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 2.0 LITER 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

NOVEMBER 26, 2018

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Consistent with the requirements of the Resolution Agreements,[1] the independent Claims Supervisor respectfully submits this quarterly report, which, unless otherwise specified, addresses progress in Volkswagen's 2.0 Liter Claims Program for the period from August 20, 2018 through November 18, 2018.

I. Executive Summary

During this quarterly reporting period, Volkswagen was generally effective in administering the Claims Program. The company timely reviewed the vast majority of remaining claims and, for those deemed eligible, issued offer letters, scheduled and completed Buyback, Early Lease Termination, and AEM appointments, and made associated payments.

The company remained responsive in addressing consumer inquiries through its hotline and chat portal, and engaged in various proactive efforts to assist individuals in taking the necessary steps to timely cure deficient claims and accommodate eligible remedies. Here, the company's efforts included: (i) extending the deadline for consumers to cure such claims from September 1, 2018 to September 30, 2018; (ii) sending notices to consumers reminding them of various deadlines, including those relating to the completion of AEMs, Buybacks, and Early Lease Terminations; and (iii) adding nineteen virtual closing agents to meet the anticipated increase in demand for Buyback and Early Lease Termination appointments. The company reported that it is continuing to closely monitor staffing levels and analyze the status of eligible claims for which remedies have not yet been completed to ensure that issues are addressed in a timely manner, and that the Claims Program continues to be administered efficiently.

[1] 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.

Volkswagen also worked with the Claims Supervisor over the course of the quarterly reporting period to review the accuracy of deficiency determinations on all submitted claims not successfully cured by consumers as of the September 30, 2018 end of the extended deficiency cure period. Specifically, the Claims Supervisor evaluated the accuracy of all 5,341 deficiency determinations reached by the company on these claims. The overwhelming majority of claims (5,079 claims) were confirmed as deficient and those consumers were thereafter notified by Volkswagen that they were ineligible by virtue of not timely perfecting their claims. The Claims Supervisor determined that the remaining 262 claims should not be considered deficient. Volkswagen agreed and the claims were advanced for eligibility reviews.

With respect to consumer appeals, the Claims Review Committee ("CRC") issued 906 determinations over the course of the quarterly reporting period and is continuing efforts to adjudicate the 2,084 appeals that were still pending as of November 25, 2018. The deadline for consumers to submit appeals is January 13, 2019. Consequently, it is anticipated that the CRC will continue to render determinations through the early part of 2019. Closing appointments will be available to any of these consumers who ultimately prevail on appeal and are required to proceed through closing.

In addition, Volkswagen continued to make substantial progress advancing non-standard claims, particularly those involving branded titles. Over the course of the reporting period, the company processed 1,643 claims in accordance with the branded title framework agreed to by the Parties and CRC and, as of November 20, 2018, Volkswagen had reached eligibility determinations on all branded title claims previously placed on hold. The company also completed 115 claims submitted by consumers who purchased vehicles in the United States but

registered them in Canada, and 46 claims submitted by military members stationed overseas with their vehicles.

The statistics below provide a cumulative presentation of key Claims Program metrics as of November 18, 2018:

- 556,241 registrations had been created in Volkswagen's Claims Portal;
- 482,632 consumers had submitted claims for Volkswagen to review;
- 467,701 consumers had been issued offer letters, the aggregate value of which was $8,450,043,997.47;
- 379,027 Owners and Current Lessees had scheduled Buyback or Early Lease Termination closing appointments;
- 373,623 Owners and Current Lessees had proceeded through closing, and Volkswagen has paid out a total of $7,830,065,930.03 to, or on behalf of, these consumers;
- 39,238 consumers with Generation 1 Vehicles had completed the AEM process;[2]
- 10,874 consumers with Generation 2 Vehicles had completed the AEM process;
- 12,761 consumers with Generation 3 Vehicles had completed the first phase of the AEM process, which involves removal of the defeat device software, and 10,869 of those consumers also had completed the second phase, which involves the implementation of new emissions control mechanisms;

[2] Data related to AEMs are as of November 9, 2018.

- $356,245,375.21 had been paid out to consumers by Volkswagen in connection with completed AEM appointments; and
- 13,404 Sellers, 4,483 Former Lessees, and 2,120 consumers with claims associated with totaled vehicles had been paid on claims, the aggregate values of which were $41,176,664.62, $15,118,414.73, and $12,523,210.59, respectively.

As of the May 2018 reporting period, Volkswagen had satisfied the requirements in the Resolution Agreements that it remove from commerce or perform a complete AEM on 85% of all Subject Vehicles as well as 85% of Subject Vehicles registered in California. And by November 18, 2018, the company had removed from commerce or modified approximately 93.4% of all Subject Vehicles and 94.8% of Subject Vehicles registered in California.

Finally, this reporting period saw the passage of the September 1, 2018 claim submission deadline. Eligible consumers have until December 30, 2018 to complete their approved remedy and receive benefits in accordance with the terms of the Resolution Agreements.

II. Volkswagen's Performance Metrics

This section discusses the status of the claims processing and closing phases of Volkswagen's Claims Program and the company's compliance with certain requirements mandated in the Resolution Agreements. All data is as of November 18, 2018, unless otherwise specified. Reference throughout this section to Volkswagen's performance "during this quarter" means the period from August 20, 2018 through November 18, 2018.

A. Consumer Registrations

Pursuant to the Resolution Agreements, the period to register and submit new claims closed on September 1, 2018. As of November 18, 2018, there were 556,241 consumer

registrations in Volkswagen's system, including 1,883 registrations created by consumers during this quarter. A registration occurs when a consumer provides Volkswagen with basic information including name, contact information, vehicle identification number ("VIN"), and preferred dealership. Of the total registrations created during the Claim Period, 520,613 related to individuals and 35,628 related to businesses.[3] Chart 2-1 shows the total number of registrations created by consumers during each quarter of the Claim Period.

Chart 2-1

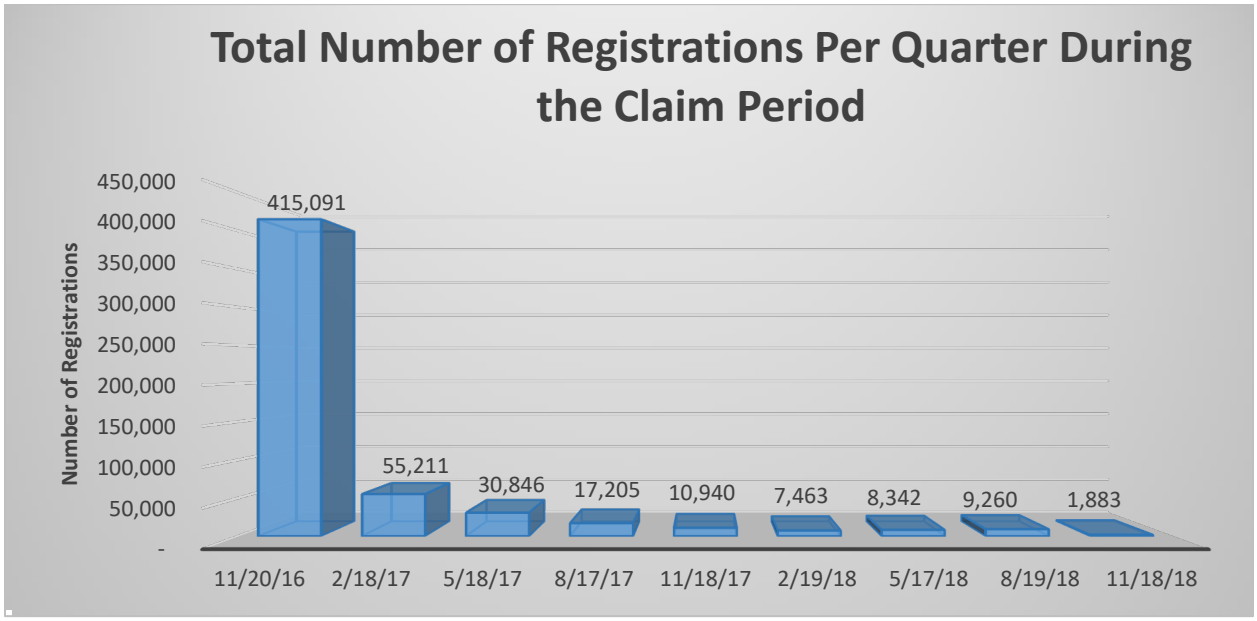


Chart 2-2 shows all registrations created by consumers during the Claim Period by eligibility category, and Chart 2-3 shows the states with the highest number of Eligible Vehicles that have been registered in Volkswagen's Claims Portal. The "No Category Selected" population in Chart 2-2 relates to consumers who had created a registration but did not provide details identifying their eligibility category.

[3] These figures include a significant number of duplicate entries. Duplicate entries, however, are not identified until the requisite supporting claims information and documentation are submitted and the review periods begin. Thus, the figure overstates the number of unique claims that have been registered.

Chart 2-2

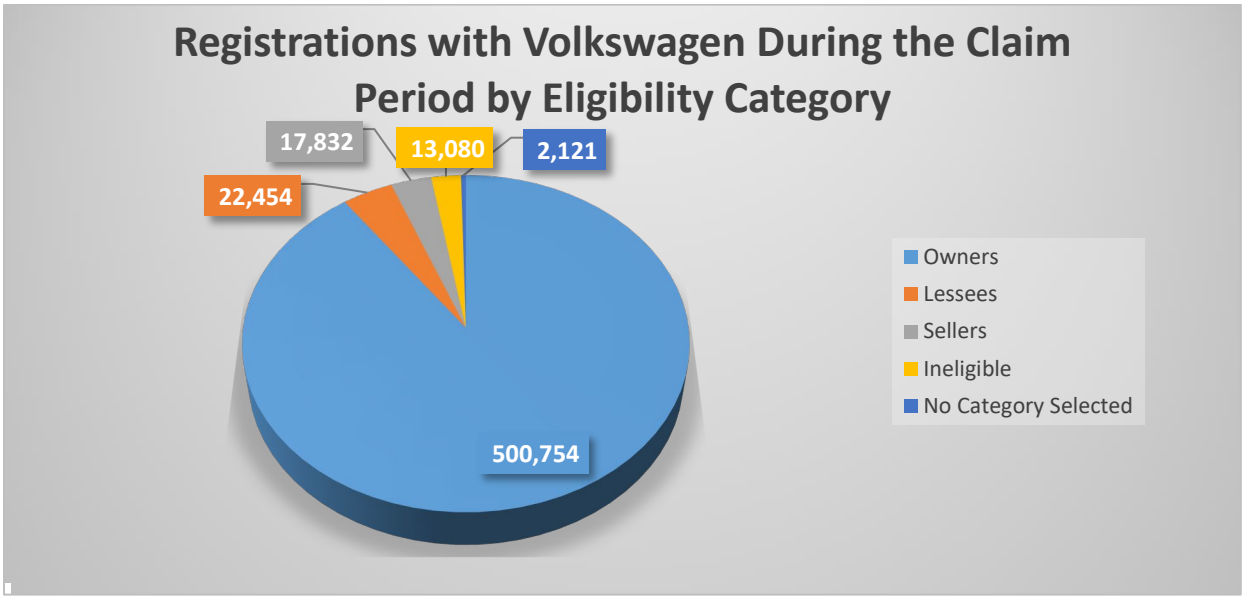
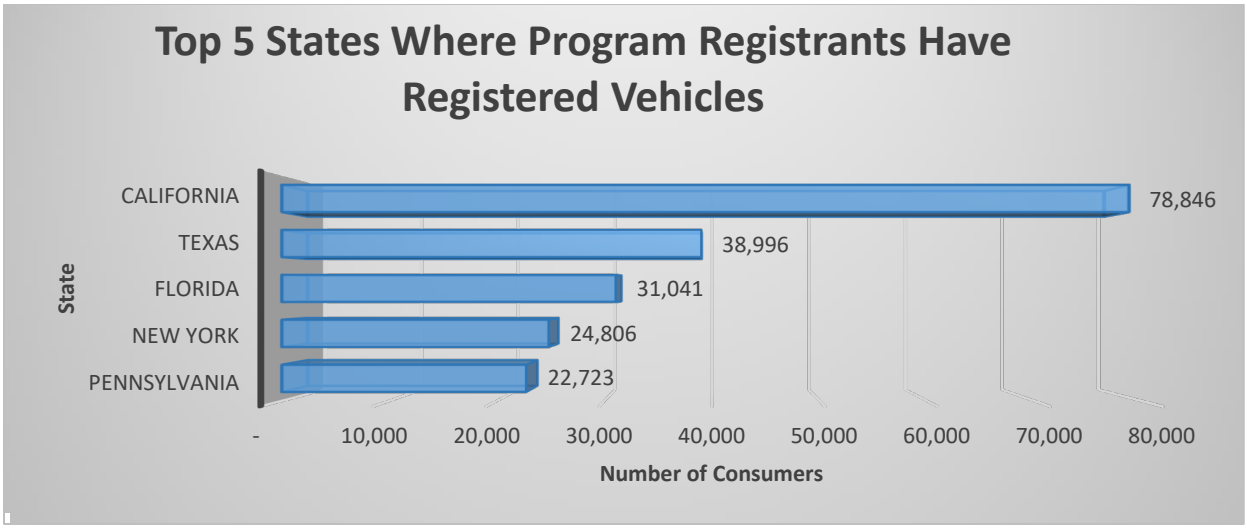


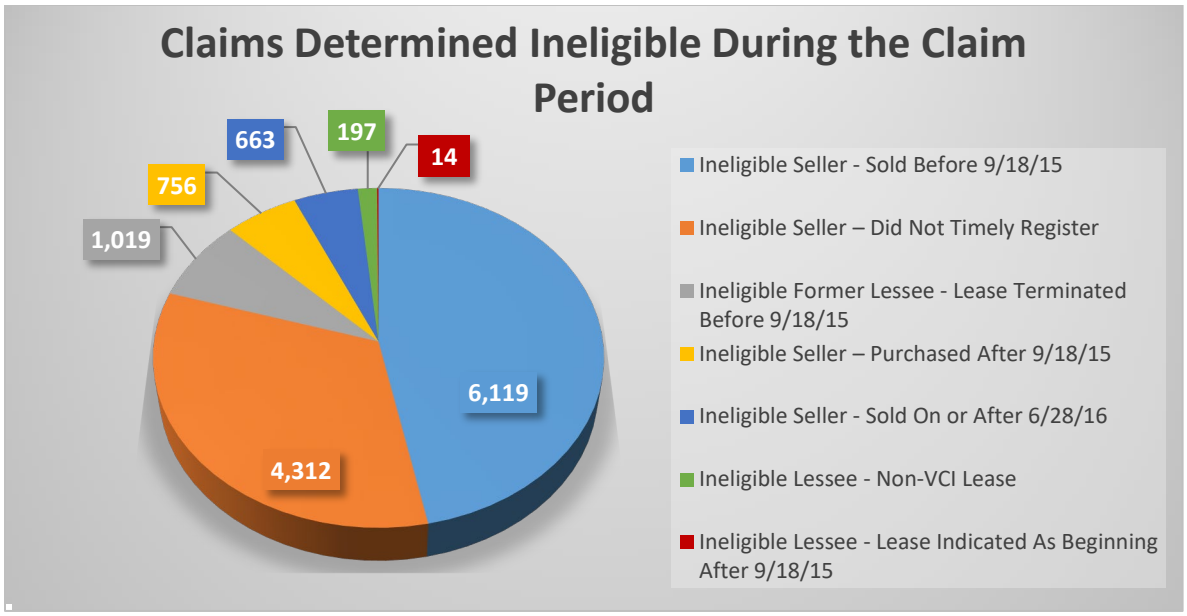
Chart 2-3



With respect to the population of 13,080 claims identified as ineligible in Chart 2-2, Volkswagen's system is configured to automatically identify certain ineligible claims where information entered by the consumer into the Claims Portal indicates the consumer is not an eligible claimant under the Resolution Agreements. For example, a consumer who attempts to submit a Seller claim and indicates the vehicle was sold before September 18, 2015 is ineligible

under the "Eligible Seller" definition. In these instances, Volkswagen sends the consumer a notification explaining the basis for the ineligibility determination. Chart 2-4 reflects the total population of systematically ineligible claims by the reason the claim was determined to be ineligible.

