

**COMMONWEALTH OF AUSTRALIA**  
**COMPETITION AND CONSUMER ACT 2010**

**PROPOSED RECALL NOTICE:**

**MOTOR VEHICLES WITH SPECIFIED TAKATA AIRBAG INFLATORS AND  
SPECIFIED SALVAGED TAKATA AIRBAG INFLATORS**

I, Michael McCormack, Minister for Small Business, issue this notice pursuant to section 132A of the *Competition and Consumer Act 2010* (Cth) (**CCA**) in relation to the proposed issue of a recall notice for consumer goods of a particular kind, being motor vehicles of a kind ordinarily acquired for personal use with Takata airbag inflators installed which use a phase stabilised ammonium nitrate propellant and do not have a desiccant or have a calcium sulphate desiccant (**Takata airbag inflators**), and these Takata airbag inflators when salvaged and re-supplied as spare parts (together, the **consumer goods**).

For the reasons set out below, I propose to issue a recall notice for the consumer goods because it appears to me that:

- (a) a reasonably foreseeable use of these consumer goods may cause injury to drivers and/or passengers of the vehicles; and
- (b) one or more suppliers of such consumer goods have not taken satisfactory action to prevent those consumer goods causing injury to any person.

**DRAFT RECALL NOTICE**

A copy of the draft recall notice is attached (**Draft Recall Notice**) in respect of the consumer goods.

As permitted by section 123 of the Australian Consumer Law (**ACL**) (which is Schedule 2 to the CCA), the Draft Recall Notice requires suppliers of the consumer goods to take actions to recall the consumer goods, disclose the nature of the defect to consumers and replace the Takata airbag inflators in motor vehicles (which include motorcycles) supplied by them in Australia within a specified timetable which will result in all Takata airbag inflators being replaced by 31 December 2020.

Provision is also made for suppliers to provide a refund at the request of the consumer in accordance with the consumer guarantee provisions of the ACL<sup>1</sup> where a Takata airbag inflator is not replaced within the period specified in the Draft Recall Notice and alternative transportation acceptable to an affected consumer is not provided.

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<sup>1</sup> For vehicles supplied prior to 1 January 2011, the implied warranty provisions of the *Trade Practices Act 1974* (Cth) apply.

Suppliers are also required to keep records and establish a database, take steps to locate and communicate with consumers including those who have purchased second hand vehicles, resolve consumer disputes and prepare a salvage plan for the location and destruction of Takata airbag inflators which have been salvaged from vehicles, to prevent them from being sold as spare parts.

## **SUMMARY OF REASONS FOR THE PROPOSED ISSUE OF A RECALL NOTICE**

The following is a summary of the reasons for the proposed issue of a recall notice in relation to the goods.

### ***Defective Takata airbag inflators***

An airbag module is a safety device fitted inside a vehicle to protect occupants from impact in the event of a collision. The airbag itself and its inflation mechanism are concealed in the driver's steering wheel or the passenger's dashboard, behind plastic flaps or doors which are designed to tear open under the force of the airbag inflating. When the airbag control unit is triggered during a collision, it sends a signal to the inflator to ignite and burn the propellant producing gas that rapidly inflates the airbag.

Takata Corporation (**Takata**) manufactures and sells automotive parts including airbags. In certain airbag inflators manufactured by Takata from the late 1990s, phase-stabilised ammonium nitrate (**PSAN**) has been used as the propellant. 'Phase-stabilised' refers to where the physical condition of the ammonium nitrate is not intended to alter.

Commencing in 2008, incidents involving misdeployment of Takata airbag inflators were reported to the United States of America National Highway Traffic Safety Administration (NHTSA) and other authorities around the world.

In determining the root causes of, and factors which influence, the rupturing of airbag inflators manufactured by Takata, NHTSA has relied primarily on three expert reports by Dr. Harold R Blomquist (commissioned by NHTSA) (May 2016); Orbital ATK (on behalf of the Independent Testing Coalition, a group of 10 automakers affected by Takata airbags) (September 2016); and Exponent (July 2016).

These reports identify the root causes of the defect as follows:

1. inflator design allows moist air intrusion
2. propellant degradation with exposure to moist air and temperature cycling
3. over-pressurisation of the inflator housing during airbag deployment.

In summary, these reports indicate that the Takata airbag inflators with PSAN rupture because affected inflators are inadequately sealed for protection of the moisture sensitive PSAN-based main propellant, allowing moist air to enter the inflator air space. This causes damage to the physical structure of the main propellant including the formation of pores, channels and micro-cracks. Over the course of years, the extent of damage progresses by a slow process driven by daily temperature fluctuations. During combustion in the event of a collision, the extremely hot gas enters the pores/channels and this causes a transition from layer-by-layer

burning to burning *en masse* that over-pressurizes the steel shell to cause catastrophic failure (rupture), with fragmentation hazardous to vehicle occupants.<sup>2</sup>

The Orbital report identifies three moisture ingress pathways into the inflator: through the initiator, O-ring and nozzle tape seal. While the degree of moisture ingress and permeation may vary with different materials and manufacturing standards in different factories, this report supports a conclusion that the inherent design flaw of the inflator allowing humidity into the inflator causing the PSAN's degradation cannot be eliminated.

In addition to this design defect in combination with resulting PSAN degradation, certain Takata airbag inflators (known as alpha airbag inflators) supplied between 1999 and 2006 were not manufactured in accordance with design standards and have a substantially higher risk of misdeployment and higher risk of harm.

Some of Takata's PSAN airbag inflators contain a desiccant, which is a chemical drying agent that absorbs moisture. One of the desiccants used by Takata in PSAN inflators is calcium sulphate. Takata PSAN airbag inflators with calcium sulphate desiccant are subject to recall action in the United States, after Takata filed a safety Defect Information Report (DIR) with NHTSA on 10 July 2017 in relation to Takata PSDI-5 PSAN inflators, which contain a calcium sulphate desiccant.

Takata initiated this recall notification in the United States as it had determined that a defect was present and there was a safety risk in relation to this type of airbag inflator. This was based on research conducted from 2016-2017 by Takata in conjunction with Nissan and Ford on evaluations of field samples from inflators with calcium sulphate desiccant.<sup>3</sup> Takata's notification stated that "the potential for such ruptures may occur in some of the subject inflators after several years of exposure to persistent conditions of high absolute humidity. The potential for rupture may also be influenced by other factors, including manufacturing variability or vehicle type".

### ***Injuries and deaths reported***

The misdeployment of Takata PSAN airbags has been associated with 19 deaths globally and at least 207 injuries in the US, and one serious injury in Australia. Of the deaths, 13 occurred in the US, 5 in Malaysia, and 1 in Australia. It is likely that there is under-reporting of injuries and deaths related to defective airbag inflators, because first responders and investigators may not always consider this cause of injury or death in the context of a serious vehicle collision.

