, Tesla Motors, Inc., Volkswagen Group of America, Inc., and, per Memorandum of Understanding dated September 16, 2016, Karma Automotive on behalf of certain Fisker vehicles.

⁵ ‘HAH’ is defined as ‘high absolute humidity’ on page 4 of the Third Amendment to the Coordinated Remedy Order dated 9 December 2016.

MLIT Schedule

Please see below the Schedule included in the Press Release from the Japanese Ministry of Land, Infrastructure, Transport and Tourism (**MLIT**) dated 27 May 2016.

Schedule for expansion of the scope of the recall on Takata air bag inflators without desiccant

DIR Date	Production CY of the affected vehicles			
	Vehicles with driver inflator	Vehicles with passenger inflator (SDI, SPI) which experienced the rupture in Japan	Vehicles with passenger inflator which has not experienced the rupture in Japan	Population
By Jun. 2016	ALL	CY2008 & older		Approx. 7 million
By Nov. 2016	-	CY2011 & older	CY2009 & older	
By the end of FY2016	-	CY2012 & older		
By the end of FY2017	-	CY2013 & older		
By the end of FY2018	-	Later above		

* Other than the above, the vehicles, which received the inflator without desiccant during the recall repair in the past, must be recall again by the end of FY2019.

Please note that 'CY' refers to 'calendar year' and 'DIR' refers to Defect Information Report.

Conclusion: Toyota Australia's Preferred Replacement Timetable

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

3. Whether there are barriers to effective implementation of the recall in respect of consumer goods in rural or remote areas, and if so, how those barriers should be addressed as a practical matter and in compliance with all aspects of the Australian Consumer Law, which is Schedule 2 to the CCA.

Toyota Australia has 280 dealers nationwide, including one of the most extensive networks throughout rural and remote areas. The same barriers described above in response to Issue 2 apply in respect of consumer goods in rural and remote areas. However transportation of replacement parts to dealers in some of these areas can take additional time of up to one week compared to city locations.

Further, Toyota Australia has parts warehouses in Perth and Darwin (as well as other capital cities), and consequently every dealer can obtain at least one delivery per day. Some metropolitan dealers receive as many as 3 parts deliveries per day, some even overnight.

Please note to the best of our knowledge there is not an accepted Toyota definition of 'rural' or 'remote' used in this context.

In addition, island communities often require special arrangements and Toyota Australia has previously dealt with this for other voluntary recalls. For example, it has flown out technicians as necessary to island communities to conduct all outstanding voluntary recalls.

4. Whether there are practical or logistical barriers to implementing the recall, and if so, what measures may be taken to eliminate or minimise those barriers.

In Toyota Australia's view, it has recognised and addressed the logistical barriers involved in conducting a voluntary national recall of Affected Takata Airbag Inflators. The same barriers would apply in a compulsory recall. The table below lists these barriers. It also describes the measures that Toyota Australia has implemented to eliminate or minimise them in its voluntary recall (many of these have been described in previous correspondence including Toyota Australia's response to the ACCC's Disclosure Notice Issued Under Section 133D(1) of the *Competition and Consumer Act 2010 (Cth)* (CCA)), and also identifies additional measures that may be taken in that regard.

Logistical barrier	<ul style="list-style-type: none"> Measures taken by Toyota Australia to eliminate or minimise the barrier <p>AND</p> <ul style="list-style-type: none"> Possible additional measures to eliminate or minimise the barrier
Global supply of replacement airbags	[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]
Identification of owners of vehicles included in voluntary recall campaigns	<ul style="list-style-type: none"> Toyota Australia uses a combination of its customer databases and information sourced through the NEVDIS⁶ to obtain the most up to date address information available to it. An initial recall notification is dispatched to that address. Notification letters sent to owners of vehicles included in voluntary recall campaigns request that, in the event the recipient of the letter is no longer in possession of the vehicle subject to the campaign, the

