

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 3.0  
LITER RESOLUTION AGREEMENTS ENTERED MAY 17, 2017:**

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

DECEMBER 13, 2017

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Consistent with the requirements of the 3.0 Liter Resolution Agreements,<sup>1</sup> the independent Claims Supervisor respectfully submits this quarterly report, which, unless otherwise specified, addresses progress in the 3.0 Liter Claims Program for the period from September 8, 2017 to December 7, 2017.

## **I. Executive Summary**

During this quarterly reporting period, Volkswagen continued to effectively and efficiently administer the Claims Program. The company timely reviewed claims, issued offer letters, scheduled closing appointments, and provided payments for the overwhelming majority of eligible consumers. The company also continued to provide responsive customer support and received relatively few consumer complaints.

On October 20, 2017, the company obtained approval from the EPA and CARB for an Emissions Compliant Repair (“ECR”) for Generation Two sports utility vehicles (“SUVs”), and seamlessly implemented processes for the completion of ECRs to meet consumer demand.<sup>2</sup> Additionally, the company continued to work closely with the vendor it engaged to administer the extended warranty and service contract refund program to address persistent challenges that have delayed the processing of related claims. Following a revamping of the claims review protocols and procedures, and a redesign of the refund claims portal, the vendor has significantly improved the accuracy with which it is making eligibility and deficiency determinations, and expects to decrease the backlog of pending refund claims in the coming weeks. The Claims Supervisor will continue to monitor the progress of the refund program and provide updates in future reports.

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<sup>1</sup> Capitalized and/or abbreviated terms in this report take on the definition in the 3.0 Liter Resolution Agreements or the initial report submitted by the Claims Supervisor in June 2017.

<sup>2</sup> As detailed below, Volkswagen’s ECR application for Generation Two passenger cars (“PCs”) is still pending with the EPA and CARB.

The statistics below provide a cumulative presentation of key 3.0 Liter Claims Program metrics as of December 7, 2017:

- 64,980 registrations had been created in Volkswagen's Claims Portal;
- 51,772 consumers had submitted claims for Volkswagen to review;
- 48,269 consumers had been issued offer letters, the aggregate value of which was \$797,847,620.86;
- 30,681 consumers had scheduled Buyback, Trade-In, Early Lease Termination, or Repair Participation Payment appointments;
- 11,927 consumers with Generation One vehicles had closed on their Buyback, Trade-In, or Early Lease Termination transaction, and Volkswagen had paid out \$474,962,654.41 on these claims;
- 17,141 consumers with Generation Two vehicles had completed an appointment for a Repair Participation Payment to receive 50% of their award in advance of completing an approved ECR;
- 8,689 consumers with Generation Two SUVs had completed an ECR, including 7,737 consumers who also had completed the claims process;
- \$101,531,131.52 had been paid to consumers with Generation Two vehicles who had completed an appointment for a Repair Participation Payments or ECR; and
- 1,609 Former Owners, 1,241 Former Lessees, and 77 Owners with totaled vehicles had received Restitution Payments, and the aggregate values of these payments totaled \$7,148,169.29, \$2,513,846.33, and \$691,269.98, respectively.

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

This section discusses the status of Volkswagen's 3.0 Liter Claims Program and the company's compliance with certain requirements mandated in the 3.0 Liter Resolution

Agreements. All data is as of December 7, 2017, unless otherwise specified. Information relating to Generation One and Generation Two vehicles generally is reported separately because the 3.0 Liter Resolution Agreements afford different remedies to consumers corresponding to the generation of the Eligible Vehicle. And references to Volkswagen's performance this "quarter" refer to the approximately three-month period September 8, 2017 through December 7, 2017.

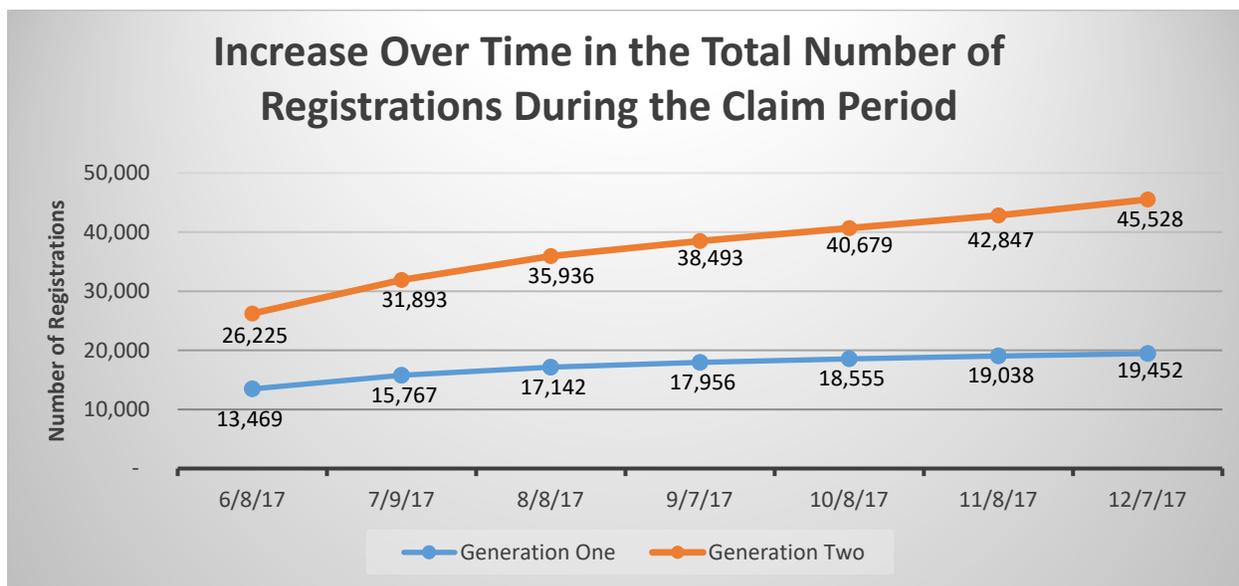
A. Consumer Registrations

As of December 7, 2017, there were a total of 64,980 registrations in Volkswagen's system, including 8,270 registrations created during this quarter.<sup>3</sup> A registration occurs when a consumer provides Volkswagen with basic information including name, contact information, vehicle identification number ("VIN"), and preferred dealership. Of these registrations, there were 19,452 associated with Generation One vehicles (17,708 individuals and 1,744 businesses), and 45,528 associated with Generation Two vehicles (41,179 individuals and 4,349 businesses). Chart 2-1 shows the change over time in the total number of registrations in Volkswagen's system by vehicle generation.

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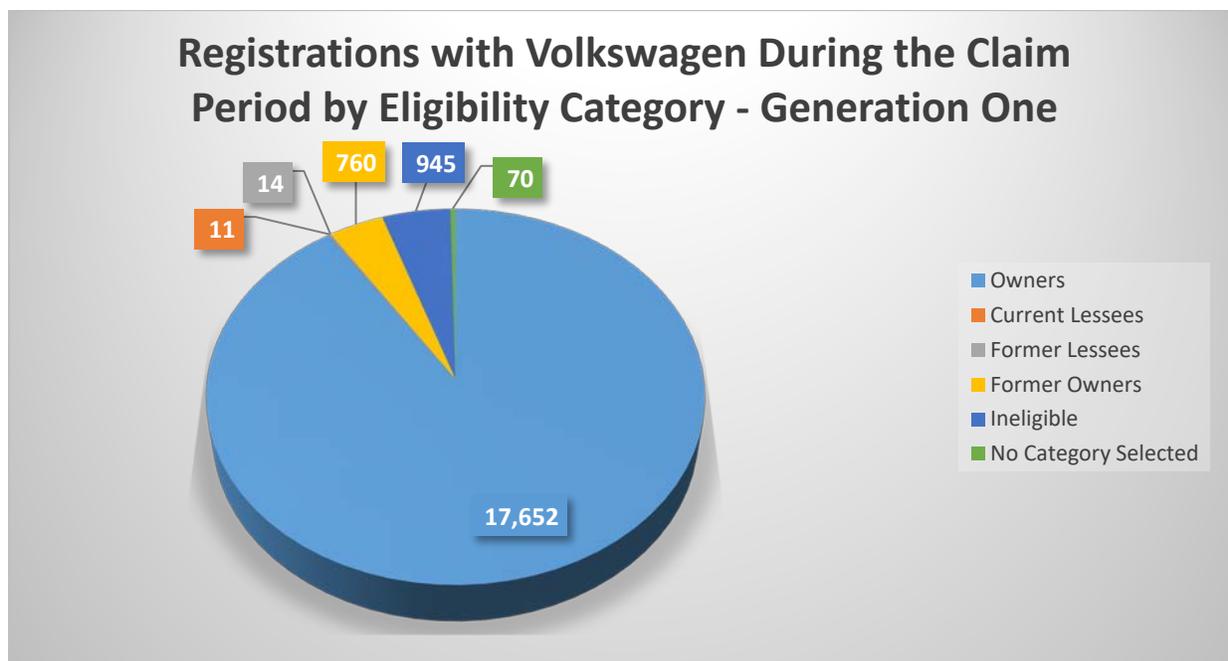
<sup>3</sup> These figures include a significant number of duplicate entries by the same consumer. Duplicate entries, however, are not identified until the requisite supporting claims information and documentation are submitted and the review periods begin. Thus, the figure overstates the number of unique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

**Chart 2-1**



Charts 2-2 and 2-3 reflect all registrations created by consumers according to eligibility category across Generation One and Generation Two vehicles through December 7, 2017. The “No Category Selected” population consists of consumers who had created a registration as of December 7, 2017, but had not yet provided details identifying their eligibility category.

**Chart 2-2**



**Chart 2-3**

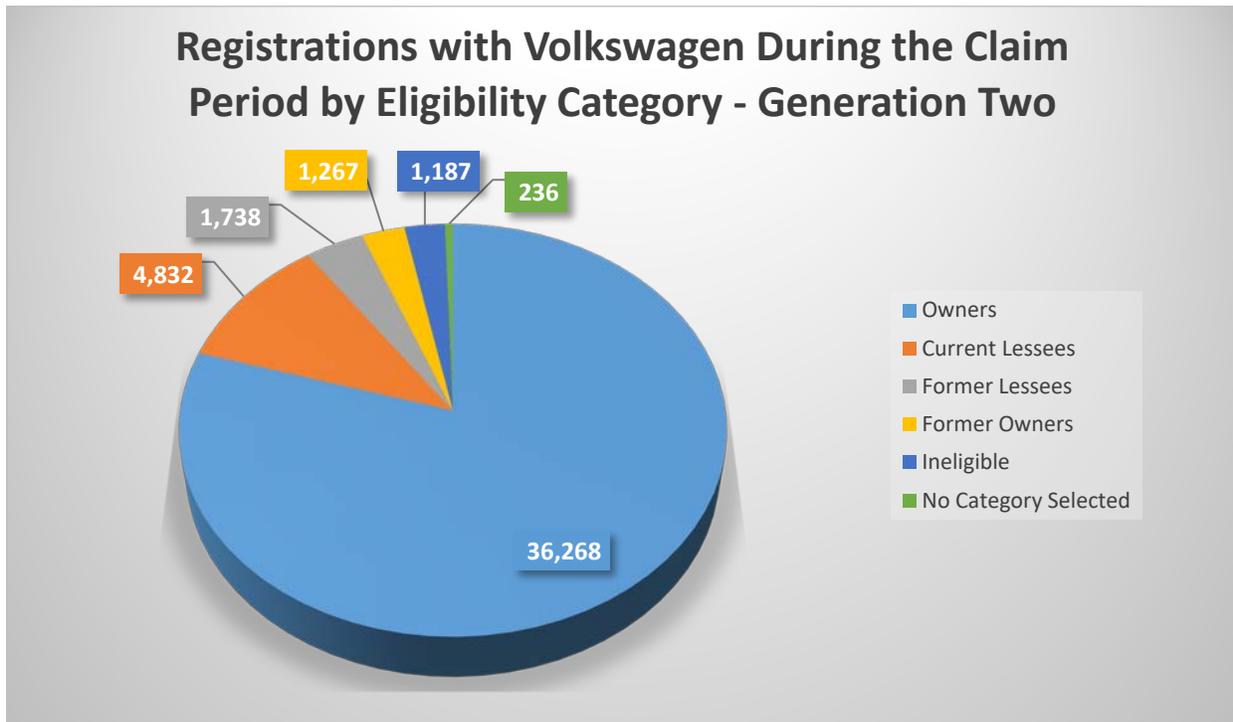
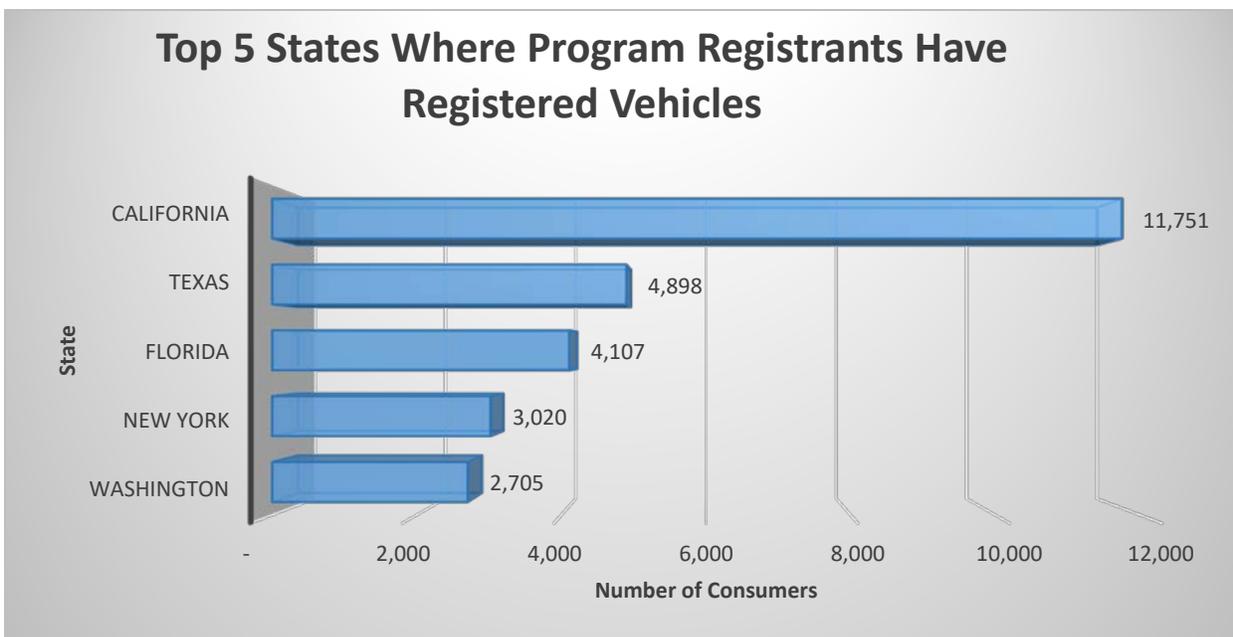


Chart 2-4 shows, among the population of vehicles associated with registered claims, the most common states where the vehicles are registered.

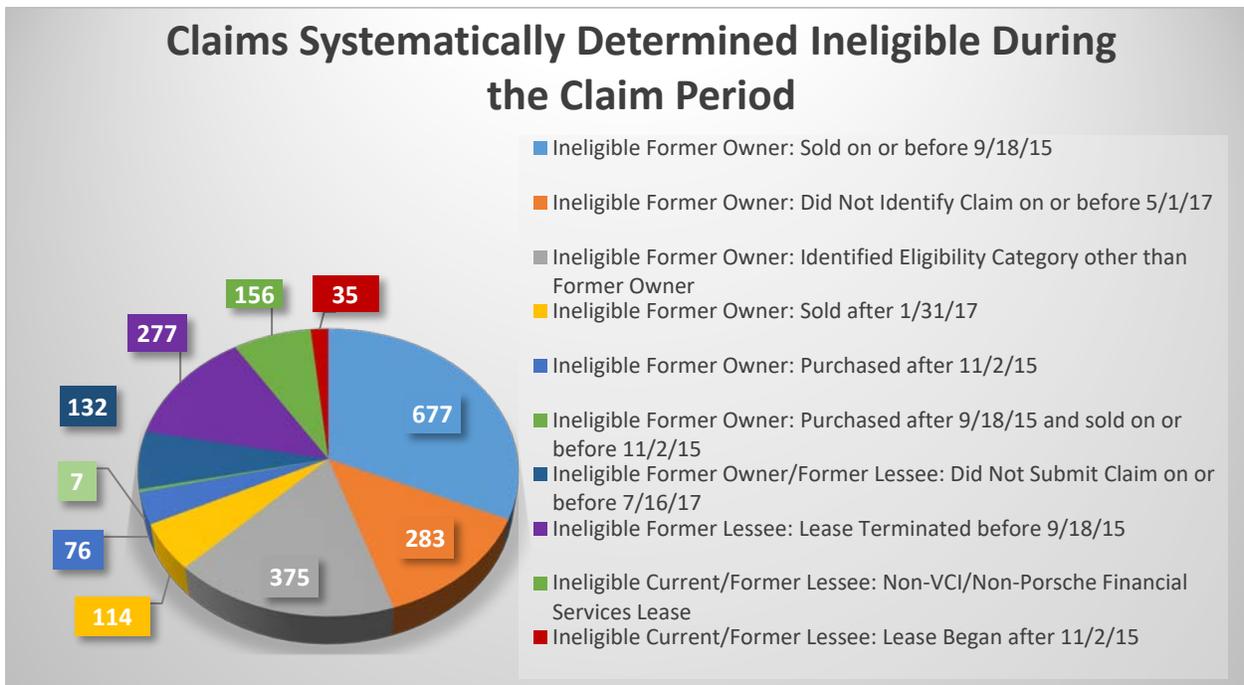
**Chart 2-4**



With respect to the population of 2,132 claims identified as ineligible in Charts 2-2 and 2-3, Volkswagen’s system is configured to automatically determine certain ineligible claims where information entered by the consumer into the Claims Portal indicates the consumer is not eligible under the requirements of the 3.0 Liter Resolution Agreements. For example, a consumer who attempts to submit a Former Owner claim indicating the vehicle was sold on or before September 18, 2015 is ineligible under the “Eligible Former Owner” definition. In these instances, Volkswagen sends the consumer a letter explaining the basis for the ineligibility determination.

Chart 2-5 shows the reasons for ineligibility determinations across the 2,132 claims that have been deemed systematically ineligible.