Serious injuries reported to date involve the loss of eye sight, facial injuries, lacerations to the face, neck and body, severed vocal cords, spinal damage and head injuries including brain damage. Many of the incidents involving a fatality have occurred at low speed and, due to the nature of injuries, first responders have thought vehicle occupants had been shot or stabbed due to the shrapnel wounds.

In Australia:

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<sup>2</sup> [www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/expert\\_report-hrbloomquist.pdf](http://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/expert_report-hrbloomquist.pdf) p.8.

<sup>3</sup> <https://static.nhtsa.gov/odi/rci/2017/RCLRPT-17E034-3982.PD>.

- in September 2016, the first known misdeployment occurred when an airbag was removed from a BMW vehicle as part of a process to safely dispose of residual parts. A piece of metal 5cm long was found on the roof of a nearby building;
- on 24 April 2017, a 21 year old woman was seriously injured in a vehicle accident in the Northern Territory. The driver was struck in the head by a piece of shrapnel, likely from the inflator casing, when the driver side airbag inflator misdeployed. The vehicle involved was a 2005 Toyota Rav 4 and was included in a recall campaign;
- on 13 July 2017, a 58 year old man died at the scene of a minor vehicle accident in Sydney. The driver was struck in the neck by shrapnel likely from an airbag that misdeployed. The vehicle involved was a 2007 Honda CRV, which was included in a recall campaign.

### ***NHTSA reports regarding risk of inflator rupture***

NHTSA, based on the expert reports referred to above, found a range of factors that contribute or influence the rate of degradation of the PSAN inflator. These factors include:

1. the age of the inflator component corresponding with the vehicle age, with older inflators/vehicles at a higher risk of rupture
2. the geographic region the vehicle was used with variances in temperature cycling and humidity in the location
3. the design of the inflator housing corresponding with the effectiveness of seals in allowing water ingress and movement (moist air intrusion) into the inflator component
4. the type of vehicle, which influences the environmental conditions experienced by the inflator and affects in-vehicle temperature and humidity near the inflator
5. the booster propellant used and its age, as it influences moisture absorption of the main propellant and can work like a desiccant
6. whether a desiccant was used, as it influences moisture absorption of the main propellant
7. the density of the PSAN propellant, at the time of manufacture whether the tablets/wafers were compressed according to design specifications.

Using computer simulations developed by Exponent, the Blomquist report concluded that the main PSAN propellant will eventually degrade to the point of risking inflator rupture at an age ranging from six years in regions which feature high humidity and high solar load to twenty-five years for colder regions. In its recall program in the United States, NHTSA has adopted a maximum replacement period of six years, based on the lowest period identified by Blomquist before there is a risk of rupture.

According to NHTSA, the alpha airbag inflators which were not manufactured according to design standards have a substantially higher risk of misdeployment, and a higher risk of causing harm. Further, that risk materialises much sooner after manufacture than in other PSAN inflators as identified by Blomquist. NHTSA has issued a critical warning to consumers in relation to alpha inflators, with new test

data demonstrating a far higher risk of rupture (as high as 50 per cent, 1 in 2 vehicles).<sup>4</sup>

### ***Recalls in place outside Australia***

Recalls are being conducted by manufacturers in a number of other jurisdictions, including in the US, Canada, Europe, China, Malaysia and Japan. The Takata airbag recall is the largest ever automotive recall, affecting up to 100 million vehicles worldwide.<sup>5</sup>

In the US, NHTSA has established a phased schedule of rolling recalls for all Takata PSAN non-desiccant and calcium sulphate desiccant airbag inflators. Vehicles are divided into 12 priority groups depending on the risk factors identified by NHTSA (the primary factors are age of the inflator; geographic location of the inflator; and location of the inflator in the vehicle). The deadline for the remedy launch for the last priority group (Priority Group 12) is 30 September 2020.

NHTSA has not recalled Takata airbag inflators which use a desiccant other than calcium sulphate, but is investigating and undertaking research into the safety risks of these Takata airbag inflators which use other desiccants.

### ***Voluntary recalls in Australia since 2009***

Voluntary recalls of motor vehicles supplied in Australia with Takata PSAN airbag inflators without desiccant commenced in 2009, and have been progressively put in place by some suppliers. The Department of Infrastructure and Regional Development (DIRD) is responsible for monitoring voluntary recalls by suppliers of vehicles covered by the Australian Design Rules.<sup>6</sup>

Between December 2009 and August 2017, twelve vehicle manufacturers have recalled approximately 2.49 million vehicles fitted with Takata PSAN airbags.<sup>7</sup> That is, about 1 in every 7.5 motor vehicles in Australia has been recalled.<sup>8</sup>

The twelve suppliers are BMW, FCA, Ferrari, Honda, Mazda, Mitsubishi, Nissan, Subaru, Toyota; two specialist suppliers: Performax International and Vehicle Development Corporation; and Volvo trucks.

As part of its safety investigation announced on 6 August 2017 in a Safety Warning Notice issued pursuant to section 129 of the ACL, the ACCC has compiled information regarding the efforts made by suppliers to locate consumers with vehicles subject to recall, the nature and extent of communications with consumers by these suppliers, the availability of replacement parts and overall replacement rates.

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<sup>4</sup> <https://www.nhtsa.gov/recall-spotlight/critical-warning-regarding-certain-2001-2003-honda-and-acura-vehicles-takata-air#critical-warning-regarding-certain-2001-2003-honda-and-acura-vehicles-takata-air-bags-summary>.

<sup>5</sup> DIRD, *Recall of vehicles in Australia fitted with Takata airbags: Report on progress and status of the recalls* (July 2017) page 3 [infrastructure.gov.au/vehicles/recalls/files/report-on-takata-airbag-recall.pdf](http://infrastructure.gov.au/vehicles/recalls/files/report-on-takata-airbag-recall.pdf).

<sup>6</sup> See Memorandum of Understanding between the Department of Infrastructure and Regional Development and the Australian Competition and Consumer Commission (October 2016).

<sup>7</sup> For further details see - See DIRD, *Recall of vehicles in Australia fitted with Takata airbags: Report on progress and status of the recalls* (July 2017) [infrastructure.gov.au/vehicles/recalls/files/report-on-takata-airbag-recall.pdf](http://infrastructure.gov.au/vehicles/recalls/files/report-on-takata-airbag-recall.pdf).

<sup>8</sup> Based on 18.8 million registered motor vehicles in Australia. However, note that: the recalls include vehicles that are no longer registered; and some vehicles have been recalled more than once.

That information shows that communications with affected consumers have varied widely between the different suppliers. This is also the case with efforts by suppliers to identify and locate consumers who own vehicles. While some suppliers have made very limited efforts to locate consumers, for example by sending one or two letters to the last known address, others have made significant efforts to locate consumers. In the case of Honda, this has involved using multiple sources of information to locate consumers and concerted efforts to contact them, including letters, registered post, outbound calls and SMS, and the use of private investigators.