Chart 2-4



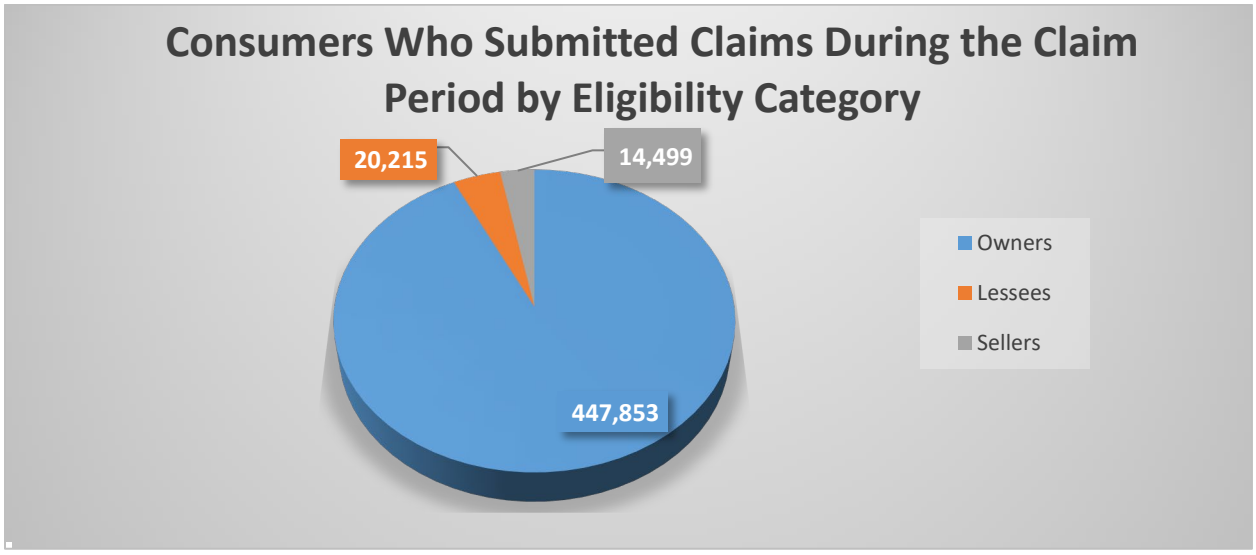
Over the course of the claim submission period, the Claims Supervisor reviewed all systematic ineligibility decisions to ensure Volkswagen's systematic ineligibility logic was operating appropriately. With the passage of the September 1, 2018 deadline for consumers to submit claims, no new systematic ineligibility determinations are anticipated.

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

After a consumer registers, the next step in the process was to select a preliminary remedy, provide prescribed documents needed to substantiate the claim, and timely submit the

claim to Volkswagen for review on or before the September 1, 2018 claim submission deadline.[4] As of November 18, 2018, consumers had submitted 482,632 unique claims for Volkswagen to review, including 4,636 unique claim submissions during this quarter.[5] Of these, 460,981 claims related to individuals and 21,651 claims related to businesses. Chart 2-5 shows by eligibility category the total population of consumers who had submitted claims during the Claim Period. Chart 2-6 shows the total number of claims submitted by consumers during each quarter of the Claim Period.

Chart 2-5[6]



[4] Consumers with claims related to totaled vehicles, Former Lessees, and Sellers did not select a preliminary remedy because the only remedy available to these consumers is Restitution.

[5] "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, claims by one Owner who owns five separate vehicles are counted as five unique claims.

[6] The sixty-five claims not captured in Chart 2-5 ultimately were deemed not eligible. Notably, consumers have the right to appeal final eligibility and award determinations to the CRC, consistent with the terms of the Resolution Agreements.

Chart 2-6

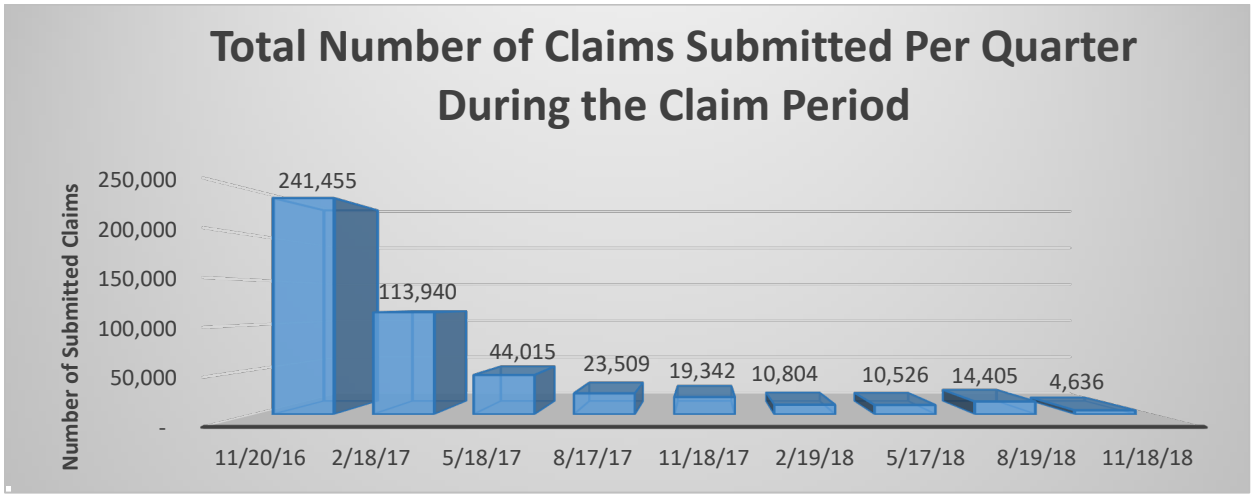


Chart 2-7 shows the preliminary remedy selections for Owners and Current Lessees who had submitted claims through November 18, 2018.

Chart 2-7

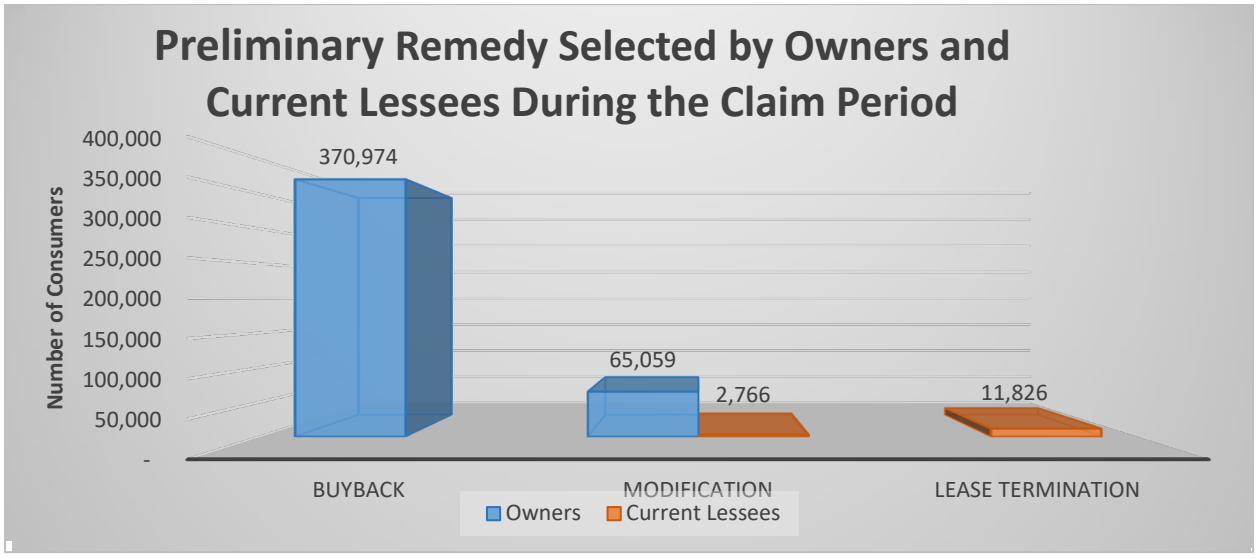


Chart 2-7 does not include the remedy selections for 14,299 Sellers, 4,945 Former Lessees, and 2,267 consumers with claims associated with totaled vehicles because the only remedy available to these consumers is Restitution, nor does it include three claims where the

Eligibility Category was inconsistent with the award type. Additionally, Chart 2-7 does not include 10,493 cancelled claims, with most cancellations being associated with duplicate claims.

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. Through November 18, 2018, excluding the six claims for which a decision by Volkswagen was pending but the ten-business-day review period had not elapsed, Volkswagen had been required to make 747,924 first ten-business-day review period determinations. The company had issued timely decisions in 722,880 instances, amounting to an overall first ten-business-day review period compliance rate of 96.7%. During this quarter, Volkswagen was required to make 14,576 first ten-business-day review period decisions and timely did so in 14,495 instances, for a quarterly compliance rate of 99.4%. As of November 18, 2018, there were no overdue claims pending in the first ten-business-day review period.

Chart 2-8 reflects Volkswagen's performance during the Claim Period in timely issuing first ten-business-day review period decisions. Chart 2-9 shows Volkswagen's overall first ten-business-day review period performance by eligibility categories.

Chart 2-8

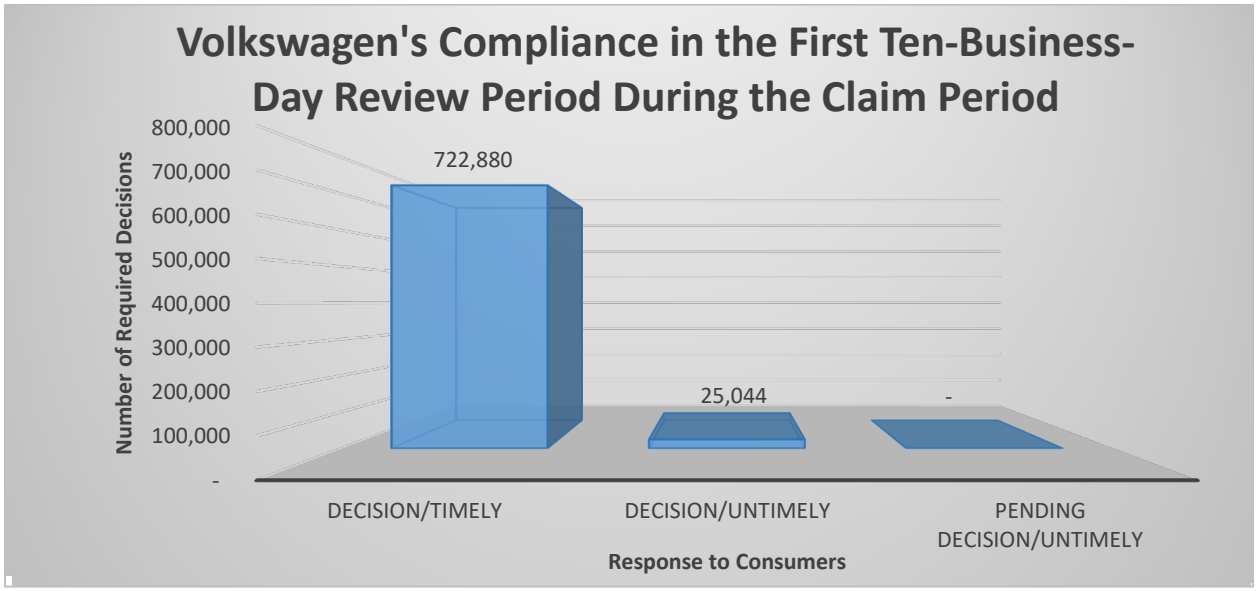


Chart 2-9[7]

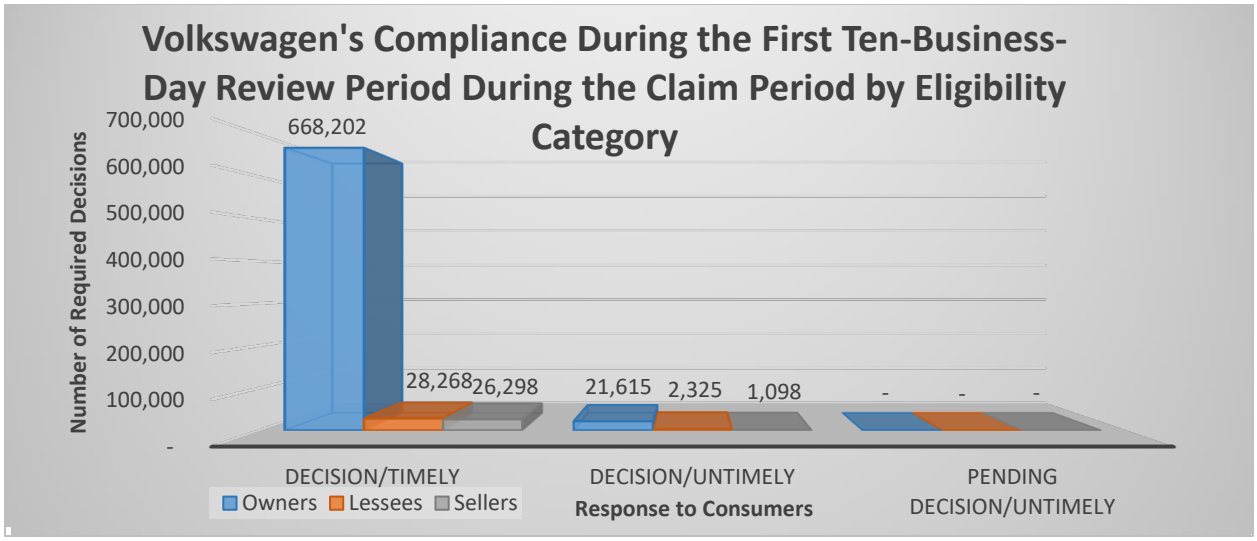
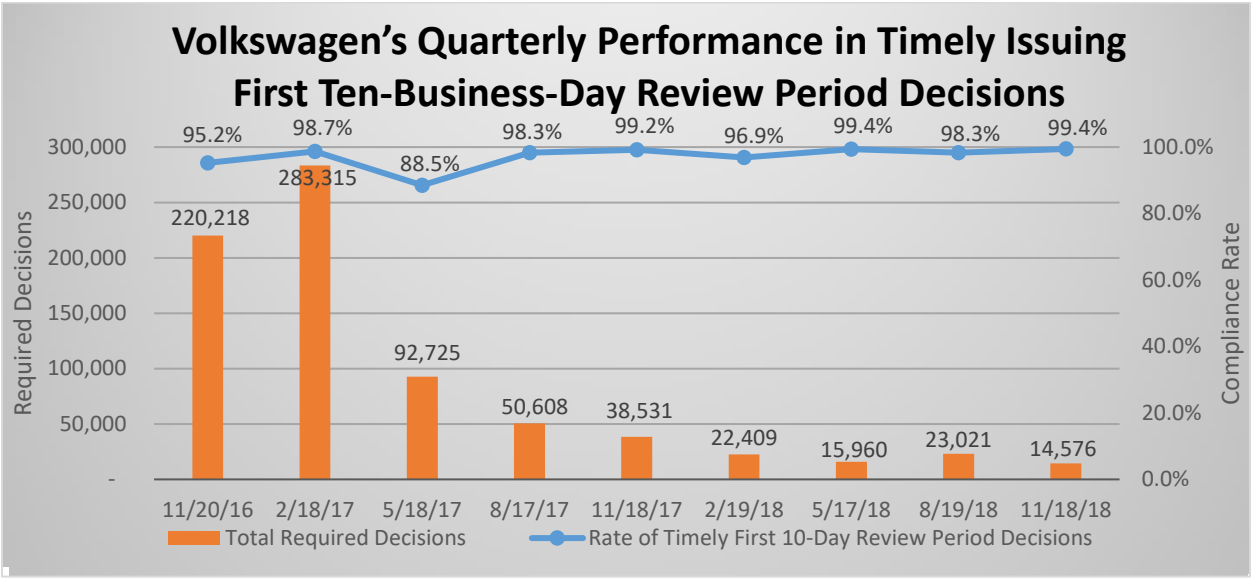


Chart 2-10 shows the number of required first ten-business-day review period decisions by quarter and the company's quarterly compliance rate.