**Chart 2-5**

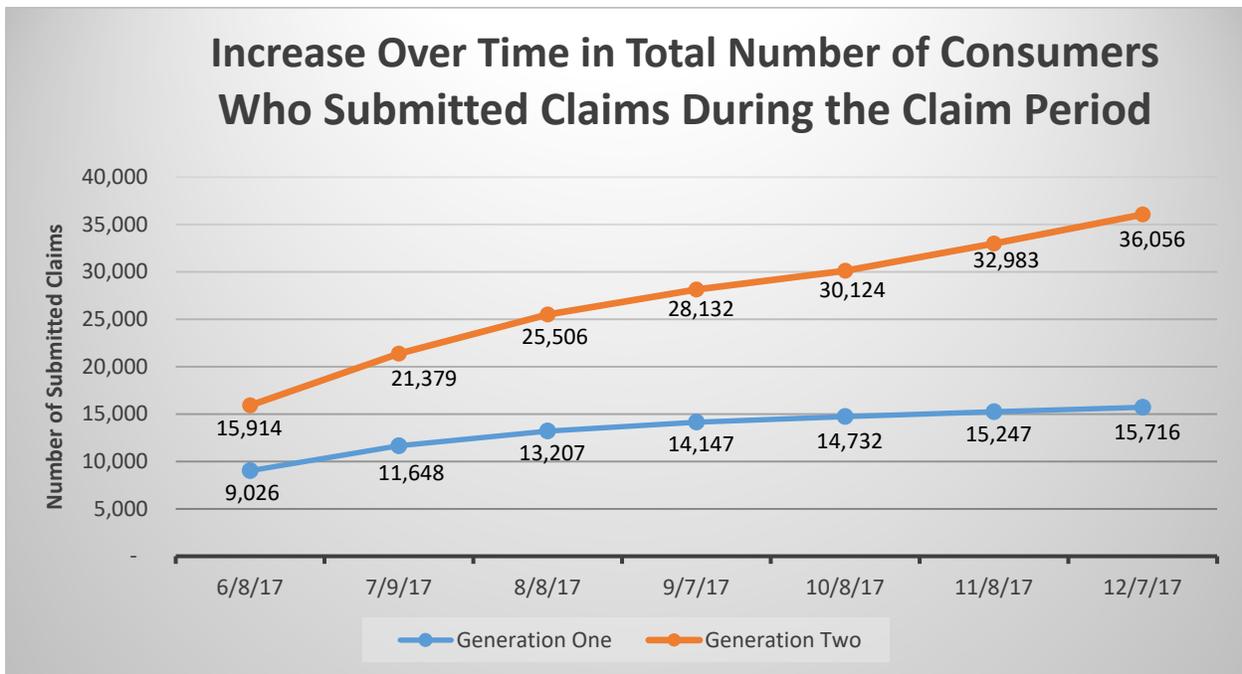


Only 177 systematic ineligibility determinations were made during this quarter. The Claims Supervisor reviewed all of the determinations, and the audit showed that Volkswagen’s systematic ineligibility logic was operating appropriately.

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

Following registration and preliminary remedy selection, the consumer’s next steps in the process are to provide prescribed documents needed to substantiate the claim, and submit the claim to Volkswagen for review.<sup>4</sup> As of December 7, 2017, a total of 51,772 consumers had submitted unique claims for Volkswagen to review, including 9,493 claims submitted by consumers during this quarter.<sup>5</sup> Of these, 15,716 related to Generation One vehicles (14,566 individuals and 1,150 businesses), and 36,056 related to Generation Two vehicles (33,146 individuals and 2,910 businesses). Chart 2-6 shows the change over time in the total number of unique claims submitted by consumers by vehicle generation.

Chart 2-6



<sup>4</sup> Consumers with Generation Two vehicles, and all Former Lessees, Former Owners, and Owners of totaled vehicles, do not have a choice of remedies. Therefore, they are not prompted to select a preliminary remedy in the Claims Portal.

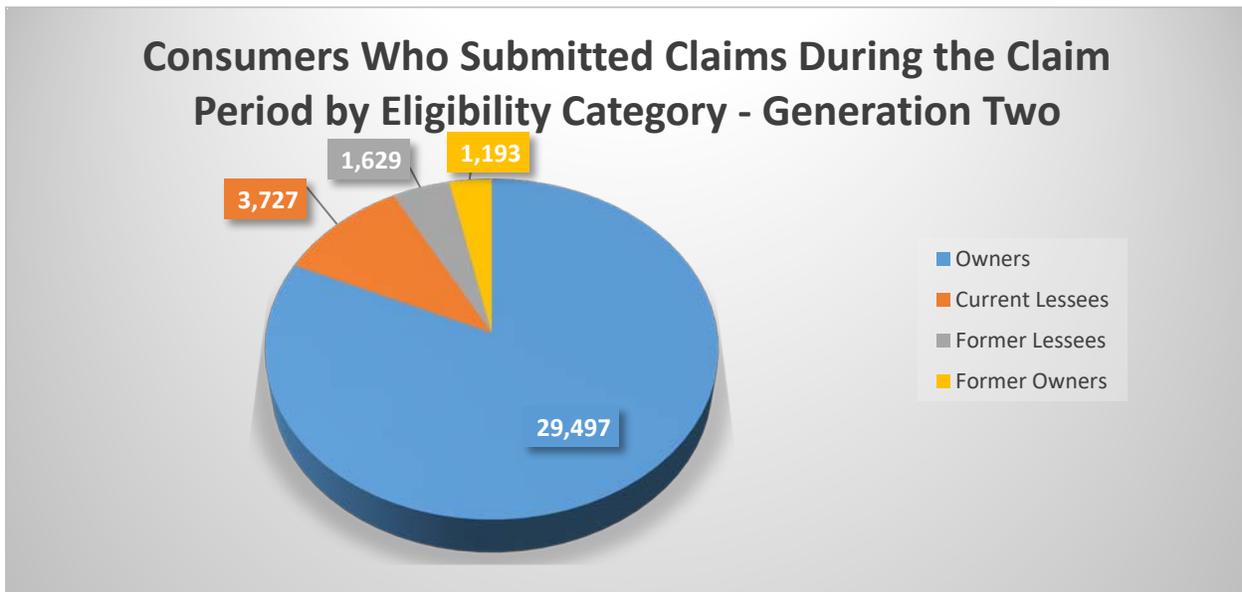
<sup>5</sup> “Unique claims” means unique VINs within unique eligibility categories. A claim by an Owner and a Former Owner regarding the same VIN is counted as two unique claims. Likewise, a claim by one Owner who owns five separate vehicles is counted as five unique claims.

Charts 2-7 and 2-8 show, across Generation One and Generation Two vehicles, respectively, the total population of consumers who had submitted claims by eligibility category.<sup>6</sup>

**Chart 2-7**



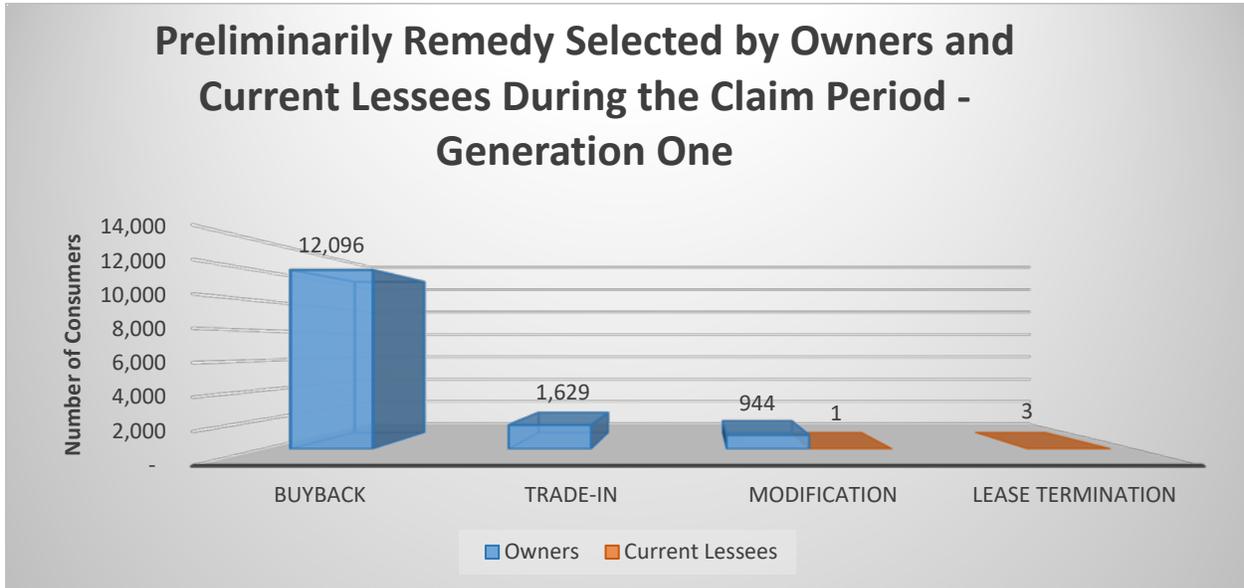
**Chart 2-8**



<sup>6</sup> The six claims not reflected in Chart 2-7 and ten claims not reflected in Chart 2-8 were associated with claims ultimately deemed not eligible.

Chart 2-9 reflects the preliminary remedy selections for Owners and Current Lessees of Generation One vehicles who had submitted claims through December 7, 2017.

**Chart 2-9<sup>7</sup>**



As consumers with Generation Two vehicles currently only have one remedy available, all claims of the 28,951 Owners and 3,622 Current Lessees of Generation Two vehicles who had submitted claims through December 7, 2017, were for an ECR. Restitution is the only remedy available for the 1,614 Former Lessees, as well as 1,187 Former Owners, and 88 Owners with totaled vehicles who had submitted claims associated with Generation Two vehicles.

Additionally, there were 584 claims that were cancelled, which usually were duplicate claims or cancellations by the consumer, as well as 10 claims that were ultimately deemed not eligible.

Beginning the first business day after a consumer submits a claim, Volkswagen has ten business days (that is, excluding weekends and holidays) to review the submission and determine whether the claim is complete or deficient. A claim is complete if it includes all the information

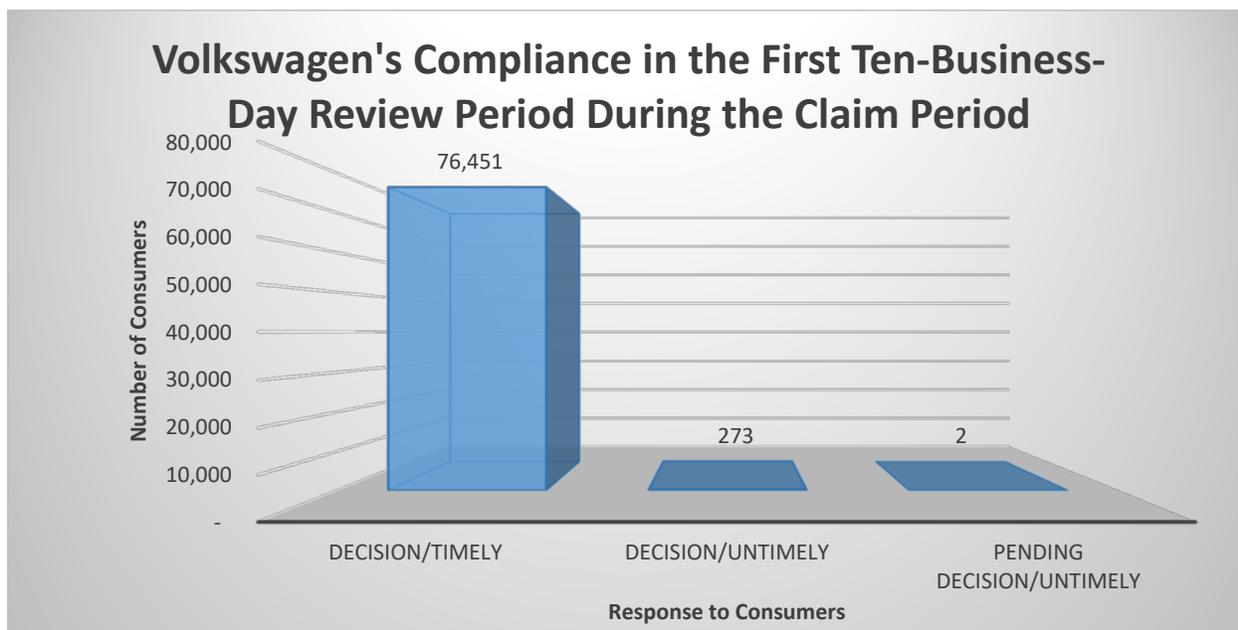
<sup>7</sup> Chart 2-9 does not include remedy selections for 699 Former Owners, 40 Owners with totaled vehicles, or 10 Former Lessees who had submitted claims associated with Generation One vehicles because the only remedy available to these consumers is Restitution. The chart also excludes 288 claims that were cancelled, usually due to the submission of duplicate claims or at the consumer's request, as well as 6 claims that were deemed not eligible.

and documents needed to determine whether the consumer is eligible, while a claim that does not include required information or documentation is deficient. If a claim is complete, Volkswagen makes a preliminary determination as to whether the claim is eligible. If a claim is deficient, Volkswagen informs the consumer of the deficiency to allow the consumer the opportunity to cure the deficiency and resubmit the claim.

Throughout the Claim Period, Volkswagen has continued to substantially satisfy the requirement to timely issue first ten-business-day review period decisions. As of December 7, 2017, excluding the 121 claims that were pending a determination but for which the first ten-business-day review period had not yet elapsed, Volkswagen had been required to make 76,726 first ten-business-day review period determinations. The company timely rendered 76,451 decisions for an overall first ten-business-day review period compliance rate of 99.6%. During this quarter, Volkswagen was required to make 15,330 first ten-business-day review period decisions and timely did so in 15,282 instances for a quarterly first ten-business-day review period compliance rate of 99.7%.

Chart 2-10 shows Volkswagen's performance during the Claim Period in timely issuing first ten-business-day review period decisions, and Chart 2-11 shows Volkswagen's overall first ten-business-day review period performance by eligibility category.

**Chart 2-10**



**Chart 2-11<sup>8</sup>**

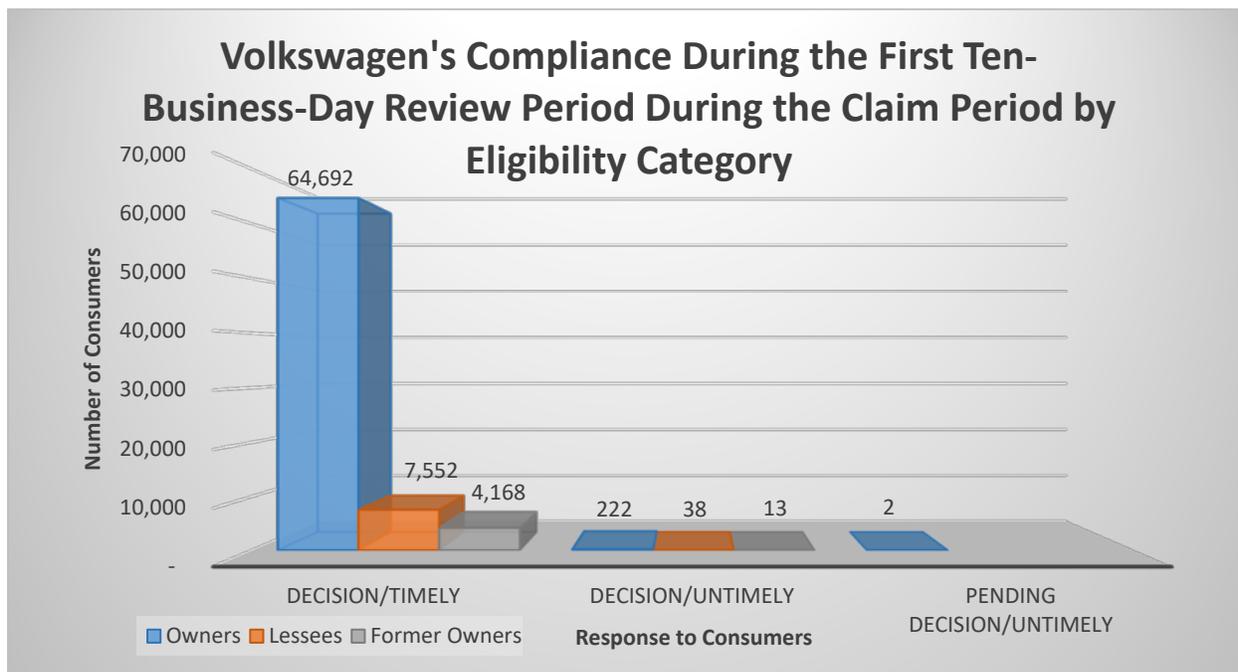
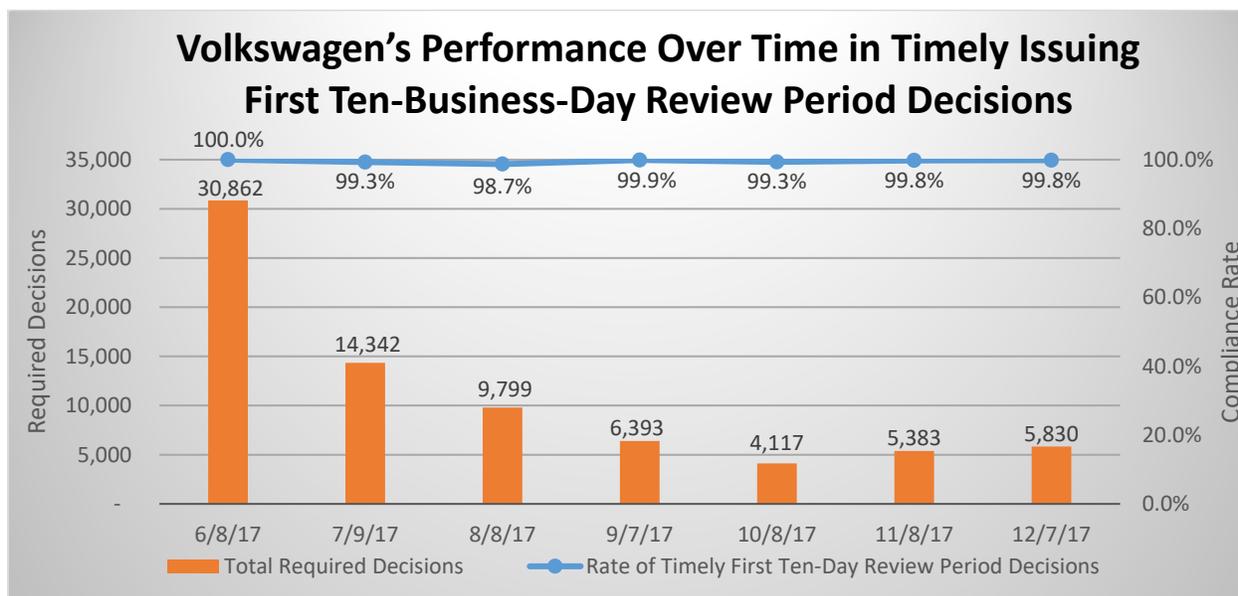


Chart 2-12 shows Volkswagen's performance in timely issuing first ten-business-day review period decisions across approximately thirty-day intervals during the Claim Period.

