

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

MARCH 13, 2018

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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 Volkswagen's 3.0 Liter Claims Program for the period from December 8, 2017 to March 7, 2018.

## **I. Executive Summary**

In the nine months since the launch of the 3.0 Liter Claims Program, Volkswagen has generally processed claims effectively and efficiently. The company has timely reviewed claims, issued offer letters, scheduled closing appointments, performed ECRs, and provided payments for the overwhelming majority of eligible consumers. As a general matter, participating consumers proceeded through each of the various steps of the Claims Program without significant issue.

There were a number of significant developments that occurred during this quarterly reporting period. On December 18, 2017, the EPA and CARB approved an ECR for Generation Two passenger cars ("PCs").<sup>2</sup> With this latest determination from the environmental regulators, Volkswagen has secured ECR approvals for all Generation Two 3.0 Liter vehicle models.

The company also instituted a virtual closing process for Buyback and Early Lease Termination closing appointments for Generation One vehicles. As part of the new closing process, Volkswagen established a team of remote closing support agents responsible for conducting closings using a mobile device application that allows them to communicate with consumers located at participating dealerships. Volkswagen designed the application to record audio and video of the closing (provided the consumer consents) to better ensure the integrity of

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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> Generation Two PCs include the following model year 2014-2016 Audi vehicles: A6s, A7s, A8s, A8Ls, and Q5s.

the closing process. The company reported that as of March 8, 2018, approximately 482 closings were completed using the virtual closing process, and it expects that all future 3.0 Liter Buyback and Early Lease Termination closings will be conducted in this manner.

Moreover, Volkswagen and its vendor continued to make progress processing claims under the extended warranty and service contract refund program. Over the course of the quarterly reporting period, the backlog of pending claims was reduced and, despite persistent challenges in verifying extended warranty and service contract information with certain issuers, the company began making payments to eligible consumers.

While Volkswagen received relatively few consumer complaints during this most recent quarterly reporting period, some consumers who had submitted claims for vehicles with branded titles expressed ongoing frustration that their claims were not being processed. Although the population of affected consumers with branded title vehicles is small, their claims have been on hold, in some cases for many months, as Volkswagen and the PSC worked with the court-appointed CRC to determine how the eligibility requirements should be applied. By the end of February, Volkswagen was able to implement an agreed upon framework to process these claims, and the company anticipates completing its review of the pending branded title claims by early May 2018.

The statistics below provide a cumulative presentation of key 3.0 Liter Claims Program metrics as of March 7, 2018:

- 72,509 registrations had been created in Volkswagen's Claims Portal;
- 60,111 consumers had submitted claims for Volkswagen to review;
- 56,080 consumers had been issued offer letters, the aggregate value of which totaled \$891,077,432.12;

- 51,328 consumers had accepted offer letters from Volkswagen, the aggregate value of which totaled \$842,344,056.27;
- 13,314 consumers with Generation One vehicles had closed on their Buyback or Trade-In, and Volkswagen had paid out \$533,251,455.98 in connection with these claims;
- 30,655 consumers with Generation Two vehicles had completed an ECR, including 27,093 consumers who also had completed the claims process;
- \$223,698,215.92 had been paid to consumers with Generation Two vehicles who had completed an appointment for a Repair Participation Payment or ECR;
- For Generation One vehicles, 619 Former Owners, 35 Owners with totaled vehicles, and 9 Former Lessees had received Restitution Payments, and the aggregate values of these payments totaled \$3,090,733.86, \$345,957.88, and \$49,846.33, respectively; and
- For Generation Two vehicles, 1,430 Former Lessees, 1,069 Former Owners, and 84 Owners with totaled vehicles had received Repair Payments, and the aggregate values of these payments totaled \$2,860,000.00, \$4,541,658.03, and \$708,356.46, respectively.