However, in many cases, communications with affected consumers have not clearly identified the serious safety risk posed by the recalled Takata airbag inflators, and there has been a slow response by consumers to have recalled airbag inflators replaced under the recall. As a result, replacement rates in the case of most suppliers are below 50%. The lowest replacement rate for a major supplier is currently 17% of affected vehicles. Even Honda, which commenced recalls in 2009 and, as noted above, has made significant efforts to locate and contact consumers, has a rate of 78.3%.

As at 4 September, of the 2.49 million vehicles subject to voluntary recalls, around 950,000 have had affected airbag inflators replaced, with an aggregate replacement rate of around 38.5%.

A particular concern in the context of the low replacement rates resulting from the voluntary recalls are the estimated 51,000 alpha Takata airbag inflators which pose a critical safety risk but which are yet to be replaced in models supplied in Australia up to 2006 by Nissan, BMW, Toyota (and Lexus), Honda and Mazda.

In addition, due to past limitations in the availability of alternative replacement airbags, most suppliers have used Takata PSAN airbags without desiccant to replace some of the airbag inflators in recalled vehicles (a “like for like” replacement). These replacement airbag inflators are themselves subject to recall as they will pose a risk over time and must be scheduled for further replacement. In some cases, only the driver side airbag has been replaced. However, other suppliers are no longer using Takata airbag inflators as replacement parts, having switched to alternative suppliers or to using Takata airbag inflators with a desiccant other than calcium sulphate.

There have also been delays encountered by consumers in booking in their vehicles for replacement of airbags, including the higher risk alpha airbag inflators. In most cases, only limited offers have been made to a small number of consumers to compensate them for alternative transport arrangements during the replacement period, such as the cost of hire cars or taxi fares. In most cases, neither compensation nor a loan vehicle has been offered during the replacement period.

***Vehicles supplied in Australia with Takata PSAN airbag inflators without desiccant or with calcium sulphate desiccant which are not subject to a voluntary recall***

At least eight suppliers have supplied motor vehicles in Australia with Takata PSAN airbag inflators installed without a desiccant or with a calcium sulphate desiccant, but have not initiated a voluntary recall. These suppliers are Audi, Ford, Jaguar,

Volkswagen, GM Holden, Porsche, Mercedes Benz and Tesla (although one supplier has indicated to the ACCC its intention to undertake recall action in Australia).

In most cases, this is stated to be on the basis that the airbag inflators were manufactured in the Takata factory located in Freiberg, Germany for which it is asserted there has been no reported rupture and/or that there has been no reported rupture of the Takata airbags installed in that supplier's vehicles.

The NHTSA reports referred to above make it clear that the inherent design flaw in Takata PSAN airbag inflators exists wherever the inflator is manufactured.

Significantly, Takata has indicated that there have been six reported incidents of Takata airbag inflators manufactured in Freiberg rupturing. These ruptures occurred between August 2016 and May 2017 in Italy, Spain, Portugal and Turkey.

The information obtained by the ACCC as part of its safety investigation indicates that there are approximately 877,000 unrecalled vehicles in Australia with defective Takata PSAN airbags installed. These airbags have been recalled in the US.

### ***Salvaged spare part Takata PSAN airbag inflators***

The ACCC has identified that defective Takata airbag inflators without a desiccant are being offered for sale on the internet, as well as potentially at salvage and scrap yards. These airbags are sold after having been removed from vehicles which were supplied in Australia.

In April 2017, following a vehicle inspection Honda confirmed that an alpha Takata driver side airbag inflator had ruptured during a crash of a Honda vehicle in Las Vegas in March 2017, causing serious injury to the driver. Honda's inspection identified that the airbag inflator which ruptured was not the original airbag inflator installed, nor the replacement installed by Honda in January 2015. It appears that the alpha Takata airbag was installed after the vehicle was involved in a collision in April 2015, and most likely obtained from a second hand salvage source.

This incident highlights the serious safety risk to consumers that arises if Takata airbag inflators are removed from end-of-life vehicles in Australia and sold as spare parts.

### ***Proposed recall notice***

The Draft Recall Notice, if issued, would have the effect of recalling all motor vehicles of a kind ordinarily acquired for personal use (including motorcycles) with a Takata airbag without desiccant or with a calcium sulphate desiccant installed. This includes not only those vehicles currently subject to recall, but also those which have not yet been recalled. The proposed recall will also require suppliers of the vehicles to take steps to have spare part airbags which have been removed from vehicles destroyed.

As noted above, the Draft Recall Notice requires suppliers of the consumer goods to take a range of actions to give effect to the recall of the consumer goods.

These actions include:

- recalling the vehicles on a specified timetable based on the safety risk so as to enable the inflator to be replaced:
  - alpha airbags: within one business day of a consumer contacting the supplier or within one business day of such other date as requested by the consumer;
  - for non-alpha bags that are more than five years old: as soon as practicable and within one month of the supplier being contacted by the consumer;
  - other inflators: within 6 years of manufacture – however, this must be completed by 31 December 2020
- providing, where requested, refunds to consumers where replacement does not occur within a specified period of time and alternative transportation acceptable to an affected consumer is not provided
- taking a range of steps to locate consumers who own affected vehicles, whether the consumer purchased the vehicle directly from the supplier or from another person (including second hand vehicles)
- clearly communicating to consumers the nature of the safety risk and details of the replacement program
- keeping records, and establishing a database accessible to consumers
- resolving consumer disputes via a dispute resolution process
- preparing a salvage plan for the location and disposal of Takata airbag inflators which have been salvaged from vehicles.

These actions will impose potentially significant additional costs (which cannot be estimated at this stage) on each of the suppliers, but in particular those who have not already taken voluntary recall action.

### ***Conclusion***

The actions which suppliers will be required to take by the proposed recall notice will impose considerable costs on them for a number of years, and will also require them to devote considerable internal resources to administering the recall and requirements specified in the Draft Recall Notice.

Balanced against this, however, is the clear evidence of the significant risk of injury or death to vehicle occupants arising from the use (including misuse) of vehicles which have defective Takata airbag inflators installed. This risk is immediate in the case of alpha Takata airbag inflators, and arises six years after manufacture of the inflator in the case of other Takata airbag inflators covered by the Draft Recall Notice.

In addition, it appears that the suppliers of recalled vehicles with Takata airbag inflators covered by the Draft Recall Notice have not taken satisfactory action to prevent those goods causing injury. The actions taken have not resulted in a satisfactory rate of removal and replacement of the defective Takata airbag inflators, to prevent injury to vehicle occupants, despite the lengthy period during which voluntary recalls have been in place. There remain approximately 1.5 million vehicles



which are currently subject to recall but which have not had Takata airbag inflators replaced. This is, in part, the result of limited efforts on the part of some suppliers to locate and clearly communicate the risk and replacement process to consumers.

