

**In re: Volkswagen “Clean Diesel” Marketing, Sales Practices and Products Liability Litigation**  
**Case No. 3:15-md-02672-CRB**

**REPORT OF INDEPENDENT CLAIMS SUPERVISOR ON  
VOLKSWAGEN’S PROGRESS AND COMPLIANCE RELATED TO  
RESOLUTION AGREEMENTS ENTERED OCTOBER 25, 2016:**

- Amended Consumer Class Action Settlement Agreement and Release
- Federal Trade Commission Consent Order
- Department of Justice, Environmental Protection Agency,  
California Attorney General’s Office, and California Air Resources Board  
Partial Consent Decree

MAY 25, 2017

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Consistent with the requirements of the Resolution Agreements,<sup>1</sup> the independent Claims Supervisor respectfully submits its quarterly report for May 2017, which, unless otherwise specified, covers the period from February 19, 2017 through May 18, 2017.

**I. Executive Summary**

During this most recent quarterly reporting period, Volkswagen continued to reach significant benchmarks in its administration of the Claims Program. Among other things, the company has repurchased, terminated leases or performed initial emissions modifications on more than 55% of all Eligible Vehicles. In addition, by May 18, 2017, Volkswagen had further reduced the backlog of overdue and pending claims in the second ten-business-day review period to less than 440 claims. At the same time, it was able to maintain an average pace of approximately 10,525 Buyback and Early Lease Termination closings per week during this quarter, and in total had completed 271,776 closings.

Most consumers continued to navigate the various phases of the Claims Program without significant issue. For those who faced challenges, the most prevalent stemmed from payment delays experienced by consumers and their lenders. However, the number of delayed payments decreased over the past month, partly as a result of process and system improvements, which continued to be implemented throughout this reporting period.

The statistics below provide a cumulative presentation of key Claims Program metrics as of May 18, 2017:

- 501,148 registrations had been created in Volkswagen's Claims Portal;
- 399,410 consumers had submitted claims for Volkswagen to review;

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<sup>1</sup> Capitalized and/or abbreviated terms in this report take on the definition in the Resolution Agreements or the initial report submitted by the Claims Supervisor in November 2016.

- 378,124 consumers had been issued offer letters, the aggregate value of which was \$6,882,503,415.20;
- 286,812 Owners and Current Lessees had scheduled Buyback or Early Lease Termination closing appointments;
- 271,776 Owners and Current Lessees had proceeded through closing, and the aggregate value of these claims totaled \$5,675,804,467.26;
- 7,419 consumers with Generation 3 vehicles had completed the first phase of the Approved Emissions Modification (“AEM”) process -- removal of the defeat device; and
- 8,929 Sellers and 2,870 Former Lessees had been paid on claims, the aggregate values of which totaled \$27,125,816 and \$9,611,420, respectively.

As the number of claims moving through the Claims Program has continued to significantly decline, and closings have progressed at a robust and steady pace, attention has shifted to the Owners or Current Lessees of the approximately 104,000 Eligible Vehicles who either have not yet registered in the Claims Portal, or have registered but not yet submitted claims. This population comprises approximately 21.3% of the universe of Eligible Vehicles. Mobilizing a significant number of these consumers to submit claims over the next fifteen months will be critical for the company to satisfy its obligation to buy back or modify 85% of Eligible Vehicles.

## **II. Claims Program Update**

Consumer response to the settlement has been considerable. Within the first few weeks of the official launch of the Claims Program on November 1, 2016, more than 255,000 consumers submitted claims to Volkswagen for review. Just over six months later, Volkswagen has successfully processed the vast majority of the claims submitted. Indeed, as of May 18, 2017, the company had extended offers to 378,124 consumers, constituting almost 98% of those who submitted complete claims. And within this population of consumers, Volkswagen

administered 271,776 Buyback and Early Lease Termination closings, and completed 7,419 phase one AEMs.

As chronicled in prior reports, the aggressive timetables and significant claim volume caused some setbacks, particularly in the early months of the Claims Program; however, Volkswagen leadership has consistently confronted these challenges by enhancing its claims systems, streamlining processes, and adjusting staffing levels as necessary. This section provides updates on the various stages of the Claims Program, and discusses challenges that have arisen, as well as measures Volkswagen has undertaken to address them.

A. Update on Initial Phases of Claims Program: Registration Through Offer Letter

Since the February 2017 Report, the combination of improved processes and a significant decline in the number of new claims moving through the Claims Program at a given time have addressed most processing-related challenges. Consequently, relatively few claims-processing complaints have been raised by consumers during the past three months relating to the submission of claims and supporting documentation, or the timeliness of the first and second ten-business-day review periods mandated by the Resolution Agreements.<sup>2</sup> Nevertheless, there are a few updates regarding Volkswagen's claims processing operations that warrant discussion.

1. Processing Fleet Vehicle Claims

In cases where a significant number of Eligible Vehicles are owned by one owner -- typically a larger business, such as a rental car or taxicab company -- the vehicles are considered part of a "fleet." Fleets often include hundreds, and sometimes over one-thousand vehicles.

While the process for determining and validating fleet claim eligibility is similar to that of

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<sup>2</sup> As described in more detail in Section III, there has been a recent uptick in the number of first ten-business-day review period decisions that have required more than ten business days, largely due to an increase in the number of duplicate claims submitted and the additional time needed to complete steps for processing duplicate claims.

standard claims, there are some material differences adopted in an effort to make the review process more efficient. Volkswagen accepts fleet claims submissions in “bulk” batches so that multiple fleet-owned vehicles can be reviewed simultaneously. For both Owner and Seller fleet claims, an affidavit must be submitted establishing the authority of the fleet company’s representative to submit the claim. The affidavit also must provide the Vehicle Identification Number (“VIN”), make, model, year, and mileage for each vehicle along with other information necessary to determine eligibility.

For fleet Owner claims, Volkswagen determines, and the Claims Supervisor verifies, eligibility and offer amounts consistent with standard review protocols. For fleet Seller claims, the fleet company must provide the same documentation as required for a standard Seller claim, including proof that the vehicles were sold or otherwise transferred to another owner between September 18, 2015, and June 28, 2016. Volkswagen’s protocols then provide that it will review a sample of 60% of vehicles in each Seller batch for eligibility and offer amount, in order to expedite the review process for those claims. As a practical matter, the number of fleet claims submitted to date has been sufficiently small that both Volkswagen and the Claims Supervisor have reviewed supporting documentation for 100% of the vehicles. The Claims Supervisor subsequently verifies the claims in the batch through an evaluation of the same sample.

As of May 16, 2017, a total of 236 vehicles have been repurchased at three fleet closings.<sup>3</sup> The Claims Supervisor observed one of these closings, which involved 188 vehicles, to assess whether standard closing procedures were followed. As a general matter, the fleet closing process mirrored that of a non-fleet Buyback relative to the evaluation, tracking, and tagging of each vehicle, and no material operational concerns were revealed.

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<sup>3</sup> Fleet Buybacks are typically scheduled to take place at an auction house as opposed to a dealership, which generally cannot accommodate the larger number of vehicles associated with these claims.

2. Processing Claims on U.S. Vehicles Registered in Canada

Volkswagen recently agreed to implement a Claims Program change relating to claims submitted by consumers who purchased Eligible Vehicles in the United States but had registered them in Canada by the time the Claims Program began. Initially, these claims were deemed ineligible by Volkswagen based on express language in the Class Action Settlement Agreement requiring Eligible Vehicles to have been registered in the United States at some point during the period between September 18, 2015, and June 28, 2016. Upon further analysis, it appeared these claims were not covered by either the U.S. or Canadian settlements. Consequently, after consultation with the Parties, Volkswagen ultimately determined to allow consumers who purchased an Eligible Vehicle in the United States but registered it in Canada during this period to participate in the Claims Program.<sup>4</sup>

Volkswagen has trained Claims Hotline agents on the new eligibility requirements and added relevant information to the Frequently Asked Questions section of the Claims Website. While the entire population of consumers meeting these criteria has not yet been identified, Volkswagen's Executive Outbound Team (previously called the Escalation Team) recently began calling impacted consumers who had previously inquired about eligibility to advise of the new policy, and an e-mail campaign is planned once the broader population of affected consumers is identified.

B. Update on Latter Phases of Claims Program: Scheduling, Closings, and Payment

Volkswagen has continued to dedicate significant resources over the last three months to the closing process, and the vast majority of consumers have proceeded through the latter phases of the Claims Program without incident. In the limited circumstances where challenges have

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<sup>4</sup> It is Volkswagen will direct these consumers to a U.S.-based dealership to complete a Buyback, Early Lease Termination, or AEM.

arisen, delayed payments to consumers or their lenders have been among the most common issues. In response, Volkswagen streamlined and improved payment processes to address these delays, and related consumer complaints have waned over the reporting period. In addition, Volkswagen has continued to work on more nuanced closing issues -- for example, closings for consumers in remote locations or for military personnel stationed overseas -- that generally affect small segments of the total consumer population but nevertheless are important to address in order to effectively service these consumers. These issues are discussed in greater detail below.

1. Timing of Payments to Consumers and Lenders

While most consumers and lenders have timely received payment, some consumers have complained about delays either they or their lenders have experienced in receiving payments from Volkswagen. Compared to the total population of consumers who have proceeded through closing, those with payment-related issues make up a small segment of the overall population, and the number of payment timing complaints has reduced over the course of this reporting period. Nevertheless, with claims processing challenges substantially curtailed, payment timing complaints have accounted for nearly 95% of the inquiries escalated to Volkswagen's Resolution Team during this reporting period. Volkswagen's efforts to improve its payment processes and accelerate payments to reduce the instances of payment delays to consumers and lenders are set forth below.

a) Timing of Consumer Payments

Consumers can elect to receive payment by check or electronic funds transfer ("EFT"). If the consumer opts for a check, the check generally is provided at the closing. If the consumer opts for an EFT, he or she should receive an e-mail from J.P. Morgan Chase within 24 to 48 hours of closing requesting information necessary to initiate the EFT process. Subsequently, the



consumer typically receives funds within three banking days of providing the requested information.

Most consumers who completed closings during this reporting period received payment in a timely fashion. During this reporting period, the average time for payment by EFT was just under three business days, with a median payment time of three business days. With respect to payment by check, consumers generally received checks at closing unless their vehicles were determined to be over-mileage at the time of the appointment, in which case a check was subsequently mailed to them. The average time for payment by check during this reporting period was just over one business day, a decrease from the prior quarter.

In cases where payment delays were identified, most were associated with EFTs and involved circumstances where the consumer either: (i) did not receive an initiating e-mail from J.P. Morgan Chase after Volkswagen cleared the payment for transmission; or (ii) inadvertently entered incorrect authentication information associated with the EFT and was locked out of the system.<sup>5</sup> According to available data, a limited number of consumers experienced delays in excess of ten business days.<sup>6</sup>

In an effort to mitigate these types of delays, Volkswagen monitors payment aging reports and endeavors to contact consumers who have not timely received payment. In addition, Volkswagen's Hotline agents are trained to troubleshoot common issues with the EFT process,

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<sup>5</sup> If the consumer is not already registered with J.P. Morgan Chase's QuickPay system, he or she will be directed to a link to register. As part of the registration process, J.P. Morgan Chase cross-checks certain information provided by Volkswagen (originally entered into the Claims Portal by the consumer) to verify the consumer's identity. If the consumer fails to enter matching information, he or she can be locked out of J.P. Morgan Chase's system, requiring assistance from Volkswagen.

<sup>6</sup> Under the Department of Justice ("DOJ") Consent Decree, Volkswagen is subject to stipulated penalties for failure to transmit payment to a consumer within fifteen days of surrendering the vehicle. In certain limited cases, it is difficult to track compliance with this provision due to limitations in Volkswagen's electronic data tracking. Volkswagen is currently in the process of engaging in a manual review of related records to identify and report the information required by the DOJ Consent Decree.

and Claims Hotline supervisors are able to open IT tickets to reset the EFT process and resend the initiating e-mail to impacted consumers so that related EFT issues may be more expeditiously resolved.

Business EFTs are processed differently than consumer EFTs because J.P. Morgan's QuickPay system could not be implemented for business accounts. Business consumers who select to be paid by EFT should receive an e-mail from Volkswagen asking for account information and a copy of a voided check. Once a consumer faxes the required information to Volkswagen, the EFT payment can be processed. Business owners have expressed confusion and delays in navigating this process, and in response, over the last month Volkswagen sent email communications to over 2,000 individuals who registered a claim on behalf of a business, providing detailed instructions on the corresponding EFT process.

#### b) Lender Payments

In situations where a consumer's vehicle is subject to a lien associated with a loan that must be paid off to effectuate the Buyback, Volkswagen generally makes payments to lenders by check. Where lender payments are delayed, additional challenges have been experienced by affected consumers, as they generally remain responsible for payments on the loans until the lender receives and posts the loan payoff payment from Volkswagen.<sup>7</sup>

Various reasons for delays in payments to lenders have been identified, including situations where Volkswagen did not receive correct information from the consumer necessary to transmit the payment in a way that properly credits the consumer's account, checks were prepared for and directed to the wrong lender, or checks were prepared for the correct lender but

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<sup>7</sup> While some consumers have had to make additional loan payments to avoid late fees, the consumer will ultimately be reimbursed for any overpayment as the lender is generally obligated to send the consumer any portion of the payment received in excess of the loan balance as of the payoff date. Ankura will audit this requirement for compliance.

directed to the wrong address.<sup>8</sup> When issues like these have occurred, it has been Volkswagen's protocol to void the initial check and to issue and transmit a new check, typically leading to additional delays. Volkswagen also reported that some lenders have returned payoff checks indicating a lack of financial consent from the consumer.

Over the past few months, Volkswagen has implemented system changes to mitigate the risk of lender payment delays. These changes included a shift to transmitting payments to VCI/AFS via EFT. The company is also exploring a similar protocol with some of the larger financial institutions, but over the reporting period payments to third-party lenders generally continued to be made via check. Moreover, while Volkswagen previously would prepare the check for the third-party lender upon completion of the closing for consumers who elected EFT, Volkswagen now prepares third-party lender payoff checks two weeks prior to the scheduled closing date to provide additional time to process and mail them. Every day, a review of appointments that have closed is performed and for any closings with loans, checks are mailed to lenders via FedEx two-day delivery the day after an appointment has occurred. And in response to the issue of certain lenders returning checks to Volkswagen indicating a lack of financial consent from the consumer, Volkswagen now includes a copy of the corresponding financial consent form when mailing a check.

Additionally, to address the issue of checks being sent to the wrong lender or address, the company has taken several steps. First, prior to being able to schedule a closing, consumers are directed to a "Financial Institution Verification" page where they are required to verify the name

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<sup>8</sup> In an isolated incident, approximately 1,300 lender checks prepared on February 6, 2017, for closings that occurred between February 3 and 5, 2017, were misplaced, and the error was not realized until March. Approximately 900 of the missing checks were to VCI, 175 to Wells Fargo, and the remaining were to a variety of other financial institutions. Affected consumers were notified in March 2017, and replacement checks have been sent to the lenders on all impacted claims. Volkswagen also flagged these accounts to make sure no negative information appears on the consumers' credit reports as a result. The missing checks were ultimately found by Volkswagen personnel in April.

and address of the financial institution and loan amount. Second, when a Volkswagen “offer specialist” assigns a financial institution to a claim, the system displays the name and address of the financial institution to avoid an incorrect assignment. Third, as discussed in the February 2017 Report, offer specialists are required to obtain from the lender the overnight mailing address where the payoff can be sent. Finally, when physical checks are received from J.P. Morgan Chase, Volkswagen staff sorts the checks and the lenders’ addresses are again validated.

Separate from the timing of lender payments, the Claims Supervisor conducted an audit to assess the accuracy of the loan payoff amounts associated with consumer files input by Volkswagen reviewers. The sample included 1% of all claims with loans through VCI/AFS and 5% of all “standard” claims with loans through third-party lenders. The audit revealed that in more than 99% of instances Volkswagen reviewers input the correct loan payoff amounts.<sup>9</sup> However, loans with certain unique characteristics, or “non-standard” loans -- those loans with comparatively large payoff amounts; payoff amounts significantly higher or lower than the consumer’s preliminary offer amount; and instances where the loan payoff amount was greater than or equal to 130% of the offer amount -- had a higher error rate of 5.3%. These types of loans are less common -- fewer than 3,000 had been identified -- but due to the comparatively higher error rate, the Claims Supervisor has generally sought to verify all loan payment amounts with one of these characteristics to further assess accuracy.

## 2. Appointment Scheduling for Certain Non-Standard Claimants

There are certain unique circumstances where scheduling an appointment and consummating a closing has proven to be a challenge for some consumers. In particular,

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<sup>9</sup> It should be noted that some instances have been identified where consumers have been notified by a lender that a balance remains on their loan after Volkswagen has paid the lender. Review of these instances have generally shown that they relate to situations where the consumer stopped making loan payments before the loan was paid by Volkswagen.

consumers serving in the military overseas (where the Eligible Vehicle is also overseas), as well as consumers living in remote locations present unique logistical challenges. In these situations, Volkswagen has endeavored to make alternate, more convenient closing options available and continues to evaluate other potential arrangements to better serve these more narrow bands of consumers.

To help more clearly identify claims by military consumers serving overseas, Volkswagen performed an outbound communications campaign to any individual who had identified as a military member or government employee serving overseas.<sup>10</sup> The e-mail inquired as to the consumer's current location, whether the Eligible Vehicle was maintained overseas with them, and the length of the deployment. Based on this survey, Volkswagen identified 474 vehicles overseas, with close to 93% of the vehicles located in western Europe, including 327 vehicles in Germany alone. The complete list of the countries identified where military personnel and their Eligible Vehicles are located is below:

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<sup>10</sup> If both the vehicle and the consumer are in the United States, then no special process is needed. If the consumer is deployed overseas but the vehicle is located in the United States, then Volkswagen can coordinate with the consumer to obtain the power of attorney necessary to complete the closing. However, it is where both the consumer and the Eligible Vehicle are overseas that significant closing complications have arisen.



Practically, there are a host of unique challenges and legal hurdles associated with closings for these types of claims. While consumers can have the cost of shipping their vehicles back to the United States reimbursed by Volkswagen after successful completion of the closing, many consumers understandably resisted advancing shipping costs, which in some cases amount to several thousands of dollars. Volkswagen and consumers also have had to wrestle with tax consequences and certain import restrictions, among other issues, that add further complexity to consummating these closings in an efficient way. As a result, many military overseas consumers with Eligible Vehicles overseas have been waiting to close on their claims, with a number expressing impatience over the time Volkswagen has taken to institute a process.