<sup>8</sup> The thirty-nine claims not reflected in Chart 2-11 were all claims that were timely deemed not eligible.

Chart 2-12



Volkswagen and the Plaintiffs’ Steering Committee have been working with other stakeholders over the past several months to address how the eligibility requirements apply to claims from consumers who purchased a vehicle after it had been branded with a salvage title and transferred to an insurance company after September 18, 2015. A vehicle is designated as salvage when it has been damaged or deemed a total loss by an insurance company that paid a claim on the vehicle. The Claims Supervisor has not factored these claims in the first and second ten-business-day review period timeliness analysis while the parties determine how the eligibility requirements should be applied.<sup>9</sup>

Finally, the first ten-business-day review period figures (and the second ten-business-day review period figures below) exclude two groups of consumers who had submitted claims for Volkswagen to process and who are not eligible class members pursuant to the Resolution Agreements. First, as of December 7, 2017, there were 185 active claims from consumers who

<sup>9</sup> Based on available data, as of December 7, 2017, there were seven of these claims that otherwise would have been included in the first ten-business-day review period.

initially purchased Eligible Vehicles in the United States but registered them in Canada.<sup>10</sup>

Second, as of December 7, 2017, there were eight active claims from consumers who indicated in their claim submissions that they were employees of Volkswagen or the Court. Volkswagen has used the claims process to identify and engage with these types of consumers, but these consumers will not receive funds out of the Funding Pool.

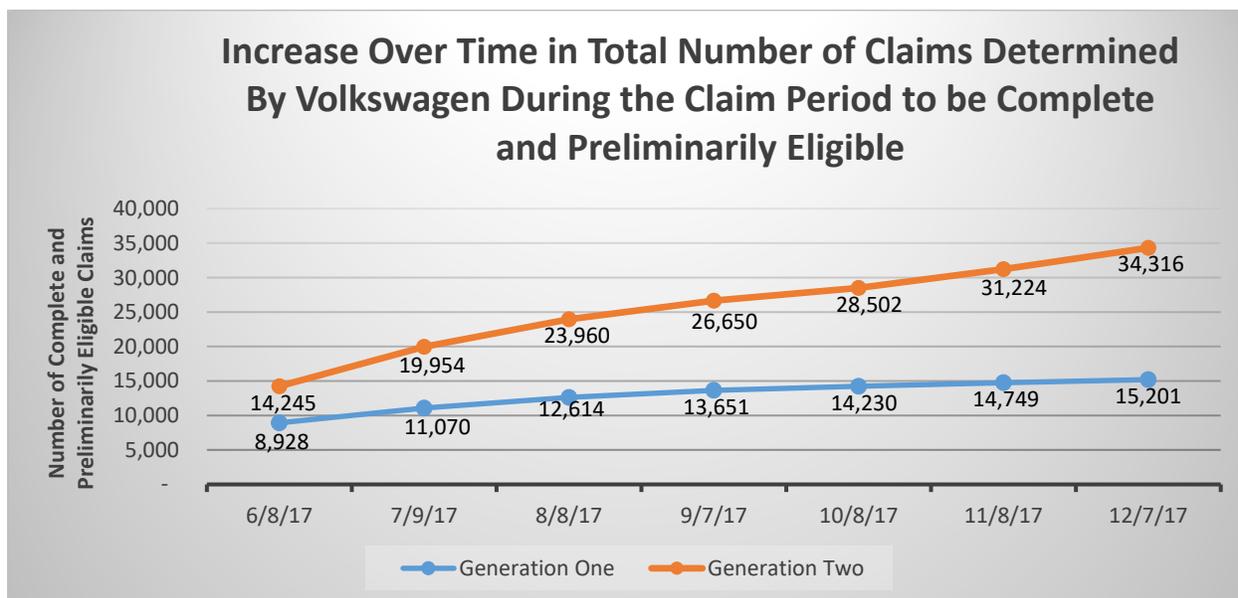
C. Preliminary Eligibility Determinations and Deficiencies

Through December 7, 2017, of the 51,772 unique claims that had been submitted by consumers for Volkswagen to review, a total of 49,517 claims (95.6%) had been determined by Volkswagen to be complete and preliminarily eligible. This includes 9,216 unique claims submitted during this quarter that Volkswagen deemed complete and preliminarily eligible. Across all 49,517 claims deemed to be complete, 15,201 claims related to Generation One vehicles (14,186 individuals and 1,015 businesses) and 34,316 claims related to Generation Two vehicles (31,834 individuals and 2,482 businesses). Chart 2-13 shows the change over time in the total number of claims determined by Volkswagen to be complete and preliminarily eligible during the Claim Period by vehicle generation.

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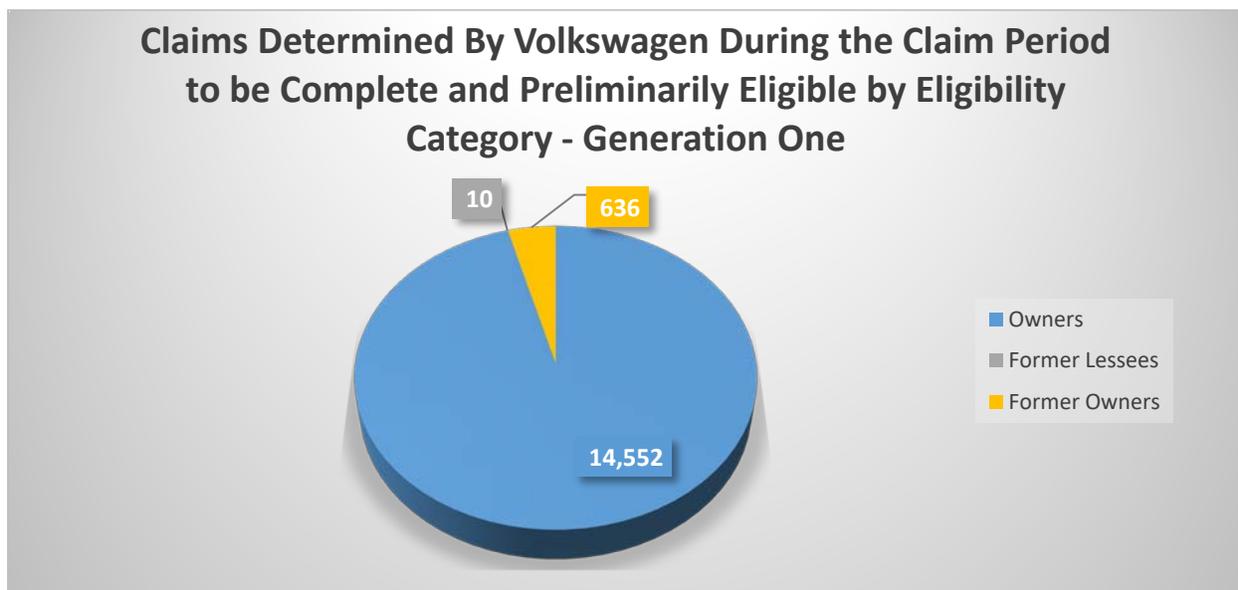
<sup>10</sup> For these purposes, a claim is considered “active” once a consumer submits it, but before a final determination on eligibility and award (or ineligibility) has been rendered.

**Chart 2-13**



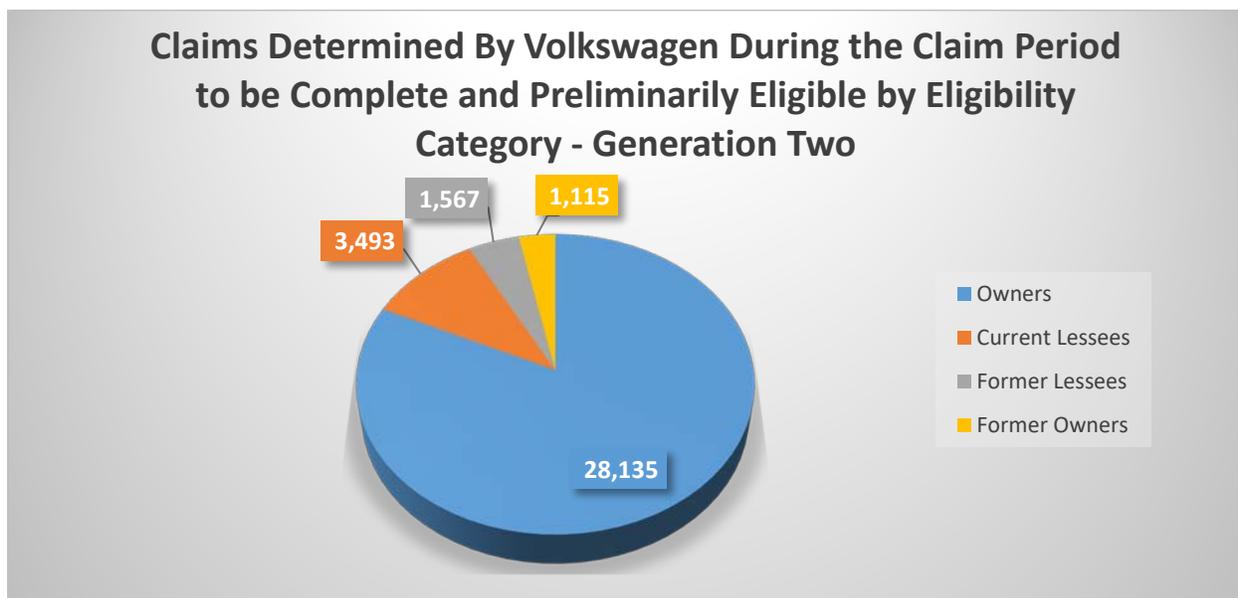
Charts 2-14 and 2-15 reflect the number of claims Volkswagen determined to be complete and preliminarily eligible by eligibility category across Generation One and Generation Two vehicles as of December 7, 2017.<sup>11</sup>

**Chart 2-14**



<sup>11</sup> The three claims not accounted for in Chart 2-14 and six claims not accounted for in Chart 2-15 were related to claims that were ultimately deemed not eligible.

**Chart 2-15**



Charts 2-16 shows the most common states in which Eligible Vehicles associated with preliminarily eligible claims have been registered.

**Chart 2-16**

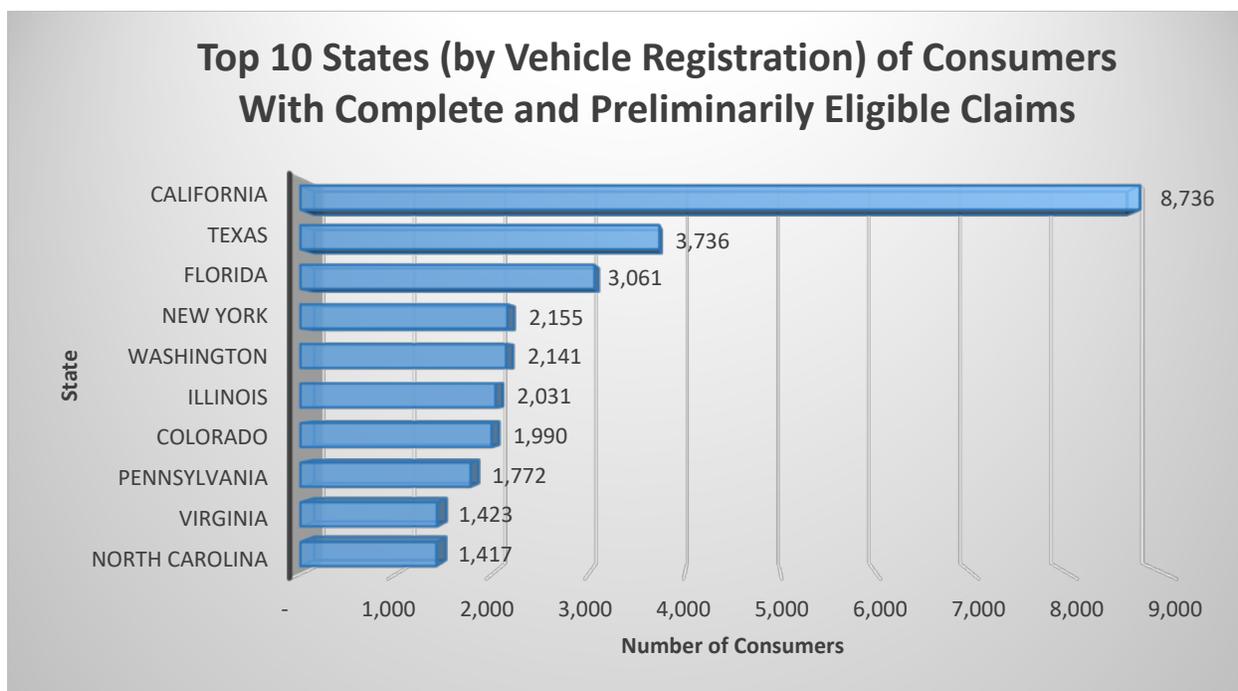
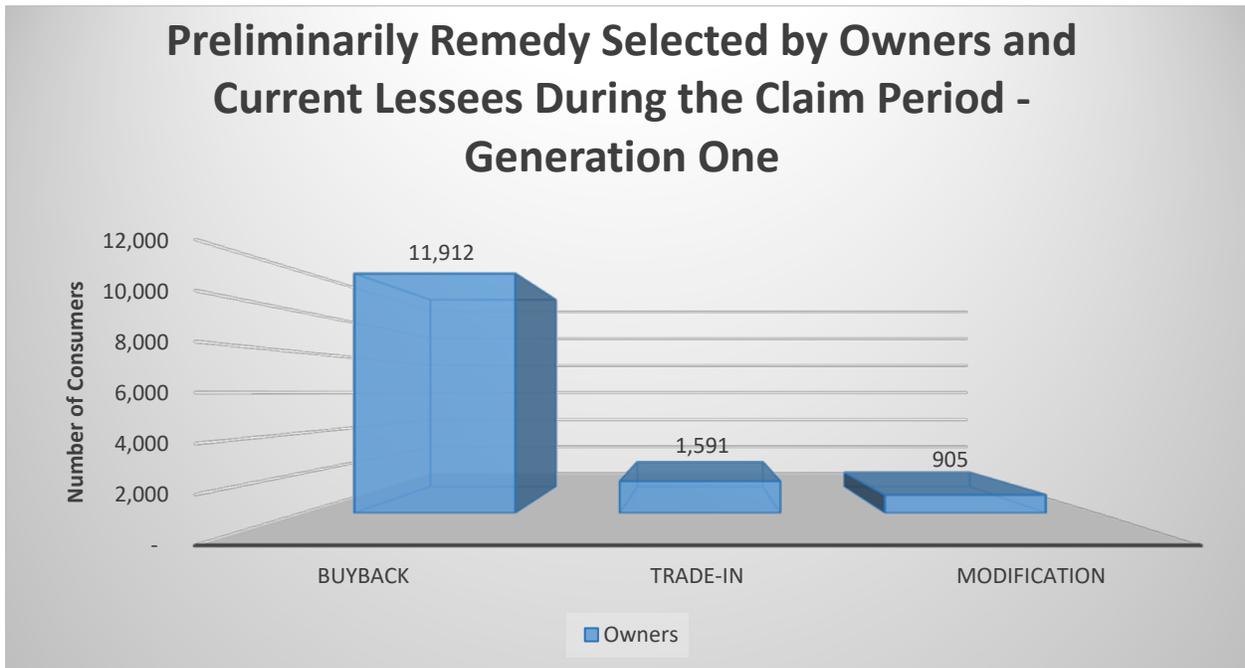


Chart 2-17 shows, as of December 7, 2017, the remedy selected by Owners and Current Lessees of Generation One vehicles whose claims Volkswagen had deemed complete and preliminarily eligible.

Chart 2-17<sup>12</sup>



For Generation Two vehicles, there currently is only one remedy option available to consumers. As a result, all claims of the 27,889 Owners and 3,429 Current Lessees of Generation Two vehicles that had been deemed complete and preliminarily eligible by Volkswagen through December 7, 2017, were for the ECR remedy. Restitution is the only remedy available for the 1,560 Former Lessees, as well as for 1,112 Former Owners, and 80 Owners with totaled vehicles who had submitted claims associated with Generation Two vehicles that, through December 7, 2017, had been deemed complete and preliminarily eligible

<sup>12</sup> Chart 2-17 excludes 634 Former Owners, 35 Owners with totaled vehicles, and 10 Former Lessees because Restitution is the only remedy available for those consumers. It also excludes 111 cancelled claims, which generally consist of duplicate claims or claims cancelled by the consumer, as well as 3 claims that ultimately were determined to be not eligible.

by Volkswagen. There were also 240 cancelled claims, and 6 other claims that had been deemed not eligible.

Through December 7, 2017, there were 22,577 instances where Volkswagen had deemed a claim deficient during its first ten-business-day review period. More than 37,500 individual deficiency codes had been applied by Volkswagen as of that date, as multiple deficiencies may be associated with a single claim submission. The most common deficiency codes have been: (i) an incorrect document was uploaded (10,425 claims); (ii) a document was illegible (6,990 claims); (iii) a document was incomplete or the document image was cut off (5,421 claims); and (iv) a document was missing pages (3,048 claims).

As the same claim may be resubmitted to Volkswagen after initially being deemed deficient, the 22,577 instances of deficiency determinations implicated 15,524 unique claims. Of those 15,524 unique claims, 14,606 consumers (94.1%) had made at least one attempt to cure, while 918 consumers (5.9%) had not yet made any attempt to cure. Across consumers who attempted to cure: (i) 13,486 consumers (92.3%) successfully cured the deficiency; (ii) 53 consumers (0.4%) resubmitted claims that were pending a completeness determination by Volkswagen as of December 7, 2017; and (iii) 1,067 consumers (7.3%) had not subsequently resubmitted claims after their initial attempt to cure the deficiency was unsuccessful.