Further, suppliers have not initiated voluntary recalls in respect of approximately 877,000 vehicles supplied in Australia with defective Takata airbag inflators installed. These vehicles are subject to recall action in the US, but the suppliers have chosen to take no action in Australia to prevent those vehicles causing injury to Australian consumers through the misdeployment of defective Takata airbag inflators.

Finally, suppliers have not taken action to locate and destroy Takata airbag inflators which have been removed from their vehicles in Australia and are potentially being sold to consumers via the internet and salvage yards.

Accordingly, for these reasons, I propose to exercise my discretion under section 122 of the ACL to issue a recall notice in the form of the Draft Recall Notice for the consumer goods because it appears to me that a reasonably foreseeable use of the consumer goods may cause injury and that suppliers of these consumer goods have not taken satisfactory action to prevent those consumer goods from causing injury.

#### **INVITATION TO SUPPLIERS WHO SUPPLY OR PROPOSE TO SUPPLY CONSUMER GOODS OF A KIND SPECIFIED IN THE DRAFT RECALL NOTICE**

Pursuant to section 132A(3)(e) of the CCA, I invite any person who supplies, or proposes to supply, consumer goods of the kind specified in the Draft Recall Notice to notify the ACCC that the person wishes the ACCC to hold a conference in relation to the proposed issue of the recall notice.

Notification should be given to the ACCC in writing and sent to the postal or email address shown below on or before **Tuesday 3 October 2017**, being at least 10 days commencing on the day after this recall notice is published on the internet:

Postal address: The General Manager

Consumer Product Safety Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
CANBERRA ACT 2601

Email address: [takata@accc.gov.au](mailto:takata@accc.gov.au)

Dated this *21<sup>st</sup>* day of September 2017



Michael McCormack

Minister for Small Business



## **Consumer Goods (Motor Vehicles With Specified Takata Airbag Inflators and Specified Salvaged Takata Airbag Inflators) Recall Notice 2017**

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I, Michael McCormack, Minister for Small Business, issue the following recall notice.

Dated XX XX 2017

Michael McCormack  
Minister for Small Business

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# Draft Recall Notice

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## Contents

<b>Part 1—Preliminary</b>	<b>2</b>
1 Name	2
2 Commencement	2
3 Authority	2
4 Definitions	2
<b>Part 2—Recall</b>	<b>5</b>
5 Recall	5
6 Replacement of an Affected Takata Airbag Inflator	6
7 Notification of Affected Consumers	7
8 Recall database	7
9 Life of Product Action: Salvaged Affected Takata Airbag Inflators	7
10 Life of Product Action: Secondhand Consumer Goods	8
11 Consumer dispute resolution	8
12 Record keeping and reporting	8
13 Independent auditor	10
<b>Schedule 1 —Recall timetable</b>	<b>11</b>
<b>Schedule 2 – Contacting and Communicating with Consumers:     Required Communications Using Prescribed Language     and Engagement Plan</b>	<b>12</b>
<b><u>Part A Required Communications</u></b>	<b>12</b>
(1) Identification of defect in Vehicles and risk of harm posed by defect	12
(2) Notification and record keeping where an Affected Takata Airbag Inflator is replaced with another Affected Takata Airbag Inflator	13
<b><u>Part B Engagement plan</u></b>	<b>14</b>
(1) A comprehensive consumer communications strategy that employs a range of outreach techniques.	14
(2) Convey the risk presented by airbag ruptures in clear, accurate and urgent terms.	15
(3) Proactively address Consumer concerns relating to Vehicle repair.	16
(4) Tailor communications to the individual Consumer and Vehicle at issue, to reinforce the message’s credibility and distinguish it from commercial solicitations.	16
(5) Ensure that your messaging is accessible to owners from a Culturally and Linguistically Diverse (CALD) audience.	16
(6) Include a clear call to action designed to facilitate prompt and efficient scheduling of replacements.	17

## Part 1—Preliminary

### 1 Name

This Recall Notice is the Consumer Goods (Motor Vehicles With Specified Takata Airbag Inflators and Specified Salvaged Takata Airbag Inflators) Recall Notice 2017.

### 2 Commencement

- (1) Each provision of this Recall Notice specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	[Insert day after notice is registered].	[insert day after notice is registered]

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This Recall Notice is made under section 122 of the ACL.

### 4 Definitions

In this Recall Notice, the following definitions apply:

**ACCC** means the Australian Competition and Consumer Commission.

**ACL** means the Australian Consumer Law set out in Schedule 2 to the CCA as it applies as a law of the Commonwealth, States and Territories: see section 140K of the CCA and corresponding provisions of Acts of States and Territories applying that Schedule.

**Affected Takata Airbag Inflator** means an airbag inflator made by Takata that uses either Phase Stabilised Ammonium Nitrate (PSAN) without desiccant (including an Alpha Inflator) or PSAN with calcium sulphate desiccant.

**Alpha Inflator** means a Takata inflator using Phase Stabilised Ammonium Nitrate (PSAN) without desiccant, which was not made as designed.

**CCA** means the *Competition and Consumer Act 2010* (Cth).

**Consumer** has the meaning given by section 3 of the ACL.

**Consumer Goods** means the following goods, where they have been supplied by a corporation to a Consumer in the course of trade or commerce:

- (a) a Vehicle;
- (b) a Spare Part.

**Dealer** means any vehicle dealer owned, licensed or authorised by a Supplier to sell Vehicles to Consumers.

**Director** has the meaning given by section 9 of the *Corporations Act 2001* (Cth).

**Importer**, in relation to a Vehicle or Spare Part, means a person who does an act which constitutes importation of the Vehicle or Spare Part for the purposes of the *Customs Act 1901* (Cth).

**Manufacturer** has the meaning given by section 7 of the ACL.

**Officer** has the meaning given by section 9 of the *Corporations Act 2001* (Cth).

**RedBook** is a vehicle valuation and information website ([www.redbook.com.au](http://www.redbook.com.au)) which provides an overall market value for vehicles based on research, and taking into account factors such as odometer reading and overall condition of a vehicle.

**Related Body Corporate** means any body corporate that would be deemed to be a related body corporate by section 6 of the ACL.

**Regulator** has the meaning given by section 2 of the ACL.

**Representative** includes a Director, Officer, Senior Manager, employee, servant, agent and contractor.

**Senior Manager** has the meaning given by section 9 of the *Corporations Act 2001* (Cth).

**Spare Part** means an Affected Takata Airbag Inflator, or a part containing an Affected Takata Airbag Inflator that has been obtained or salvaged from a Vehicle, that is supplied in Australia.

