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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: VOLKSWAGEN “CLEAN DIESEL”
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION
This Document Relates to:
All Consumer and Reseller Actions; *FTC v.
Volkswagen Group of America, Inc.*, No. 3:16-
cv-1534 (N.D. Cal.); and *United States of
America v. Volkswagen AG, et al.*, No. 3:16-cv-
00295 (N.D. Cal.)

) MDL No. 2672 CRB (JSC)

) **JOINT STATUS REPORT ON
IMPLEMENTATION OF THE
2.0-LITER, 3.0-LITER, AND
BOSCH SETTLEMENTS**

) Hon. Charles R. Breyer

1 The Plaintiffs' Steering Committee/Settlement Class Counsel ("PSC"), the
2 Department of Justice ("DOJ") on behalf of the U.S. Environmental Protection Agency ("EPA"),
3 California by and through the California Air Resources Board ("CARB") and the State of
4 California ("CA AG"), the Federal Trade Commission ("FTC"), the Volkswagen Defendants
5 ("Volkswagen"),¹ the Porsche Defendants ("Porsche"),² and the Bosch Defendants ("Bosch"),³
6 by and through their respective counsel, jointly submit this status report on the implementation
7 of the 2.0-Liter,⁴ 3.0-Liter,⁵ and Bosch Settlements.⁶
8

9 The parties are pleased to report that in the less than 8 months since the Court
10 granted final approval of the 2.0-Liter Settlements, there has been substantial progress in
11 virtually every aspect of implementation of the 2.0-Liter Settlements.⁷ As discussed in more
12

13 ¹ The Volkswagen Defendants are Volkswagen AG, Volkswagen Group of America, Inc.,
Audi AG, and Volkswagen Group of America Chattanooga Operations, LLC.

14 ² The Porsche Defendants are Dr. Ing. h.c. F. Porsche Aktiengesellschaft and Porsche Cars
15 North America, Inc.

16 ³ The Bosch Defendants are Robert Bosch GmbH and Robert Bosch LLC.

17 ⁴ The 2.0-Liter Settlements include three agreements: (1) a Consumer Class Action
Settlement Agreement among Volkswagen AG, Volkswagen Group of America, Inc., Audi AG,
18 and a nationwide class of affected consumers (Dkt. 1685, 2102); (2) the First Partial Consent
Decree agreed to by Volkswagen, the United States on behalf of the EPA, and California by and
19 through CARB and the State of California (Dkt. 2103-1) (the "First Partial Consent Decree");
and (3) a Partial Stipulated Order for Permanent Injunction and Monetary Judgment stipulated to
20 by Volkswagen Group of America, Inc. and the FTC (Dkt. 2104) (the "2.0-Liter FTC Order").

21 ⁵ The 3.0-Liter Settlements include three agreements: (1) a Consumer Class Action
Settlement Agreement between Volkswagen AG, Volkswagen Group of America, Inc., Audi
22 AG, Porsche, and a nationwide class of affected consumers (Dkt. 3088-2, 3229); (2) the Second
Partial Consent Decree agreed to by Volkswagen, Porsche, the United States on behalf of the
23 EPA, and California by and through CARB and the State of California (Dkt. 3228-1) (the
"Second Partial Consent Decree"); and (3) a Second Partial Stipulated Order for Permanent
24 Injunction and Monetary Judgment stipulated to by Volkswagen Group of America, Inc.,
Porsche Cars North America, Inc., and the FTC (Dkt. 3227) (the "3.0-Liter FTC Order").

25 ⁶ The Bosch Settlement references the Amended Bosch Settlement and Release (Dkt. 2918,
26 3230).

27 ⁷ The Volkswagen claims, vehicle, and AEM statistics set forth in this report have been
provided by Volkswagen based on data collected and maintained by Volkswagen.
28

1 detail below, Volkswagen already has reacquired or performed complete modifications on a total
2 of 298,182 2.0-Liter TDI vehicles. The 3.0-Liter Settlements have been met with similar
3 consumer enthusiasm, as 42,000 consumers have already submitted claims to participate in the
4 3.0-Liter Claims Program.⁸

5 The parties have likewise made substantial progress in carrying out the other
6 aspects of the 2.0-Liter and 3.0-Liter Settlements (collectively, the “Settlements”). Volkswagen
7 has to date timely submitted all 2.0-Liter and Generation 2 3.0-Liter Emissions Modification
8 proposals, and the EPA and CARB have approved the proposals for the 2.0-Liter Generation 2
9 automatic transmission vehicle modifications and 2.0-Liter Generation 3 modifications
10 (“Approved Emissions Modifications” or “AEMs”). Almost immediately after EPA and CARB
11 approval, these AEMs were made available, and through June 14, 2017, 25,793 2.0-Liter
12 vehicles have received complete or partial AEMs. Volkswagen also timely submitted its
13 California and National Zero Emission Vehicle (“ZEV”) Investment Plans, and following
14 approval of the National ZEV Investment Plan, immediately began implementing the National
15 ZEV Investment Plan in 49 states. In addition, Volkswagen made timely payments to the
16 Mitigation Trust, as required by the First and Second Partial Consent Decrees, and paid the \$1.45
17 billion Clean Air Act civil penalty required under the Third Partial Consent Decree between the
18 United States, on behalf of the EPA, and Volkswagen and Porsche (Dkt. 3155) (“Third Partial
19 Consent Decree”). Likewise, the \$327.5 million Bosch Settlement has made significant
20 progress, with approximately \$84 million in settlement compensation already paid to class
21 members to date.
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26 ⁸ “2.0-Liter Claims Program” and “3.0-Liter Claims Program” refer to the programs under
27 which consumers can submit claims and receive benefits if they meet the eligibility requirements
28 of the 2.0-Liter Settlements and 3.0-Liter Settlements, respectively.

1 As the Court is aware, Volkswagen’s implementation of the 2.0-Liter Settlements
2 was an unparalleled undertaking completed in a condensed timeline, and the speed demonstrates
3 the parties’ dedication to making things right for consumers. The success of these Settlements to
4 date is due to the efforts of all of the parties, and the parties look forward to the continued
5 success of the Settlements.