[7] The 118 claims not accounted for in Chart 2-9 were ultimately deemed not eligible by Volkswagen during the first ten-business-day review period. Of these, 112 claims were timely first ten-business-day review period decisions, and 6 were untimely.

Chart 2-10[8]



The first ten-business-day review period figures (and the second ten-business-day review period figures below) historically have excluded three types of claims: (i) claims by consumers who initially purchased the vehicle in the United States but registered it in Canada; (ii) claims from consumers who had indicated that they were employed by Volkswagen or the Court; and (iii) certain claims associated with vehicles with branded titles. As of November 18, 2018, there was one active claim from a consumer in Canada, and no active claims by consumers who had indicated that they were Volkswagen or Court employees.[9] The processing of branded title

[8] The aggregated total of all claims in Chart 2-10 is 13,439 decisions (1.8%) greater than the aggregated total of 747,924 required decisions through November 18, 2018. The divergence is the result of changes over time in the definitions of excluded claims from the timeliness analysis, including claims associated with branded titles as described below. Chart 2-10 reflects the required number of decisions by quarter based on the exclusionary rules that were applied at the time of each quarter, while the aggregated total of required decisions and timely decisions set forth above yields Volkswagen's overall compliance rate based on applying the current exclusionary rules across the entire Claim Period.

[9] These types of claims have been excluded from the timeliness analysis because the consumers do not meet the Class Member definition. While Volkswagen has used the claims process to identify and engage with these consumers, they would not receive any funds out of the Funding Pool. Additionally, for these purposes, a claim is considered "active" once a consumer submits it, but before a final determination on eligibility and award (or ineligibility) has been rendered.

claims, discussed in greater detail in Section III below, is governed by a framework developed by Volkswagen, the PSC, and the CRC in late February 2018. Through November 20, 2018, Volkswagen had processed 5,559 branded title claims, which includes all claims that previously had been placed on hold.

Finally, following the claim submission deadline (September 1, 2018), Volkswagen identified 36,374 registrations where consumers had begun to provide supporting information and/or documents, but had not completed the claim submission process.[10] The Claims Supervisor reviewed these 36,374 claims to independently verify that the unsubmitted claims were, in fact, incomplete. The Claims Supervisor agreed that 36,370 of the claims (99.9%) were incomplete. There were four claims (less than 0.01%) that, following discussion with Volkswagen, were deemed to have sufficient documents and information to support a claim submission. These claims were moved into the first ten-business-day review period for eligibility review.

C. Preliminary Eligibility Determinations and Deficiencies

Through November 18, 2018, a total of 467,859 claims had been determined by Volkswagen to be complete and preliminarily eligible. Of these, 450,611 claims were submitted by individuals and 17,248 claims were submitted on behalf of businesses. During this quarter, the number of claims determined by Volkswagen to be complete and preliminarily eligible increased by 5,591.

Chart 2-11 reflects the cumulative number of claims determined by Volkswagen to be complete and preliminarily eligible by eligibility category during the Claim Period, and Chart

[10] This population is separate from the category of consumers discussed below who timely submitted claims that Volkswagen deemed deficient and failed to cure the deficiency by the extended cure deadline of September 30, 2018.

2-12 shows the most common states in which Eligible Vehicles associated with preliminarily eligible claims were registered as of November 18, 2018.

Chart 2-11[11]

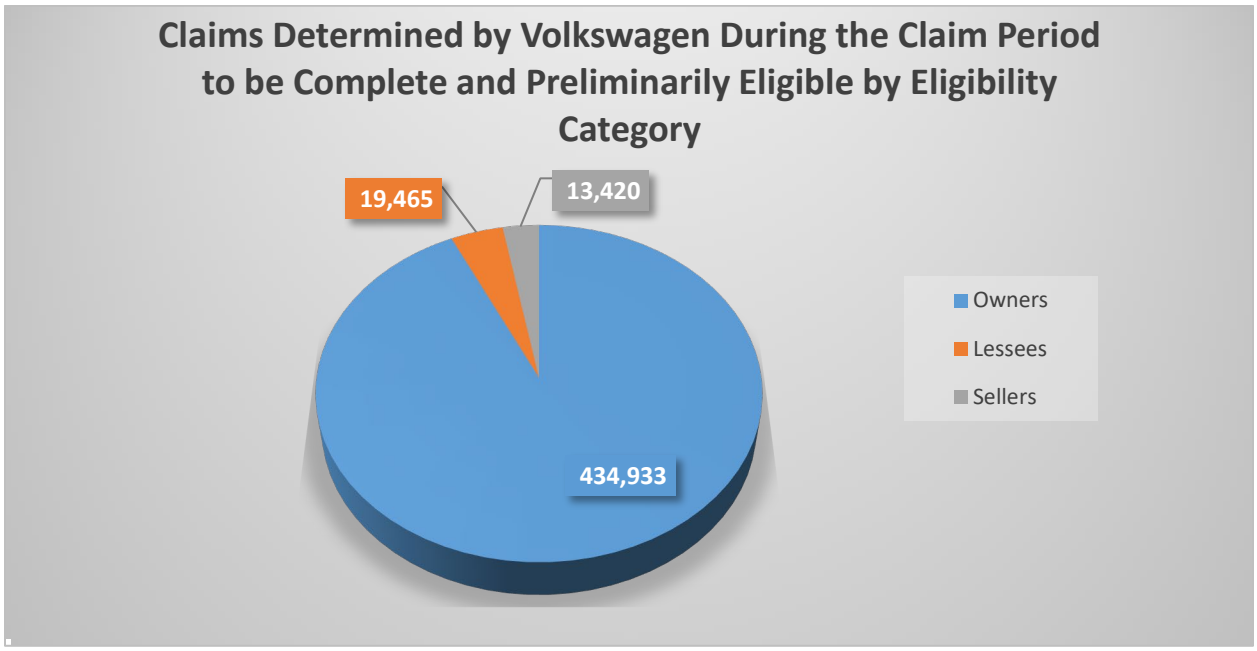
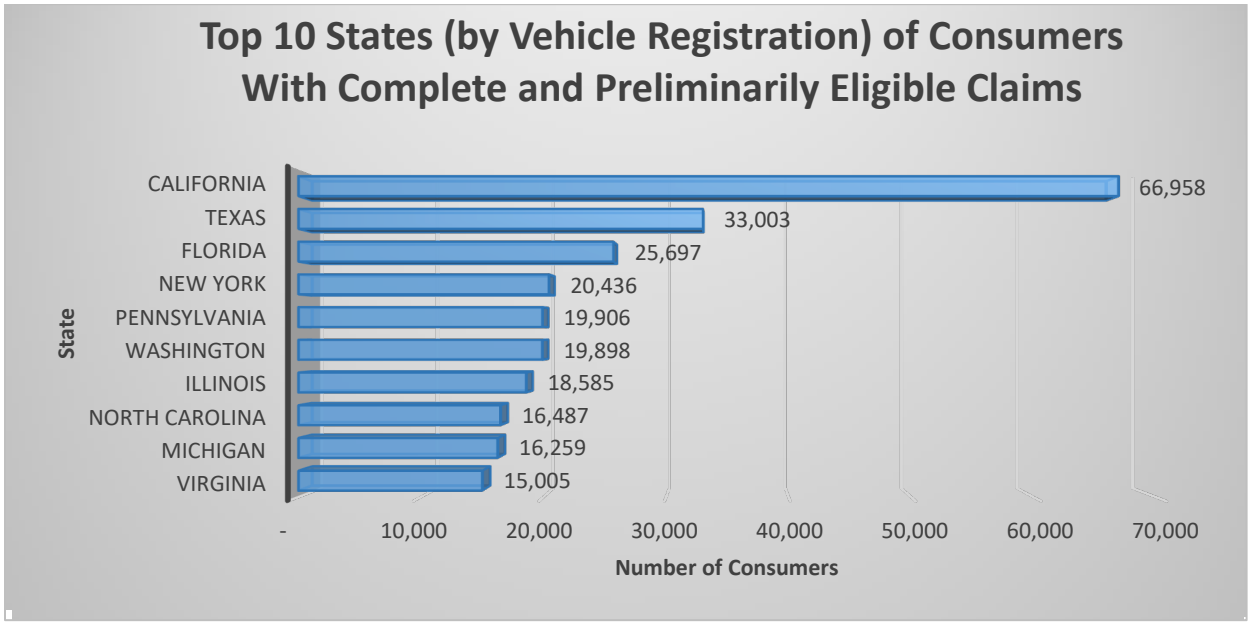


Chart 2-12



[11] The forty-one claims not accounted for in Chart 2-11 ultimately were deemed not eligible.

Chart 2-13 reflects the remedies selected by Owners and Current Lessees whose claims Volkswagen had deemed complete and preliminarily eligible as of November 18, 2018.

Chart 2-13

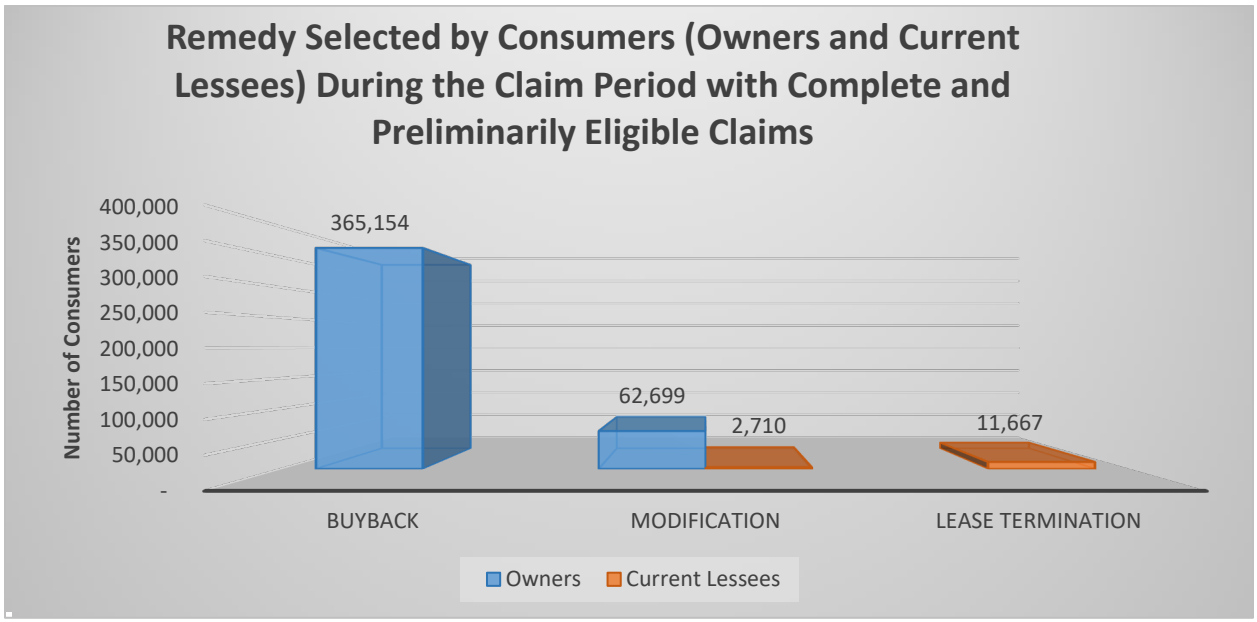
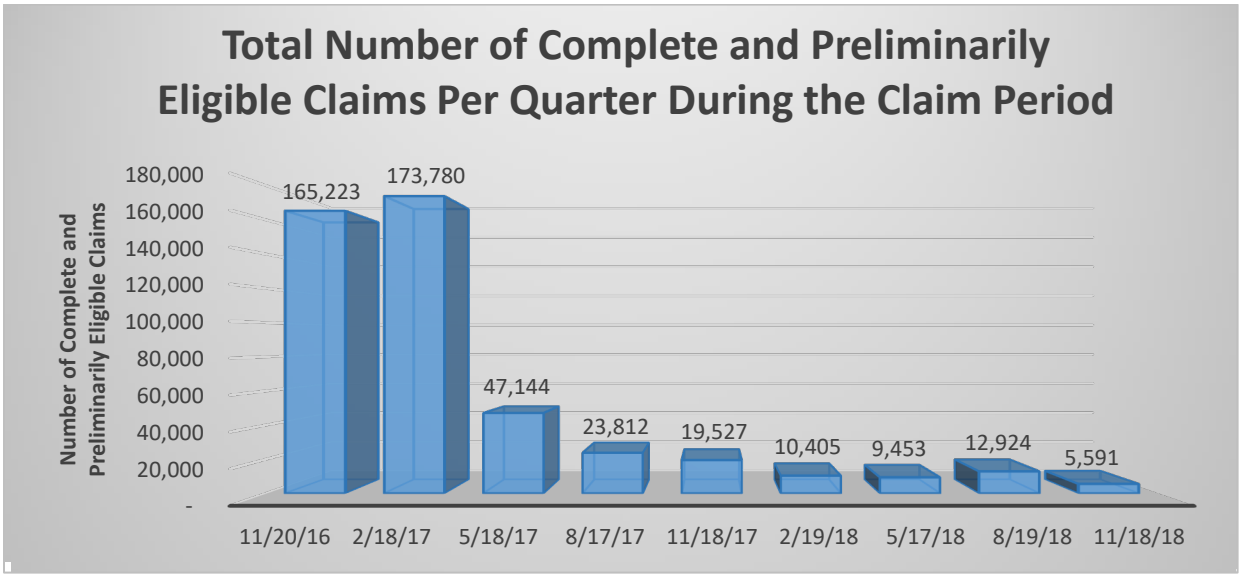


Chart 2-13 does not include 13,352 Sellers, 4,720 Former Lessees, or 2,261 consumers with claims associated with totaled vehicles because the only remedy available to those consumers is Restitution. It also excludes 5,293 cancelled claims that generally were associated with duplicate claim submissions, and three claims where the eligibility category was inconsistent with the award type.

Chart 2-14 shows the total number of claims deemed complete and preliminarily eligible by Volkswagen by quarter during the Claim Period.

Chart 2-14



Excluding the 11,874 Subject Vehicles that were identified in the DOJ Consent Decree as scrapped, as of October 1, 2015, there have been 452,943 unique VINs that were the subject of submitted claims, of which 446,269 unique VINs were associated with Owner or Current Lessee claims, meaning that the consumer indicated he or she had possession of the vehicle. Volkswagen had deemed claims associated with 449,144 unique VINs complete and preliminarily eligible, including 442,345 unique VINs where a claim was submitted by an Owner or Current Lessee.[12]

Additionally, through November 18, 2018, there were 210,124 instances where Volkswagen had deemed a claim deficient during the first ten-business-day review period, spread across 142,505 unique claims. More than 400,000 deficiencies had been assessed by Volkswagen over the course of the Claims Program, as multiple deficiencies may be associated

[12] The populations of non-scrapped and scrapped vehicles are separated consistent with the categorization of Subject Vehicles in the Resolution Agreements. As to the Subject Vehicles initially categorized as scrapped, there were 6,072 unique VINs associated with submitted claims, inclusive of 6,028 unique VINs that were the subject of Owner or Current Lessee claims.

with a given claim submission. The most common identified deficiencies have been: (i) an incorrect document was uploaded (109,072 claims); (ii) a document was missing pages (75,470 claims); (iii) a document was illegible (62,981 claims); (iv) a document was incomplete or the document image was cut off (31,570 claims); and (v) a name on the document did not match the name in the Claims Portal (21,721 claims).

Across the 142,505 unique claims that had been deemed deficient, 137,015 consumers (96.1%) made at least one attempt to cure the deficiency, while 5,490 (3.9%) did not attempt to cure. Among the 137,015 consumers who had attempted to cure, 132,862 consumers (97.0%) successfully cured the deficiency, while 4,153 consumers (3.0%) did not successfully cure. As set forth below in Section III, the company extended the deadline for consumers to cure deficient claims from September 1, 2018 to September 30, 2018, and provided notice of the extension by e-mail on September 21 and 26, 2018 to consumers who submitted a deficient claim on or after August 1, 2018 to ensure that consumers who timely filed claims near the September 1, 2018 claim submission deadline that were deemed deficient had a reasonable opportunity to cure.

