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Chair

The Honourable Judy A. Sgro

Standing Committee on Transport, Infrastructure and Communities

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• (1545)

[English]

The Chair (Hon. Judy A. Sgro (Humber River—Black Creek, Lib.)): I am calling to order our meeting of the Standing Committee on Transport, Infrastructure and Communities, pursuant to an order of reference on Wednesday, September 20, 2017 on Bill S-2, an act to amend the Motor Vehicle Safety Act and to make a consequential amendment to another act.

Our apologies for being late, but there was an issue in the House that we had to be there for. I will open the floor to whoever would like to go first.

Please introduce yourself.

Mr. Ian Jack (Managing Director, Communications and Government Relations, Canadian Automobile Association): Good afternoon, everyone.

[Translation]

Thank you for your invitation. I am pleased to be here before you today to discuss Bill S-2.

[English]

Although I am sure many of you are familiar with CAA, let me begin by providing a bit of background on our organization's role in road safety.

We were founded in 1913 as a consumer advocacy group, not as a tow-truck company. Today, we have 6.2 million members from coast to coast and the services we offer them extend well beyond emergency roadside assistance. From our inception, our organization began advocating for critical pieces of the traffic safety framework in place today in Canada, and from those earliest days, in pushing for stop signs to seatbelts to airbags to campaigns against impaired and distracted driving, CAA has been at the forefront of traveller advocacy for more than a century. Today, we represent roughly one in four adult drivers in this country, and we are recognized as one of Canada's most trusted brands.

[Translation]

We have noticed that consumer protection in Canada has lagged behind other developed countries, and so we are pleased to see that Bill S-2 addresses several of the shortcomings.

[English]

In the United States, for instance, the National Highway Traffic Safety Administration, or NHTSA, has the authority to require

manufacturers to recall vehicles that have safety-related defects or do not meet federal safety standards. Since enacted in 1966, more than 390 million cars, trucks, buses, RVs, mopeds, and motorcycles, and 46 million tires, and 42 million child safety seats have been recalled to correct safety defects.

Here in Canada, CAA believes that for the owners of the roughly 23 million light vehicles on the road today, Bill S-2 is a positive step that would strengthen the enforcement and compliance regime to further protect the safety of Canadians. As drafted, we are pleased to see that the minister of transport would be provided with the authority to order companies to correct a defect or non-compliance, and would be given the ability to penalize companies for offences committed under the act.

[Translation]

While most manufacturers live up to the high standards we have set for Canadian vehicles, the fact remains that, even as we speak, Transport Canada has 16 active defect investigations under way. Of these active investigations, 13 date from before 2017. It must be said that there are instances where government intervention may not only be useful, but could even be necessary.

[English]

For example, on November 10, 2016, Transport Canada announced it had made a preliminary determination that there was a safety defect involving brakes on 2011 and 2012 F-150 trucks with a 3.5-litre EcoBoost engine; the department had received over 100 complaints about this. In his testimony before the Senate last fall, Minister Garneau said the government contacted Ford and was disappointed that the automaker disagreed with the government's assessment. The minister further pointed out that under existing legislation, the effective result at the time was a stalemate. Ultimately, there was a delay of nearly six months of public pressure that finally resulted in the automaker issuing a notice of defect on May 5 of this year. Bill S-2 would increase the tools available to the minister to limit delays like this.

Today, the strongest measure Transport Canada can take when dealing with vehicles it believes are a hazard to Canadians is to force the issuance of a notice of defect, which requires a manufacturer to notify owners that their cars are unsafe. That's it. The government does not have the power to force a manufacturer to order a recall and/or to effect repairs. This makes the current Canadian system a veritable, if not literal, paper tiger.

[Translation]

Bill S-2 shifts the focus to remedies. It gives the minister the authority to order a company to issue a recall and make companies repair a recalled vehicle at no cost to the consumer. The minister may even prevent them from selling new vehicles in Canada until they are repaired. This matches similar legislation that exists in the United States, finally leveling the playing field in these important areas for Canadian consumers.

[English]

Today, Transport Canada's website hosts information about vehicle recalls and encourages consumers to address their vehicle recall as soon as possible. However, we know that is not always in the control of the consumer. Bill S-2 is a necessary tool for enforcement when handling vehicle recall cases where the minister deems intervention is necessary, and it would provide positive, added protection for consumers.

[Translation]

For too long, Canadian consumer protection has taken a back seat to the United States. In our view, Bill S-2 goes a long way towards rebalancing the situation. It represents a solid advance for Canadian consumers.

Thank you for your attention.

[English]

We welcome any questions you may have.

Thank you.

The Chair: Thank you very much, Mr. Jack.

Mr. Iny.

Mr. George Iny (Executive Director, Automobile Protection Association): Good day. I'm George Iny, executive director of the Automobile Protection Association. With me is John Raymond. He's a member of the board of the association and also a former auto dealer. He works very closely with us on a number of issues, including vehicle safety.

[Translation]

The Automobile Protection Association, APA, is a not-for-profit organization. It was founded in 1969. It provides a public information service using telephone hotlines and a website.

We are one of the major sources of complaints to Transport Canada on presumed vehicle safety. We also work closely with university research teams across Canada to encourage proper oversight of the vehicles on our roads.

We are a small team. We even do a lot of work with people from the industry because we much prefer realistic solutions, but always while representing the interests of consumers.

• (1550)

[English]

I'm here today to go over perhaps some of the measures that are in the proposed Bill S-2. I'll try to give you a little colour or background information to go with it. Currently, there is a database where you can look up vehicle recalls. It's a very good database. It's

an old one. But it's not in real time, so you will find out if there ever was a recall for your vehicle, but it will not tell you if your actual vehicle was fixed or not and we would like to have that ability.

In the time between when Bill S-2 came out and today most carmakers, because there's an American requirement, came on board and are pretty much doing that. This would allow the stragglers to be picked up. It would also allow the government to put in perhaps some minimum information that you would be able to get, because not all of the websites are easy to use and not all of them give you the full information on the recall.

This is an important pre-condition if you want to get used cars corrected before they're resold. It's a big problem, and one of the objections the retailers have, and also the provincial ministries, is that there isn't a standard way to look up that information that's easy. I might add that a provincial safety inspection, which people assume involves a check for recalls, actually doesn't currently. The two systems don't talk to one another. So if this is fixed, in other words, if we have at least standardized, good quality real-time information, then maybe that might be included as part of the inspection process.

Administrative monetary penalties would be a more expedited tool than using the courts. The government doesn't go to court very often and when it does, it loses, so this would be something that we're hoping would be used more. It's a little difficult, because you're giving basically a gym membership to somebody who you don't know is actually going to use it and get stronger, but that's our hope. They would be creating a tool that the government could then use, and in that case it would allow it to have a little more leverage with carmakers that aren't being very compliant.

An important provision that we feel the administrative monetary penalties should have is a set-aside for research in the area of vehicle safety or injury reduction. Most of you are aware that Volkswagen was not so recently found to have cheated on diesel engine emissions, but actually the people who discovered it were working under an award, a research grant, from a previous investigation where a different carmaker or truck maker had been found guilty of cheating. In other words, some of that money if it's collected should be set aside to further the cause of vehicle safety.

On the power to order correction of defects, they've had it in the United States since the early 1970s or late sixties. It's a flaw in our original act that the way the act was written what seemed politically or maybe practically reasonable at the time was a letter by mail. Since then, essentially, events have overtaken our act, so more than 99% of recalls or about 600 a year are happening and, I would say easily 98% roughly are happening with what's called voluntarily. So the repair is being done by the carmaker either because they think they should do it or because they're required to do it in the United States.

We're looking at three, four, five, or six recalls a year where the government really needs more muscle. It's not a huge game-changer when you look at what's happening already.

The Chair: Thank you very much.

I'm sorry to cut you off, but I'm sure you'll get your comments in as we go forward.

Mr. George Iny: Thank you.

The Chair: Mr. Raymond, did you want to add something?

• (1555)

Mr. John Raymond (Director, Toronto, Automobile Protection Association): I'm fine.

The Chair: Mr. Lobb.

Mr. Ben Lobb (Huron—Bruce, CPC): Thanks very much.

Mr. Iny, I'll use the case of the F-150 with the brake pump issue. From a consumer's point of view, if a Ford dealership bought a truck of that age—I think it was 2011, 2012—at a car auction and it had not been fixed, would they be notified somewhere about that recall? Would that show up in the computer?

Mr. George Iny: That individual would probably buy the vehicle certified and inspected by the dealer. In some provinces it might even have had to undergo a provincial inspection, but there would be no verification of the recall.

If a Ford dealer was selling the car, if they could collect money for the work in the reconditioning process, they would do it. If it were an independent dealer, or a GM, Chrysler, or other dealer, the work would not be done.

Mr. Ben Lobb: With this legislation, they still wouldn't correct the problem.

Mr. George Iny: Right, it would be a provincial matter. But at least when we go and see the industry—and we've done this many times—they wouldn't be able to tell us that there was no standard place to check and that they weren't prepared to sit on the phone calling somebody who might not have an interest in serving them.

Mr. Ben Lobb: Nowadays, there are lots of U.S. retailers that come up here to car auctions and buy trucks and cars to bring back to the U.S. I guess they could potentially buy an F-150 with a defective pump, take it to Texas, and still have the same problem, right?