6 **I. Volkswagen 2.0-Liter and 3.0-Liter Claims Programs**

7 The 2.0-Liter Claims Program began on November 1, 2016, and consumers were
8 able to submit claims by mail or through the online claims portal as early as September 17, 2016.
9 As of June 15, 2017, Volkswagen has reacquired or modified 287,799 consumer-owned vehicles
10 through the 2.0-Liter Claims Program. Of these 287,799 vehicles, 275,601 were bought back
11 from current owners, 10,027 were early lease terminations and 2,171 were modifications on
12 Generation 2 vehicles. (*See* Ex. 1.) Volkswagen also has completed the Phase 1 modification on
13 8,372 Generation 3 vehicles, which is the phase of the modification that involves the removal of
14 the software that reduced the effectiveness of the vehicle’s emission control system and
15 replacing it with software that directs the vehicle’s emissions controls to function in the manner
16 approved by EPA and CARB. In addition, Volkswagen has compensated 3,246 former lessees
17 and 9,690 former owners of 2.0-Liter vehicles. In total, Volkswagen has paid approximately
18 \$6.3 billion to consumers who have elected to participate in the 2.0-Liter Claims Program. In
19 addition to these completed closings and payments, there are an additional 8,675 2.0-Liter
20 closing appointments scheduled through October 2017 and Volkswagen has extended offer
21 letters to an additional 74,640 claimants totaling approximately \$785 million.
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25 Initial consumer response to the 3.0-Liter Claims Program likewise has been very
26 positive. The 3.0-Liter Claims Program began on June 7, 2017, and consumers were able to
27 submit claims by mail or through the online claims portal as early as May 18, 2017. As of
28

1 June 15, 2017, over 42,000 consumers had submitted claims. Of those claims, approximately
2 13,000 current owners and lessees have received and accepted settlement offers, and 7,757 of
3 those consumers have scheduled appointments to complete a buyback or trade-in, or to receive a
4 portion of their restitution payment while they await an approved emissions modification. The
5 first closing appointments are scheduled to begin in July 2017. Volkswagen also has
6 compensated 307 former lessees and 501 former owners of 3.0-Liter vehicles.

7
8 **A. The Speed and Scope of the Settlement Implementation**

9 Volkswagen expended significant time, resources and funds to get the 2.0-Liter
10 Claims Program up and running in the 126 days between the filing of the 2.0-Liter Settlements
11 and final court approval. (*See Ex. 2.*) In less than four months, Volkswagen developed a process
12 and implemented an infrastructure to support the reacquisition or modification of nearly 500,000
13 vehicles plus payment of compensation to current owners and lessees and certain former owners
14 and lessees. This required Volkswagen to build an entirely new website and claims
15 administration system, hire and train hundreds of new employees to implement the 2.0-Liter
16 Settlements, and engage numerous third party partners to assist with post-buyback logistics, such
17 as vehicle transport, storage, scrapping and remarketing. In this short time, Volkswagen built an
18 organizational structure and developed a claims administration system that was capable of
19 receiving claims, efficiently reviewing submitted documents, rendering eligibility
20 determinations, generating offers, scheduling and conducting appointments nationwide, and
21 issuing payments to consumers and, in many instances, their lenders. (*See Ex. 3.*)
22

23
24 Volkswagen worked closely with the Court-appointed Claims Supervisor, the
25 PSC, and the FTC to develop the settlement website and claims administration system (the
26 “Online Claims Portal”). To ensure that the settlement website and Online Claims Portal were
27 consumer-friendly, both the PSC and FTC reviewed and commented on the website and Online
28

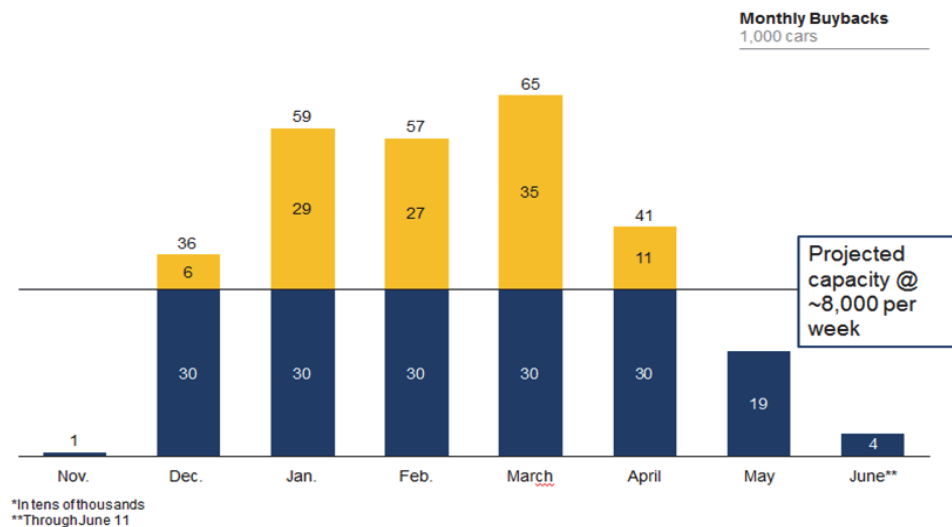
1 Claims Portal content, as well as the various communications that would be sent to consumers as
2 they participate in the claims process. As the 2.0-Liter Settlements are being implemented, the
3 FTC, PSC, and Claims Supervisor have continued to provide consumer feedback to Volkswagen
4 and offer suggestions for process improvements.

5 To develop the claims administration process, Volkswagen worked closely with
6 the Claims Supervisor to determine document requirements, verify offer amount calculations,
7 and develop the process for the flow of claims, including the role of Volkswagen and the Claims
8 Supervisor in the review and approval or rejection of claims. This coordination involved
9 numerous in-person meetings and phone calls regarding system programming, review protocols,
10 and training of employees. Prior to the implementation of the 2.0-Liter Claims Program,
11 Volkswagen and the Claims Supervisor implemented daily phone calls to discuss both
12 overarching claims processing topics as well as individual claims, and these calls continue to this
13 day. Volkswagen has also defined a classification process to protect data integrity and any
14 personally identifiable information in the Online Claims Portal. Volkswagen's system
15 establishes a status for the data uploaded into the system, which in turn defines the necessary
16 levels of protections that must be applied. For example, consumer-entry data, such as name,
17 address and phone number is categorized as Confidential, which carries certain encryption
18 requirements. Volkswagen also employs data usage agreements with third parties to further
19 ensure safeguards on data and documents being collected and maintained when it is necessary to
20 share data with those third parties. The Claims Supervisor has reviewed Volkswagen's data
21 integrity processes.
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25 Prior to Court approval of the 2.0-Liter Settlements, Volkswagen used prior
26 National Highway Traffic Administration recalls, as well as internal company data, to come up
27 with aggressive projections of anticipated consumer response to the 2.0-Liter Settlements, which
28

1 Volkswagen then used to project staffing requirements and an appointment schedule that would
 2 accommodate consumers within the time frames set forth in the 2.0-Liter Settlements. Consumer
 3 response to the 2.0-Liter Claims Program outpaced even these aggressive projections. Upon the
 4 Court’s final approval of the 2.0-Liter Settlements on October 25, 2016, approximately 340,000
 5 consumers had already registered on Volkswagen’s Online Claims Portal. Volkswagen began
 6 extending offers to eligible consumers on November 1, 2016, five days after the 2.0-Liter
 7 Settlements were approved. Volkswagen conducted the first Buybacks and Early Lease
 8 Terminations less than a month later, on November 23, 2016. Based on Volkswagen’s
 9 projections, Volkswagen estimated that it would need approximately 8,000 appointments per
 10 week to meet anticipated consumer demand. As reflected in the below table, the number of
 11 completed closing appointments each month far outpaced the projections. Due to the
 12 overwhelming consumer response to the 2.0-Liter Claims Program, Volkswagen increased the
 13 number of available appointments from the initial plan of approximately 8,000 appointments to
 14 approximately 18,500 appointments per week by the end of December.

