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National Highway Traffic Safety Administration
1200 New Jersey Avenue SE
Washington, D.C. 20590

RE: Comments on Petition from General Motors for Temporary Exemption from Various Requirements of the Federal Motor Vehicle Safety Standards for an Automated Driving System-Equipped Vehicle, Docket No. NHTSA-2022-0067

To the National Highway Traffic Safety Administration:

Disability Rights California (DRC) thanks NHTSA for the opportunity to comment on GM's petition for temporary exemption from certain safety standards for its ADS-equipped vehicle, the Cruise Origin. DRC is a non-profit agency established under federal law to advocate for the rights of people with disabilities.¹ We appreciate NHTSA's attention to accessibility in its consideration of GM's petition, and we hope these comments assist NHTSA in reaching a decision. We submit these comments in response to the questions NHTSA poses in paragraph 14 of the Statement on Terms:

¹ Disability Rights California provides services pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 15001, PL 106-402; the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. § 10801, PL 106-310; the Rehabilitation Act, 29 U.S.C. § 794e, PL 106-402; the Assistive Technology Act, 29 U.S.C. § 3011,3012, PL 105-394; the Ticket to Work and Work Incentives Improvement Act, 42 U.S.C. § 1320b-20, PL 106-170; the Children's Health Act of 2000, 42 U.S.C. § 300d-53, PL 106-310; and the Help America Vote Act of 2002, 42 U.S.C. § 15461-62, PL 107-252; as well as under California Welfare and Institutions Code §§ 4900 et seq. ([Return to Main Document](#))

14. How should NHTSA consider accessibility in applying appropriate conditions to an exemption if it were granted? As noted above, many proponents of ADS technology often claim that ADS-equipped vehicles could help advance greater transportation accessibility for persons with disabilities. Should NHTSA impose conditions on grants of part 555 exemptions to learn more about specific actions that manufacturers and operators of ADS-equipped exempted vehicles are planning, or have taken, to further the attainment of accessibility and equity goals? Should NHTSA seek information from manufacturers granted an exemption as to how they ensure that their ride-hailing services comply with any applicable Americans with Disabilities Act (ADA) requirements, how many vehicles would be wheelchair accessible, how they reach people with disabilities to offer access to ride sharing services, or whether the exempt vehicles provide other accommodations for individuals with disabilities, such as communication and/or human-machine interface (HMI) features designed for individuals with sensory disabilities (such as sight or hearing) or cognitive disabilities? Should NHTSA require grantees to report on efforts, such as research or community outreach, that the manufacturer is planning, or has taken, to increase the likelihood that accessibility goals will be met? Comments are requested on whether there is other information related to accessibility that NHTSA should require from an entity when granting its petition.

In short, DRC’s response to these questions is “yes.” GM asserts in its petition that the exemptions it requests serve the public interest because “the Origin will help expand mobility options for seniors, people who are blind or have low vision, and other communities that have traditionally had lower access to reliable transportation.”² If exemption is in the public interest because it would benefit people with disabilities, then it is reasonable for NHTSA to condition such exemption on a requirement that GM’s vehicle be accessible to people with disabilities. NHTSA should not grant any exemptions of federal safety standards to vehicles that are not accessible to people with disabilities.

² Page 2 of General Motors LLC Petition for Temporary Exemption from Provisions of Certain Federal Motor Vehicle Safety Standards (“Petition”). ([Return to Main Document](#))

I. **As a condition of granting a part 555 exemption, NHTSA should require GM to explain how its ADS-equipped vehicles will safely accommodate passengers with different types of disabilities.**

Section V.E of GM’s petition gives an overview of its outreach and engagement with disability groups, but the petition as a whole is scant on details about how those outreach and engagement efforts informed the design of the Origin and how the vehicle meets the unique needs of people with different types of disabilities. For example, GM’s petition suggests that its service will be accessible to people who are blind because its mobile app will be compatible with iOS Voiceover.³ But iOS Voiceover is only available on Apple devices. GM does not explain if its mobile app will only be available for Apple devices, or if it will be available to other devices but that the accessibility of the app depends on the device, not the app itself.