Mr. George Iny: In theory, before a vehicle gets imported into the U.S., or before a U.S. vehicle comes up here, it's supposed to be complete with all recalls. However, it could happen that after it comes to Canada it's removed from the list of recalled vehicles in the U.S. without being added to the list of vehicles covered by future Canadian recalls. In this case, it would disappear. I don't know if this is a problem that needs to be addressed in legislation or in the regulations, but that's an existing problem. I don't think anything here would really affect it.

When we went to freer trade in used cars, the thinking was that we didn't want to import somebody else's problems. They brought up this issue of the compliance letter, but they didn't consider what happens after the vehicle comes here. They didn't realize that at that point the vehicle is struck from the record in the States and is not necessarily added by the Canadian manufacturer.

Mr. Ben Lobb: On the vacuum pump issue, the U.S. has the power to recall. Did the U.S. issue a recall?

Mr. George Iny: I haven't followed it, but the investigation was led by Canada. It wasn't an active file in the States, to my knowledge. Because they didn't have the tools, I guess they relied on

the prestige of the Minister of Transport to embarrass the company into doing its job, which worked. I know Ian said six months, but that's actually quite quick in a case where a company doesn't want to do something. If Mr. Garneau were personally investigating recalls, there would be a very good result, but you obviously can't do that. This would give the Ministry of Transport, the people inside, powers that might allow them to be more effective.

Mr. Ben Lobb: On page 3 of your presentation at the bottom of the first clause, section 10.3, your last point is that emissions recalls must be included. We talked about this at our last meeting. Volkswagen is probably the worst abuser in modern history, and it's not included now. It's my understanding that Environment Canada would have to issue that recall, but I don't believe they have a recall ability either. Educate us on how we can rein in guys like Volkswagen and force them to do something in this country.

Mr. George Iny: In Canada, we have about 600 safety recalls a year and about 30 emissions recalls. At one time, the two were put on the same database and were treated more or less the same. When the responsibilities for emissions were split from occupant safety, for many years they were still published on the same database. That would stay somewhere at the Ministry of the Environment and Climate Change, or I don't know where. Our concern is there should be some housekeeping done. It might not necessarily be in the legislation. We're pointing out that the two ministries should be talking to each other and should share the same database.

• (1600)

The Chair: Thank you very much.

Mr. Fraser, you have five minutes.

Mr. Sean Fraser (Central Nova, Lib.): Thank you very much for your testimony and for being here.

Before I get into questions, for the benefit of my colleagues around the table, I want to put on notice that I plan to move an amendment. I don't have proposed text today, but I want you to understand the spirit of it.

During the minister's testimony, he explained that there was a conversation between the department and stakeholders with respect to proposed section 10.52. This is the Senate amendment. Essentially, I will propose to delete the clause as it exists—and thanks to the Senate for causing me to think about it—and replace it with some language that would do a few things. I want the new language to reiterate with certainty that the same remedies that apply to consumers will apply to dealers when it comes to the repair, the reimbursement, or the replacement of defective vehicles in the event that a recall is ordered, but also make clear that none of this is with prejudice to remedies that may have been negotiated on commercial terms. When I have a translated version of the language, I'll circulate it to the committee.

I am curious about one of the components of the Senate amendment from a consumer protection point of view.

Mr. Jack, you might be well positioned to offer commentary. One of the potential consequences I saw with the amendment was, when there's a 1% interest payment available to dealers, that might motivate a manufacturer to repair vehicles for which there's an economic consequence to not repairing, before they repair vehicles that are on the road today being driven by consumers.

Did you have a position or perhaps thoughts on this asymmetry, which might lead to a strange situation that put Canadians in danger?

Mr. Ian Jack: I think you raise an interesting point. That may well be the case. We've stayed clear, as an association, of having an opinion one way or the other on the commercial relationships between the dealers and the factory, the OEMs. Our position has been that we wanted to get this legislation passed. As we noted, and as APA noted, we are behind the United States and have been for a long time in terms of recall powers. We feel it's time to move forward and get that done. That's the position we took at the Senate, knowing that particular amendment at that particular time was quite likely going to slow down the process. That was not to say we didn't think the dealers had a case. We just thought that it didn't necessarily have to be part of that discussion at that time.

Mr. Sean Fraser: In your testimony, you spoke positively about the compliance mechanism. Today, do we have any data on what the completion rate is with manufacturers in terms of vehicles that have been subject to a voluntary recall or any analysis on how the new administrative monetary penalty might enhance the completion rate of repairs in affected vehicles?

Mr. Ian Jack: We can only hope that it will, of course. I'm sure George can chime in on this. He's the numbers guy a bit more than I am in terms of compliance rates.

I will say as well that one of the things that isn't covered in the bill that we would hope to see the government act on down the road potentially is mandating completion rates. That doesn't happen right now, and those rates really do vary. Sometimes they vary on how high profile something is and whether it makes the media or not. The reporting that's done on them is a little slow. There is a requirement to report on a quarterly basis, but those numbers can be a bit difficult for people to find.

There's still work to be done in that area, and we are supportive of the AMPs that are in this legislation. Some of the exact levels are to be determined down the road by Governor in Council, but we do think we need that kind of stick.

Mr. Sean Fraser: With the limited time that we have, Mr. Iny, do you have information on this?

Mr. George Iny: The recall correction rate is around 70% to 75%, so about one out of three is not fixed. It varies depending on how new the vehicle is and how long the company waited before the recall. In your first couple of years, you're well over 90%. If it's a six- or seven-year-old vehicle, and it's in the hands of second or third owners, it could be around 50%.

Mr. John Raymond: Or less.

Mr. Sean Fraser: I'm curious as well if you think there's room for a public education campaign or something around this as well. I think most people who have recalled vehicles that are more than a couple of years old may never find out that that there's a defect. Is

there another angle outside of the legislative process we can launch to complement the safety measures inside the legislation?

Mr. George Iny: There are many things that companies could do to reach their customers more effectively. Obviously sending a letter to the last address in your record, which is probably the first address of the original owner, is not the most effective way. Companies could do more. The public has a role to play as well, and some people don't bring in their cars.

We're able to collect parking tickets, right? You put a boot on it or you hold up the renewal of the registration. I'm not formally proposing that today, but I'm saying that if we wanted to, if we put a higher priority on recalls than parking tickets, we would have a higher correction rate.

• (1605)

The Chair: Thank you very much, Mr. Iny.

Go ahead, Mr. Aubin.

[*Translation*]

Mr. Robert Aubin (Trois-Rivières, NDP): Thank you, Madam Chair.

Thank you for joining us, gentlemen.

My first question will go to Mr. Iny, but the other witnesses may feel free to add to his reply if the spirit moves them.

Mr. Iny, in previous testimony before the Senate, you talked a lot about the usefulness and the importance of more investment in road safety research. You talked about it again just now. Earlier this week, we heard from the Auditor General. I must tell you that his testimony on the subject was quite concerning.

You submitted a proposal for an amendment, whereby all or part of the money collected in fines would be redirected to research. What effect would that have? Do you want all or part of the fines invested in research?

Mr. George Iny: We have not decided if it should be all the money collected, but we would like an amount set aside to subsidize university research and field research in order to help the people at Transport Canada who sometimes have to wait years to get the evidence or the money they need.

Mr. Robert Aubin: What is the difference between university research and the crash tests, or the research done at Transport Canada?

Mr. George Iny: Ideally, university research should focus on the aspects that Transport Canada does not examine, or may not have even thought of examining. For example, checking the effectiveness of regulations is done by Transport Canada, but perhaps an external team might have a broader vision and might uncover problems that perhaps escaped the regulatory authority.

It could also focus on more than just the automobile. For one thing, the behaviour of drivers could be examined, with the goal of reducing injuries or deaths.

Mr. Robert Aubin: Let me pursue the subject of fines.

The amount of the fines is not established in the bill. It will be established in regulations later. Do you have an idea of the size of the fines that would be needed, given the means available to manufacturers, to make them a genuine deterrent?

Mr. George Iny: There are two theories on that.

The first theory says that seven-figure fines would be necessary because manufacturers pay no attention to fines until they are in the millions of dollars. The second theory says that publicity plays a role, because it can tarnish a company's reputation. We subscribe more to the second.

When fines are too high, they are not levied. The companies simply refuse to pay them.

Levying fines is not in Transport Canada's culture. The ideal is to make them as mild as possible so that they become a tool.

Mr. Robert Aubin: I was particularly surprised by another item in the Auditor General's report—perhaps you are aware of it. He told us about an anchor for a child car seat that had defects and that should have been modified. It seems that it was not, because it would have been bad for business.

Can business take precedence over automobile safety? Is this rather an illustration of the imbalance between the lobbying power of the large manufacturers and the power of motoring associations, consumers, the police, or any other organization that focuses more on safety than business?

Mr. George Iny: It was more the case in another era. Today, I can tell you that things are different and that people don't often think about it. There has to be a balance.

Actually, the way in which the legislation is drafted does not allow calculations to be made before a demand to rectify a commercial problem.

There is a lot of debate about safety on board school buses, but in fact, there has been not one death for a number of years. The deaths occur in the area around the buses and that is where most effort should be focused. The child seat anchor is more or less the same thing.

• (1610)

Mr. Robert Aubin: Thank you.