**Supplier** means any person who is the first person to supply a Vehicle in Australia, and includes the Manufacturer or Related Body Corporate, or a licenced distributor or an Importer in the supply chain.

Note: A Dealer is not a Supplier in relation to Vehicles and Spare Parts that it supplies to Consumers.

**Supply** has the meaning given by section 2 of the ACL.

*Takata* means Takata Corporation and its Related Bodies Corporate.

*TPA* means the *Trade Practice Act 1974* (Cth).

*Vehicle* means a motor vehicle that is supplied in Australia and that is intended to be used, or is of a kind likely to be used, for personal, domestic or household use or consumption, and that has an Affected Takata Airbag Inflator.

## Part 2—Recall

### 5 Recall

- (1) The Supplier of any Consumer Goods must:
  - (a) initiate the recall of the Consumer Goods in accordance with the timetable set out in Schedule 1 and with communications as set out in Schedule 2; and
  - (b) replace the Affected Takata Airbag Inflator (in accordance with this section, section 6, and the timetable as set out in Schedule 1, but in any event by 31 December 2020) ; or
  - (c) subject to subsections (2) and (3), if the Affected Takata Airbag Inflator is not replaced as required by the Recall Notice and in accordance with the timetable set out in Schedule 1, or such other timetable approved by the ACCC under subsection (5), then, at the request of the owner of the Consumer Goods, refund the price of the Consumer Goods less, in the case of a Vehicle, a reasonable amount for use of the Vehicle where more than 12 months has passed since the Vehicle was supplied, where ‘reasonable amount’ means reasonable decrease in market value, as reflected by RedBook and taking into account relevant factors including the odometer reading and the condition of the vehicle.
- (2) A Supplier will not be required by paragraph 5(1)(c) to refund the purchase price if:
  - (a) the reason the Affected Takata Airbag Inflator was not replaced as required by this Recall Notice was:
    - (i) that a notified Consumer did not present the Vehicle for replacement of the Affected Takata Airbag Inflator despite timely, proven notification; or
    - (ii) that a Consumer could not be notified in circumstances where a Supplier implemented an approved communication and engagement plan as required by this Recall Notice.
  - (b) the Supplier provides the Consumer with a loan car or hire car, or offers to fund or provide alternative transportation which is acceptable to the Consumer, for the time that the Supplier is replacing the Affected Takata Airbag Inflator in the Consumer’s Vehicle.
- (3) A Supplier must comply with all of its obligations under the ACL, the CCA, and the TPA and nothing in the Recall Notice alters Consumer rights and remedies or Supplier obligations in respect of those provisions or otherwise under Australian law, including the consumer guarantees provisions of the ACL and the implied warranties provisions of the TPA.
- (4) Where a Supplier replaces an Affected Takata Airbag Inflator, the Supplier must bear the cost of the replacement, including any necessary transportation costs. In this regard:
  - (a) if the replacement process will deprive the Consumer of the use of their Vehicle for more than 24 hours, the Supplier must offer to provide the Consumer with a

- loan or hire car, or offer to fund or provide alternative transportation which is acceptable to the Consumer for the duration of the replacement process; and
- (b) if the Vehicle has an Alpha Inflator, then the Supplier must offer to arrange for the Vehicle to be towed to the place of replacement or for a qualified technician to travel to the Vehicle (or some similar arrangement so that the Consumer need not drive the Vehicle).
- (5) A Supplier may apply to the ACCC to vary a date specified in the timetable set out in Schedule 1. In considering the variation request and determining an appropriate varied timetable, if any, the ACCC will have regard to the following:
- (a) the safety risk to Consumers posed by the request;
  - (b) the reasons and material submitted in support of the request for variation;
  - (c) the steps the Supplier has taken to secure supply of replacement airbag inflators;
  - (d) the steps the Supplier has taken to increase qualified repair personnel or facilities, as needed;
  - (e) the steps the Supplier has taken to address the risk of death or injury associated with Vehicle use until the recall action is implemented (such as, for example, offering affected Consumers a loan or hire car).
- (6) Suppliers must put in place arrangements with their Dealers to allow Consumers to take their Vehicle to any Dealer within the Supplier's Dealer network for replacement of the Affected Takata Airbag Inflator in the Vehicle.

## 6 Replacement of an Affected Takata Airbag Inflator

- (1) Where a Supplier, under section 5(1)(a) replaces an Affected Takata Airbag Inflator in a Vehicle, the following requirements apply:
- (a) best endeavours must be used to replace an Affected Takata Airbag Inflator with an inflator that is not an Affected Takata Airbag Inflator;
  - (b) if, prior to 31 December 2020, it is considered necessary to use an Affected Takata Airbag Inflator as a replacement inflator, then the Supplier must:
    - (i) notify the Consumer (orally and in writing at the time of replacement) of the type of airbag inflator installed, that the inflator will need to be replaced again, and the date by which that replacement must occur (in accordance with Schedule 1). The Supplier must include the specified language set out in Schedule 2 in this communication; and
    - (ii) record in the service record of the Vehicle that the Vehicle is installed with an Affected Takata Airbag Inflator and replacement of that Affected Takata Airbag Inflator is required before the date specified in Schedule 1. The Supplier must include the specified language set out in Schedule 2 in this service record note; and
    - (iii) cause a notice to be affixed on the front windscreen and a metal plate or other durable label to be affixed in the engine bay clearly identifying that the Vehicle is fitted with an Affected Takata Airbag Inflator requiring replacement by the applicable date to avoid risk of injury or death. The



Supplier must include the specified language set out in Schedule 2 in these notices;

- (c) from 31 December 2020, an Affected Takata Airbag Inflator must not be used as a replacement in any circumstances; and
  - (d) under no circumstances may an Alpha Inflator be used as a replacement inflator at any time.
- (2) Where the Supplier removes an Affected Takata Airbag Inflator, the Supplier must ensure that it is immediately quarantined and promptly destroyed so that it cannot be reused, unless it is intended to be used for testing, in which case it must be labelled and handled in a manner to prevent re-use.

## **7 Notification of affected Consumers**

- (1) A Supplier must develop and implement a communication and engagement plan to maximise replacement rates for a recall under section 5. The plan must, at a minimum, meet the requirements in Schedule 2.
- (2) A Supplier must submit the plan to the ACCC within one month of the commencement of this Recall Notice, and the ACCC will assess the adequacy of the plan and determine whether it meets the minimum requirements of this Recall Notice, having regard to a range of factors including the Supplier's supply profile of Consumer Goods, and relevant data concerning replacement, including replacement rates.

## **8 Recall database**

- (1) A Supplier of Vehicles must establish and maintain a database on the Supplier's website that allows Consumers to enter a Vehicle Identification Number (VIN) into a search field and obtain immediate information about inclusion of the vehicle in the recall, the applicable recall timetable and status for the Vehicle.
- (2) The Supplier must provide the ACCC with access to this database via an Application Program Interface (API).