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

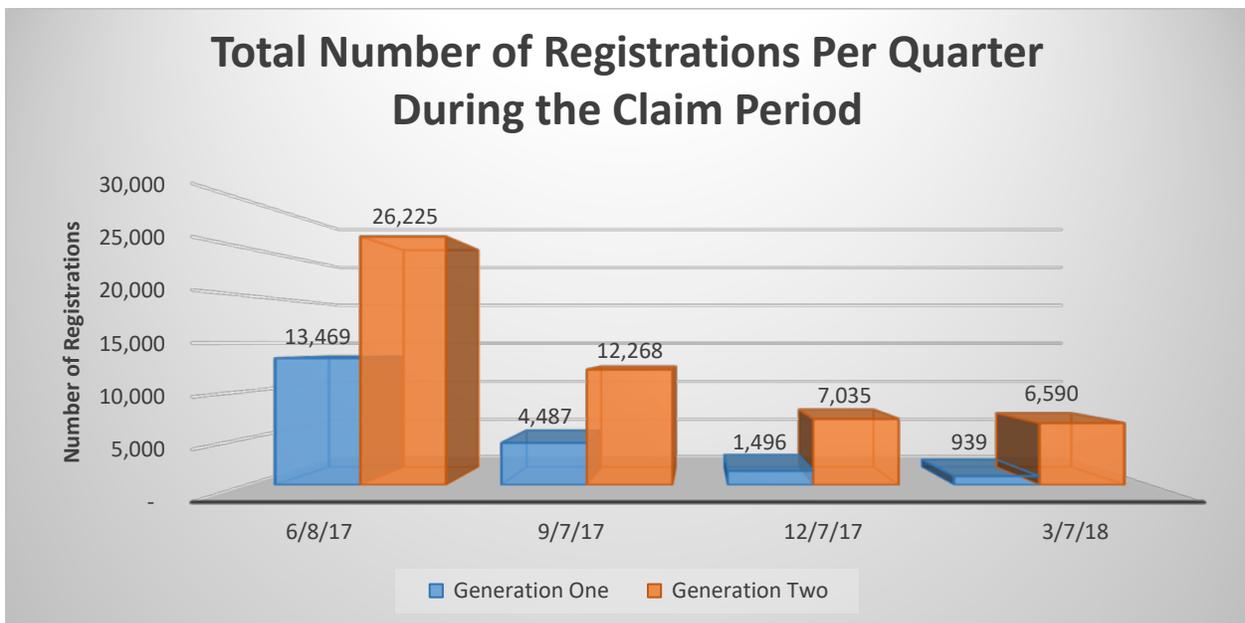
This section discusses the status of Volkswagen's 3.0 Liter Claims Program and the company's compliance with certain requirements mandated in the 3.0 Liter Resolution Agreements. All data is as of March 7, 2018, unless otherwise specified. Information relating to Generation One and Generation Two vehicles generally is reported separately because the 3.0 Liter Resolution Agreements afford different remedies to consumers corresponding to the

generation of the vehicle. References to Volkswagen’s performance this “quarter” refer to the approximately three-month period from December 8, 2017 through March 7, 2018.

A. Consumer Registrations

As of March 7, 2018, there had been a total of 72,509 registrations in Volkswagen’s system, including 7,529 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 20,391 associated with Generation One vehicles (18,478 individuals and 1,913 businesses), and 52,118 associated with Generation Two vehicles (46,817 individuals and 5,301 businesses). Chart 2-1 shows the total number of registrations created by consumers during each quarter of the Claim Period.