Following the passage of the deadlines to submit claims (September 1, 2018) and cure deficiencies (September 30, 2018), Volkswagen and the Claims Supervisor worked together to analyze the population of claims that remained deficient after September 30, 2018. The purpose of the analysis was for the Claims Supervisor to independently confirm that all deficiency determinations by Volkswagen were accurate before the deficient consumer claims were transitioned from deficient to ineligible for failure to timely perfect a complete claim. The Claims Supervisor reviewed 5,341 deficient claims, and for 5,079 claims (95.1%) the Claims Supervisor concurred with Volkswagen's deficiency determination and the claims were rendered ineligible. The remaining 262 claims (4.9%) were converted to complete and preliminarily

eligible and moved forward into the offer phase. The 95.1% concurrence rate is generally consistent with the concurrence rates arising from the Claims Supervisor's quarterly sampling of Volkswagen deficiency determinations throughout the Claim Period.

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 this same 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.[13]

As of November 18, 2018, a total of 474,664 consumers had submitted claims that reached the second ten-business-day review period having been deemed preliminarily eligible by Volkswagen.[14] These included 5,596 claims that reached the second ten-business-day review period during this quarter. Of the 474,664 claims preliminarily deemed eligible, 451,624 claims related to individuals and 23,040 claims related to businesses. Across this population, 467,701

[13] 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 referenced in Chart 2-4 above that were automatically deemed ineligible by Volkswagen's system based on information input by the consumer. Through November 18, 2018, there were 14,036 instances of claims that had been deemed ineligible upon review by Volkswagen, including previously deficient claims that were not perfected by the September 30, 2018 extended deficiency cure period deadline. For 10,396 of these instances, the ineligibility determinations were verified by the Claims Supervisor and communicated by Volkswagen to the consumer. Generally, the remaining claims were instances from earlier in the Claim Period where the Claims Supervisor determined, and Volkswagen agreed, that the claims should have been deemed deficient -- such that the consumer would have an opportunity to cure and resubmit a claim -- as opposed to ineligible whereupon the consumer in fact was able to subsequently cure the deficiency.

[14] As described above, there were 462,268 consumers whose claims were deemed complete and preliminarily eligible by Volkswagen, but 469,068 preliminarily eligible claims reached the second ten-business-day review period. While these figures theoretically should be identical, historically, there had been a divergence of slightly less than one-thousand claims that was primarily due to instances where claims had reached the second ten-business-day review period without having triggered the status in Volkswagen's system that indicates the start or conclusion of the first ten-business-day review period. The more recent increase in the variance is a result of claims specially created in Volkswagen's system to represent Seller claims submitted by fleet vehicle owners that were reviewed, verified, and paid through an offline process. These claims appear to have skipped the status that triggers the conclusion of the first ten-business-day review period. The divergence would not substantively affect claims processing. It is only reflected when data is queried to generate aggregated figures for reporting purposes.

consumers (98.5%) had been issued offer letters, inclusive of 6,893 offer letters issued by Volkswagen during this quarter.

Through November 18, 2018, excluding the 10 claims that were still pending a determination by Volkswagen but for which the second ten-business-day review period had not yet elapsed, Volkswagen had been required to make 549,633 second ten-business-day review period decisions. The company had timely made the required determinations in 402,491 instances, for a cumulative compliance rate of 73.2%. During this quarter, Volkswagen was required to make 12,775 second ten-business-day review period decisions and timely did so in 12,065 instances, yielding a 94.4% quarterly compliance rate. As of November 18, 2018, there were no overdue claims pending in the second ten-business-day review period.

Despite Volkswagen's substantially improved performance in timely rendering second ten-business-day decisions over the last seven quarters, the company's cumulative compliance rate has improved by only 11.7% since the February 2017 reporting period because of the comparatively smaller volume of claims that have required processing. The 12,775 instances of required second ten-business-day review period determinations over the last three months is only 3.5% of the 362,034 instances of second ten-business-day review period decisions that were required during the first four months of the Claim Period when Volkswagen's compliance rate for timely issuing second ten-business-day review period determinations was lower.

Chart 2-15 reflects Volkswagen's compliance in timely issuing second ten-business-day review period decisions, and Chart 2-16 shows compliance by eligibility category.

Chart 2-15

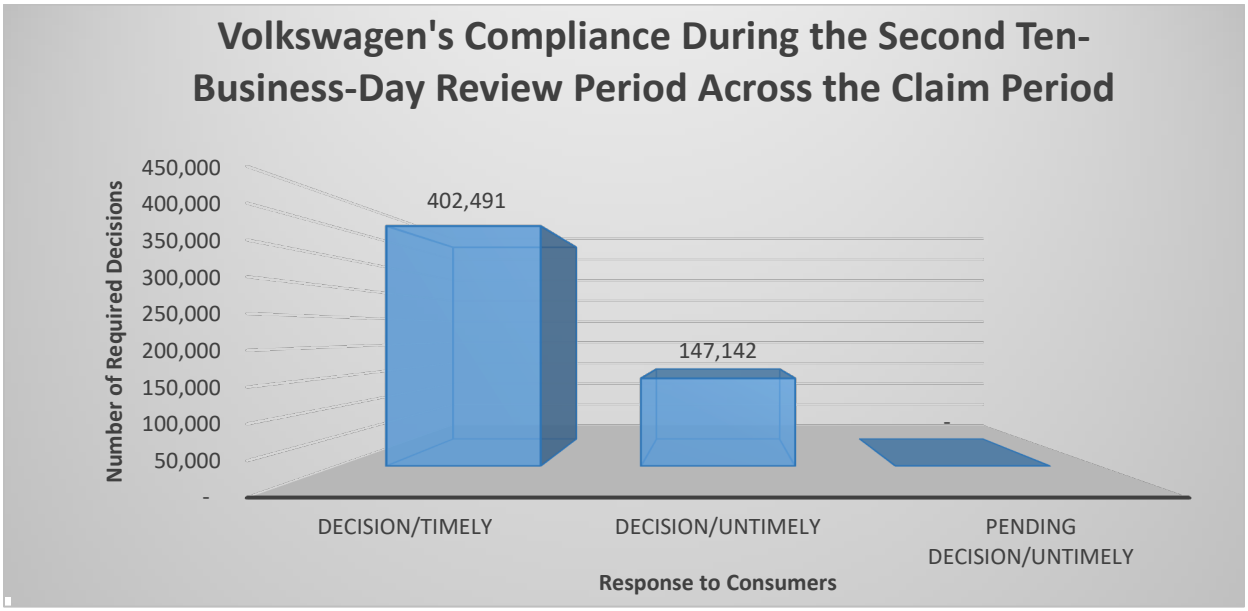


Chart 2-16[15]

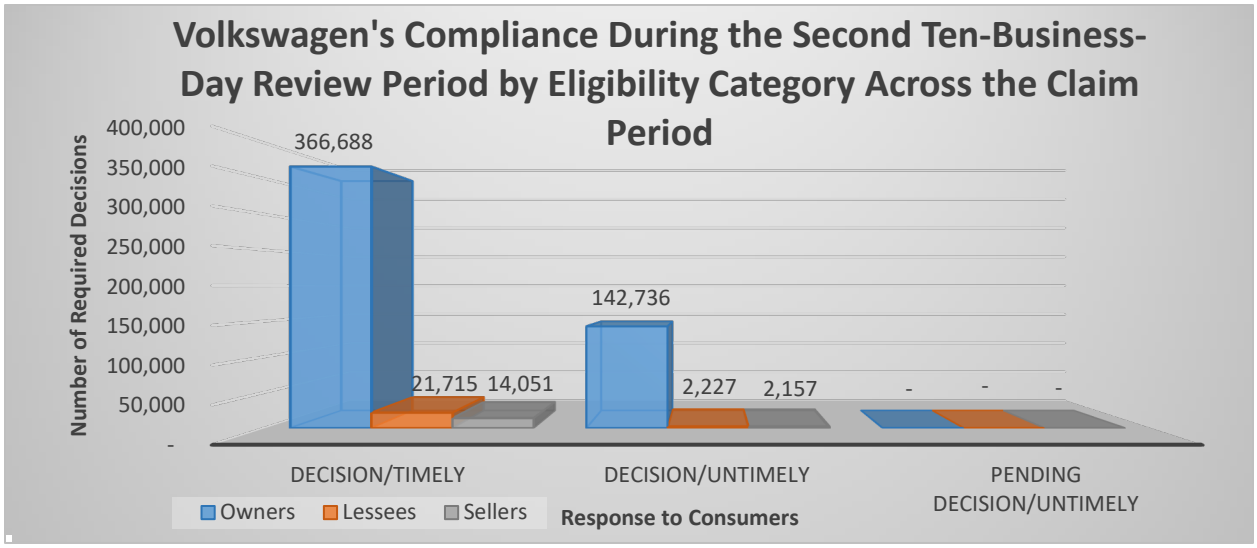
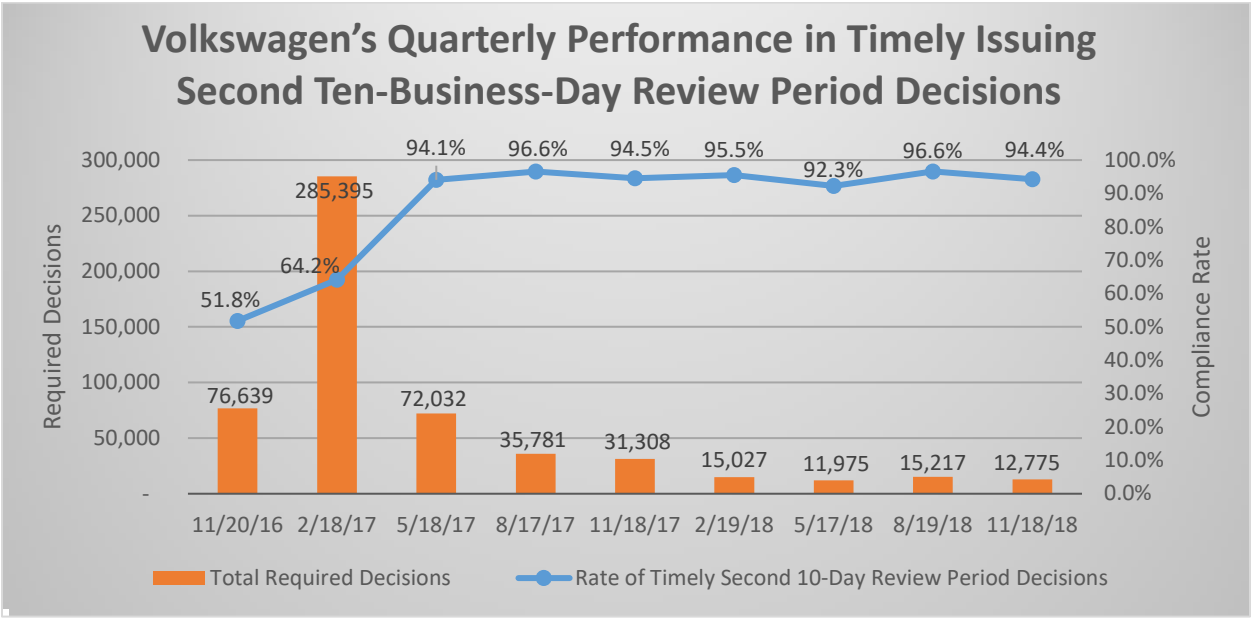


Chart 2-17 reflects the number of required second ten-business-day review period decisions by quarter as well as Volkswagen's quarterly compliance rate.

[15] Of the fifty-nine claims not accounted for in Chart 2-16, fifty-eight involved claims that were deemed not eligible. Thirty-seven of these claims were timely second ten-business-day review period decisions, and twenty-one were untimely. The remaining claim related to an untimely determination where the consumer changed the eligibility category after the claim was deemed deficient during the second ten-business-day review period.

Chart 2-17[16]



E. <u>Offer Letters</u>

Through November 18, 2018, Volkswagen had issued 467,701 offer letters, the aggregate value of which totaled $8,450,043,997.47. Of these, 445,496 offer letters with an aggregate value of $8,039,028,042.56 were issued to individuals. The remaining 22,205 offer letters were issued to businesses and were aggregately valued at $411,015,954.91. During this quarter, Volkswagen issued 6,893 offer letters aggregately valued at $101,796,265.35.

Chart 2-18 shows the total number of offer letters issued by Volkswagen to consumers during each quarter of the Claim Period.

[16] For the same reasons described in footnote 8 with respect to first ten-business-day review period decisions, the aggregated total of all claims in Chart 2-17 is 6,516 decisions (1.2%) greater than the aggregated total of 549,633 required second ten-business-day review period decisions through November 18, 2018.

Chart 2-18

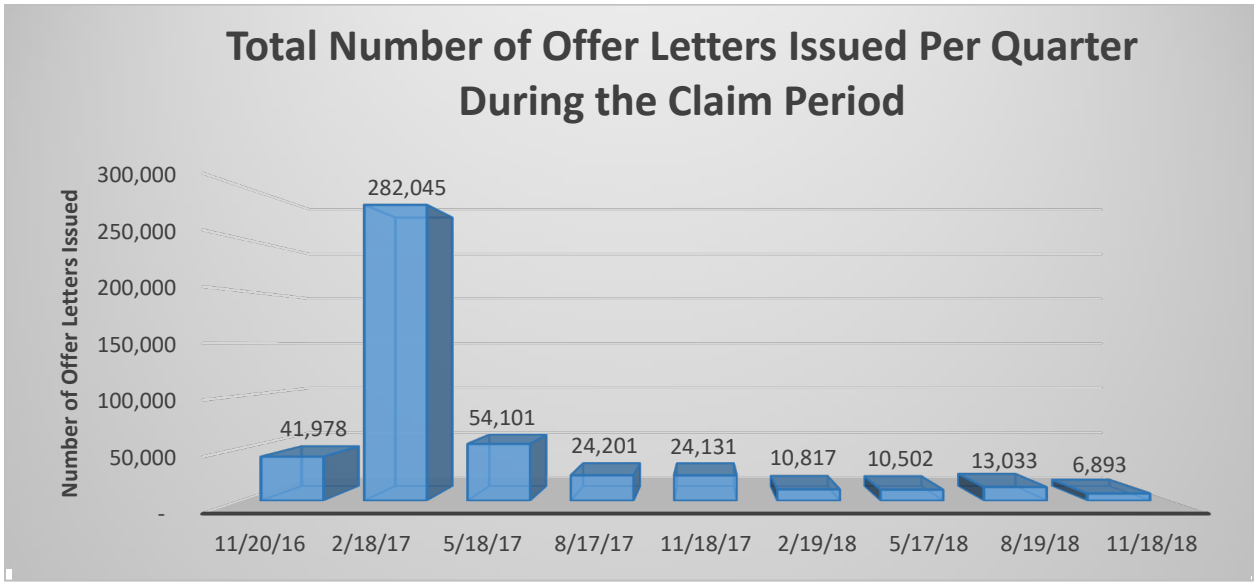


Chart 2-19 reflects offer letters issued during the Claim Period to Owners and Current Lessees by remedy selections.