[*English*]

The Chair: You have 20 seconds.

Go ahead, Mr. Hardie.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): Thank you, Madam Chair.

Mr. Iny or Mr. Raymond, I'm concerned that quite often we see an issue come up as a consumer issue: that the performance of a vehicle is not reliable and it's doing some things that lead to frequent trips to the repair shop, etc.

In your view, are consumer issues watched carefully enough to ensure that, if they start to become a safety issue, this is then raised with Transport Canada?

Mr. George Iny: You have grey areas, but I would tell you the culture and the oversight around safety is much more disciplined. You have a federal regulator, whereas if it's product performance, it's provincial; and the provinces, even though they have good laws on the books for defective products, don't actually have any muscle and are not really even engaged with the carmakers. That's why you have class actions, unfortunately. Often the reason that you wait until you have thousands of unhappy people is because the gatekeepers along the way are not actually effective.

I would say in most cases, yes, there are some grey areas. The brake booster is one. Ford's argument was if your brakes are lousy, go and get them repaired. The vehicle will still stop. It's just the booster. That's not the brakes. That's just the booster. Transport had another view, as did some of the vehicle owners.

Mr. Ken Hardie: Oversight is difficult. There are literally a lot of moving parts involved, both in individual vehicles and the fleet as a whole.

We have to be concerned about the performance of the various regulatory agencies. You mentioned provincial, which is outside our scope, but in Transport Canada itself, I was concerned by the Auditor General's report. They cite an incident to do with side-door strength. The U.S. implemented a standard in 2007. It took nine years for Canada to take the same step. Maybe, Mr. Jack, you can comment on that. Is that something that CAA has been following?

Mr. Ian Jack: Yes. One of the reasons we think this is good legislation is because of what it says. It's also sending a signal, we hope and we think, inside the bureaucracy at Transport Canada road safety that they're valued. We hope this will be a morale boost for them, frankly, signalling to them that they're expected to be on par with their U.S. counterparts.

We have had, historically, a system in this country where we wait around for the Americans to decide something and then we say, "Us too." We do a perfunctory look at it so we can claim to have done it separately in Canada, and then we say, "Us too."

If the Americans aren't acting on something, we tend not to. I think we need to change that culture and that attitude. The Auditor General's report was a wake-up call on that. I think this legislation sends a very positive signal inside the department, as well, that they have the backing of Parliament and their political masters to be a bit more rigorous.

Mr. George Iny: If you want the same result, you need more resources in many cases. Some of these delays are because they just don't have the bench strength. I also would like to believe that the people who waited those years knew that we were getting the same doors here as in the States because it's continental production. That is our wish. When there are some of these delays, at least someone has considered that we're getting the benefit without having the law, and I think that does happen at times.

Mr. Ken Hardie: That's good to hear, actually.

With respect, though, to Transport Canada, an inference was that, as opposed to not necessarily having the bench strength, it was more a matter that their prioritization, what they were spending their time doing, maybe was misaligned from their core functions. That's a pretty broad statement, but have there been any observations of that?

Mr. George Iny: Yes, there are times when we wonder what's happening at the top. I would also say that certainly on the investigation side, it's a very small team. It doesn't have a lot of money. It cannot do a lot. What it does with what it has is quite impressive, and that came out in the Auditor's report as well.

I think by giving the government more tools, and hopefully eventually the resources to follow them, that instead of being focused on penalties, these amendments would allow us to focus on good practice or best practice, and then you would need a change inside the government as well, a different form of engaging with the carmakers.

The Chair: Thank you very much.

Mr. Badawey.

Mr. Vance Badawey (Niagara Centre, Lib.): Thank you, Madam Chair.

I'm going to dig a bit deeper into some of the solutions. We talked about recalls. Mr. Lobb talked about purchasing a vehicle, whether it be at an auction out of country.... There is a process right now, at least in the province of Ontario, whereby when you do purchase a vehicle, you get the full history of the vehicle. You get a full page of vehicle history. Is that an opportunity to actually identify the vehicles that would have a recall attached to them?

The second opportunity, of course, is when you buy a vehicle. You also most times do a safety check, whether it's already safety-checked.... Of course, that's another opportunity, again, once the VIN's punched in, to actually identify and recognize that a recall is in order.

Do you think those are two mechanisms that can be used, and/or do you have any other ideas that can be used to actually catch a recall when a vehicle's being sold, whether it be within a country or from another country?

•(1615)

Mr. George Iny: I think more appropriately those would be called two missed opportunities, because the governments talk past one another. Ontario only recently revised its safety standard certificate but did not include a recall lookup or, as far as we know, did not even sit at a table with industry and the federal government to see what could be done about it. Probably the solution will come from the private sector, unfortunately. Once there is a widely available database that you could look up, I suspect there will be an aggregator, like a CarProof or a CARFAX, that would consider doing what the governments haven't done.

Mr. Vance Badawey: Within the process we're involved in now, do you have any other ideas we can actually pursue?

Mr. George Iny: Oh, for sure. There should be a positive duty of some level, but I don't think we can do it here. Once the tool is available for real-time lookup capability, that process is part of the vehicle transaction when a used vehicle is sold.

Mr. Ian Jack: I want to add that our understanding is that the department has a VIN lookup tool, except that if you go to that tool it clicks you onto the link of the automaker, and the last time we checked it had only 14 of 28 automakers on it. Our understanding is they're working to improve that tool. That's something we support.

They can do that under current regulations, so it's not something we need to see in this bill. They should absolutely, in our view, be pursuing that as a priority, because it would also respond a little bit to Mr. Lobb's concern. If we had a proper VIN lookup tool in this country, it could be part of a public education campaign that when you're buying a vehicle you should go to this website and type in the VIN to see if it pops up or not. That is a half-finished project right now, but that needs to happen. I think it would help a lot of people.

Mr. Vance Badawey: Thank you.

I'm going to share my time with Mr. Hardie.

Mr. Ken Hardie: It's an opportunity for a free commercial, Mr. Jack. If I bring my vehicle into a BCAA facility, looking for a complete review of it before I buy it, will they do the check to see if there are any outstanding recalls?

Mr. Ian Jack: That's a good question. I'll have to get back to you on whether BCAA offers that particular service, as we are a federation of eight independent clubs, each with its own service offerings. There's the ad portion. I honestly don't know. I will find out for you.

Mr. Ken Hardie: Isn't there the germ of an issue here? Eight separate organizations, x number of different provinces each with their own regimes and everything else, this funny old Canada of ours presents a patchwork quilt of regulations and everything else. It makes it very, very difficult for consumers across the country to have confidence that everything is happening the way it should.

With that comment I've probably used up the rest of Mr. Badawey's time, right?

The Chair: He has a minute left.

Mr. Ken Hardie: Talk to me about hidden warranties. I have run into them with vehicles that I've owned in the past. I would go in with a problem and the service person would sidle up to me and say, "Hey, there's actually a warranty on this thing that they didn't want me to tell you about." Does that sort of thing still happen?

Mr. George Iny: Yes. We've made a career out of exposing them.

To be accurate, in theory a warranty problem is less than a safety issue. They wait until you go in to find out about it. With a safety issue they have a duty to go out and get you, not wait until you have the problem. Occasionally there is overlap, because companies will try to make a problem disappear by fixing in onesies and twosies instead of actually doing a formal program. I think the company behaviour around that is much better now than it was, say, 10 years ago.

The Chair: Thank you very much.

Mr. Chong.

Hon. Michael Chong (Wellington—Halton Hills, CPC): Thank you, Madam Chair.

My question is for Mr. Jack. I want to focus on autonomous driverless vehicles. It's clear this technology is already here. It's also clear there's no regulatory framework to deal with it. What is your organization's view on driverless vehicles? Do we need a regulatory framework? Or has the approach that has been taken for the last number of years, which is to do nothing and just let the industry lead the charge, the right way to go?

•(1620)

Mr. Ian Jack: It depends on what kind of framework we're looking at. As you would know, in Bill S-2 there's some language that would enable the minister to allow AVs to be tested on Canadian roads. We're very supportive of that.

We need some framework, because things should be happening right now that would be illegal technically, such as testing of AVs. If we want to have any kind of R and D in this country, we obviously need to be able to test those vehicles at some point. I can't imagine it was the intention of those who framed the bill originally that we wouldn't be allowed to do that kind of work. We're very supportive of that part of the framework.

Beyond that, absolutely, there needs to be more of a framework. We testified before the Senate committee, which looked into this issue extensively. We do polling on this issue. We know roughly where Canadians sit: they think AVs are coming, but they're kind of scared of them right now, so there needs to be more talk, public education, and policy work done. We understand there is at this point a DG-level committee in government across a bunch of departments looking at some of the issues, which will inevitably touch on all kinds of departments.

Insurance regulation is very interesting, and the Department of Transport obviously is going to be implicated in this, as well as ISED. It is truly an interdepartmental issue.

Data privacy is an issue we care a lot about at CAA. The Office of the Privacy Commissioner has been looking at this as well. Who controls the data that your vehicle will be collecting about you, or is already potentially collecting about you, as we move into this era of the smart phone on wheels? That's even before AVs. That's in the next 10 to 20 years, before everybody's in an AV; we are going to have vehicles collecting a heck of a lot of information about us.

Hon. Michael Chong: When should this regulatory framework be released by?