## **9 Life of Product Action: Salvaged Affected Takata Airbag Inflators**

- (1) A Supplier of Vehicles must develop, and implement, a salvage plan to maximise the removal of Affected Takata Airbag Inflators from Vehicles that are scrapped or otherwise unregistered and not in use. The plan must, at a minimum, set out a process and provide a financial incentive for persons to recover, and return to the Supplier for destruction, Affected Takata Airbag Inflators from Vehicles that are in scrapyards or otherwise not in use.
- (2) A Supplier must submit the salvage plan to the ACCC within one month of the commencement of this Recall Notice, and the ACCC will assess the adequacy of the plan and determine whether it meets the minimum requirements of this Recall Notice.

## 10 Life of Product Action: Secondhand Consumer Goods

- (1) A Supplier of Vehicles must develop a plan to maximise the replacement of Affected Takata Airbag Inflators in Vehicles that have been or are being sold second-hand. The plan must be designed to:
  - (a) facilitate distribution of relevant information regarding the recall status of Vehicles in the market for second hand vehicles, including at vehicle auctions, through dealers or independent used cars lots, off lease programs and fleets, internet channels (such as Carsales, eBay, buyswapsell fora, Facebook, etc); and
  - (b) incentivise replacement of Affected Takata Airbag Inflators.
- (2) A Supplier must submit the plan to the ACCC within one month of the commencement of this Recall Notice, and the ACCC will assess the adequacy of the plan and determine whether it meets the minimum requirements of this Recall Notice.

## 11 Consumer dispute resolution

- (1) A Supplier of Vehicles must establish a dispute resolution mechanism or system that meets the requirements of this section, or ensure any existing dispute resolution mechanism or system meets the requirements of this section.
- (2) A Supplier will use its best endeavours to ensure the dispute resolution mechanism or system is consistent with AS/NZS 10002:2014 *Guidelines for complaint management in organizations*, tailored as required to the Supplier's circumstances. The mechanism or system must feature, at a minimum, the following:
  - (a) a consumer complaints person or team (number of staff as appropriate based on volume) dedicated to assisting Consumers with questions and complaints (this can be the same initial freecall contact number as required in Schedule 2);
  - (b) a structure for prompt escalation of Consumer issues not able to be resolved through the complaints personnel, with such escalation to include attention of a qualified and informed person using best endeavours to assist the Consumer and resolve any dispute in accordance with the Supplier's obligations under the ACL.
- (3) If the Supplier is notified by a Regulator or the Commonwealth Department of Infrastructure and Regional Development of a dispute relating to an Affected Takata Airbag Inflator, the Supplier must use its best endeavours to deal promptly and fairly to address the dispute and manage it in accordance with the Supplier's obligations under the ACL.

## 12 Record keeping and reporting

- (1) Subject to subsection (6), the Supplier must track, regularly document and assess:
  - (a) the Supplier's compliance with this Recall Notice; and
  - (b) the Supplier's recall and replacement rates; and

- (c) reports of any mis-deployment of a Consumer Good supplied by the Supplier, including full details regarding the facts and circumstances of the incident and those person(s) involved; and
  - (d) reports of any injuries or deaths anyone associates with mis-deployment of a Consumer Good supplied by the Supplier, including full details regarding the facts and circumstances of the incident and those person(s) involved; and
  - (e) complaints from Consumers in respect of a Consumer Good supplied by the Supplier, or in respect of the Supplier's recall campaign, identified by issue and by location (State or Territory), and with information on how each complaint has been managed.
- (2) Where data collected under the requirements in subsection (1) includes reports from person(s) regarding mis-deployment, injury, death, or complaints (eg, paragraphs 12(1)(c), (d) and (e)), the Supplier will obtain the name and contact details of person(s) involved in the reported incidents or complaint, and persons providing information, and the Supplier will seek consent from those person(s) to provide the names and contact details to the ACCC. Where the Supplier receives consent, the names and contact details of those persons will be provided to the ACCC as part of relevant reporting requirements.
- (3) In addition to the reporting requirements in subsection (4), a Supplier must notify the ACCC of any reports of which the Supplier is aware regarding injury or death anyone associates with mis-deployment of a Consumer Good supplied by the Supplier. The Supplier shall so notify the ACCC within two days of learning of such a report (excluding weekends and public holidays). If those injured or those reporting consent to provision of their contact details to the ACCC, then the Supplier shall supply those contact details to the ACCC, along with information on the substance of the incident.
- (4) Until further notice from the ACCC, and subject to subsections (3) and (6), a Supplier must provide to the ACCC within one month of the commencement of this Recall Notice, and then at the end of each calendar quarter or at an earlier date if requested by the ACCC:
- (a) the plans required under sections 7, 9 and 10, along with any updates to those plans; and
  - (b) a report summarising the information required to be tracked under subsection 12(1); and
  - (c) the independent auditor's reports provided to the Supplier under section 13.
- (5) The ACCC may publish, publicly, in whole or in part, the reports referred to in this section and the plans referred to in sections 7, 9 and 10.
- (6) A Supplier may apply to the ACCC for an exemption from this section or for an end to the required periodic reporting. The ACCC may approve the exemption or end of reporting requirement only if the ACCC is satisfied that the Supplier's recall action has met the minimum requirements of this Recall Notice and has achieved a satisfactory replacement rate.

### 13 Independent auditor

- (1) The Supplier must appoint an independent auditor to monitor the Supplier's compliance with this Recall Notice. The Supplier must submit the name and qualifications of their proposed independent auditor to the ACCC, so that the ACCC can assess independence and qualifications. The Supplier must identify any association between the proposed auditor and the Supplier which may be perceived to affect the auditor's independence. The ACCC will assess and notify the Supplier if it accepts the independence and qualifications of the auditor.
- (2) The ACCC will consider joint nominations of an independent auditor by multiple Suppliers.
- (3) Subject to subsection (4), and until further notice from the ACCC, the independent auditor must provide a report to the Supplier and the ACCC at the end of each calendar quarter or at an earlier date if requested by the Supplier or the ACCC.
- (4) A Supplier may apply to the ACCC for an exemption from subsection (3). The ACCC may approve the exemption only if the ACCC is satisfied that the Supplier's recall action has met the minimum requirements of this Recall Notice and has achieved a satisfactory replacement rate.

# Draft Recall Notice

Recall Timetable – Schedule 1

## Schedule 1—Recall timetable

Note: See sections 5 and 6.

For the purposes of sections 5 and 6 of this Recall Notice, a Supplier must recall the Consumer Goods, and replace the Affected Takata Airbag Inflators in Vehicles, by reference to the type of inflator the Consumer Good or Vehicle contains by the time specified for each in the table below.

