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HEARING

BEFORE THE

SUBCOMMITTEE ON CONSUMER PROTECTION
AND FINANCE

OF THE

COMMITTEE ON

INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 3949 and H.R. 1744

BILLS TO AMEND THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966 TO AUTHORIZE THE SECRETARY OF TRANSPORTATION TO REQUIRE TIRE MANUFACTURERS, IN CERTAIN CIRCUMSTANCES, TO PROVIDE PUBLIC NOTICE OF TIRE DEFECTS

MAY 24, 1979

Serial No. 96-55

Printed for the use of the
Committee on Interstate and Foreign Commerce



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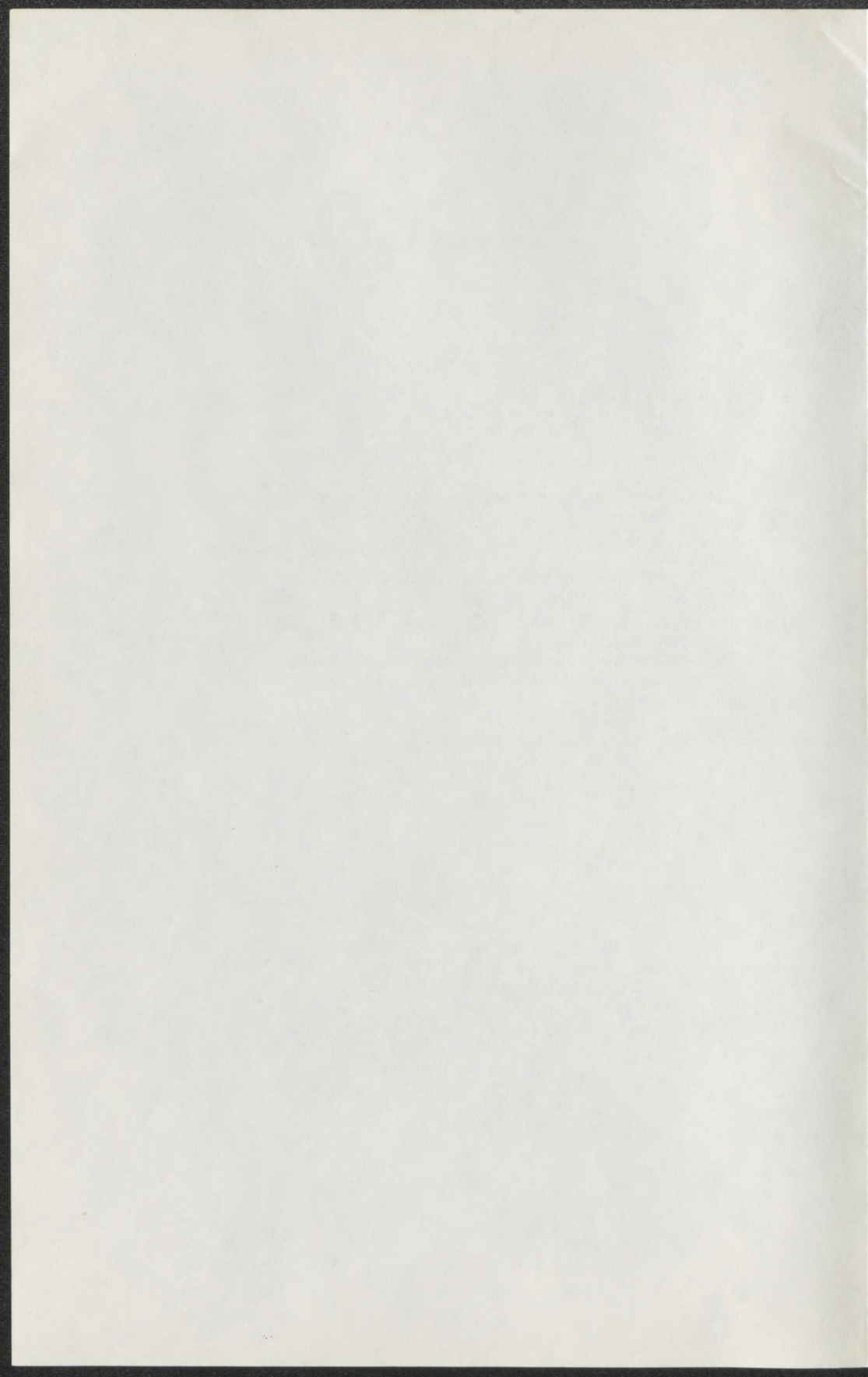
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TIRE RECALL

THURSDAY, MAY 24, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met, at 1 p.m., pursuant to notice, in room 2218, Rayburn House Office Building, Hon. James H. Scheuer (chairman) presiding.

Mr. SCHEUER. The Subcommittee on Consumer Protection and Finance will come to order.

Today we are holding hearings on two bills, both of which would amend the National Traffic and Motor Vehicle Safety Act to authorize the Secretary of Transportation to require tire manufacturers to give public notice of tire defects. This represents a strengthening of the congressional commitment to consumer protection.

The senseless death of over 50,000 citizens a year and the injury and the anguish—the enormous cost to society resulting from hundreds of thousands of other gravely wounded citizens—is surely a national tragedy of the highest order.

We need the highest possible safety standards in cars and automotive equipment. However, that is not enough because cars and equipment are sold to consumers which frequently are in violation of these standards or are simply defective. Congress must take measures to insure that consumers are notified when they have purchased faulty automotive products, whether cars, equipment, or tires. They must be notified promptly.

There is simply no excuse for accidents caused by equipment which is known in advance of such an accident to be faulty and a threat to life and limb. Delay in these notification procedures is unconscionable. I hope that through one or both of these acts—or some amalgam of the features contained in these two bills—we will remedy this glaring defect in the law. I hope we will augment the power of the Secretary of Transportation to alert consumers about lethal products which they are using.

A major supporter of this legislation is Congressman Matt Rinaldo of New Jersey. We are delighted to hear from you on the subject.

Without objection the text of H.R. 3949 and H.R. 1744 will be printed at this point in the record.

[The text of H.R. 3949 and H.R. 1744 follow:]

96TH CONGRESS
1ST SESSION

H. R. 3949

To amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary of Transportation to require tire manufacturers, in certain circumstances, to provide public notice of tire defects.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 1979

Mr. RINALDO (for himself, Mr. SCHEUER, and Mr. WOLFF) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary of Transportation to require tire manufacturers, in certain circumstances, to provide public notice of tire defects.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 153(c) of the National Traffic and Motor Vehicle
4 Safety Act of 1966 (15 U.S.C. 1413(c)) is amended—

5 (1) in paragraph (2), by striking out “, or tire,”,
6 and by striking out “or tire”;

1 (2) in paragraph (3), by inserting "any tire or"
2 after "in the case of", and by striking out "(other than
3 a tire)"; and

4 (3) in the last sentence, by striking out "or (2)"
5 and inserting in lieu thereof ", (2), or (3)(A),", and by
6 inserting "by first class mail" after "notification" the
7 first place it appears therein.

○

96TH CONGRESS
1ST SESSION

H. R. 1744

To amend the National Traffic and Motor Vehicle Safety Act of 1966 for the purpose of authorizing the Secretary of Transportation, under certain circumstances, to require manufacturers of tires to provide public notice of tire defects.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 1979

Mr. WOLFF introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To amend the National Traffic and Motor Vehicle Safety Act of 1966 for the purpose of authorizing the Secretary of Transportation, under certain circumstances, to require manufacturers of tires to provide public notice of tire defects.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 153(c) of the National Traffic and Motor Vehicle
4 Safety Act of 1966 (15 U.S.C. 1413(c)) is amended—
5 (1) in paragraph (2), by striking out “, or tire,”
6 and “or tire”;

I—E

1 (2) in paragraph (3), by striking out “(other than
2 a tire)”; and

3 (3) in the last sentence, by inserting “or (3) (other
4 than by public notice)” after “under paragraph (1) or
5 (2)”.

6 SEC. 2. The amendments made by the first section of
7 this Act shall only apply to any defect or failure to comply—

8 (1) occurring before the date of the enactment of
9 this Act and with respect to which notification was not
10 issued—

11 (A) under section 113(a) of the National
12 Traffic and Motor Vehicle Safety Act of 1966 (as
13 such section was in effect before the effective date
14 of the Motor Vehicle and Schoolbus Safety
15 Amendments of 1974) or was required to be
16 issued under section 113(e) of such Act (as such
17 section was in effect before such effective date); or

18 (B) under section 151 of the National Traffic
19 and Motor Vehicle Safety Act of 1966 (as such
20 section was in effect before such date of enact-
21 ment) or was required to be issued under section
22 152 of such Act (as such section was in effect
23 before such date of enactment); and

24 (2) occurring on or after such date of enactment.

Mr. RINALDO. Thank you, Mr. Chairman. I am happy that today's hearings could be held to consider H.R. 3949 and H.R. 1744 introduced by our colleague, Mr. Wolff. H.R. 3949 was introduced by myself and cosponsored by you, Mr. Wolff, and Mr. Ottinger.

I would like briefly to describe my bill, H.R. 3949, which is under consideration today. This bill would amend the National Traffic and Motor Vehicle Safety Act of 1966 to give NHTSA authority to require public notice by tire manufacturers in the event of recall of defective tires, in addition to the notice by mail now required.

This bill would close the loophole which presently excludes tires from the section which authorizes public notice for other replacement equipment, if NHTSA determines that it is necessary in the interest of motor vehicle safety.

Under present law, if a defect in a tire is determined to exist, the first purchaser of the tire must be notified by the manufacturer. Section 158(b) of the act requires that tire manufacturers maintain records of the names and addresses of the first purchasers of tires which they produce. These first purchasers are notified by first-class mail, or by certified mail, when defects are discovered.

In case of replacement of items of equipment other than tires, present law requires notification be made to the most recent purchaser known to the manufacturer and, in addition, by public notice if the Secretary of Transportation determines that it is necessary in the interest of motor vehicle safety. If a decision is made to use public notice, the type of notice is determined by consultation between NHTSA and the manufacturer of the item of replacement equipment.

