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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

September 22, 2015

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Chairwoman Ramirez:

Like many Americans, I am disturbed by Volkswagen's shocking admission that the company intentionally deceived consumers and the public about the emissions of some of its Volkswagen and Audi diesel vehicles, which it marketed as being environmentally friendly. Specifically, Volkswagen admits that it deliberately installed software to control pollutants only during official emissions testing but not during normal vehicle operations on the road. As a result, these vehicles illegally emitted hazardous pollutants in violation of the Clean Air Act. Furthermore, Volkswagen's claims about the environmental impact of its vehicles were false.

Although the Environmental Protection Agency (EPA) and the Department of Justice (DOJ) are exploring civil and criminal actions, respectively, against Volkswagen, the Federal Trade Commission (FTC) also has an appropriate role in investigating the company's actions. As the nation's foremost consumer protection agency, the FTC has sole authority to enforce section 5 of the Federal Trade Commission Act (FTC Act) and its broad prohibition against "unfair or deceptive acts or practices." As the attached marketing material clearly illustrates, Volkswagen advertised their diesel cars as "clean diesel" and as otherwise environmentally friendly. Yet, contrary to these express claims, Volkswagen's and Audi's diesel vehicles, by design, were neither clean nor environmentally friendly, and they failed to comply with federal environmental laws.

I am outraged that VW would cheat its customers by deceiving them into buying a car that wasn't what was advertised. As such, I ask that the commission explore possible remedies under the FTC Act to remedy consumers who relied upon Volkswagen's deceptive claims.

While the FTC lacks civil penalty authority under section 5 and cannot wield the large stick of criminal prosecution, the commission is uniquely positioned to specifically represent the interest of consumers. The commission can seek consumer redress for Volkswagen's deception, and it can also seek a full panoply of equitable remedies that

would force Volkswagen to take actions to specifically address consumer harm. For instance, the commission could force Volkswagen to launch a comprehensive corrective marketing campaign that would cure the deception and inform consumers about their remedial options. The commission has entered into such consent agreements in the past.

This situation shows the importance of having multiple “cops on the beat” when it comes to consumer protection. The EPA and the DOJ have very important law enforcement and remedial roles to play when faced with the kinds of behavior at issue here. In establishing the FTC Act, however, Congress did not contemplate a bystander role for agency in the face of galling and unmitigated consumer deception. As an independent agency of Congress, the FTC has a key role to play – in cooperation with EPA and DOJ – as one of the cops on the beat to make sure consumers are protected. I urge the commission to exercise all of its authority on behalf of the American public.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Bill Nelson". The signature is written in a cursive, flowing style.

Senator Bill Nelson
Ranking Member

CC: The Honorable John Thune, Chairman