⁶ National Exchange of Vehicle and Driver Information System

	<p>person return the recall notification to Toyota Australia together with the completed section advising whether:</p> <ol style="list-style-type: none"> The affected vehicle is a statutory write-off and completely destroyed; The affected vehicle has been reported stolen and has not been recovered; The recipient of the recall notification was never the owner of the affected vehicle; The affected vehicle has been exported overseas; The intended recipient of the recall notification no longer resides at the address; or The recall notification recipient has sold the affected vehicle. If this is the case, there is additional space provided for the notification recipient to provide, if known, the new contact details and postal address of the new owner of the affected vehicle. On receipt of this updated information Toyota Australia dispatches the recall notification to the updated postal address. <ul style="list-style-type: none"> Toyota Australia regularly contacts Austroads for updated NEVDIS data to check if there has been any change to the contact details of owners of vehicles included in its voluntary recall campaigns. Unfortunately at the commencement of voluntary recalls of vehicles fitted with Affected Takata Airbag Inflators, NEVDIS only provided one address for each consumer, however recently they started providing additional addresses. However the situation could be further improved with access to the more extensive data (eg, mobile numbers) held by state/territory based registration authorities. Toyota Australia also flags Vehicle Identification Numbers (VIN) of vehicles fitted with Affected Takata Airbag Inflators that are subject to a voluntary recall with its Toyota dealer network through its shared warranty system (known as WINPAQ). It is standard process that when a Toyota vehicle is presented to a Toyota dealer service department for any assessment or work, the servicing Toyota dealer performs a check of the WINPAQ system to determine the status of the vehicle and whether it is subject to any recall campaigns. If the Toyota dealer confirms that the vehicle is subject to an outstanding recall campaign, the replacement of the Affected Takata Airbag Inflator is performed during the appointment (if the vehicle owner is present and approves the rectification) or a future booking is made for rectification. Once the replacement has been completed, the Toyota dealer updates the warranty system, confirming to Toyota Australia that the vehicle has been rectified.
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	<ul style="list-style-type: none"> • In addition to the above, Toyota Australia sends an outstanding recall file to all major Dealer Management Systems (DMS)⁷ suppliers on a monthly basis, so that notification of outstanding recall campaigns is automatically flagged within the DMS whenever dealers enter the VIN of an affected vehicle in any capacity (including, but not limited to, servicing enquiries). This also enables dealers to run reports and produce a list of vehicles that are included in voluntary recall campaigns conducted by Toyota Australia. • For every outstanding vehicle with a recall relating to a driver's front Affected Takata Airbag Inflator, Toyota Australia has attempted to secure additional contact details in addition to NEVDIS, such as by accessing the databases of the White Pages® and Sensis® and through information held by related companies, Toyota Finance and Toyota Insurance. • As a pilot initiative, Toyota Australia has been working with the Northern Territory Government Motor Vehicle Registration Authority to obtain the most up to date contact information for owners of vehicles included in Toyota Australia's voluntary campaigns in that Territory, including postal addresses, phone numbers and email addresses. Toyota Australia has used this information to reissue recall notification letters and make further attempts to contact the vehicle owners through direct phone calls to the phone numbers provided. Toyota Australia has also contacted Queensland Department of Transport and Main Roads and obtained new contact numbers. We plan to continue discussions with registration authorities in other States and Territories and further expand this program. • Please also see the section at the end of this submission setting out Toyota Australia's request for industry-wide improvements.
Notification to owners of vehicles included in voluntary recall campaigns	<p><u>Notification letters to owners of vehicles included in Toyota Australia's voluntary recall campaigns</u></p> <ul style="list-style-type: none"> • Since the initial recall relating to the replacement of Affected Takata Airbag Inflators was announced in April 2013, Toyota Australia has attempted to contact the owners of 572,806 impacted vehicles. This contact has been made via numerous channels, the most common of which is through direct mail outs.

⁷ DMS is a bundled management information system created specifically for automotive industry car dealerships. These systems often contain software that cater to the needs of the finance, sales, parts, inventory and administration components of running the dealership. Major DMS suppliers include TUNE, Pentana, Revolution, Infomedia, Auto IT, and Gateway capturing approximately 94% of the Toyota dealer network.