My understanding is that in the past there has never been any major breakdown in those negotiations or any real problems associated with them.

My bill would make a very simple change in the currently existing statutory scheme. It would require that tires be treated in the same manner as other items of replacement equipment. It would provide that in addition to mail notices to the purchaser, presently required by the statute, public notice of recalls of defective tires would be authorized at the discretion of NHTSA.

The bill would apply to recalls of all tires which are determined to be defective after the date of enactment of the legislation. Since recall inherently has a retroactive effect, the public notice provision would apply to tires manufactured and sold before the enactment of the bill.

For purposes of issuing a recall, the important date is the date the defect is determined to exist by NHTSA. The date of sale is important only for determining the 3-year limit during which the manufacturer is obligated to provide a free replacement tire.

The Firestone recall last year, which affected 7.5 million tires, the largest tire recall ever undertaken, provides a good example of how my bill would improve the statute. In this recall NHTSA and Firestone reached a negotiated agreement which included provision for public notice of the recall by Firestone. Firestone advertised the recall on two 30-second television spots and in 250 Sunday newspapers.

In the absence of a negotiated agreement, the Federal Government had absolutely no authority to require public notice of the

recall of these defective tires. It seems clear that the effectiveness of the Firestone recall was greatly enhanced by the public notice that did take place and that many more people were reached than would have been reached through the sole use of notification by mail.

Providing NHTSA with statutory authority to require public notice in the recall of defective tires would greatly strengthen the agency's negotiating position in situations such as the Firestone case, and it would also provide greater enforcement authority in the absence of any negotiated settlement. I will very quickly go through the major benefits to be gained by providing NHTSA with this type of authority.

First of all, greater numbers of people would be aware that they were using defective tires.

Second, notification would be received much more quickly by public notice than by mail.

And third, notice would be given to purchasers of tires beyond the 3-year time limitation during which they are entitled to a remedy from the manufacturer. So we would be reaching a lot more people, and I feel that the bill would help to provide a better warning to consumers of a tire recall and thus assure that improved measures have been taken to protect the public safety on the Nation's roads and highways.

It is really a simple measure. Public notice has worked extremely well with other replacement parts. I see absolutely no reason for an exclusion for tires.

That concludes my opening statement, Mr. Chairman.

Mr. SCHEUER. Thank you very much, Congressman.

Congressman Preyer of North Carolina, do you have a statement?

Mr. PREYER. I have no comments, Mr. Chairman. I look forward to the hearing.

Mr. SCHEUER. Very good. Thank you.

Then it is our great pleasure to turn the microphones, figuratively, over to Ms. Joan Claybrook, who is Administrator of NHTSA. Ms. Claybrook is a very distinguished public servant, a highly proficient, professional policymaker and executive, with whom we have had a great deal to do and for whom we have the highest respect and regard.

Ms. Claybrook, your prepared testimony will of course be printed in full in the record. Why don't you introduce your two colleagues and then proceed as you please?

STATEMENT OF HON. JOAN CLAYBROOK, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY LYNN BRADFORD, HEAD, ENFORCEMENT OFFICE; AND FRANK BERNDT, CHIEF COUNSEL

Ms. CLAYBROOK. Lynn Bradford to my left is head of our Enforcement Office, and Frank Berndt to my right is the chief counsel for the agency.

We are pleased to appear before your subcommittee today to discuss the use of public notice to alert owners about defective or noncomplying tires. Representative Rinaldo of this committee has

introduced a public notice bill for tires that would supplement the existing notice provisions contained in the National Traffic and Motor Vehicle Safety Act.

We are extremely sensitive to the issue of efficiently notifying owners about the potential dangers of defective tires and of an owner's right to obtain safe replacement tires at no cost within the recall period. We are in the midst of the largest tire recall ever conducted under the Vehicle Safety Act, the Firestone 500 steel-belted radial recall. Your Oversight Subcommittee held extensive hearings on the Firestone 500 last year and was instrumental in pursuing the safety issue to its present conclusion—recall of more than 14 million potentially dangerous radial 500's. That 14 million includes over 5 million that were not covered by the recall period, but for which the company had agreed voluntarily to give a half price return, and another 8.7 million that were recalled under the statute. Our investigations reported thousands of accidents in which the tires were implicated, resulting in 41 deaths and 125 injuries.

The Vehicle Safety Act presumes that consumers have a basic right to know if their vehicle or equipment contains a safety defect. This is a fundamental protection that Federal auto safety law should provide. Indeed, Congress has amended the act twice since 1966 to further strengthen this protection; in 1970 to insure that as many owners as possible receive direct notification of defects, and in 1974 to provide for repair or replacement at no cost of vehicles or equipment found to contain safety defects.

Defect notification to tire purchasers is accomplished in the same manner as for automobiles. The dealer is responsible under a specific provision of the act to assist the manufacturer in obtaining the purchaser's name and address and to forward it to the tire manufacturer. Tire registration has worked well in the case of company-owned stores and chain-type department stores, where registration is nearly 90 percent according to our informal surveys. Unfortunately, registration is much lower in the independent tire dealerships, amounting to about 20 percent according to our surveys, for an average in all outlets of about 45 percent. There is certainly a need for additional means to advise tire owners and the general public when a tire line is found to be defective.

The Department supports the idea of providing public notice of a tire recall where the Secretary deems appropriate and after consultation with the manufacturer. In the Firestone 500 case, about 1.6 million of the estimated 8.7 million tires which qualify for free replacement have been returned by owners for replacement at no cost as a result of the publicity and Firestone's mass media campaign. More owners have received rainchecks while more replacement tires are being manufactured. While not a technique that could replace individual notice letters, public notice proved to be of substantial assistance in the initial stages of this important recall.

I might add that the general publicity about the fact of the recall was substantially aided by the specific newspaper ads describing the provisions of the recall, so the public knew what to do when the recall occurred. I think without the public notice and provisions of the newspaper ads, the public would have been terribly confused.

Mr. SCHEUER. Those ads were paid for by Firestone?

Ms. CLAYBROOK. Yes, they were. I think they also helped Firestone dealers because the dealers then had people who were informed coming into their shops. I myself went around to ask some of the dealers how the recall was proceeding. I found they were frustrated at first. When those newspaper ads came out it helped them to deal with an educated public.

Mr. SCHEUER. Do you know how much Firestone spent on the ads, the total promotion campaign?

Ms. CLAYBROOK. No. We could submit that for the record. It was an ad three-quarters of a page in 250 newspapers on one Sunday in December, I think it was December 17. They did two 30-second television spots.

[The following information was received for the record:]

COSTS OF FIRESTONE MEDIA CAMPAIGN

The basic medium for Firestone's paid public notice of the 500 steel-belted radial recall was a series of three-quarter-page announcements in the 250 largest circulation Sunday newspapers throughout the country (see attached reproduction). This detailed announcement was highlighted in two 30-second television announcements carried on the same Sunday as the newspaper announcements, during transmission of National Football League games on NBC and CBS throughout the country. The tv announcements were located in advertising time commonly dedicated to automobile and equipment advertising, and with a wide viewing audience.

Research into advertising costs indicates that the standard rates "allocated" for any particular amount of advertising space or time can and do vary from the actual rates obtained by a particular purchaser. Accordingly, Firestone was asked through its counsel to provide costs incurred for its public notice campaign. Enclosed is a copy of Firestone's response.

A TIRE RECALL MESSAGE FROM FIRESTONE

The Firestone Tire & Rubber Company has initiated a voluntary recall of certain Steel Belted Radial 500 and Firestone manufactured Steel Belted Radial TPC passenger car tires. Some private brand steel belted radials manufactured by Firestone are also being recalled.*

The National Highway Traffic Safety Administration (NHTSA) has made an initial determination that a defect which relates to motor vehicle safety exists in Steel Belted Radial 500 tires.

In order to resolve this matter, Firestone has agreed to replace certain steel belted radials.

A defect of the type referred to in the NHTSA's initial determination may, according to the NHTSA, be first evidenced by the appearance of a bulge or of a noticeable difference in ride characteristics, such as a thumping sound or a roughness in ride, or both. According to the NHTSA, the tires covered by its initial determination may also fail without warning. The NHTSA believes that failure of the tires can result in a loss of air with a possible loss of control of the vehicle which may result in vehicle crash.

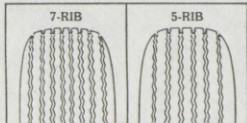
If you are a registered owner of eligible tires bought from a Firestone Store or Dealer, or if the tires came to you as original equipment on a new car, you should receive a mailed notice of the recall.

But if you don't, that doesn't mean you're not eligible. That's why we ask you to read carefully all the recall details and procedures spelled out here.

WHAT TIRES ARE BEING RECALLED?

Firestone will replace, free of charge—including mounting and balancing—any of the following tires:

1. Firestone Steel Belted Radial 500 tires, with a five-rib tread pattern, that were sold on or after September 1, 1975 and manufactured in the United States or Canada prior to January 1, 1977.
2. Firestone Steel Belted Radial 500 tires and TPC Radials, with a seven-rib tread pattern, that were sold on or after September 1, 1975 and manufactured in the United States or Canada prior to May 1, 1976.



The Firestone Steel Belted Radial 500 tires and private brand tires of the same or similar internal construction which were purchased as replacement tires and which have serial numbers, as explained below, showing they were manufactured between March 1, 1975 and September 1, 1975 are eligible for replacement if they were not purchased on a 1975 vehicle. Otherwise, to be eligible for replacement, tires manufactured prior to September 1, 1975, must be accompanied by evidence that the tires were first sold new after September 1, 1975, either as replacement tires or as original equipment on a new vehicle.

Tires that have been retreaded, previously adjusted or scrapped are not covered by this offer. Tires that have been worn out (2/32nds of an inch or less of the original tread depth remaining as measured at three points on the tire) are not eligible for free replacement unless you are still using them on your car.