17 **2.0L Number of Buybacks & Early Lease Terminations Per Month***



B. Volkswagen Has Implemented Various Improvements to the Consumer Experience

1
2 While implementation of the claims process has been largely successful, it has not
3 been flawless, in part due to the speed with which Volkswagen built the claims process and
4 supporting systems and the unprecedented level of consumer response to the 2.0-Liter Claims
5 Program. Since implementation of the 2.0-Liter Claims Program, Volkswagen has identified
6 areas of consumer confusion and frustration and implemented claims process improvements in
7 response.⁹ The PSC, FTC, and Claims Supervisor have also helped to understand points of
8 consumer issues and suggest process improvements. Improvements to the consumer experience
9 have required both increased staffing and updates to the claims process.
10

11 *Claims Process Improvements.* In response to the extraordinary consumer
12 response to the 2.0-Liter Claims Program, Volkswagen worked quickly to engage third parties to
13 assist with answering consumer calls to the settlement hotline, reviewing document submissions,
14 and generating offer letters. Volkswagen updates the settlement website as needed with new
15 information, including additional Frequently Asked Questions and infographics on topics that
16 appear to be sources of consumer confusion. Volkswagen has also implemented changes to the
17 claims process to accommodate consumers. For example, Volkswagen initially required a phone
18 call with a consumer's lienholder to determine the outstanding loan payoff amount; now,
19 Volkswagen is able to accept loan payoff amounts that are faxed directly from a consumer's
20 lienholder.
21

22
23 Due to the knowledge and experience gained during the initial launch of the 2.0-
24 Liter Claims Program, processing of the initial 3.0-Liter claims has already been smoother.
25

26 ⁹ Improvements to the 2.0-Liter Claims Program will be applied to the 3.0-Liter Claims
27 Program.

1 Consumer inquiries from 2.0-Liter consumers have decreased and initial inquiries from 3.0-Liter
2 consumers are significantly lower than initial 2.0-Liter inquiries. From February 14, 2017
3 through June 21, 2017, the hotline has received 49,298 calls relating to the 3.0-Liter Claims
4 Program, and in the days following Court approval of the 3.0-Liter Settlements, the hotline
5 received an average of fewer than 600 consumer calls per day. By contrast, for weeks following
6 final Court approval of the 2.0-Liter Settlements, the hotline received an average of
7 approximately 6,500 consumer calls per day. The hotline average speed of answer has improved
8 from nearly seven minutes in November 2016 to around 10 to 20 seconds in May and June 2017.
9 Volkswagen has worked through the initial backlog of claims to review and claims processing
10 times have improved. Volkswagen anticipates that claims processing efficiency will continue to
11 improve throughout the remainder of the 2.0-Liter and 3.0-Liter Claims Programs.

13 *Exception Claimants.* The Settlements recognize that there are certain classes of
14 individuals with unusual circumstances, such as military serving overseas, and provides
15 Volkswagen and the Claims Supervisor the authority to develop responsive claims procedures
16 for these consumers. Volkswagen has worked to develop closing processes for certain specially-
17 situated claimants, such as military serving overseas and consumers that live on a Hawaiian
18 island without a Volkswagen dealership. Since the implementation of the 2.0-Liter Claims
19 Program, these consumers have been able to ship their vehicle back to the mainland U.S. or a
20 Hawaiian island with a Volkswagen dealership to complete the closing process, and Volkswagen
21 will reimburse the shipping fees if the consumer submits appropriate receipts. Volkswagen has
22 also recently developed alternative processes for consumers that do not wish to incur the costs of
23 shipping their vehicles and then await reimbursement. In early June, Volkswagen successfully
24 completed a pilot program for military members or government employees who are located
25 overseas to deliver their vehicle to a third-party in Germany to complete the closing process.

1 Consumers deliver their vehicle to one of the third-party's locations in Germany, which then
2 facilitates shipping the vehicle back to the United States at Volkswagen's expense. Volkswagen
3 then works with the consumer to complete the closing process, including obtaining the required
4 signatures and triggering payment to the consumer.

5 Volkswagen has also implemented this process in Italy and plans to continue to
6 work with this third party to facilitate Buybacks for military overseas claimants in other
7 locations. In early July 2017, Volkswagen expects to begin conducting Buyback and Early
8 Lease Termination appointments on Hawaiian islands that do not have a Volkswagen dealership.
9 Volkswagen has contracted with a third party to host the Buyback and Early Lease Termination
10 appointments, where trained Volkswagen Settlement Specialists will complete the closing
11 appointments.
12

13 In consultation with the PSC, Volkswagen has also voluntarily agreed to provide
14 compensation to current owners of eligible 2.0-Liter and 3.0-Liter TDI vehicles that were
15 purchased in the U.S. and have U.S. vehicle identification numbers but are ineligible to
16 participate in the 2.0-Liter and 3.0-Liter Settlements because the vehicles were registered in
17 Canada during the relevant time frame. Because these owners are not eligible for compensation
18 under the 2.0-Liter and 3.0-Liter Settlements, the infrastructure needed to compensate this subset
19 of consumers and process the return of their vehicles was not included in the initial build out of
20 the 2.0-Liter Claims Program. However, consumers are able to register on the Online Claims
21 Portal and submit the required documentation while Volkswagen finalizes a process for these
22 consumers to turn in their vehicles and receive compensation.
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C. The Claims Review Committee Is Reviewing Consumer Appeals

1
2 The Court-appointed 2.0-Liter Claims Review Committee (“CRC”)¹⁰ is in the
3 process of reviewing and issuing decisions on consumers’ claim appeals. The Claims Supervisor
4 has been compiling, categorizing and de-duplicating the appeals submitted to the CRC. To date
5 there have been 796 unique appeals submitted to the CRC, many of which have already been
6 resolved through the claims process in the normal course or through the parties’ prior
7 communications. Volkswagen’s and the PSC’s representatives on the CRC have each made
8 preliminary assessments on hundreds of appeals and are meeting and conferring on the pending
9 claims. Each class member who submitted an appeal will receive a written response with the
10 CRC’s decision. The parties anticipate that class members will begin to receive the CRC’s
11 written decisions in July 2017.
12

II. The Parties Continue To Work Together To Resolve Consumer Issues

13
14 In addition to the cooperative efforts of all of the parties in developing the claims
15 process and assisting consumers throughout the process, the parties have also engaged in unique
16 efforts to facilitate consumer participation in the 2.0-Liter and 3.0-Liter Claims Programs.
17

A. The Plaintiffs’ Steering Committee’s Efforts To Assist Class Members

18
19 The 2.0-Liter Claims Program honors consumer choice for timing and selection of
20 a buyback or an AEM between now and September 2018. Preserving this choice required
21 intensive attention to the myriad details of the 2.0-Liter Claims Program in the negotiation,
22 planning, and implementation phases. It adds substantially to the complexity and sophistication
23 of the 2.0-Liter Claims Program, since effectuation for this choice involves real world logistics
24 of nearly half a million transactions. Such transactions involve not only Volkswagen and class
25

26 ¹⁰ The CRC is comprised of one PSC representative, one Volkswagen representative, and
27 the Court-appointed neutral, Hon. Fern M. Smith (Ret.).
28

1 members, but also dealers, vehicle transporters and storage specialists, banks and credit unions,
2 as well as the Claims Supervisor and the vast new infrastructure Volkswagen constructed to
3 handle consumer claims on an expedited basis.