	<p>As at 9 August 2017 Toyota Australia had issued 1,177,903 letters to owners of impacted vehicles.</p> <ul style="list-style-type: none"> • <i>[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]</i> • Every recall notification issued by Toyota Australia to owners of vehicles included in its voluntary recall campaigns advises that: <ul style="list-style-type: none"> ➤ the vehicle is being recalled because there is a potential safety issue; ➤ there is risk of injury associated with the recalled airbag; and ➤ the vehicle owner should contact a dealer as soon as possible for rectification at no cost (when parts are/become available). • Given the increasing understanding of the condition, there have been continual improvements made to affected vehicle notifications sent by Toyota Australia, to increase recipient awareness of the situation and response rates including: <ul style="list-style-type: none"> ➤ Stronger communication of urgency of recall rectification; and ➤ Placement of a high impact warning notice on the outside of the notifications envelope. • All Toyota Australia recall notifications contain warnings to owners of vehicles included in its voluntary recall campaigns about the safety risks to vehicle occupants posed by the Affected Takata Airbag Inflators. The recall notifications also provide general information about prolonged exposure or the effect of time as risk factors for the condition. • In all recall notices, where parts are available, Toyota Australia urge all customers to book in at a Toyota dealer for rectification as soon as possible. <p><u>Phone Calls to owners of vehicles included in Toyota Australia's voluntary recall campaigns</u></p> <ul style="list-style-type: none"> • Toyota Australia has created a recall campaign helpline to answer customer enquiries, with flexible resourcing arrangements to cater for large call volume fluctuations.
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	<ul style="list-style-type: none"> • In addition, Toyota Australia has increased its phone operating hours to enhance the contact rates with owners of vehicles included in its voluntary recall campaigns. The locally based Guest Experience Centre operates Monday – Friday 8.30am - 5.30pm (and with 75% capacity on Victorian public holidays), and the dedicated Takata outbound team operates Monday - Friday 9.00am – 7.00pm. The Takata outbound team also receives inbound calls through a dedicated contact number. • Toyota Australia has also employed additional analysts in Melbourne to identify customers contact details and correlate information. One aspect of the review is in respect of data for remote communities (e.g. Norfolk Island, King Island, Groote Island, Christmas Island). Further, Toyota Australia has employed additional outbound call consultants who are using the newly acquired contact information to call the owners of vehicles included in its voluntary recall campaigns. • In May 2017, Toyota Australia commenced an intensified outbound calls program from its Guest Experience Centre in the following stages <i>[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]</i>: <ul style="list-style-type: none"> ➤ Driver's front "alpha" airbags in high humidity and temperature areas; ➤ Driver's front "alpha" airbags in cooler temperature areas; ➤ Driver's front "beta" airbags in high humidity and temperature areas; ➤ Driver's front "beta" airbags in cooler temperature areas; ➤ Passenger's front "alpha" airbags in high humidity and temperature areas; ➤ Passenger's front "alpha" airbags in cooler temperature areas; ➤ Passenger's front "beta" airbags in high humidity and temperature areas; and ➤ Passenger's front "beta" airbags in cooler temperature areas. • As at 13 October 2017, this outbound calls program has completed calls to 100% of all customers (whose telephone contact details we have) with driver's front Affected Takata Airbag Inflators. Recently we have received an additional 1,357 new contact numbers for those customers from Queensland Department of Transport and Main Roads, and we are close to calling each of those new contact numbers. Further stages will be added as the program progresses.
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	<p>Please also see the section at the end of this submission setting out Toyota Australia's request for industry-wide improvements.</p> <ul style="list-style-type: none"> The current dedicated Takata team averages approximately 318 calls per day. To date, over 23,000 calls outbound calls to customers have been made in this program alone, and the program has resulted in 1,204 rectifications and 168 confirmed bookings for rectifications with dealers. <p><u>Escalation Strategy</u></p> <ul style="list-style-type: none"> Please see above as this is part of our standard process. <p><u>Media & advertisements</u></p> <ul style="list-style-type: none"> Toyota Australia has created a Takata recalls webpage, to provide information to affected vehicle owners and stress the urgency of undertaking the rectification. Toyota Australia has responded to numerous media enquiries since the commencement of the first Takata recall campaign in April 2013. Toyota Australia has issued media statements (including Frequently Asked Questions documents) on its press site (www.pressroom.com.au) which alerts mainstream and automotive journalists to the latest industry news. Toyota Australia has issued press advertisements in the following publications: <ul style="list-style-type: none"> The Australian Australian Financial Review Sydney Morning Herald Daily Telegraph Melbourne Age Melbourne Herald Sun Brisbane Courier Mail Adelaide Advertiser Hobart Mercury Queensland Times Toowoomba Chronicle Burnie Advocate Launceston Examiner Ballarat Courier Bendigo Advertiser Border Morning Mail Mildura Sunraysia Daily Warrnambool Standard
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	<ul style="list-style-type: none"> ○ Darwin NT News ○ Newcastle Herald ○ Illawarra Mercury ○ Canberra Times ○ Geelong Advertiser ○ Cairns Post ○ Gold Coast Bulletin ○ Dunya ○ Mackay Mercury ○ Sunshine Coast Daily ○ Rockhampton Morning Bulletin ○ Kalgoorlie Miner ○ Il Globo ○ Spanish Herald ○ Australian Macedonian Weekly ○ Chieu Duong Sunrise Daily ○ Chinese Herald ○ Croatian Herald ○ Townsville Daily Bulletin ○ The Future ○ Greek Herald ○ Lismore Northern Star ○ Coffs Coast Advocate
	<p><u>Dedicated VIN look-up tool on the Toyota websites</u></p> <ul style="list-style-type: none"> • Toyota Australia has launched an online tailored Vehicle Identification Number (VIN) look-up to provide vehicle owners with a tool to check if their vehicle is included in its voluntary recall campaigns. This functionality immediately identifies the vehicles included in the voluntary recall campaigns. This tool can be accessed and used by automotive after-market servicing and repair agents to ensure that when servicing or repairing vehicles, in line with their general obligations, they can conduct an easy assessment of whether a vehicle is included in Toyota Australia's voluntary recall campaigns. <p><u>Service Bulletins</u></p> <ul style="list-style-type: none"> • Toyota Australia has issued service bulletins to State and Territory based motor trader associations (for example VACC in Victoria). Consequently, even if an owner of a vehicle that is included in Toyota Australia's voluntary recall campaigns has not purchased the vehicle from a Toyota dealer, the vehicle can be identified as requiring rectification by other licensed vehicle service and repair operators. • Toyota Australia has issued service bulletins to major fleet operators. Consequently, even if an owner of a vehicle that is included in Toyota Australia's voluntary recall campaigns has not purchased the vehicle from a Toyota dealer, the vehicle can be identified as requiring rectification by these fleet operators.