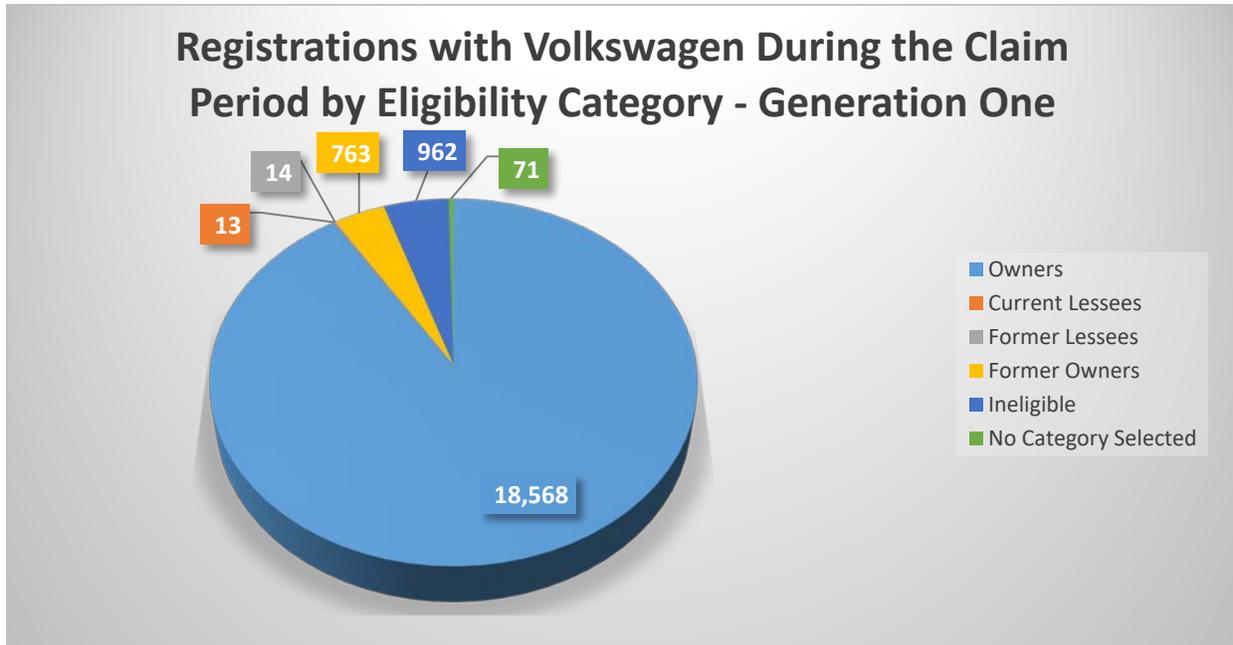
**Chart 2-1**



<sup>3</sup> 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.

Charts 2-2 and 2-3 reflect all registrations created by consumers according to eligibility category across Generation One and Generation Two vehicles through March 7, 2018. The “No Category Selected” population consists of consumers who had created a registration as of March 7, 2018, but had not yet provided details identifying their eligibility category.