In order to obtain a replacement tire, you must present the tire. Proof that you once purchased or owned an eligible tire is not sufficient.

HOW CAN I IDENTIFY A RECALLED TIRE?

Obviously, if you receive a mailed notice from Firestone, your tires probably fit into one of the recall groups. But if you don't get a letter, they may be included. Here is how you tell.

First, compare your tires' tread pattern with the pictures shown here. Are they five-rib tires or seven-rib tires?

Next, if you have the invoice or other evidence showing the date you bought your tires, compare it with the "sold" date mentioned above. That's your proof of purchase. In the case of original equipment tires, your car invoice, title, or other evidence of the vehicle purchase date will do just as well.

Finally, to determine when the tire was made, check the DOT number on the tire sidewall (on the inside wall of a whitewall tire). The picture we have included in this announcement will help you identify the DOT numbers on your tires. The last three digits of the DOT number identify the week and year of

manufacture. For example, 353 translates as the thirty-fifth week of 1975.

Still not sure? Ask the man at your nearby Firestone Dealer or Store. He's got the answers, and he really does want to help.



CAN ANYONE BRING IN TIRES FOR REPLACEMENT?

Firestone's voluntary recall covers both "owners" and "purchasers" of Firestone tires.

So if you were the first purchaser of eligible tires and are still using them or have them in your possession, you may present them for replacement.

Even if you acquired your eligible tires on a used car, you may as the current "owner" of those tires bring them in for replacement.

Is anyone excluded from the recall? Yes. Manufacturers or retailers of tires, tire dealers, and persons who sell used or scrapped tires are not eligible.

WHAT TIRES WILL I RECEIVE AS REPLACEMENTS?

In exchange for an eligible tire, you'll receive a new Firestone Steel Belted Radial 721, TPC or comparable Firestone tire.

You may take your choice of any of these tires that are available in the area of the tire replaced. Or you can wait until the tire you want becomes available. You may also select a lower priced radial tire or even a non-radial tire so long as radials and non-radials are not unsafely matched.

WHERE AND WHEN WILL MY TIRES BE REPLACED?

All replacements of Firestone brand tires will be made at Firestone Dealers and Stores. So even if your tires came to you on a new car, bring them in to Firestone. The private brand tires listed below that are also being recalled should be taken back to the local outlet of the private brand.

If your tires came on a new car or your tires were registered when purchased as replacement tires, you should receive a mailed recall notification. Otherwise, we suggest that you visit your Firestone Store or Dealer to have your tires inspected and to make arrangements to have eligible tires replaced. Because of the large number of persons who will respond to this notice, you may find it more convenient to make an appointment.

Your Firestone Retailer will inspect your tires, check to see if they're included in the recall, and arrange with you to replace eligible tires as quickly as possible.

It will take approximately 15 to 20 minutes per tire to make the exchange.

If a tire is not available you will receive a "rain-check" and will be notified by your Dealer or Store when your tire is available.

HOW SOON MUST I BRING MY TIRES IN FOR FREE REPLACEMENT?

The provisions of the recall program require that eligible tires be submitted for replacement within 60 days after you have received notification by mail of the recall.

In the case of those who may not receive a notification letter, request for replacement must be made by April 1, 1980.

After you have been notified that your replacement tires are available you will have 60 days in which to come in to actually have your tires exchanged.

If you do not submit eligible tires for recall within the time required, or fail to have your tires exchanged within 60 days after notification that your replacement tires are available, any exchange of your tires will involve a pro rata charge to you based on the amount of remaining tread and a charge will be made for mounting and balancing.

WHAT IF MY TIRES WERE PURCHASED NEW PRIOR TO SEPTEMBER 1, 1975?

Tires purchased prior to September 1, 1975 are also covered by the initial determination of a safety-related defect by the NHTSA. Although those tires are not required by law to be replaced, to make certain all our Firestone customers are fully satisfied, we are extending a special offer to owners of older tires.

If you own any Steel Belted Radial 500, TPC Radial tires or eligible private brand tires purchased

before September 1, 1975 we will, if you wish, replace them with equivalent Firestone tires of your choice, charging you only one-half the regular retail price and applicable Federal Excise Tax for the tires.

To be eligible for this added program, tires must fulfill all of the recall requirements stated above with the exception of the September 1, 1975 purchase date requirement.

To be eligible for this half-price program you must contact your Firestone Store or Dealer before March 1, 1979. You will then have sixty days to effect replacement after you have been notified that your tires are available. As in the case of free replacements, your tires will be mounted and balanced without charge. When the half-price replacement period has ended, you will pay pro rata based on the amount of remaining tread depth and a charge will be made for mounting and balancing.

WILL I HAVE TO WAIT LONG FOR MY REPLACEMENT TIRES?

Because of the scope of this recall, extraordinary measures will be necessary to bring about an orderly exchange program. When the recall program is in full swing, replacement tires will be available within a reasonable time after you contact the Store or Dealer, some additional delay may occur due to local inventory shortages.

Until we can replace your tires, proper inflation and tire maintenance procedures should be followed. We also recommend that you examine your tires looking for signs of bulges, deep cracks, tread distortions or other unusual conditions. If any of these are found, you should go to your Store or Dealer for a further examination of your tires.

We ask only for your patience and understanding while we fulfill what we feel is an important obligation to complete customer satisfaction.

SUPPOSE I'VE ALREADY HAD MY TIRES ADJUSTED OR REPLACED?

Firestone is providing a full cash refund to everyone who previously owned tires that are now eligible for free replacement, and who had them adjusted before this recall was announced.

To qualify for the refund, you'll have to show proof that the adjusted tires met the eligibility requirements, and you'll need a sales slip showing the amount you paid for the replacement tires, including mounting and balancing. Applications must be mailed by March 1, 1979 to be eligible or within 60 days of the receipt of your mailed notification letter, whichever is the later date.

All refunds will come direct from Firestone headquarters in Akron. But you can pick up information and applications for refunds at any Firestone Dealer or Store right now. Processing these refunds may take some time so we suggest that you wait 90 days after application until you make further inquiry.

As you might imagine, this recall will be an enormous job. It will take—and it will get—extraordinary action on our part to make the exchange as smooth and swift as we want it to be, and as you want it to be. With the good will of our customers and the hard work of our dealers, we'll get it done for you just as fast as we can.

*The following private brand tires will fall into the free replacement or half-price replacement categories based on the same production dates and purchase dates as are applicable to the corresponding Firestone Steel Belted Radial 500 tires. Tires similar to "500" seven rib tires: Atlas Goldmine II Steel Belted Radial only Atlas Goldmine II tires having a serial number beginning with VD and ending with 055 thru 175 are involved in this recall. Tires having a serial number beginning with AJ, AC, UT and VC are not involved. For replacements, if possible, return these Atlas tires to the company service station from which they were purchased. 1. JTM Fernan Steel Belted Radial 40 only tires with serial numbers beginning with VD are included. The KM 40 tires subject to recall are sold in the following Eastern and Midwestern Region States, North Dakota, South Dakota, Nebraska, Kansas, Texas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, New Hampshire, Massachusetts, Connecticut, New Jersey, Rhode Island, Vermont, New York, Pennsylvania, Maryland, Delaware, West Virginia, and Virginia. 2. Primero, National Steel Belled Radial 78 series only. Union Radial Steel 500 "five rib" (Although covered in five rib models, the tires are similar to the 500 seven rib construction. Only tires having a serial number beginning with VD or VT are involved in this recall.) Montgomery Ward Steel-Track, Belled, Grappler Radial II "only tires with VD or VT are included." Tires similar to "500" five rib tires: Montgomery Ward Steel-Track, Belled, Grappler Radial, Super Steel Radial. In the following lines the BR78-13 and ER78-14 sizes are "500" seven rib tires. 3. 78 series only. Union Radial Steel 500 "five rib" (Although covered in five rib models, the tires are similar to the 500 seven rib construction. Only tires having a serial number beginning with VD or VT are involved in this recall.) 4. Corvair Double Corvair Steel Power Radial, Corvair Double Corvair Steel Radial, Holiday Supreme Steel Radial, Lemans Supreme Steel Power Radial, Seiberling HT 78 Steel Radial, Seiberling HT 78 Steel Power Radial, Seiberling HT 78 Steel Power Radial, and Seiberling HT 78 Steel Power Radial.

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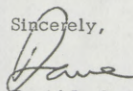
David Allen, Esq.
 Assistant Chief Counsel
 National Highway Traffic Safety Administration
 400 Seventh Street, S.W.
 Washington, D. C. 20590

Dear David:

This is in response to your request for information regarding the cost of the Firestone 500 recall notification. The costs of the various recall notification actions taken by Firestone have been as follows:

Polk mailing of recall letters.....	\$1,340,000 (estimated)
Major daily newspapers notice.....	\$ 400,377
Television notices.....	\$ 102,225
Preparation costs for the major daily newspapers and television notices...	\$ 10,461
News release to smaller daily and weekly newspapers.....	\$ 2,410
Information release to consumer groups....	\$ 1,014
831,500 Consumer information booklets.....	\$ 18,911
Total media recall notification costs which have been incurred.....	<u>\$1,875,398</u>

Sincerely,



David I. Granger

Mr. RINALDO. Thirty seconds.

Ms. CLAYBROOK. Yes.

Mr. SCHEUER. Television. Did they do anything on radio?

Ms. CLAYBROOK. No.

Mr. BERNDT. They issued several thousand press releases to radio stations but nothing formal.

Ms. CLAYBROOK. No paid announcement.

Mr. SCHEUER. Would you say through all of their combined efforts they really got the word out?

Ms. CLAYBROOK. I think that the fact of the recall, because of the particular publicity on this one, was known but the provisions of the recall, which tires were covered and so on, was really not known to the public and they were very confused. I think that the paid ads played a particularly important role in simplifying the task for everybody.

