

April 3, 2017

Secretary Elaine Chao
Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Chao:

We write to you today to express our concern about a pending rulemaking before the National Highway Traffic Safety Administration (NHTSA). On January 12, the Obama administration published a notice of proposed rulemaking (NPRM) that would mandate vehicle-to-vehicle (V2V) communications technology on all new light-duty vehicles.¹ The NPRM specifies a particular V2V communications protocol called dedicated short range communications (DSRC). The purpose of the mandate, as currently contemplated by NHTSA, is to offer future drivers advance warning when traffic and roadway hazards appear.

On January 20, the White House issued a memorandum entitled, “Regulatory Freeze Pending Review.”² This memo instructed federal agencies to postpone action on new regulations—including notices of proposed rulemaking—“[i]n order to ensure that the President’s appointees or designees have the opportunity to review any new or pending regulations.”³

In keeping with the memorandum, we urge the Department of Transportation to temporarily suspend the V2V rulemaking, including the April 12 comment deadline, until it can fully evaluate the proposal, which would eventually impact 300 million vehicles. Today, many key positions in the Department have not yet been filled, including NHTSA administrator, undersecretary for policy, and assistant secretary for policy. Pausing the regulatory process will give the new administration and the officials appointed to these roles time to examine the proposed V2V mandate in detail.

Additionally, Executive Order 13771 directs that “for every one new regulation issued, at least two prior regulations be identified for elimination,” and that the total incremental costs for all new regulations to be finalized this year “shall be no greater than zero.”⁴ A temporary suspension of the proceeding would allow NHTSA to consider how it might offset the substantial costs of this controversial proposal. NHTSA estimates that mandating DSRC will cost \$5 billion annually, with total costs in the year 2060 of \$108 billion.⁵

Many have questioned whether a specific technology mandate is necessary or desirable, especially given (1) the proliferation of vehicle-resident sensor technologies assisting American drivers today and the imminent development of cellular LTE and 5G V2X approaches; and (2) uncertainty regarding

1. Federal Motor Vehicle Safety Standards; V2V Communications, *Notice of Proposed Rulemaking*, Docket No. NHTSA–2016–0126, 82 Fed. Reg. 3854 (Jan. 12, 2017) [hereinafter NPRM].

2. Memorandum for the Heads of Executive Departments and Agencies; Regulatory Freeze Pending Review, *Notice*, 82 Fed. Reg. 8346 (Jan. 24, 2017).

3. *Id.*

4. Reducing Regulation and Controlling Regulatory Costs, E.O. 13771, 82 Fed. Reg. 9339 (Feb. 3, 2017).

5. NPRM, *supra* note 1, at 4000, 4005.

NHTSA's approach to addressing privacy and cybersecurity. New leadership at DOT and at NHTSA must be given an opportunity to consider these questions before moving forward with the mandate.

Sincerely,

Marc Scribner
Senior Fellow
Competitive Enterprise Institute

Phil Kerpen
President
American Commitment

Ryan Hagemann
Director of Technology Policy
Niskanen Center

Adrian Moore, Ph.D.
Vice President of Policy
Reason Foundation

Ian Adams
Senior Fellow
R Street Institute

Cc: Director Mick Mulvaney
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Executive Director Jack Danielson
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590