



June 14, 2017

Sen. John Thune, Chairman  
Sen. Bill Nelson, Ranking Member  
Senate Committee on Commerce, Science and Transportation  
512 Dirksen Senate Building  
Washington DC  
20510

**Re: Hearing: "Paving the Way for Self-Driving Vehicles"**

Dear Chairman Thune and Ranking Member Nelson,

We are writing on behalf of Consumer Watchdog, a national nonpartisan, nonprofit public interest group to submit our just-issued report, "Self-Driving Vehicles: The Threat to Consumers," into the formal written record of the Commerce Committee's public hearing titled "Paving the Way for Self-driving Vehicles."

We must also express our deep dismay at the Committee's failure to include any representatives of consumer groups among the witnesses called to speak at the hearing. The witness panel includes a spokesman for auto manufacturers, a representative of a company developing robot car technology, and organization developing a test center for robot car technology. A spokesman for MADD has the laudable, but narrow, agenda of combating drunk driving. This is an industry-dominated panel with no representatives of auto safety or consumer protection organizations.

As our report shows, robot cars operating without mandatory safety, security, privacy and ethical standards will pose unprecedented risks to the American public. Lost in the hyperbole over robot cars is a realistic assessment of the likely costs to both consumers and taxpayers particularly over the coming decades, when robot cars and human drivers will share a "hybrid highway."

That period will feature complex interactions between people, computers, cars and public streets and freeways, during which today's liability protections and rules restraining insurance rates and unfair practices by insurance companies will become especially important. To deal with the challenge posed by autonomous vehicle technology, Consumer Watchdog believes six principles must be adopted. They are:

**1. Protect the civil justice system.** The state-based civil justice system – open courts, impartial judges and citizen juries – is fully equipped to handle the determination of legal responsibility as our transportation system evolves over the coming decades. Disputes over who is at fault in a crash involving a self-driving car or truck will require the full power of civil justice system, with its procedural safeguards of an impartial judge, full public transparency, and trial by citizen juries, to investigate and publicly expose the cause of crashes, compensate the victims for deaths, injuries and property damage, punish the wrongdoer, and force manufacturers to make changes in their products to prevent future harm. When their autonomous technologies fail, hardware and

software manufacturers must be held strictly liable. Lawmakers should reject legislation to limit or restrict state consumer protection laws. Manufacturers must not be permitted to evade these consumer protections by inserting arbitration clauses, “hold harmless” provisions or other waivers in their contracts.

**2. Enact stronger state consumer protections against insurance company abuses.** According to a 2013 report by the Consumer Federation of America, “California stands out from all other states in having the best insurance regulatory system for protecting consumers.” Enacted by California voters in 1988, California’s insurance reform law provides precisely the stronger protections consumers will require in the era of robot vehicles. The reforms, known as Proposition 103, have protected motorists (along with homeowners, renters, businesses and medical providers) against unjust insurance rates (including product liability insurance rates) and anti-consumer and discriminatory practices. The law’s emphasis on rewarding drivers with lower insurance premiums based on their safety record, their annual mileage, their driving experience, and other rating factors within their control that are “substantially related to the risk of loss,” will be critical in the new automotive era. Proposition 103’s mandate for public disclosure and public participation in regulatory matters are essential components of a system that will be trusted by consumers.

**3. Enact auto safety standards.** Private companies cannot be trusted to develop and deploy robot cars and trucks without rules. The federal auto safety agency or other relevant federal agencies, or in their absence, state auto safety agencies, must develop standards for the testing and deployment of the multiple technologies required by robot vehicles. These standards must address safety; security; privacy and the software that determines the robot’s actions in the event of an impending collision and as it makes life and death decisions. They must be enforceable by consumers in courts of law.

**4. Stronger laws are needed to protect consumers’ privacy.** The laws have not kept pace with the evolution of technology and the collection and monetization of consumers’ personal data. Hardware and software manufacturers and insurance companies must be barred from utilizing tracking, sensor or communications data, or transferring it to third parties for commercial gain, absent separate written consent (which should not be required as a condition of accessing the services of the vehicle/manufacturer, and which should be revocable by the consumer at any time).

**5. Bar federal interference in state consumer protection laws.** Neither Congress nor federal agencies should be permitted to preempt or override stronger state based civil justice, insurance reform or auto safety laws.

**6. Respect democratic and human values.** The sponsors of self-driving vehicles have promoted the myth that machines are infallible in order to justify the wholesale departure from a panoply of norms that form founding principles for the nation, beginning with the rule of law; individual and corporate responsibility; long held legal principles that distinguish between human beings and property; and the transparency of public officials and institutions that is a hallmark of democracy. The strategy of substituting robot values for human values has reached its apotheosis in the determination by robot car company executives to program computers to make life and

death decisions, and to keep that decision-making process secret. Lawmakers will need to impose the rule of law and other attributes of American democracy upon the executives of the hardware and software companies that manufacture self-driving cars.

In conclusion, Congress must not succumb to the siren song of the autonomous car developers who are over promising what autonomous vehicle technology can do today. We call on you to require the development of enforceable federal safety performance standards. Responsible regulation goes hand-in-hand with innovation. Voluntary “standards” in the auto industry have repeatedly been proven to be weak and insufficient. Safety must come before the automakers’ bottom lines. Consumer Watchdog calls on you to enact the necessary regulations to protect the safety of our highways.

Sincerely,

Harvey Rosenfield  
Founder

John M. Simpson  
Privacy Project Director

Joan Claybrook  
Former President Public Citizen  
and Former NHTSA Administrator