Type of Airbag Inflator	Time by which Recall Action Initiated	Time by which Affected Takata Airbag Inflators must be replaced
Alpha Inflator	Immediately upon commencement of this Recall Notice	A Vehicle must have its Affected Takata Airbag Inflator replaced the following business day after being contacted by the Consumer or such other date as requested by the Consumer.
Takata Inflators using PSAN with no desiccant or using PSAN with calcium sulphate desiccant where five years have passed since manufacture	Immediately upon the commencement of this Recall Notice	A Vehicle must have its Affected Takata Airbag Inflator replaced as soon as practicable, and in any case within one month of being contacted by the Consumer.
Takata Inflators using PSAN with no desiccant or using PSAN with calcium Sulphate desiccant where less than five years have passed since manufacture	Within five years and three months from the date of manufacture of the Affected Takata Airbag Inflator, or by 31 December 2019, whichever is earlier.	A Vehicle must have its Affected Takata Airbag Inflator replaced within six years from the date of manufacture of the Affected Takata Airbag Inflator, or by 31 December 2020, whichever is earlier.

# Draft Recall Notice

Contacting and Communication with Consumers – Schedule 2

## Schedule 2 – Contacting and Communicating with Consumers: Required Communications Using Prescribed Language and Engagement Plan

Note: See sections 5, 6, 7 and 11

This Schedule sets out the minimum requirements for contacting and communicating with Consumers, including requirements for an engagement plan under section 7 of this Recall Notice.

### Part A Required Communications

Communications to Consumers implementing the requirements of the Recall Notice must use at least the language prescribed below, as applicable depending on the relevant Vehicle.

Communications must not seek to downplay or otherwise undermine or confuse the message of the prescribed language.

#### (1) Identification of defect in Vehicles and risk of harm posed by defect

Suppliers must clearly identify the defect in Vehicles and the risk of harm posed by that defect. In doing so, Suppliers must include at least the following statements:

##### (a) For Vehicles fitted with an Alpha Inflator:

“Stop driving your vehicle immediately! You and others in your vehicle are at risk of **serious injury and death** from your vehicle’s defective airbag. Contact a [vehicle type] dealer immediately to arrange for your airbag to be replaced.

Your [name and model of vehicle] is installed with a Takata airbag. A defect in the inflator in your airbag can cause it to deploy with much greater force than intended, causing sharp metal fragments to fly at high speed toward people in the vehicle. **This could cause serious injury or death.** You should stop driving your vehicle and immediately contact a [vehicle type] dealer to arrange for the airbag inflator to be replaced.”

##### (b) For Vehicles fitted with Affected Takata Airbag Inflators that are not Alpha Inflators and which were manufactured more than five years previously:

“Your vehicle’s airbag is defective and poses a risk of **serious injury and death** to you and other people in your vehicle. You should immediately contact a [vehicle type] dealer to arrange for the airbag to be replaced.

Your [name and model of vehicle] is installed with a Takata airbag with a defective inflator. Over time, moisture can affect the propellant in airbags with the

defect, so that they deploy with much greater force than intended, causing sharp metal fragments to fly at high speed toward people in the vehicle. **This could cause serious injury or death.** You should urgently contact a [vehicle type] dealer to arrange for the airbag inflator to be replaced.”

- (c) For Vehicles fitted with Affected Takata Airbag Inflators that are not Alpha Inflators and which were manufactured less than five years previously:

“Your vehicle’s airbag is defective and, when it reaches a certain age, will pose a risk of **serious injury or death** to you and other people in your vehicle. The airbag poses **no risk of harm now**, but soon will. Please contact [vehicle type] dealer to arrange for the airbag inflator to be replaced.

Your [name and model of vehicle] is installed with a Takata airbag with a defective inflator. Over time, moisture can affect the propellant in airbags with the defect, so that they deploy with much greater force than intended, causing sharp metal fragments to fly at high speed toward people in the vehicle. **This could cause serious injury or death.** It is important that you keep a record of this communication and inform other users of your Vehicle of this safety issue.

If you have any questions about this issue, you can contact [vehicle manufacturer] on [insert phone number] for further information”

- (d) Where the Affected Takata Airbag Inflator is approaching five years post manufacture, Suppliers should consider using the language prescribed in section 5(1)(b) rather than 5(1)(c).
- (e) For advertisements, traditional media, and social media campaigns, the above language can be modified only insofar as necessary to shift the message to the broader group of consumers rather than the one on one communications specified above (e.g., rather than “your vehicle”, “ABCBrand/Model vehicles” etc.)

**(2) Notification and record keeping where an Affected Takata Airbag Inflator is replaced with another Affected Takata Airbag Inflator**

- (a) If a Supplier replaces an Affected Takata Airbag Inflator with another Affected Takata Airbag Inflator, then the Supplier must do the following:

- (i) inform the Vehicle owner orally and in writing at the time of replacement that this has occurred, and that communication must include the following statement:

“In repairing your vehicle, the Takata airbag inflator with the defect was removed and replaced with a newer Takata airbag inflator which also has a defect. The newer airbag inflator now fitted in your vehicle is safe at this time, but must be replaced by [insert date in accordance with Schedule 1]

It is critical that the airbag inflator be replaced again before that time. We will contact you to arrange for the replacement. Please make a note of this information, and inform any new owner or user of the Vehicle that the airbag requires replacement by that [insert date in accordance with Schedule 1].”

(ii) record at least the following statement in the service record of the Vehicle:

“This vehicle is installed with a Takata airbag inflator which has been recalled due to a safety defect. The inflator is in the [specify airbag], and must be replaced before [the date specified in Schedule 1].”

(iii) cause a notice to be affixed on the Vehicle’s front windscreen and a metal plate or other durable label to be affixed in the Vehicle’s engine bay containing at least the following statement:

“This vehicle is fitted with a recalled Takata PSAN airbag inflator in the [specify airbag]. Replace by no later than [the applicable date specified in Schedule 1] to avoid **risk of injury or death.**”

(b) If a Supplier has replaced an Affected Takata Airbag Inflator with another Affected Takata Airbag Inflator prior to the commencement of this Recall Notice, the Supplier is to inform the Vehicle owner in writing that this has occurred as soon as possible in accordance with the language prescribed at (2)(a)(i) above.