Through December 7, 2017, there were 1,497 consumer claims with active deficiencies. The most common deficiency codes among active deficient claims were: (i) an incorrect document was uploaded (598 claims); (ii) a document was illegible (383 claims); (iii) a document was incomplete or the document image was cut off (223 claims); and (iv) a name on a document did not match the name in the Claims Portal (205 claims).

Finally, the Claims Supervisor reviewed a sample of 600 deficiency codes applied by Volkswagen reviewers during the first ten-business-day review period to assess whether

Volkswagen reviewers were properly applying deficiency codes. The Claims Supervisor substantiated Volkswagen's deficiency code determinations in 581 instances (96.8%). This is an improvement over the previous quarter. Trend analyses showed that instances of disagreements involving financial consent forms, identification documents, and proof of ownership documents all decreased as compared to the previous quarter. Complex documents again were the source of the most common discrepancies, and there was a slight increase over last quarter in the number of disagreements involving those types of documents.<sup>13</sup> Overall, however, the total number of disagreements over the application of deficiency codes remained very limited.

D. The "Pause" Period

For Owners of Generation One vehicles who elect a Buyback or Trade-In remedy, whose claims are deemed complete and preliminarily eligible by Volkswagen, and whose vehicles are encumbered by a loan, the second ten-business-day review period does not begin until Volkswagen obtains loan payoff information from the lender. This information is necessary for Volkswagen to generate an offer letter for the consumer.

Through December 7, 2017, a total of 517 unique claims had been "tolled" pending receipt of loan payoff information from a lender. On average, the "tolled" period has lasted less than two business days per claim. As of December 7, 2017, there was only one actively tolled claim, and that claim only had been pending for one business day.

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<sup>13</sup> "Complex documents" include: power of attorney, death certificate, proof of Volkswagen Credit, Inc. account, corporate documents, previous registration, proof of acquisition, proof of name change, proof of vehicle transfer to insurance, proof of lease conversion, paper claim forms, and proof of sale documents.

#### E. The Second Ten-Business-Day Review Period

Volkswagen generally has ten business days from the date it concludes that a consumer's claim is complete and preliminarily eligible to issue an offer letter.<sup>14</sup> Within that time, the Claims Supervisor also must independently verify Volkswagen's completeness, eligibility, and award determinations before an offer letter can issue.<sup>15</sup>

As of December 7, 2017, a total of 49,602 consumers had reached the second ten-business-day review period after having been deemed preliminarily eligible by Volkswagen, including 9,241 such consumers during this quarter.<sup>16</sup> Of these, 15,219 claims related to Generation One vehicles (14,204 individuals and 1,015 businesses) and 34,383 claims related to Generation Two vehicles (31,899 individuals and 2,484 businesses). Across this population, 48,269 consumers (97.3%) had been issued offer letters, including 8,967 offer letters issued during this quarter. Chart 2-18 shows the change over time in the total number of claims reaching the second ten-business-day review period by vehicle generation.

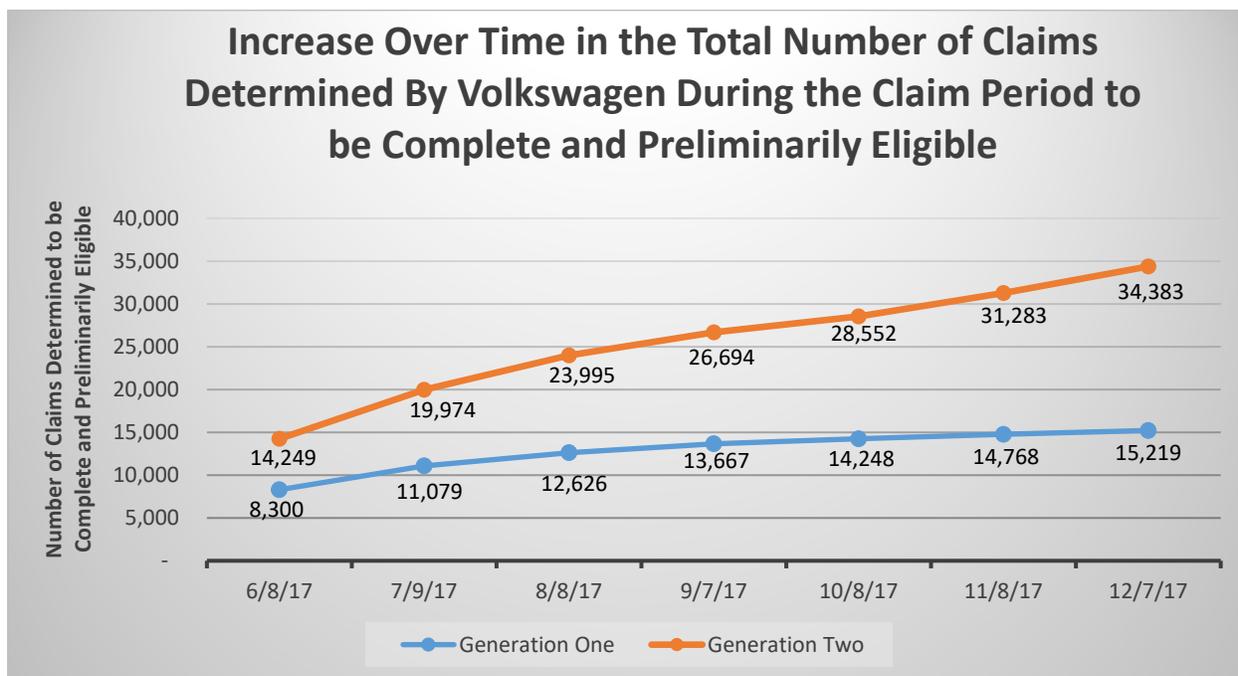
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<sup>14</sup> As stated above, for claims by Owners of Generation One vehicles who elect a Buyback or Trade-In remedy and whose vehicles are encumbered by a third-party loan, the second ten-business-day review period does not begin until Volkswagen receives from the lienholder the loan payoff amount information necessary to calculate the award and generate the offer letter.

<sup>15</sup> In certain instances, Volkswagen can determine during the first ten-business-day review period that a claim is ineligible in which case that ineligibility determination must be verified by the Claims Supervisor during the second ten-business-day review period. These ineligibility determinations are separate from claims automatically deemed ineligible by Volkswagen's system based on information input provided by the consumer. Through December 7, 2017, there had been 263 instances in which claims had been deemed ineligible upon review by Volkswagen. For 138 of these claims, the ineligibility determination had been validated by the Claims Supervisor and communicated by Volkswagen to the consumer. Remaining claims generally either were actively under review or were instances where a claim was deemed deficient instead of ineligible, offering the consumer an opportunity to cure. Through December 7, 2017, there had been sixty-four instances where claims initially deemed ineligible were allowed to proceed to the offer phase or were shifted to a deficiency status and thereafter the deficiency was cured by the consumer.

<sup>16</sup> As described above, there were 49,517 consumers whose claims were deemed complete and preliminarily eligible by Volkswagen, but 49,602 preliminarily eligible claims reached the second ten-business-day review period. The difference of eighty-five claims relates to instances where claims reached the second ten-business-day review period having skipped the status that ends the first ten-business-day review period. The distinction would not substantively affect claims processing. It is only reflected when data is queried to generate aggregated figures for reporting.

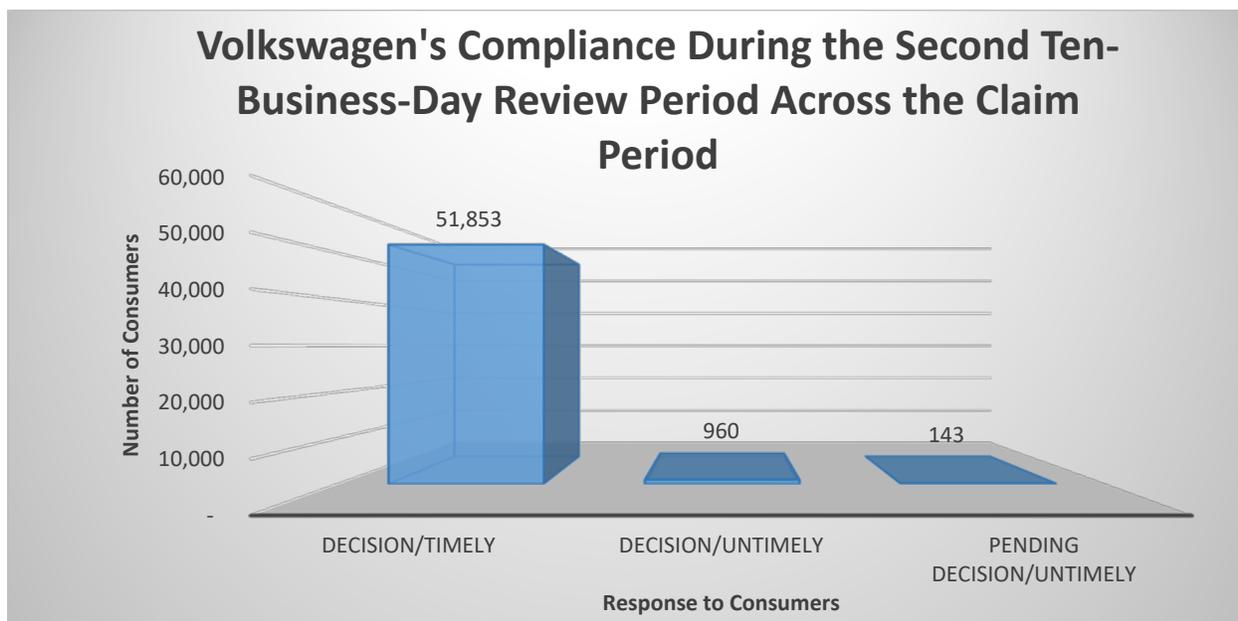
**Chart 2-18**



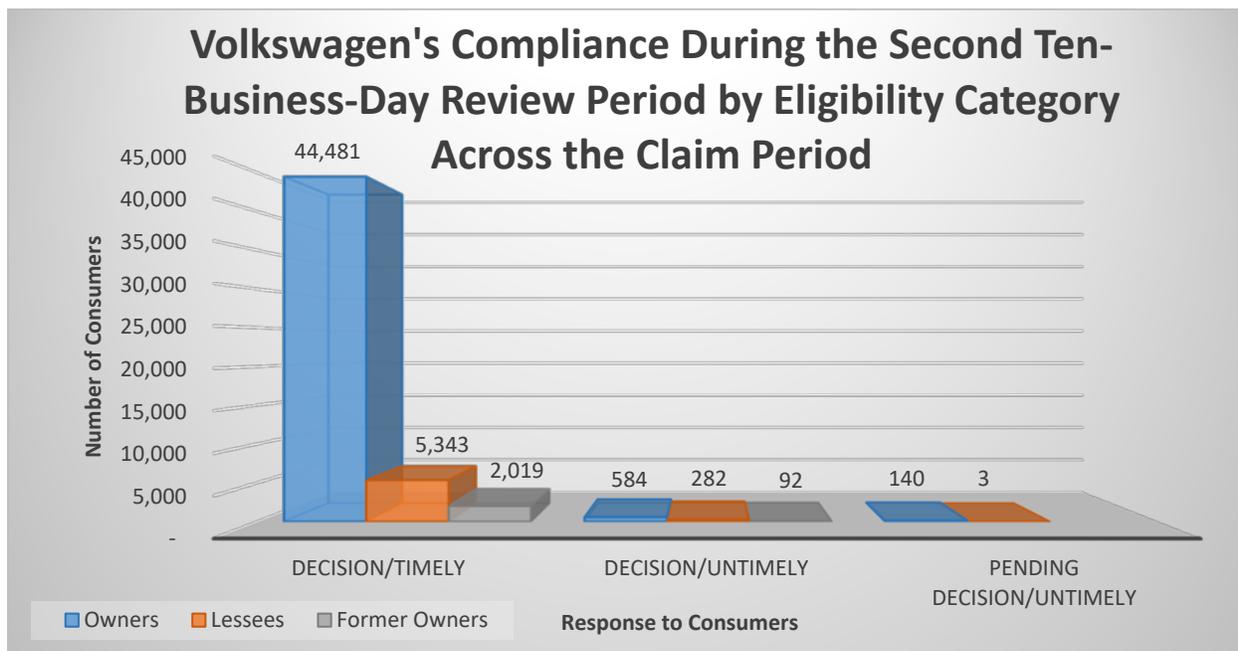
Throughout the Claim Period, Volkswagen has continued to substantially satisfy the requirement to timely issue second ten-business-day review period decisions. As of December 7, 2017, excluding the 689 claims that had reached the second ten-business-day review period but for which the review period had not yet elapsed, the company had been required to make 52,956 second ten-business-day review period decisions. The company timely rendered determinations in 51,853 instances, for a second ten-business-day review period compliance rate of 97.9%. During this quarter, Volkswagen was required to make 9,946 second ten-business-day review period decisions, and timely did so in 9,632 instances for a quarterly compliance rate of 96.8%.

Chart 2-19 shows Volkswagen's performance during the Claim Period in timely issuing second ten-business-day review period decisions, and Chart 2-20 reflects Volkswagen's overall second ten-business-day review period performance by eligibility categories.

**Chart 2-19**



**Chart 2-20<sup>17</sup>**



<sup>17</sup> The twelve claims not accounted for in Chart 2-20 are associated with claims that ultimately were deemed not eligible, ten of which were timely decisions and two of which were untimely.

Chart 2-21 reflects Volkswagen’s performance in timely issuing second ten-business-day review period decisions across approximately thirty-day intervals during the Claim Period.<sup>18</sup>

**Chart 2-21**

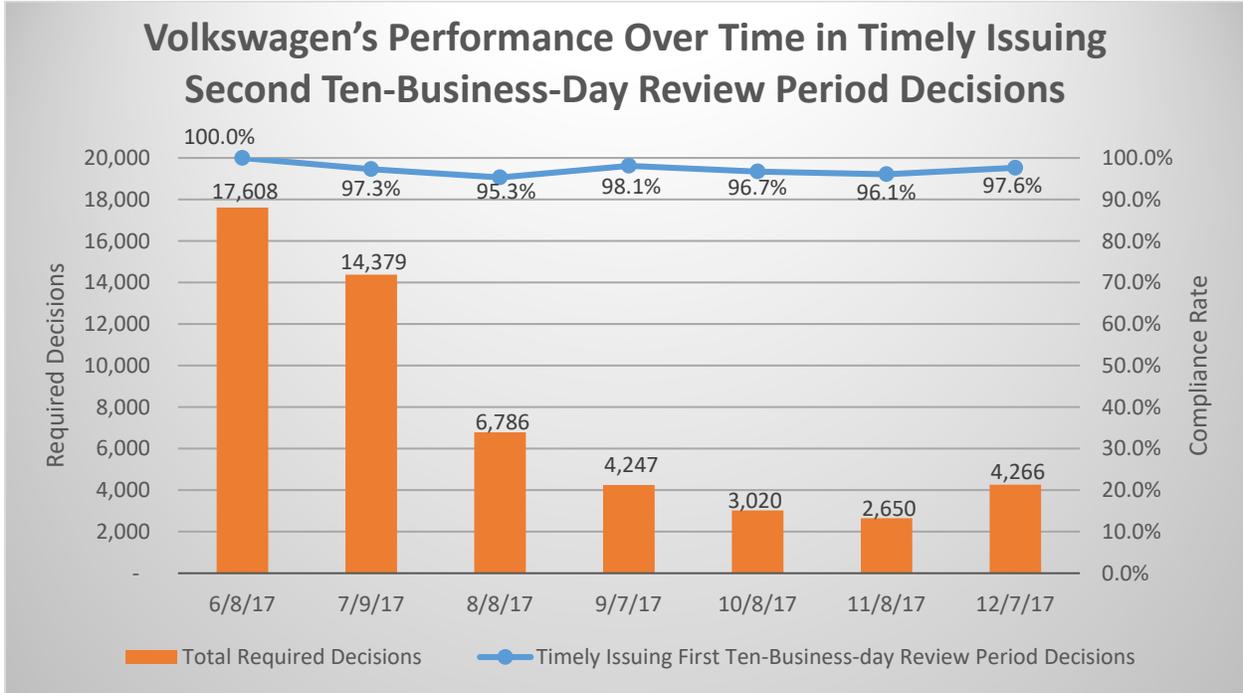
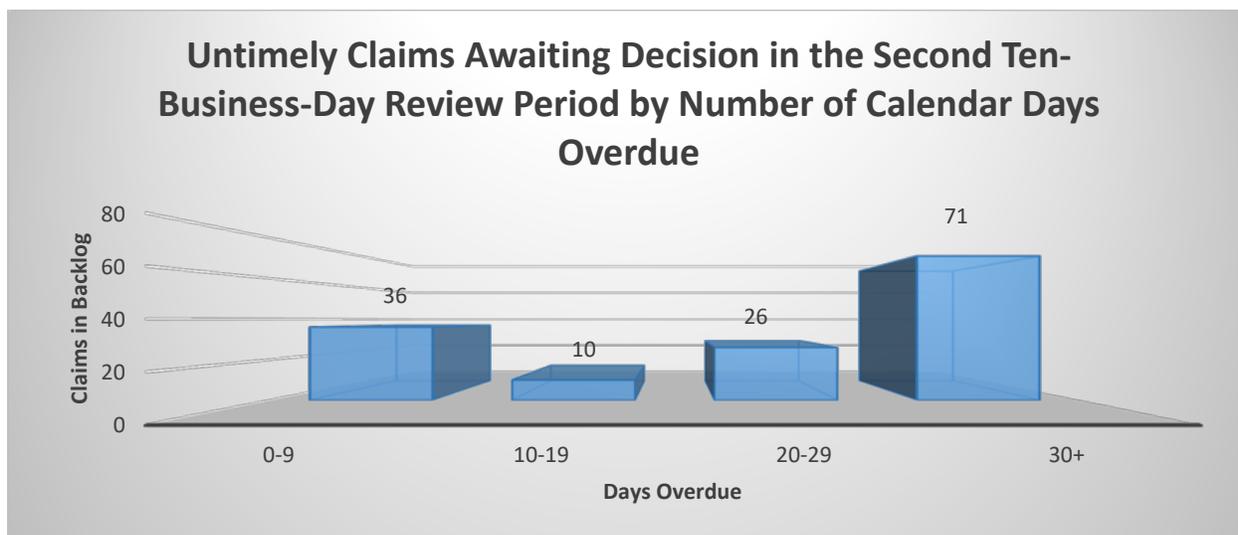


Chart 2-22 shows the 143 claims in Volkswagen’s backlog by the number of calendar days those claims were overdue.