In April 2017, Volkswagen launched a ‘virtual closing’ pilot program in Germany -- the location of the substantial majority of military overseas consumers with Eligible Vehicles

overseas. As part of the pilot program, eligible consumers can deliver their vehicle to a port designated as a free trade zone and complete the necessary paperwork electronically. After researching a number of options, Volkswagen structured the closing process accordingly in an effort to enable the consumers to complete the closing and avoid potentially significant tax consequences. Three consumers successfully completed the initial pilot, with an additional twenty-six consumers identified to participate in a second round. Over coming weeks and months, Volkswagen anticipates replicating this process for military personnel serving in other foreign countries beyond Germany.

With respect to consumers residing on Hawaiian Islands that do not have a Volkswagen dealership, the company had previously agreed to reimburse costs incurred by consumers to ship the vehicle to an island with a dealership, and pay for the consumer's return flight home. Volkswagen is also partnering with a large rental car company to allow consumers to conduct Buyback and Early Lease Termination appointments at rental car facilities located on the remote islands.

### 3. Audits of Buyback and Lease Termination Appointments

Over the past three months, the Claims Supervisor continued to conduct on-site observations of closing appointments, interviewed Volkswagen leadership and settlement specialists regarding closings, and reviewed training materials, closing data, and consumer feedback relating to the closing process. Based on these efforts and related analyses, it appears that Volkswagen's settlement specialists have adequately performed their responsibilities during closings through this reporting period.

As a follow-up to the almost 100 closings observed in advance of the February 2017 Report, in this reporting period more than 50 additional closings were observed at dealerships in Colorado, Connecticut, Maryland, New Jersey, Oregon, South Carolina, Tennessee, Virginia,

and Washington. For the most part, the closings proceeded in accordance with the prescribed protocols and without incident. The settlement specialists generally conducted themselves professionally and administered the closings in a clear and efficient manner, walking consumers through a streamlined process that typically took ten minutes or less. Many consumers provided positive feedback on the closing process.

Only a few minor issues were identified. For example, settlement specialists were routinely asked similar questions by consumers, including whether they should continue to make monthly payments on their car loans, how long the EFT process was expected to take, and whether the Volkswagen check received at closing included the Bosch matter settlement payment as well. But the settlement specialists had not been provided specific responses that had been approved by the Company to address such questions. As a result, inquiring consumers were sometimes provided with either no information or inconsistent information.<sup>11</sup> Volkswagen has been informed of these observations for additional training and coaching of the settlement specialists as necessary. Other disruptions to the closing process were not tied to the performance of settlement specialists, but rather stemmed from situations beyond Volkswagen's control where, for example, the consumer did not produce the required paperwork, such as the requisite title or power of attorney.

For each of the closings that were observed, a parallel analysis of the payoff information was conducted to evaluate consistency. Relative to each consumer, a comparison was made between the amount in the pre-closing e-mail reminder, and the payment that was determined to

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<sup>11</sup> In early May 2017, settlement specialists were provided with a pictogram, which described in detail the EFT process. The settlement specialists offered a copy of the pictogram to each of the consumers who elected to be paid by EFT.



be owed at closing. In each instance, the independent Claims Supervisor's analysis reflected that these amounts were determined correctly and that payment arrangements followed accordingly.<sup>12</sup>

As previously reported, a limited number of cases in which upward mileage adjustments altered the ultimate award amounts created closing challenges for impacted consumers. Program enhancements largely have mitigated disruptions resulting from upward mileage adjustments. Specifically, Volkswagen implemented changes so over-mileage consumers who elected to be paid by check could proceed with the closing on the scheduled appointment date. In addition, Volkswagen's system was adjusted to permit the company to mail the consumer a new check within three banking days in accordance with the Resolution Agreements.<sup>13</sup>

To further reduce confusion regarding upward mileage adjustments, Volkswagen also enabled settlement specialists to display a preview of the closing receipt for the consumer to review before completing the closing. This affords the consumer the opportunity to verify that all information, including the odometer reading, has been entered correctly. If there is a disagreement with the payment amount during this review, the settlement specialist can connect the consumer directly with the Claims Hotline so an agent can explain the payment calculation in more detail. If the consumer remains unsatisfied, the closing can be adjourned until the consumer's questions can be resolved.

#### C. Approved Emissions Modification

As discussed in the February 2017 Report, the EPA and the California Air Resources Board ("CARB") had certified in January 2017 an Approved Emissions Modification for 2.0-

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<sup>12</sup> In instances where an upward mileage adjustment was necessary at the closing, the Claims Supervisor verified the revised calculation and records indicating that the adjusted amount was ultimately directed to the consumer.

<sup>13</sup> Volkswagen will no longer afford these consumers the option to elect to switch to the EFT form of payment at closing.

Liter TDI Model Year 2015 Volkswagen Beetle, Beetle Convertible, Golf 4-Door, Golf SportWagen, Jetta, Passat and the Audi A3 (referred to as “Generation 3 vehicles”).

On May 19, 2017, the EPA and CARB certified an Approved Emissions Modification for 2.0-Liter TDI Model Year 2012-2014 Volkswagen automatic transmission Passat vehicles (“Generation 2 Passats”). Unlike the AEM for Generation 3 vehicles, this AEM will be performed in one visit to the dealership, including the removal of the defeat device from the eligible vehicles and installation of software that will direct the vehicle’s emissions controls to operate normally under all driving conditions.<sup>14</sup> As with the AEM for Generation 3 vehicles, this AEM will improve emissions output but it will not bring the car into full compliance with EPA and CARB requirements. After this work is performed, the Owner will be eligible to receive the Restitution Payment.

Consumers who initially selected a Buyback as a remedy can switch to an AEM with little change in the status of their claim at any point up until their closing appointment. As with Buyback appointments, Volkswagen must provide consumers an available appointment within ninety days after an executed offer is approved. Consumers should not incur any cost to obtain the AEM, and consumers are to receive a complimentary loaner car if the AEM appointment will last more than three hours.

Some consumers elect to have the AEM performed at a dealership without first completing the claims process. When this occurs, the dealer’s computer system will not allow the dealer to process the AEM without first calling the Dealer Support Hotline to have the VIN unlocked. During the call, the Owner is required to speak with the Hotline agent so the agent can explain that once an AEM is performed, the Owner will no longer be eligible to receive a

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<sup>14</sup> Volkswagen reference materials regarding the AEM state that “no significant changes to key vehicle attributes are expected, including fuel consumption, reliability, durability, vehicle performance, drivability, or other driving characteristics.”

Buyback but is eligible for the Restitution Payment. If the Owner elects to proceed with the AEM, the AEM is performed and the consumer is given information on how to proceed with filing a claim to receive any financial benefits for which they may be eligible.

D. Post-Closing Processing of Vehicles

As discussed in the February 2017 Report, upon conclusion of a Buyback appointment, the settlement specialist is required to take possession of the keys and title from the consumer and indicate in Volkswagen's Closing Application that the closing is complete. The settlement specialist then tenders the keys to the vehicle to the program ambassador. The dealership is required to note in Volkswagen's "Inform" system that it has custody of the vehicle, at which time Volkswagen coordinates with a shipping vendor for vehicle pick-up. Given the present rate of closings, Volkswagen dealerships collectively have approximately 6,000 to 7,000 vehicles on their lots on any given day. Therefore, timely coordination is required between Volkswagen, the dealerships, and the shipping vendor to remove the vehicles from dealership lots as quickly as possible.

All operable vehicles are shipped to one of thirty-seven secure storage facilities throughout the country.<sup>15</sup> Volkswagen currently houses close to 275,000 vehicles in these designated storage facilities. At the storage facility, each vehicle is inspected to determine if it should be destroyed due to excessive wear and tear or, if available, undergo an AEM and be re-sold in accordance with the approved resale plan. For vehicles selected for destruction, Volkswagen's vendor maintains photographic evidence of the demolition process for the vehicle as well as the engine control unit, which is removed from each vehicle and destroyed separately.

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<sup>15</sup> An on-site inspection of one storage facility was performed in order to observe the post-closing processes and procedures.

For vehicles that can be resold, an AEM must be performed and all required documents completed and labels affixed before the vehicle is offered for sale. While in storage, a maintenance plan is administered to ensure that these vehicles remain in a salable condition.

As Volkswagen is required to track each vehicle from closing to either destruction or modification and resale in order to report these figures to the DOJ, each vehicle at a storage facility has a barcode that is used to track the location and disposition of the vehicle. Every vehicle that is repurchased as part of the Buyback program is titled in Volkswagen's name. Prior to reselling any Eligible Vehicle, Volkswagen holds back the title until proof of an AEM is provided to ensure that the vehicles do not inadvertently reenter commerce without having the required modifications.

E. Update on Consumer Participation

Despite the significant volume of claims that have been processed since the launch of the Claims Program, there remains a substantial population of consumers who have yet to participate. Volkswagen is actively evaluating potential avenues to address consumers who either have not yet registered in the Claims Portal, or have not proceeded beyond the initial registration phase. For the latter group, Volkswagen analyzed the population to identify duplicate registrations, and instances where the registrant is not the registered owner of the identified Eligible Vehicle. When a claim was identified with a VIN that already had a completed Buyback or AEM, and the claim was not an Eligible Seller claim, it was considered a duplicate. The Claims Supervisor will perform a review of a sample of these claims to verify the accuracy of Volkswagen's analysis. For non-duplicate claims, Volkswagen agents contacted consumers by telephone if they had submitted a claim that was pending for more than thirty days because it required some or all documents to be considered complete. Similarly, agents

contacted consumers who had received an offer more than thirty days ago but had yet to return the signed offer.

Volkswagen also plans to continue conducting targeted outreach to the population of consumers who registered in the Claims Portal but have yet to submitted a claim to encourage participation in the Claims Program. For consumers with Generation 1 and Generation 2 vehicles with manual transmissions, Volkswagen is expected to initiate outreach following any determination on the proposed emissions modifications.

In late April 2017, Volkswagen offered consumers who had previously opted out of the Claims Program an opportunity to opt back in to the Settlement. The accommodation was presented to consumers in connection with the resolution of a related criminal matter. Interested consumers were directed to submit a notice of their intent to participate in the Settlement to the Claims Supervisor via the designated post office box between April 28, 2017, and May 12, 2017. In order to be considered a valid opt-in, notices of intent generally had to meet the following requirements: (i) a letter of intent had to be sent to the Claims Supervisor indicating the consumer's desire to receive the benefits available to them under the 2.0-Liter Settlement Program; (ii) post-marked on or before May 12, 2017; and (iii) that included the name, address, telephone number and VIN of an Eligible Vehicle as well as identification of a current owner or lessee. As of May 12, 2017, the Claims Supervisor received forty-two notices of intent from individuals who had previously opted out of the Claims Program.

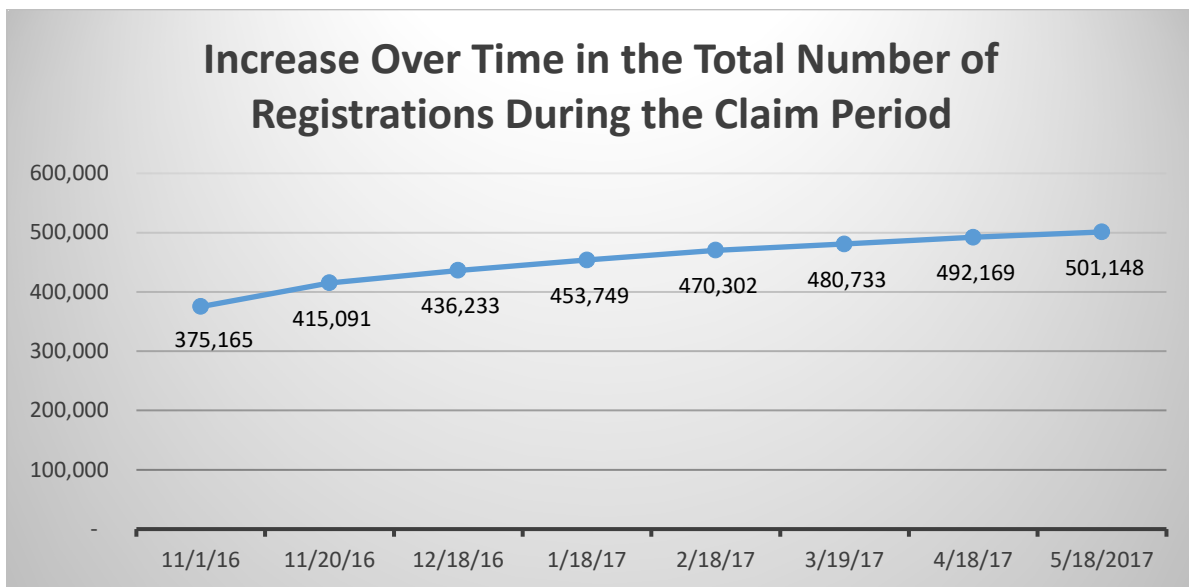
### **III. Volkswagen's Performance Metrics**

This section discusses the status of the various phases of Volkswagen's Claims Program and the company's compliance with certain requirements mandated in the Resolution Agreements. All data is as of May 18, 2017, unless otherwise specified.

A. Consumer Registrations

As of May 18, 2017, there were 501,148 registrations in Volkswagen's system. A registration occurs when a consumer provides Volkswagen with basic information including name, contact information, VIN and preferred dealership. Of these registrations, 475,605 related to individuals and 25,543 related to businesses.<sup>16</sup> Chart 3-1 shows the increase over time in the total number of registrations created during the Claim Period.

**Chart 3-1**

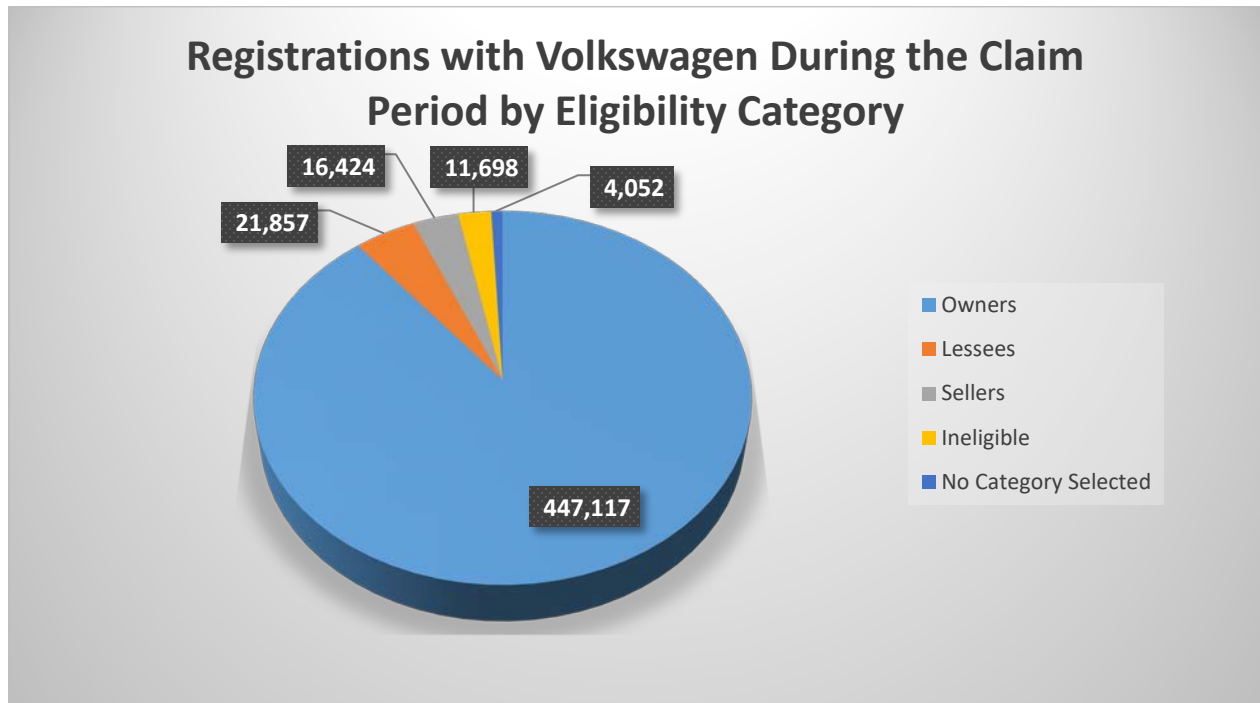


Apart from a slight uptick in new registrations between March 19, 2017 and April 18, 2017, the rate of new registrations has consistently declined during the Claim Period. The 8,979 new registrations created over the last thirty days also is the smallest number of new registrations created over any thirty-day period during the Claim Period.

<sup>16</sup> This figure includes a significant number of duplicate entries by the same consumer, as duplicate entries are not identified until the claims are submitted and the review periods begin. Thus, the figure overstates the number of unique claims that have been registered.

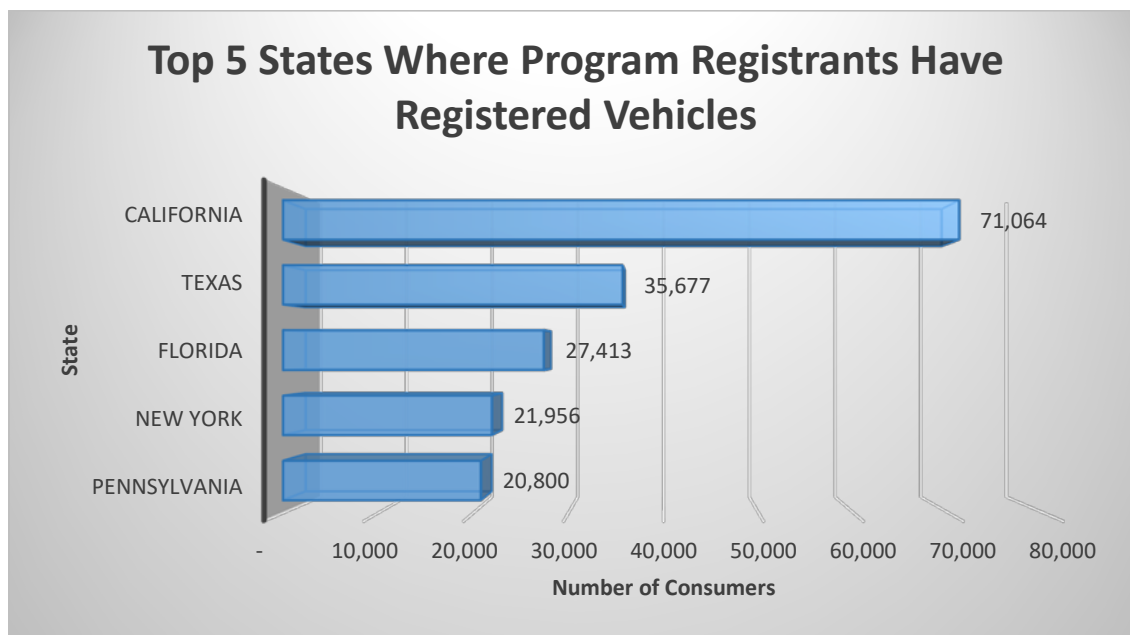
Chart 3-2 shows all registrations created by consumers during the Claim Period by Eligibility Category, and Chart 3-3 shows the states with the highest number of Eligible Vehicles that have been registered in Volkswagen’s Claims Portal.