## **Part B Engagement plan**

Suppliers must submit an engagement plan to the ACCC comprising at least the following components:

### **(1) A comprehensive consumer communications strategy that employs a range of outreach techniques.**

That strategy must:

- (a) Include prominent advertisements in print newspapers in every market into which they supply and at least one national paper, as well as a media release and other forms of mainstream media coverage such as television and radio. The requirements in Part A of this Schedule regarding prescribed language for description of the defect and gravity of the hazard must be followed.
- (b) Employ at least three of the following means of targeted outreach:
  - (i) Social media (e.g. Facebook, Twitter, YouTube, etc.)
  - (ii) Digital advertising (e.g. news websites)
  - (iii) Email
  - (iv) Telephone calls
  - (v) Text messaging
  - (vi) In-person visit.
- (c) Coordinate and distribute communications across different outreach channels to ensure that each Vehicle in a launched campaign is promoted in at least one form of outreach per month until the Vehicle is remedied unless the Supplier has notified the ACCC that the Vehicle has been excluded from recall outreach as scrapped, stolen, exported or otherwise unreachable.
- (d) Employ high-quality and up-to-date owner contact information in conducting outreach.
- (e) Pursue data from multiple sources beyond those that rely primarily on State and Territory vehicle registration records.



- (f) Increase the frequency with which updated owner contact information is obtained, especially for older model-year Vehicles that may change hands frequently in the secondary market.
- (g) Include methods to proactively maintain up-to-date contact information for Vehicle owners:
  - (i) Even in scenarios where remedy parts are not yet available for the Vehicle, request that the owner take action to confirm or update the owner's contact information, and offer multiple, convenient means for doing so (e.g. a form available on the Supplier's website, a dedicated phone number, a postage-paid card the owner can mail back).
  - (ii) Whenever the Supplier receives updated owner contact information for a Vehicle, ensure that at least one mailed communication for which delivery can be confirmed (e.g., registered post) is sent to the new address and, if a telephone number is obtained, a telephone call is made to the Vehicle owner to arrange for replacement of the Affected Takata Airbag Inflator.
  - (iii) Wherever possible, include in every communication an option for the recipient to notify the Supplier that the Vehicle has been sold, transferred, or is otherwise being primarily driven by a party not residing at the same address as the recipient.
- (h) Adopt an escalation strategy for Consumers who have been contacted through multiple channels and/or on multiple occasions, but have not contacted the Supplier to arrange for replacement of the Affected Takata Airbag Inflator.
- (i) Encourage Consumers to sign up for recall alerts at <https://www.productsafety.gov.au/newsletter/subscribe>

**(2) Convey the risk presented by airbag ruptures in clear, accurate and urgent terms.**

- (a) Use the prescribed language for specified communications in part A of this Schedule. Convey the risk presented by airbag ruptures in clear, accurate and urgent terms. For example, use simple language that emphasises the risk of injury or death to drivers and passengers stemming from shrapnel in the event of a rupture (e.g., "Even in a minor incident, the airbag inflator in your vehicle could be triggered, rip apart and propel sharp metal fragments at high speed toward you and your passengers. People have been killed and seriously injured by this defect.").
- (b) Do not include information that is likely to minimise or mitigate the perception of the risk (e.g., "No ruptures have been observed in [the Supplier's] vehicles to date." Or "we are only conducting this recall as a precaution").
- (c) Use bold text to highlight particularly impactful words (e.g., "urgent", "kill").
- (d) Include imagery that reinforces graphically the nature of the risk. Use imagery of the recalled Vehicle models, where possible.
- (e) Avoid using generic or low-impact imagery (e.g., scenic pictures).
- (f) In letter communications, include a red headline at or near the top of the letter and on the front of the envelope, with prominently featured text, such as "Urgent Safety Recall".

- (g) In email communications, use the words “URGENT SAFETY RECALL” in the subject line.
- (h) State the date by which this Recall Notice requires the Vehicle to be recalled.

**(3) Proactively address Consumer concerns relating to Vehicle repair.**

- (a) Emphasise throughout all communications that replacements are free, can be performed by any Supplier-authorised Dealer regardless of where the Vehicle was purchased and the Consumer will not be charged for any other service or repair unless the owner requests it.
- (b) State clearly the inconvenience presented by the need to have the Affected Takata Airbag Inflator replaced and prominently feature the details of all services the Supplier or the Supplier’s Dealer provide that address Consumer inconvenience associated with the replacement (e.g., towing, provision of loan or hire cars and extended dealer service hours).
- (c) Adopt a dedicated, toll-free phone number solely for Vehicle recalls to centralise the scheduling of replacements, ensure appropriate prioritisation at Dealers and respond to customer questions or concerns regarding the recall and/or safety.
- (d) Advise Consumers that they may report concerns regarding the recall to the ACCC at [www.accc.gov.au/contact-us](http://www.accc.gov.au/contact-us).
- (e) Highlight the most relevant information in communications (e.g., that the Vehicle’s airbag inflator is defective, that the replacement is free, how to schedule a replacement and the details of any services the Supplier provides to address Consumer inconvenience).

**(4) Tailor communications to the individual Consumer and Vehicle at issue, to reinforce the message’s credibility and distinguish it from commercial solicitations.**

- (a) Wherever possible, address communications using the Consumer’s name (avoid “Dear Vehicle Owner” or “Dear Resident”).
- (b) Prominently display your logo as well as logo of the ACCC.
- (c) Include a picture of the actual Vehicle at issue near the top of the communication, including such details as the Vehicle’s make, model, model-year, colour and trim package, and repeat these same details in the text of the communication.
- (d) Ensure that all communications feature a link to a webpage offering recall-specific information, rather than the homepage of the Supplier’s website or a page on the Supplier’s website addressing recalls or Dealer repairs in general.

**(5) Ensure that your messaging is accessible to owners from a Culturally and Linguistically Diverse (CALD) audience.**

- (a) Avoid scientific or technical jargon (e.g., “the inflator could produce excessive internal pressure upon deployment”).
- (b) In written communications, use a font size of at least 11 pt. to ensure that Consumers can reasonably engage with the content.

- (c) In all written communications, include a short statement outlining the serious safety risks of Affected Takata Airbag Inflators and the need for urgent action in common community languages, including Arabic, Chinese (Simplified and Traditional), Cantonese, Vietnamese, Farsi, Korean, Spanish, Dari, Indonesian, and Hindi. Provide a link to further information on your website that has been translated in each language.
  - (d) In all written communications and on your website, provide details of a translating and interpreting service that CALD audiences can use.
  - (e) In all written communications and on your website, provide details of the National Relay Service for people who are Deaf or have a hearing or speech impairment.
- (6) Include a clear call to action designed to facilitate prompt and efficient scheduling of replacements.**
- (a) Prominently feature (and, wherever possible, repeat numerous times) the telephone number Consumers should call to schedule a replacement.
  - (b) In telephone communications, ensure that all calls are designed to facilitate scheduling an appointment for a replacement as part of the initial interaction with the Consumer. Minimise the need for the Consumer to call the dealer separately or wait for a callback to schedule an appointment.
  - (c) In communications, include links to the Supplier's online repair scheduling platform.
  - (d) In social media outreach, ask Consumers to share the Supplier's message with friends and family.