Mr. Ian Jack: I don't have a date in mind.

Hon. Michael Chong: Some people in the industry have said we're way behind on this, and that guidelines were released by the American administration a year ago. There are numerous states now that have permitting processes in place for driverless vehicles. We don't have any federal regulatory framework or guidelines in place. By the time this legislation passes, it could be another 10 years before we have it. The Auditor General—

Mr. Ian Jack: Well, no, we wouldn't find that acceptable.

Hon. Michael Chong: What are we looking at? Is there a sense of urgency about this? Do we need to have something in place in the next six months, the next 12 months, or the next 24 months?

Mr. Ian Jack: I wouldn't want to put an exact timeline on it. I understand the Senate committee is due to report, with any luck, by

Christmas. We hope the government will take that report very seriously, as I'm sure they will, and act on some of the recommendations. That would put you in a time frame before the next election, one would hope, in 2019.

Hon. Michael Chong: Mr. Iny, do you have any questions through the chair?

Mr. George Iny: First, two caveats.

One, this involves the provinces too, because the vehicle's driving on roads inside their province, so the answer won't be entirely federal.

Two, we shouldn't be shy about borrowing what's been done elsewhere, rather than reinventing the wheel, because we're a middle-sized player. If we can find a large set of rules that work, either in the U.S. or in Europe, we could consider looking elsewhere.

Three, when things are changing so quickly, the answer may not be in legislation right now, but we need to be ready, to have a framework ready, so we can then put the rules in afterwards.

Hon. Michael Chong: I'm not suggesting that legislation is the solution. This legislation, I believe in clause 11, allows the minister to override current regulations or to create new ones for innovation. What I'm sensing from industry is we're behind Europe and the United States in creating guidelines that would guide provinces in establishing these regulatory frameworks.

Mr. George Iny: The first thing would be to try to borrow what we can that's being done elsewhere, particularly if we want to catch up.

The Chair: Thank you very much.

On to Ms. Block.

Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC): My first question will be for CAA. You noted in your testimony that there are currently 16 active Transport Canada investigations under way, and that there are 13 from 2017. I'm wondering if you believe this bill strikes the right balance between consumer protection and good business practices. Also, do you believe the legislation in the United States provides more protections for consumers, and that the recalls are placed at a priority over Canadians?

•(1625)

Mr. Ian Jack: How interesting. There are a few things there. I think this legislation will go a fair way toward redressing an imbalance that we have right now with the United States on this. I think it would be normal business practice to address an issue in a jurisdiction where you have larger liability and worry less about the jurisdiction where you have less liability, so that may play a part. I'm not in the industry, and we think it's reasonably balanced, but of course we don't speak for business. Our job is to speak for the consumer on this and to make sure they're getting a fair shake.

We're in to meet with Transport Canada on a regular basis. Is this everything we would ever want in a piece of legislation? Of course not, but I think it does move forward finally, and of course there was an attempt under the previous government as well to do this, to give us equal recall powers to the States. Our bottom line is simply that we are very supportive of that and then we look forward to getting into whatever the next round of improvements to this legislation may be.

Mrs. Kelly Block: Okay, thank you.

The Chair: Mr. Hardie.

Mr. Ken Hardie: More questions, that's good. We heard from our last set of witnesses the fact that being so closely tied to or needing to harmonize with the United States holds us back from developments that we see from foreign carmakers. They're coming up with new technologies that could enhance safety, but we seem timid to accept those new technologies on our own without the complementary regulations being in place in the United States.

Would you see the inverse of the authorities that this bill would give to the transport minister to approve new technologies, which could be introduced in Canada in advance of the United States and that would improve the situation here? Is that technically feasible, given our proximity to the U.S. market?

Mr. George Iny: It's technically feasible and desirable to the extent that you're not compromising public safety. Definitely one example is lighting. The Europeans were way ahead of the States and Canada for a long time. Some of the manufacturers already market vehicles in Europe. We could have allowed a European standard as an alternative to the Canadian-U.S. standard.

That's a good idea and it has been discussed at relatively high levels. People from Canada have gone to Europe and sat on bodies where this is talked about. If we need more of it—the worry always is that you're going to dilute the protections, but I don't think that's a real risk, that someone is going to shop for a standard in a country with low standards if you do that.

The Chair: Our time is up for this particular panel.

To all of you, thank you very much for being here.

I'll suspend for a moment while we get the next panel up.

•(1625)

_____ (Pause) _____

•(1630)

The Chair: I'm calling the meeting back to order. Welcome to our new panel.

We have the Canadian Automobile Dealers Association, the Canadian Vehicle Manufacturers' Association, and the Global Automakers of Canada.

Welcome to all of you. Whichever one of you gentlemen would like to start the testimony?

Keep to your five minutes so the committee can get in lots of questions.

Mr. Mark Nantais (President, Canadian Vehicle Manufacturers' Association): Thank you very much, Madam Chair.

Good afternoon, members of the committee.

I'm here representing Fiat Chrysler, Ford, and General Motors, which are my member companies. In Canada, these companies operate five assembly plants, multiple parts and components plants; as well, each has research and engineering facilities with mandates for advanced vehicle technology development, including partnerships in related software development.

CVMA members remain committed to the development and manufacture of safe automobiles, proactively enhancing occupant protection technologies in the event of a crash, as well as many new and innovative advanced driver crash assistance technologies to improve safety by helping the driver avoid crashes in the first place.

We support Bill S-2. We continue to share the government's objective to advance or enhance the safety of Canadians and provide additional regulatory flexibility to support the introduction of advanced safety technologies as well as innovations as outlined in the bill.

In our written submission, we have identified four areas that have practical and business implications and need reconsideration, particularly since the bill includes the ability to delegate some existing and proposed ministerial powers. Our recommendations do not detract from the safety objectives of the bill.

We offer the following recommendations, which are really there to improve clarity and, in so doing, provide for more effective policy implementation and efficient administration.

The first is with respect to proposed new section 10.61, power to prohibit offering for sale—defect or non-compliance. Manufacturers sell, wholesale, new cars to dealers that are privately owned independent businesses; manufacturers do not sell vehicles to consumers, retail. The proposed language inappropriately holds the vehicle manufacturer or importer, which do not sell vehicles to consumers, criminally and administratively responsible for the actions of another independent business entity, namely the dealer, to sell vehicles under a recall and stop-sale order to consumers.

Vehicle manufacturers and importers should not be held criminally or administratively responsible for the actions of independently owned and operated new car dealers. The proposed language to prohibit offering for sale defective or non-complaint vehicles should more appropriately be applied to dealers, which are the entities that sell vehicles to consumers. Doing that would be more consistent with the United States' responsibilities and requirements.

We would recommend that this provision be revised to give the power to order vehicle manufacturers and importers to issue a notice to the dealers to remedy the vehicle prior to the first sale.

The second recommendation concerns proposed new section 8.1, power to order tests, analyses, or studies. We recognize that this unique-to-Canada power is proposed to collect information quickly for the purpose of verifying non-compliance or defects in certain cases where information is not voluntarily provided. We believe, however, that the proposed language is very broad and risks being misused beyond the specific intent, with the potential outcome being to order any test, analysis, or study in any scenario, potentially downloading Transport Canada's compliance and audit responsibilities onto companies in lieu of the department's oversight responsibilities.

This wording needs to be updated to clarify the intent of the provision, which is to order tests, analyses, or studies to verify non-compliance, and to include the notion of "reasonableness".

Our third recommendation concerns proposed new subsection 10.4(1), correction date. CVMA members strive to provide the most accurate and up-to-date recall information to vehicle owners. The act currently requires that an initial recall notification letter be sent to vehicle owners no later than 60 days following the notification to Transport Canada. If the parts required to repair the vehicle are not immediately available at the time of the first notice, a follow-up notification letter is sent when parts become available.

At this preliminary stage of recall, information on availability of repair parts may not be available, and estimates of the date for parts availability may be revised multiple times. The end product of this, of course, is that you could end having multiple letters going out to consumers. Consumers tend to become less sensitive, or desensitized, to those notices. It loses its importance, and they tend to avoid the importance of that notice to begin with. This undermines public confidence in the system. We don't want that, and we don't believe Transport Canada wants that.

Prescribing the requirement in the act also prevents the leveraging of communication technologies that may be better suited for providing information in a more timely manner, such as manufacturer web-based recall lookup tools that our members already have in place.

This additional requirement is not needed in the act and can be addressed under section 15 of the motor vehicle safety regulations, which define all the information required in the notice to the minister and the notice to vehicle owners.

Our last recommendation concerns dealer compensation. Based on Mr. Fraser's description of the proposed amendment that he plans on introducing, we would welcome such an amendment that satisfies the concerns of both dealers and OEMs, original equipment

manufacturers. CVMA members currently address compensation for new vehicles under recall with their independent dealerships in a fair and equitable manner, both in Canada and in the United States. We will continue to do that, and we continue to be open to further discussions to deal with their concerns.

Madam Chair, those are my remarks. I would be glad to answer any questions. I am hoping we can get some support for our recommendations in this specific case.

• (1635)

The Chair: Thank you very much.

Go ahead, Mr. Adams.