<sup>18</sup> Based on available data, as of December 7, 2017, there were twelve claims pending in the second ten-business-day review period submitted by consumers who purchased a vehicle after it had been branded with a salvage title and transferred to an insurance company after September 18, 2015. As discussed above, Volkswagen and the Plaintiffs’ Steering Committee have been working with other stakeholders over the past several months to address how the eligibility requirements apply to such claims. Therefore, they cannot yet be processed and thus have not been factored into the second ten-business-day review period analysis. There were also approximately 150 such claims not pending in either the first or second ten-business-day review period, but in various other stages of the claims submission process. These claims remain on hold as well.

**Chart 2-22**

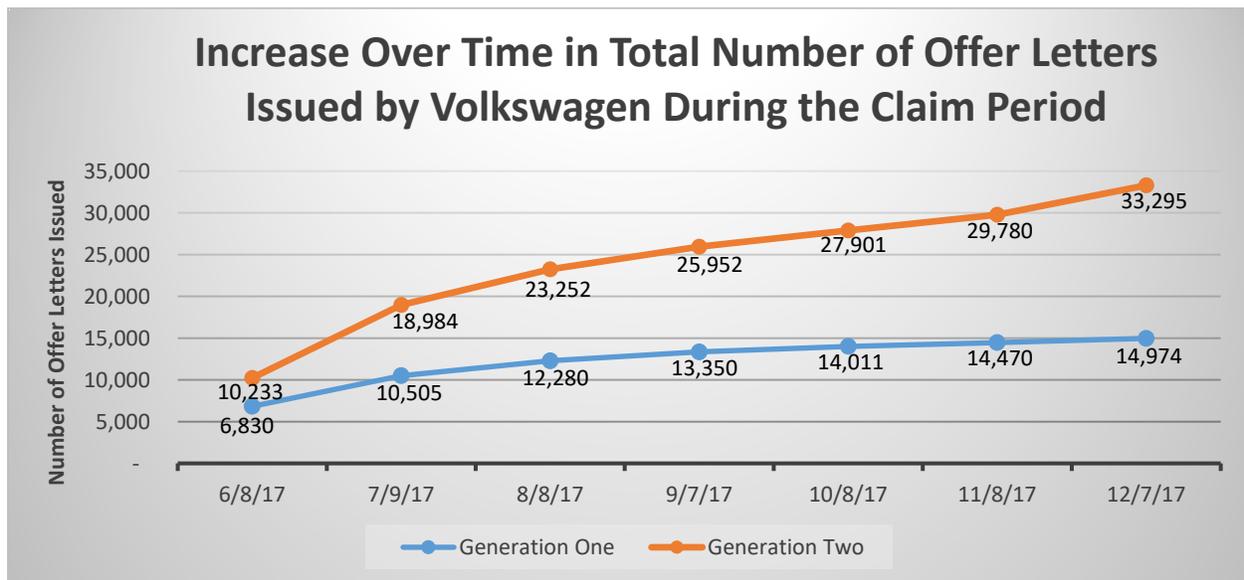


Of the 143 claims in Volkswagen’s backlog as of December 7, 2017, 125 involve claims from consumers who purchased a Generation Two vehicle through a private sale after the previous owner had received a Repair Participation Payment for the vehicle. The subsequent purchasers are eligible to receive the remaining 50% of the total award upon approval of an eligible claim and completion of an ECR. Volkswagen is in the process of generating offer letters for partial restitution for subsequent purchasers to account for these situations and, once completed, offer letters will be issued to the consumers. These claims comprise sixty-eight of the seventy-one total claims in the backlog that were thirty or more calendar days overdue. Of the remaining eighteen claims in the backlog, seventeen were pending resolution by Volkswagen of a document deficiency, non-document deficiency, or eligibility concern associated with the claim. And the last claim was awaiting Volkswagen’s resolution of a deficiency associated with a generated offer letter before the offer letter could be finalized and sent to the consumer.

## F. Offer Letters

Through December 7, 2017, Volkswagen had issued 48,269 offer letters, the aggregate value of which totaled \$797,847,620.86.<sup>19</sup> Of these, 14,974 offer letters with an aggregate value of \$555,261,575.65 related to Generation One vehicles (14,001 offers to individuals with an aggregate value of \$519,179,467.89, and 973 offers to businesses with an aggregate value of \$36,082,107.76). The remaining 33,295 offer letters with an aggregate value of \$242,586,045.21 related to Generation Two vehicles (30,999 offers to individuals with an aggregate value of \$226,368,697.54, and 2,296 offers to businesses with an aggregate value of \$16,217,347.67). Chart 2-23 shows the change over time in the total number of offer letters issued by Volkswagen by vehicle generation.

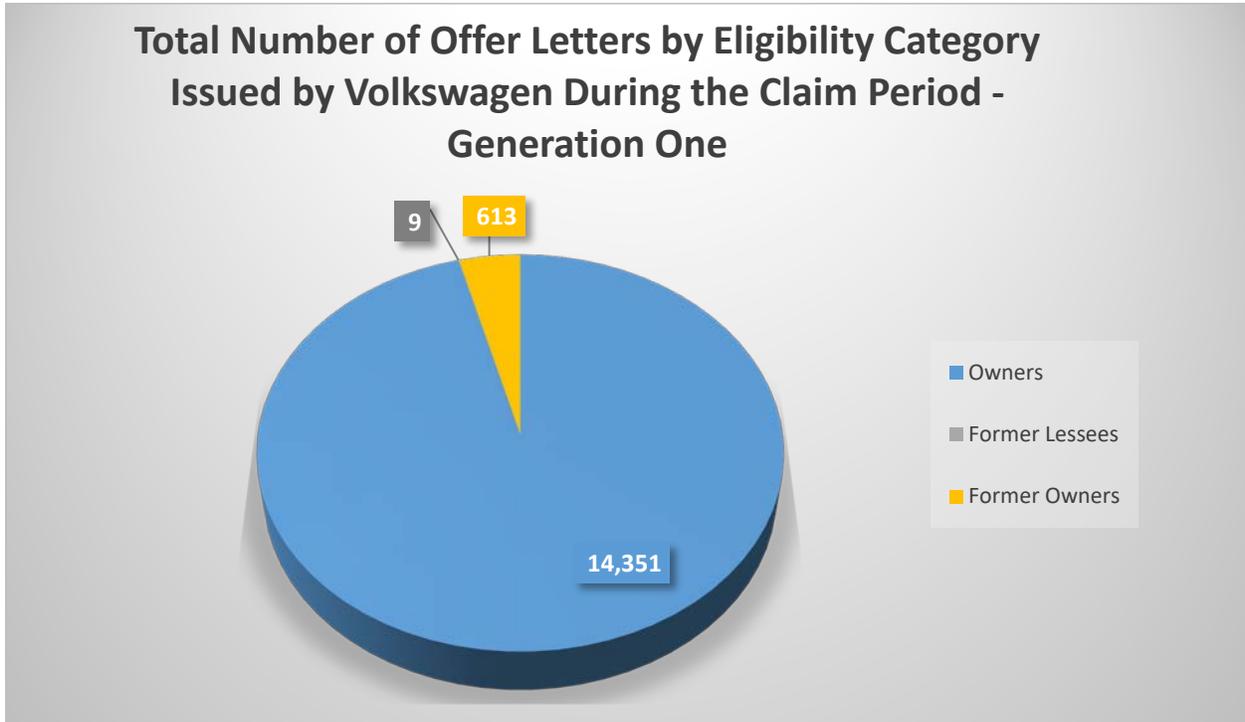
**Chart 2-23**



<sup>19</sup> The Claims Supervisor identified 398 claims -- 379 related to Generation Two vehicles and 19 related to Generation One vehicles -- where it appears that consumers who leased Eligible Vehicles and later purchased the vehicles after January 31, 2017, had claims that were categorized as Owner (Lease Conversion) claims when they may be more appropriately categorized as Eligible Lessee claims under Section 2.38 of the 3.0 Liter Class Action Settlement Agreement. A review of the claims showed that when offers were extended, those offers were appropriately being valued using the Lessee valuation formulas for Generation One and Generation Two vehicles. Therefore, this issue is not substantively affecting consumers. It is purely one of data categorization that affects the aggregation of figures for reporting. For purposes of this report, unless otherwise noted, these 398 claims will be captured as Owner claims, as that is how they are currently reflected in Volkswagen's claims system.

Charts 2-24 and 2-25 show, across Generation One and Generation Two vehicles, the total number of offer letters issued by Volkswagen by eligibility category.<sup>20</sup>

**Chart 2-24<sup>21</sup>**



<sup>20</sup> Through December 7, 2017, no offers had yet been extended to Generation One Current Lessees. Only four such claims had been submitted as of that date for Volkswagen to review, and none had reached the second ten-business-day review period. The small number of these submitted claims and processing outcomes likely are a function of the earlier model years of Generation One vehicles, such that these vehicles are generally unlikely to be the subject of active leases.

<sup>21</sup> The one claim not captured in Chart 2-24 and five claims not captured in Chart 2-25 were related to claims that ultimately were deemed not eligible. A review of these six ineligible claims revealed that these generally were instances where the consumers requested that their claims be cancelled in order to file a new claim with a different eligibility category.

**Chart 2-25**

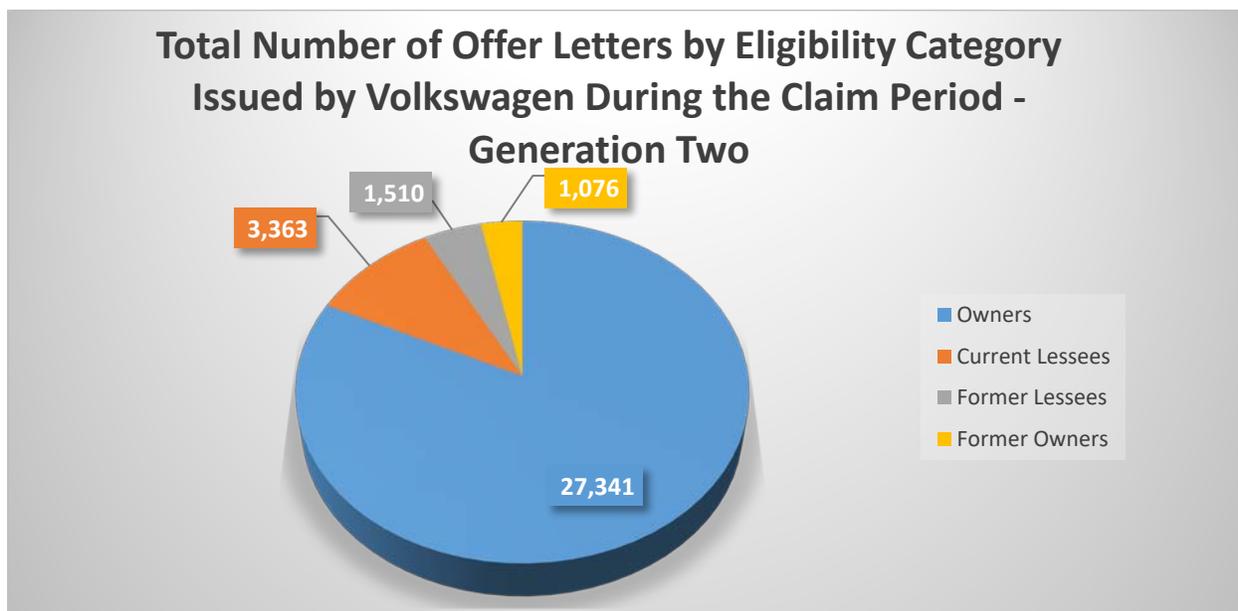
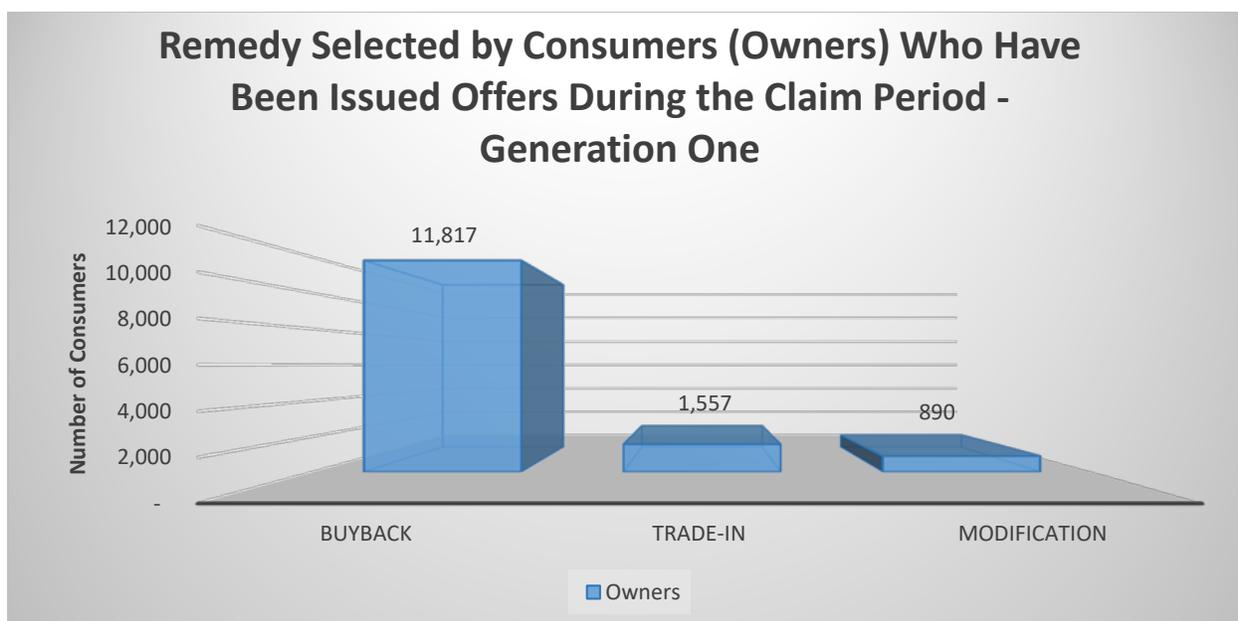


Chart 2-26 shows offer letters related to Generation One vehicles issued to Owners by remedy selections.

**Chart 2-26<sup>22</sup>**



<sup>22</sup> Chart 2-26 excludes the 613 Former Owners, 32 Owners with totaled vehicles, and 9 Former Lessees who had received offer letters because the only remedy available to those consumers is Restitution. The chart also excludes 55 cancelled claims and 1 claim that ultimately was deemed not eligible.

As to Generation Two vehicles, a total of 27,179 Owners and 3,322 Current Lessees had received offer letters for an ECR, while 1,508 Former Lessees, 1,076 Former Owners, and 81 Owners with totaled vehicles had received offer letters associated with Restitution awards. An additional 124 offers were associated with cancelled claims, and five offers were associated with claims ultimately deemed not eligible.

Chart 2-27 shows the top ten states by vehicle registration of consumers who had received offer letters through December 7, 2017.

**Chart 2-27**



Through December 7, 2017, of the approximately \$555.26 million corresponding to the offer letters issued by Volkswagen relating to Generation One vehicles, Owners account for about \$552.11 million. Across these consumers, about \$354.78 million related to Owners without loans; \$197.01 million related to Owners with loans; \$321,778.43 related to thirty-two Owners with totaled vehicles; and \$5,475.00 related to one Owner claim where the consumer purchased the vehicle between September 18, 2015 and January 31, 2017, following the

expiration of the lease.<sup>23</sup> The remainder was split among Former Owners (613 offer letters valued in the aggregate at about \$3.05 million) and Former Lessees (9 offer letters valued in the aggregate at \$49,846.33).

Chart 2-28 reflects the minimum, maximum, and average awards issued to consumers with Generation One vehicles based on eligibility category and offer selection through December 7, 2017.

**Chart 2-28<sup>24</sup>**

| <b>Eligibility Category and Offer Selection</b> | <b>Average Value</b> | <b>Min Value</b> | <b>Max Value</b> |
|---|----------------------|------------------|------------------|
| Owner – Buyback                                 | \$40,300.20          | \$17,722.73      | \$64,846.12      |
| Owner – Trade In                                | \$41,834.88          | \$18,055.75      | \$61,620.64      |
| Owner – REM                                     | \$9,948.55           | \$4,002.50       | \$13,206.76      |
| Owner – Totaled Vehicle Restitution             | \$10,055.58          | \$5,225.74       | \$12,516.20      |
| Former Lessee – Restitution                     | \$5,538.48           | \$5,100.00       | \$6,344.12       |
| Former Owner – Restitution                      | \$4,980.51           | \$1,995.00       | \$6,997.50       |

Through December 7, 2017, of the approximately \$242.59 million associated with offer letters to consumers with Generation Two vehicles, Owners accounted for about \$228.36 million. The remainder was split among Current Lessees (3,363 offer letters valued in the aggregate at \$6.726 million); Former Lessees (1,510 offer letters valued in the aggregate at \$3.02 million); and Former Owners (1,076 offer letters valued in the aggregate at about \$4.45 million).

Chart 2-29 shows the minimum, maximum, and average awards issued to consumers with Generation Two vehicles based on eligibility category and offer selection through December 7, 2017.

<sup>23</sup> Through December 7, 2017, there had been no instances where the loan amount on a Generation One vehicle that was the subject of an Owner claim where the selected remedy was either a Buyback or a Trade-In had exceeded 130% of the award amount.

<sup>24</sup> With respect to the figures for Owner-ECR claims, Chart 2-28 excludes the nineteen Generation One claims discussed in footnote 19 above that were categorized as Owner instead of Eligible Lessee claims.