Public notice through various advertising media has several advantages to supplement direct notification by mail to the purchaser's listed address. Public notice is faster and can avert needless death and injury that could occur while numerous notice letters are prepared. Indeed, I might add that the number of notice letters that have gone out to date is less than 50 percent of the people who qualified to receive notice letters, even as of this date, May 1979. So these life-threatening tires are still out there on the highways, and still have not been replaced. The direct notifications have still not been mailed to some 60 percent of the owners.

Mr. SCHEUER. Why is that?

Ms. CLAYBROOK. Because Firestone is having to manufacture tires and they are sending out the recall notice letters simultaneously with the amount of tires that they are manufacturing. This recall is going to take almost an entire year to carry out at the present rate. It is slower than we would like to see it carried out, much slower, but as a minimum the public has had notice.

Just the other day I wrote a letter to the chairman of Firestone to ask him once again to urge the public to bring their tires in and move this recall as rapidly as possible.

Mr. SCHEUER. It seems to me that in order to do the minimum required to live up to its responsibilities to its customers, that Firestone would notify everybody at once. Then Firestone could work out some kind of recall schedule which would be meshed with their production schedule. This would give the people knowledge, and they might drive a little more carefully or make other provisions. They might themselves pay to put some other make of tire on and not wait 7 or 8 or 10 months for Firestone to act, if that were necessary. However, at least they would have knowledge that they were driving on potentially lethal tires and they would have all of the available options before them.

Ms. CLAYBROOK. To do something to protect themselves.

Mr. SCHEUER. To do something.

Ms. CLAYBROOK. If it were my position to do that, I would have done that. We urged Firestone to move as expeditiously as possible.

Mr. BERNDT. They appear to be gearing the mailing of the notifications to their production schedule of some 400,000 tires a month.

Mr. RINALDO. The only problem with that scheme is that the longer the letters are held back, the more the chance of people moving and it becomes more difficult to notify them.

Mr. BERNDT. We certainly agree with that. Besides there is a provision in the act that if they do get notified they can come in and get a rain check if the manufacturer does not have the tire ready for them at that time. So we would certainly agree with you.

Ms. CLAYBROOK. Also, the ownership of tires typically changes with the transfer of vehicles, and direct notice to the original purchaser of aftermarket tires is unlikely to be retransmitted to the new owner. In addition to moving from one address to another, cars are sold during this period so you have that additional difficulty.

Mr. RINALDO. I agree.

Ms. CLAYBROOK. Purchasers can also fail to receive notice simply because they move without leaving a forwarding address.

The Department would not support a provision that sought to substitute public notice for direct notice based on registration of tire purchases by the dealer. In our view, public notice does not have the same impact as direct notice in encouraging corrective action by the owner. Despite the massive Firestone publicity, only about 15 percent of the tires have been, to this date, turned in to dealers.

Substantial direct mailings to individual owners have only commenced recently, since January. Also, tire recalls typically will not be accompanied by the high level of publicity spontaneously generated in the Firestone case, particularly where a company comes in and offers to recall voluntarily. So again, there you have an additional reason for having this kind of provision in the law. Direct registration continues to bear the burden for successfully conducting a tire recall. We believe the two supplement each other very nicely.

It has been argued that the mere provision of a registration card to be filled out at home by tire purchasers would equal or exceed the potential for registration under the present arrangement where they have to fill it out at the dealership.

I thought I would comment on this because this issue has been raised in the Senate authorization bill.

Mr. SCHEUER. Excuse me. We have to leave to get this rollcall vote. Why don't we take a 10- or 12-minute break right now.
[Brief recess.]

Mr. SCHEUER. The hearing will resume and, Madam Administrator, please proceed.

Ms. CLAYBROOK. Mr. Chairman, it has been argued that the mere provision for registration cards to be filled out at home would equal or exceed the potential for registration under the present scheme which occurs at the dealership, and I wanted to take just a moment to discuss this with you, because it is an issue raised in the Senate authorization bill, as that bill has been amended. It is one that we very much disagree with and are terribly concerned that, if that provision is adopted by the Congress, owners of tires will not be properly notified in the event of recall.

We have studied this issue, and we are convinced that the system in the present law is superior.

Voluntary registration of warranty, such as has been proposed, has been looked at for major appliances, and it averages only 50 percent, with as low as 10 percent registration for the less expensive appliances in the range of \$10 to \$30, despite the fact that a monetary incentive to register the warranty exists.

Voluntary registration by tire purchasers would be particularly difficult, the reason being that the identification number on the tire is often very hard to find, and it is hard to distinguish from all the numbers on the tire. In the case of whitewalls, for example, it is located on the side opposite the whitewall, so that it is virtually inaccessible after mounting the tire on the car. The number can be seen only if the car is on a lift and you look at the number from the inside. The reason for this has to do with the manufacturing practice of the tire industry, something that we are taking a look at, but at the present the owner would not be able to find the number readily.

Therefore, if they were allowed to take that registration card home, fill it out, they would not really properly record the number in most cases on the registration card which then goes to the tire manufacturer and is stored until a recall occurs. We feel strongly that the card should be filled out at the dealership, which is what the present law requires, so the dealer can put the proper number on the card right then and there.

The registration requirement imposes a very small amount of work on the dealer, and particularly when compared to the death and serious injury occasioned by tire defects such as the Firestone 500.

A simple universal registration form is now provided to the dealers, although dealers may choose to use a different format if they prefer. Only the purchaser's name, address and tire identification numbers are required to be put on the form, so it is very simple to fill out. The purchaser can be asked to fill it out if he wishes.

The tire dealers came to us last year and said why is it that the consumer can't fill the card out himself, and we said, that is permissible as long as it is done at the dealership and he is responsible for forwarding it to the manufacturer. So the dealer doesn't have to do paperwork other than make sure the card is filled out and the proper identification number is listed.

Mr. SCHEUER. Does that system follow that tire wherever it goes so that at any time in the future, after the original sale of a new tire, if it were found out that tire were defective, something would be put in the mail that would reach the current owner of the car on which that tire—

Ms. CLAYBROOK. No, it would only reach the purchaser, because the card is filled out by the person who buys the tire, and the current address at that time is what is on the card. That is all the manufacturers have knowledge of. In the case of automobiles, the manufacturers go to a company named R. L. Polk, which in turn goes to all the State motor vehicle agencies. They collect the current registration for each car and use the number on the dashboard as their way of identifying the current owner. The manufacturer provides the identification number. There is no similar system for registration of tires by the States.

Mr. SCHEUER. Could you envisage a computer system wherein that serial number would be stored and which could be consulted on every resale by somebody pressing a few numbers on a computer terminal somewhere? Thus, at all times all tires in the U.S. would be stored in that computer bank.

Ms. CLAYBROOK. No, because it is not the computer that is the problem, but the source of its data.

Mr. SCHEUER. It would have to be a system whereby on each sale something would have to be cranked into the computer to maintain the validity of the records of ownership.

Ms. CLAYBROOK. I could see it would be possible to enact such a provision, but it would be somewhat complicated. If it applied to the automobile dealer, then, of course, you could make a requirement on them under present law. You could add to the present law a requirement that they have to list the tire identification numbers when they register the car.

But a lot of tire sales are much more informal than that; just between two different people. It seems to me the only way you could control these is if each State enacted a law requiring on the title papers for a car they list the tire identification number. I just think that probably would never happen. I can't imagine that you would get that to happen. I would be willing to think of it, and try to think of a simpler way to do it.

Mr. SCHEUER. This subcommittee is, in the near future, going to hold a set of hearings on the cost and benefits of the Federal registry process. So it would ill-behoove us now to encourage a form of regulation where the costs were widely out of proportion to the benefits. It seems to me that somebody ought to be taking a good hard look to see how currently available science and technology could be used to track tires with a minimum of effort, maybe just by punching a few numbers into a computer terminal. I am not giving you the answer. However there is a lot of computer power out there, capable of storing billions and billions of individual facts. Somebody would have to take a look at what the cost would be of erecting such a national system and having uniform registration.

Ms. CLAYBROOK. We don't even have such a thing for cars. The vehicle identification numbers for cars are known to the manufacturer, and they are known to the State motor vehicle administrator, but there is no national vehicle identification registry, for example, that keeps track of all the vehicles that are in use in the United States. It seems to me if you were going to start someplace, that is where you might want to think about starting. Such a registry was recommended by the Department of Transportation in 1968, in order to help with recall campaigns and motor vehicle inspections and a number of other things, and it really never saw the light of day.

Mr. SCHEUER. Why was that?

Ms. CLAYBROOK. I guess no one really picked it up, and administrations changed.

Mr. SCHEUER. Of course, you would have to—in order to have a proposal like that seriously considered—show what the cost would be and what the benefits would be, and I might say, in passing, that there has been a great revolution in communication technol-

ogy in the last 11 years. It may be that what would have been difficult or impossible or overly time-consuming and very labor-intensive at that time would be a comparatively simple matter if today's technology were applied.

Ms. CLAYBROOK. I still don't think that is the problem. I think the problem is the source of the information; that is, getting the name and address and identification number of a tire and the owner on the same piece of paper each time a transaction occurs and having that card or piece of paper go to the right place to be put into the computer. Once that happens, then the managing of the computer is a relatively simple matter. It is the numerous different transactions day in and day out that causes difficulty.

The Social Security Administration, for example, keeps track of all employees in the country, and they have—I don't know—five or six full-time computers that keep track of change of address of people working in this country. Certainly the number of tires in use on the highways, and the number of transfer transactions certainly almost matches that, so it would be a tremendous number of transactions that you are talking about. It is not as though you have one tire identification number for the entire car, but each tire has a different identification number.

Mr. SCHEUER. But an individual's tires come off and different ones go on, so it is not as though you are dealing with four tires. I am not saying it is simple, but it should be looked at.

Ms. CLAYBROOK. We will do that.

Mr. SCHEUER. Maybe the Congress Office of Technology Assessment might have some ideas. We might also consult the National Science Foundation, National Academy of Sciences, and the General Accounting Office. There are repositories of considerable expertise in this area, computer sciences that you might want to explore.