Mr. David Adams (President, Global Automakers of Canada): Madam Chair, committee members, I appreciate the opportunity to be with you today to discuss the important issue of motor vehicle safety and the proposed amendments to the Motor Vehicle Safety Act, as contemplated in Bill S-2. I am not going to bore you with the details of the promotional spiel on our association, but suffice it to say that we represent the international automakers in the Canadian marketplace—essentially, everybody but Mark's members.

At the outset, I want to say that safety is of paramount importance to each and every one of the GAC member companies. As I noted before your colleagues in the Senate last fall, our members have consistently been at the vanguard of the introduction of advanced safety technologies, such as the three-point seat belt, electronic stability control, and advanced lighting, currently the subject of CMVSS 108, which I also made reference to in my testimony to the Senate, and for which we are still looking for a final regulation from the department.

I was pleased to be at Tuesday's meeting of the committee on Bill S-2 for part of the time. A number of the committee members expressed concern about the rapid pace with which technological innovation is happening in the automotive industry. I concur with you that the pace of change is both unprecedented and disruptive. In this regard, the Global Automakers of Canada supports the flexibility being afforded by Bill S-2 to accommodate adjustment to this rapid change with respect to propulsion, connectivity, and automation technologies. This flexibility, used prudently, should allow Canada to better stay at the forefront of new technological advancements and any regulatory regime required to support them.

I also want to comment briefly on the sections of the bill that are intended to bring Canada into greater regulatory alignment with the United States. The members of the Global Automakers of Canada support the recognition of U.S. standards across the NAFTA region, as our plants in the three countries are geared to serving the larger U.S. market, and building once for all three countries has the benefit of reducing complexity and yielding economies of scale.

That being said, vehicles meeting the UNECE global standards are similarly safe and often incorporate advances not yet adopted in the United States. We therefore believe that Canada should retain the flexibility to recognize other advanced standards, in addition to FMVSS, in order to deliver the greatest benefits to Canadians and to ensure that we are able to meet our CETA obligations.

Without such consideration, Canadians are being shortchanged. Transport Canada not only faces increasing regulatory irrelevance but also misses an opportunity to play a leading role in the North American regulatory framework, not by adopting a unique Canadian standard but rather by critically assessing standards in the rest of the world—i.e., the UNECE standards, as well as those of the United States—to ensure that Canadians are not being denied leading safety or environment technologies simply because the U.S. is unprepared or unwilling to embrace such standards. Canada can be, and frankly should be, innovative in its regulating, as well as capitalizing on the regulatory co-operation provisions with respect to regulations and standards in both the United States and the EU.

The association's members support amendments to the Motor Vehicle Safety Act that would provide meaningful improvements to public safety. However, additional regulatory burden without benefits to the motoring public should be avoided.

The question was raised by a member on Tuesday with respect to whether the collection of more data would assist in improving safety. The members of the GAC are not against the provision of additional data, provided it is reasonable and useful, and ultimately improves safety. The experience of the United States has demonstrated that the identification of safety defects is often a very complex task and data alone is insufficient for that task. The U.S. gathers a tremendous amount of data, but that data did not help with respect to the early identification of some of the defects related to recent high-profile recall situations.

In this regard, our members do have a concern with respect to proposed subsection 8.1(1), which Mr. Nantais also referenced, which provides the minister with the power to order a company to “conduct tests, analyses or studies...to verify compliance with this Act, that the Minister considers necessary”. This is a wide-ranging, Canada-unique power that provides the minister with unfettered discretion to order these tests with no consideration as to the cost to the company, nor the potential charter implications of asking a company to conduct and pay for work that may subsequently be used by the government against the company.

This clause is problematic, and if the language cannot be tightened up in the legislation, then we believe regulations should be developed to provide guidance as to what conditions would justify such a request, what framework would be used to standardize expectations over how those requests are filled, and who would assume the costs of such tests.

● (1640)

There are other sections in this bill as amended by the Senate that raise concerns for our members, but my time has expired. Based on conversations amongst the committee and two years spent on this bill, I think time has expired in terms of moving the bill forward as well.

The Chair: Thank you very much, Mr. Adams.

Mr. Hatch.

Mr. Michael Hatch (Chief Economist, Canadian Automobile Dealers Association): Thank you, Madam Chair, and thank you all members of this committee.

My name is Michael Hatch, and I'm the chief economist for the Canadian Automobile Dealers Association, CADA. We're the national association, as many of you know, for franchised new car dealers and truck dealers in Canada, with more than 3,200 across the country in virtually every town and community, employing over 150,000 Canadians in well-paying jobs.

We greatly appreciate the opportunity to bring the voice and concerns of our dealer network to this committee as it considers Bill S-2, which is a very important bill for our industry, both the retail and the manufacturing levels, as you will see this afternoon.

I'll say off the top that CADA supports this bill and hopes that it becomes law in a timely manner. We supported a similar bill under the previous government, and we appreciate the bipartisan support that it appears to enjoy.

I'm going to begin with a few points about recalls in general. First of all, recalls are increasingly common in today's vehicle market. That's no secret. It is a function of many factors. More cars are on the road. There's greater complexity in the components of new vehicles, and there's an improved system within the industry to identify issues that could necessitate a recall. These are all good things.

The volume of cars on the road and their complexity will inevitably lead to more not fewer recalls in future. The vast majority of them are handled well by manufacturers and dealers, and consumers' problems with their vehicles are solved in a timely and efficient manner.

Our proposed amendment to this bill in the Senate had four components: to ensure that manufacturers will continue to be responsible for the recall process; to ensure that dealers face no new obligations under the act; to extend buyback provisions to dealers in the event that a vehicle cannot be repaired; and, finally, to provide for manufacturer-paid reimbursement of dealer carrying costs in the event of long and lasting recall situations. I'll get into a little more detail on that last point.

We expect that the amendment to be moved at this committee will accomplish most of these objectives, and I thank Mr. Fraser for his comments earlier referring to that very amendment. We look forward to the specific language that it contains.

Dealers don't sell their inventory on consignment. The moment that a car arrives at the dealership, it becomes the property of the dealer, who must finance and maintain millions of dollars worth of inventory at any given time. When a vehicle is rendered unsellable due to a long-lasting recall where a fix is not immediately available, dealers bear a significant cost. Inventory must continue to be financed and maintained, and in these low-frequency cases—admittedly low-frequency—yet high-impact cases, dealers can be stuck with cars for months or more.

Imagine, for example, paying a mortgage on a million-dollar home every month, but you can't live in it or rent it out and you still have to pay the property taxes and keep the lights on. This, in effect, is the situation that dealers face when inventory is rendered unsellable for months or more on end due to long-lasting recalls. Again, these cases are rare, but very high impact when they do take place for our dealer network, which again consists primarily of small and medium-sized businesses across Canada.

Our amendment, among other things, sought to address this by providing for manufacturer-paid reimbursement of dealers' carrying costs over the period of the recall according to a formula. We arrived at this formula by consulting with our American counterparts where such dealer protection is enshrined in federal law.

I would note also, as all of you know no doubt, that part of the government's rationale for pursuing this bill is legislative harmony with the United States. Our amendment was inspired by the same motivation.

Our proposal was straightforward. Under a recall scenario, the manufacturer would be compelled to either make the fix available in a timely manner or buy the vehicle back from the dealer at the original dealer invoice price. In rare cases where the fix was delayed, the manufacturer would be compelled to reimburse the dealer for carrying costs over that time period for the vehicles affected, as is the case in the United States.

In subsequent discussions with the government, alluded to by the minister here a couple of days ago, on Tuesday, we arrived at a compromise position that we hope to be reflected in the new amendment to be tabled at this committee. Again, we look forward to the debate of this amendment in this forum.

Ultimately we want this bill to pass as the important piece of consumer safety legislation that it is. We will continue, as dealers and dealers associations, to pursue a legislative solution of the fundamental imbalance that exists between manufacturers and dealers in the context of long-lasting recall situations, but not as part of this bill.

As I've said, recalls will continue to increase in frequency, so this problem for dealers is not going to go away. We support the bill and don't want to stand in the way of its eventual passage, but we will continue, again, to pursue a legislative solution to protect dealers saddled with inventory when recalls drag on for months or sometimes even years.

Thank you very much to all members of this committee. I look forward to any questions that you have and I will do my best to answer them.

• (1645)

The Chair: Thank you very much.

We'll got to Mr. Lobb, for six minutes.

Mr. Ben Lobb: It's nice to see some familiar faces here at the table today.

The part I wanted to ask about to start off is proposed section 8.1, on tests, analyses, or studies. If we look at the ministry of the environment and the Canadian Environmental Assessment Act... There is a case in my riding where the department and the minister have continually asked OPG for more and more and more information, and every time they provide more information, they get more requests for more information and scientific data. I guess everybody is trying to do their jobs, but I look at this and I can see your point. When is it enough information? When is there enough data? Who pays for it? How do both sides agree on what the solution is?

I wonder if you can provide us with some thoughts and details on this and on your discussions with the department or the minister on this.

Mr. David Adams: Maybe I'll start. The discussions we have had to date have somewhat focused on the idea of reasonableness, that the process will be reasonable. Fair enough, but there's a difference in the thinking on what the letter is and the legislation. There is a wider ambit of ministerial opportunity there, and we want to ensure that it is used in a reasonable way.

Who pays for it? My understanding is that in the U.S., those tests and analyses are paid for by the government after it pursues an initial discussion with the manufacturer.