**Chart 2-29<sup>25</sup>**

| <b>Eligibility Category and Offer Selection</b> | <b>Average Value</b> | <b>Min Value</b> | <b>Max Value</b> |
|---|----------------------|------------------|------------------|
| Owner – ECR                                     | \$8,394.63           | \$3,519.62       | \$12,545.64      |
| Owner – Totaled Vehicle Restitution             | \$8,361.65           | \$3,683.37       | \$10,276.74      |
| Current Lessee – ECR                            | \$2,000.00           | \$2,000.00       | \$2,000.00       |
| Former Lessee – Restitution                     | \$2,000.00           | \$2,000.00       | \$2,000.00       |
| Former Owner – Restitution                      | \$4,134.37           | \$1,770.44       | \$5,722.12       |

Finally, through December 7, 2017, a total of seventy-five consumers identified as deployed military personnel with vehicles located overseas and eighty-four decedent estates had registered with Volkswagen. Of those, seventy-four deployed military personnel and seventy-two decedent estates had submitted claims for Volkswagen to review. Across these groups, seventy-one deployed military personnel claims and sixty-six decedent estate claims were deemed complete and preliminarily eligible by the company. Seventy letters have been issued to consumers identified as deployed military personnel and sixty-three offer letters had been issued to decedent estates, the aggregate values of which were \$1,442,490.19 and \$1,421,050.99, respectively.<sup>26</sup>

**G. Appointments, Closings, and Repair Participation Payments**

As of December 7, 2017, a total of 41,896 consumers had accepted offer letters from Volkswagen, the aggregate value of which totaled \$733,355,724.30.<sup>27</sup> This includes 10,256 offer letters with an aggregate value of \$139,696,806.00 that were accepted by consumers during

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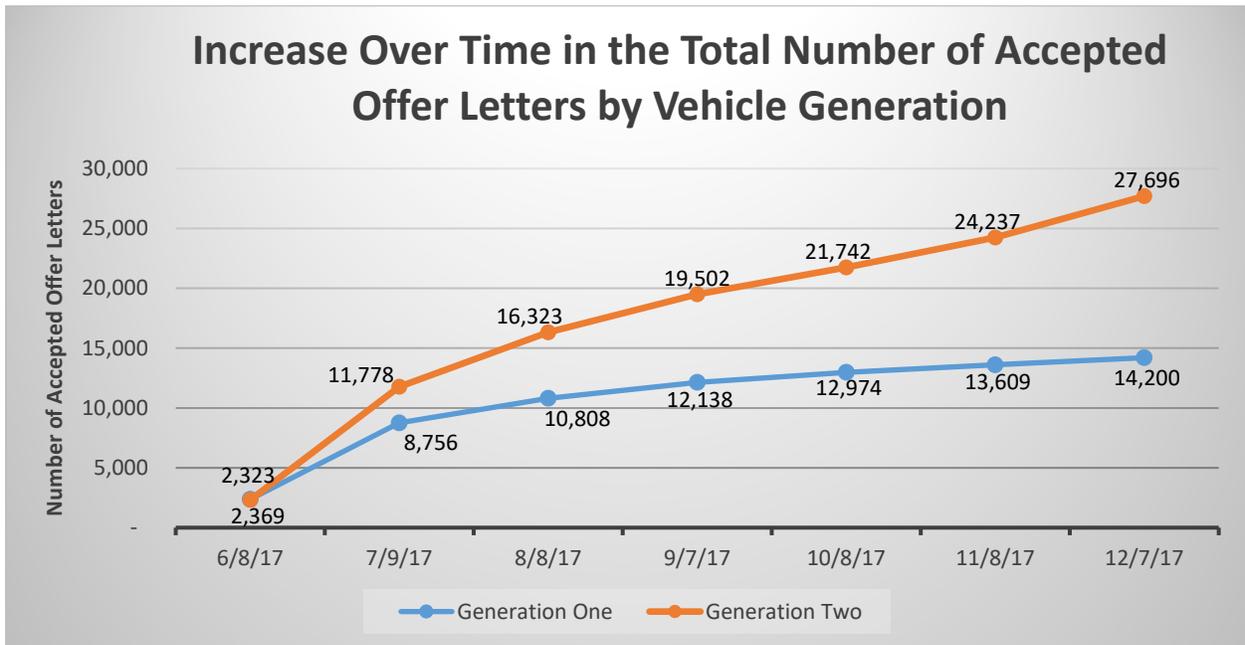
<sup>25</sup> With respect to the figures for Owner-ECR claims, Chart 2-29 excludes the 379 Generation Two claims discussed in footnote 19 above that were categorized as Owner instead of Eligible Lessee claims.

<sup>26</sup> Military overseas claims are categorized as non-standard claims because of the unique issues they present in terms of claims processing and closing logistics. Additional information relating to those claims, including completed closings, is discussed below in Section III. While decedent estate claims present unique claims processing issues, closings generally follow the standard process, so information regarding these claims is included within the closing data in this Section along with other standard claims.

<sup>27</sup> In addition to Owners and Current Lessees, this figure includes Former Lessees, Former Owners, and Owners with totaled vehicles who do not need to proceed through the closing phase because they do not have possession of an Eligible Vehicle. Information on payments made to consumers in these eligibility categories is set forth below.

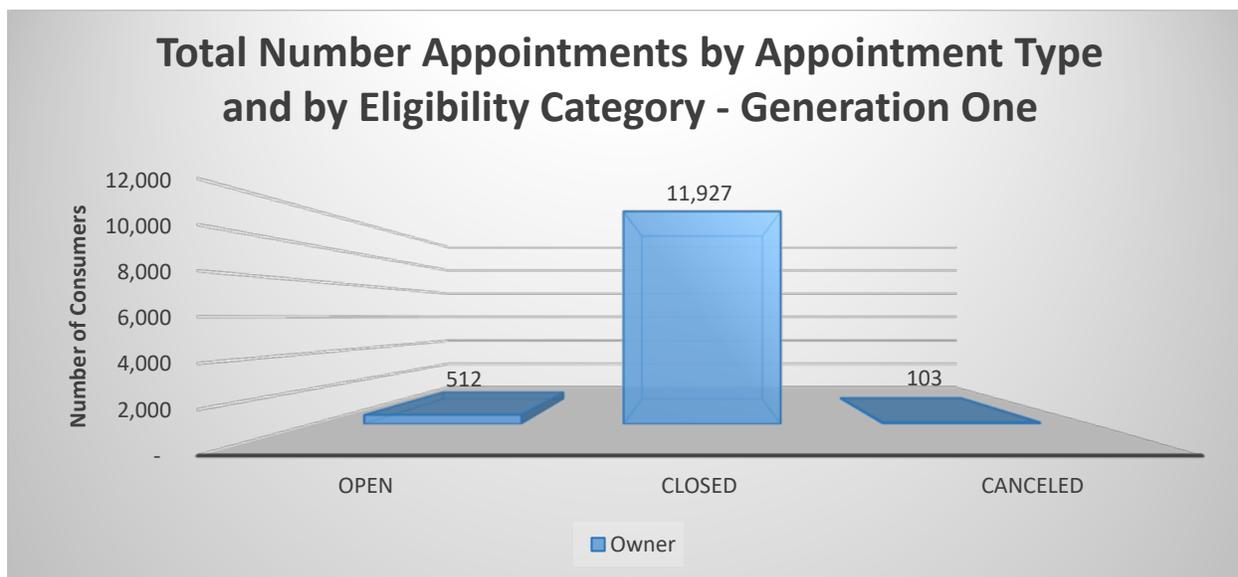
this quarter. Chart 2-30 reflects the change over time of the total number of consumers who had accepted offer letters from Volkswagen during the Claim Period, as well as by vehicle generation.

**Chart 2-30**

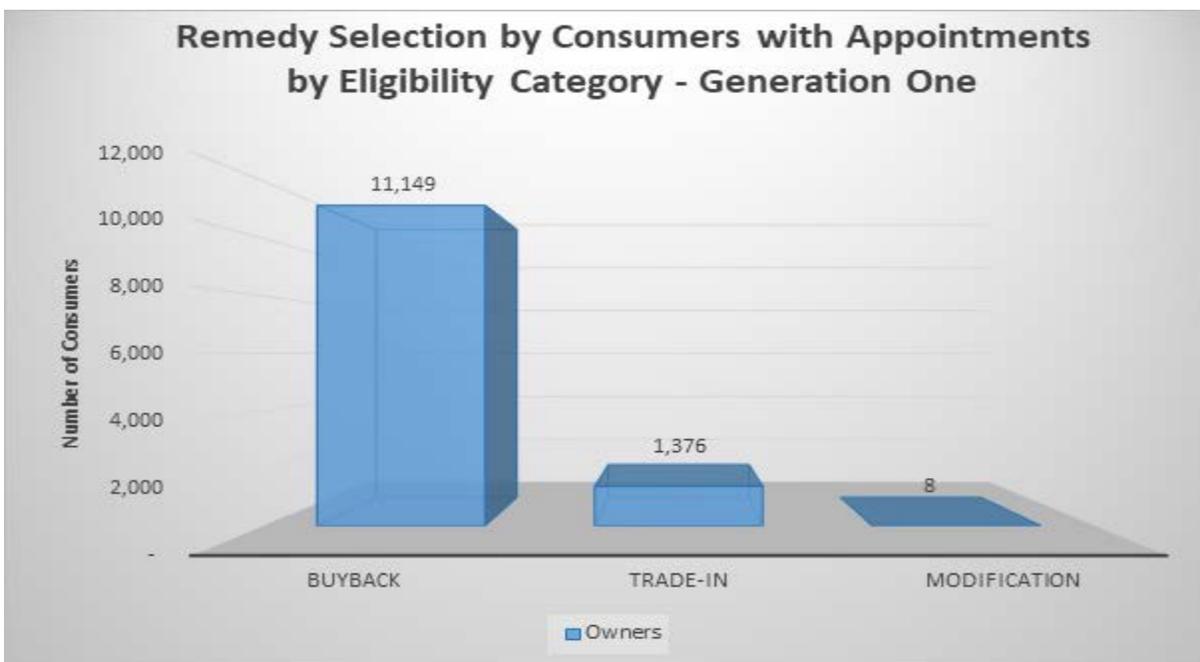


Of 14,200 consumers with Generation One vehicles who had accepted offer letters as of December 7, 2017, 13,570 were Owners. Within that group, 12,542 consumers (92.4%) had scheduled closing appointments as of December 7, 2017. Chart 2-31 shows for these consumers the total number of appointments by appointment type across eligibility categories, and Chart 2-32 shows the remedy selection of these consumers.

**Chart 2-31**



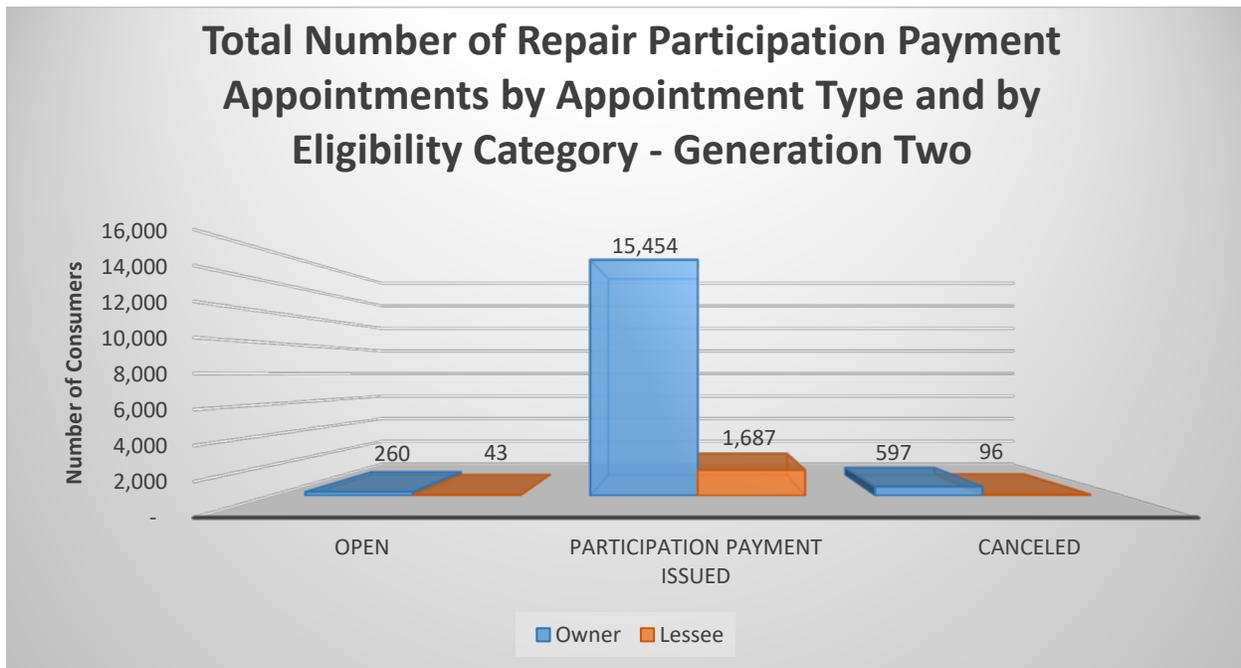
**Chart 2-32<sup>28</sup>**



<sup>28</sup> Of the nine claims not captured in Chart 2-32, seven involved instances where consumers elected to cancel their appointment to make changes to their claim, and the other two claims related to vehicles that were totaled after the appointment was scheduled. Additionally, the eight claims where consumers elected a Reduced Emissions Modification (“REM”) are associated with scheduled, and then subsequently cancelled appointments, as appointments for REMs are to be made directly with dealerships and not through the system Volkswagen uses for scheduling other types of closings. Regardless, no REM for Generation One vehicles has yet been approved by EPA or CARB.

Of the 27,696 consumers with Generation Two vehicles who had accepted offer letters as of December 7, 2017, 22,694 consumers were Owners and 2,515 were Current Lessees. Across this population, 18,139 consumers (72.0%) had scheduled appointments to receive a Repair Participation Payment. Chart 2-33 shows for these consumers the total number of appointments by eligibility category.

**Chart 2-33<sup>29</sup>**



Importantly, prior to the EPA’s and CARB’s October 20, 2017 approval of an ECR for Generation 2.1 and Generation 2.2 SUVs, consumers with these vehicles could schedule and complete Repair Participation Payment appointments and receive 50% of their award, with the remaining 50% to be paid after the ECR was approved and the consumer completed the ECR process. Following the ECR approval, consumers who own or currently lease Generation 2.1 or

<sup>29</sup> The two claims not captured in Chart 2-33 were instances where a claim was deemed not eligible after an appointment was made. These appear to be instances where consumers requested the cancellation in order to change their eligibility category but, evaluated under that new category, would not have met certain express eligibility requirements.

Generation 2.2 SUVs and who had received offer letters but had not completed a Repair Participation Payment appointment now simply can schedule and complete the ECR and receive their entire award.<sup>30</sup> Information regarding completed ECR appointments is set forth in more detail below.

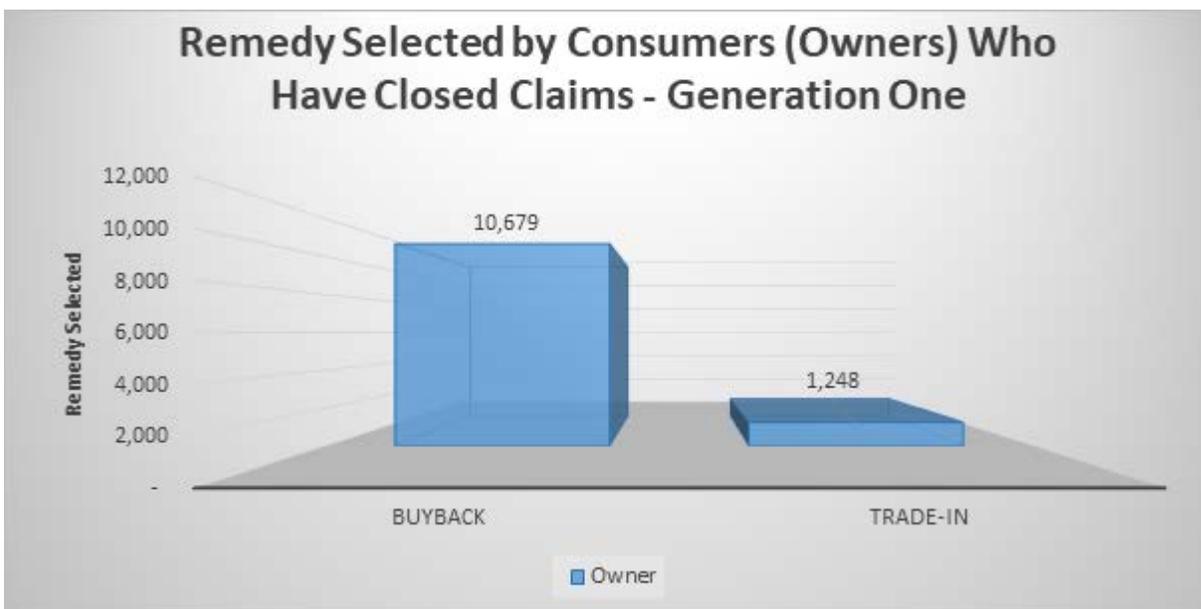
As of December 7, 2017, there had been 9,908 instances where scheduled appointments had resulted in cancellation (4,025 associated with Generation One vehicles and 5,883 associated with Generation Two vehicles). Of these, 8,633 appointments (87.1%) were cancelled at the consumer's request. Other common reasons for cancellations included: (i) the customer did not show up to the appointment (864 instances); (ii) the title holder was not present at the closing (83 instances); and (iii) the registered owner was not present at the closing and the consumer did not provide a valid power of attorney with his or her claim submission (71 instances).

As set forth in Chart 2-31, there have been 11,927 appointments associated with Generation One vehicles that had resulted in closing as of December 7, 2017, the aggregate value of which was \$481,319,297.22. This includes 2,615 closings during this quarter aggregately valued at \$106,601,512.75. Chart 2-34 shows the remedies that this population of consumers had selected, and Chart 2-35 shows the top ten states for consumers with Generation One vehicles who proceeded through closing based on the state in which the vehicle was registered.

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<sup>30</sup> As stated above, Volkswagen's ECR application for Generation Two PCs is still pending with the EPA and CARB. Under the 3.0 Liter DOJ Consent Decree, Volkswagen has until December 20, 2017 to make an ECR available for Generation Two PCs. As discussed in the initial report submitted by the Claims Supervisor in June 2017, this "Decision Date" deadline can be extended under specified circumstances. Consumers with these vehicles can still proceed with a Repair Participation Payment appointment.

**Chart 2-34**



**Chart 2-35**



Through December 7, 2017, Volkswagen had paid \$474,962,654.41 to Owners with Generation One vehicles who had submitted Buyback or Trade-In claims.

As reflected in Chart 2-33, through December 7, 2017, 17,141 consumers had completed Repair Participation Payment appointments. And following EPA’s and CARB’s approval of an

ECR for Generation 2.1 and Generation 2.2 SUVs, 8,689 consumers had completed the ECR.<sup>31</sup> This includes 7,737 consumers who had both completed the ECR and the claims process, 5,065 of whom had received a Repair Participation Payment prior to completing the ECR. An additional 843 consumers completed the ECR but had not yet completed the claims process. These are instances where the consumer elected to have the ECR completed on the vehicle while a claim was registered but not yet submitted, or was submitted and still pending review. Finally, 109 consumers completed the ECR but had not yet registered a claim. These consumers remain eligible for funding provided that they register and substantiate their eligibility by submitting all required documentation, including a “repair order” evidencing proof of repair. In total, through December 7, 2017, Volkswagen had paid \$101,531,131.52 to consumers with Generation Two vehicles, which amount includes both Repair Participation Payments and ECR payments.