The petition is also unclear as to what specific features, if any, make the Origin and its forthcoming wheelchair-accessible version accessible. GM’s petition states that it is “collaborating with stakeholders within the accessibility community to enable the Origin to carry people in wheelchairs.”⁴ The petition cites to a Forbes article that shows two photos: one of a passenger in a folding wheelchair facing a ramp on the Origin and another of the passenger seated inside the vehicle with their unfolded folding wheelchair next to them. Neither of these photos—nor the Forbes article itself, nor GM’s petition—specifies if GM’s use of the term “wheelchair accessible vehicle” refers only to folding wheelchairs or if it includes electric/motorized/power wheelchairs as well. This is an important distinction because power wheelchairs are much heavier than manual wheelchairs and cannot be folded, so a vehicle that can accommodate a manual wheelchair-user may not be able to accommodate a power wheelchair-user. Moreover, a person who uses a power wheelchair may not be able to transfer from their wheelchair to an Origin seat or, if they do, will need specialized seatbelts and restraints to help keep them upright and in a safe position. GM’s petition does not explain which vehicle (the regular

³ Page 18 of Petition. ([Return to Main Document](#))

⁴ Page 60 of Petition. ([Return to Main Document](#))

Origin or the wheelchair-accessible version) is accessible to people with different types of mobility disabilities.

Relatedly, DRC also encourages NHTSA to specify what it means by “accessibility” in the context of ADS-equipped vehicles. In our transportation work, we often see public entities and private companies use the phrase “accessible transportation” to mean that a particular mode of transportation is easy to use by the general public. But in the context of disability rights, “accessible transportation” is more specific. For the disability community, transportation is “accessible” when the vehicle and its surrounding infrastructure can physically accommodate people with disabilities, and when the system in which the vehicle operates is free from programmatic barriers that would otherwise exclude people with disabilities. Ambiguity over the word “accessible” has at times led to disability advocates and transportation providers speaking past one another. For clarity, we urge NHTSA to promulgate regulations or issue sub-regulatory guidance on what “accessibility” for people with disabilities means in the context of ADS technology. Prior comments from the disability community may provide a helpful starting point for this endeavor.⁵

II. NHTSA should seek information from exemption grantees on how they will ensure that their ride-hailing services will comply with the ADA and promote accessibility and equity for the disability community.

The development of ADS-equipped vehicles, particularly in connection with ride-hailing services, has raised questions about the applicability of the ADA and other anti-discrimination laws to new technologies. GM’s proposed deployment of AVs in a ride-hailing service makes it a private entity engaged in the operation of a demand responsive public

⁵ See, e.g., Consortium for Citizens with Disabilities Transportation Task Force Autonomous Vehicle Principles, updated May 2022, available at: <https://www.c-c-d.org/fichiers/CCD-Transpo-TF-AV-Principles-May-2022.pdf>; and comments submitted by the Consortium for Citizens with Disabilities and the National Disability Rights Network to NHTSA on Occupant Protection for Automated Driving Systems, Docket No. NHTSA-2020-0014. ([Return to Main Document](#))

transportation system, and therefore subject to Title III of the ADA. This is consistent with the stated purpose of the ADA: to eliminate discrimination against people with disabilities.⁶

When Congress passed the ADA, it delegated authority to the Department of Transportation to issue regulations that effectuate the ADA's provisions on public transportation.⁷ It is within the scope of Congressional intent for NHTSA to use its regulatory authority to seek information about the intended use of ADS technology to confirm that it does not unlawfully discriminate against people with disabilities. The language of the ADA is clear that Congress intended to establish "clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;" to ensure that the federal government "plays a central role" in enforcing those standards; and to "invoke the sweep of congressional authority," including the power to regulate interstate commerce, to address the major areas of discrimination that people with disabilities face in their daily lives.⁸

Accordingly, we urge NHTSA to require that GM, as a condition of receiving a part 555 exemption, provide the following information:

- What specific features of the Origin, if any, make the vehicle accessible to people with sensory, mobility, and cognitive disabilities;
- How many wheelchair-accessible vehicles it plans to produce and what specific features make those vehicles accessible to people who use power wheelchairs;
- Whether the mobile app will be compatible with voiceover technology on devices that do not run on iOS;
- What other steps GM has taken to ensure that information available to the general public while using the Origin (such as information about destinations or system malfunctions) is accessible to people with sensory disabilities, such as blindness or deafness;

⁶ 42 U.S.C. section 12101(b)(1). [\(Return to Main Document\)](#)

⁷ 42 U.S.C. section 12149(a). [\(Return to Main Document\)](#)

⁸ 42 U.S.C. section 12101(b)(1)-(4). [\(Return to Main Document\)](#)

- What metrics GM will use to determine whether people with disabilities have equal access to its ride-hailing service;
- Whether GM will appoint a designated accessibility coordinator and, if so, how members of the public can reach the coordinator to resolve accessibility complaints;
- Whether GM will have an internal complaint process to resolve disputes involving alleged disability discrimination; and
- How GM will track accessibility issues as they arise.

All of this information is necessary for NHTSA to properly evaluate GM's claim that its planned operations will improve access to transportation for people with disabilities.

III. NHTSA should require exemption grantees to report on their outreach and stakeholder engagement activities.

GM claims in its petition to have engaged a broad network of stakeholders to inform the development of the Origin; but, it is difficult to ascertain from GM's representations what recommendations it received from the disability community and the extent to which those recommendations were incorporated into its operations, if at all. The information GM has obtained from its stakeholder engagement process could be valuable for crafting appropriate regulations on ADS-equipped vehicles. And, understanding how GM responds to stakeholder feedback is critical for evaluating its claim that an exemption of certain safety standards is in the public interest. Accordingly, NHTSA should require GM to provide more information on its stakeholder engagement, including:

- How it selected the specific stakeholders to engage;
- How often and in what manner it communicated with stakeholders;
- What feedback it received from stakeholders; and
- How it responded to stakeholders' feedback.

NHTSA should also consider imposing specific requirements on future stakeholder engagement to ensure that the process is inclusive and equitable:

- Ensure that the stakeholder group includes a wide cross-section of the disability community and multiply-marginalized communities;
- Make most, if not all, stakeholder engagement meetings open to the general public;
- Develop a strategic plan for accessibility and make the plan available for public comment; and
- Identify tangible goals for achieving maximum accessibility and a timeline for implementation.

If NHTSA decides to require outreach and engagement to the disability community as a condition of a part 555 exemption, it may be helpful to review comments on that topic submitted by disability advocates in the California Public Utilities Commission's rulemaking proceeding to implement the TNC Access for All Act.⁹ Providing a framework for outreach and engagement helps ensure that the process is meaningful and inclusive.

IV. Conclusion

We thank NHTSA again for soliciting public comments on the accessibility considerations that arise from GM's petition. We urge NHTSA not to grant an exemption of any federal safety standards unless GM can establish that its vehicle will be accessible to people with disabilities. We agree with GM that ADS-equipped vehicles have the potential to expand transportation options for people with disabilities—but only if the vehicle itself is physically accessible to people with all types of disabilities, and if the system in which the vehicle operates provides equal access to the disability community.

⁹ See Proposals on Track 5B Scoping Memo Questions from Disability Rights Education and Defense Fund, Disability Rights California, and the Center for Accessible Technology, available at: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M471/K485/471485577.PDF>. The TNC Access for All Act was passed as SB 1376 (Hill, 2018). Its purpose is to ensure that TNCs provide non-discriminatory access to their services to people with disabilities, including people who use wheelchairs and need a wheelchair accessible vehicle. CPUC proceeding R. 19-02-012 implements the requirements of SB 1376. ([Return to Main Document](#))

Disability Rights California
Comment on Petition from General Motors for Temporary Exemption
September 21, 2022
Page **8** of **8**

There is nothing about ADS technology itself that guarantees accessibility. But, with careful planning, ADS-equipped vehicles can provide new and better transportation options for people with disabilities. We hope our comments aid NHTSA and GM in the pursuit of that goal.

Sincerely,

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Staff Attorney II

Autumn Elliott
Litigation Counsel