Chart 2-19

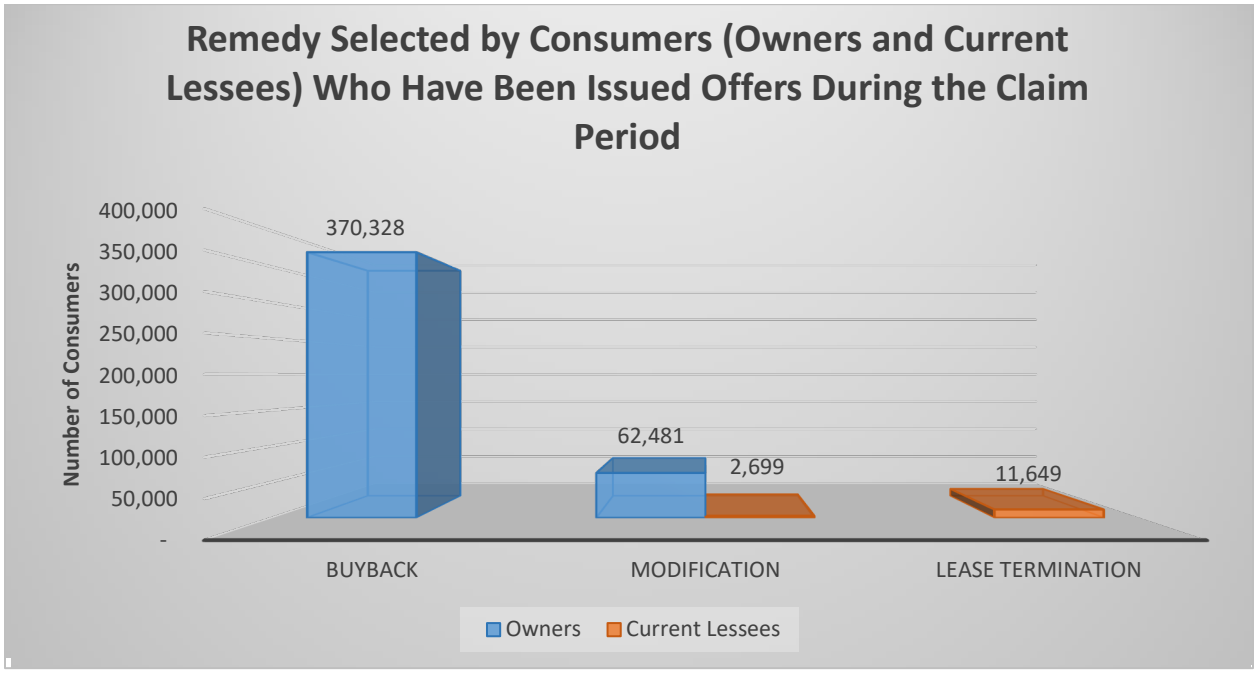
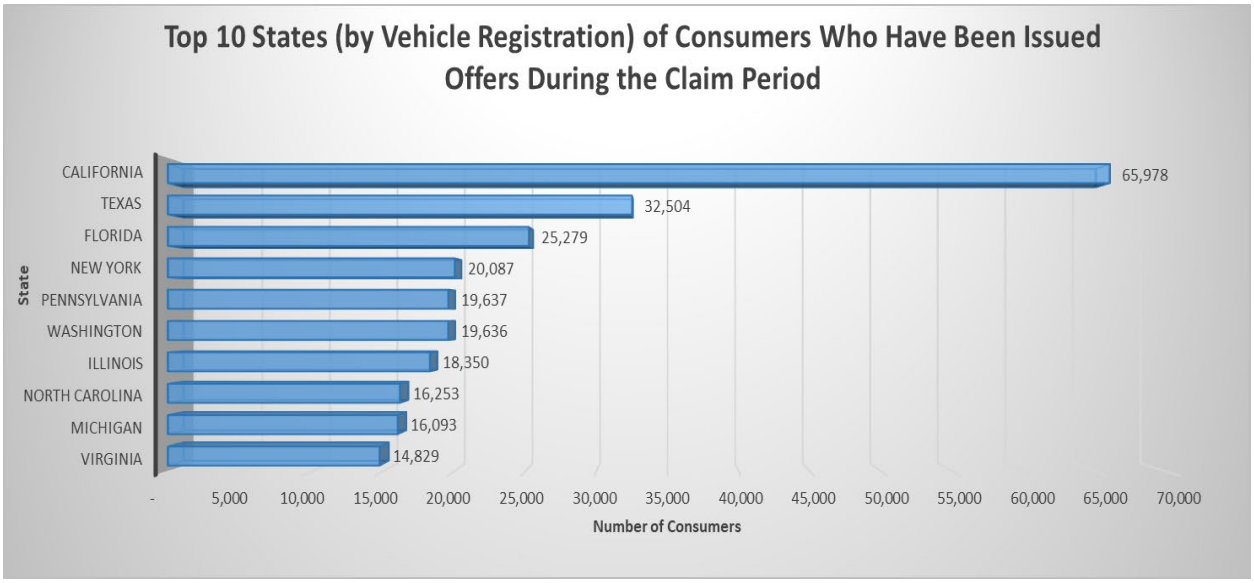


Chart 2-19 excludes 13,621 Sellers, 4,649 Former Lessees, and 2,267 consumers with claims associated with totaled vehicles because the only remedy available to those consumers is

Restitution. An additional three offers reflected an inconsistency between the consumer's eligibility category and the remedy selection, which generally were Owner claims associated with totaled vehicles with an eligibility category that had not yet been changed by Volkswagen to align with the Restitution-only remedy available to these consumers. The remaining four offers were associated with claims subsequently deemed not eligible.

Chart 2-20 reflects, through November 18, 2018, the top ten states by vehicle registration of consumers who had received offer letters.

Chart 2-20



Through November 18, 2018, of the $8.450 billion associated with offer letters extended by Volkswagen, Owners accounted for about $8.326 billion. Of these, about $4.227 billion related to Owners with loans, about $4.096 billion related to Owners without loans, and about $3.2 million related to Owners who purchased their vehicles off lease after September 18, 2015, but before June 28, 2016.[17] The remainder was split among Current Lessees (14,349 offer letters

[17] As of November 18, 2018, there were 168 instances where the loan balance exceeded 130% of the offer amount, such that the final amount provided to the consumer -- absent potential adjustments at closing -- would not satisfy

valued in the aggregate at about $51.2 million); Sellers (13,621 offer letters valued in the aggregate at about $41.8 million); Former Lessees (4,649 offer letters valued in the aggregate at about $15.7 million); and consumers with claims associated with totaled vehicles (2,267 offer letters valued in the aggregate at about $14.6 million).

Chart 2-21 shows the average, minimum, and maximum awards issued to consumers based on eligibility category and offer selection through November 18, 2018.

Chart 2-21[18]

Eligibility Category and Offer Selection	Average Value	Minimum Value	Maximum Value
Owner – Buyback	$21,465.21	$5,225.00	$45,407.93
Owner – AEM	$6,020.61	$1,280.47[19]	$9,991.13
Current Lessee – AEM	$3,557.67	$2,506.50	$4,899.30
Current Lessee – Early Lease Termination	$3,566.18	$2,609.00	$4,954.80
Former Lessee Restitution	$3,374.57	$2,504.00	$4,899.30
Seller Restitution	$3,069.29	$2,550.00	$6,996.73

Finally, Chart 2-22 shows, through November 18, 2018, data related to two categories of non-standard claimants: (i) military personnel deployed overseas with their vehicles; and (ii) decedent estates.

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the entire loan balance 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 $2,630. However, there were outliers that skewed the average, including eight claims with loan balances in excess of $10,000. One hundred thirty claims had loan balances of less than $3,000. Thus, the median value of the loan balance across these claims, approximately $1,290, is perhaps a better representation of the composition of these claims.

[18] Chart 2-21 does not include figures for consumer claims associated with totaled vehicles because of a number of claims where the most recent offer letter still reflected an offer amount that would be associated with a Buyback or Early Lease Termination, and had not yet been adjusted to account for the vehicle having been totaled.

[19] This amount reflects the final one-third payment associated with the completion of a Phase Two AEM on a Generation 3 vehicle by a consumer who acquired the vehicle after the Phase One AEM had been completed.

Chart 2-22

	Military Overseas	Decedent Estates
Registrations	2,646	1,222
Deemed Complete and Eligible	2,581	1,068
Offer Letters Issued	2,570	1,047
Total Offer Amounts	$49,982,078.11	$19,867,140.92

Notably, the military overseas claim data included all consumers who self-identified as military overseas in their registrations. Through outbound communications to these individuals, as of November 18, 2018, Volkswagen had identified 745 claims where both the consumer and vehicle were located overseas. The status of these claims and information regarding completed closings is discussed in greater detail in Section III below. The remaining consumers who identified as military personnel serving overseas either have returned to the United States or currently keep their vehicle in the United States. For either category, closing can proceed in the United States in the normal course.

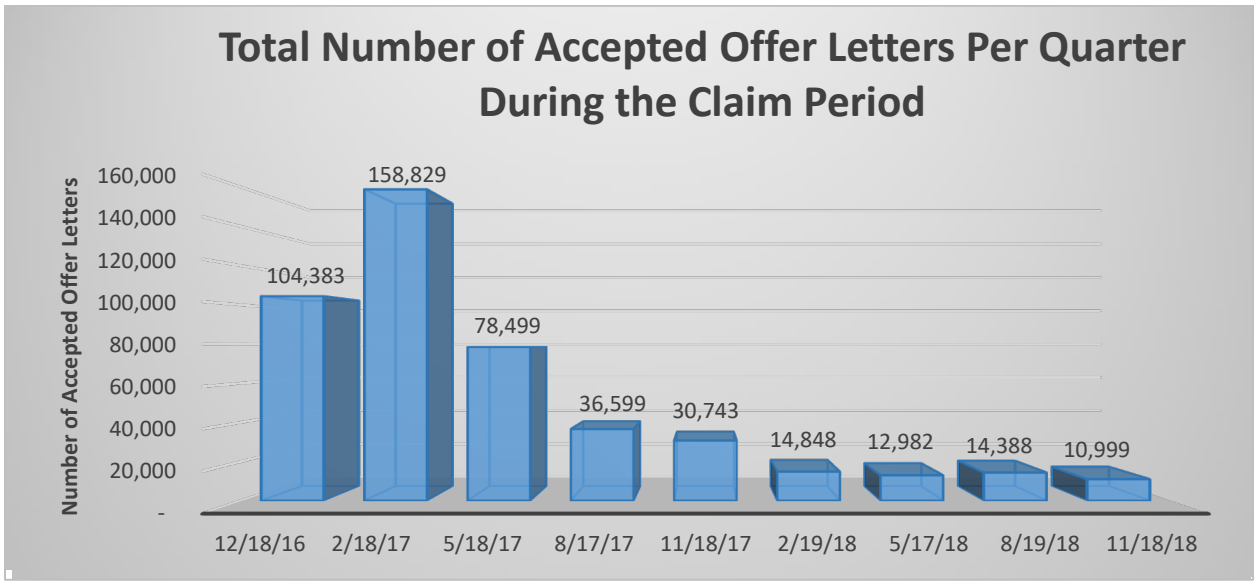
F. Appointments and Closings

As of November 18, 2018, a total of 462,270 consumers had accepted offer letters from Volkswagen, the aggregate value of which totaled $8,382,983,831.66.[20] Of these, 440,384 offer letters were issued to individuals with an aggregate value of $7,977,788,926.07, and the remaining 21,886 offer letters were issued to businesses with an aggregate value of $405,194,905.59. During this quarter, 10,999 consumers accepted offer letters, the aggregate value of which totaled $177,157,559.08. Consumers with approved offers must complete their selected remedy by December 30, 2018 to receive compensation under the terms of the Resolution Agreements.

[20] In addition to Owners and Current Lessees, this figure includes Former Lessees and Eligible Sellers who were not required to proceed through the closing phase because they did not have possession of an Eligible Vehicle. Information on payments made to Former Lessees and Sellers is set forth below.

Chart 2-23 shows the number of accepted offer letters during each quarter of the Claim Period.

Chart 2-23



As of November 18, 2018, a total of 379,027 consumers had scheduled closing appointments for a Buyback or Early Lease Termination, including 9,288 consumers who had scheduled closing appointments during this quarter.[21] Within this group: 373,623 consumers (98.6%) had appointments that resulted in the completion of a closing; 3,301 consumers (0.9%) had open, scheduled appointments that had yet to occur; and 2,103 consumers (0.6%) had an appointment that was cancelled and that they had yet to reschedule.[22]

[21] In addition to Former Lessees and Sellers who do not need to proceed through the closing process, appointment figures associated with accepted offers also exclude consumers whose claims are associated with totaled vehicles, or who have scheduled AEMs because AEM appointments are coordinated directly with dealerships. Information through November 9, 2018 on completed AEMs is set forth below.

[22] The substantial majority of these claims with cancelled appointments that had not been rescheduled are instances where consumers elected to change their remedy selection from a Buyback to an AEM. Data on completed AEMs is reported separately below. Most of the remainder were claims related to vehicles that were totaled after the appointment was scheduled such that the only remedy available to the consumer was Restitution and no closing appointment was required.

Chart 2-24 shows at different times during the Claim Period the change in the number of open and closed appointments for Owners and Current Lessees who elected a Buyback or Early Lease Termination remedy.

Chart 2-24

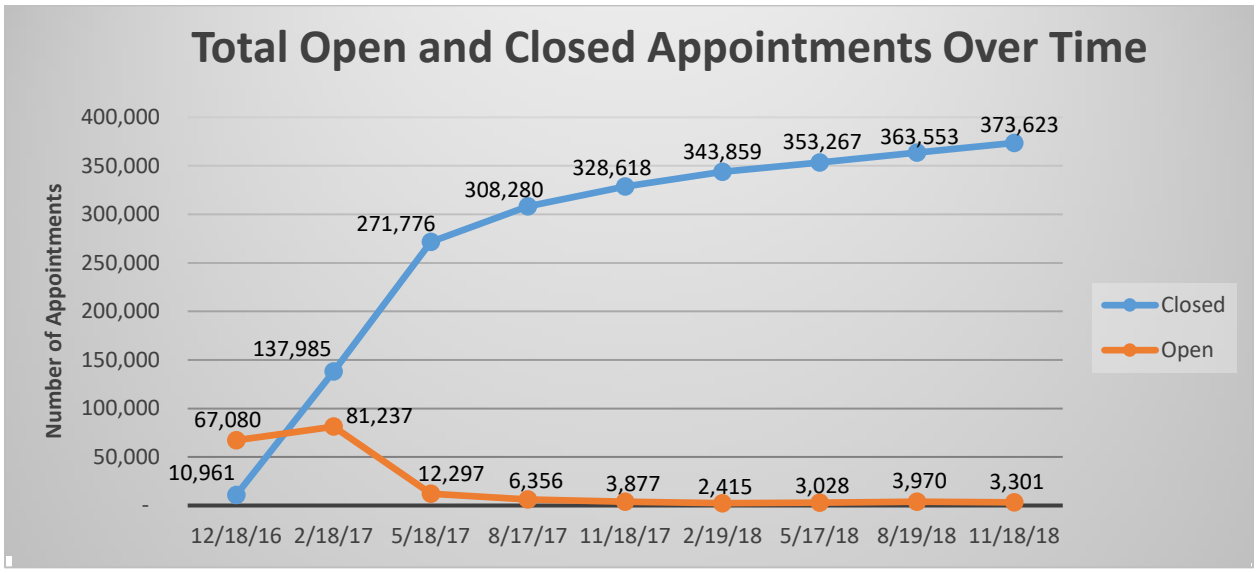
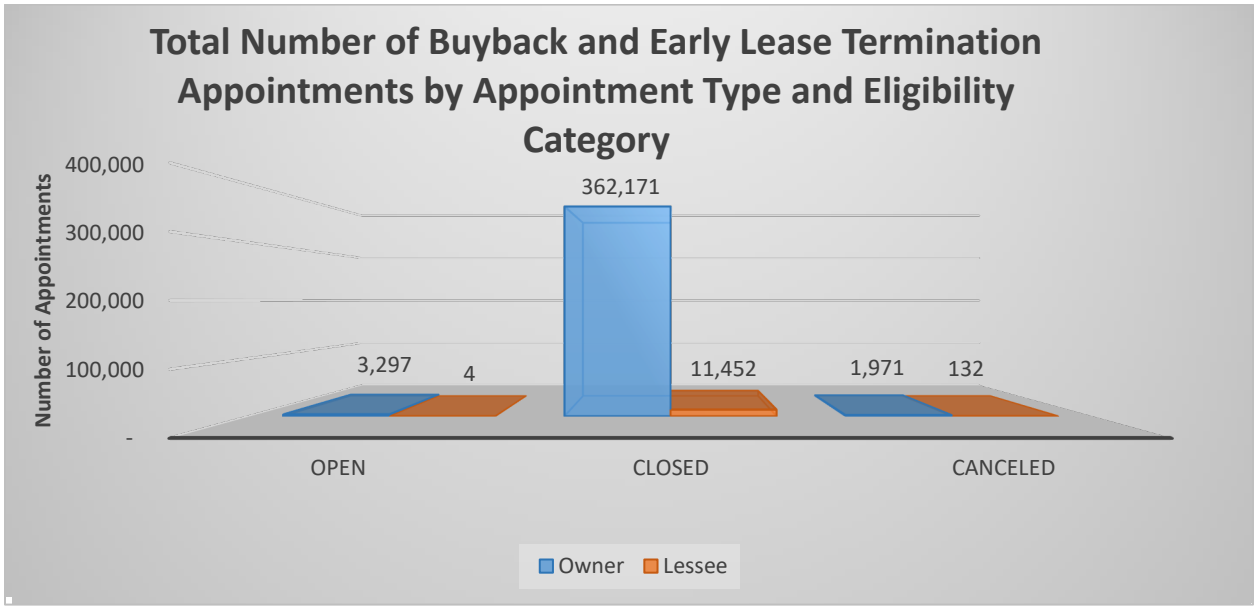


Chart 2-25 shows, for consumers who had scheduled appointments for Buybacks or Early Lease Terminations as of November 18, 2018, the total number of appointments by appointment type across the Owner and Current Lessee eligibility categories.