4 The PSC has been actively assisting class members throughout each step of the
5 2.0-Liter Claims Program. Each PSC firm has devoted time and resources from attorneys and
6 staff to respond to class member inquiries seven days a week. To accommodate the high volume
7 of class member interest in the settlement, the PSC has set up a designated telephone number
8 (1-800-948-2181) and email address (info@vwclasscounsel.com) for class members to reach
9 Settlement Class Counsel. These channels of communication will remain available through the
10 end of the claims period and, in conjunction with Volkswagen's claims hotline, will assure that
11 class members have access to the necessary information and assistance to complete their
12 settlement claims.
13

14 Class members have been deeply engaged in the settlement, as the data on the
15 completed 2.0-Liter buybacks and emissions modifications reflect. From June 28, 2016 (the 2.0-
16 Liter settlement filing date) to present, the PSC has fielded approximately 45,000 class member
17 inquiries regarding the 2.0-Liter Settlements. The number of inquiries rapidly increased
18 following the Court's final approval of the 2.0-Liter Settlements, and, during the peak months
19 following final approval, the PSC received over approximately 1,000 class member inquiries per
20 week. Given the complexities of the 2.0-Liter Settlements, many class members have required
21 several follow-up communications through telephone, e-mail, and/or letter, with some class
22 members even requiring daily contact. To date, the PSC has handled well over 100,000 2.0-Liter
23 settlement communications with class members. Although the volume of 2.0-Liter settlement
24 inquiries has decreased as class members complete their buybacks and emissions modifications,
25 the PSC continues to be available to class members every day of the week.
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1 The most common 2.0-Liter settlement issues that class members have raised to
2 the PSC include the following:

3 1. Claims processing (e.g., claims document uploading and review, claims
4 information corrections, password/claims portal resets, buyback scheduling, offer letter
5 revisions, remedy changes, etc.);

6 2. Eligibility (e.g., eligible seller identification, eligibility classifications, title
7 transfers, vehicle registration periods, etc.);

8 3. Compensation (e.g., buyback calculations, mileage adjustments, lender
9 payments, loan forgiveness, EFT/check payment delays/discrepancies, etc.);

10 4. General settlement information (e.g., settlement benefits, eligibility criteria,
11 claims deadlines, etc.); and

12 5. Miscellaneous/individual circumstances (e.g., totaled vehicles, probate/estate
13 claims, bankruptcies, military class members, etc.).

14 To address these issues, the PSC has provided individual guidance and assistance to class
15 members, ranging from help with creating claims and uploading documents to accompanying
16 class members at their buyback appointments. Furthermore, the PSC has been in daily contact
17 with Volkswagen's counsel to resolve thousands of individual claim issues and to develop
18 programmatic improvements. Together, the parties have been able to fine-tune the claims
19 process and streamline payments and benefits to class members. These collective efforts provide
20 class members with robust resources to submit their claims and obtain their settlement remedies.
21
22

23 As the claims process has progressed, the PSC has received numerous
24 communications from class members expressing appreciation for the 2.0-Liter Settlements, the
25 assistance of Settlement Class Counsel, the buyback process, the professionalism of the
26 dealers in conducting buybacks and performing AEMs, and the substantial compensation they
27

1 have received. The 2.0-Liter Settlements have provided concrete benefits to class members and,
2 in many instances, have allowed them to upgrade their vehicles. For example, one class member
3 who turned in her 2015 Jetta TDI wrote to the PSC: “By afternoon, I was able to drive back
4 home in a 2017 metallic blue Jetta with the complete safety package that was my reason for
5 buying the car in the first place. The buyback of my original car plus the [restitution] that
6 Volkswagen paid covered the new car as well as six years of prepaid annual service.” Such
7 comments are a testament to the success of the 2.0-Liter Settlements.
8

9 The efficiencies, improvements, and processes that the parties developed in the
10 2.0-Liter Claims Program will advance the 3.0-Liter Claims Program implementation as well.
11 As with the 2.0-Liter Claims Program, the PSC remains available to assist class members from
12 the inception to the completion of their 3.0-Liter claims. The PSC has already fielded thousands
13 of class member inquiries regarding the 3.0-Liter Claims Program, and will continue to provide
14 individual attention to any class member in need of assistance. Given the similarities between
15 the 2.0-Liter and 3.0-Liter Claims Programs, the PSC is well-equipped to handle the anticipated
16 increase of 3.0-Liter settlement inquiries as class members submit their claims in the coming
17 months.
18

19 **B. The FTC’s Efforts Related to the 2.0-Liter and 3.0-Liter Claims Programs**

20 The FTC continues to monitor Volkswagen’s compliance with the 2.0-Liter and
21 3.0-Liter FTC Orders and both Settlements’ progress generally. Among other things, the FTC
22 communicates regularly with Volkswagen, the Claims Supervisor, and other parties regarding
23 issues important to consumers, including many issues addressed herein. The FTC continues to
24 provide input regarding settlement-related consumer communications, and to monitor
25 Volkswagen’s efforts to address consumers with nonstandard claims (including especially
26 service members). The FTC has also provided business and consumer education related to the
27

1 2.0-Liter Claims Program, including presentations for dealers. Finally, the FTC continues
2 various nonpublic law enforcement activities related to possible deceptive practices by
3 nonparties that could interfere with the 2.0-Liter and 3.0-Liter Claims Programs. The FTC will
4 remain engaged as the settlement process continues.

5 **III. 2.0-Liter Progress Toward Recall Rate Targets**

6 Under the First Partial Consent Decree, Volkswagen is required to remove from
7 commerce and/or perform an AEM on at least 85% of all Subject Vehicles¹¹ no later than
8 June 30, 2019 in order to avoid additional payments to the Environmental Mitigation Trust.