**Chart 3-2<sup>17</sup>**



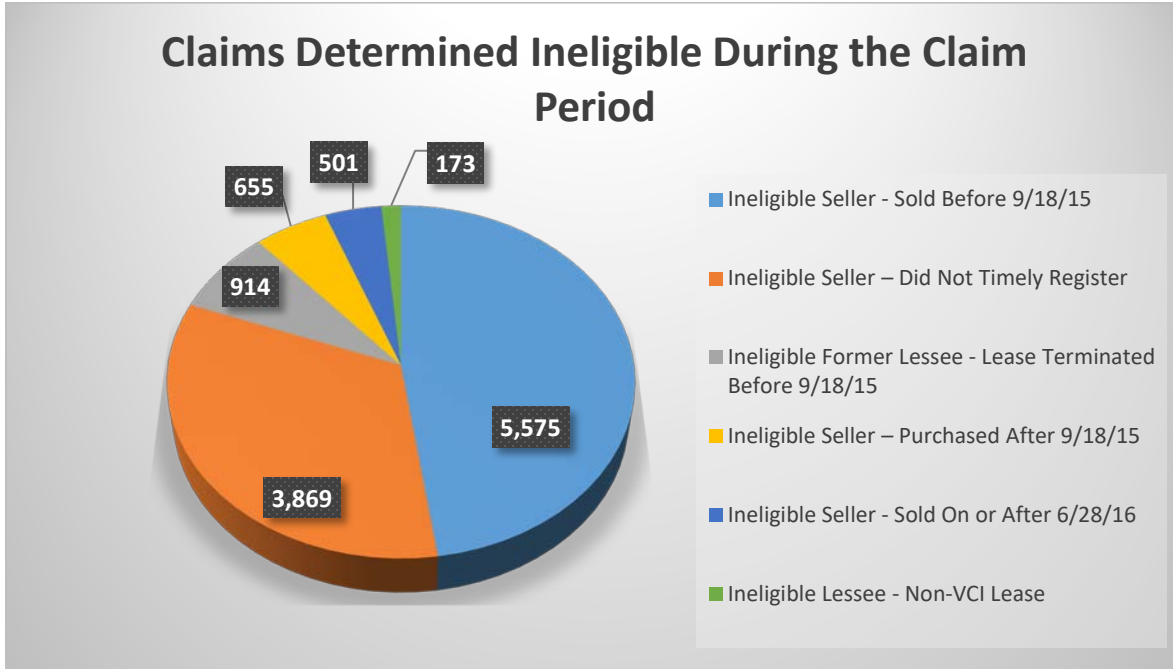
<sup>17</sup> The “No Category Selected” population are consumers who have created a registration but have not yet provided details identifying their Eligibility Category.

Chart 3-3



With respect to the population of 11,698 claims identified as ineligible in Chart 3-2, Volkswagen’s system is configured to automatically identify certain ineligible claims where information entered by the consumer into the Claims Portal conclusively indicates the consumer is not eligible under the Resolution Agreements. For example, a consumer who attempts to submit a Seller claim and indicates the vehicle was sold after June 28, 2016, is ineligible under the “Eligible Seller” definition. In these instances, Volkswagen sends the consumer a letter explaining the basis for the ineligibility determination. Chart 3-4 below breaks out the different reasons the 11,698 claims have been deemed ineligible by Volkswagen.



Chart 3-4<sup>18</sup>

As stated in the February 2017 Report, a review of Volkswagen’s ineligibility logic showed that the logic had been operating appropriately except in one instance affecting a certain category of Seller claims. The system initially was configured to preclude submission of Seller claims where a user profile was not created in the Claims Portal by the consumer until after the Eligible Seller Identification Period expired on September 16, 2016. A population of Sellers who timely identified by mail or fax but who did not create an online user profile until after September 16, 2016, were incorrectly being deemed ineligible by the system. Before this configuration was corrected, consumers who contacted Volkswagen about this issue were instructed to submit paper claims that Volkswagen would upload, bypassing the system limitation. This allowed these consumers to proceed through the claims review process.

<sup>18</sup> The eleven claims not accounted for in Chart 3-4 were instances where a consumer entered data indicating a lease began after September 18, 2015.

However, this process would not address a consumer who timely identified a Seller claim by mail or fax, but was deemed ineligible because of the system configuration limitation, and thereafter did not contact Volkswagen or otherwise submit a potentially eligible claim.

Therefore, Volkswagen distributed e-mails in March 2017 to approximately 600 consumers who were shown to be “Ineligible” in Volkswagen’s system, who had listed a vehicle purchase date and sale date, and who did not already have an online completed claim under a separate account. The e-mail reminded consumers that a claim must be submitted through the Claims Portal or in paper by September 1, 2018, and stated in pertinent part:

If you previously registered through the Online Claims Portal after September 16, 2016 and received a message that you are not eligible to participate in the Settlement Program, you may now re-visit the Online Claims Portal and proceed with your claim.

The Claims Supervisor compared Volkswagen’s distribution list to an analysis of consumers likely affected by the system configuration limitation to corroborate the comprehensiveness of Volkswagen’s distribution. Based on claims submitted to that point by consumers who timely identified their claims by mail or facsimile, but who were deemed systematically ineligible, the Claims Supervisor concluded that Volkswagen’s distribution was comprehensive. The Claims Supervisor also reviewed a sample of the consumers who received an e-mail from Volkswagen, and a significant number of them either submitted a claim or took additional steps toward submitting a claim following Volkswagen’s e-mail distribution.

Additionally, the Claims Supervisor manually reviewed the 1,497 systematic ineligibility determinations made over the previous three-month period.<sup>19</sup> The review revealed that, but for

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<sup>19</sup> The Claims Supervisor’s initial review of systematically ineligible claims covered the period through February 1, 2017. Therefore, the Claims Supervisor’s review for this report included 544 claims deemed systematically ineligible between February 2, 2017 and February 18, 2017, in addition to the 1,497 claims deemed systematically ineligible between February 19, 2017 and May 18, 2017, for a total of 2,041 reviewed claims.

one Seller claim from a consumer who timely identified by mail and should have been permitted to submit a claim, Volkswagen's systematic ineligibility logic was operating appropriately. Volkswagen unlocked that one claim so that consumer could proceed. Volkswagen will periodically review populations of any claims deemed systematically ineligible after May 18, 2017 to ensure potentially eligible consumers who timely identified claims by mail or facsimile on or before September 16, 2016, but who did not create a user name in the Claims Portal until after that date are not prohibited by the system from submitting a potentially eligible claim.

B. Claim Submission and the First Ten-Business-Day Review Period

After a consumer registers, the next step in the process is to select a preliminary remedy, provide prescribed documents needed to substantiate the claim, and submit the claim to Volkswagen for review.<sup>20</sup> Beginning the first business day after a consumer submits a claim, Volkswagen has ten business days (that is, excluding weekends and holidays) to review the submission and determine whether the claim is complete or deficient. A claim is complete if it includes all the information and documents needed to determine whether the consumer is eligible, while a claim that does not include required information or documentation is deficient. If a claim is complete, Volkswagen makes a preliminary determination as to whether the claim is eligible. If a claim is deficient, Volkswagen informs the consumer of the deficiency to allow the consumer the opportunity to cure the deficiency and resubmit the claim.

As of May 18, 2017, consumers had submitted 399,410 unique claims for Volkswagen to review.<sup>21</sup> Of these, 386,050 claims related to individuals and 13,360 claims related to

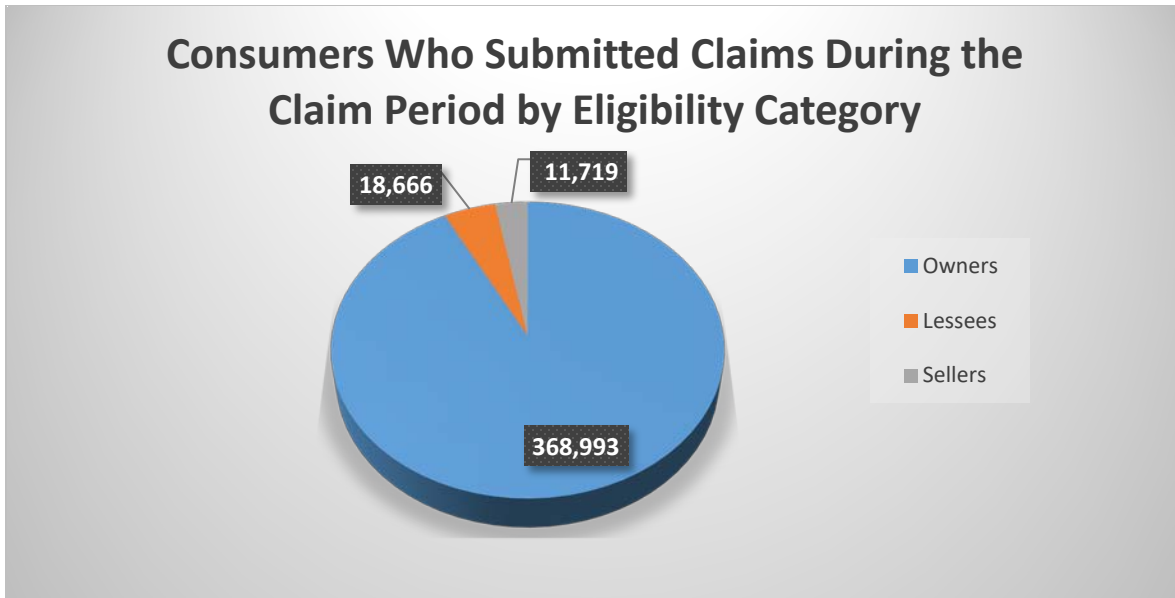
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<sup>20</sup> Former Lessee and Seller claimants do not select a preliminary remedy as the only remedy available to those consumers is Restitution.

<sup>21</sup> "Unique claims" means unique VINs within unique Eligibility Categories. A claim by an Owner and a Seller regarding the same VIN is counted as two unique claims. Likewise, a claim by one Owner who owns five separate vehicles is counted as five unique claims.

businesses. Chart 3-5 shows by Eligibility Category the total population of consumers who had submitted claims. Chart 3-6 shows how the total population of each Eligibility Category has increased over the last four months. Notably, the thirty-two claims not accounted for in either Charts 3-5 or 3-6 relate to claims that were deemed not eligible.<sup>22</sup>

**Chart 3-5**



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<sup>22</sup> If consumers disagree with a determination that their claims are ineligible, they can appeal such decisions to the Claims Review Committee.

**Chart 3-6**

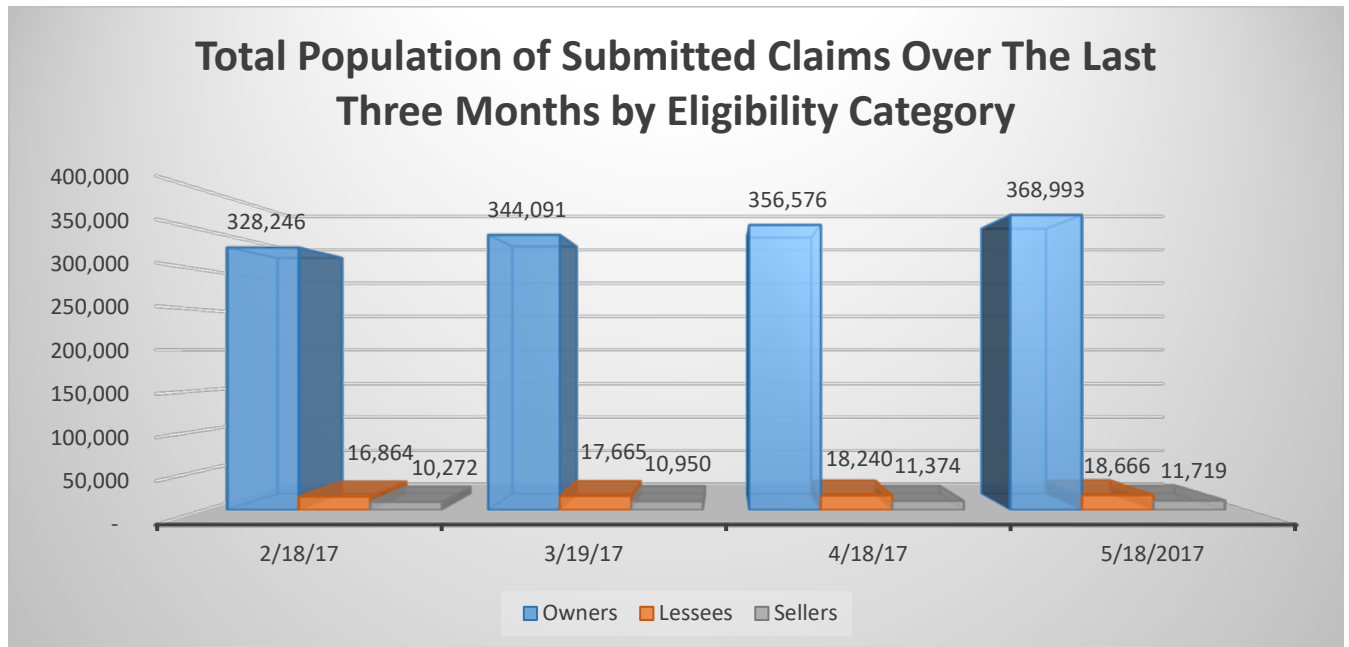
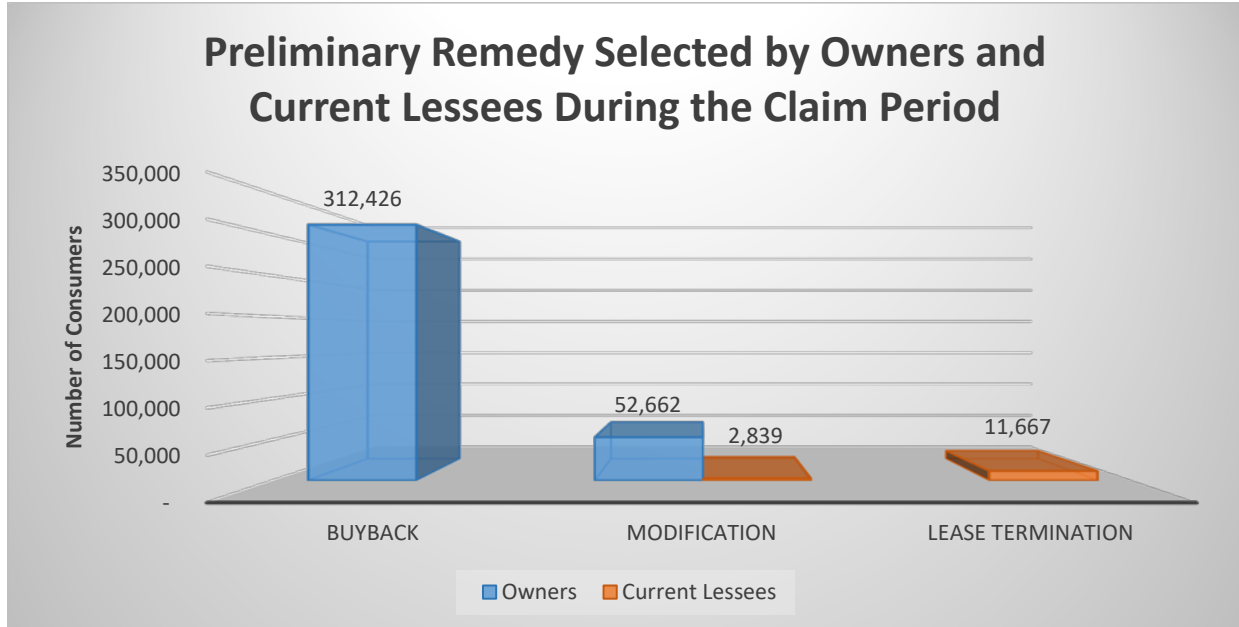


Chart 3-7 shows the preliminary remedy selections for Owners and Current Lessees who had submitted claims through May 18, 2017. The chart does not include the remedy selections for 11,656 Sellers or 3,834 Former Lessees because the only remedy available to these consumers is Restitution, nor does it include 4,326 claims where consumers cancelled the remedy they had initially selected.

Chart 3-7



Throughout the Claim Period, Volkswagen has continued to substantially satisfy the requirement that it render a completeness determination within ten business days following a consumer's submission of a claim. Excluding the population of 1,149 claims for which a decision by Volkswagen was pending but the ten-business-day review period had not elapsed, through May 18, 2017, Volkswagen had been required to make 596,258 first ten-business-day review period determinations. The company issued timely decisions in 571,339 instances, amounting to an overall first ten-business-day review period compliance rate of 95.8%. As described in more detail below, the compliance rate now accounts for adjustments for certain claims where the consumer submitted substantiating documents by mail or facsimile but initially were not deemed received until the date they were uploaded into the Claims Portal.

Chart 3-8 shows Volkswagen's performance during the Claim Period in timely issuing first ten-business-day review period decisions. Chart 3-9 shows Volkswagen's overall first ten-business-day review period performance by Eligibility Categories.