Chart 2-25



Through November 18, 2018, the most common locations where appointments were scheduled (states and cities) are set forth in Charts 2-26 and 2-27, respectively.

Chart 2-26

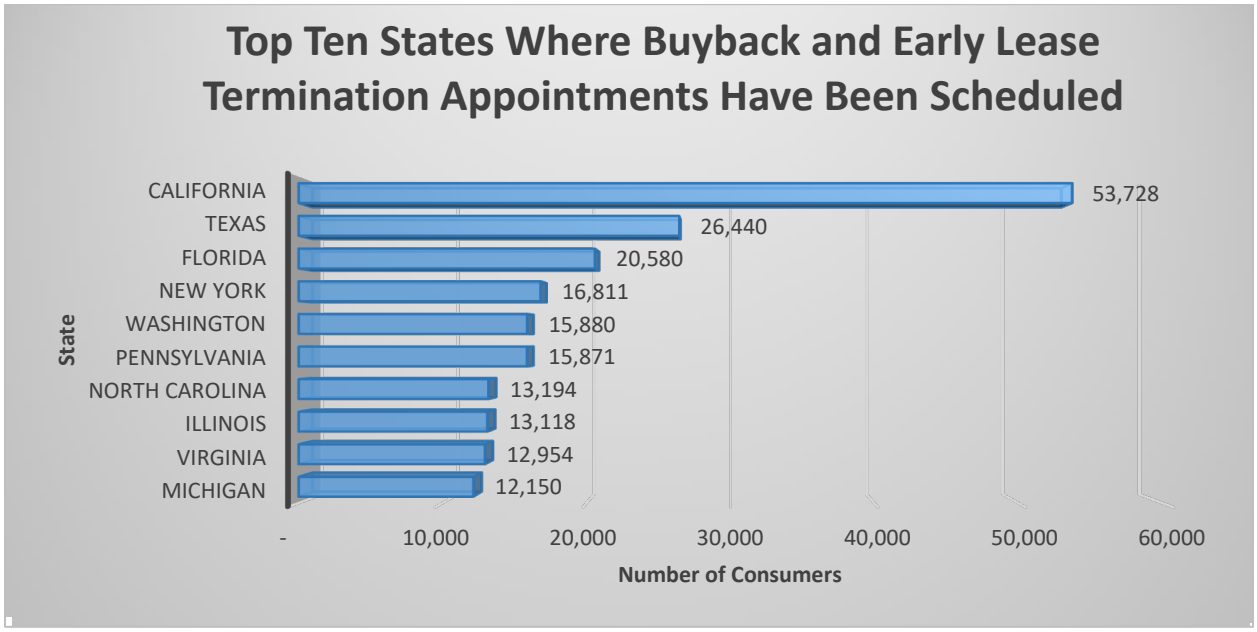
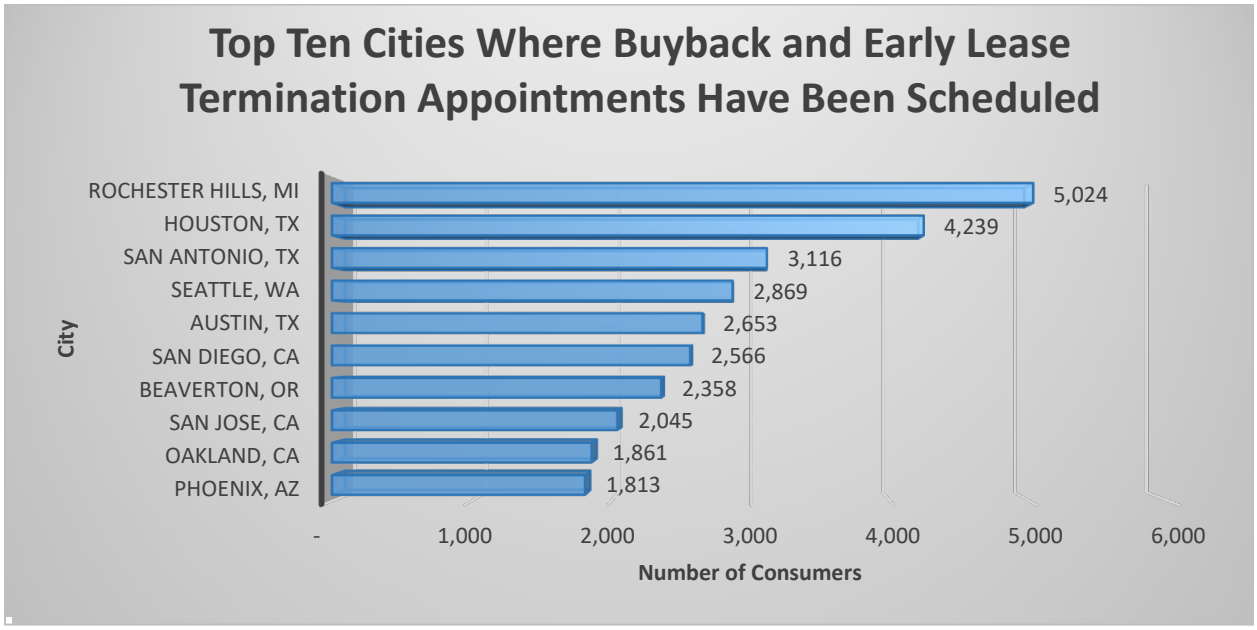


Chart 2-27



As of November 18, 2018, there had been a total of 86,824 instances where scheduled appointments had resulted in cancellation. Of these, 78,768 (90.7%) were cancelled at the consumer's request. Other reasons for cancellations included: (i) the consumer not showing up to the closing appointment (2,976 instances); (ii) the vehicle's mileage at turn-in requiring Volkswagen to reduce the amount owed to a consumer who elected to be paid by check, necessitating that Volkswagen issue a new check for the correct amount (1,388 claims); (iii) the title not being brought to the closing (573 instances); (iv) the individual with power of attorney not being present at the closing (338 instances); and (v) the title holder not being present at the closing (312 instances).

Across all 373,623 consumers who had proceeded through closing as of November 18, 2018 for a Buyback or Early Lease Termination, Volkswagen had issued payments to, or on behalf of, consumers totaling $7,830,065,930.03. Chart 2-28 reflects the remedies that this

population had selected.[23] Chart 2-29 shows the top ten states for consumers who proceeded through closing, based on the state in which their vehicle was registered.

Chart 2-28

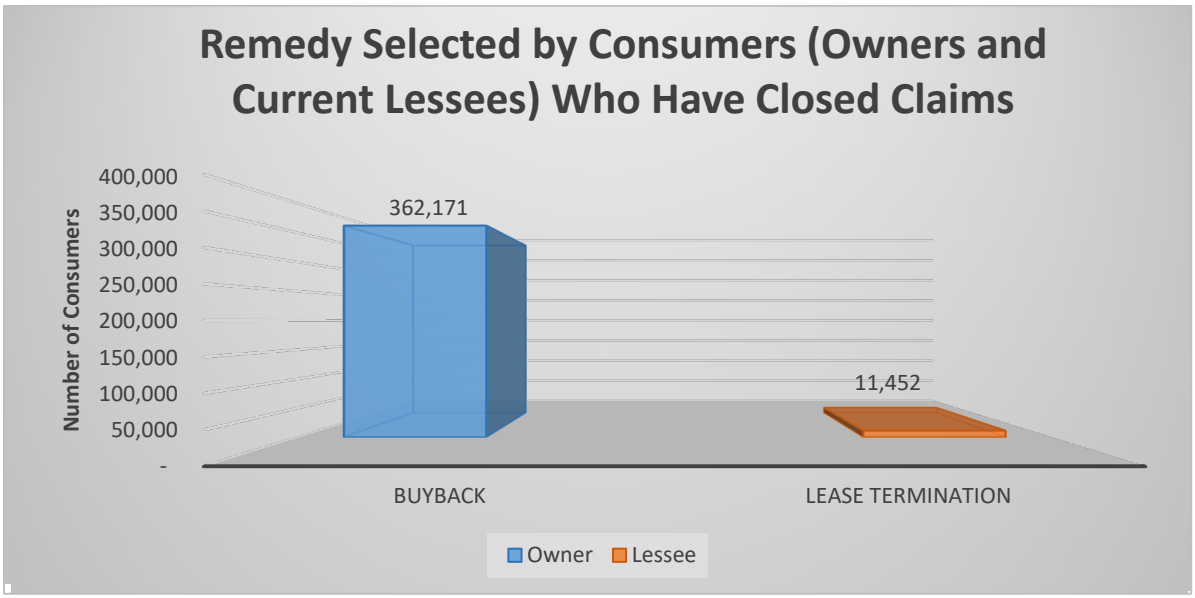
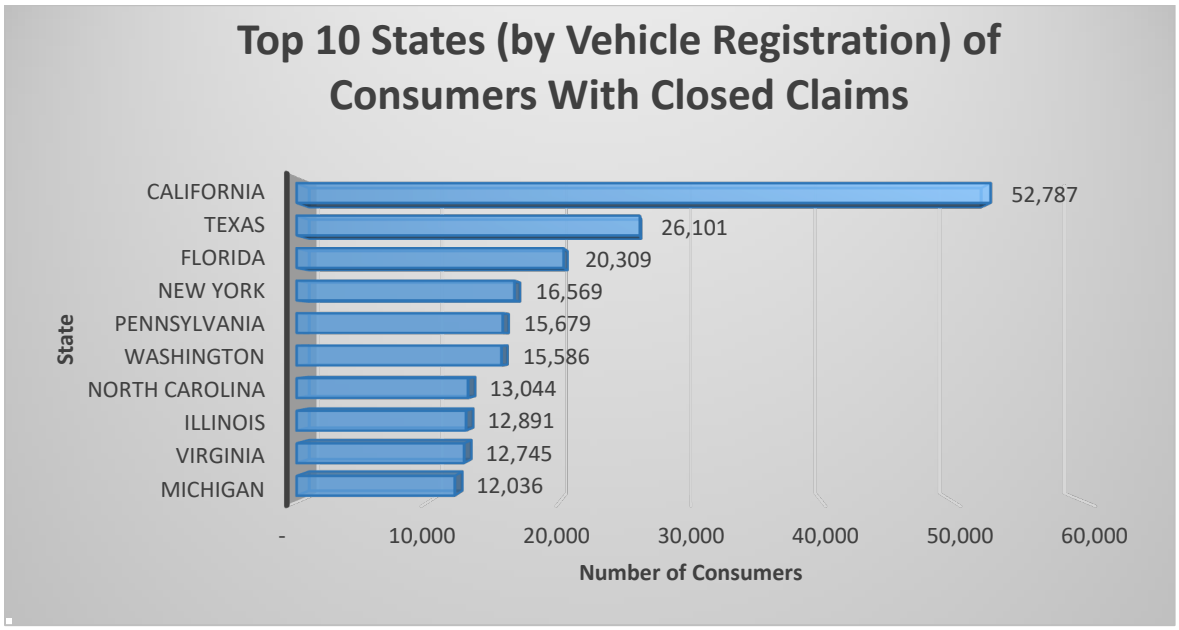


Chart 2-29



[23] Consumers proceeding through the closing process have the choice to receive funds from Volkswagen by electronic funds transfer ("EFT") or by check. As of November 18, 2018, across closed appointments, approximately 75.9% of consumers have elected to be paid by EFT.

With respect to AEM remedy selections, as of November 9, 2018, a total of 39,238 consumers with Generation 1 Vehicles and 10,874 consumers with Generation 2 automatic transmission Passats had completed AEMs on their vehicles. Chart 2-30 shows the status of those consumers relative to whether they also have completed the claims process and received payment.

Chart 2-30

	Completed AEM: Generation 1 Vehicles	**Completed AEM: Generation 2 Automatic Transmission Passats**
Completed Claims Process	37,412	10,418
Pending Completion of the Claims Process[24]	428	102
No Claim Registered or Claim Cancelled	1,398	354

Eligible consumers with Generation 1 Vehicles and Generation 2 Passats equipped with automatic transmissions who complete the claims process are entitled to full payment of the offer amount once the AEM is completed. Volkswagen had issued payments totaling approximately $209.77 million and $65.53 million, respectively, to these consumers.[25]

The AEM for Generation 3 Vehicles is completed in two phases. The first phase -- removal of the defeat device software -- triggers a two-thirds payment to a vehicle owner who has submitted an eligible and approved claim. The second phase of the AEM, approved by EPA and CARB on April 18, 2018, involves implementing new emissions control mechanisms that further reduce emissions output and maintain emissions performance for the full useful life of the

[24] The overwhelming majority of these claims are instances in which offers had been extended by Volkswagen to consumers but had not yet been accepted.

[25] Aggregated payment figures for AEM claims are derived from Volkswagen data provided each month.

vehicle. Completion of the second phase of the AEM triggers the remaining one-third payment to the vehicle owner who has submitted an eligible and approved claim. Notably, vehicle owners who complete both phase one and phase two of the AEM contemporaneously will receive their entire award once the AEM is completed.

As of November 9, 2018, a total of 12,761 consumers had completed the first phase of the AEM process on their Generation 3 Vehicles. Of these, 12,346 also had completed the claims process, triggering a payment under the terms of the Resolution Agreements to the consumer of two-thirds of the AEM Restitution amount. Volkswagen had issued payments totaling approximately $51.74 million on these claims. Additionally, there were 124 claims associated with Generation 3 Vehicles where phase one of the AEM had been completed at a dealership and the consumer had begun but had not yet completed the claims process. The first phase of the AEM had been completed on an additional 291 Generation 3 Vehicles where no consumer claim had been filed or a previously filed claim had been cancelled.

Across the 12,761 consumers who had completed the first phase of the AEM for Generation 3 Vehicles as of November 9, 2018, 10,869 consumers had also completed the second phase of the AEM.[26] Volkswagen had paid out approximately $29.2 million to consumers who had completed the second phase of the AEM.

The closing figures above do not include the 13,404 Sellers, 4,483 Former Lessees, or 2,120 consumers with claims associated with totaled vehicles who had been paid on claims as of November 18, 2018, because these consumers were not required to go through the closing

[26] This figure is slightly lower than the figure that was reported in August 2018 primarily as a result of recategorizing certain completed AEMs across the different categories (e.g., Other Vehicles) reflected in Charts 2-31 and 2-32 below.

process. Through November 18, 2018, Volkswagen had aggregately paid out to these consumers $41,176,664.62, $15,118,414.73, and $12,523,210.59, respectively.

During the August 2018 reporting period, the Claims Supervisor updated its analysis through mid-July 2018 of all payments made by Volkswagen to consumers to confirm that no consumers received payouts less than the amount to which they were entitled pursuant to the terms of the Resolution Agreements. Following the close of the Claim Period, the Claims Supervisor will update this analysis to include all payments since mid-July 2018 so that all payments issued during the course of the Claim Period will have been analyzed.