Mark may have better insight on that provision. It's just an issue and a concern because of the unfettered power.

• (1650)

Mr. Mark Nantais: If I may just elaborate a little bit, our concern is not so much the cost. Our concern is the misuse and the broad application, where you could be asking for information that really isn't relevant to the issue at hand.

Second, we would be concerned about people trying to pursue their information in lieu of the compliance testing that Transport Canada has to do as part of its audit program. We would have more concerns about the misuse of that and the expansion of that than about something like cost.

Clearly, it is important that Transport Canada has the audit function and retains that rather than shifting it onto original equipment manufacturers, potentially anyway.

Mr. Ben Lobb: I don't mean to put David on the spot, but I brought this up at our two meetings. You would represent Volkswagen. I'm pretty sure it would be one of the organizations you represent.

Mr. David Adams: Yes.

Mr. Ben Lobb: If we look at the recall, this doesn't touch some of the issues Volkswagen had with its diesel engines, dating back a couple of years. Is it something you think the other department should look at, or should we be sending notes back to the minister that this is something that needs to be addressed immediately? Should the ministry have the ability to do a recall when we have a significant emissions issue on a particular engine?

It's bad for business for Volkswagen. I know that. What's the conclusion on what we should do to protect the environment and the consumer on an issue of emissions?

Mr. David Adams: Emissions recalls are the subject of discussions with Environment Canada currently. We're still trying to work through what the final disposition will be in that regard. It is not unreasonable to say that there should be, as you say, some awareness around emissions recalls as well.

Mr. Ben Lobb: Okay, I will leave it at that. I can see your concern, though, when the department says, and I don't care what government is in, "Trust us, we'll be reasonable," because a lot of those people come and go, and they aren't covering the cost. Now, if they want to cover the cost, fine, but if it's for you to continually prove that you are in compliance and you've corrected the problem, I see an issue with that.

That's it.

The Chair: All right, thank you very much.

Mr. Hardie.

Mr. Ken Hardie: Let's continue on that same topic. Can you give us an example of where you believe that Transport Canada has just been on a big fishing expedition, to the grief and misery of your company? We'll start with you, Mr. Adams. You were talking about testing.

Mr. David Adams: I can't give you a specific example. I think we're talking about a new authority and, as noted in my remarks, a Canada-unique authority for the minister to undertake that testing. We're really talking about a situation at this point that hasn't been explored yet, so it would be a concern about the language as it exists now and the recommendation to either fix the language or, as I said in my remarks, use the regulatory framework to address the concern.

Mr. Ken Hardie: So it would be your understanding that the minister, through Transport Canada, could require you to do the testing. Is that right?

Mr. David Adams: That's what the language in proposed subsection 8.1(1), I believe, states at this point, that the minister could require the company to undertake testing, yes.

Mr. Ken Hardie: Would you rather Transport Canada do the testing?

Mr. David Adams: I think the other component of my remarks, which I mentioned, is a concern that if the company is being forced to undertake the testing, pay for that testing and analysis, there could be an issue that arises when by doing such work and providing such

information, at some point down the road it could be potentially incriminating itself as well. There's a concern, I guess, under the charter.

Mr. Ken Hardie: Mr. Nantais, you look like you want to comment.

Mr. Mark Nantais: Yes, I have a brief comment. I think we have to remember that this is a provision that would apply when a company fails to voluntarily provide the information. I think that's the key point here. We don't have a problem with that. Obviously, if a company fails or does not choose to voluntarily provide that, the minister needs some ability, some power, to deal with that situation. That's the key thing here. What we're saying is, let it be relevant to the circumstance and the issue at hand, let it be reasonable in terms of being somewhat focused on that, and provide it in a manner that's timely and consistent with what the minister specifies.

• (1655)

Mr. Ken Hardie: Mr. Hatch, again I will ask for a specific example, if you have one, of a lengthy delay in warranty or recall work being done, or of parts available from a manufacturer.

Mr. Michael Hatch: The two highest-profile recent ones, of course, have been alluded to in this committee before by the minister and today. Certainly, there is the VW situation, but again that wouldn't fall under the purview of this bill because it was not a safety defect. Also there was the situation surrounding Takata airbags, which affected a number of different manufacturers. I'm not sure if it was five or six different manufacturers in Canada, or more than that. Those are the two highest-profile cases, and again as I mentioned in my opening remarks, these are by their very nature low-frequency events but when they do happen they tend to have a very high impact. Those would be the two highest-profile examples in recent years that come to mind.

Mr. Ken Hardie: Maybe, Mr. Nantais and Mr. Adams, you can comment on a scenario where I own the car and all of a sudden I get a notice that it has been recalled. It's serious enough that the car is not driveable but it's going to be weeks, perhaps months, before the parts are available, particularly if they're coming from a foreign country. Do you think there should be compensation available to the owners of those cars?

Mr. Mark Nantais: I think that's something that individual companies already assess on a case-by-case basis.

Mr. Ken Hardie: Have there been examples of that happening?

Mr. Mark Nantais: I believe there have been, yes.

Mr. Ken Hardie: You can't cite any for me?

Mr. Mark Nantais: Again, because it's an individual manufacturer-to-customer issue, I'm not that close to the scenario to give you a proper response.

Mr. Ken Hardie: All right.

In the time available, we were talking in the earlier panel about new safety technologies that are coming on board that are available in the foreign-made cars in their country of origin. We mentioned lights. Are there other developments out there waiting for approval in North America generally that could improve safety?

Mr. Adams.

Mr. David Adams: I think there probably are. The lighting issue, for our members anyway, is the most immediate concern. The advanced lighting has been in place in Europe for the last decade and hasn't come to North America simply because the U.S. has not been in a position to update its own lighting standard, and Canada tends to take its lead from what the U.S. is doing.

Mr. Ken Hardie: You're not aware that there are other....

Mr. David Adams: I'm sure there are, and I would be happy to canvass my members and get those results for you.

Mr. Ken Hardie: Good. Thank you.

The Chair: Monsieur Aubin.

[Translation]

Mr. Robert Aubin: Thank you for joining us, gentlemen.

I will start with you, Mr. Hatch, if you don't mind.

In your remarks just now, you talked about a harmonization of the Canadian and American systems. When we started, the minister told us that he turned down the amendment for dealers, saying that it was not a safety issue. He turned the proposal down.

You seem to be saying that there was an agreement on a compromise, and Mr. Fraser hinted at it, but there is no wording. I do not know if you have read the English version of the proposal.

Mr. Michael Hatch: Not yet, no.

Mr. Robert Aubin: Okay. Here is my question.

Why do you need a legislative solution to that problem? Does it mean that, without a legislative solution, you have to take a manufacturer to court every time there is a problem?

[English]

Mr. Michael Hatch: The reason we are seeking, and will continue to seek, a legislative solution to this problem is that there's a need for consistency. Right now many manufacturers pay some form of compensation in instances where there are difficult, long-lasting recalls. There are manufacturers out there that do the right thing, and they treat their dealers fairly and in a far-sighted manner.

When we appeared at the Senate committee last year, Mark made remarks to the effect that it's not in the manufacturer's interest to treat these relationships in a negative way. The relationship between a manufacturer and a dealer is a long-term proposition. It's not one or two years and then they go away. A lot of manufacturers do the right thing, but a lot don't, so there is a great deal of inconsistency across the board. When this happens, dealers are saddled with inventory they have to finance, and they bear significant costs.

Given the nature of the relationship between manufacturers and dealers, we have concluded that a legislative solution is required to bring consistency to the process and fairness across the board, no matter what manufacturer you might be dealing with as a dealer.

• (1700)

[Translation]

Mr. Robert Aubin: When you say that a good number of manufacturers do the right thing, does that include compensation to maintain inventory in the event of long delays?

[English]

Mr. Michael Hatch: It often does. I don't have access to the specifics of what's known as the DSSA, the dealer sales and service agreement, which is the legal document governing the business relationship between the dealer and manufacturer. Often there will be provisions in there allowing for some of those reimbursements to be paid. Often it's up to the discretion of the manufacturer or the manufacturer's the executive team.

There is no consistency across the board. We feel that the nature of the relationship is not balanced, because dealers are small and medium-sized businesses and manufacturers are much larger entities. That's not going to change, of course, but we feel there's a need for a legislative solution for this particular problem. It's going to get worse and not better, because recalls are going to become more frequent and not less frequent.

[Translation]

Mr. Robert Aubin: Thank you.

My next question goes to Mr. Nantais.

When you went before the Senate, you recommended that the minister's power to prohibit sales be replaced by the minister having the power to order vehicle manufacturers and importers to issue warnings to dealers.

Do you see the minister's order and the warning as having exactly the same mandatory force for the dealers?

[English]

Mr. Mark Nantais: The comment I made at the time was in reference to holding the vehicle manufacturers criminally and administratively responsible for the actions of a business person we have no control over. The recommendation, then and now, would tend to provide a little more formality and strength to the message we would want to send to dealers who may be thinking about the retail sale of a vehicle subject to what we call a "stop-sale order". We would still recommend that. We do that as manufacturers now, but if we were going to be held criminally responsible, we don't think that would be appropriate or fair to us. That's why we provided some additional language about this in our written submission.

[Translation]

Mr. Robert Aubin: Thank you

[English]

The Chair: You have 45 seconds.

