April 1, 2021

Mr. Steve Cliff
Acting Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

RE: NHTSA Advance Notice of Proposed Rulemaking: *Framework for Automated Driving Systems*, NHTSA Docket No. 2020-0106, 85 Fed. Reg. 78058 (December 3, 2020).

Dear Mr. Cliff:

On its behalf of its parent company, Daimler AG, Mercedes- Benz USA, LLC (hereinafter "MBUSA"), is pleased to submit the following comments in response to Docket No. NHTSA 2020-0106 Framework for Automated Driving System Advance Notice of Proposed Rulemaking ("ANPRM").

Our affiliate company, Mercedes-Benz Research & Development North America, Inc. (hereinafter "MBRDNA"), participated in the development of the comments submitted to docket No. 2020-0106, by the Alliance for Automotive Innovation ("Auto Innovators"), and MBUSA fully supports those comments.

Given the rapid pace of Automated Driving Systems (ADS) development, premature federal regulatory boundaries may unintentionally hinder the very innovation required to fully develop the technology. As test fleets are deployed in accordance with relevant State and local regulations, we will have the opportunity to gather significant on-road data that may be used to identify gaps in the current regulatory structure. With a clear understanding of potential real-world safety needs, federal rulemaking may then be carefully crafted to provide new Federal Motor Vehicle Safety Standards ("FMVSSs") requirements.

Core Elements, Potential Approaches, and Current Activities

Process Measures

MBUSA supports NHTSA's proposal to make use of process standards as the basis of a new framework. Indeed, NHTSA could integrate certain elements of existing process measures from ISO 26262, ISO 21448 and ISO/TR 4804 as the basis of a self-certification framework. However, to maintain needed flexibility, ADS developers should be permitted to determine which process measures are most appropriate to evaluate and demonstrate the safety of their ADS systems.

Engineering Measures

As expressed by Auto Innovators, the regulatory mechanism in the proposed safety framework should be performance-oriented at the vehicle level and should only include "control" measures since execution of the driving task indirectly includes the demonstration of "sensing", "perception" and "planning" capabilities. Vehicle subsystems vary between ADS developers, and different technologies and concepts can lead to equivalent levels of safety and performance. MBUSA recommends that NHTSA continue its research and development with a focus on the core ADS safety function "control."

Other Safety Functions

In addition to the ADS "control" function, MBUSA supports NHTSA's efforts to ensure recognition and reaction of the ADS to first responders.

In contrast, MBUSA does not see the need for NHTSA to regulate general privacy issues since the Federal Trade Commission (FTC) already has the authority to ensure protection of consumer personal and sensitive information. To prevent the development of competing requirements, we suggest that FTC maintain sole authority with regard to general privacy issues.

Safety Framework - Administrative Mechanisms

Voluntary Mechanisms

We note that the Voluntary Safety Self Assessments (VSSA) are an effective mechanism for ADS developers to present their safety strategy to NHTSA and to the public; on that basis, we encourage continued use of the VSSA. In addition, MBUSA recognizes and supports the value of additional voluntary documentation, including law enforcement interaction plans or consumer education materials. These, and other voluntary submissions, could be shared through the AV Test Initiative.

MBUSA shares NHTSA's long-term goal to develop obstacle-course performance tests for variable scenarios and conditions as part of AV specific FMVSS requirements. Additionally, we agree that consumers must remain informed regarding ADS safety, capabilities, and limitations. However, we do not believe that the New Car Assessment Program (NCAP) is a suitable tool for providing this information to consumers; it is not clear that consumers will grasp the significance of the vehicle's operational design domain (ODD). Therefore, a "rating" that does not account for varied ODDs would most likely lead to confusion and do very little to promote the technology. MBUSA supports Auto Innovators proposal to identify ways to leverage existing programs -- including AV Test and VSSAs – in addition to engagement with industry partners to develop educational programs.

NHTSA's proposal to promote safety through voluntary guidance, instead of mandatory requirements, may serve as the most effective administrative mechanism in the near-term. MBUSA agrees that NHTSA should continue to develop guidance related to engineering and process measures and update guidance documents more frequently to reflect the most recent consensus on industry standards and practices.

Regulatory Mechanisms

MBUSA notes that various companies and organizations have developed ADS safety frameworks, and that NHTSA is considering the potential regulatory benefit of the documentation provided by those external organizations. We note that in some cases these company-specific approaches might not promote a technology-neutral solution; therefore, we urge the agency to consider only those approaches that contain technology neutral "control" measures for a future regulatory framework.

MBUSA supports the mandatory disclosure and reporting of information for temporary FMVSS exemptions and the Auto Innovator's AV pilot program with appropriate data sharing limitations. As stated by Auto Innovators, outside of this context, mandatory reporting and disclosure are not consistent with the existing self-certification regulatory framework and therefore should be avoided.

Lastly, MBUSA encourages NHTSA to harmonize internationally to the extent possible with UNECE WP.29 when identifying scenarios that could be incorporated in future obstacle-course tests.

Additionally MBUSA recommends the adoption of an open scenario database (see PEGASUS) to help the Agency accumulate a more meaningful database.

Thank you for your consideration of these comments. If you have any questions, please feel free to contact gregory.gunther@mbusa.com for added clarification.

Sincerely,

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