Finally, as of November 18, 2018, a total of 3,963 consumers had effectively opted out of the Class Action Settlement. Despite initially opting out, 2,892 of those consumers subsequently reached a resolution with Volkswagen or revoked their election to opt out, while 1,071 consumers had done neither.

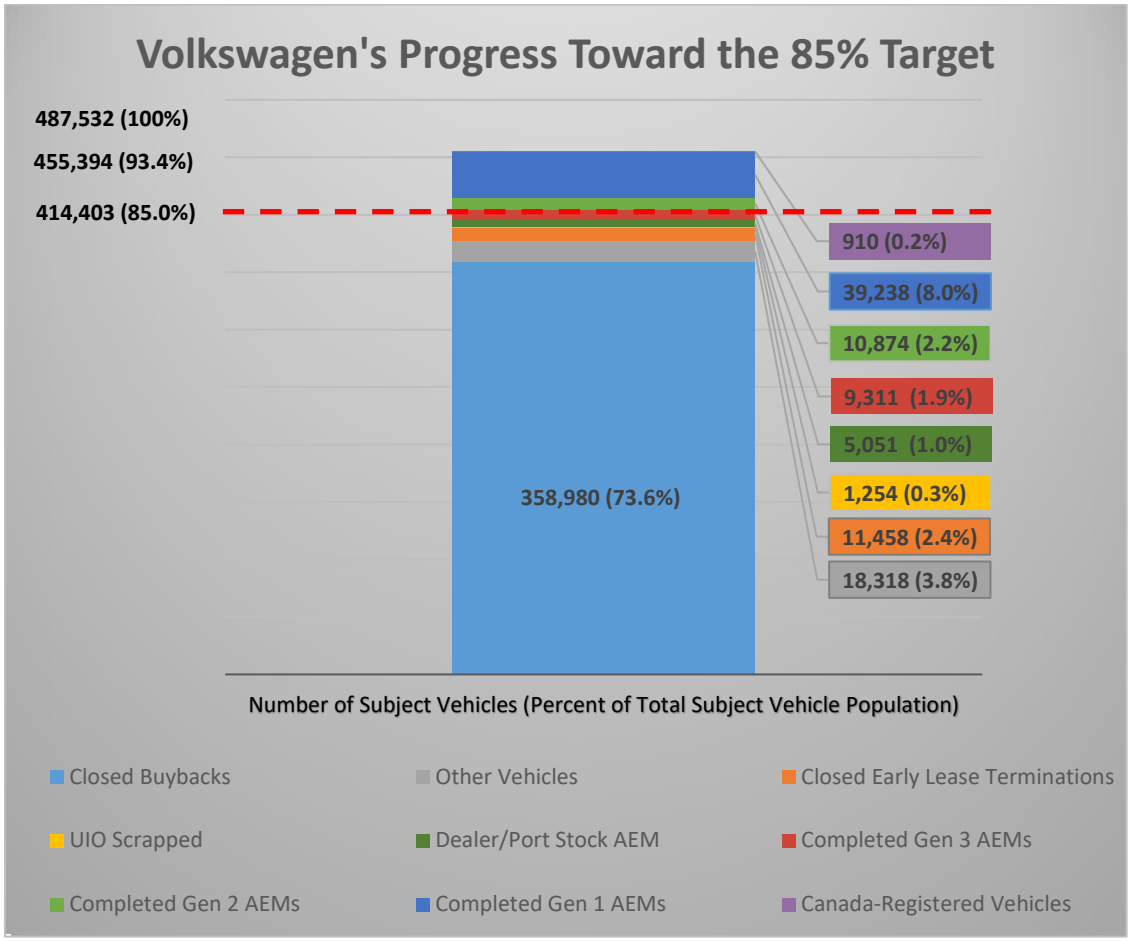
G. Progress Toward the 85% Requirement

As of the May 2018 reporting period, Volkswagen had satisfied the requirement in the DOJ Consent Decree that the company remove from commerce or modify 85% of the Subject Vehicles captured within the settlement.[27] Chart 2-31 generally reflects data as of November 18, 2018 on the number of Subject Vehicles that Volkswagen had removed from commerce or modified.[28]

[27] The DOJ Consent Decree provides that "the total number of 2.0 Liter Subject Vehicles is 487,532 (499,406 vehicles less scrapped vehicles as of October 1, 2015)."

[28] Figures in Charts 2-31 and 2-32 relating to Polk Units in Operation ("UIO") Scrapped and Other Vehicles are based on Volkswagen data as of September 30, 2018. The population of Other Vehicles includes certain fleet vehicles associated with completed Buyback or Early Lease Termination appointments, and certain completed AEMs on vehicles that were part of Volkswagen dealers' or port stock at the time Volkswagen issued the stop-sale order in response to the notices of violation. To avoid double-counting, these vehicles are excluded from the Buyback, Early Lease Termination, and Dealer/Port Stock AEM figures reflected in Chart 2-31 and counted only in the Other Vehicles figure. The Buyback and Early Lease Termination figures also account for certain vehicles associated with consumers who opted out of the settlement. While these consumers are outside of the Class, their

Chart 2-31



The "Other Vehicles" category depicted in Charts 2-31 and 2-32 represents vehicles Volkswagen had removed from commerce outside of the Claims Program. This includes, among other things, leased vehicles that were returned by a consumer to VW Credit, Inc. or Audi Financial Services, used vehicles that Volkswagen acquired from dealerships, and company cars previously utilized by Volkswagen employees that have since been retired.

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vehicles are within the population of Subject Vehicles and thus are counted toward the 85% target once they are removed from commerce or modified. Similarly, vehicles purchased in the United States but registered in Canada are also included in measuring Volkswagen's progress toward the 85% requirement because these VINs are within the defined population of Subject Vehicles. The figures in Chart 2-31 for "Canada-Registered Vehicles" capture only completed Buybacks and Early Lease Terminations. Data on Canadian-registered vehicles that have received an AEM are subsumed within the AEM figures shown by vehicle generation. Finally, the AEM figures in Charts 2-31 and 2-32 are based on data provided by Volkswagen as of November 9, 2018.

Chart 2-31 does not include 1,892 consumers with Generation 3 Subject Vehicles who, as of November 9, 2018, only had completed the first phase of the AEM process. Likewise, Chart 2-31 excludes 6,831 Generation 3 Subject Vehicles that were part of Volkswagen dealers' or port stock at the time Volkswagen issued the stop-sale order in response to the notices of violation and had not yet been shown to have completed phase two of the AEM.

As of the May 2018 reporting period, Volkswagen also had satisfied the requirement in the DOJ Consent Decree that the company remove from commerce or modify 85% of the Subject Vehicles registered in California that were captured within the settlement.[29] Chart 2-32 generally reflects data as of November 18, 2018 on the number of Subject Vehicles registered in California that Volkswagen had removed from commerce or modified.

[29] The DOJ Consent Decree states that "the total number of all 2.0 Liter Subject Vehicles registered in California is 70,814."

Chart 2-32

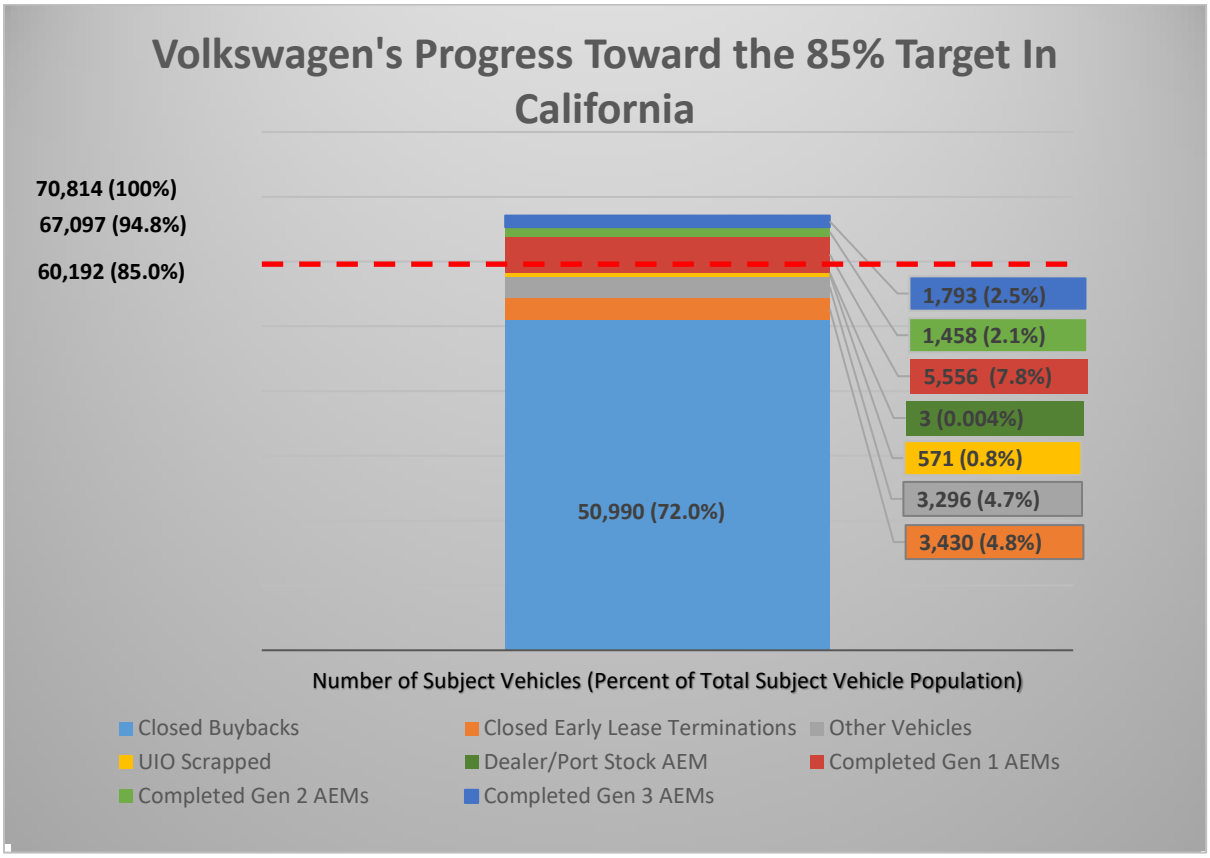


Chart 2-32 does not include 340 consumers with Generation 3 Subject Vehicles from California who, as of November 9, 2018, had only completed the first phase of the AEM process. Likewise, Chart 2-33 excludes six Generation 3 Subject Vehicles that were part of Volkswagen dealers' or port stock at the time Volkswagen issued the stop-sale order in response to the notices of violation and had not yet been shown to have completed phase two of the AEM.

III. <u>Consumer Experience</u>

As reflected in the above performance metrics, Volkswagen was generally effective in processing claims for the vast majority of remaining eligible consumers, resulting in the timely scheduling and completion of Buybacks, Early Lease Terminations, and AEMs, and rendering of payments consistent with the terms of the Resolution Agreements. This section provides updates

regarding certain, key components of the Claims Program and provides analyses of the company's delivery of customer support over the course of the quarterly reporting period.

A. Claims Program Updates

1. Preparations for the Conclusion of the Claims Program

The company continues to closely monitor staffing levels and refine processes as necessary to ensure, among other things, that remaining claims are efficiently processed and closing appointments for eligible claims are timely scheduled and completed.

As discussed in Section II, Volkswagen extended the deadline for consumers to cure deficiencies until the end of September. On September 21 and 26, 2018, the company sent 1,611 and 1,383 notices, respectively, to consumers who submitted a deficient claim on or after August 1, 2018 and that were still deficient as of the notice date advising them that the company had agreed to accept supplemental documents and information through September 30, 2018.[30] As described in Section II above, the Claims Supervisor evaluated all claims with active deficiencies as of October 1, 2018 to assess their accuracy before any such claims were converted to ineligible status for failure to timely submit a complete claim.

Additionally, Volkswagen sent the following series of e-mails to consumers after the claim submission deadline to remind them of other approaching deadlines and to take the necessary steps to complete their claims:

- *AEM Appointment Reminder*. On September 14, 2018, the company sent 4,024 notices to consumers who had accepted an AEM offer, but had not yet scheduled an AEM appointment, advising them, among other things, that: (i) the Claims Program ends on December 30, 2018 and they should schedule an appointment as soon as possible; (ii) appointments are filling quickly and Volkswagen cannot guarantee appointment availability, particularly given the December holidays and need for available parts; (iii)

[30] These notices were provided to consumers who submitted claims shortly before the September 1, 2018 claim submission deadline to ensure that they had a reasonable period to cure any deficiencies identified by Volkswagen.

if they delay in scheduling their appointment, they may be unable to find an appointment at their preferred dealer prior to December 30, 2018; and (iv) although consumers are permitted to have an AEM performed free of charge after December 30, 2018, they will not receive compensation if it occurs after that date.

- *CRC Appeal Notice*. On September 24 and 26, 2018, and October 1 and 10, 2018, the company sent notices regarding the January 13, 2019 CRC appeal deadline to a combined 122,385 consumers who recently: (i) received a final offer letter; (ii) completed a claim; or (iii) had a claim deemed ineligible.

- *Buyback and Early Lease Termination Appointment Reminder*. On September 27, 2018, the company sent 6,450 notices to consumers who had accepted a Buyback and Early Lease Termination offer but had not scheduled a closing appointment. These notices included substantially similar information to that contained in the September 14, 2018 AEM notice referenced above. However, these notices also advised recipients that if they schedule a closing appointment in late December 2018 and do not bring all the required paperwork, Volkswagen may be unable to reschedule their closing appointment by December 30, 2018, which would result in compensation not being provided.

- *Offer Letter Reminder*. On November 13, 2018, the company sent notices to 3,253 consumers who had received an AEM offer but had not completed their AEM, and to 3,451 consumers who received a Buyback or Early Lease Termination offer but had not completed their respective remedy reminding them that, if they do not complete their remedy by December 30, 2018, they will not be able to receive benefits under the Claims Program. The notices encouraged these consumers to return their signed and notarized offer letter to Volkswagen for review or, to the extent applicable, remedy any deficiencies with their offer letter by December 1, 2018. Additionally, the notices advised that, if a signed offer letter is submitted after December 1, 2018, there is significant risk that it will not be reviewed and approved in time to meet the December 30, 2018 deadline for consumers to complete their approved remedies and be entitled to compensation.

To prepare for anticipated increased demand for Buyback and Early Lease Termination appointments, the company added nineteen virtual closing agents over the quarterly reporting period. Moreover, the company has made accommodations for consumers who had missed

closing appointments, needed to reschedule closing appointments, or otherwise had special scheduling needs. By way of example, Volkswagen: (i) offered closing appointments to consumers on days that their preferred dealership ordinarily does not schedule closing appointments, including on weekends; (ii) proactively contacted consumers to reschedule appointments after they had missed their closing appointments; and (iii) worked with dealers to permit consumers to either attend an appointment a day or two earlier than previously scheduled or to arrive early or late to an already-scheduled appointment without the need to reschedule.

The Claims Supervisor will continue to closely monitor all aspects of the Claims Program as the December 30, 2018 deadline for eligible consumers to complete their approved remedy approaches.

2. Non-Standard Claims

a. Branded Title Claims

As of November 20, 2018, Volkswagen had completed processing all remaining branded title claims that had been on hold, in some cases for many months, pending discussions between the Parties and the CRC regarding eligibility.[31] Since the implementation of the agreed-upon branded title framework on February 26, 2018, Volkswagen has processed 5,559 branded title claims, including 1,643 claims over the course of the quarterly reporting period.[32]

[31] Title brands include salvage, rebuilt, reconstructed, and prior salvage, and indicate, among other things, whether a vehicle has sustained damage or may be unsafe to drive. A vehicle branded with a salvage title is typically one that was damaged to the point that it was declared a total loss by an insurance company, often because the cost to repair the vehicle was greater than the value of the vehicle in its damaged state. In some states, a vehicle with a salvage title cannot be registered with the applicable department of motor vehicles. However, the nomenclature related to title brands varies from state to state and has been analyzed accordingly, so that the eligibility requirements are consistently applied.