Chart 3-8

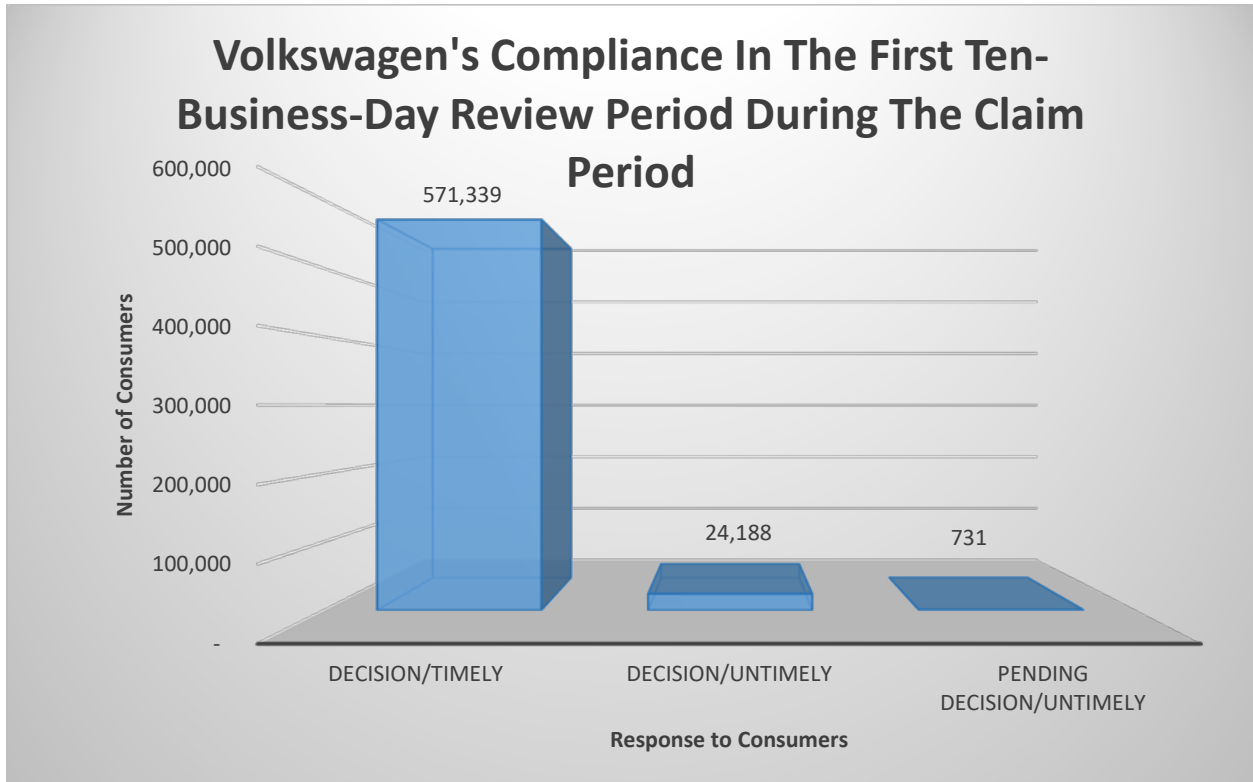
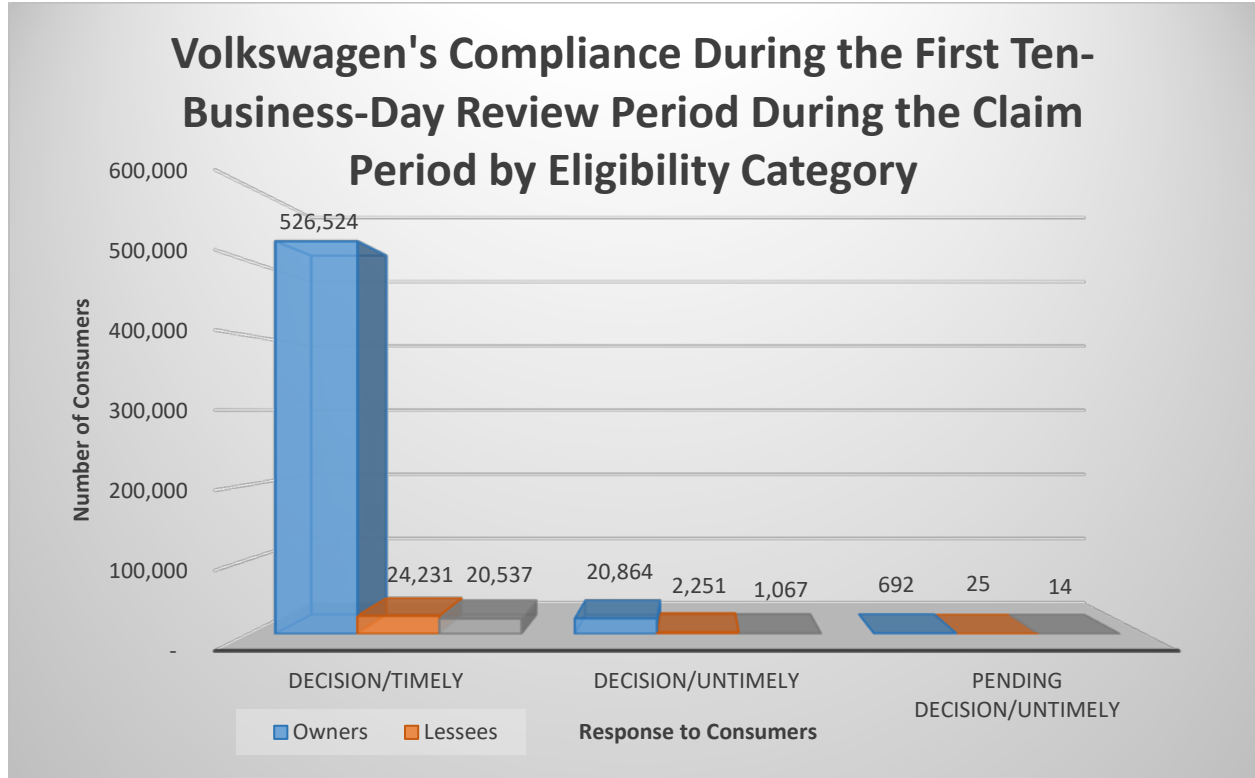


Chart 3-9<sup>23</sup>

While a small population of claims compared to the total number of claims that have moved through the first ten-business-day review period during the Claim Period, the 731 overdue and pending claims in the first ten-business-day review period as of May 18, 2017, is a significant increase over the population of those claims during the last three months. Likewise, Volkswagen's first ten-business-day review period compliance rate since April 19, 2017 (89.6% across 27,797 required decisions) was lower than in recent months where Volkswagen's compliance rate has generally hovered around 99%. Of the 731 claims, 361 claims (49.4%) were apparent duplicates of submitted claims already in or through the claims process. Duplicate claims can present processing challenges, as they often require contacting the consumer to

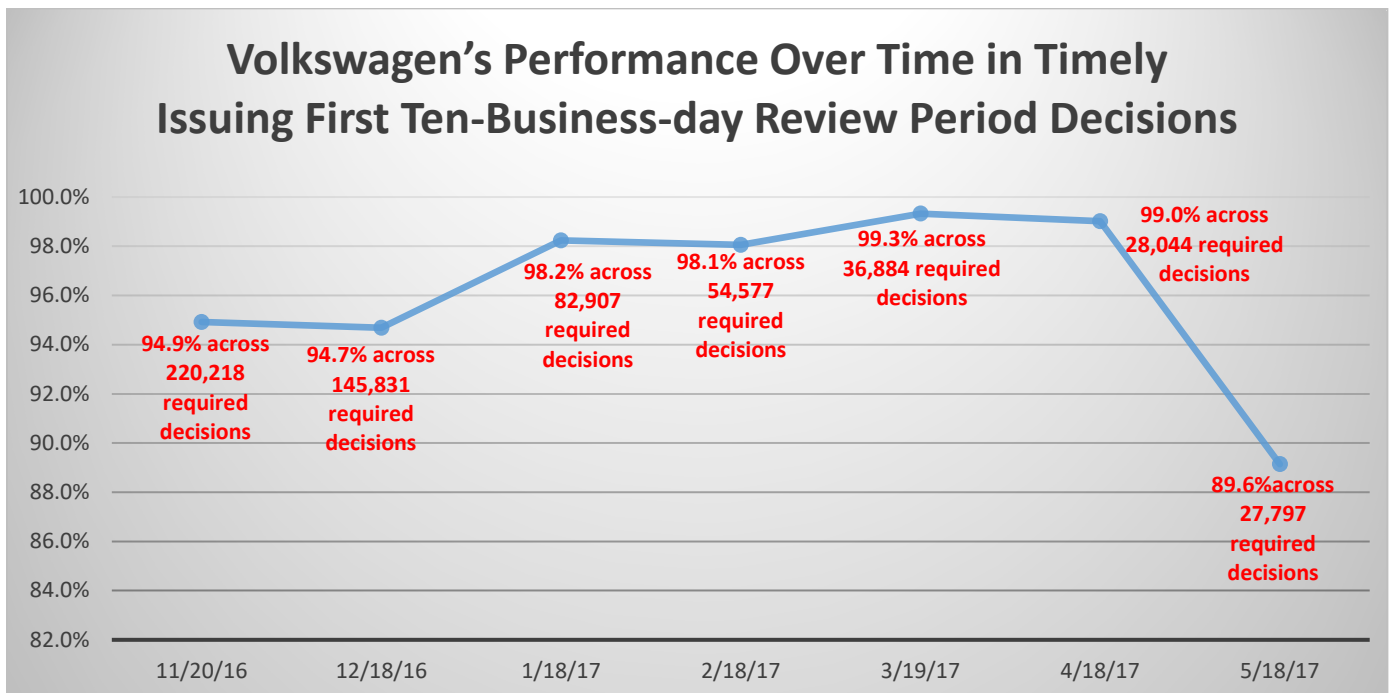
<sup>23</sup> The fifty-three claims not accounted for in Chart 3-9 are instances where the claim ultimately was deemed not eligible by Volkswagen during the first ten-business-day review period. Forty-seven of these not eligible determinations were timely first ten-business-day review period decisions, and six were untimely.



confirm the submission is in fact a duplicate with another claim the consumer has submitted before the duplicate can be cancelled, among other necessary steps. Volkswagen recently dedicated eight staff to focus on addressing the population of duplicate claims. An additional 231 claims (31.6%) were not apparent duplicates but were still awaiting a first ten-business-day determination. Remaining claims fell into smaller populations and generally were associated with discrete issues (e.g., fleet vehicles; branded titles).

Chart 3-10 shows Volkswagen’s first ten-business-day review period compliance rate across approximately thirty-day intervals during the Claim Period.

**Chart 3-10**



As described in previous reports, where consumers provided documents to substantiate their claims by mail or facsimile, Volkswagen’s system identified the claim submission date as the date all documents necessary to consider a file “submitted” were uploaded by Volkswagen into its system. In certain instances, however, the documents were uploaded into the system days or even weeks after the documents had been received. Assessing timeliness within the first ten-

business-day review period requires measuring from the first business day after the date of receipt as opposed to the first business day after the date of upload.

As part of its oversight function, the Claims Supervisor requested, and Volkswagen provided, 56,544 mail or facsimile files containing 182,438 individual documents that touched a total of 34,472 claims. The last set of files was provided in April 2017, after which the Claims Supervisor was able to complete its analysis of the impact of adjusting, as necessary, the claim submission dates for claims with documents submitted by mail or facsimile.

Of the 34,472 claims, 33,568 (97.3%) had reached a first ten-business-day review period that required a decision by Volkswagen. Within that population, 7,585 claims that had been considered “timely” based on the document submitted date in Volkswagen’s system became “untimely” (i.e., Volkswagen’s first ten-business-day review period decision took more than ten business days) after adjusting for the actual submission date. Of these, 3,045 claims had a submission date that was ten business days or more before the upload date. Volkswagen’s system properly reflected the submission date for 18,906 of these claims. As to the remaining 7,077 claims, although the submission date and upload date differed, it did not change whether Volkswagen’s first ten-business-day review period decision was timely or untimely.

Finally, there are two groups of consumers that warrant mention who have submitted claims for Volkswagen to process, who are not eligible class members pursuant to the Resolution Agreements, and who are not captured within the ten-business-day review period analyses. First, as of May 18, 2017, there were 250 active submitted claims from consumers who purchased Eligible Vehicles in the United States but whose vehicles are registered in Canada. As described in Section II, Volkswagen will extend settlement benefits to consumers in this group who can substantiate claims. These claims will be processed by the company once it has identified the broader population of these consumers for outreach and establishes a method to process and

close these claims. Second, as of May 18, 2017, there were 36 active submitted claims for consumers who indicated in their claim submissions that they were employees of Volkswagen or the Court. Volkswagen has used the claims process to identify and engage with these types of consumers though these consumers will not receive funds out of the Funding Pool.

C. Preliminary Eligibility Determinations and Deficiencies

Through May 18, 2017, of the 399,410 unique claims that had been submitted by consumers for Volkswagen to review, 386,147 claims had been determined by Volkswagen to be complete and preliminarily eligible. Of these, 375,785 claims were related to individuals and 10,362 claims were related to businesses.

Chart 3-11 shows the number of claims determined by Volkswagen to be complete and preliminarily eligible by Eligibility Category, and Chart 3-12 shows the most common states in which Eligible Vehicles associated with preliminarily eligible claims are registered.

Chart 3-11<sup>24</sup>

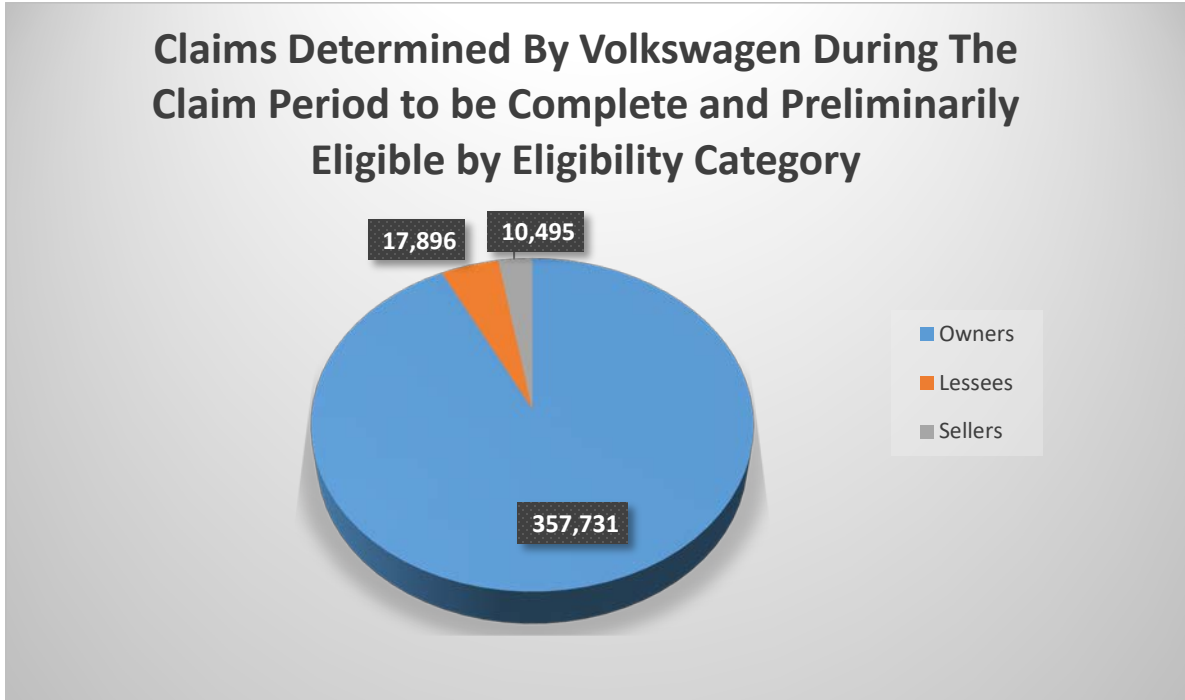
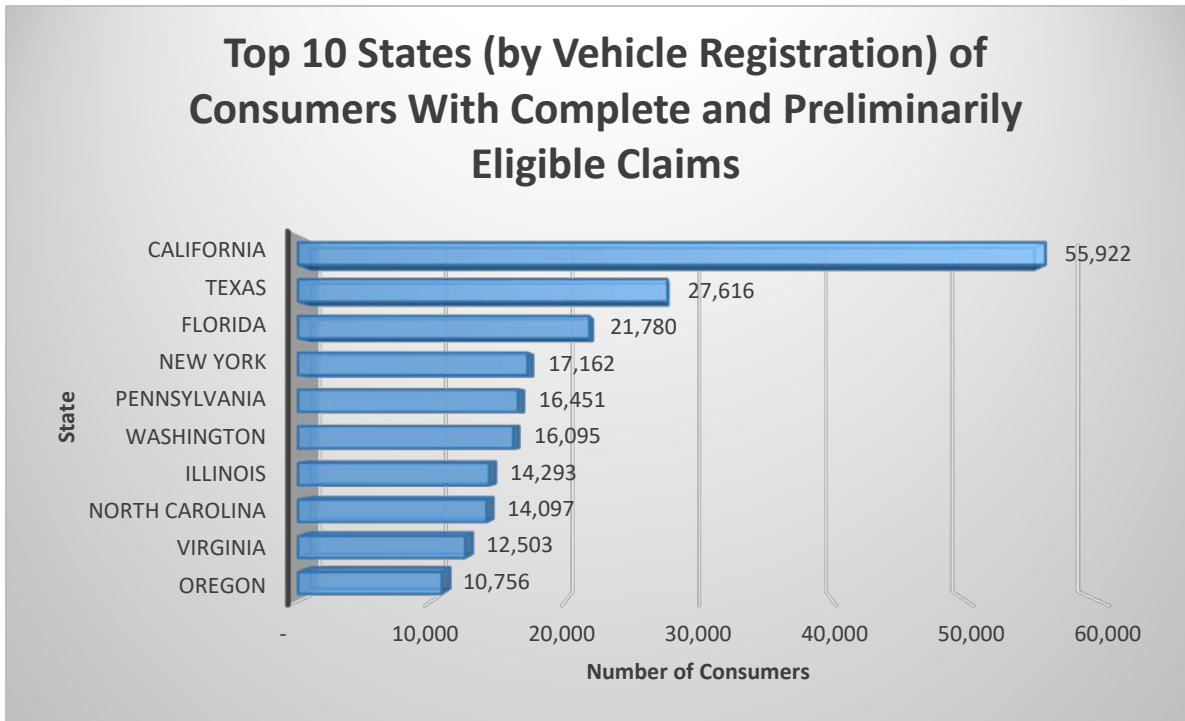


Chart 3-12



<sup>24</sup> The twenty-five claims not accounted for in Chart 3-11 were claims that were deemed not eligible.

Chart 3-13 shows the remedy selected by Owners and Current Lessees whose claims Volkswagen had deemed complete and preliminarily eligible as of May 18, 2017. The chart does not include the 10,462 Sellers or the 3,623 Former Lessees because the only remedy available to those claimants is Restitution, and it also excludes 3,191 claims where the initial offer selection was cancelled.