	<ul style="list-style-type: none"> Toyota Australia has made its service bulletins available to the automotive aftermarket to ensure that they are alerted to outstanding recalls on products that they service or repair. <p><u>Dealer actions</u></p> <ul style="list-style-type: none"> Further, given that dealers may have more up to date contact details for customers, each dealer has been provided with a list of affected vehicle owners by postcode within their Prime Market Area⁸. Dealers have been instructed to make direct contact with these customers to promote urgent rectification. Toyota Australia has also instructed its dealers to prioritise the replacement of Affected Takata Airbag Inflators under recall campaigns during ordinary day to day servicing and services, and has: <ul style="list-style-type: none"> Introduced a labour rate incentive for recall warranty rectification, to ensure that rectifications maintain high priority; Encouraged Toyota dealers to implement additional service strategies, such as conducting rectification work during overtime and weekend hours; and Established a specialist internal task force “Project 100” (which includes staff from Toyota Australia’s regional offices who are typically the first point of contact for dealers), to drive activity and target 100% completion of replacement of Affected Takata Airbag Inflators.
Language Barriers	<ul style="list-style-type: none"> Toyota Australia has implemented a telephone translation service in 150 languages to address any language barrier issues that may occur with owners of vehicles included in its voluntary recall campaigns. Toyota Australia already has in place a National Relay Service for deaf and hearing impaired customers.
Enhanced engagement with owners of vehicles	<p>As an additional initiative as mentioned above, Toyota Australia is currently preparing a letter to all Toyota customers to provide further information on the recall and reiterate that recall rectification is a priority. <i>[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]</i></p>

⁸ The Prime Market Area is described in the standard dealer agreement that Toyota Australia enters into with its dealers, as the area in which a dealer is to focus upon for the sale, service and promotion of Toyota products.

included in voluntary recall campaigns	
Salvaged Parts	<ul style="list-style-type: none"> • Toyota Australia has undertaken a pilot project to address salvaged airbags. As part of the project we requested basic vehicle data from the salvage yard operators and in the majority of cases the make and model data supplied by those operators was incorrect. Toyota Australia submits that requirements should be introduced to: <ul style="list-style-type: none"> ➢ prohibit the sale of used airbags or airbag inflators; and ➢ ensure that salvage yard operators maintain adequate records to enable identification of all airbags extracted from vehicles and ascertain the relevant VIN.

5. *What incentives would best encourage or assist with recovery and destruction of affected Takata inflators from salvage yards, secondhand supply markets and similar sources of supply of salvaged parts.*

The salvage yard operators should be obliged nationwide to keep comprehensive records of all consumer safety components such as airbags and specifically data that connects the component to the vehicle from which it was salvaged. Such an initiative would of course have greater success if there were a fund made available to reimburse salvage yard operators the equivalent of the sale value of the component ***[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]*** plus additional administrative and transport costs.

In addition, Toyota Australia submits that the sale of used airbags or airbag inflators should be prohibited industry-wide.

6. *The effect(s) of the Proposed Recall Notice on supply of new and used vehicles containing affected Takata airbag inflators and whether additional measures should be included in the Proposed Recall Notice to specifically address that effect(s).*

It is already the case that Toyota Australia does not sell any new vehicles that contain Affected Takata Airbag Inflators. Further, Toyota Australia's certified used vehicle program requires that dealers complete all outstanding recalls on a used vehicle prior to sale as a Toyota certified used vehicle.

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7. *Any special issues for a supplier's particular category or type of supply.*

We confirm that Toyota Australia has been committed to the replacement of Affected Takata Airbag Inflators for some years and has dedicated significant resources to its voluntary recall scheme. It remains committed to ensuring consumer safety through continuing its voluntary recall scheme with enhancements as necessary.