[32] Included in these totals and the totals that follow in this section are claims submitted by consumers who Volkswagen identified as having acquired a significant number of vehicles with branded titles for the purpose of participating in the Claims Program. Although some of these consumers also submitted claims involving vehicles with non-branded, clean titles, Volkswagen previously placed all claims submitted by these consumers on hold while it continued discussions with the PSC and the CRC, and analyzed the details surrounding these consumers' acquisitions of their vehicles.

Chart 3-1 reflects, as of November 18, 2018, the company's branded title claims determinations for both the Claim Period and the quarterly reporting period.

Chart 3-1

Branded Title Claims Determinations	Total Claims	Claims During the Quarterly Reporting Period
Eligible	2,331	286
Ineligible	3,228	1,357

The majority of eligible claims processed have involved vehicles with rebuilt titles, and the majority of ineligible claims have involved vehicles that had salvage titles as of February 26, 2018.

b. Canadian Claims

Volkswagen completed an additional 115 claims this quarterly reporting period for consumers who had purchased vehicles in the United States but registered them in Canada.[33] As of November 19, 2018, the company reported that it had received a total of 1,201 such claims (an increase of 46 claims from the prior quarterly reporting period) and completed remedies in connection with 1,041 claims. A total of eighty-one claims had been deemed ineligible. Chart 3-2 reflects the number of completed claims, as well as the claims remaining to be completed by remedy selection.

[33] As previously reported, these claims initially were considered 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 between September 18, 2015 and June 28, 2016. Upon further analysis, it appeared that these claims were not covered by either the United States or Canadian settlements. Volkswagen ultimately determined to provide compensation to consumers who purchased an Eligible Vehicle in the United States but registered it in Canada if they otherwise meet the eligibility requirements.

Chart 3-2[34]

Canadian Claims by Remedy Selection	Total Eligible/Completed Claims	Eligible/Completed Claims During the Quarterly Reporting Period	Claims Remaining to Be Completed
Buybacks	911	94	59
AEMs	126	19	20
Seller Restitution	4	2	0

c. Military Overseas Claims

Volkswagen continued to make progress completing claims submitted by military personnel deployed overseas with their vehicles. As of November 19, 2018, the company reported that it had received a total of 745 such claims -- none of which had been deemed ineligible -- and had completed 678 claims (91.0%). This includes 46 claims completed during this quarterly reporting period.[35] Chart 3-3 reflects the number of completed claims and claims remaining to be completed by the remedy selected.

Chart 3-3

Military Overseas Claims by Remedy Selection	Total Completed Claims	Completed Claims During the Quarterly Reporting Period	Claims Remaining to Be Completed
Buybacks	629[36]	33	53
AEMs	49	13	14

Chart 3-4 lists the sixty-three AEM claims by the country in which the consumer who submitted the claim was stationed with his or her vehicle.

[34] Chart 3-2 excludes the eighty-one claims that had been deemed ineligible.

[35] The total number of reported completed claims decreased since the last quarterly reporting period as a result of Volkswagen refining its method for tracking these claims. Previously, the company had inadvertently included claims in the completed category where an offer had been extended but the remedy had not been completed.

[36] Buybacks were completed in more than twenty different countries outside of the United States.

Chart 3-4

AEM Claims Submitted by Overseas Military Personnel	
Country	**# of Claims**
Germany	45
Italy	8
United Kingdom	4
Belgium	1
Bulgaria	1
Finland	1
Guam	1
Iceland	1
Luxembourg	1

As detailed in the August 2018 Report, Volkswagen first implemented a process to complete AEMs for military personnel stationed in Germany where the vast majority of vehicles are located. Utilizing a Technical Service Center ("TSC") in Germany to perform the AEMs, forty-two of forty-five AEMs for those military personnel have been completed.

Due to the success the company has achieved in completing AEMs in Germany, it implemented a similar process to complete AEMs for vehicles located in Italy, which has the next highest number of AEM claims from military personnel stationed overseas with their vehicles. The process involves military personnel in Italy delivering their vehicle to their preferred dealership, at which point it is transported to a TSC in Germany.[37] All consumers are provided a complimentary loaner vehicle until the AEM is completed. At the conclusion of the reporting period, Volkswagen had completed seven AEMs at the TSC in Germany for military personnel stationed in Italy.

The company is in the process of contacting the nine eligible military personnel stationed in European countries other than Germany and Italy to arrange for their vehicles to be shipped to

[37] Although the company initially considered completing the AEMs at dealerships in Italy, it ultimately determined to utilize the TSC in Germany.

the TSC in Germany for the completion of their AEMs. Additionally, Volkswagen continues to consider options for completing AEMs for the eligible service member stationed outside of Europe. Due to the logistical challenges in completing claims associated with military personnel stationed overseas, the company anticipates that the completion of AEMs and Buybacks for these consumers may continue into early 2019.

d. Hawaiian Claims

Volkswagen reported completing seventy-five closings for consumers residing on Hawaiian Islands that do not have a Volkswagen dealership, including two claims over the course of the quarterly reporting period. Forty of the claims have been completed through on-island appointments and thirty-five claims have involved instances where the consumer shipped the vehicle to a designated location and was reimbursed by Volkswagen for expenses incurred. As of November 19, 2018, no claims remained to be processed.

3. Claims Review Committee

As of November 25, 2018, the CRC had received 4,598 unique appeals -- an increase of 1,630 appeals since the August 2018 Report -- representing fewer than 1.0% of all submitted claims.[38] The majority of appeals have challenged Volkswagen's eligibility determinations or award calculations. The CRC reached determinations on 2,514 appeals (54.7%) including 906 appeal determinations during this quarter. A total of 2,084 appeals remained to be adjudicated. The determinations reached over the reporting period are summarized as follows:

[38] As previously reported, the CRC is comprised of one Volkswagen representative, one Class Counsel representative, and a Court-appointed neutral third party. Consumer appeals are initially reviewed by the Volkswagen and Class Counsel representatives. If they agree on how the appeal should be adjudicated, then the appeal is resolved and the consumer is notified of the decision by Class Counsel. If the Volkswagen and the Class Counsel representatives cannot agree on how the claim should be resolved, then the neutral is called upon and empowered, consistent with the terms of the Amended Class Action Settlement Agreement, to make a final determination.

- The CRC denied 768 appeals;
- For 52 consumers, the CRC advised that the issues that were the subject of the appeal had previously been resolved, thus mooting the appeal;
- In 80 instances, the CRC advised consumers that they may be eligible for benefits subject to further review and confirmation of necessary documentation by Volkswagen;[39] and
- The CRC ruled in favor of the consumer in 6 instances.[40]

All decisions issued by the CRC have involved appeals in which the Volkswagen and Class Counsel representatives have agreed on the outcome. The Parties continue to work together to resolve pending appeals and will call upon the court-appointed neutral when necessary. As previously reported, the deadline for consumers to submit an appeal to the CRC is January 13, 2019. Consequently, appeal determinations will be rendered through early 2019, and closing appointments will be available to any consumers who ultimately prevail on appeal during that time and are subsequently required to schedule and complete their remedy.

4. Generation 2 AEM Software Issue

A small number of Generation 2 automatic transmission Passats for which an AEM has been performed have experienced an issue when driving at high speeds (typically over 80 miles per hour) for fifteen minutes or longer. This fifteen-minute period need not be continuous and may accumulate over multiple consecutive trips. The issue causes a Malfunction Indicator Light

[39] The CRC found that twenty-three of these consumers were potentially eligible for compensation in accordance with the protocols for the processing of branded title claims.

[40] The CRC granted three consumers compensation as a result of additional information that was provided in support of their appeals. The CRC also determined that three additional consumers were ultimately entitled to compensation despite having originally elected a remedy for which they were not eligible. Specifically, these consumers initially had selected a Buyback when they were only eligible for an AEM because their claim involved a previously-leased vehicle that they had subsequently acquired.

("MIL") to illuminate. If a vehicle that has received the AEM continues to be driven with this MIL illuminated, the vehicle will enter into "inducement," which may render the vehicle inoperable if it is not promptly taken to a dealer after the MIL is illuminated.

On November 2, 2018, Volkswagen provided notification by first-class mail to approximately 10,640 consumers who already received the AEM and approximately 515 consumers who had an approved AEM claim, but had not yet completed the AEM, advising them of the software issue and that the company has been actively working in coordination with EPA and CARB to develop a software update to correct this issue.

The notification sent to consumers who already received the AEM also advised that: (i) if the MIL illuminates, the consumer should take the vehicle to the dealer as soon as possible, so that the dealer can turn off the MIL and prevent inducement from occurring (provided that the vehicle is not again driven under the specified conditions); (ii) after the update is approved, it will be installed by a dealer free of charge; and (iii) the update will take less than one hour to complete and will not impact the drivability or other features of the vehicle.

The notification sent to consumers who had an approved AEM claim, but had not yet completed the remedy, included similar information, except it advised that: (i) installation of the AEM with the updated software calibration will take less than two hours to complete (as opposed to the one hour it would take for consumers who already had a prior version of the AEM); (ii) consumers who did not already have an AEM completed may switch to a Buyback or Early Lease Termination (as applicable) and, to do so, should contact the claims hotline no later than 30 days from the notification; and (iii) the software issue does not affect those vehicles that did not receive the original AEM and, consequently, driving above 80 miles per hour will not adversely impact the consumer's vehicle.

The Claims Supervisor will closely monitor developments related to this issue, including the company's efforts to obtain approval of the software update.

5. Post-Closing Processing of Vehicles

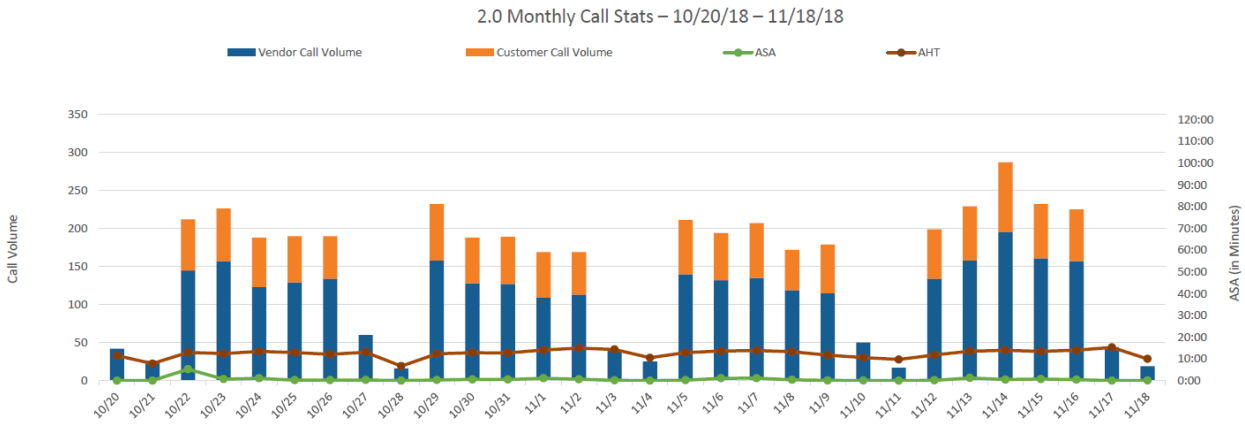
As discussed in prior reports, once a Buyback appointment is completed, arrangements are made by Volkswagen to transfer the vehicle to one of several secure storage facilities throughout the country, at which point each vehicle is inspected to determine if it should be destroyed or undergo an AEM, if one is available, and be offered for sale in accordance with an approved resale plan. 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, EPA, and CARB on a quarterly basis. The most recent data supplied by Volkswagen to the DOJ, EPA, and CARB reflects that, as of September 30, 2018, Volkswagen had reacquired 366,411 Eligible Vehicles through the Claims Program, resold 44,776 Eligible Vehicles, and destroyed 102,909 Eligible Vehicles. Accordingly, approximately 218,000 Eligible Vehicles reacquired through the Claims Program were in a Volkswagen storage facility or in transit to a storage facility as of September 30, 2018.

B. Analysis of Consumer Outreach & Volkswagen's Response

Consumer call and chat volume substantially decreased from the prior quarterly reporting period coinciding with the passing of the claim submission deadline. Between August 20, 2018 and November 19, 2018, call volume averaged 515 calls per weekday compared to 863 calls per weekday during the prior quarterly reporting period -- a decline of 40.3%. The average abandonment rate decreased from 8.6% to 5.6%, and the average speed to answer improved from

two minutes and sixteen seconds to two minutes ten seconds. The following chart depicts the daily hotline call volume and related data from October 20, 2018 to November 18, 2018.[41]

Chart 3-5



Between August 20, 2018 and November 18, 2018, the company received an average of 228 chats per weekday compared to 420 chats per weekday during the prior quarterly reporting period -- a decline of 45.7%. The abandonment rate declined from 35.0% to 19.9%.

Over the course of the quarterly reporting period, Volkswagen continued to provide generally effective customer support. The Claims Supervisor analyzed a sample of 582 recorded calls and 1,044 chats that occurred from August 16, 2018 to November 14, 2018. The overall success rate for the sample of calls analyzed was 99.7% (a 0.4% increase from the prior quarterly reporting period), and the overall success rate for the sample of chats analyzed was 98.9% (a 0.1% decrease from the prior quarterly reporting period). In a limited number of instances, agents failed to properly verify the identity of the consumer -- although that issue was less prevalent this quarterly reporting period following additional training that the company provided in prior months.

[41] ASA is the abbreviation for average speed of answer and AHT represents average handle time. The chart only reflects calls received from consumers and does not include calls received from dealers.

Complaint volume declined from the prior quarterly reporting period. Of the limited complaints received by Volkswagen, the most common related to: (i) perceived changes to vehicle performance following AEMs;[42] (ii) documentation requirements, including documents being rejected; and (iii) payments to consumers (including the failure of consumers to receive the initiating EFT email from the company's banking partner).

Volkswagen's Resolution Team continued to effectively provide assistance to consumers with more complicated issues over the course of the quarterly reporting period. From August 20, 2018 to November 19, 2018, the Resolution Team received 451 inquiries (mostly involving payment issues) and resolved 419 consumer inquiries. Since the inception of the Claims Program, the Resolution Team has resolved 12,849 out of 12,949 inquiries (a 99.2% resolution rate).

IV. Conclusion

As the Claims Program nears conclusion, Volkswagen continues to process claims in accordance with the requirements of the Resolution Agreements. By November 18, 2018, the company had completed 362,171 Buybacks, 11,452 Early Lease Terminations, and 60,981 AEMs for consumers, issued payments to, or on behalf of, consumers in the amount of $8,255,129,595.18, and removed from commerce or completed an AEM on approximately 93.4% of all Subject Vehicles and 94.8% of Subject Vehicles registered in California.

Additionally, the company took several steps to ensure the timely review of remaining claims and the scheduling of closing appointments for consumers with approved claims,

[42] The Claims Supervisor is aware of ninety-one unique complaints related to post-AEM performance made since the inception of the Claims Program, which amounts to approximately 0.1% of completed AEMs on 2.0 Liter consumer vehicles, inclusive of completed phase one AEMs on Generation 3 Vehicles. Volkswagen has advised that specially trained customer care representatives assist consumers in determining whether perceived vehicle changes are attributable to an AEM.

including: (i) sending notices to consumers regarding key Claims Program deadlines; (ii) providing accommodations to consumers who, among other things, have made special closing appointment scheduling requests; (iii) hiring additional virtual closing agents to meet anticipated demand; and (iv) maintaining effective customer support for those consumers requiring assistance.

The company also continued to make progress with remaining non-standard claims. Volkswagen completed the review and processing of all branded title claims that were previously on hold, as well as a significant number of claims submitted by consumers who purchased vehicles in the United States but registered them in Canada, and by military personnel stationed overseas with their vehicles.

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 Claims Program.

Sincerely,

Ankura Consulting Group, LLC

Marc-Philip Ferzan
Senior Managing Director

Edward J. Bell
Senior Managing Director

Terrence S. Brody
Senior Managing Director

Gary Wingo
Senior Managing Director

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