Ms. CLAYBROOK. OK. We will contact them and get back to you. [The following information was received for the record:]

TECHNICAL FEASIBILITY OF MAINTAINING TIRE OWNERSHIP RECORDS

Contacts with the Office of Technology Assessment, the National Science Foundation, the National Academy of Sciences, and the General Accounting Office indicate informal agreement that the maintenance of central tire ownership records by electronic means is technically feasible.

Mr. SCHEUER. Good.

Ms. CLAYBROOK. We have reviewed Mr. Rinaldo's bill, H.R. 3949, which would treat tires like any other replacement equipment and require that direct notice by mail be provided to the most recent purchaser known to the manufacturer and that public notice be provided as determined by the Secretary after consultation with the manufacturer. Because registration records for vehicles are so good, we anticipate the bill would actually affect the replacement market, for the most part, and be moderate in impact.

The bill, as drafted, represents a great improvement in consumer's rights to receive adequate notice of defective products, and would serve to compensate in part for the low tire registration rates experienced in some tire outlets. Accordingly, the Department of Transportation supports H.R. 3949.

Before concluding, Mr. Chairman, I would like to mention another improvement that you might want to consider as you handle

this provision, which has to do with the fact that when the "replacement without charge" requirements were added to the act of 1974, a 3-year limit was placed on the "no charge" recall of tires during the legislative process. That is, any tire that is sold that is in use and is recalled more than 3 years after sold is not subject to recall. We found in the Firestone——

Mr. SCHEUER. Subject to notice. The notice would go out but no replacement without charge.

Ms. CLAYBROOK. Yes. We found in the Firestone case, for example, there were 14 million tires in total; 8.7 million were actually subject to replacement without charge. The 5.3 million were not, and the 5.3 were, of course, the older tires. Based on the information that we had from Firestone, those were probably more likely to fail—they were a little worse, that is—than the ones actually subject to replacement without charge.

So we feel very strongly that our experience with this particular recall demonstrates that the useful life of a tire is commonly more than 3 years, and this is particularly the case when the tires are removed and stored for winter use, or where a person doesn't travel a large number of miles each year. We believe that it would be important for the committee to extend this limit or to remove it entirely. If a tire does not have more than a 3-year useful life, there is not going to be any around to recall, and if it does have more than a 3-year useful life, it should be recalled. That is, if a purchaser buys a tire and it is defective, I don't see the rationale for placing an arbitrary 3-year limit or recall which doesn't bear any relationship to tire usage.

Mr. SCHEUER. You have to have some rule of thumb. Supposing the fellow were a taxi driver and drove 100,000 miles a year.

Ms. CLAYBROOK. He probably wouldn't have the tires on the car when the recall occurred, because the tire only lasts 40,000 miles—the radial tire, anyway. So I think the distinct life of a tire really controls that, and I don't see any need for an arbitrary statute of limitation in this case.

Mr. SCHEUER. There is a point in time where a tire is 90, and then 95, and then 98 percent worn out. Is it fair to the tire manufacturers at the end of 3 years when a tire is virtually down to the cords—when, in fact, that tire has had its full use—to say, "Whoops, it is a defective tire and has to be replaced"?

Ms. CLAYBROOK. The same is true with the 3-year limit, however. If you have someone driving 30,000 miles a year, it is going to be worn out, and there are going to be quite a number of worn tires involved in any recall. I guess the choice you have to analyze is whether or not a person who pays \$70 for a tire and risks their life on a defective tire, all the time they were driving it that 30,000 or 40,000 miles, they had a risk they were taking——

Mr. SCHEUER. It was a considerable risk; otherwise, it wouldn't be recalled.

Ms. CLAYBROOK. That is right, a considerable risk. So even if it is 95 percent used, it seems to me that the manufacturer has put the public in that risk position, and the primary issue is to try and get those tires off the highway.

Mr. SCHEUER. That is correct.

Ms. CLAYBROOK. In the case of Firestone you had 5.3 million tires you are talking about that were not subject to the replacement, and they were tires manufactured generally in 1974 and 1975.

Mr. SCHEUER. And they are the ones for which notice has not gone out yet?

Ms. CLAYBROOK. Some of them

Mr. SCHEUER. I find it particularly unconscionable that there are still 5 million or more tires for which no notice has gone out at all, simply because it appears from their production schedule it might be 6 months or 1 year before they could replace them. In the meantime they have left the people in a total state of ignorance as to the fact they are driving on defective tires. I find that unconscionable.

Ms. CLAYBROOK. The thing that concerns us about the tire registration requirement is that, if the registration card does not have to be filled out at the dealership, we are concerned it never will be filled out, and when a defect occurs, the manufacturer won't know how to find the owner. So while it may not be a perfect system, it is the best and cheapest one that we know of, and we feel strongly that it should not be watered down.

That completes my statement. Thank you.

[Ms. Claybrook's prepared statement follows:]

STATEMENT OF JOAN CLAYBROOK, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE, HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE, CONCERNING PROVISION OF ADEQUATE NOTICE TO OWNERS OF DEFECTIVE TIRES, MAY 24, 1979.

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before your Subcommittee today to discuss the use of public notice to alert owners about defective or noncomplying tires. Representative Rinaldo of this Committee has introduced a public notice bill for tires that would supplement the existing notice provisions contained in the National Traffic and Motor Vehicle Safety Act.

With me today are Acting Associate Administrator for Enforcement, Lynn Bradford, and Chief Counsel, Frank Berndt.

We are extremely sensitive to the issue of efficiently notifying owners about the potential dangers of defective tires and of an owner's right to obtain safe replacement tires at no cost within the recall period. We are in the midst of the largest tire recall ever conducted under the Vehicle Safety Act, the Firestone 500 steel-belted radial recall. Your Oversight Subcommittee held extensive hearings on the Firestone 500 last year and was instrumental in pursuing the safety issue to its present conclusion -- recall of more than 14 million potentially dangerous radial

500's. Our investigation reported thousands of accidents in which the tires were implicated, resulting in 41 deaths and 125 injuries.

The Vehicle Safety Act presumes that consumers have a basic right to know if their vehicle or equipment contains a safety defect. This is a fundamental protection that Federal auto safety law should provide. Indeed, Congress has amended the Act twice since 1966 to further strengthen this protection, in 1970 to ensure that as many owners as possible receive direct notification of defects, and in 1974 to provide for repair or replacement at no cost of vehicles or equipment found to contain safety defects.

Direct notification to tire purchasers is accomplished in the same manner as for automobiles. The dealer is responsible under a specific provision of the Act to assist the manufacturer in obtaining the purchaser's name and address and to forward it to the tire manufacturer. Tire registration has worked well in the case of company-owned stores and chain-type department stores, where registration is nearly 90 percent according to our informal surveys. Unfortunately, registration is much lower in the independent tire dealerships, amounting to about 20 percent according to our surveys, for an average in all outlets of about 45 percent.

There is certainly a need for additional means to advise tire owners and the general public when a tire line is found to be defective.

The Department supports the idea of providing public notice of a tire recall where the Secretary deems appropriate and after consultation with the manufacturer. In the Firestone 500 case, about 1.6 million of the estimated 8.7 million tires which qualify for free replacement have been returned by owners for replacement at no cost as a result of the publicity and Firestone's mass media campaign. More owners have received "rain checks" while more replacement tires are manufactured. While not a technique that could replace individual notice letters, public notice proved to be of substantial assistance in the initial stages of this important recall.

Public notice through various advertising media has several advantages to supplement direct notification by mail to the purchaser's listed address. Public notice is faster and can avert needless death and injury that could occur while numerous notice letters are prepared. Also, the ownership of tires typically changes with the transfer of vehicles, and direct notice to the original purchaser of aftermarket tires is unlikely to be re-transmitted to the new owner. Purchasers can also fail to receive notice simply because they move without leaving a forwarding address.

The Department would not support a provision that sought to substitute public notice for direct notice based on registration of tire purchases by the dealer. In our view, public notice does not have the same impact as direct notice in encouraging corrective action by the owner. Despite the massive Firestone publicity, only about 15 percent of the tires have been reported to dealers. Substantial direct mailings to individual owners have only commenced recently. Also, tire recalls typically will not be accompanied by the high level of publicity spontaneously generated in the Firestone case, particularly in the case of voluntary recalls. Thus, direct registration continues to bear the burden for successfully conducting a tire recall.

It has been argued that the mere provision of a registration card to be filled out at home by tire purchasers would equal or exceed the potential for registration under the present system at the dealership. We have studied this issue and are convinced this would not be the case. Voluntary registration of warranties on major appliances averages only 50 percent, with as low as 10-percent registration for the \$10 - \$30 appliances, despite the fact that a monetary incentive to register the warranty exists. Voluntary registration by tire purchasers would be particularly difficult because the identification number is often hard

to distinguish from several other numbers on a tire, and in the case of white walls, it is often located on the side opposite the whitewall so that it is virtually inaccessible after mounting without climbing under or lifting the car. Also, the registration imposes a very small amount of paperwork on the dealer in comparison to the death and serious injury occasioned by tire defects such as the Firestone 500 case which can be stopped with an effective recall. A simple "universal registration form" is provided to dealers, although dealers may choose use of other formats if they desire. Only the purchaser name and address, along with the tire I.D., must be added to the form. The purchaser can even be asked to fill out the name and address portion. Thus, there may be no need for the store personnel to do anything more than insert the tire number and check the form for completeness.

We have reviewed Mr. Rinaldo's bill, H.R. 3949, which would treat tires like any other replacement equipment and require that (1) direct notice by mail be provided to the most recent purchaser known to the manufacturer and that (2) public notice be provided as determined by the Secretary after consultation with the manufacturer.

Because registration records for vehicles are so good, we anticipate the bill would actually affect the replacement market for the most part, and be moderate in impact.

The bill as drafted represents a great improvement in consumer's rights to receive adequate notice of defective products, and would serve to compensate in part for the low tire registration rates experienced in some tire outlets. Accordingly, the Department of Transportation supports H.R. 3949.