9 While many of the vehicles that Volkswagen has reacquired or modified have been through the
10 2.0-Liter Claims Program, there are other channels through which vehicles can be reacquired,
11 modified or otherwise removed from commerce to count toward the 85% Recall Rate Target.
12 For example, consumers may receive an AEM without participating in the 2.0-Liter Claims
13 Program. Volkswagen can also reacquire vehicles through other channels, such as company-use
14 vehicles, vehicles bought back directly from Volkswagen and Audi dealerships, and leases that
15 matured in the normal course.
16
17

18 Through June 14, 2017, 300,510, or 61.6%, of the 487,532 2.0-Liter Subject
19 Vehicles have been reacquired, modified or otherwise removed from commerce. Volkswagen
20 has reacquired or performed an AEM on 298,182 vehicles,¹² including (i) 285,628 vehicles
21 reacquired by Volkswagen through the 2.0-Liter Claims Program, (ii) 2,171 vehicles that
22 received an AEM and are still in consumer hands, and (iii) 10,383 vehicles that were reacquired
23

24 ¹¹ “Subject Vehicles” refers to the approximately 500,000 model year 2009 to 2015 2.0-
25 Liter TDI vehicles that existed as of September 17, 2015. For the purposes of the National
26 Recall Rate under the First Partial Consent Decree, the total number of 2.0-Liter Subject
27 Vehicles is 487,532.

28 ¹² This figure does not include the Phase 1 AEMs that have been performed on 2.0-Liter
Generation 3 vehicles, as discussed in Section IV.C, *below*.

1 through channels other than the 2.0-Liter Claims Program. An additional 2,328 Subject Vehicles
 2 have been removed from commerce and are currently counted as scrap due to their non-
 3 registration as Polk Units in Operation (“UIO”).

4 With respect to Volkswagen’s progress toward achieving the California Recall
 5 Rate, through June 14, 2017, 43,765, or 61.8%, of the 70,814 California Subject Vehicles have
 6 been reacquired, modified or otherwise removed from commerce. Volkswagen has reacquired or
 7 performed an AEM on 43,223 vehicles,¹³ including (i) 41,075 vehicles reacquired by
 8 Volkswagen through the 2.0-Liter Claims Program, (ii) 282 vehicles that received an AEM and
 9 are still in consumer hands, and (iii) 1,866 vehicles that were reacquired through channels other
 10 than the 2.0-Liter Claims Program. An additional 542 Subject Vehicles have been removed from
 11 commerce and are currently counted as scrap due to their non-registration as UIO.
 12

	2.0-Liter Subject Vehicles	Reacquired Vehicles		AEM Applied to Consumer Eligible Vehicle	UIO Scrap	Total Recall	Progress Toward Recall Rate
		Consumer Claims Program	Other				
National	487,532	285,628	10,383	2,171	2,328	300,510	61.6%
California	70,814	41,075	1,866	282	542	43,765	61.8%

17 IV. Emissions Modification Program

18 The following tables set forth the status of the submissions made pursuant to
 19 Appendix B of both the First Partial Consent Decree and the Second Partial Consent Decree,
 20 respectively.
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 22
 23
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26 ¹³ This figure does not include the Phase 1 AEMs that have been performed on 2.0-Liter
 27 Generation 3 vehicles, as discussed in Section IV.C, *below*.

A. 2.0-Liter Emissions Modifications

Vehicle Generation	Submission	Date Submitted	EPA/CARB Action
Generation 1	Proposed Emissions Modification	January 25, 2017	Pending/ testing ongoing
Generation 2	Proposed Emissions Modification	Initial materials: December 19, 2016 Supplemental materials: February 6, 2017 Additional materials concerning automatic vehicles submitted: May 11, 2017	Approved Automatic Transmission Vehicles: May 19, 2017 ¹⁴ Manual Transmission Vehicles: Not approved
Generation 2	Resale Plan Proposal	June 22, 2017	Pending
Generation 3	Proposed Emissions Modification	Initial Materials: November 8, 2016 Supplemental materials: December 29, 2016	Approved: January 6, 2017
Generation 3	Resale Plan Proposal	Initial Materials: February 9, 2017 Revised proposal: March 22, 2017	Approved: March 23, 2017

¹⁴ To date, testing of the manual transmission vehicles has failed to demonstrate compliance with the emissions requirements set for in Appendix B to the First Partial Consent Decree without negatively affecting important consumer attributes such as vehicle durability and reliability. Volkswagen is reassessing its proposed emissions modification for manual transmission Generation 2 2.0-Liter vehicles.

B. 3.0-Liter Emissions Modifications

Vehicle Generation	Submission	Date Submitted	EPA/CARB Response
Generation 1.1	Proposed Emissions Modification	Expected Submittal Date: August 25, 2017	N/A
Generation 1.2	Proposed Emissions Modification	Expected Submittal Date: August 25, 2017	N/A
Generation 2.1 SUV	Proposed Emissions Modification	Initial materials: April 25, 2017 Supplemental materials: June 7, 2017	Pending/ testing ongoing
Generation 2.2 SUV	Proposed Emissions Modification	April 25, 2017 Supplemental materials: June 2, 2017	Pending, testing ongoing
Generation 2 Passenger Cars	Proposed Emissions Modification	June 2, 2017	Pending, testing ongoing

C. 2.0-Liter AEMs Performed

To date, Volkswagen has performed at least initial modifications on a total of 25,793 2.0-Liter vehicles. Through June 14, 2017, 23,619 2.0-Liter Generation 3 vehicles have received Phase 1 of the Generation 3 modification. Of these 23,619 vehicles, 8,372 are consumer-owned and 15,247 have been modified for the purposes of initial sale or resale. Through June 14, 2017, 2,171 2.0-Liter Generation 2 consumer-owned vehicles have been modified. An additional 3 2.0-Liter Generation 2 vehicles have been modified by Volkswagen for the purpose of eventual resale, pending regulatory approval.

V. ZEV

Appendix C to the First Partial Consent Decree requires Volkswagen to, among other things, invest \$2 billion in ZEV infrastructure over four 30-month cycles. To accomplish

1 this, Volkswagen created a wholly-owned subsidiary named Electrify America, LLC whose
2 mission it is to implement Volkswagen's obligations under Appendix C.

3 Prior to each investment cycle, Electrify America must submit to EPA and CARB
4 proposed investment plans containing specified information related to Electrify America's
5 anticipated ZEV investments. (First Partial Consent Decree, App'x C, ¶¶ 2.4, 3.3.1, Dkt. 2103-1
6 ("App'x C").) Following months of discussions, and multiple in-person meet and confers,
7 Electrify America timely submitted its California and National ZEV Investment Plans on
8 March 8, 2017 and April 10, 2017, respectively.¹⁵ EPA approved Electrify America's National
9 ZEV Investment Plan two days after submission. CARB's decision on Electrify America's
10 California ZEV Investment Plan remains pending.