As the market leader, Toyota Australia has a significant number of vehicles to recall. We therefore respectfully submit that our comments in this submission should be received with due regard not only to the benefits, but also to the challenges faced by Toyota Australia and other high volume brands.

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SUBMISSIONS IN RESPONSE TO SPECIFIC PROVISIONS OF THE PROPOSED RECALL NOTICE

PART 2, SECTION 5

Section 5(1)(a)

Please refer to the comments below regarding Schedule 1 and Schedule 2.

Section 5(1)(b)

Please refer to the comments below regarding Schedule 1 and Schedule 2. Toyota Australia further notes that in view of these matters it is not in a position to commit to the date of 31 December 2020 in respect of all Affected Takata Airbag Inflators.

Section 5(1)(c)

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

Section 5(2)(a)

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

Section 5(2)(b)

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

Section 5(3)

Toyota Australia agrees with this section.

Section 5(4)(a)

Toyota Australia generally agrees with section 5(4)(a) however notes that in most cases, repair time is approximately 1 hour.

Also, the phrase 'including any necessary transportation costs' is very broad, and we suggest its deletion or the addition of the threshold of reasonableness.

In addition, we suggest an amendment to 'equivalent alternative transportation'.

Section 5(4)(b)

Toyota Australia does not agree to this and proposes to provide this service to customers where requested on a case by case basis.

Section 5(5)

Toyota Australia agrees to this section.

Section 5(6)

Toyota Australia agrees to this section.

PART 2, SECTION 6**Section 6(1)(a)**

Toyota Australia agrees in principle to this section, however notes that currently, due to parts development and supply constraints the use of new non-desiccated Takata inflators is still required.

Section 6(1)(b)

Please refer to the comments made below in response to Schedule 2.

Section 6(1)(c)

As at the date of this letter and based on all current available information, Toyota Australia agrees to this section.

Section 6(1)(d)

Toyota Australia agrees and confirms that it already does not use any Alpha Inflators as replacements.

Section 6(2)

Toyota Australia disagrees with this section and notes that all Affected Takata Airbag Inflators are returned to Takata Corporation in Japan.

PART 2, SECTION 7**Section 7(1)**

Subject to the comments made below in response to Schedule 2, Toyota Australia agrees to this section.

Section 7(2)

Subject to the comments made below in response to Schedule 2, and noting that the phrase 'Supplier's supply profile of Consumer Goods' requires further explanation, Toyota Australia agrees to this section.

PART 2, SECTION 8

Section 8(1)

Toyota Australia generally agrees with this provision and has established a website (recalls.toyota.com.au) that allows consumers to enter a VIN and immediately obtain information about the inclusion of that VIN in the recall. However, a specific recall timetable could not be included in the VIN look-up search result information due to variables with parts availability.

Section 8(2)

Toyota Australia has established API's for internal use, which could be made available to ACCC for the purpose of obtaining information about the inclusion of a vehicle (identified by VIN) in the recall.

PART 2, SECTION 9

Section 9(1)

Toyota Australia strongly discourages the sale of second-hand safety components such as airbags and seatbelts, but recognises this arises and we are committed to locating and recovering recalled Affected Takata Airbag Inflators from salvage yards. However, significant difficulties arise identifying Affected Takata Airbag Inflators in scrapyards where they cannot be linked to a VIN. As mentioned above, Toyota Australia has undertaken a pilot project with 30 salvaged Affected Takata Airbag Inflators, and in the majority of cases the make and model data supplied by the salvage yard operator was incorrect. On this basis Toyota Australia does not agree to a formal salvage plan as proposed by this section.

Section 9(2)

Toyota Australia does not agree with this section, and refers to its comments in response to section 9(1) above.

[The remainder of this page has been intentionally left blank.]

PART 2, SECTION 10

Section 10(1)(a)

Toyota Australia generally agrees to develop a plan to distribute information to the second hand market.

Section 10(1)(b)

Toyota Australia does not agree to 'incentivise' replacement of Affected Takata Airbag Inflators because this has the potential to create an uneven situation between general consumers and those selling used vehicles. It also seeks clarification as to what is meant by the term 'incentivise'.

Section 10(2)

Please refer to the comments in response to section 10(1) above.

PART 2, SECTION 11

Section 11(1) & (2)(a) & (b)

Toyota Australia already has a well-established dispute resolution process as part of its Guest Experience Centre. Its current position is that it will continue operating a dispute resolution system. However it does not agree to the additional requirement of using 'best endeavours' to ensure the system is consistent with AS/NZS 10002:2014. This would cause an unnecessary additional administrative burden in circumstances where Toyota Australia already has a dispute resolution system. In addition, the requirements of section 11(2)(a) and (b) are open to interpretation of a nature that would be restrictive and unnecessarily onerous on Suppliers.