Before concluding, I would like to mention another improvement that could be made to the tire recall provisions. When the "replacement without charge" requirements were added to the Act of 1974, a 3-year limit was placed on the "no charge" recall of tires during the legislative process. Our experience with tire recalls since then demonstrates that the useful life of tires commonly can be longer than three years. This is particularly the case where tires are removed and stored during winter tire use each year or where the owner travels relatively few miles annually.

In the Firestone case, for example, only somewhat more than half of the defective 500's still in use on the highways were sold within the 3-year cut-off date of September 1, 1975. That is, 8.7 million tires will be replaced

at no charge under the 3-year limit, but 5.3 million more were not covered by the statutory remedy of § 154. Thus, although there is an unlimited obligation to notify owners of a defect, there is a 3-year limit on the requirement that a replacement tire be provided for the defective one. The Department of Transportation has under consideration a proposal to extend this 3-year limit.

This completes my statement. I and my colleagues would be pleased to answer any questions you might have.

Mr. SCHEUER. Thank you very much.

You mentioned Congressman Rinaldo's bill. Have you scrutinized Congressman Wolff's bill?

Ms. CLAYBROOK. Yes. We think the particular draft language of the Rinaldo bill is superior, but the bill attempts to do the same thing. I think as a matter of drafting, we would prefer the Rinaldo bill, but the content and purpose of them are both the same.

Mr. SCHEUER. OK.

Congressman Rinaldo?

Mr. RINALDO. Thank you. I appreciate your testimony. I have a couple of questions I would like to ask.

Could you describe how the public-notice provision now in the statute has been used in the past for items of replacement equipment other than tires, and in your explanation tell us how NHTSA consults with the manufacturer to decide the extent and type of public notice which should be required?

Ms. CLAYBROOK. Mr. Rinaldo, I have not been involved in any of those particular negotiations, and perhaps I should submit for the record a more particular statement for you. When a piece of equipment is found defective, we may find it, or the manufacturer may have. If they find it, they come and tell us, and we ask them to carry out the recall, and to notify the public. Sometimes they have the names of the people involved; sometimes they don't. It depends on how large and significant the sale of replacement equipment is. It depends on whether it was primarily involved in a sale as original equipment in the car or not.

In the case where we discover it, we notify the manufacturer; they come in and we negotiate on how to carry out a recall.

As far as I know, there has been very little use of the public-notice provision. It really first came to my attention when we were working on the Firestone case, trying to explain to the public what it was all about, and became enormously frustrated by our inability to require the manufacturer to give the public notice. We had to make it a subject of the negotiation, which meant in some sense you were trading off other things such as the number of tires

recalled for getting them to conduct public notice. I think it has been an underutilized provision in the law.

Mr. RINALDO. My understanding of it is that it has worked very well for replacement parts other than tires.

Ms. CLAYBROOK. To the extent it has been used.

Mr. RINALDO. Exactly. I know the Rubber Manufacturers Association has expressed a concern and will express it here this afternoon in their testimony, that if the statute is amended to bring tires in under the public-notice provision of subsection 3, guidelines as to what constitutes adequate public notice should be considered.

I have discussed this with them; I feel it is a very difficult thing to legislate. All of the work that my staff has done indicates that in the past it has always been administered very fairly, and I think the important thing is that consultation with the manufacturer is provided for in the statute. We are not saying we want to amend the law to exclude that consultation.

Could you tell me how often under the present statute paid advertising has been mandated by the Secretary in the past?

Ms. CLAYBROOK. I don't know the answer to that question, but we can check and find out. I think it hasn't been mandated in that sense. I think it has been a discussion matter.

I would like to also say that in terms of what is adequate public notice, that one of the things that we learned in the course of the Firestone case was that the advertising industry has a pretty good sense of how much radio time, television time, newspaper space you need to have in order to reach a certain population. So I think that we ought to be able to work out administratively, without having any strict numbers in a statute, a way of giving adequate public notice, and it may be that the committee report should have language that says you should try to reach as large a portion reasonably of the population involved in this recall as you possibly can.

Mr. RINALDO. And use the guidelines as a basis for your consultation with the manufacturer.

Ms. CLAYBROOK. That is correct.

Mr. RINALDO. I have no further questions, Mr. Chairman.

Mr. SCHEUER. Thank you very much, Madam Chairman.

Ms. CLAYBROOK. Thank you.

Mr. SCHEUER. We will hear from one of the original proponents of this legislative concept, Congressman Lester Wolff of New York.

I have the privilege of serving with Congressman Wolff from New York. Congressman Wolff has been a strong advocate of consumer rights in the Congress for many, many years. He has been involved in unit pricing. He was a cosponsor of the Consumer Food Labeling Act in the last Congress. He supported legislation to create a consumer protection agency; he was cosponsor of the bill to establish a Department of Consumer Affairs at the Cabinet level. He has led investigations into the trading stamps industry and into defective advertising practices.

In 1967, he was the winner of the Consumer Assembly's national award. He has voted for the Truth in Lending, Truth in Packaging, and the Meat Inspection Acts. In 1974, he was a strong supporter of the motor vehicle and school bus safety amendment. He initiated

H.R. 1744 back in January 1979 and worked hard to get 31 cosponsors.

He has been working long and hard on this legislative concept. He should share equally—I think my colleague from New Jersey would say.

Mr. RINALDO. I would say Mr. Wolff certainly has a longstanding commitment to this very important goal of tire safety and has been working on this legislation even prior to my involvement. We discussed it together on a number of occasions, and I certainly want to compliment you for the work you have done in this field. I appreciate you coming here this afternoon to give this testimony.

I didn't get the same elaborate copy of your biography and accomplishments that were given to the chairman, so I can't go on in as great a length, but it is good to have you here.

Mr. WOLFF. Thank you very much.

Mr. SCHEUER. It is good to have you here, and I want to pay tribute to you for your work, along with Congressman Rinaldo, in bringing these two bills to our consideration and for your long-time in-depth commitment to consumer protection.

So, with those few sparse words, Congressman, why don't you proceed with your testimony?

STATEMENT OF HON. LESTER L. WOLFF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. WOLFF. Thank you very much, Mr. Chairman, members of the subcommittee.

I come before your subcommittee today to speak on behalf of an issue of great importance to the consuming public, and I think we all recognize this.

That issue is tire safety and the ability of the Federal Government to require tire manufacturers to effectively recall tires with safety defects, or which fail to comply with Government standards. I might say at this point, Mr. Chairman, that I find it very difficult to understand why an agency which is charged with the responsibility for protection of the riding public did not comfort themselves and recommend this change in the legislation. I think it is most important to understand and to try to determine where the original exemption came from. And I have been trying to find out who initiated the original exemption, and nobody seems to be able to find out.

Mr. SCHEUER. It is lost in the shrouds of history.

Mr. WOLFF. That is unfortunate.

Because this is a matter of life and death, as you have agreed.

On January 31, this year, I introduced H.R. 1744, to amend the National Traffic and Motor Vehicle Safety Act to give authorization for the Secretary of Transportation to require tire manufacturers, under certain circumstances, to give public notice in cases where tires have been found defective and are recalled. I pay due respect to Congressman Rinaldo and his staff, who have certainly taken the information and amended this bill to a point which is much more direct, I think, than the original bill which I put in, and I joined as a cosponsor of that legislation after he put it in.

I would like to ask unanimous consent that the complete statement be put in the record, and I will try to summarize.

Mr. SCHEUER. It is so ordered.

[Mr. Wolff's prepared statement follows:]

STATEMENT OF HON. LESTER L. WOLFF, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF NEW YORK

Mr. Chairman and honorable colleagues, I come before your subcommittee today to speak on behalf of an issue of great importance to the consuming public. That issue is tire safety and the ability of the Federal government to require tire manufacturers to effectively recall tires with safety defects or which fail to comply with government standards. Specifically, I am here to testify in support of legislation which would close a loophole in the present law and which would authorize the Secretary of Transportation to require that tire manufacturers give public notice of recalls of defective tires.

On January 31, I introduced H.R. 1744, to amend the National Traffic and Motor Vehicle Safety Act to give authorization for the Secretary of Transportation to require tire manufacturers, under certain circumstances, to give public notice in cases where tires have been found defective and are recalled. To date, thirty-one of our colleagues have co-sponsored this bill. I strongly believe that this legislation is essential if we are to inform the public of situations in which dangerous tires threaten their safety.

For more than a decade, tire safety has been a subject of legislative initiative and oversight by the Congress in its comprehensive efforts to provide improved safety standards for motor vehicles and equipment. Congress set the landmark in this area through passage of the National Traffic and Motor Vehicle Safety Act of 1966. This Act, for the first time, established safety standards for motor vehicles and equipment. Moreover, this Act required that manufacturers notify purchasers of safety defects in motor vehicles and equipment and in 1974, manufacturers were additionally required to remedy such defects without charge to the consumer. Tire safety was prominently mentioned in that first Act and the subsequent amendments in 1970 and 1974 have strengthened the safety standards and requirements relating to tires.

If one looks at the record in this regard, it is clear that action needs to be taken to not only strengthen safety standards, but, equally important and at issue here, to increase public awareness of defective tires which can threaten the safety of motorists and of innocent bystanders as well. Since 1969 there have been 217 recalls of tires that have been found to be defective. These recalls have involved more than 17.5 million tires. The most publicized incident of this, of course, was the case of the Firestone "500" steel belted radial.

A report prepared last year by the Subcommittee on Oversight and Investigations documented the extreme hazard posed to safety by these tires. In its report, the Subcommittee noted that: Accidents attributed to the "[Firestone] 500" number in the thousands, injuries in the hundreds, and known fatalities as of August 1978, 34.

In that case it was found that these tires were prone to sudden failure even under normal driving conditions and especially when driven at high speeds. And these casualties occurred in relation to what has become the most highly publicized of all tire recalls. We do not know how many casualties have resulted from defects in other brands or types of tires. Most of all, the public may have no knowledge that other tires subject to recall may pose a similar hazard to their safety.