[Translation]

Mr. Robert Aubin: Okay.

I always have a little difficulty when bills contain words that lead to interpretation, like “reasonable” criteria. It happens in clause 8.1, which deals with the tests that the minister can require.

Do you have a definition of what might appear “reasonable” to you?

[English]

Mr. David Adams: Not at this point, but I think we would like to come up with one and provide that to the committee.

[Translation]

Mr. Robert Aubin: Thank you.

[English]

Mr. Mark Nantais: I do think it's fair to say that in a legal context, my understanding is that there is some definition of what the term “reasonable” or “reasonableness” means, and those who are lawyers around the table might be able to comment.

The Chair: Thank you very much.

Mr. Fraser.

Mr. Sean Fraser: Why don't we follow up on that issue? “Reasonableness” certainly is a term of art in law, but I find it a very flexible one that can fit the circumstances as the better advocate would make it, and I prefer certainty in these things.

I'm thinking of the circumstance here. How does this actually play out? If we say that something's reasonable, somebody else could take a contrary view. How does the fight over what's going to be reasonable shake out if there's an amendment here that actually puts a reasonableness into the collection and use of information? Would there have to be some kind of an adjudicator? Would you end up in court each time that you think the government's overstepping? I'm trying to piece together what this is going to look like on the ground.

● (1705)

Mr. David Adams: I think the minister may have highlighted on Tuesday, and Mark alluded to it as well, that the intention would be that these particular sections would be used in rare instances where information isn't voluntarily provided. However, I think part of the concern comes down to the language around “that the Minister considers necessary”. Maybe take it away from reasonableness. Part of the issue goes into how the minister determines what he considers necessary. You'd like to think at the end of the day that a lot of the lead-up to that would be evidence-based before you ever got to the road where the minister would make a consideration of what's necessary and want to invoke the testing.

Mr. Sean Fraser: We spent a lot of time on the reasonableness thing. I might just move to a different issue.

I think, Mr. Nantais, the third issue that you raised was around getting a message that's going to sink into your consumers and not being too prescriptive in sending form letters that are going to wear them out. Anecdotes are helpful to me, but do you actually keep data on the most effective way of reaching your users, and if so, what have you found?

Mr. Mark Nantais: I think it's fair to say that companies—whether it's trying to identify sales opportunities or whether it's how they conduct their business in terms of customer satisfaction—include things like recall response rates and so forth. The key point I

wanted to make very clearly is that putting something in the act and defining it specifically, which would generate letters upon letters, really is not going to serve anybody very well. What we're suggesting here is to go back to the regulations. In section 15, it spells out all the information that should go into consumer notification. If we want to add to that, then we can more easily change the regulation, but, more importantly—I think someone touched upon it earlier—if we want to get to consumers and we want to increase response rates, then what's the best way to do that in this age? That's through electronic means: websites, social media, Facebook. Companies are all moving in that direction.

Mr. Sean Fraser: Maybe on this, I can toss an idea out and either one of you can offer comment.

In a court context, again, when you serve legal documents on someone and they're evading service or you can't track them down, there are other ways the court will let you do it if you can prove that the person actually accessed the documents or would have seen them. Sometimes they'll even be satisfied if you take an ad out in the newspaper. Some recent case law has allowed serving people on Facebook. Would you be open to some kind of a solution where you were able to demonstrate a person got the message somehow? That's why you're sending it to certain addresses. You've done your diligence to demonstrate that this person should have gotten it, given the information you have.

Mr. Mark Nantais: The way we look at it is it doesn't stop there. We go into registration files, and so forth. Companies spend a considerable amount of money trying to track down the right owner, whether it was first owner, second owner, or even third owner in some cases. Some of these things go back at least 10 years even, and yet there's still an effort to go out and find that current owner. But we have a better way to do this, and it's one that's evolving.

Mr. Sean Fraser: We have a minute left, if you want to add a comment.

Mr. David Adams: I'll make a quick comment. I know we've been working through the Canadian Council of Motor Transport Administrators to try to get all of the provinces to talk to one another and better share the registration data. That database needs a lot of work because a lot of the information we get back is not accurate.

We've also been looking at—to your point—other ways to try to get to consumers. As Mr. Iny mentioned earlier, at the time that a consumer goes to register their vehicle is it not worthwhile talking to the provinces to say, look, advise the consumer when they register their vehicle that they have an outstanding recall and that they need to get it fixed. You might not necessarily prevent them from registering the vehicle or renewing their licence, but you can say, if you don't get it fixed in three months, or whatever—

Mr. Sean Fraser: It's your problem.

Mr. David Adams: Yes.

Mr. Sean Fraser: I think we're out of time. Thank you very much.

The Chair: Mr. Badawey.

Mr. Vance Badawey: I think that's a valid point. As we were speaking about in the last session with the witnesses, there has to be more communication between the different levels of government to actually look after some of these things, otherwise the water falls through the cracks, and that's not a good thing.

I want to go back to the technologies again. We've had this discussion in the past whereby, let's face it, five years, 10 years, probably sooner rather than later, down the road we're going to see smart phones on wheels, and, with that said, a lot of factors with respect to safety.

Mr. Adams, you made the comment in your presentation that "flexibility, used prudently, should allow Canada to better stay at the forefront of new technological advancements and any regulatory regime required to support them." Can you elaborate on that?

• (1710)

Mr. David Adams: Sure. I think the intention of Bill S-2 is to provide the flexibility to develop the necessary regulatory regimes, if indeed they do become necessary, around things like automated vehicles and whatnot.

I know, from watching previous committee hearings, it's a concern with some of the members that we're not up to date with the U.S. or other jurisdictions. In some ways, that may not necessarily be a bad thing at this point in time. I think there's always a risk of over-regulating and stifling innovation, but at the same time our view would be that there is a role for the federal government to play in setting a regulatory framework for Canada on things like automated vehicles, recognizing that at the end of the day it ultimately is a shared issue with the provinces.

Ontario has a testing regime for automated vehicles right now, and other provinces are looking at that, but that deals with testing, not the regulation of the use of the vehicles on the road.

Mr. Vance Badawey: You also mentioned in your last paragraph that there were "other sections in this bill as amended by the Senate that raise concerns for our members". But your time was expired, so I want to give you this opportunity now to elaborate on that comment.

Mr. David Adams: I think my concerns would be pretty much accurately reflected in the comments that Mr. Nantais made about his other concerns with the bill. We happened to share one about proposed subsection 8.1(1), but the other issues that he has raised would be concerns of our members as well.

Mr. Vance Badawey: As well, you made the comment that "Canada can be, and frankly should be, innovative in its regulating, as well as capitalizing on the regulatory co-operation provisions with respect to regulations and standards in both the United States and the EU." Can you elaborate on that?

Mr. David Adams: I think Canada has a regulatory tradition of basically aligning safety standards with those of the United States.

The other reality is that, earlier this month, as you're aware, the CETA was provisionally implemented. There's a regulatory co-operation annex under the CETA. Standards are a big issue under the CETA as well, with the view to looking at recognizing more of the

other global standards. I think that's the focus through which I would offer my comments.

Mr. Vance Badawey: Thank you.

Mr. Hardie

Mr. Ken Hardie: Thank you.

Yesterday, we heard some testimony from our member for Nunavut, where of course the conditions are quite a bit different. A vehicle being recalled up there has to literally be barged back down to a dealer down here although there are licensed mechanics available in most communities up there, or at least the major ones. Is there any thought among the manufacturers on making some provisions that licensed mechanics, other than at a dealership, might be empowered to perform this kind of work?

Mr. David Adams: Maybe I could start. It was interesting to hear Mr. Tootoo's comments. It was a "I never thought about that" kind of a remark, but it's a good point that he raises. I think one of the things with all manufacturers is they want to make sure that recall work is done properly and done through their partners at the dealerships. Dealers are generally very well-compensated for the recall work that's being done. However, it is a unique circumstance and I don't have an answer for you right now, but it's certainly one that I would be prepared to take back and find out what my members do in those circumstances.

Mr. Ken Hardie: Go ahead, Mr. Nantais.

Mr. Mark Nantais: Since it's one of my members, I think in this particular case it is unusual for sure. Whether it's the subject company or other companies, in remote areas of the country like that, sometimes they'll approach it in different ways.

Sometimes they'll send an actual certified mechanic up there, but it's important through... We generally do them through dealers, because we have certified technicians. Sometimes these are safety related. Delegating that work off to sort of an after-market mechanic or something like that... Sometimes it means either compliance or not with the Motor Vehicle Safety Act, and they will not allow it to go to after-market service repair. They will either send somebody up to that location or, as you mentioned, freight the vehicle down to where there is a dealership. I think in this particular case, Chrysler dealt with that.

That's really the issue here. You need to have the right person to do the work, particularly in this situation where you have a safety recall, and have it certified that it meets all the requirements of the law, and obviously compliance with satisfying the recall.

• (1715)

The Chair: Thank you.

Mr. Iacono.

[Translation]

Mr. Angelo Iacono (Alfred-Pellan, Lib.): Thank you, Madam Chair.

My thanks to the witnesses for being here today.

In its brief, the Canadian Vehicle Manufacturers' Association, the CVMA, describes its concerns with the minister's power to order tests, analyses or studies in order to obtain information that he considers necessary about defects or non-conformity. The minister has indicated that those powers are similar to those granted by the Canada Consumer Product Safety Act.