**Chart 3-13**

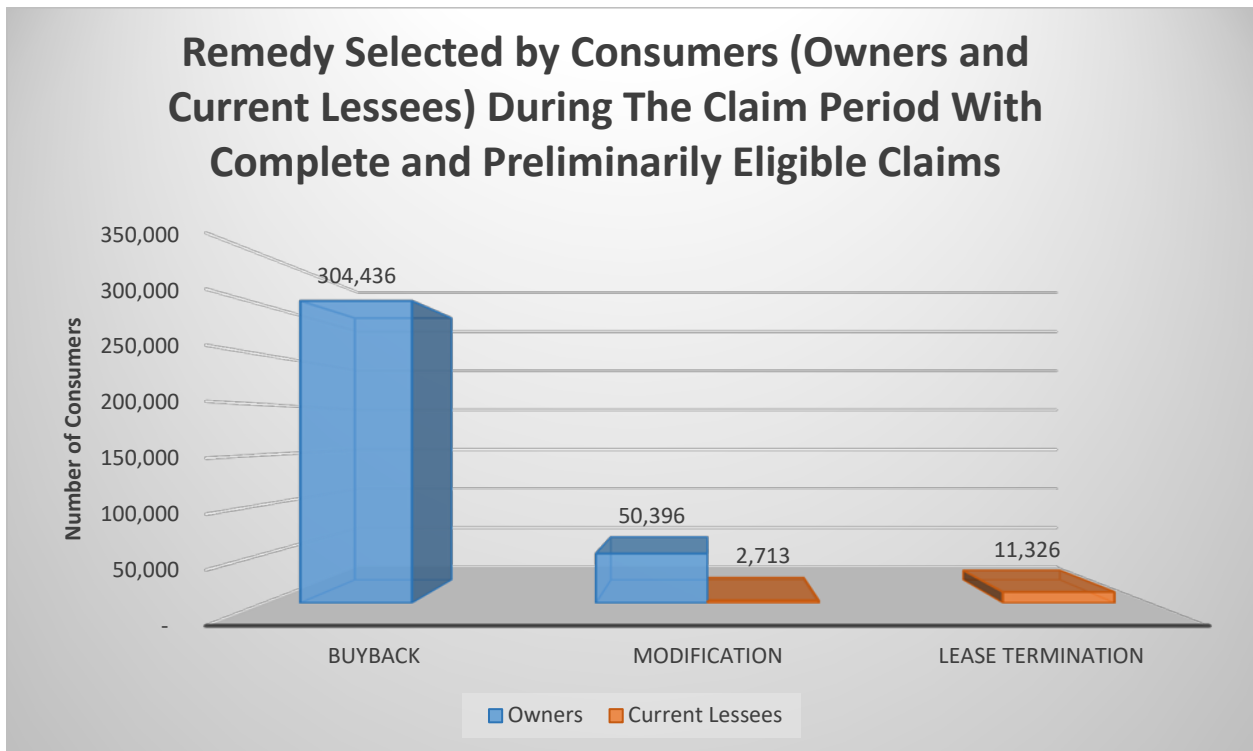
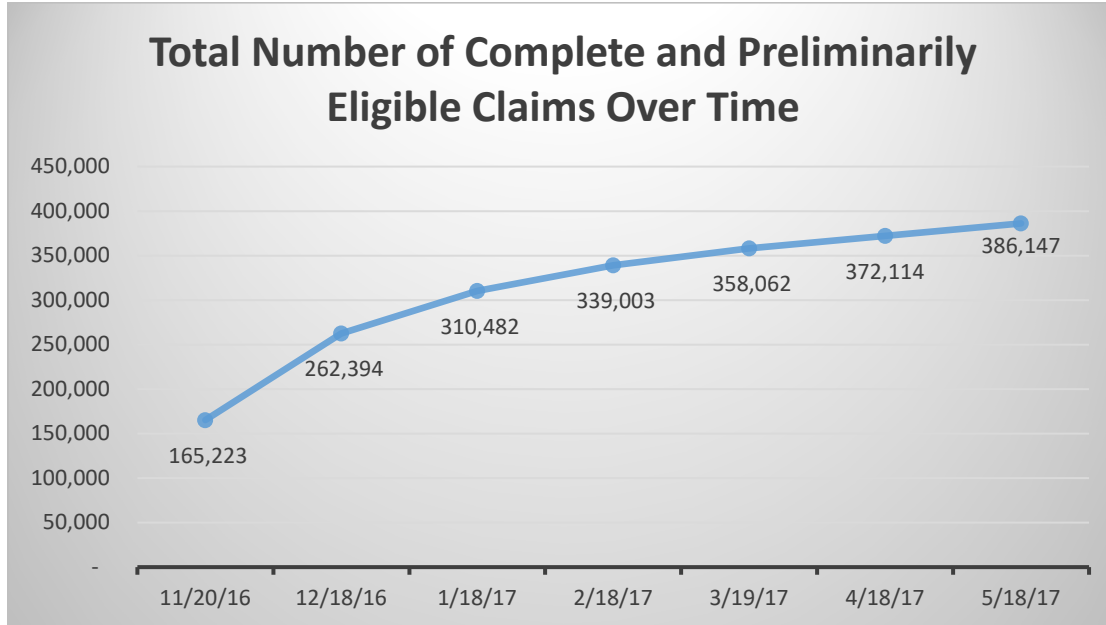


Chart 3-14 shows how the total number of claims deemed complete and preliminarily eligible has changed over time during the Claim Period.

Chart 3-14



Additionally, through May 18, 2017, there were 156,607 instances where Volkswagen had deemed a claim deficient during its first ten-business-day review period. As the same claim may be resubmitted to Volkswagen for another review after initially being deemed deficient, the 156,607 instances of deficiency determinations were spread across 112,703 unique claims. More than 317,000 deficiency codes had been applied by Volkswagen as of that date, as multiple deficiencies may be associated with a given claim submission. The most common deficiency codes have been: (i) an incorrect document was uploaded (84,336 claims); (ii) a document was missing pages (60,896 claims); (iii) a document was illegible (53,695 claims); (iv) a document was incomplete or the document image was cut off (22,239 claims); and (v) a name on the documents did not match the name in the Claims Portal (16,291 claims).

Of the 112,703 consumers found to have submitted a deficient claim as of May 18, 2017, 105,707 consumers (93.8%) had made at least one attempt to cure the deficiency, while 6,996 (6.2%) had not yet attempted to cure. Among those consumers who had attempted to cure: (i) 101,606 consumers (96.1%) successfully cured the deficiency; (ii) 362 consumers (0.3%)

resubmitted claims that were pending a completeness determination by Volkswagen as of May 18, 2017; and (iii) 3,739 consumers (3.5%) had not resubmitted claims after their most recent attempt to cure the deficiency was unsuccessful.

Through May 18, 2017, there were 10,457 consumer files with active deficiencies. Across these files, the most common deficiencies were: (i) an incorrect document was uploaded (5,321 claims); (ii) a name on the documents did not match the name in the Claims Portal (2,905 claims); (iii) a document was illegible (1,971 claims); (iv) the VIN information did not match (700 claims); (v) a document was incomplete or the document image was cut off (676 claims); and (vi) a document was expired (665 claims).

Finally, the Claims Supervisor reviewed a statistically valid sample of 1,200 claims deemed deficient by Volkswagen during the last three months to assess whether Volkswagen reviewers were properly applying deficiency codes to claims they deemed deficient during the first ten-business-day review period.<sup>25</sup> The Claims Supervisor agreed with Volkswagen reviewers' deficiency determinations in 1,104 instances (92.0%). There were observed improvements on rates of agreement associated with more "complex" substantiating documents (e.g., power of attorney forms; corporate documents; previous registration or proof of acquisition; proof of name change; proof of vehicle transfer to insurance; proof of sale). Where there was disagreement, the most common issues were whether a registration was properly deemed to have expired, and whether a document deemed incomplete actually was complete based on additional documents that were part of the same submission or other documents the consumer previously provided.

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<sup>25</sup> The sample size is smaller than that in the February 2017 Report because it is relative to the smaller population of 23,510 first ten-business-day review period deficiency determinations rendered by Volkswagen during the past three months.

D. The Second Ten-Business-Day Review Period

Volkswagen has ten business days from the date it concludes that a consumer's claim is complete and preliminarily eligible to issue an offer letter. Within the same second ten-business-day review period, the Claims Supervisor must independently verify Volkswagen's completeness and eligibility determinations as well as its offer calculation before an offer letter can issue.<sup>26</sup>

As of May 18, 2017, 386,945 consumers had reached the second ten-business-day review period having been deemed preliminarily eligible by Volkswagen.<sup>27</sup> Of these, 376,576 claims related to individuals and 10,369 claims related to businesses. Across this population, 378,124 (97.7%) had been issued offer letters. Additionally, as of May 18, 2017, Volkswagen's backlog of overdue claims that were still awaiting action by the company had been reduced to 433 claims. Chart 3-15 shows the change over time in Volkswagen's backlog of overdue and pending claims.

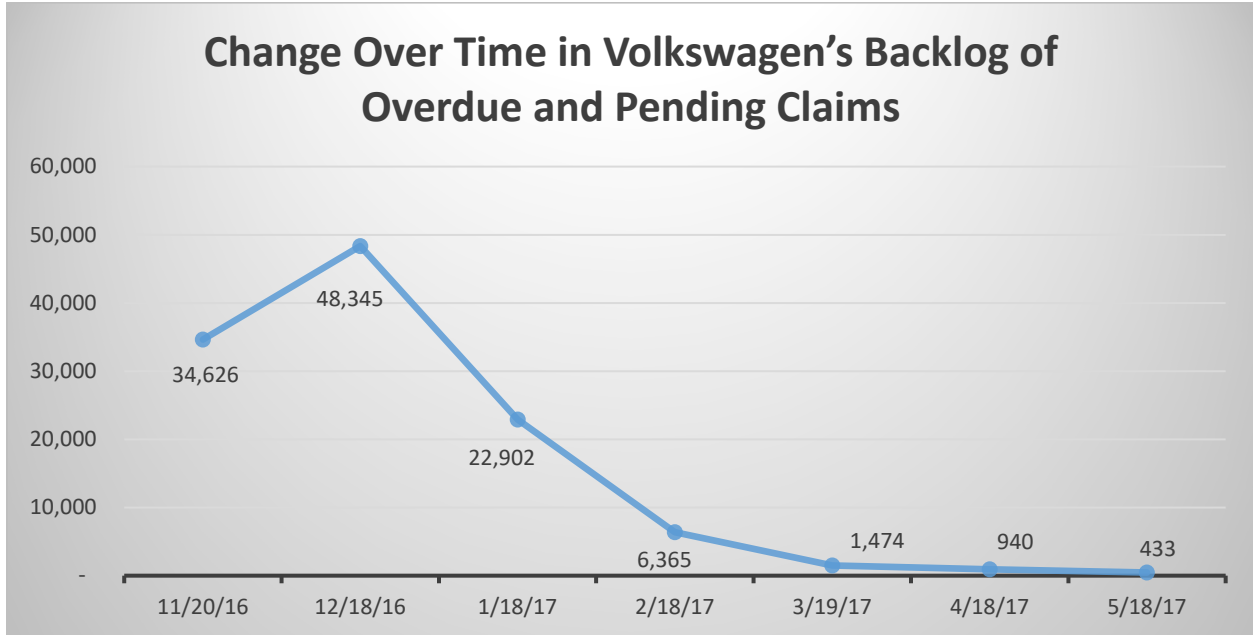
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<sup>26</sup> In certain instances, Volkswagen can determine during the first ten-business-day review period that a claim is ineligible in which case that ineligibility determination must be verified by the Claims Supervisor during the second ten-business-day review period. These ineligibility determinations are separate from claims automatically deemed ineligible by Volkswagen's system based on information input by the consumer (captured in Chart 3-4). Through May 18, 2017, there had been 2,726 instances where a claim had been deemed ineligible upon review by Volkswagen. In 1,258 of those instances, the ineligibility determination was verified by the Claims Supervisor and communicated by Volkswagen to the consumer. The remaining claims predominantly are instances where the Claims Supervisor determined, and Volkswagen agreed, that the claim should have been deemed deficient -- such that the consumer would have an opportunity to cure and resubmit a claim -- as opposed to ineligible, or should have been cancelled as a duplicate claim rather than being deemed ineligible.

<sup>27</sup> As described above, there were 386,147 consumers whose claims were deemed complete and preliminarily eligible by Volkswagen, but 386,945 preliminarily eligible claims reached the second ten-business-day review period. The difference of 798 claims are instances from earlier in the Claim Period where files reached a status beginning the second ten-business-day review period before the first ten-business-day review period had been completed or reached the second ten-business-day review period having skipped the status that ends the first ten-business-day review period. The difference would not substantively affect consumer claims; it only causes the discrepancy when data is queried to generate aggregated figures for reporting purposes.



Chart 3-15



Through May 18, 2017, excluding the 2,051 claims that were still pending a determination by Volkswagen but for which the ten-business-day review period had not yet elapsed, Volkswagen had been required to make 434,066 second ten-business-day review period decisions. The company had timely done so in 290,585 instances, for an overall compliance rate of 66.9%. Since the February 2017 Report, Volkswagen has been required to make 72,033 second ten-business-day review period decisions and has timely done so in 67,765 instances for a compliance rate of 94.1%. Despite its substantially improved performance in recent months, the company's overall compliance rate has improved by only 5.4% since the February reporting period because of the comparatively smaller volume of claims that required processing. The 72,033 instances of required second ten-business-day review period determinations over the last three months is only 28.4% of the instances of second ten-business-day review period decisions that were required during the first six weeks of the Claim Period.

Chart 3-16 shows Volkswagen's compliance in timely issuing second ten-business-day review period decisions during the Claim Period, and Chart 3-17 shows compliance by Eligibility Category.

**Chart 3-16**

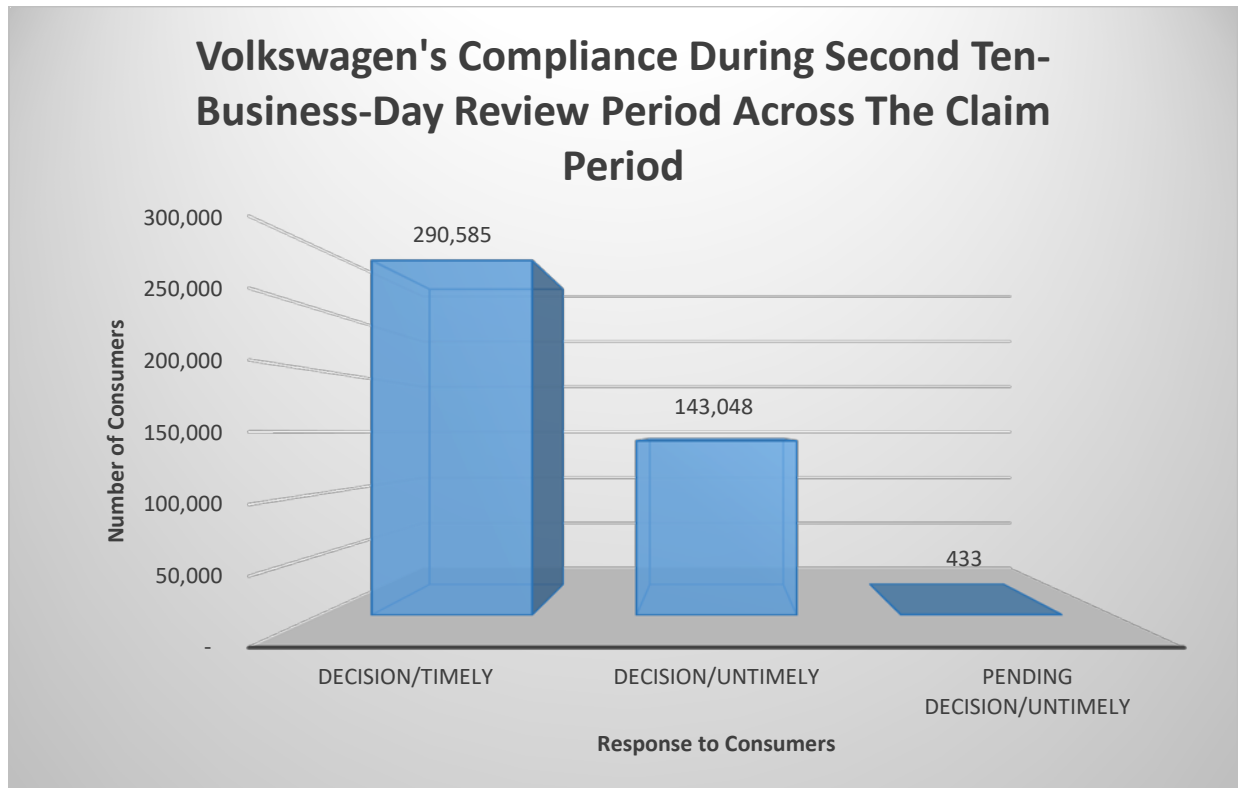


Chart 3-17<sup>28</sup>

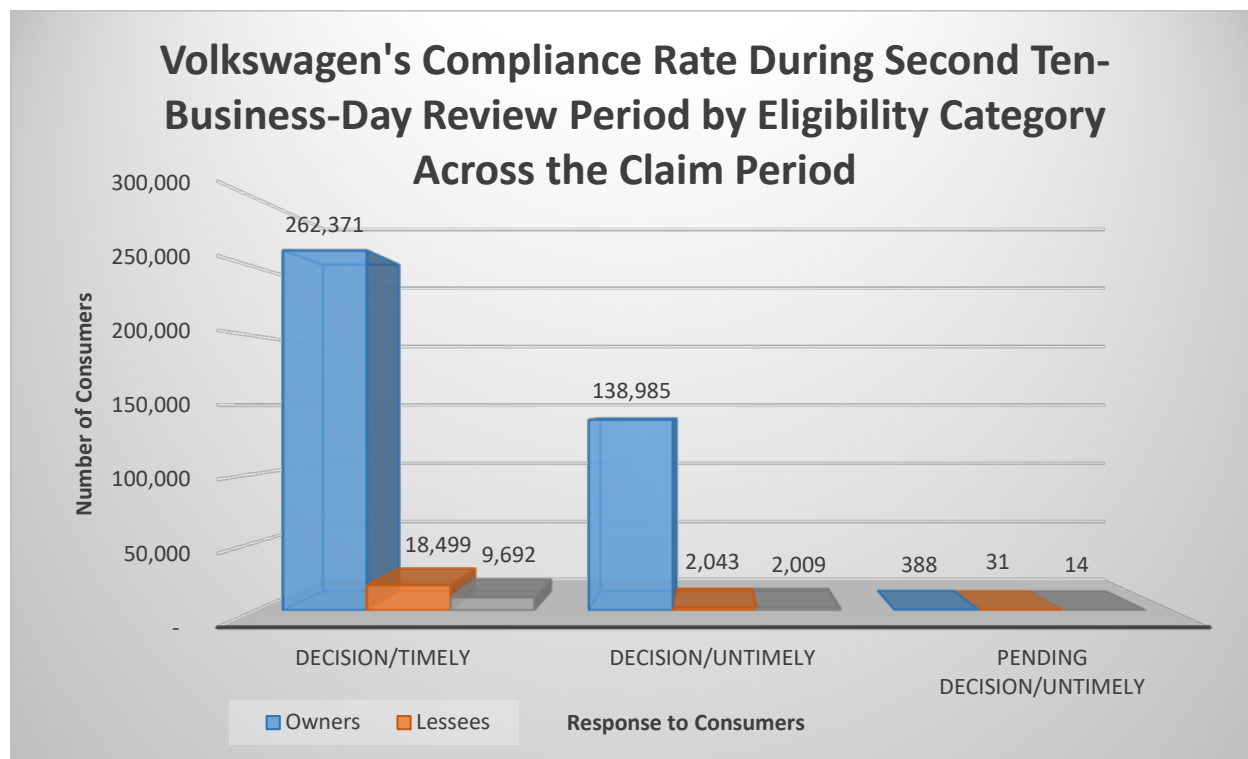


Chart 3-18 shows Volkswagen’s compliance rate in timely issuing second ten-business-day review period decisions across approximately thirty-day intervals during the Claim Period.