Section 11(3)

Toyota Australia agrees in principle with this section, subject to other comments made in relation to section 11(1) and (2).

PART 2, SECTION 12

Section 12(1)(a)

Toyota Australia agrees with this section.

Section 12(1)(b)

Toyota Australia agrees with this section.

Section 12(1)(c)

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

Section 12(1)(d)

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

Section 12(1)(e)

Toyota Australia agrees with this section.

Section 12(2)

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

Section 12(3)

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

Section 12(4)

Toyota Australia generally agrees to the reporting regime (with the exception of a formal salvage plan), subject to all comments made in relation to each plan. It also suggests the addition of a time period (such as 3 days) by which documents in section 12(4)(a)-(c) must be provided after receiving a request from the ACCC.

Section 12(5)

Toyota Australia's current position is that it does not agree to this section.

It is not appropriate to publish the reports mentioned in this section because they would contain commercially sensitive information and details about Toyota Australia's day to day business.

In addition, there are potential privacy considerations that would require significant redaction of information in order for the reports to be published.

Also, publication in part is likely to result in an incomplete picture without consideration for all relevant facts.

Section 12(6)

Toyota Australia's current position is that it generally agrees with this provision. However, assessment of what is a 'satisfactory' replacement rate should be determined using objective metrics such as the Australian average replacement rate (consistent with global rectification rates and global parts allocation given this is a global issue facing the automotive industry), not a subjective assessment by the ACCC. Consideration should also be given to the timing of expansions because replacement rates fluctuate depending on the stage of a recall campaign, and care should be taken not to inadvertently create a disincentive for Suppliers to announce recalls.

PART 2, SECTION 13

Toyota Australia's current position is that it does not agree to appointment of an independent auditor due to the additional administrative burden this will cause.

SCHEDULE 1 – RECALL TIMETABLE**Schedule 1 requirement for Alpha Inflators**

Toyota Australia refers to and repeats the comments made above in response to Issue 2 raised in the ACCC's email dated 21 September 2017. This explains some of the barriers in implementing replacements of Affected Takata Airbag Inflators.

In addition, Toyota Australia is of the view that a 1 business day or set required day requirement for replacement of Alpha Inflators is not achievable because:

- (a) parts must be transferred to dealers from regional storage locations in accordance with Dangerous Goods Class 9 regulatory requirements; and
- (b) Toyota Australia has approximately 323 service locations, so if parts were to be pre-stocked at dealers to endeavour to meet this requirement, this would result in a parts shortage and a longer wait for consumers.

Alternatively, from the date the part arrives at the dealer, a 1 business day requirement could be achieved for metropolitan dealers and a 2 business day requirement could be achieved for non-metropolitan dealers (excluding island communities).

Schedule 1 requirement for Takata Inflators using undesiccated PSAN or PSAN with calcium sulphate desiccant – where the 5 years have passed since manufacture

Toyota Australia refers to and repeats the comments above in relation to the barrier of parts availability and to a lesser extent the barrier of qualified personnel or appropriate facilities.

Toyota Australia would also like to highlight that the appropriate time period in Schedule 1 should be 6 years as identified in all accepted research conducted by NHTSA and other international research organisations and bodies to date (and not 5 years).

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

Schedule 1 requirement for Takata Inflators using undesiccated PSAN or PSAN with calcium sulphate desiccant – where less than 5 years have passed since manufacture

Toyota Australia refers to and repeats the comments above in relation to the barrier of parts availability and to a lesser extent the barrier of qualified personnel or appropriate facilities.

Toyota Australia would also like to highlight that the appropriate time period in Schedule 1 should be 6 years as identified in all accepted research conducted by NHTSA and other international research organisations and bodies to date (and not 5 years).

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

SCHEDULE 2 – CONTACTING AND COMMUNICATING WITH CONSUMERS

Part A, Section 1(a)

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

Part A, Section 1(b) & (c)

Toyota Australia generally supports the proposed wording in this section on the basis that it is generally consistent with current Toyota recall notice wording. However, as there have been no reported deaths involving passenger-side Affected Takata Airbag Inflators, Toyota Australia has not included the word 'death' in these recall notices to date. ***[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]***

Toyota Australia would also like to highlight that the appropriate time period in this section should be 6 years as identified in all accepted research conducted by NHTSA and other international research organisations and bodies to date (and not 5 years).

Toyota Australia further suggests the messaging could be improved by adding a weblink to contact details and further information (FAQs etc).

Part A, Section 1(d)

Toyota Australia would again like to highlight that the appropriate time period in this section should be 6 years as identified in all accepted research conducted by NHTSA and other international research organisations and bodies to date (and not 5 years).