It is this issue of publicity of defects or failures which we address today. In 1974, when the National Traffic and Motor Vehicle Safety Act was amended, provision was made to enable the Secretary of Transportation to require that manufacturers of motor vehicles and equipment issue public notice of their recall of defective products in addition to required notification by mail. This was done to ensure that all consumers or purchasers of a motor vehicle will be made aware that a safety related defect exists and that they can have this remedied at no charge. However, at that time, a major loophole was left when tires were specifically exempted from the provisions authorizing the requirement of public notice.

The exemption for tires from the provision which authorizes the requirement of public notice of defects was based on what was considered to be a sound judgment. At that time it was maintained that the system of owner registration, which had been required by the original act, was so efficient that consumers could be easily identified and subsequently notified by mail of any decision to recall a defective line of tires. We were led to believe that public notice in such an instance was unnecessary because the affected consumers could be reached by mail—a more economical and direct method of communication.

Although this procedure appeared to be simple and efficient at the time, experience has proven it to be inadequate. As the Washington Post reported in December of last year, "the system of owner registration beyond company owned stores is virtually in a shambles." The result is that even if the tire company engages in a genuine effort at notification via mail, experience has demonstrated that purchasers cannot always be reached through this means. To allude again to the Firestone case, it has been estimated that as many as thirty percent of the owners of these tires will never be officially notified by mail that their tires are defective and will be replaced at no charge. Thus we can see why the report of the Subcommittee on Oversight and Investigations concluded that: Neither the Federal vehicle safety standards nor the Federal safety recall systems have served to protect the public against the hazards of the Firestone "500" steel belted radial.

Clearly, the consequences of such a situation is that motorists may be driving on defective tires without realizing that their lives and safety are in danger. And, as it now stands, the Federal government does not have the power to ensure that the consumer is made aware of this hazard.

One might point out, of course, that the Firestone Tire and Rubber Company did eventually issue public notice of the defects discovered in its steel belted radials. However, this was undertaken reluctantly and only as part of a complex agreement laboriously arrived at between Firestone and the National Highway Traffic and Safety Administration. I would submit that, had the provision authorizing the requirement of public notice existed in the law, agreement at least on this point would have been much easier to attain. The Federal government must have the authority to compel public notice upon a determination that a line of tires is defective and hazardous to the public safety. We in the Congress must take this initiative and enact measures which would promote a clear recognition by the consumer that a safety hazard has been detected. This is precisely what H.R. 1744 intends to do.

The bill which I introduced last January would amend section 153 of the Act to remove the exemptions for tires from the provisions spelling out how consumers may be notified in the case of a motor vehicle or item of replacement equipment. Thus, in addition to notification via first class mail, or in certain circumstances, via certified mail, the Secretary may require public notice after consultation with the manufacturer if it is determined to be necessary in the interest of motor vehicle safety. By authorizing the requirement of public notice we do not pose an additional burden to the process of determining whether a defect or failure to comply exists, we merely increase the options available to the Secretary to deal with such a situation.

H.R. 1744 would also draw clear lines as to the retroactive application of this amendment to the Act. It is very important that this legislation is able to reach tires that are on the road now but which have not yet been discovered to be dangerous. Accordingly, Section 2 provides that these amendments shall retroactively apply to any defect occurring before the passage of this Act for which notification was not issued under the provisions which (a) require a manufacturer to notify purchasers of any defects discovered by their own investigation or (b) that are determined by the Secretary after an initial notification to the manufacturer and for which the manufacturer has an opportunity to present arguments in support of their compliance. Moreover, in fairness to tire manufacturers, this provision would also insure that in cases where a determination and notification of a defect has been made, the Federal government will be precluded from going back to a manufacturer and requiring that they now issue public notice in addition to the actions they may already have taken in compliance with existing law.

It is in this regard that H.R. 1744 differs from the similar bill recently introduced by the honorable gentleman from New Jersey and which is also under consideration by this Subcommittee. The other bill makes no mention of retroactivity and thus leaves ambiguous the scope of the legislation. I would emphasize to the members of the Subcommittee the need for some such provision so as to preclude any chance of either delay by a tire manufacturer who might contest the ambiguity of the law or capricious action on the part of a government agency which might decree that public notice be given for recalls which have already been made or begun.

It is difficult to imagine the terror of a motorist when a tire explodes or disintegrates while proceeding down the road. Driving along, at normal speed, the vehicle is suddenly thrown out of control. Serious damage, injury, or even death may result. An innocent bystander, another motorist, the occupant of the car with the defective tire may be the victims. We can help prevent this by closing a dangerous, unjustified loophole in the law. Our colleagues who have cosponsored this bill join me in asking that you do so.

Mr. WOLFF. The fact is that the one major difference is the question of retroactivity in my bill and not in Congressman Rinaldo's bill.

Mr. SCHEUER. Retroactivity as to what?

Mr. WOLFF. As to the tires that are covered.

Mr. SCHEUER. In other words, his would be covering only tires sold after—

Mr. WOLFF. There is a fuzzy area in there, and I am concerned that we do have an administrator of the act who has explicit directions that any tires that are on the road are to be covered. I am concerned that with the present bill that there might be maybe an overzealous administrator or tire manufacturer who seeks to escape the intent of the law here by saying only those tires that came out after this notification came through are covered by this legislation. And it is for that reason I have tried to delineate in my bill the application of it.

Mr. RINALDO. Mr. Chairman, I think that is a good point. I know that your bill addresses the date of manufacture, but we have checked this out with legal counsel at NHTSA and also legal counsel on the staff, and that particular date is not important for recall purposes. The important dates are the date of defect determination by NHTSA and the date of sale. This is similar to a warranty action, which runs from the date of sale. In other words, the way my legislation is written, it would apply to recalls of all tires which are determined to be defective after the date of enactment.

Since recall inherently has a retroactive effect, the public notice provision would apply to tires manufactured and sold before the date of the enactment of the legislation.

And the most important point, I think, is that for purposes of issuing a recall, the significant date is the date the defect is determined to exist by NHTSA, which is covered in my legislation.

Mr. WOLFF. The important elements, I think, if the gentleman would yield, is not really the date but as to whether or not someone has a defective tire that they are riding on that was supposed to be sold as a safe tire. I think that is the important element.

Mr. RINALDO. Exactly, and both bills try to get at that.

Mr. WOLFF. The only reason we have the question of retroactivity is that it covers any tires on the road today before the law has been enacted, and I think what we are trying to do is protect the overall population. We are not trying to make a determination as to this day is a safe day and tomorrow is not a safe day.

Mr. RINALDO. My bill covers that, also.

Mr. WOLFF. If it does, fine, but there is a question that has been raised by counsel in the preparation of the bill originally, and that is why we put it in. It was raised by the legislative counsel of the Congress, and that is one of the basic reasons that was put in the bill. If we are both looking toward the same end, I would imagine you would have no objection to delineating that in the bill.

Mr. SCHEUER. Excuse me. Why don't we leave it at this point, and Congressman Rinaldo and I will discuss it and confer with you and the experts, and confer with NHTSA—

Mr. RINALDO. Mr. Chairman, maybe you would want comments on this by your chief counsel.

Mr. SCHEUER. Definitely. Basically you are together on the thrust of the thing. We congratulate you again on the tremendous initiative you have shown in this as in so many other consumer matters, where you have been a constant and staunch defender of consumer rights and consumer protection.

We thank you for your initiative and for your testimony and with these few sparse remarks, we will excuse you for the afternoon.

Mr. WOLFF. I thank you very much.

Mr. SCHEUER. Now we will hear from Mr. Thomas Cole, vice president of the tire division of the Rubber Manufacturers Association.

Mr. Cole, as you know, your prepared remarks will be printed in full in the record. We are delighted to have you here today and look forward to what you will be telling us.

STATEMENT OF THOMAS E. COLE, VICE PRESIDENT, TIRE DIVISION, RUBBER MANUFACTURERS ASSOCIATION

Mr. COLE. Thank you, Mr. Chairman. I shall be brief and not read the entire statement you have already received, but summarize it in the interest of time.

I am Thomas Cole, vice president, tire division, of the Rubber Manufacturers Association. RMA is a trade association made up of some 200 member-companies, all of which manufacture a finished rubber product of some type. Included in our membership are nearly all the domestic manufacturers of tires.

We appreciate the opportunity to share with you our thoughts on H.R. 3949 and similar measures which seek to give the Secretary of Transportation the authority to require public notice in the event of a recall.

To begin with, let me state simply that we have no problem with public notification, as such, and understand that the circumstances surrounding the Firestone situation may have prompted the sponsors of this legislation to formulate the same. But we are vitally concerned over the potential that exists for abuses to public notice, if you will, unless there is some mechanism to regulate the how's and why's of that public notification.

The tire industry is proud of its record in the field of motor vehicle safety and of its record of producing a consistently fine product and conscientiously dealing with those instances where recalls have been required.

If you look at the numbers involved over the first 10 years that the regulations promulgated under the 1966 act have been in effect, there are some 2 billion highway tires which have been produced in that period, 99.8 percent of which have not been involved in any kind of recall. And of the remaining two-tenths of 1 percent, there are a lot of tires in that group which have been recalled, not because there would necessarily be a defect in those tires, but because of the serialization system which exists in the tire industry.

Let me clarify a point on that, if I might. Tires do not have individual serial numbers, as such. Each tire has a multidigit code which indicates the factory from which it was produced, a lot of

other numbers which relate to size, and some other internal control numbers.

Mr. SCHEUER. There is no identification?

Mr. COLE. The last three digits of the serial number only indicate the week of manufacture. So potentially you could have tens of thousands of tires with identical serial numbers.

Mr. SCHEUER. I guess with the present method of identification there is no way you can accomplish what I am talking about?

Mr. COLE. It would compound the problem, yes, because you would have a block of tires with identical numbers. You might end up with four with the same number on a given vehicle.