<sup>28</sup> Of the thirty-four claims not accounted for in Chart 3-17, thirty-three were claims that were deemed not eligible. Twenty-three of these claims were timely second ten-business-day review period decisions, and ten were untimely. The remaining claim is an instance where the Eligibility Category changed after the claim was deemed deficient during the second ten-business-day review period.

Chart 3-18

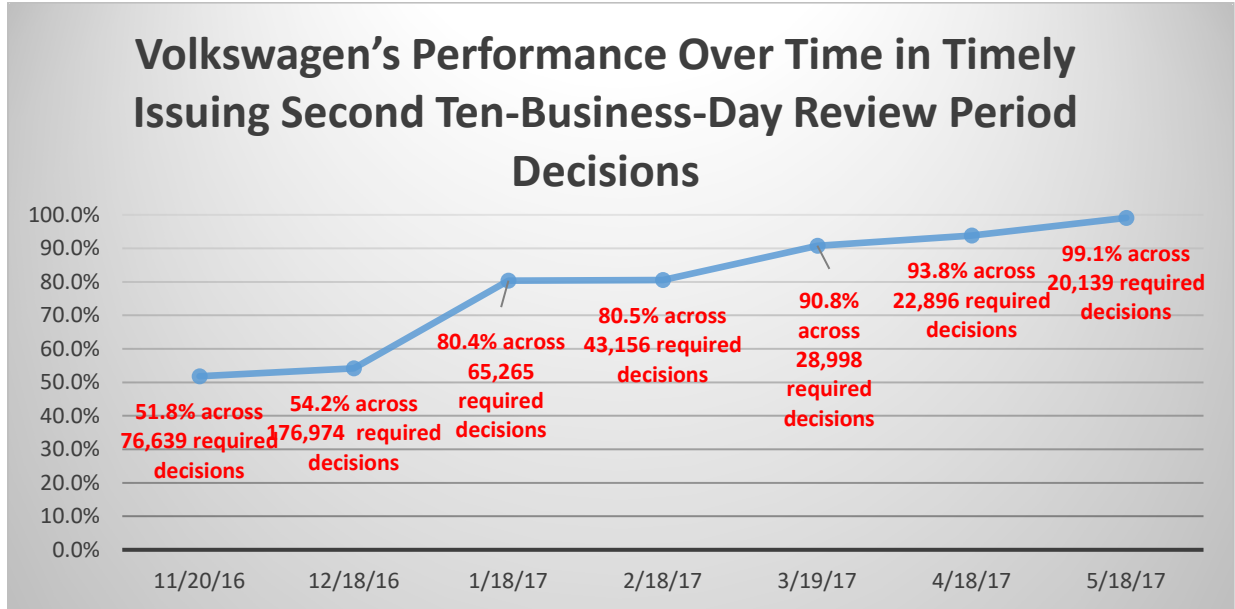
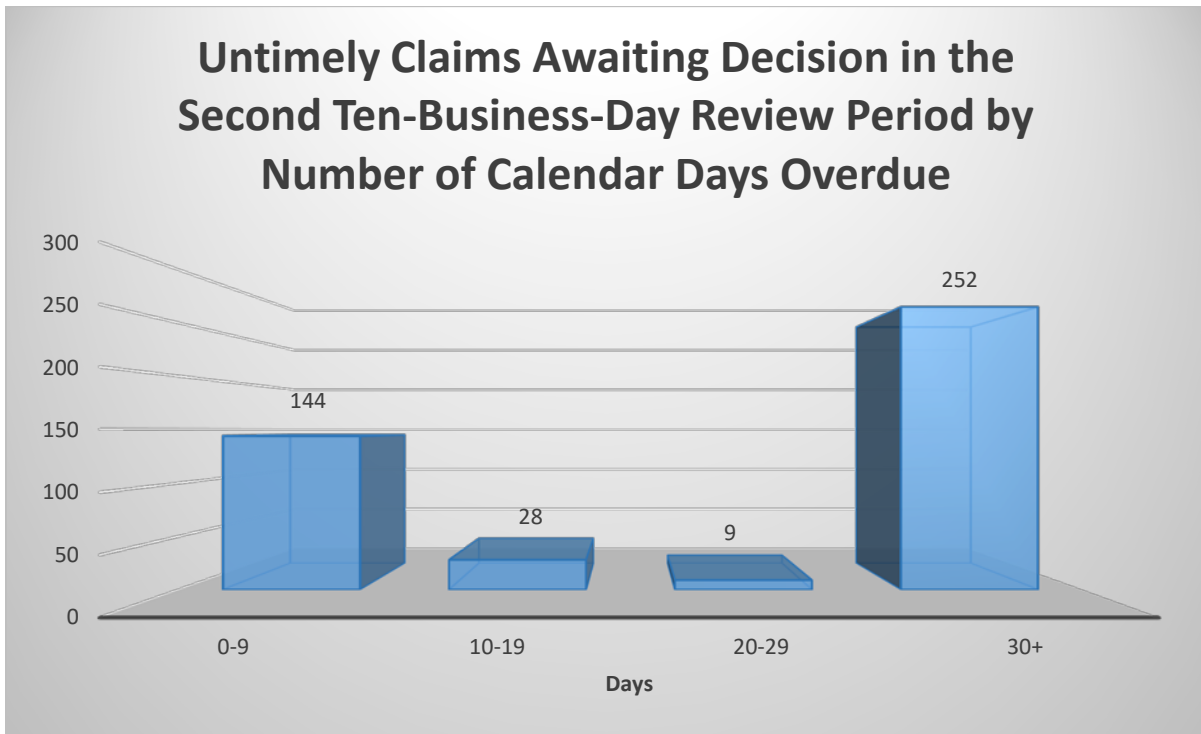


Chart 3-19 shows the remaining 433 claims in Volkswagen's backlog as of May 18, 2017, by the number of calendar days that the claims are overdue.

Chart 3-19



Of the 433 claims in Volkswagen’s backlog as of May 18, 2017, 347 claims were awaiting resolution of a deficiency, eligibility or offer concern associated with the file. Of these, 254 claims were at least ten calendar days overdue, inclusive of 222 claims that were at least thirty calendar days overdue. The remaining claims generally fell within smaller pockets of claims with more discrete issues.

E. Offer Letters

Through May 18, 2017, Volkswagen had issued 378,124 offer letters, the aggregate value of which totaled \$6,882,503,415.20. Of these, 368,847 offer letters with an aggregate value of \$6,714,350,613.23 were issued to individuals. The remaining 9,277 offers were issued to businesses and were aggregately valued at \$168,152,801.97.

Chart 3-20 shows how the number of offer letters issued by Volkswagen has changed over time since the start of the Claim Period. Chart 3-21 shows over the last four months how the number of offer letters issued by Volkswagen has changed by Eligibility Categories.

**Chart 3-20**

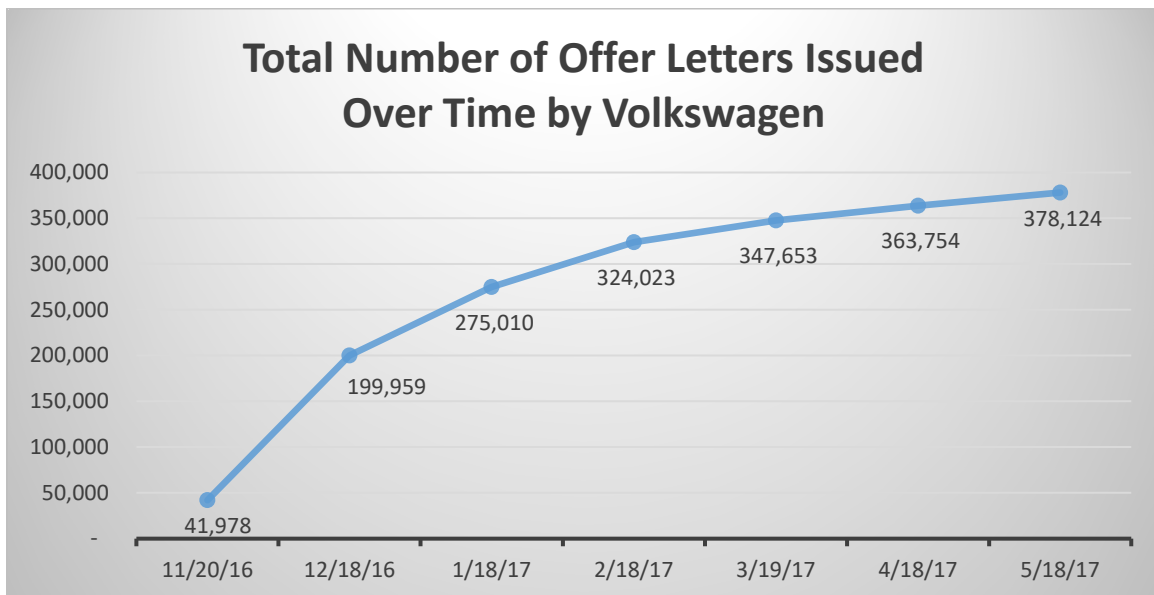


Chart 3-21<sup>29</sup>

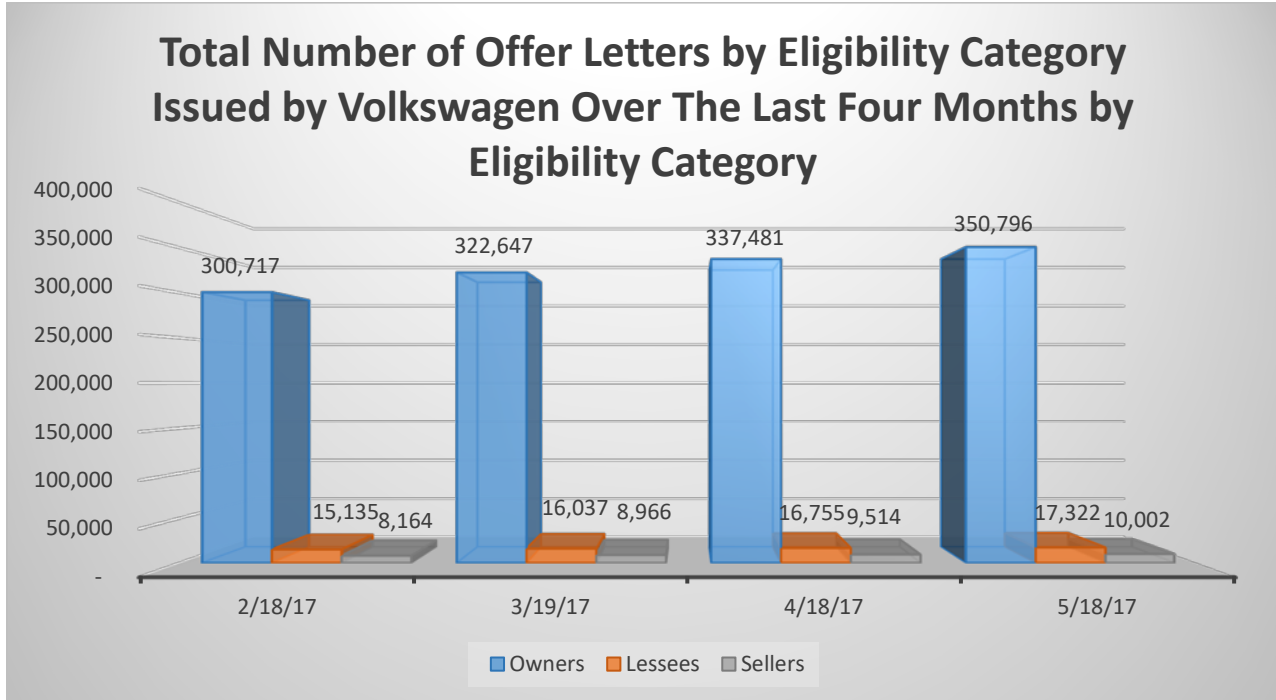


Chart 3-22 shows offer letters issued to Owners and Current Lessees by remedy selections. The chart excludes the 10,002 Sellers and 3,494 Former Lessees who have received offer letters because the only remedy available to those consumers is Restitution, as well as four offers associated with claims subsequently deemed not eligible.

<sup>29</sup> The four claims not captured in the May 18<sup>th</sup> data were claims that ultimately were deemed not eligible. Early in the Claims Program, there were instances where a few claims entered second ten-business-day review period processing before the first ten-business-day review was complete, as well as instances where offer letters were generated before deficiencies discovered by the Claims Supervisor during its second ten-business-day verification were resolved. As a result, a few claims that had offer letters generated for them ultimately were deemed ineligible.

**Chart 3-22**

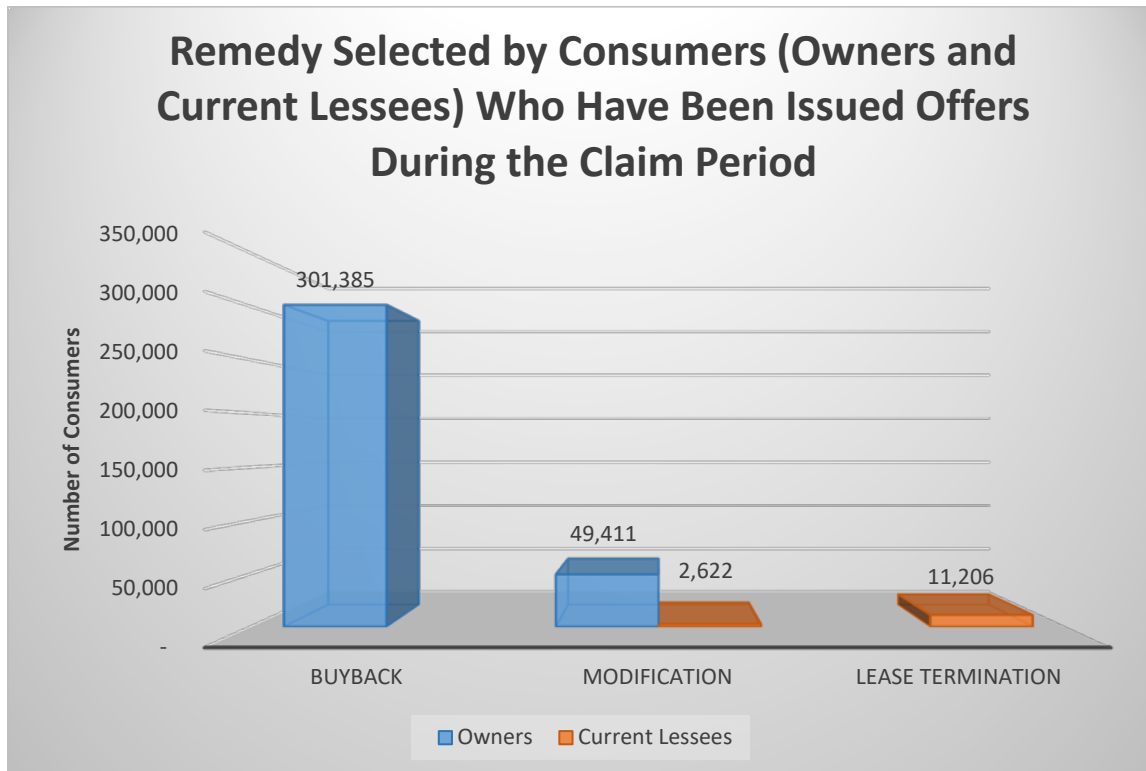


Chart 3-23 shows, through May 18, 2017, the top ten states by vehicle registration of consumers who had received offer letters.

**Chart 3-23**



Through May 18, 2017, of the \$6.882 billion associated with the offer letters made by

Volkswagen, Owners account for more than \$6.791 billion. Of these, about \$3.082 billion related to Owners without loans and \$3.709 billion related to Owners with loans.<sup>30</sup> The remainder was split among Current Lessees (13,828 offer letters valued in aggregate at about \$49.2 million); Sellers (10,002 offer letters valued in the aggregate at about \$30.3 million); Former Lessees (3,494 offer letters valued in the aggregate at about \$11.7 million); and Owners who purchased the vehicle after September 18, 2015 but before June 28, 2016 following termination of their lease agreement (301 offer letters valued in the aggregate at \$987,875).

Chart 3-24 shows the minimum, maximum and average awards issued to consumers based on Eligibility Category and offer selection through May 18, 2017.

**Chart 3-24**

<b>Eligibility Category and Offer Selection</b>	<b>Average Value</b>	<b>Minimum Value</b>	<b>Maximum Value</b>
Owner - Buyback	\$21,495.11	\$5,241.73	\$45,407.93
Owner - AEM	\$6,040.04	\$2,274.00	\$9,991.13
Current Lessee - AEM	\$3,537.06	\$2,506.50	\$4,899.30
Current Lessee - Early Lease Termination	\$3,559.19	\$2,571.50	\$4,954.80
Former Lessee Restitution	\$3,352.81	\$2,504.00	\$4,885.30
Seller Restitution	\$3,031.96	\$2,550.00	\$4,770.27

Finally, through May 18, 2017, a total of 2,812 military consumers stationed overseas and 951 decedent estates had registered with Volkswagen. Of those, 2,542 and 737, respectively, had submitted claims for Volkswagen to review. Volkswagen had deemed 2,403 military overseas claims and 597 decedent estate claims complete and preliminarily eligible. Of

<sup>30</sup> As of May 18, 2017, there were 180 instances where the loan amount exceeded 130% of the offer amount, such that the final amount provided to the consumer (absent potential adjustments at closing) would not satisfy the entire loan amount and the consumer would have to provide funds to Volkswagen to complete the Buyback. Across these claims, the average remainder on the loan balance was approximately \$2,850. However, there were outliers that skewed the average, including nine claims with loan balances in excess of \$10,000. One hundred and thirty-five of the 180 claims had loan balances of less than \$3,000. Thus, the median value of the loan balance across these 180 claims, which was approximately \$1,320, is perhaps a better representation of the composition of these claims.



these, Volkswagen had issued 2,290 offer letters (95.3% of the population deemed preliminarily eligible) to military consumers stationed overseas and 507 offers to decedent estates (84.9% of the population deemed preliminarily eligible). The aggregate values of the offer letters to military consumers stationed overseas and decedent estates were \$44,110,779.00 and \$9,906,389.10, respectively.

