

**Before the
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
Washington, D.C. 20590**

In the Matter of)	
)	
Pilot Program for Collaborative Research)	Docket No. NHTSA-2018-0092
on Motor Vehicles With High or Full)	
Driving Automation)	83 Fed. Reg. 50,872
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)	

**COMMENTS OF
THE COMPETITIVE ENTERPRISE INSTITUTE**

November 27, 2018

Prepared by:

Marc Scribner

Senior Fellow

Competitive Enterprise Institute

1310 L Street N.W., 7th Floor

Washington, D.C. 20005

(202) 331-1010

marc.scribner@cei.org

Introduction

On behalf of the Competitive Enterprise Institute (“CEI”), I respectfully submit these comments in response to the National Highway Traffic Safety Administration’s (“NHTSA”) Advance Notice of Proposed Rulemaking on the Pilot Program for Collaborative Research on Motor Vehicles With High or Full Driving Automation (“ANPRM”).¹

CEI is a nonprofit, nonpartisan public interest organization that focuses on regulatory policy from a pro-market perspective.² This comment letter addresses select numbered questions posed in the ANPRM.

Responses to ANPRM Questions

Question 1.³ We believe if NHTSA does proceed with a pilot program for vehicles with high or full automation that it should focus on vehicles that least conform with federal motor vehicle safety standards (“FMVSS”). These would include light-duty vehicles designed with unconventional seating configurations in passenger cabins, unconventional use cases such as fully automated light-duty cargo vehicles, and light-duty passenger vehicles that have supplanted conventional windows with electronic displays.

There are two major reasons to focus on the most nonconforming vehicles. First, these vehicles are likely to face the most difficulty in obtaining traditional FMVSS exemptions for deployment purposes. Second, given the large private expenditure in automated vehicle research and development and robust private testing programs,⁴ a NHTSA pilot program that merely replicates those ongoing private R&D activities risks crowding out private investment.⁵

Question 5.⁶ We believe any meaningful regulatory relief to promote R&D and the deployment of automated driving systems requires an act of Congress. In the short term, this means greatly increasing the annual FMVSS exemption cap. In the long term, this

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1. Pilot Program for Collaborative Research on Motor Vehicles With High or Full Driving Automation, *Advance Notice of Proposed Rulemaking*, NHTSA-2018-0092, 83 Fed. Reg. 50,872 (Oct. 10, 2018) [hereinafter ANPRM].
 2. See About CEI, <https://cei.org/about-cei> (last visited Nov. 20, 2018).
 3. ANPRM, *supra* note 1, at 50,878.
 4. *Autonomy Is Driving A Surge Of Auto Tech Investment*, CB Analytics (Sep. 27, 2018), <https://www.cbinsights.com/research/auto-tech-startup-investment-trends/>.
 5. See, e.g., Austan Goolsbee, *Does Government R&D Policy Mainly Benefit Scientists and Engineers?*, 88 AM. ECON. REV. 298 (1998); see also Paul A. David et al., *Is public R&D a complement or substitute for private R&D? A review of the econometric evidence*, 29 RESEARCH POL’Y 497 (2000).
 6. ANPRM, *supra* note 1, at 50,878.

means modernizing FMVSS to not conflict with automated driving systems and keeping FMVSS as up-to-date as possible with incorporated voluntary consensus standards.⁷

Question 20.⁸ We agree with former NHTSA Chief Counsel Paul Hemmersbaugh that 49 U.S.C. § 30114 can be used by domestic manufacturers “to demonstrate that features of their products provide equivalent levels of safety to those required by the FMVSS.”⁹ However, we do not believe participation in NHTSA’s contemplated pilot program should be a necessary condition for developers of automated driving systems to pursue an exemption under Section 30114, as it is far from clear that a future pilot program will actually promote innovation and safety in automated driving systems.

Nevertheless, the pilot program could be much more closely integrated with the Section 30114 process. NHTSA should focus on the potential value propositions it could offer developers seeking Section 30114 exemptions. Voluntary buy-in by developers to a voluntary pilot program is crucial for its potential success.

Conclusion

We appreciate the opportunity to submit comments to NHTSA on this matter and look forward to further participation.

Respectfully submitted,

Marc Scribner
Senior Fellow
Competitive Enterprise Institute

7. See, e.g., Marc Scribner, *Modernizing Federal Motor Vehicle Safety Standards*, 240 COMPETITIVE ENTER. INST. ONPOINT 1 (Jan. 9, 2018), <https://cei.org/sites/default/files/Marc%20Scribner%20-%20Modernizing%20Federal%20Motor%20Vehicle%20Safety%20Standards.pdf>.

8. ANPRM, *supra* note 1, at 50,882.

9. See Letter from Paul A. Hemmersbaugh, Chief Counsel, NHTSA, to Chris Urmson, Director, Self-Driving Car Project, Google (Feb. 4, 2016), <https://isearch.nhtsa.gov/files/Google%20-%20compiled%20response%20to%2012%20Nov%20%2015%20interp%20request%20-%204%20Feb%2016%20final.htm>.