Mr. SCHEUER. You would have to have some other kind of numbering or lettering. You might have a code of some kind. There is probably more than—let's say, there is 110 million or 113 million vehicles in the United States.

Mr. COLE. About 125 million.

Mr. SCHEUER. So there are probably 1 billion or 1½ billion tires floating around. Of course, there are computers that could easily store that amount of information and far more. How many letters would you have to have, 26 times 26, times 26, times 26?

Mr. COLE. There are potentially 52 last-3-digit numbers for every one of the plants manufacturing tires. I could run it down and give you a number.

Mr. SCHEUER. We will have a look at that system. I don't know whether it is feasible or not. I think we are all—and Congressman Rinaldo can correct me if I am overstating the case—but we are concerned that any registry processes that we initiate or encourage would have to have demonstrated beforehand that its benefits substantially exceed its cost. We are not in the business of producing Government regulations just for the purpose of providing benefits under the 1978 Full Employment Act by creating for more bureaucrats.

You don't disagree with that, do you?

Mr. RINALDO. No, I completely agree. In fact, it may ease your mind to know that prior to this hearing we did, to the best of our ability, check on recalls of other replacement parts, and we couldn't find, and Ms. Claybrook couldn't testify to one single instance where there was any serious disagreement between the manufacturer and DOT or NHTSA.

So what I am saying is that the law, as presently written, has apparently worked very well with no real problems between the manufacturer and NHTSA and DOT.

The fact of the matter is that it is one of the few laws that calls for this type of consultation with the manufacturer. We could have written a separate section and said, look, here is what DOT will promulgate, and that is it. But we want to be fair, and we want to keep the burden down as much as possible. Ms. Claybrook testified she would use readily acceptable industry guidelines as to what should be done in negotiations. This gives NHTSA a little bit of leverage, you might say, to help speed the process along, and that is all it does.

I give you my personal assurance that if I thought this legislation was going to prove extremely burdensome or unduly expensive

and not result in the kind of safety that we want it to result in, I wouldn't be here defending the bill today.

Mr. COLE. I appreciate that. That really is our concern, and that is the bottom line. I am not sure that you can legislate any way to assure that reasonableness and prudence will be involved in the negotiations between NHTSA and the manufacturer in the recall situation. Perhaps by building the legislative history with language in the report or the debate, if it comes to that, would suffice to explain the intent of Congress at least.

It is wide open the way it reads. Public notification is not defined, and it is pretty apparent to us that it is being perceived to mean public paid advertising, not just public notification.

We feel that the public notification process is adequately being addressed by what is being done by the tire manufacturers now in the event of a recall, through the preparation of press releases, notifications to the trade and of course the mail notification to the known first purchaser.

Mr. RINALDO. The problem with press releases is that they are not always read, of course.

Mr. COLE. That is true.

Mr. RINALDO. I welcome your comments with regard to including some of this in the committee report. The fact that what I am saying and what you are saying is included in the report would indicate that there is a meeting of the minds as to what we are trying to accomplish. I am certain that you are as interested, and the tire manufacturers are as interested, in safety and getting dangerous and defective tires off the road as we are. That is the main concern, and we feel this is the most effective way to do it. No one wants to burden the industry with any type of unnecessary advertising.

Mr. COLE. I appreciate that.

Under the circumstances, I will proceed as you wish. You have my testimony. I can finish it. If it will appear in the record as written, I have no problems with just stopping and responding to whatever questions the committee has.

[Mr. Cole's prepared statement follows:]

STATEMENT OF THOMAS E. COLE, VICE PRESIDENT, TIRE DIVISION, RUBBER
MANUFACTURERS ASSOCIATION

Mr. Chairman, I am Thomas Cole, Vice President—Tire Division of the Rubber Manufacturers Association. The RMA is a trade association whose members are all manufacturers of some type of finished rubber product. Included in the approximately 200 current members are nearly all of the domestic manufacturers of tires designed for highway use.

We are pleased to have this opportunity to share with you our views on H.R. 3949 and similar measures, which seek to give the Secretary of Transportation the discretionary authority to order public notification by tire manufacturers, in addition to the notice by direct mail now required, in the event of a recall of defective or noncomplying tires.

At the outset, let me state very simply that we do not object to public notification as such. We are aware that the program to inform the public about the recent Firestone recall may have influenced Messrs. Rinaldo and Wolff in formulating their bill; however, we do not feel that this type of program is needed for all recalls. We are vitally concerned over the potential which could exist for the placing of unnecessary and unreasonable demands on tire manufacturers in the event of a recall, unless some mechanism for assuring prudence in setting the "what" and "how" of public notification is found.

The U.S. tire industry is justifiably proud of its record of concern for automotive and highway safety, and of its continuing efforts toward those ends. Tire manufacturers need take a back seat to no one when it comes to consistently producing a safe product and conscientiously dealing with those rare instances when defective tires have entered the marketplace.

Just for a few moments, let us take a look at the past few years—so that we can both get an indication of the scope of the problem we're trying to address, and so that we can get an appreciation for what is now and has been done to deal with the question of notification.

During the first ten years that regulations promulgated under the National Traffic and Motor Vehicle and Safety Act of 1966 were in effect, the tire industry produced about 2 billion new highway tires. Of those, 99.8 percent were not involved in any kind of a recall. The remaining 0.2 percent included a great many tires with which there was no problem, but which were involved in a recall anyway because of the system used in assigning serial numbers. Of the few recalls which have taken place, the majority have been totally voluntary, as differentiated from Government-mandated or influenced recalls.

When these recalls do occur, just what has been industry practice in notifying the public that such tires should be returned? How seriously do manufacturers take their responsibilities? Let me describe normal industry practice.

After it has been determined that a potential safety-related defect may exist, and NHTSA has been properly notified, the first action generally taken to notify the general public about a recall, is the preparation of a news release which identifies the product involved by size, serial number, and trade name. This release will also give the reason for the recall of the tire and will describe the consequences which may occur if the product is continued in use.

These releases are sent to the major market news media all over the country including the wire services and the Wall Street Journal. The rubber trade press is also notified, which action serves as a reinforcement of the announcement for both company and independent dealers and suppliers.

In most cases, national radio pick-up occurs as AP and UPI distribute this information to their radio subscribers. A good deal of television coverage is generated in the same way.

While these media-related activities are going on, all known purchasers of the tires involved in a recall are notified by direct mail, in accordance with the law, but also in a manner designed to be as informative as possible and to motivate the consumer to take the appropriate corrective action as soon as possible. Also, follow-up letters are often voluntarily sent to known purchasers who did not respond to the initial notification.

In addition, under current law the Secretary of Transportation is required to "disclose to the public * * * information * * * which relates to motor vehicle safety or to a failure to comply with an applicable Federal motor vehicle safety standard * * *" which he receives from the manufacturer. The manufacturer, in turn, is similarly required to furnish the Secretary copies of "all notices, bulletins, and other communications to the dealers * * * or to owners or purchasers * * * regarding any defect or failure to comply * * *"

We believe that these voluntary actions, when taken in conjunction with those actions mandated by the law, and especially when coupled with the activities of a zealous consumer-oriented press corps, adequately address the question of public notification in the event of a tire recall.

If however, this Committee believes that the Motor Vehicle Safety Act itself, and the regulations promulgated thereunder, have proven to be ineffective enough to require amending the statutes so as to bring tires under the same umbrella as that which covers the items of motor vehicle replacement equipment whose sales are not required to be registered; then guidelines as to what constitutes adequate public notice should be considered. To empower the Secretary of Transportation, or his agent, to impose a mandatory paid advertising campaign in a de minimis recall situation is surely to be avoided. Prudence must be required.

Let me leave you with a few numbers which, I think, will illustrate our concern: One ¼ page newspaper advertisement in each of the top 100 markets would cost about \$170,000. One 30 second network TV spot would cost about \$65,000 and possibly reach 20 percent of the population. How is it to be decided which of these actions (or both? or more? or neither?) would constitute appropriate "public notice" in any given recall situation?

Surely some restraints must be provided to prevent a final determination on the part of the Secretary that would impose severe financial penalty where such is not warranted by the facts of the case. A better solution to making certain that as many

as possible of the owners of tires being recalled are being contacted, we believed, may be found in making the current tire sales registration regulation more effective.

In summary, Mr. Chairman, we have no quarrel with the intent of this legislation. We do, however, feel very strongly that some mechanism must be provided to prevent an emotional overreaction in any given situation, and we suggest that this be addressed in the language of the amendment itself.

Mr. RINALDO. I only have one question. I would like to ask you how you feel the tire sales registration regulations can be made more effective?

Mr. COLE. Well, I will have to get back to you on that. I can simply state, if you are asking the question as between voluntary versus mandatory registration, we do not have a position on that. We are supportive of a registration system, without question. As to the best means to make it effective, that is something we have not addressed. I will be glad to raise it with our members and get back to you, but I don't have an answer for you at this point.

Mr. RINALDO. Shouldn't the burden be on the manufacturer rather than the dealer, since the manufacturer is responsible for the defect?

Mr. COLE. The dealers are not involved in the recall. The burden of the recall notification is on the manufacturer, not the dealer. They accept that and are happy with it.

Mr. RINALDO. If we had some type of registration system by car at the point of purchase, wouldn't we then, in effect, be shifting the burden to the dealer?

Mr. COLE. By card? That is essentially the system that is in existence now. The question is really only who puts the information on the card: the name and address, and serial numbers on the tires involved.

Mr. RINALDO. It does not shift the burden?

Mr. COLE. The proposal in the Senate would shift that burden to the consumer to take that action in his own interest. Right now, the regulations and the law mandate the dealer to do that.

Mr. RINALDO. OK. Thank you very much. We certainly appreciate your testimony, and I hope any fears you may have had have been allayed.

Mr. COLE. No fears. Thank you.

Mr. RINALDO. The hearing is now adjourned.

[Whereupon, at 2:45 p.m., the subcommittee adjourned.]