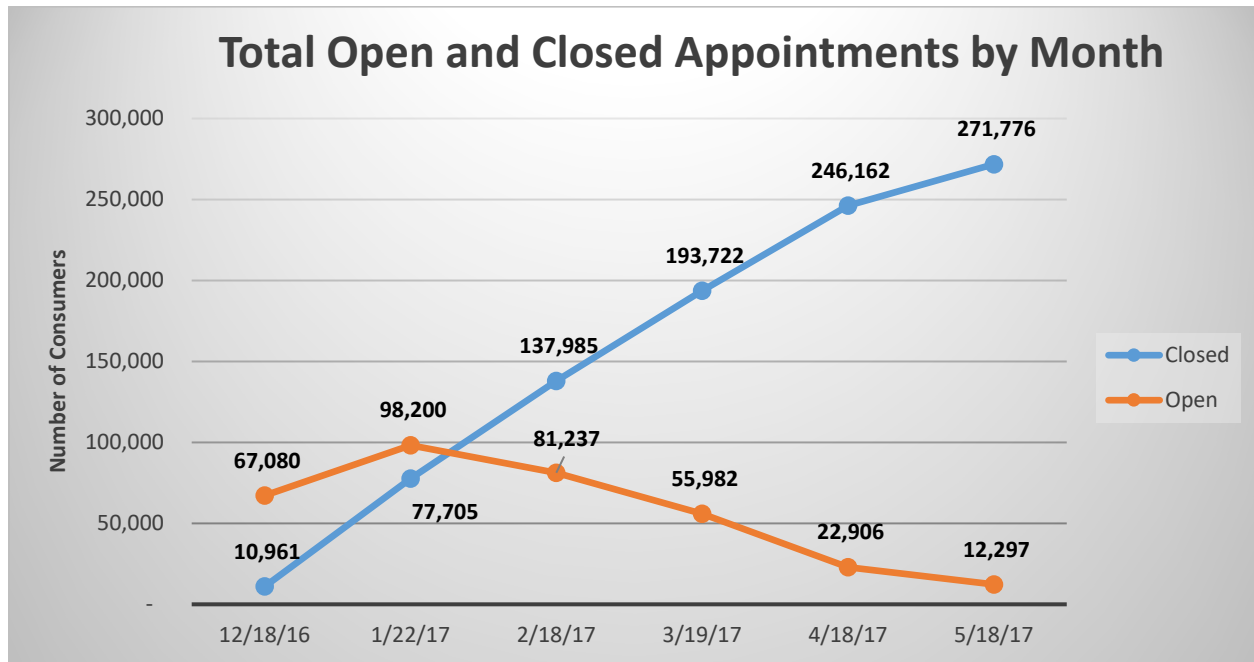
F. Appointments and Closings

As of May 18, 2017, there were 286,808 consumers who had scheduled closing appointments.<sup>31</sup> Within this group, 271,776 consumers had appointments that had resulted in the completion of a closing; 12,297 consumers had open appointments; and 2,735 consumers had their appointment cancelled and had yet to reschedule. Chart 3-25 shows the change over time in the number of open and closed appointments for Owners and Current Lessees who elected a Buyback or Early Lease Termination remedy, respectively.

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<sup>31</sup> As of May 18, 2017, 341,711 consumers had accepted offer letters from Volkswagen, the aggregate values of which totaled \$6,376,571,330. In addition to Owners and Current Lessees, this figure includes Former Lessees and Sellers who do not need to proceed through the closing phase because they do not have possession of an Eligible Vehicle. Information on payments made to Former Lessees and Sellers is set forth below. The appointment figure also excludes Owners and Current Lessees of Generation 3 vehicles who have scheduled AEMs, as those appointments are scheduled directly with dealerships and not through Volkswagen's scheduling application. Information on completed phase one AEMs on Generation 3 vehicles through May 18, 2017, is below.

Chart 3-25



The evaluation of the data related to dealership closings tend to show that Volkswagen has been offering appointment options within the time parameters prescribed by the Resolution Agreements -- within ninety days for a Buyback or AEM and within forty-five days for a Lease Termination -- and that most consumers are attending closing appointments at the “preferred dealership” listed in their claim application. Chart 3-26 shows, for consumers who had scheduled appointments as of May 18, 2017, the total number of appointments by appointment type across the Owner and Current Lessee Eligibility Categories.

**Chart 3-26**

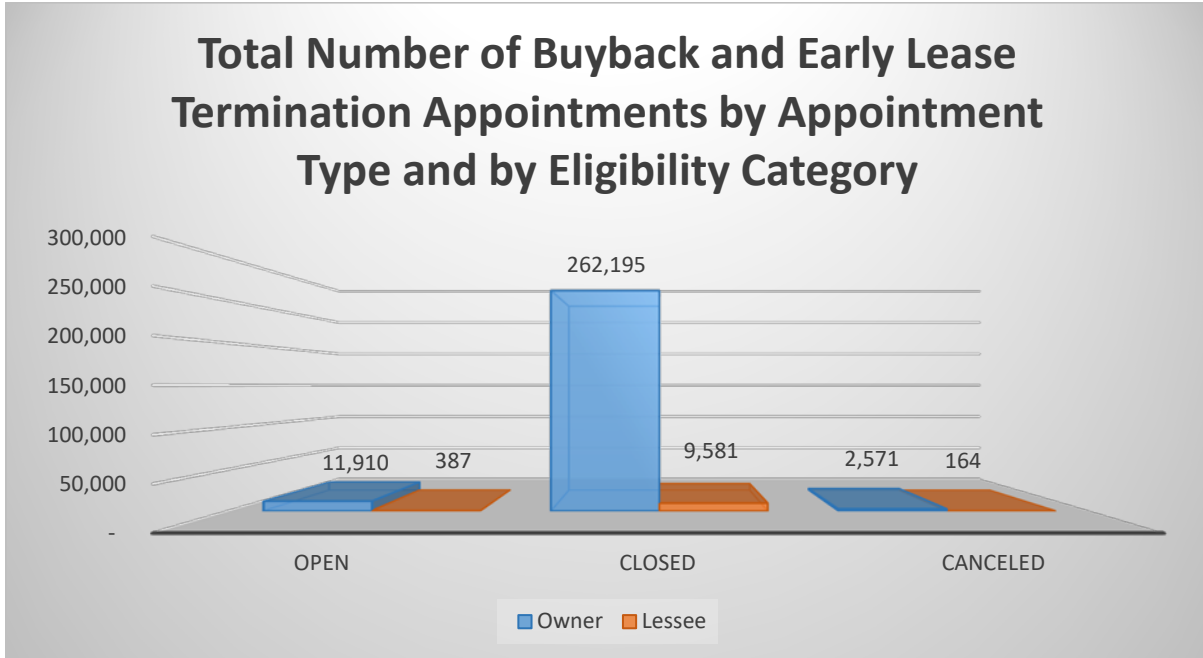
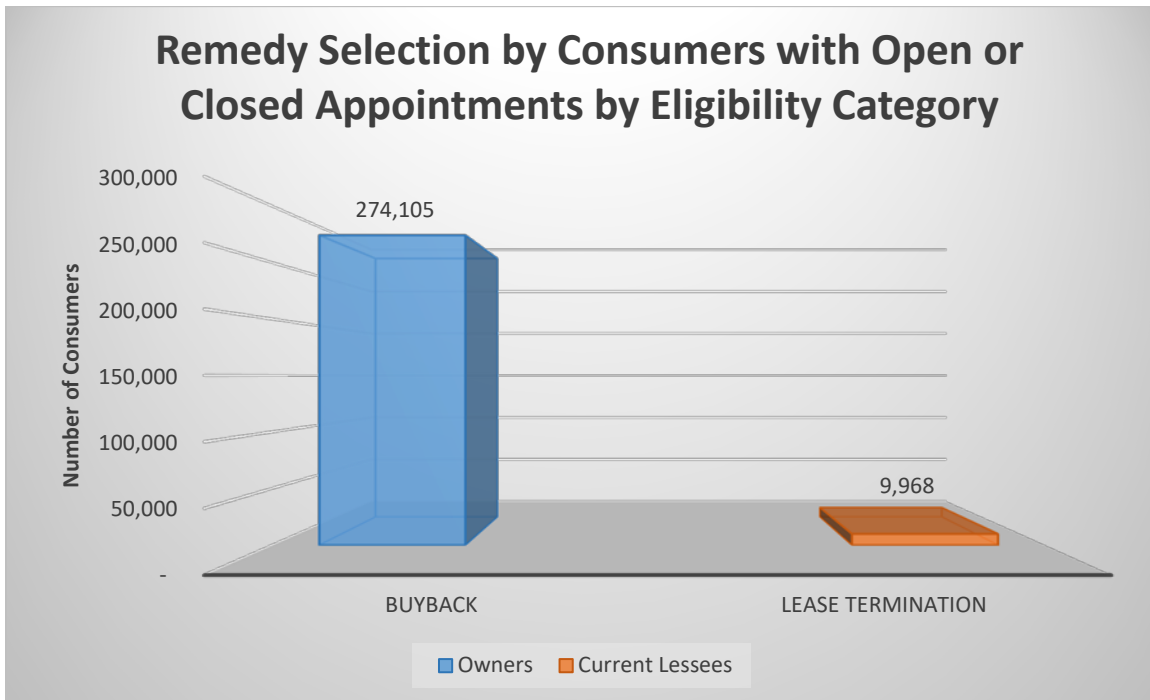


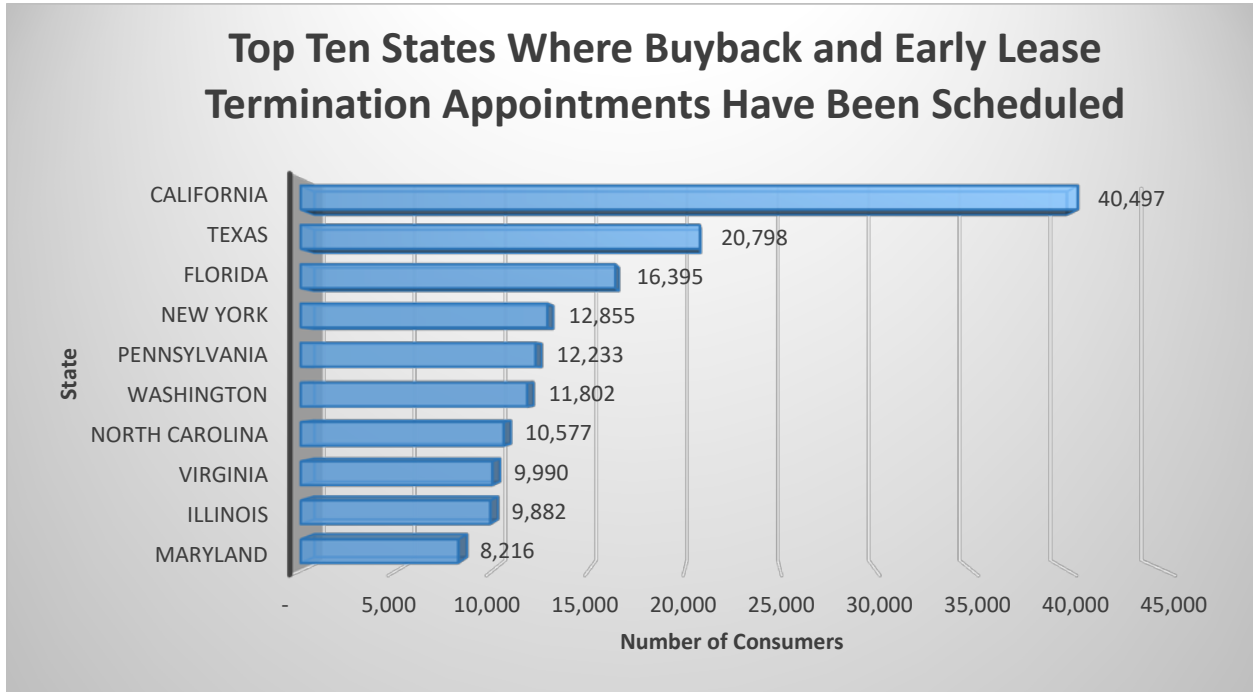
Chart 3-27 shows the number of Owners who had elected a Buyback remedy and Current Lessees who had elected an Early Lease Termination Remedy with open or closed appointments.

**Chart 3-27**

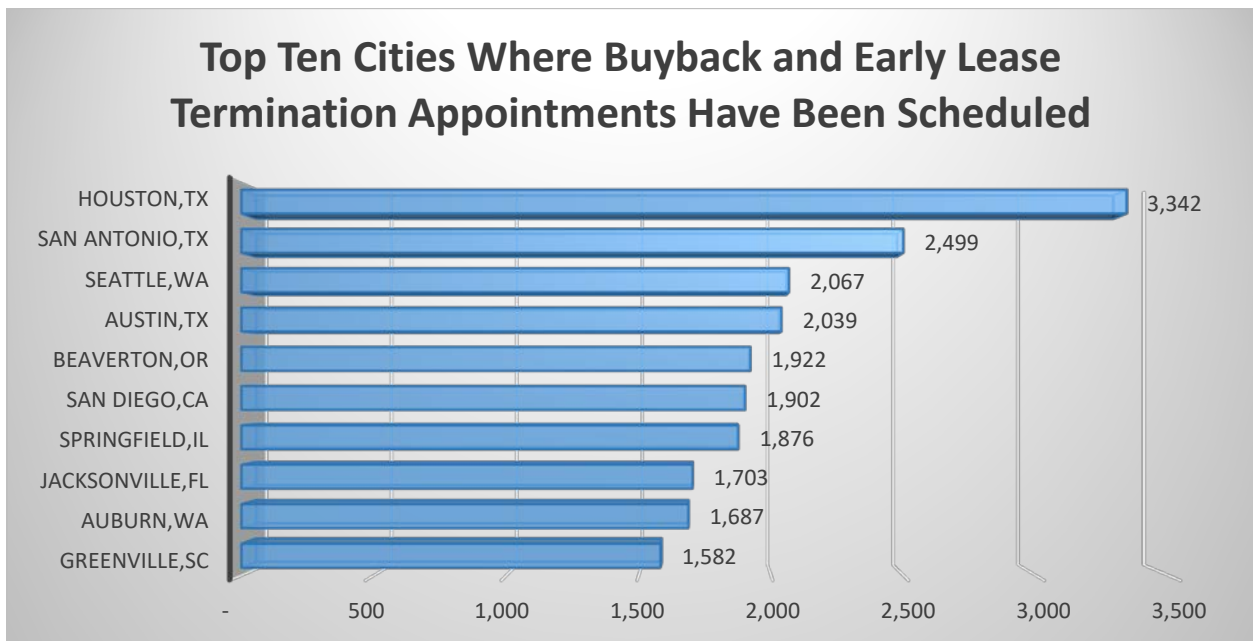


Through May 18, 2017, the most common locations where appointments were scheduled (states and cities) are set forth in Charts 3-28 and 3-29, respectively.

**Chart 3-28**



**Chart 3-29**



As of May 18, 2017, there had been 56,910 instances where scheduled appointments had resulted in cancellation. Of these, 51,388 (90.3%) were cancelled at the consumer's request. Other reasons for cancellations included: (i) the consumer did not show up to the closing (1,792 instances); (ii) the vehicle's mileage at turn-in required Volkswagen to reduce the amount owed to a consumer who elected to be paid by check, necessitating that Volkswagen cut a new check for the correct amount (1,385 claims);<sup>32</sup> (iii) the title was not brought to the closing (359 instances); and (iv) the title holder was not present at the closing (214 instances).

For the 271,776 appointments that had resulted in closing as of May 18, 2017, the aggregate value of those claims was \$5,675,804,467.26.<sup>33</sup> Chart 3-30 shows the remedies that this population had selected.<sup>34</sup> Chart 3-31 shows the top ten states for consumers who proceeded through closing by the state in which their vehicle was registered.

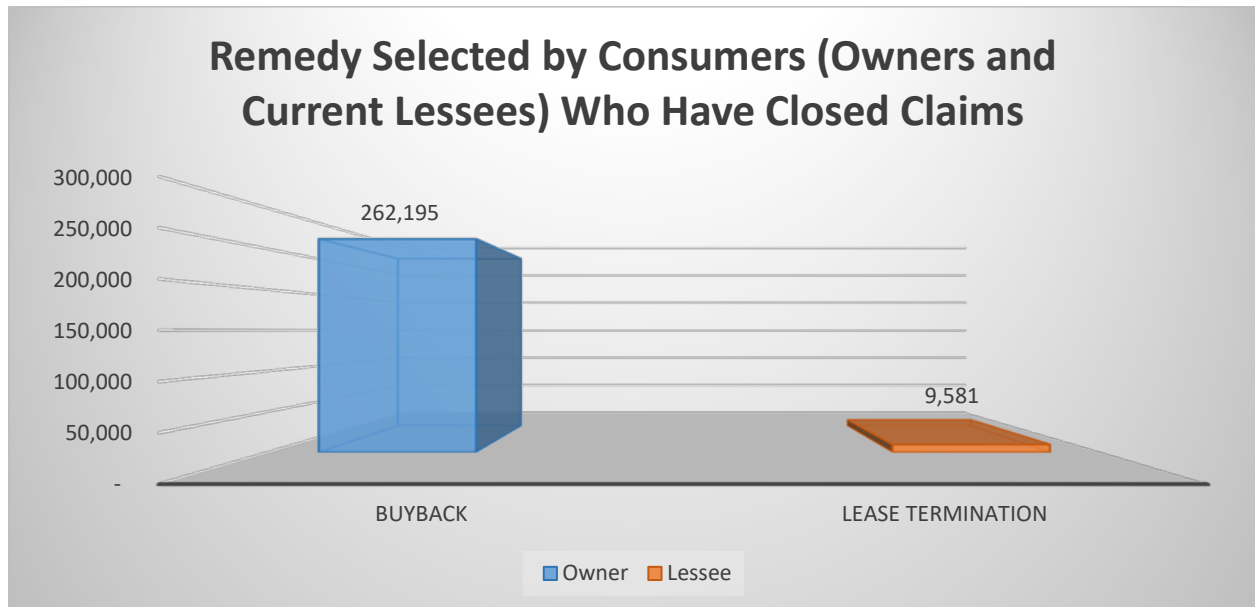
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<sup>32</sup> Beginning on March 2, 2017, Volkswagen had the ability to complete the closing and mail the consumer a check within three banking days. A review of the additional twenty-five cancellations that occurred since that time -- anomalous because of the company's ability to proceed at the first appointment with the Buyback of an over-mileage vehicle and still issue a check -- indicated that most of these cancellations appear to have been misclassified as relating to the consumer being over-mileage, when they more appropriately should have been classified as cancellations at the consumer's request or for other reasons.