Could you tell me exactly what concerns you in that provision, knowing that it works very well in the Canada Consumer Product Safety Act, an act with similar objectives?

[English]

Mr. Mark Nantais: Maybe I can start. The Canada Consumer Product Safety Act is very different. In other words, there is no sophisticated recall process under that act like there is under the Motor Vehicle Safety Act. There is a provision, however, because that's lacking, that the minister could obviously ask for information.

In this particular case, we are not saying the minister shouldn't have that power. What we are saying is that the minister should be reasonable about asking for that information, that it must be pertinent to the alleged defect or non-compliance, rather than trying to circumvent or download, if you will, the compliance audit function that Transport Canada does. That is a safety guard, if you will. That is a function that is very important to Transport Canada, to go out and make sure the vehicles that are being sold do in fact meet the requirements that the manufacturer is certified to.

We are just worried about the misuse of that, that it's vague, and we are asking for a little more clarity and precision around that language.

[Translation]

Mr. Angelo Iacono: Before the other guests comment, I would like a clarification. You are saying that the request must be "reasonable". What do you mean by that? It is very ambiguous.

[English]

Mr. Mark Nantais: Again, as we said, the reasonableness of that is...and as I said, I think there is some direction here in legal context. It's about the focus of what we are asking for, what the minister is asking for, be it related to the recall or the investigation that's under way. Again, this would be for those companies. This is not the general industry, if you will, but those companies that have chosen not to voluntarily provide that information. My understanding is that circumstance rarely applies to automakers, but rather those other companies that provide products that are subject to the Motor Vehicle Safety Act, not vehicles.

Mr. Angelo Iacono: Would anybody else like to add something?

Mr. David Adams: I think Mr. Nantais has effectively covered it off.

[Translation]

Mr. Angelo Iacono: Does the flexibility that Bill S-2 gives to the Motor Vehicle Safety Act allow manufacturers to be able to innovate and make more advances in Canada in terms of vehicle safety technology?

[English]

Mr. Mark Nantais: Again, I think Bill S-2 has provisions that open avenues for us to bring more innovative technologies to

Canada. We have to be careful. Let's be clear; simply because there's technology in other jurisdictions does not mean that it is the same as or equivalent to or better than ours; it could be less. One of the questions earlier today implied that some vehicles from other jurisdictions are better, when if you take the European certification process, it's less stringent than ours. Side impact was one of the examples given. Clearly, the side impact regulations that we ultimately harmonized with the United States are more stringent than European standards. We have to be very careful about those things.

Similarly with lighting, the key thing there is, in the United States is there going to be guidance coming out on that shortly? In fairness to Transport Canada, they raised some issues about glare with those lights.

We have to be mindful of that. I think every company wants to bring in innovative technologies, particularly when they can ultimately enhance safety, but you have to prove they enhance safety.

● (1720)

Mr. Angelo Iacono: Would anyone else like to add something?

Mr. David Adams: I don't think it should stay on the record that in every case European safety standards are inadequate in comparison to federal motor vehicle safety standards. That's not the case in the specific instance Mr. Nantais referred to. It may well be the case, but not generally across the board. But it does speak to an issue that's related to this file: that often we see trade components getting wrapped up in the discussion around safety as well. I know that's been a concern of the committee.

The Chair: Mrs. Block, do you have any questions?

Mrs. Kelly Block: I want to thank you for joining us today. I have appreciated the testimony we've heard so far.

I know, Mr. Nantais and Mr. Adams, you have already flagged for us the issues and concerns that you have with respect to proposed subsection 8.1(1), but I'd like to hear your views on proposed subsection 16.11(1), which increases the power of Transport Canada inspectors to visit facilities and compel documents and testimony from employees. This would be done to demonstrate compliance, it would not be triggered due to any complaints that may be received with regard to a specific manufacturer or any of their products.

I asked the minister what might trigger a visit like this to a manufacturer, and I'm not sure that I got a satisfactory answer. I want to hear from you if you have any concerns with regard to that measure in this bill.

Mr. Mark Nantais: Again, our view is if the minister incurs a situation where they don't feel they're getting the right information or the information they're requesting as part of the investigation, then I don't think we have any issue with that. In other words, we triaged this whole bill as to the most pertinent issues for us. That was not one of them. The ones we came up with are the three I've raised here.

Mrs. Kelly Block: Okay. Do you know if these measures are consistent with what might be in place in the United States?

Mr. Mark Nantais: I may stand corrected because I'm not that familiar with all the details in the United States, but I believe they'd have that power.

Mrs. Kelly Block: Okay. Thank you.

Mr. Hatch and Mr. Adams, I know my colleague asked you to identify for us if you had flagged any other issues during the question time we had. Do you have any other amendments you would recommend be made to this bill, other than the ones Mr. Nantais has put into his briefing to us?

Mr. David Adams: From my perspective, I think the amendments that Mr. Nantais has identified would be amendments that we would share. I think the challenge becomes, again, dealing with this bill and its predecessor and moving it forward. As I said at the outset, our members by and large support Bill S-2, and it's important to move it forward, but also I think it's important to recognize that there are some—not many, but some—issues that I think are particularly problematic for all manufacturers.

Mrs. Kelly Block: Notwithstanding my colleague's pre-emptive declaration regarding his intention with regard to the Senate amendment that was made to this bill, I want to hear from any of you what your concerns around this amendment would be, and if they are strictly in regard to the placement of it in this particular bill, which is obviously dealing with vehicle safety, or if you would just not want to see a measure like this put into any legislation that might regulate your industry.

Mr. Michael Hatch: I can start. We have no concerns with the Senate amendment, because it was the amendment that we pursued actively in the Senate, which of course, as you know, was followed by a series of discussions with the department and the minister and his team, which we hoped would result in the amendment that Mr. Fraser referred to earlier this evening. Again, we look forward to the specific language in that amendment.

We feel confidence from the department, the government, and the minister that it will accomplish most of what we sought to achieve in the Senate amendment, but not everything. We're okay with that. We understand that compromise is an important part of the legislative process, so again, we look forward to the specific language in that amendment and to the debate to follow.

• (1725)

The Chair: Very briefly, Mr. Nantais.

Mr. Mark Nantais: We have some concerns, simply because this is not a widespread issue. On top of that, vehicle manufacturers—my member companies—already engage in providing support in those circumstances and continue to work those out under the dealer agreements that exist between the vehicle manufacturer and their dealers.

The Chair: Monsieur Aubin, you have up to three minutes.

[Translation]

Mr. Robert Aubin: I have only one question and I confess that I do not know whom to ask. However, I will ask Mr. Adams, because he represents European manufacturers.

When people talk about harmonization with the American system, I always understood that we are constantly talking about catching up. For a number of weeks, I have been wondering why we are not ahead in some areas.

Take headlights, for example, where European technology seems to be more advanced. If Transport Canada accepted that new technology on our territory, does that mean that, if I buy such a vehicle, I would not be able to drive it in the United States unless there was an agreement with United States?

[English]

Mr. David Adams: Where to start?

Voices: Oh, oh!

Mr. David Adams: With respect to your comment about the technology, my understanding is that in a lot of those cases with respect to lighting, the technology is already existent on the vehicles that are in Canada, but has just been programmed off. There are other elements of that technology that meet the Canadian standards, but other elements that could be switched on aren't, because of where we're at with our dialogue on the lighting issue.

Technically, I think you are correct. If Canada did decide to go down that road with this and a consumer took a vehicle with that advanced lighting to the U.S., theoretically they probably could be stopped at the border and told that the vehicle was not compliant. Would that happen? I'm not sure that you would find anybody who would be able to determine whether it is compliant or not. In any event, the technology is such that it could be switched off again, so it's not in any way a hindrance to trade back and forth across the border.

[Translation]

Mr. Robert Aubin: Here is my question more generically.

Are there examples of situations where Transport Canada was ahead of American legislation and the Americans had to harmonize their decisions to Canada's?

[English]

Mr. Mark Nantais: I think we have to be very careful here in getting ahead of the U.S. Canada is not a large enough market to drive vehicle design. Also, there's this perception that we're behind other jurisdictions in terms of safety. When we talk about regulatory co-operation, harmonization, and alignment of our standards with those of the United States, we need to be clear that we are harmonizing and aligning with the higher common denominator, one of the highest common denominators in vehicle safety in the world, if not the highest.

We're much better off in aligning our standards on a North American basis. In Canada, we produce vehicles primarily for the United States market. There are other technologies that will evolve in other markets. Our view is, certainly, make them available in North America, but review them in the context of North America. If it's deemed to be the same level of safety or better, then we should adopt those as a harmonized standard in North America.

That's the way we do it, but if Canada alone.... We're not necessarily behind because we're already harmonizing with the United States, which is that higher common denominator. Also, we have to be very careful. If we put unique standards on Canada—we've been through this phase—ultimately we will minimize or

constrain product choice. It's not a large enough market to drive that vehicle design, so ultimately a consumer may not get these types of vehicles.

The Chair: Thank you very much to all of you.

If there are any other comments, maybe you can get those questions and answers off-line.

It's 5:30 and the committee is completed.

Thank you so much again for your contribution.

The meeting is adjourned.

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