The figures above for Generation One and Generation Two vehicles do not account for claims from Former Owners, Former Lessees, and Owners with totaled vehicles because these consumers do not need to go through the closing process. For Generation One vehicles, aggregated payments across these eligibility categories were: \$2,921,395.02 across 587 Former Owners; \$268,921.58 to 27 Owners with totaled vehicles; and \$49,846.33 across 9 Former Lessees. For Generation Two vehicles, these figures were: \$2,464,000 across 1,232 Former Lessees; \$4,226,774.27 across 1,022 Former Owners; and \$422,348.40 across 50 Owners with totaled vehicles.

#### H. Progress Toward the 85% Targets

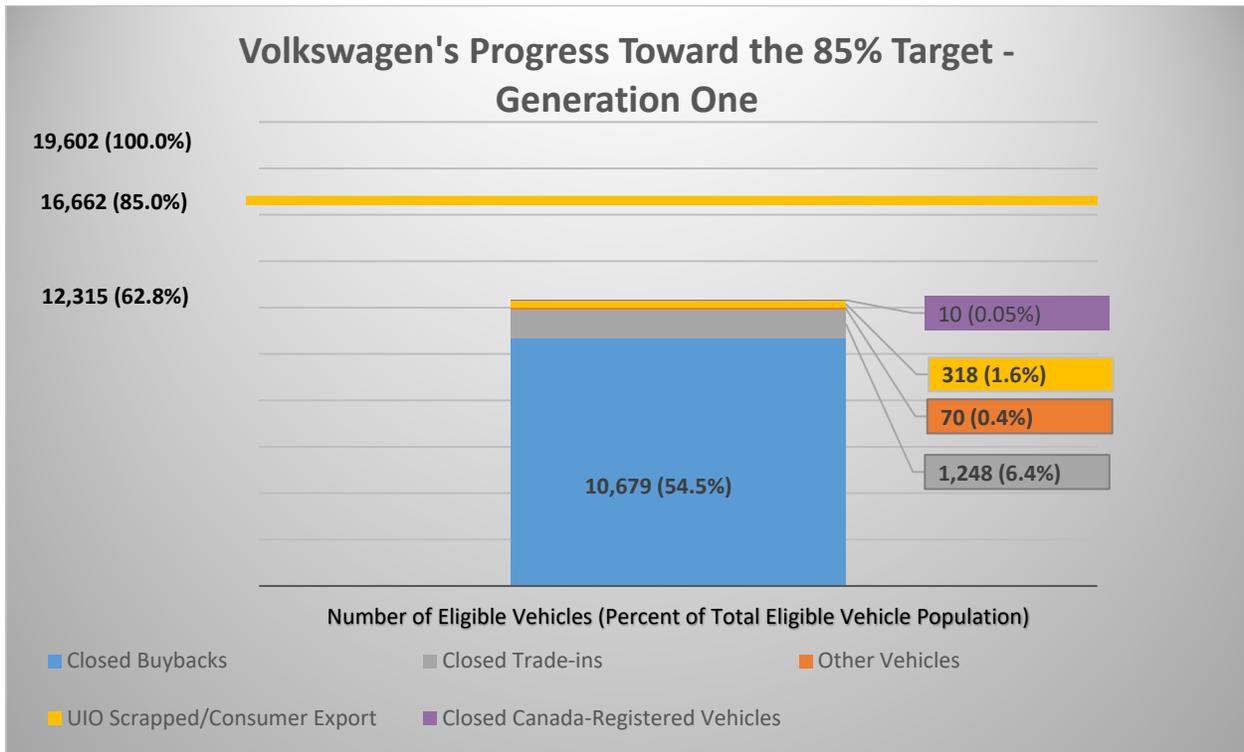
The 3.0 Liter DOJ Consent Decree requires Volkswagen to remove from commerce or perform an Approved Emissions Modification on at least 85% of Generation One 3.0 Liter

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<sup>31</sup> Of the 17,141 consumers who had completed Repair Participation Payment appointments, 9,919 claims related to Generation 2.1 or Generation 2.2 SUVs.

Subject Vehicles by November 30, 2019. The 3.0 Liter DOJ Consent Decree also provides that “the total number of Generation 1.x 3.0 Liter Subject Vehicles is 19,602.” Chart 2-36 shows Volkswagen’s progress toward this 85% target for Generation One Subject Vehicles.

**Chart 2-36**

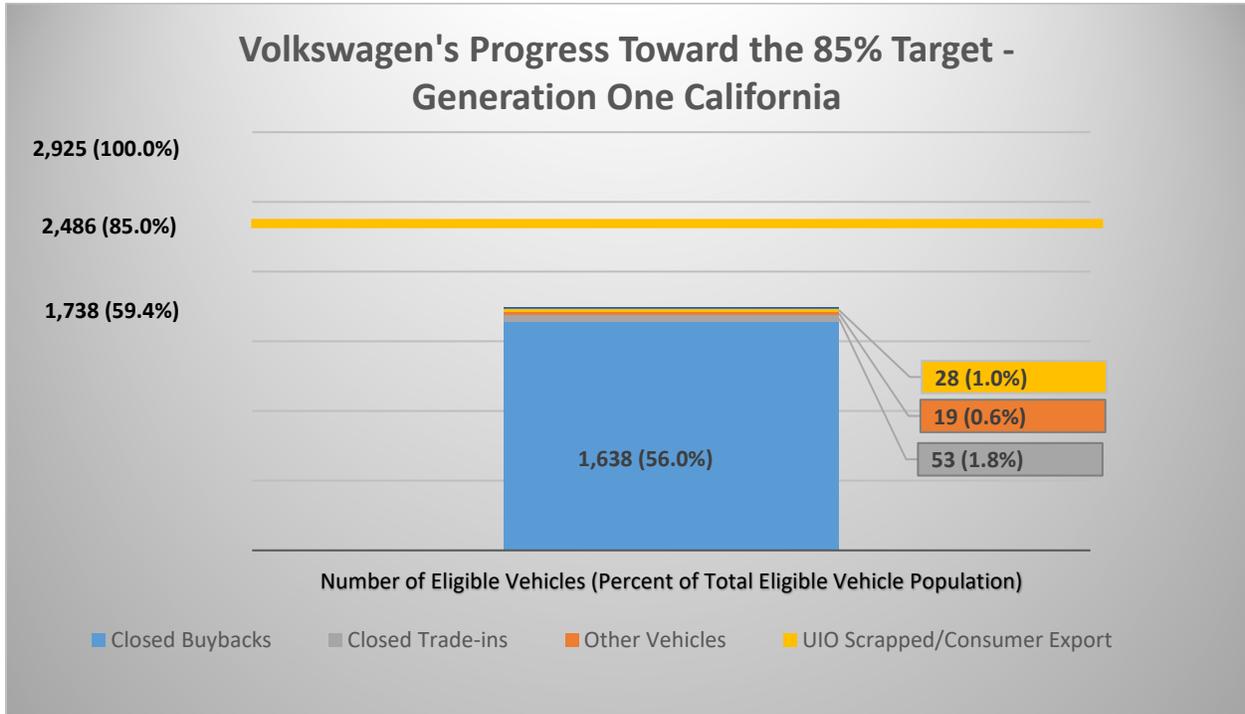


The “Other Vehicles” category depicted in Charts 2-32 and 2-33 represents vehicles Volkswagen has removed from commerce outside of the Claims Program. This includes, among others, used vehicles that Volkswagen acquired from dealerships and company cars previously utilized by Volkswagen employees that have since been retired.

Additionally, the Resolution Agreements state that by November 30, 2019, Volkswagen must remove from commerce or perform an Approved Emissions Modification on at least 85% of Generation One 3.0 Liter Subject Vehicles registered in California. The Resolution Agreements also provide that “the total number of all Generation 1.x 3.0 Liter Subject Vehicles

registered in California is 2,925.” Chart 2-37 shows Volkswagen’s progress toward this 85% target for Generation One Subject Vehicles registered in California.

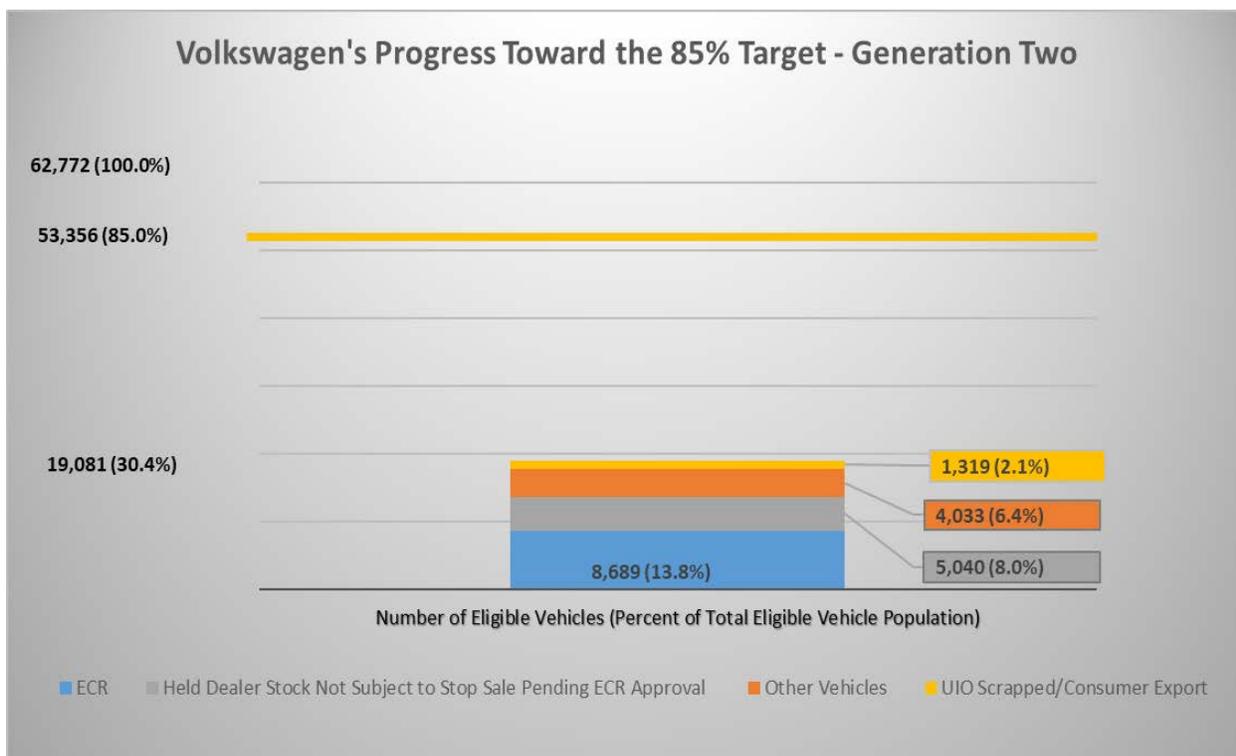
**Chart 2-37**



There are similar targets for Generation Two vehicles. The Resolution Agreements provide that by May 31, 2020, Volkswagen is required to perform an ECR on at least 85% of Generation Two 3.0 Liter Subject Vehicles.<sup>32</sup> The Resolution Agreements also state that “the total number of Generation 2.x 3.0 Liter Subject Vehicles is 62,772.” Chart 2-38 shows Volkswagen’s progress toward this 85% target for Generation Two Subject Vehicles.

<sup>32</sup> In the event the EPA and CARB do not approve an ECR for any category of Generation Two vehicle, Volkswagen will then be required to remove from commerce or perform a REM on at least 85% of that category of vehicle. As stated above, on October 20, 2018, EPA and CARB approved an ECR for Generation 2.1 and Generation 2.2 SUVs, and Volkswagen’s application for an ECR approval for Generation Two PCs is currently pending review by EPA and CARB.

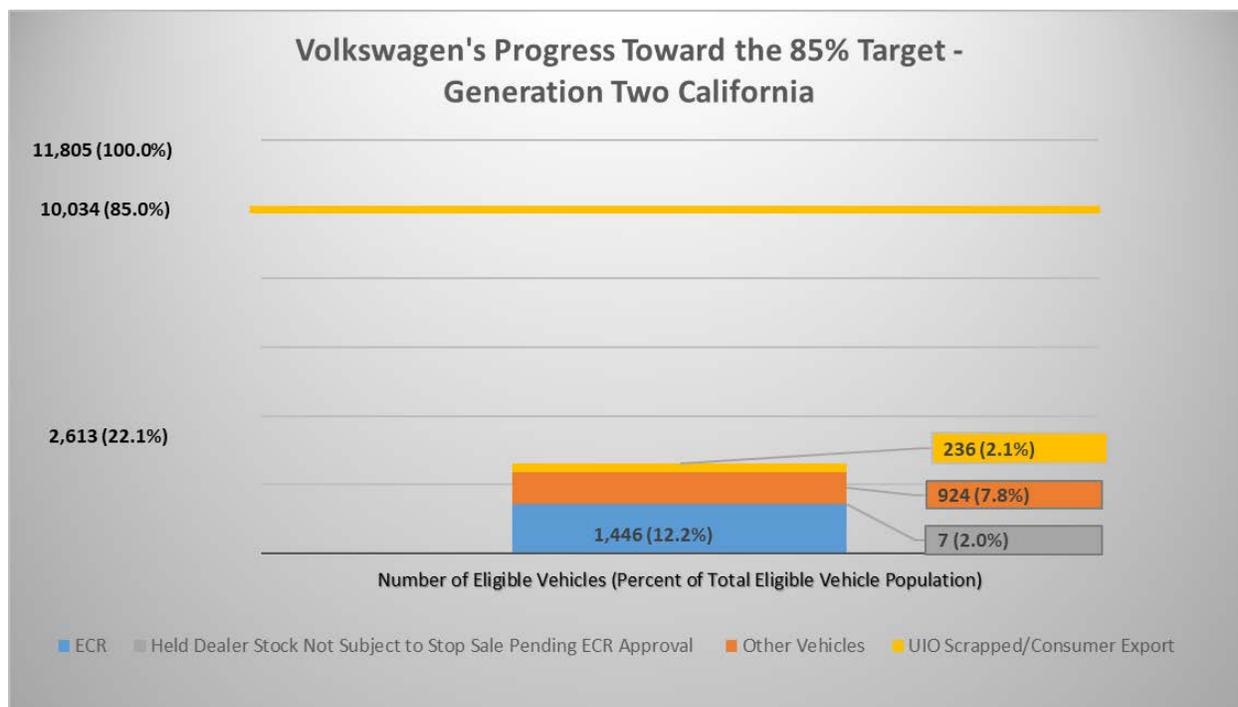
**Chart 2-38**



Likewise, by May 31, 2020, Volkswagen is also required to perform an ECR on at least 85% of Generation Two 3.0 Liter Subject Vehicles registered in California.<sup>33</sup> The Resolution Agreements state that “the total number of all Generation 2.x 3.0 Liter Subject Vehicles registered in California is 11,805.” Chart 2-39 shows Volkswagen’s progress toward this 85% target for Generation Two Subject Vehicles.

<sup>33</sup> As with the target across all Subject Vehicles, in order to meet the California-specific requirement, Volkswagen needs to remove from commerce or perform a REM on at least 85% of Generation Two Subject Vehicles for which no ECR is approved by the EPA and CARB.

**Chart 2-39**



### **III. Consumer Experience**

As reflected by the above performance metrics, the company is generally administering the Claims Program in an effective manner and timely processing claims and issuing payments to consumers. This section will provide updates regarding key components of the Claims Program, including an analysis of the customer support being delivered by the company.

#### **A. Claims Program Updates**

##### **1. ECR Approval**

As stated above, on October 20, 2017, the EPA and CARB approved an ECR for the vehicles depicted in Chart 3-1, which the 3.0 Liter DOJ Consent Decree classifies as Generation 2.1 and 2.2 SUVs.<sup>34</sup>

<sup>34</sup> As also stated above, the remaining class of Generation Two vehicles is the Generation Two PC. Under the 3.0 Liter DOJ Consent Decree, Volkswagen has until December 20, 2017 to make an ECR available for Generation Two PCs -- although that deadline can be extended under specified circumstances.

**Chart 3-1**

| <b>Generation 2.1 SUVs</b> |                    |
|----------------------------|--------------------|
| <b>Model</b>               | <b>Model Years</b> |
| Audi Q7                    | 2013-2015          |
| VW Touareg                 | 2013-2014          |
| Porsche Cayenne            | 2013-2014          |

| <b>Generation 2.2 SUVs</b> |                    |
|----------------------------|--------------------|
| <b>Model</b>               | <b>Model Years</b> |
| VW Touareg                 | 2015-2016          |
| Porsche Cayenne            | 2015-2016          |

Pursuant to the 3.0 Liter DOJ Consent Decree, within fifteen days of receiving approval of an ECR, Volkswagen is required to provide emissions modification disclosures to all affected owners and lessees. The disclosures must be approved by the EPA and CARB and identify, among other things, software changes, hardware changes, and potential impacts to vehicle operation as a result of the ECR, as well as any applicable extended emissions warranty for the vehicles. Additionally, the 3.0 Liter DOJ Consent Decree requires Volkswagen to make available, through a website, a database that includes all Generation 2.1 and 2.2 SUVs and allows consumers to conduct a free-of-charge search by VIN to determine if an ECR is available. The website is also required to display the approved emissions modification disclosure and any approved extended emissions warranty within two business days of EPA's and CARB's approval of the ECR.