11 **A. Progress on National ZEV Investments**

12 Volkswagen timely submitted the National Creditable Cost Guidance (App'x C,
13 ¶ 2.2), the National ZEV Outreach Plan (App'x C, ¶ 2.3), and the Draft National ZEV
14 Investment Plan (App'x C, ¶ 2.4) as required under relevant provision of Appendix C. Settling
15 Defendants submitted the National ZEV Investment Plan (App'x C, ¶ 2.5) on April 10, 2017,
16 which was approved by EPA on April 12, 2017.

17 Since receiving EPA approval of the National ZEV Investment Plan on April 12,
18 2017, Electrify America has installed eight charging hubs in Maryland and Virginia, with
19 additional hubs coming online. The hubs are operational and have begun serving customers in
20 the Washington D.C. metropolitan area. Investments in other metropolitan areas are also moving
21

22
23
24 ¹⁵ Prior to developing its Investment Plans, Electrify America also conducted a National
25 Outreach Plan to solicit input from interested states, municipal governments, federally-
26 recognized Indian tribes, and federal agencies. (App'x C, ¶ 2.3.) During the comment period,
27 Electrify America received almost 500 proposals spanning all but five states from governments,
28 industry participants, trade associations, and interested individuals. These proposals were
reviewed by Electrify America staff and, where appropriate, incorporated into Electrify
America's draft investment plans. The results were also shared with EPA and CARB.

1 forward. In the coming weeks, Electrify America will be meeting with representatives from its
2 top eleven metropolitan areas outside California to begin mapping out siting for charging hubs in
3 those markets. Electrify America anticipates that it will install approximately fifty charging hubs
4 by the fall of this year.

5 **B. Progress on California ZEV Investments**

6 California and Volkswagen are continuing to work collaboratively toward the
7 approval of a California ZEV Investment Plan pursuant to Paragraph 3.3 of Appendix C to the
8 First Partial Consent Decree. The plan will guide Volkswagen's first \$200 million in ZEV-
9 related investments in California.
10

11 Volkswagen submitted a proposed California ZEV Investment Plan to CARB
12 dated March 8, 2017. CARB then solicited public comment regarding the proposed plan, and the
13 CARB Board held a public hearing regarding the proposed plan at its meeting on March 23
14 and 24, 2017 in Riverside, California. The meeting included presentations by CARB staff,
15 Electrify America, and other interested individuals and organizations. CARB, Electrify
16 America, and Volkswagen continued to discuss the proposed plan, and on May 24, 2017, CARB
17 issued a letter identifying specific items of information and analysis that it would like
18 Volkswagen to submit in the form of a supplement to their proposed plan. Volkswagen agreed
19 to submit a supplement, discussions are ongoing, and the supplement is expected to be submitted
20 to CARB in June and then posted for public comment. The supplemented investment plan will
21 then be considered for approval at a special meeting of the CARB Board in July.
22

23 Because CARB has not yet rendered a decision on Electrify America's California
24 ZEV Investment Plan, Electrify America has been unable to begin its anticipated investments in
25 California ZEV infrastructure.
26

VI. Mitigation Trust

1
2 Volkswagen timely paid the initial \$900,000,000 Mitigation Trust deposit
3 required under Paragraph 14(a) of the First Partial Consent Decree into the Court Registry
4 account on November 22, 2016. After completing the Trustee selection process set forth in
5 Paragraph 15 of the First Partial Consent Decree, the United States requested on February 23,
6 2017 that the Court appoint Wilmington Trust as the trustee. (Dkt. 2964.) On March 15, 2017,
7 the Court granted the motion and appointed Wilmington Trust. (Dkt. 3030.) Volkswagen timely
8 paid the \$225,000,000 Mitigation Trust deposit required under Paragraph 17(a) of the Second
9 Partial Consent Decree into the Court Registry account on June 15, 2017. The United States
10 filed a motion on June 13, 2017, requesting the Court to waive Court Registry Investment
11 System fees, and to restore any fees already withheld in the management of the Registry account
12 established to hold the Mitigation Trust funds pending finalization of the Mitigation Trust
13 Agreement. (See Dkt. 3345.) The motion is pending before the Court. The United States and
14 States are now negotiating with the trustee to finalize the Trust Agreement, which the United
15 States will file with the Court upon completion.

VII. Third Partial Consent Decree

18
19 On April 24, 2017, Volkswagen paid a \$1.45 billion Clean Air Act civil penalty
20 (plus interest accruing from the date of lodging with the Court) to the United States pursuant to
21 Paragraph 9 of the Third Partial Consent Decree. Volkswagen filed a notice on May 10, 2017,
22 advising the Court that Larry Thompson, the former U.S. Deputy Attorney General and former
23 U.S. Attorney for the Northern District of Georgia, had been selected as the Independent
24 Compliance Auditor pursuant to the terms of the Third Partial Consent Decree.¹⁶ The
25

26
27 ¹⁶ Because Mr. Thompson was selected as the Independent Compliance Monitor under the
28 Rule 11 Plea Agreement filed March 10, 2017 in *United States v. Volkswagen AG*, No. 16-cr-

1 Independent Compliance Auditor’s first annual report is due one year from April 13, 2017, the
2 Decree’s Effective Date. (Third Partial Consent Decree, ¶ 28(c).)

3 **VIII. Bosch Claims Program**

4 Following the Court’s entry of final approval of the Bosch Settlement on May 17,
5 2017 (Dkt. 3230), the Bosch Defendants have successfully coordinated with the Bosch
6 Settlement Claims Administrator (Epiq Systems, Inc. (“Epiq”)), the Claims Supervisor for the
7 2.0-Liter and 3.0-Liter Volkswagen Settlements (Ankura Consulting Group, LLC (“Ankura”)),
8 and the PSC to commence payments under the Bosch Settlement and ensure that the Settlement
9 is administered in a fair and efficient manner.

10
11 Promptly after the Court granted final approval to the Bosch Settlement, Epiq
12 disseminated initial email notices to over 750,000¹⁷ Bosch Settlement class members with
13 information on how to receive payment. The notices explained which class members could
14 anticipate automatic payments and reminded other class members of the steps they would need to
15 take to obtain their payments. As of June 22, 2017, there have been over 400,000 unique visitors
16 to the Bosch Settlement website (<https://www.boschvwsettlement.com/>) and over 30,000 calls to
17 the toll-free phone number established for the Settlement (1-844-305-1928).

18
19 Bosch and the PSC anticipate that the vast majority of class members eligible for
20 the Bosch Settlement will receive automatic payments from the Bosch Settlement Fund because
21 they have already been deemed eligible under the Volkswagen 2.0-Liter or 3.0-Liter Settlements.
22 Within the first month of the Court granting final approval of the Bosch Settlement, such
23

24
25 20394 (E.D. Mich.) (Dkt. 68), he automatically functions as the Independent Compliance
Auditor under the Third Partial Consent Decree. (See Third Partial Consent Decree, ¶ 27(d).)

26 ¹⁷ The Bosch Settlement statistics are reported by the Bosch Defendants and derived from
27 Epiq data.