Part A, Section 1(e)

In addition to the comments made about Part A(1)(a)-(d) above, Toyota Australia further notes that this section wording is restrictive and manufacturers will require more flexibility to vary communications depending on the medium to ensure both effectiveness and appropriateness for the audience.

Part A, Section 2(a)

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

We note the date/timing requirement referred to in Schedule 1 is complex and subject to parts supply and allocation (as per the comments we have made in relation to Schedule 1).

Where a service record book is provided by the customer (noting the age of many affected vehicles) Toyota generally agrees with this provision.

Toyota does not agree that an additional engine bay metal plate/label is required as well as the above.

Part A, Section 2(b)

Subject to the comments made in response to Schedule 2 ***[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis]***, Toyota Australia agrees with this provision.

Part B, Section 1(a)

Toyota Australia generally agrees with this provision, depending upon the frequency of advertisements required by the ACCC, and noting a level of reasonableness should be exercised.

Part B, Section 1(b)

Toyota Australia generally agrees with this provision, noting a level of reasonableness should be exercised.

Part B, Section 1(c)

Toyota Australia does not agree with this provision, as it considers the one-per month timeframe provided is not reasonably practicable for each Vehicle.

Also, it is not suitable for the obligation to be on a Supplier to notify the ACCC that a Vehicle has been excluded from recall outreach as scrapped, stolen, exported or otherwise unreachable without manufacturers and the ACCC first agreeing what constitutes these terms, as well as what is considered 'unreachable'.

Part B, Section 1(d)

Where available, Toyota Australia supports using high quality and up to date information (using all available methods to obtain such information). Toyota Australia encourages the registration authorities to continue to enhance the quality and depth of the contact information provided to manufacturers.

Part B, Section 1(e)

Toyota Australia supports pursuing data from multiple sources, however notes the most reliable owner contact information available for second hand vehicles is from vehicle registration sources.

Part B, Section 1(f)

Toyota Australia will continue to frequently request registration data from state and territory registration authorities.

Part B, Section 1(g)(i)

Toyota Australia agrees with this provision.

Part B, Section 1(g)(ii)

Toyota Australia agrees the most up to date owner details should be used in communications with customers generally. In addition, we note efforts to ensure that people have recorded their data correctly can be done in other ways (e.g. make people enter their email twice on the website, send an SMS to ask them to confirm with a YES that they did 'subscribe'). Appropriate privacy consents should also be obtained.

Part B, Section 1(g)(iii)

Toyota Australia generally agrees, subject to deletion of 'otherwise being primarily driven by a party not residing at the same address as the recipient'. That phrase appears to contemplate

broadening the scope of Suppliers' communication to such people which would become an additional administrative burden.

Part B, Section (1)(h)

Toyota Australia generally agrees with this provision.

Part B, Section (1)(i)

Toyota Australia agrees with this provision.

Part B, Section 2(a)

Toyota Australia generally agrees with this provision, subject to the comments made above in relation to Part A.

Part B, Section 2(b)

Toyota Australia agrees with this provision.

Part B, Section 2(c)

Toyota Australia agrees with this provision.

Part B, Section 2(d)

Toyota Australia agrees with this provision, subject to the imagery being a generic line drawing.

Part B, Section 2(e)

Toyota Australia agrees with this provision.

Part B, Section 2(f)

Toyota Australia agrees with this provision.

Part B, Section 2(g)

Toyota Australia agrees with this provision.

Part B, Section 2(h)

Toyota Australia does not agree with this provision, and refers to and repeats its comments above in relation to Schedule 1.

Part B, Section 3(a)

Toyota Australia agrees with this provision.

Part B, Section 3(b)

Toyota Australia disagrees with this provision. To emphasise inconvenience could potentially discourage consumers from bringing vehicles in for rectification. Most rectification works can be completed in approximately 1 hour.

Part B, Section 3(c)

Toyota Australia generally agrees with the adoption of a dedicated toll-free number for enquiries and supports prioritisation of bookings with dealers (and it already has this in place). However Toyota Australia does not have the capability to make bookings on behalf of dealers.

Part B, Section 3(d)

Toyota Australia does not believe this is the role of manufacturers. Toyota Australia already provides its contact details should consumers have concerns.

Part B, Section 3(e)

Toyota Australia agrees highlighting most relevant information is key to ensuring consumers bring vehicle in for rectification and key message 'risk/ where to repair' is not lost among other less important information. It also submits that the length of the communication is also relevant in this context (i.e. recall communications should be brief to ensure maximum efficacy).

Part B, Section 4(a)

Toyota Australia agrees with this provision.

Part B, Section 4(b)

Toyota Australia agrees with this provision.