In response to inquiries from the Claims Supervisor regarding compliance with these requirements, Volkswagen confirmed that it provided by e-mail on October 31, 2017, and by regular mail on November 2, 2017, notices of the ECR to owners and lessees of Generation 2.1 and 2.2 SUVs. The notifications, which relate to approximately 36,000 Generation 2.1 and 2.2 SUVs, included approved emissions modification disclosures and a link to the [www.vwcourtsettlement.com](http://www.vwcourtsettlement.com) website that also displays the approved emissions modification disclosures. The Claims Supervisor verified that there are three websites that can be utilized to conduct a cost-free search by VIN to determine whether an ECR has been completed on a

specific vehicle and whether an extended emissions warranty is in effect:

[www.vwdiesellookup.com](http://www.vwdiesellookup.com), [www.audidiesellookup.com](http://www.audidiesellookup.com), and [porschediesellookup.com](http://porschediesellookup.com).<sup>35</sup>

On November 6, 2017, Volkswagen began offering appointments for ECRs to Eligible Owners and Lessees of Generation 2.1 and 2.2 SUVs. The ECR involves the modification of the emissions control system software. Generation 2.1 SUVs also require the installation of updated emissions control system hardware components. The approved emissions modification disclosures state that, once the ECR is performed, the emissions control systems of the vehicles will function effectively in all normal driving conditions. However, Volkswagen reference materials also state that the ECR may have effects that are potentially noticeable to the consumer -- namely, differences in engine sound, shift patterns, downhill driving, shifting behavior in “Sport mode,” diesel exhaust fluid consumption, fuel economy, and on-board diagnostic system operations. Consumers should not incur any cost to obtain the ECR and will be provided a complimentary loaner vehicle for the duration of their appointment, which is expected to last approximately three hours for Generation 2.1 SUVs and approximately one hour for Generation 2.2 SUVs. After the ECR is performed, consumers will be eligible to receive applicable Repair Payments.<sup>36</sup>

## 2. Observing the Process for Completing ECRs

During this quarterly reporting period, the Claims Supervisor attended a series of ECR appointments involving 3.0 Liter Vehicles to further evaluate the closing process. Volkswagen

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<sup>35</sup> In early December, the Claims Supervisor discovered that the Porsche website had not updated the status for 37 Cayennes that had received an ECR. Porsche explained that a data link was inadvertently disconnected when the company was migrating to a new e-mail platform. Within 24 hours of alerting Porsche, the issue had been resolved and the 37 Cayennes were properly reflected in the web lookup as having received the ECR.

<sup>36</sup> As stated above, any consumer who previously received the initial Repair Participation Payment will receive the remaining one-half balance of the Repair Payment upon completion of the ECR. Any consumer who did not previously receive a Repair Participation Payment will receive the full Repair Payment upon completion of the ECR. As a result of approval of the ECR, no other remedies will be available to consumers with Generation 2.1 and 2.2 SUVs.

coordinates ECRs for dealerships across the country using a web-based application known as the IN-FORM tool. The IN-FORM tool generates a series of interactive forms that guide dealership personnel in completing ECRs in conformity with established protocols and procedures. The forms are sequentially unlocked to ensure that all required steps are taken by the dealership in the appropriate order. The IN-FORM tool also provides videos of how to perform certain technical aspects of the ECRs.

The first step required by the IN-FORM tool is entry of a VIN to validate that the consumer submitted a claim. If the VIN cannot be validated, the consumer is directed to call a dedicated TDI support line to obtain authorization. Once the dealership is able to validate a VIN, three interactive forms are generated.

The first form is the Service Initiation Form, which requires a current odometer reading supported by a photograph. Once that is provided by the dealership, the second form is unlocked -- the Service Modification Documentation Form -- which is utilized by the technician to document the specific steps taken to complete the ECR. The Service Modification Documentation Form requires submission of photographs of the VIN, the properly installed "Vehicle Emissions Control Information Label" and "TDI Modification Proof of Completion Label," as well as confirmation of the installation of the software update and hardware (if applicable). The Service Modification Documentation Form additionally requires a certification that the vehicle has been test-driven following completion of the work. This is required to ensure that the ECR is correctly performed.

Once the Service Modification Documentation Form has been completed, the technician is prompted to contact a service manager or shop foreman to seek validation of the ECR. A third form is then unlocked -- the Service Modification Manager Validation Form -- which includes a set of checkboxes that appear next to all photographs taken by the technician to allow the service

manager or shop foreman to validate that each step was correctly performed. The service manager or shop foreman is then required to certify that all necessary steps of the ECR have been completed.

The ECR process concludes with the generation of a Service Delivery Confirmation, which provides proof that the ECR was completed and includes the Repair Payment total, if a valid ECR offer is reflected in Volkswagen's system. If the consumer has not yet submitted an ECR claim, information sheets are provided explaining the steps needed to obtain the Repair Payment. In instances where an ECR claim has been submitted by the consumer, but is still being processed at the time the ECR is completed, payment is issued once Volkswagen completes processing the claim and confirms the consumer's eligibility and award amount. Repair Payments are provided for eligible claims by EFT or check from Volkswagen depending on the election made by the consumer during the claims process. No payments are made at the dealership.

The dealership personnel with whom the Claims Supervisor interacted stated that they generally found the IN-FORM tool to be intuitive and helpful in enabling the successful completion of ECRs. They each indicated that the dealerships have encountered relatively few issues during the ECR process. The dealerships' interactions with consumers that were observed by the Claims Supervisor were professional and efficient, typically lasting for only a few minutes. Based on these observations, the performance metrics set forth in Section II, and the relatively limited number of consumer complaints related to ECRs, it appears that Volkswagen is implementing an effective and streamlined ECR process.

### 3. Status of Claims for Extended Warranty and Service Contract Refunds

As detailed in the September 2017 Report, consumers with Generation One vehicles electing a Buyback or Trade-In remedy may be entitled to a refund of unused and otherwise

nonrefundable portions of the purchase price of qualifying extended warranties and vehicle service contracts purchased through Authorized Dealers, including any termination fees, provided that the warranty or service contract was purchased prior to January 31, 2017. Since the launch of the refund program five months ago, consumers have sought refunds in connection with a combined 1,832 extended warranties and service contracts. The vendor that Volkswagen engaged to administer the program, however, has encountered challenges in timely and accurately processing refund claims, and no eligible refund claims have been paid at the conclusion of this reporting period.

In October 2017, the Claims Supervisor evaluated refund program progress by reviewing a sample of 104 claims that the vendor initially determined to be deficient, and found that 48 of those claims (46%) were incorrectly adjudicated.<sup>37</sup> These findings prompted Volkswagen and its vendor to investigate the root causes of the processing errors. The deficiencies identified in the vendor's program design and implementation included: (i) a flawed document intake process; (ii) insufficient review protocols and training to yield timely and accurate eligibility determinations; (iii) insufficient quality assurance functions to detect processing errors; (iv) inaccurate communications to consumers regarding eligibility and deficiency determinations; and (v) an inability to provide accurate reporting to the Claims Supervisor on key program metrics.

By pinpointing the root causes of the refund program's challenges, Volkswagen and its vendor were able to make changes to the deficient aspects of the program in an effort to achieve improved claims processing and reporting. Specifically, the company and its vendor worked together to implement a detailed action plan that included: (i) making the refund claims portal more user-friendly for consumers and refund claim reviewers; (ii) revamping review protocols

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<sup>37</sup> Of the forty-eight claims that were incorrectly adjudicated, (i) twenty-four involved contracts that had expired and, therefore, were ineligible (as opposed to deficient); (ii) fifteen were incorrectly categorized as deficient; (iii) six included the incorrect deficiency type; and (iv) three had an additional deficiency that was not identified.

and procedures to improve the accuracy and timeliness of refund claims processing; (iii) reconfiguring the design and functionality of the claims database; and (iv) developing enhanced reporting capabilities to deliver comprehensive and accurate program data to Volkswagen and the Claims Supervisor.

On December 1, 2017, Volkswagen's vendor launched a redesigned claims portal that featured several enhancements, including more clear and detailed directions for consumers regarding how to submit refund claims, as well as improved functionality, such as the option for consumers to submit multiple refund claims simultaneously. The Claims Supervisor was provided with login credentials to evaluate the redesigned refund claims portal, and successfully submitted ten test claims, including claims involving multiple contracts, without issue.

Following the implementation of the revamped review protocols and procedures, Volkswagen's vendor undertook a secondary review of all its prior eligibility and deficiency determinations to evaluate their accuracy and determine whether corrective or supplemental communications to consumers regarding the status of their claim were warranted. To analyze the vendor's progress, the Claims Supervisor evaluated 657 refund determinations, including approximately 500 refund claims that were the subject of a secondary review by the company's vendor.<sup>38</sup> The Claims Supervisor concurred with all but four determinations resulting in an error rate of 0.06%.<sup>39</sup> It therefore appears that the revised review protocols substantially improved the vendor's accuracy in processing refund claims.

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<sup>38</sup> Of those 657 refund claim determinations, 265 claims were determined to be eligible, and 392 were determined to be ineligible. A total of 203 ineligible claims involved deficient contracts for which consumers were provided 30 days to submit an eligible contract for review.

<sup>39</sup> The vendor ultimately agreed that the four determinations identified by the Claims Supervisor had been made in error.

For all determinations on which the vendor and Claims Supervisor have agreed, the vendor is in the process of issuing consumer notifications advising the relevant consumers of the current status of their claims. As of December 7, 2017, 238 consumers were advised that their claim was potentially eligible despite prior correspondence indicating that their claim was ineligible, and 178 consumers were advised that their claim was ineligible despite prior correspondence indicating that their claim was deficient but still potentially eligible. Additionally, as of December 7, 2017, the vendor had provided notifications to 1,166 consumers that there was a delay in the review of their claim. Volkswagen leadership expects its vendor to provide additional notifications to consumers in the coming weeks with payments being issued to eligible consumers on a rolling basis.

As Volkswagen's refund program action plan has been developed and implemented, new refund claims have continued to be accepted by its vendor for processing. All payments for eligible refund claims will be based on the date of Buyback or Trade-In rather than the date of refund claim approval, ensuring that consumers do not receive any less compensation by virtue of processing errors or delays. The Claims Supervisor will closely monitor progress in this area and will provide updates in future reports.

#### 4. Claims Review Committee

As provided in the 3.0 Liter Class Action Settlement Agreement, a three-member Claims Review Committee ("CRC") was established to review appeals by consumers contesting Volkswagen's claims determinations. The CRC is comprised of one Volkswagen representative, one Class Counsel representative, and a Court-appointed neutral third party. 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 to make a final determination.

As of December 6, 2017, consumers filed a total of 432 appeals (approximately 0.8% of all submitted claims) challenging, among other issues, Volkswagen's eligibility decisions and award calculations. Since the inception of the Claims Program, the CRC has issued decision letters in connection with seventy appeals -- all during this quarterly reporting period. Of those appeals, no Claims Program eligibility or award determinations by Volkswagen were reversed. The following is a summary of the CRC's decisions:

- The CRC denied forty-eight appeals;
- For eighteen consumers, the CRC advised that the issues that were the subject of the appeal had previously been resolved, thus mooted the appeal; and
- In four instances, the CRC advised the consumer that he or she may be eligible for benefits, provided that a new claim be submitted for review and consideration.

Currently, all decisions issued by the CRC have involved appeals in which the Volkswagen and Class Counsel representatives have agreed on the outcome. The parties are continuing to work together to resolve pending appeals and have reported that they will engage the court-appointed neutral where necessary.

##### 5. Processing of Non-Standard Claims

During the course of this quarterly reporting period, Volkswagen made progress advancing claims by consumers who are serving in the military overseas (where the Eligible Vehicle is also overseas). As of December 12, 2017, Volkswagen reported receiving eighty-two such claims -- an increase of five since the last quarterly reporting period.<sup>40</sup> Of those claims,

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<sup>40</sup> The eighty-two claims reported in this section are slightly greater than the seventy-five claims identified in Section II above. The difference is explained by the fact that the data reported in Section II is based upon how

thirty consumers elected a Buyback, fifty consumers elected an AEM, one consumer sought Seller Restitution, and one consumer elected a Trade-In. Chart 3-2 identifies the countries where these consumers are stationed.

**Chart 3-2**

| <b>Consumers and Vehicles Both Overseas</b> |    |
|---|----|
| Germany                                     | 61 |
| Specific location to be determined          | 7  |
| South Korea                                 | 5  |
| Belgium                                     | 4  |
| Italy                                       | 3  |
| United Kingdom                              | 1  |
| Turkey                                      | 1  |

As of December 5, 2017, the company reported completing a total of twenty-two Buybacks -- nineteen more than during the last quarterly reporting period. Additionally, Volkswagen sent e-mail communications to military personnel with Generation Two vehicles advising that they could complete their Repair Participation Payment appointment remotely due to the inability to visit a U.S.-based dealership. As of December 7, 2017, Volkswagen completed twenty-four of the fifty-two Repair Participation Payment requests it received.

Volkswagen also made progress in processing claims by consumers living on remote islands in Hawaii without access to an Authorized Volkswagen Dealer. The company reported that, as of December 8, 2017, it had completed Buybacks in connection with five such claims. Three Buybacks were completed at facilities on remote Hawaiian islands, and the other two Buybacks were completed by consumers shipping their vehicles to a designated location, with reimbursement being provided by Volkswagen. The company has reported that there are no other closings currently scheduled for these claims.

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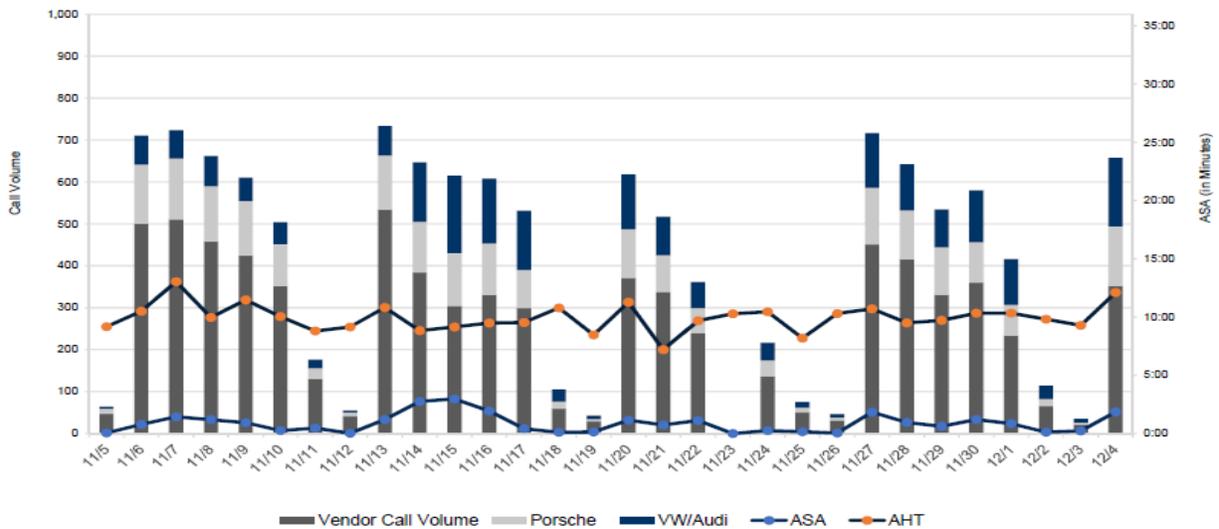
claims are coded in Volkswagen's claims system. For purposes of this section, the Claims Supervisor is utilizing the claim total as directly reported by Volkswagen.

## B. Customer Service

Hotline call volume generally decreased over the quarterly reporting period. From November 5, 2017 to December 4, 2017 (the end of this quarterly reporting period), call volume averaged approximately 580 calls per weekday, as compared to approximately 650 calls per weekday from July 21, 2017 to August 20, 2017 (the end of the previous quarterly reporting period). The average wait time -- or speed of answer -- remained below thirty seconds on average throughout the quarter, and the average abandonment rate increased from less than 1.0% percent last quarter to just under 3.0% this quarter. Notably, the last few weeks of the quarter witnessed an increase in call volume, average wait time, and the average abandonment rate. Volkswagen has attributed these trends to, among other things, a higher call volume related to the recently-approved ECR.

Chart 3-3 depicts the daily Hotline call volume and related data from November 5, 2017 to December 4, 2017.<sup>41</sup>

**Chart 3-3**  
**3.0 Call Stats (11/05/17 – 12/04/17)**



<sup>41</sup> ASA is the abbreviation for average speed of answer and AHT represents average handle time.

Over the course of the quarter, chat volume averaged approximately 190 chats per day and the abandonment rate was approximately 15%.

A review of a sample of 1,068 recorded calls and 1,044 chats that occurred between August 31, 2017 and November 29, 2017 indicated that Volkswagen generally delivered effective customer service with 97.1% of calls and 99.3% of chats being deemed successful. The limited instances where a call or chat was deemed unsuccessful were mainly the result of agents: (i) not timely processing requests for changes in the scheduling of closing appointments; (ii) not properly following the company's protocols for verifying a consumer's identity; (iii) failing to provide correct information; and (iv) lacking information they would be expected to convey regarding the Claims Program.

Over the course of the quarter, the Resolution Team remained effective in addressing more challenging consumer inquiries. From September 5, 2017 to December 4, 2017, the Resolution Team received 591 inquiries and resolved 602 inquiries -- 93.4% of which related to payment issues. Since the inception of the Claims Program, the Resolution Team has been highly efficient -- having received 1,355 total inquiries and resolved 1,305 inquiries (96.3%).

Consistent with the prior quarterly reporting period, consumer complaint volume remained relatively low. The limited number of complaints that were received largely related to: (i) the claims process in general, including its length; (ii) documentation requirements; (iii) delays in the receipt of EFT-initiating e-mails and checks; (iv) delays in the receipt of offer letters; (v) inaccurate Claims Program information being conveyed; (vi) challenges regarding the scheduling of closing appointments; and (vii) the general process and length of time for completing ECRs.

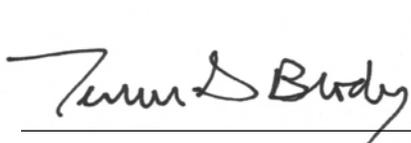
Based on the above data, Volkswagen is generally delivering responsive and effective customer support to those consumers with questions or who are facing challenges relating to the Claims Program.

**IV. Conclusion**

During this reporting period, Volkswagen continued to administer the Claims Program in accord with the requirements of the Resolution Agreements. As of the close of this reporting period, the company has paid \$586,847,071.53 in connection with eligible claims. Moreover, the company recently obtained approval from the EPA and CARB for an ECR for Generation 2.1 and 2.2 SUVs, and timely implemented processes to complete ECRs on 8,689 vehicles. Relative to the extended warranty and service contract refund program, the company and its vendor also revamped the processes and procedures for the evaluation of claims. And it is expected that, as a result of these efforts, Volkswagen will be able to significantly reduce the backlog of pending refund claims in the coming weeks. Consistent with the requirements of the 3.0 Liter Resolution Agreements, the Claims Supervisor will continue to evaluate and report on Volkswagen's progress with and adherence to the terms of the 3.0 Liter Resolution Agreements as the Claims Program progresses.

Sincerely,

**Ankura Consulting Group, LLC**



Terrence S. Brody  
Senior Managing Director



Edward J. Bell  
Senior Managing Director



Gary Wingo  
Senior Managing Director

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