1 automatic payments have been mailed to more than one third of the Bosch Settlement Class.
2 Epiq began mailing Bosch Settlement checks to eligible class members on June 1, 2017, and
3 ninety-two percent of the initial batch of 11,746 mailed checks were cashed or deposited within
4 fourteen days. Epiq issued another mass mailing of 236,891 automatic checks on June 16, 2017.
5 In total, 248,637 checks have been mailed to date, amounting to over \$84 million in payments to
6 class members.

7
8 Bosch Settlement class members who opted out of either the 2.0-Liter or 3.0-Liter
9 Volkswagen Settlement, or who have not yet filed an approved claim in either Volkswagen
10 Settlement, must register and file a claim for the Bosch Settlement. To date, 22,352 claimants
11 have registered for the Bosch Settlement, and Epiq has received 5,558 claim forms. Epiq and
12 Ankura have found that many of these claimants are actually eligible for automatic payments
13 without separate registration for the Bosch Settlement because of their confirmed eligibility
14 under the Volkswagen 2.0-Liter and 3.0-Liter Settlements. Epiq and Ankura are currently
15 processing claim forms and anticipate a mid-July disbursement for claimants who properly filed
16 a claim for the Bosch Settlement (and are not already receiving an automatic payment).
17

18 **IX. Conclusion**

19 The 2.0-Liter, 3.0-Liter, and Bosch Settlements have all made substantial progress
20 and have provided significant compensation and benefits to class members. The parties
21 appreciate this opportunity to report on the status of the Settlements to the Court and will
22 continue to monitor the progress of each settlement to ensure its continued success.
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Dated: June 23, 2017

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ATTESTATION

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Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the other signatories above.

Dated: June 23, 2017

/s/ Sharon L. Nelles
Sharon L. Nelles

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CERTIFICATE OF SERVICE

I hereby certify that, on June 23, 2017, service of this document was accomplished pursuant to the Court’s electronic filing procedures by filing this document through the ECF system.

/s/ Sharon L. Nelles
Sharon L. Nelles

Exhibit 1

2.0L Claims Program Update as of June 15, 2017

- Former Lessee
- Eligible Seller
- Gen. 2 AEM
- Gen. 3 Phase 1 AEM
- Early Lease Termination ("ELT")
- Buyback