Part B, Section 4(c)

Toyota Australia does not agree to this provision because it is very difficult to implement accurately and the proposed level of complexity would delay implementation of overall communications.

Part B, Section 4(d)

Toyota Australia agrees with this provision.

Part B, Section 5(a)

Toyota Australia generally agrees with this provision.

Part B, Section 5(b)

Toyota Australia agrees with this provision.

Part B, Section 5(c)

Toyota Australia agrees with this provision, subject to clarification of chosen languages to ensure greatest effect.

Part B, Section 5(d)

Toyota Australia agrees with this provision.

Part B, Section 5(e)

Toyota Australia agrees with this provision.

Part B, Section 6(a)

Toyota Australia agrees with this provision.

Part B, Section 6(b)

Toyota Australia generally agrees with the adoption of a dedicated toll-free number for enquiries and supports prioritisation of bookings with dealers (and it already has this in place). However Toyota Australia does not have the capability to make bookings on behalf of dealers.

Part B, Section 6(c)

Toyota Australia does not agree to this provision because it does not have a centralised online scheduling platform. Toyota Australia has over 323 service locations with a number of different service platforms in use.

Part B, Section 6(d)

Toyota Australia agrees with this provision.

TOYOTA AUSTRALIA REQUEST FOR INDUSTRY-WIDE IMPROVEMENTS

Toyota Australia would like to take this opportunity to make the following suggestions to the ACCC to assist Toyota Australia, and the industry more broadly, to undertake future recall campaigns even more effectively:

1. NEVDIS could supply all addresses and contact information (including, by way of example, phone numbers and email addresses). This will allow Toyota Australia to use a range of contact methods with customers.
2. State and Territory registration authorities should consider what role they could play in the future, to assist with recall rectification rates, for example, by:
 - (a) acting as a gatekeeper at the time of renewal of registration of vehicles; and/or
 - (b) including recall rectification as part of the roadworthiness procedures when required.
3. Insurance companies who underwrite policies for recall affected vehicles could provide updated economic write off data (including new owner information).
4. Vehicle scrappers / recyclers could be subject to mandatory reporting of possession and disposal of any vehicles subject to an active recall campaign.
5. General prohibitions should be implemented to stop sale of components subject to recall campaigns (including sales online).
6. General prohibitions should be implemented to prevent sales of vehicles subject to recall campaigns as well as registrations of transfers of sales of such vehicles.
7. Guidance from the ACCC and the Department of Infrastructure and Regional Development around the time period of non-registration where it becomes reasonable to assume that a vehicle is no longer in use.

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CONCLUSION

Toyota Australia has operated voluntary recall campaigns for Affected Takata Airbag Inflators since 2013 utilising a risk prioritisation approach. It has already committed significant resources to these recall campaigns and has used its best endeavours to maximise completion rates in each campaign. This is demonstrated by the fact that its completion rates are higher than the aggregate rate noted in the Proposed Recall Notice and also amongst the highest Toyota group completion rates.

Toyota Australia understands the purpose of the Proposed Recall Notice is to improve rectification rates but it respectfully submits that the measures in the Proposed Recall Notice will potentially only marginally improve what Toyota Australia is already doing, and could introduce the prospect of a 'first in, best dressed' approach rather than a risk-based approach to parts allocation which has been successfully adopted to date.

[This information has been redacted for the purposes of this public submission but provided to the ACCC on a confidential basis.]

Finally, we reiterate that until recently for Toyota Australia an overriding barrier to increasing replacement rates is the availability of replacement parts. In Toyota Australia's view, measures to enhance communication and engagement with consumers will only go so far, and overwhelmingly the biggest challenge the Australian motor vehicle industry has faced, and for some brands continues to face, is the availability of replacement airbag inflators worldwide.

In view of the above, Toyota Australia submits that it would be unreasonable for the ACCC to recommend under Section 132D(2)(a)(i) of the CCA that the Commonwealth Minister issue a recall notice in the same terms as the Proposed Recall Notice in its current form. Any improvements to consumer safety in this context could be introduced without the need for a compulsory recall notice.

Accordingly, Toyota Australia submits that the ACCC should recommend under Section 132D(2)(a)(iii) of the CCA that the Commonwealth Minister not issue a recall notice at all, or alternatively under Section 132D(2)(a)(ii) that a recall notice be issued with modifications to the Proposed Recall Notice taking into account the submissions made by Toyota Australia and other manufacturers during this process.

In the meantime, Toyota Australia intends to continue to use best endeavours to conduct the voluntary recalls and to increase its rectification rate for Affected Takata Airbag Inflators.

Yours sincerely



Simone Zerial
Senior Solicitor / Legal Manager