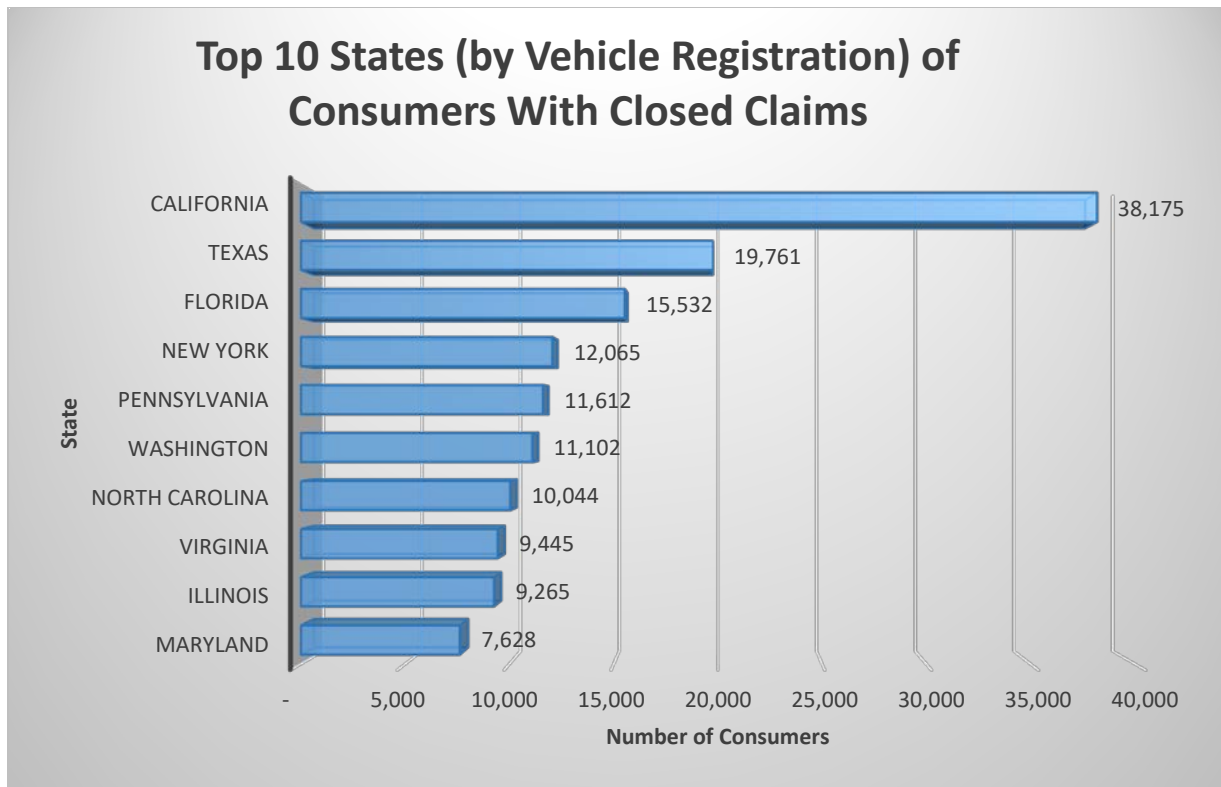
<sup>33</sup> On May 24, 2017, after consultation with the Claims Supervisor, Volkswagen adjusted the Funding Amount on the Escrow Account to \$1,155,759,304 pursuant to Section 10.2 of the Class Action Settlement Agreement.

<sup>34</sup> Consumers proceeding through the closing process have the choice to receive funds from Volkswagen by EFT or by check. The data show that, as of May 18, 2017, across closed appointments more than 77% of consumers have elected to be paid through EFT.

**Chart 3-30**



**Chart 3-31**



Additionally, as of May 18, 2017, 7,419 consumers with Generation 3 vehicles had completed the first phase of the AEM process -- removal of the defeat device.<sup>35</sup> Completion of phase one triggers a payment to the consumer of two-thirds of the AEM Restitution amount. Phase two of the AEM -- updating vehicles with new emissions control mechanisms that will further reduce emissions output and maintain emissions performance for the full useful life of the vehicle -- is estimated to become available in early 2018. Completion of phase two would trigger a payment to the consumer of the remaining one-third of the AEM Restitution amount.

The closing figures also do not include the 8,929 Sellers and 2,870 Former Lessees who had been paid on claims as of May 18, 2017, because these consumers do not need to go through the closing process. The aggregate value of the Seller and Former Lessee claims paid by Volkswagen through May 18, 2017, were \$27,125,816 and \$9,611,420, respectively.

Finally, because the Claims Supervisor is not required to verify Volkswagen's final payment calculations before payments are made to consumers (e.g., final awards calculated at closing), the Claims Supervisor separately reviewed 275,846 final award amounts calculated by Volkswagen to assess whether the company was calculating these awards consistent with the requirements of the Resolution Agreements. The Claims Supervisor validated Volkswagen's payment calculations.

#### G. Progress Toward the 85% Target

The Resolution Agreements set a target that Volkswagen should buy back or modify -- assuming the approval of emissions modifications for each generation of vehicle by EPA and CARB -- 85% of the Eligible Vehicles captured within the settlement. The Resolution

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<sup>35</sup> This figure includes 371 instances where phase one was completed on Eligible Vehicles that had not yet proceeded through the Claims Program. These individuals still can receive Restitution Payments upon submission of a timely and valid claim.

Agreements also provide that “the total number of 2.0 Liter Subject Vehicles is 487,532 (499,406 vehicles less scrapped vehicles as of October 1, 2015).” As shown in Chart 3-30, as of May 18, 2017, Volkswagen had taken possession of 271,776 Eligible Vehicles (i.e., 262,195 Buyback closings and 9,581 Early Lease Terminations). Therefore, Volkswagen thus far has taken possession of about 55.7% of Eligible Vehicles.<sup>36</sup>

As of May 14, 2017, 7,419 consumers (1.5% of the “total number of 2.0 Liter Subject Vehicles”) who owned Generation 3 Eligible Vehicles had completed the first phase of the AEM process. In addition, dealers have completed the first phase of the AEM process for approximately 10,000 Generation 3 Eligible Vehicles that were not sold before the prohibition on sale went into effect and have begun remarketing these vehicles. These vehicles comprise 2.1% of the “total number of 2.0 Liter Subject Vehicles” and were never in the hands of a consumer, and thus would never be the basis for an Eligible Owner or Current Lessee claim or need to be taken off the road.

As shown in Chart 3-13, through May 18, 2017, there had been 368,871 Owner and Current Lessee claims submitted by consumers deemed complete and preliminarily eligible by Volkswagen. If every one of these consumers proceeded through closing, Volkswagen would take possession of, or modify, 75.7% of Eligible Vehicles.<sup>37</sup> Furthermore, through May 18, 2017, there were approximately 51,750 unique VINs of Eligible Vehicles not yet associated with a registered Owner or Current Lessee claim, as well as approximately 52,900 unique VINs of Eligible Vehicles with Owner or Current Lessee claims that have been registered in the Claims

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<sup>36</sup> This analysis does not account for vehicles that were scrapped after the Resolution Agreements became effective.

<sup>37</sup> Former Lessees and Sellers are excluded from this analysis because those consumers do not have possession of the Eligible Vehicle, and therefore their claims are irrelevant to Volkswagen’s progress toward the 85% target.



Portal but not yet been submitted.<sup>38</sup> These groups of vehicles comprise approximately 10.6% and 10.9% of the total population of “2.0 Liter Subject Vehicles,” respectively.

Finally, the Resolution Agreements specifically require that Volkswagen buy back or modify -- assuming the approval of emissions modifications for each generation of vehicle by EPA and CARB -- 85% of the Eligible Vehicles registered within California and captured in the settlement. The Resolution Agreements further state that “the total number of all 2.0 Liter Subject Vehicles registered in California is 70,814.” Volkswagen thus far has taken possession of 38,233 California-registered vehicles (35,473 Buybacks and 2,760 Early Lease Terminations) which equals 54.0% of California-registered vehicles.<sup>39</sup>

#### **IV. Consumer Experience**

##### **A. Analysis of Consumer Outreach**

During this reporting period, consumers generally advanced smoothly through the various stages of the Claims Program, as discussed in greater detail in Sections II and III above. As a result of the operational and system enhancements implemented over time by Volkswagen, the consumer experience generally has improved. In turn, the number of consumer complaints received by the Parties and the Claims Supervisor significantly decreased during this reporting period. Nevertheless, relatively small clusters of consumers who experienced challenges continued to express frustration.

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<sup>38</sup> This universe does not include the approximately 10,000 2015 Eligible Vehicles that, on September 18, 2015, were on Volkswagen dealership lots (and not sold to consumers when the prohibition on sale went into effect), and the VINs on those vehicles therefore would never be expected to be the source of an Owner or Current Lessee claim under this settlement. Moreover, adding these universes of unique VINs yields a figure less than the 487,532 “total number of 2.0 Liter Subject Vehicles” because, among other things, it excludes unique VINs on Owner or Current Lessee claims that have been submitted but not yet been preliminarily approved (e.g., deficient claims).

<sup>39</sup> This analysis does not account for California-registered vehicles that were scrapped after the Resolution Agreements became effective. This figure is greater than the total number of closings that occurred in California because it includes closings related to vehicles registered in California that have occurred outside of that state.

By far, the most significant complaint driver during this quarter related to delays in payments to consumers and lenders. These types of complaints peaked in March, before subsiding somewhat in April, and decreasing significantly in May. It appears the enhancements Volkswagen implemented relative to payment processing effectively reduced these delays and related consumer frustration. Likewise, some of the primary consumer complaints reported in the February 2017 Report -- tied to discrepancies in payoff amounts and delays or problems in processing documents received via mail or facsimile -- have largely abated, in large part because of process improvements undertaken by Volkswagen. Moreover, while complaints associated with the length of time it takes to navigate the various phases of the Claims Program were occasionally made, the number of such complaints has reduced dramatically since the early months of the Claims Program.

In short, with decreasing claim volumes and an enhanced Claims Program, the number and types of consumer complaints decreased significantly during this reporting period.

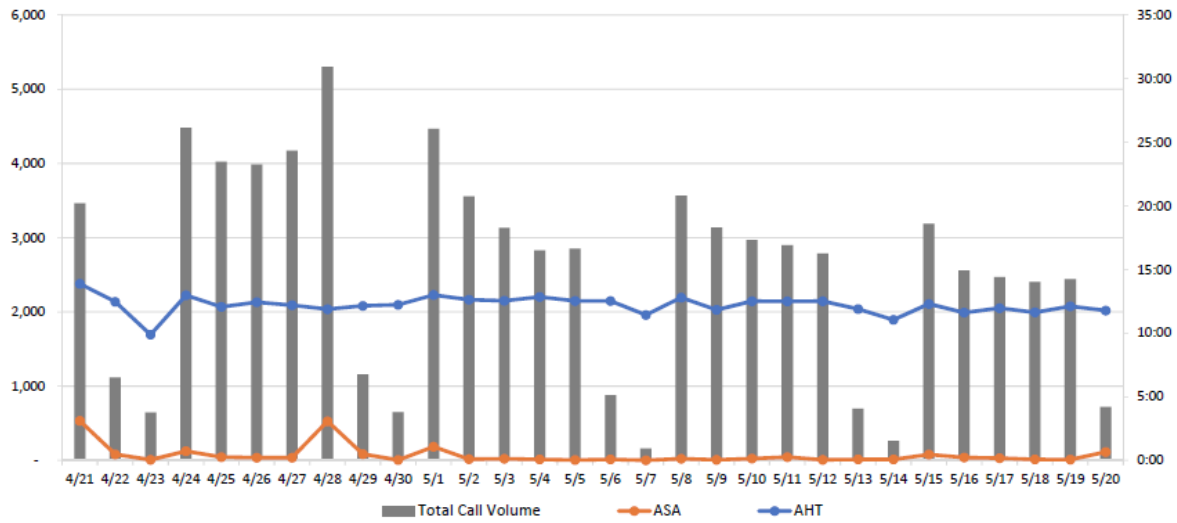
B. Volkswagen's Interaction with Consumers

Consumer Hotline call volume continued its downward trend to an average volume of just over 3,000 calls per weekday between April 21, 2017 and May 20, 2017, from a high of 10,402 calls per weekday during the period November 21, 2016 to December 18, 2016. The average abandonment rate also decreased during the period to about 3% of all calls. The following chart depicts the daily Hotline call volume and related data.<sup>40</sup>

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<sup>40</sup> ASA is the abbreviation for average speed of answer and AHT represents average handle time.

Chart 4-1



Chat volume has also decreased and averaged approximately 1,200 chats per day, while the abandonment rate hovered at just under 60%, a decrease from a historical high of almost 75%. This decrease is largely attributable to Volkswagen's addition of nine more agents to its Chat team to address consumer outreach, as well as a reduced overall chat volume during the reporting period.

A review of a sample of 1,077 recorded calls and 1,043 chats that occurred between February 20, 2017 and May 18, 2017, showed that the quality of customer service delivered by the agents has continued to improve. The overall success rate for the sample of calls evaluated was 93.5%, an improvement from the prior quarter reflected in the February 2017 Report, which was just under 90%. The overall success rate for the sample of chats evaluated was 98.5%, an improvement from just over 95% from the February 2017 Report.

For calls and Chats that were deemed unsuccessful, the primary reasons for the determinations were because:

- The Hotline agent provided incorrect information to the consumer;

- The Hotline agent was seemingly confused or lacked information he or she would be expected to have regarding the Claims Program; and
- In a few isolated instances, the Hotline agent acted in an unprofessional manner.

Volkswagen continues to supply Hotline agents with additional tools to improve customer service. For instance, Knowledge Management Tool content has been regularly updated and new “reason codes” better equip Hotline agents to uniformly track specific consumer inquiries in the Claims Portal. Rather than simply noting that a consumer’s payment has been delayed, for example, agents can now notate the reason for the delay (e.g., consumer did not receive the initiating EFT e-mail from J.P. Morgan Chase). More granular reporting enables Volkswagen to better understand and assist consumers with individual issues and enhances the company’s ability to deal with systemic challenges as they arise.

More broadly, increased agent coaching and regular quality assurance reviews have also contributed to improved performance. Additionally, Volkswagen began performing statistical analyses of trends and recurring issues identified through Claims Hotline call records in order to identify potential programmatic changes and process improvements that would further improve the consumer experience.

Despite consistent advances in the delivery of customer service over the course of the Claims Period, opportunities for improvement remain. For example, during the reporting period some consumers continued to report that requests to speak with Hotline supervisors, or to receive a callback from one, went unfulfilled. Volkswagen’s protocol allows for a “warm transfer” to a supervisor or, in the event of the unavailability of a supervisor, the protocol requires the agent to make a note in the Claims Portal and send an e-mail to the leadership team for further handling. Supervisors are required to actively monitor notations in the Claims Portal to ensure requests for escalations are addressed. However, a review of a sample of recorded calls to the Hotline since

the February 2017 Report showed that certain consumers were told that either no supervisors were available or that they could not be transferred. Notably, Claims Hotline agents have been trained to attempt to de-escalate calls in these situations when the information the supervisor would provide is expected to be the same as the agent's. Nevertheless, if de-escalation is unsuccessful, Volkswagen protocols generally require the agent escalate these calls to a supervisor.

During the reporting period, some consumers have also continued to report instances of receiving conflicting information from agents when making multiple follow up calls to the Hotline. Although agents have access to system notes from previous calls, it appears they did not always review the relevant documented facts when speaking with consumers. Among other things, this may account for some of the conflicting guidance. Volkswagen is aware of these issues and leadership has indicated plans to perform additional targeted training for its agents.

C. Complex Claims Processing

As consumer complaints have steadily decreased since the launch of the Claims Program, those that persist increasingly tend to relate to more nuanced and often more challenging claim-specific problems. In response, Volkswagen's Resolution Team and the Executive Outbound Team have expanded their capabilities to provide specialized attention to consumers who have been unable to overcome Claims Program challenges.

As discussed in the February 2017 Report, the Resolution Team is generally responsible for researching and developing solutions for consumer inquiries -- ranging from EFT password resets, to lender payment delays, to cancelled appointments. The team receives more challenging claims triaged by other TDI business units, assigns them to trained agents, and then develops a responsive solution. When the team first began working several months ago, it faced a backlog of inquiries, particularly related to consumer payments. It has steadily worked to reduce that

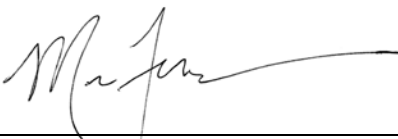
backlog and has resolved close to five-thousand inquiries since inception, the vast majority of which were related to consumer and lender payment delays. The Executive Outbound Team responds to inquiries received from Volkswagen senior management or the Plaintiffs' Steering Committee and also performs targeted proactive outreach to assist with pressing consumer issues.

**V. Conclusion**

Since the February 2017 Report, Volkswagen continued to process the majority of claims in a timely manner while also conducting over 133,000 closings. Moreover, the company has now completed closings for over 55% of Eligible Vehicles and is actively working to advance the remaining consumers through the Claims Program. While relatively isolated challenges remain -- most notably related to delays in processing certain payments to consumers and lenders -- Volkswagen's efforts to improve its systems and processes have resulted in a steady decline in these delays, as well as corresponding consumer frustration. Going forward, Volkswagen plans to continue to focus its efforts on responsive customer service while also ensuring it has the resources in place to administer pending and future claims. As contemplated by the Resolution Agreements, the Claims Supervisor will continue to evaluate and report on Volkswagen's progress with and adherence to the terms of the Resolution Agreements for the duration of the Settlement Program.

Sincerely,

**Ankura Consulting Group, LLC**



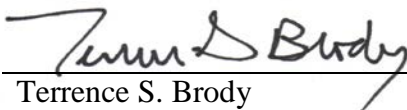
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Marc-Philip Ferzan  
Senior Managing Director



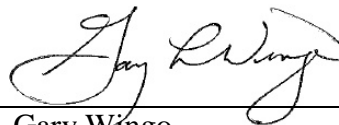
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Edward J. Bell  
Senior Managing Director



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Terrence S. Brody  
Senior Managing Director



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Gary Wingo  
Senior Managing Director

Submitted: May 25, 2017