



Mr. Elon Musk
Chairman, Product Architect and CEO
Tesla Motors Inc.
3500 Deer Creek Rd.
Palo Alto, CA 94304

July 18, 2016

Mark R. Rosekind, Ph.D.
Administrator
National Highway Traffic and Safety Administration
1200 New Jersey Ave. SE
Washington, DC 20590

Re: Make Tesla's autopilot safer; require hands on the wheel

Dear Mr. Musk and Dr. Rosekind:

We are writing to urge that Tesla immediately take action to ensure that users of Tesla's autopilot feature and those who share the roads with them are safe. As Mr. Musk recently told the Wall Street Journal, "A lot of people don't understand what it [Autopilot] is and how you turn it on." Tesla's autopilot has been overhyped and many people wrongly believe that it can do far more than it really can.

Tesla can ensure the driver remains engaged by simply updating the autopilot software so that it requires the driver's hands to be on the steering wheel at all times. Volvo has instituted this requirement with its version of autopilot. We understand Tesla updates its software regularly.

We are deeply concerned about the failure of Tesla and NHTSA to accept responsibility for the death of Joshua Brown, a death that is not the result of human error, but of the failure of technology and acceptance of a voluntary industry agreement by the government in lieu of minimum mandatory safety performance standards.

The tragic fatal Tesla crash in Florida demonstrates the need for Federal Motor Vehicle Safety Standards rather than voluntary guidelines. Not only did the Tesla S's video camera fail to distinguish a white truck from white sky, but its Automatic Emergency Braking system failed to apply the brake with a tractor-trailer stretched across the road right in front of it.

We jointly petitioned NHTSA for a rulemaking proceeding with binding motor vehicle safety standards for automatic emergency braking, but NHTSA instead adopted a voluntary agreement with carmakers. The AEB requires radar that, in the case of Joshua Brown's fatal crash, apparently didn't detect the tractor-trailer. Had a public rulemaking process been convened with broad public involvement including from automotive suppliers that are usually the creative

forces behind new automotive technology, mandatory standards may have required better radar capability that could have prevented or mitigated the crash. Moreover, violation of such safety standards could have triggered a recall. A recall absent a safety standard requires a more difficult and time-consuming finding of a safety defect.

The failure of Tesla's Autopilot, a system never reviewed by federal regulators for safety, and of Tesla's AEB are a poster child for why enforceable safety standards are needed, not useless voluntary guidelines.

Had NHTSA taken the advice of trucking safety advocates years ago, the tractor-trailer that ended Mr. Brown's life would have been equipped with side underride guards that might also have saved his life, as well as possibly been detected by AEB radar, triggering the braking system.

Tractor-trailers are required to have rear-end crash underride guards, so a car that rear-ends the trailer won't slide under it with devastating consequences. But NHTA refused for decades to act on safety advocates' long-held desire and request for side underride guards. A side underride guard would almost certainly have decreased the damage in the Florida crash. We call on NHTSA to immediately begin a rulemaking to enact a Federal Motor Vehicle Safety Standard (FMVSS) to require them.

Finally, it's unacceptable that Tesla continues to claim its technology is not flawed and that Mr. Brown is to blame for the crash because he should have intervened to override Autopilot. Carmakers with autonomous technologies must accept legal responsibility when they are engaged and fail.

Volvo and Mercedes pledged to assume liability for crashes caused by a failure of their "autonomous" self-driving technology. If the manufacturers of self-driving technology lack the confidence in their products to stand behind them, and to assume responsibility and liability when the systems they design are in control, those vehicles do not belong on the road.

We urge you both to live up to the clear obligation of your respective positions and act NOW to protect public safety.

Sincerely,

Jamie Court
President
Consumer Watchdog

Joan Claybrook
Former NHTSA Administrator,
President Emeritus, Public Citizen