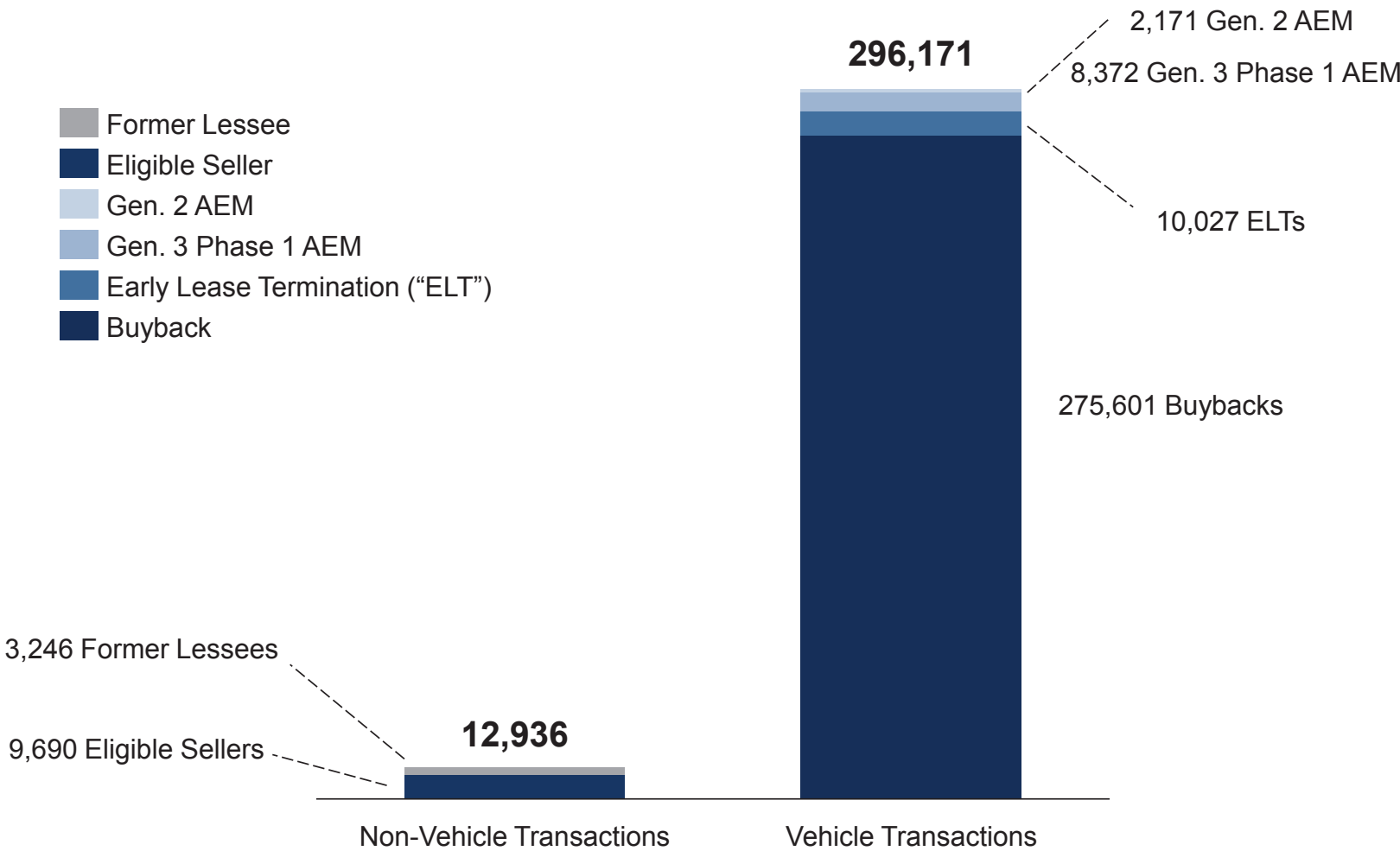


Exhibit 2

There were only 126 days between filing and 2.0-Liter Claims Program start

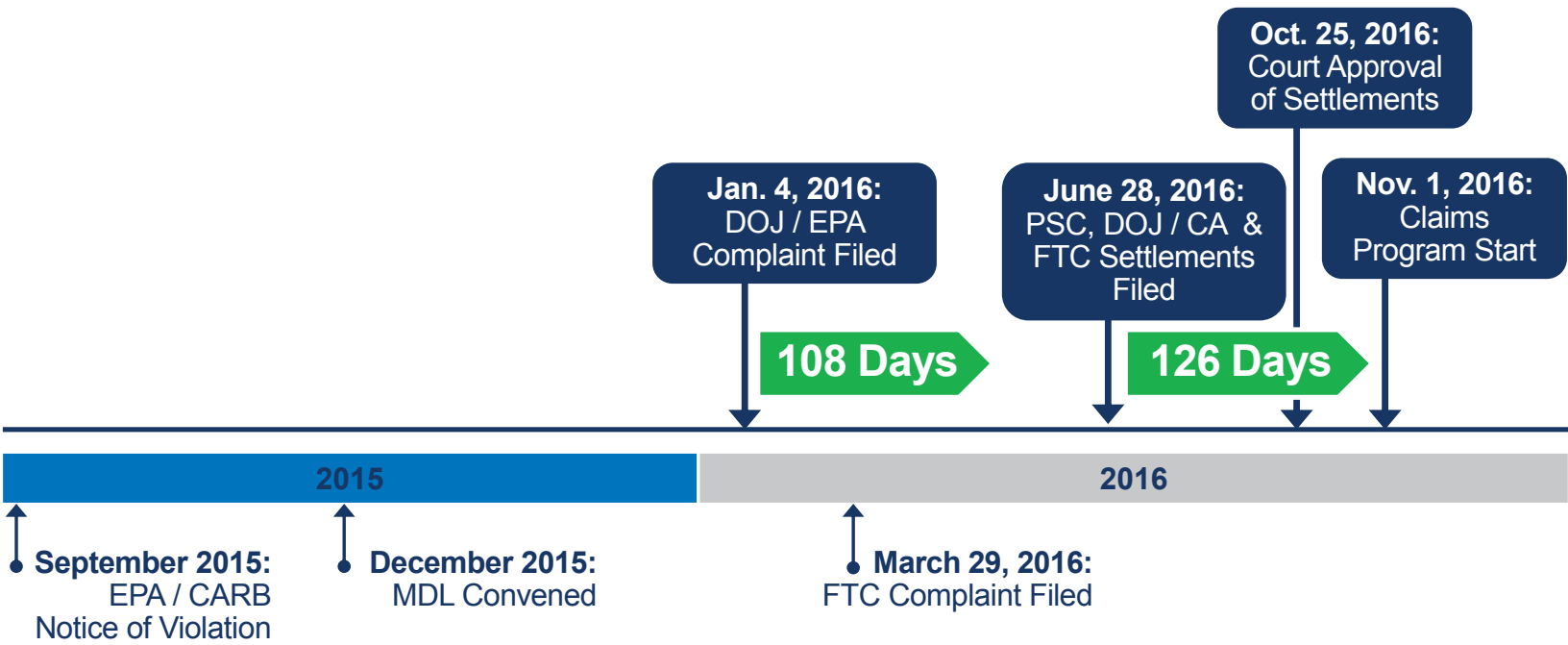
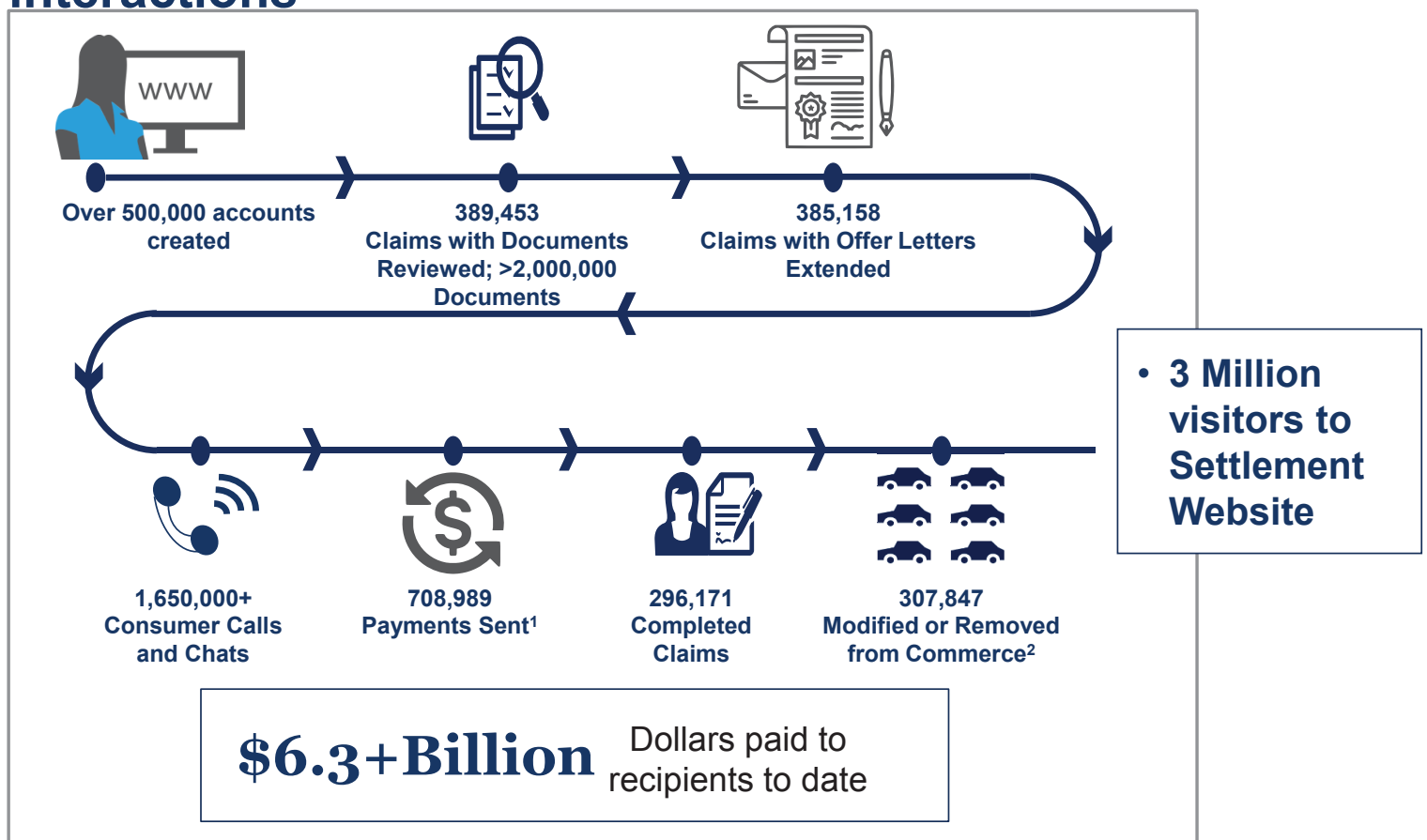


Exhibit 3

2.0-Liter Claims Program required millions of consumer interactions



¹ 316,764 checks and 392,225 EFTs - includes checks for payment of title transfer, and all replacements for voided payments

² Inclusive of Phase 1 Gen 3 AEM; SOURCE: Volkswagen TDI reports; data through June 15, 2017