**Chart 2-2**



**Chart 2-3**

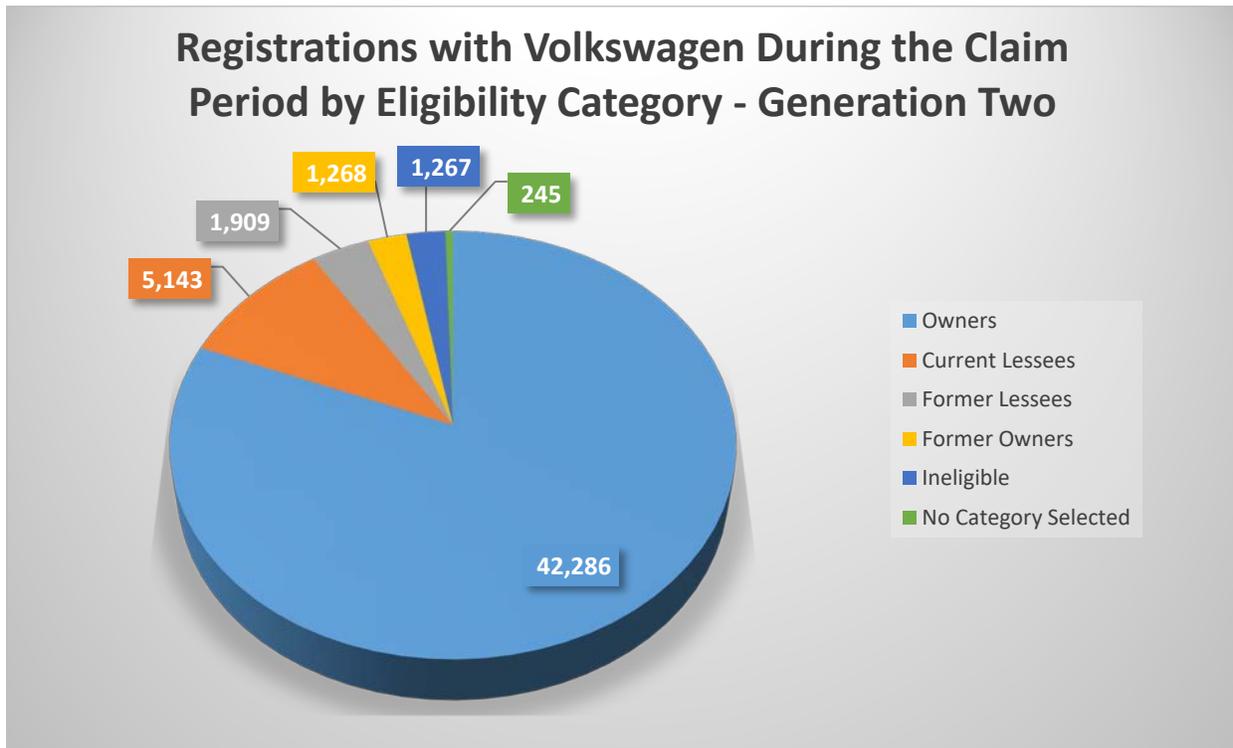
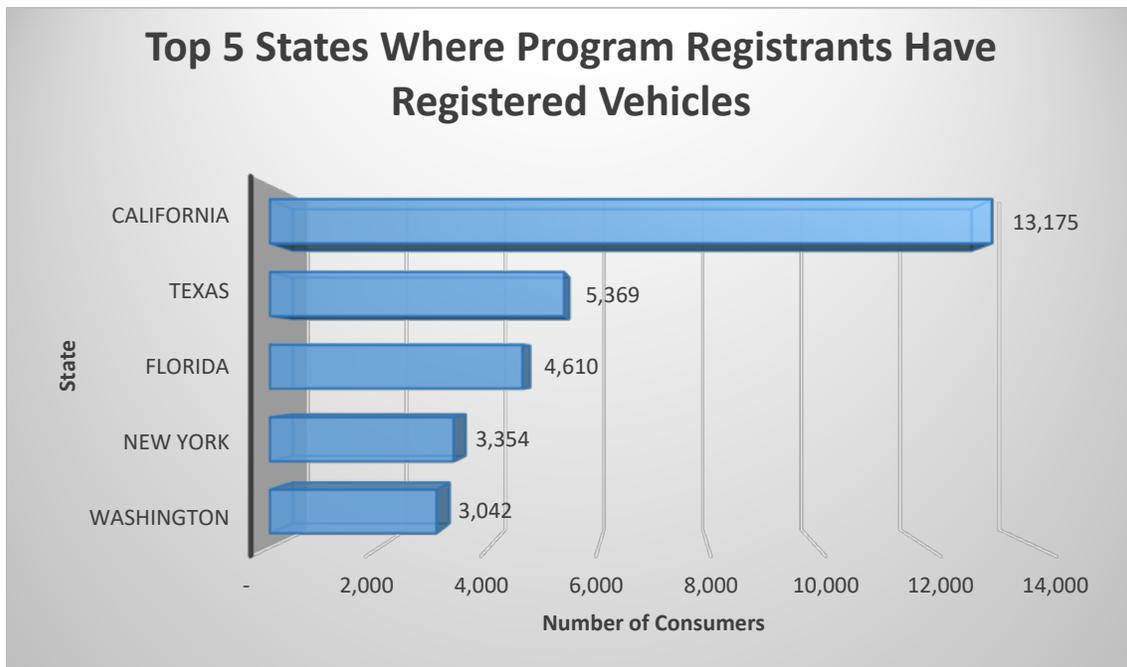


Chart 2-4 shows, among the population of vehicles associated with registered claims, the most common states where the vehicles are registered.

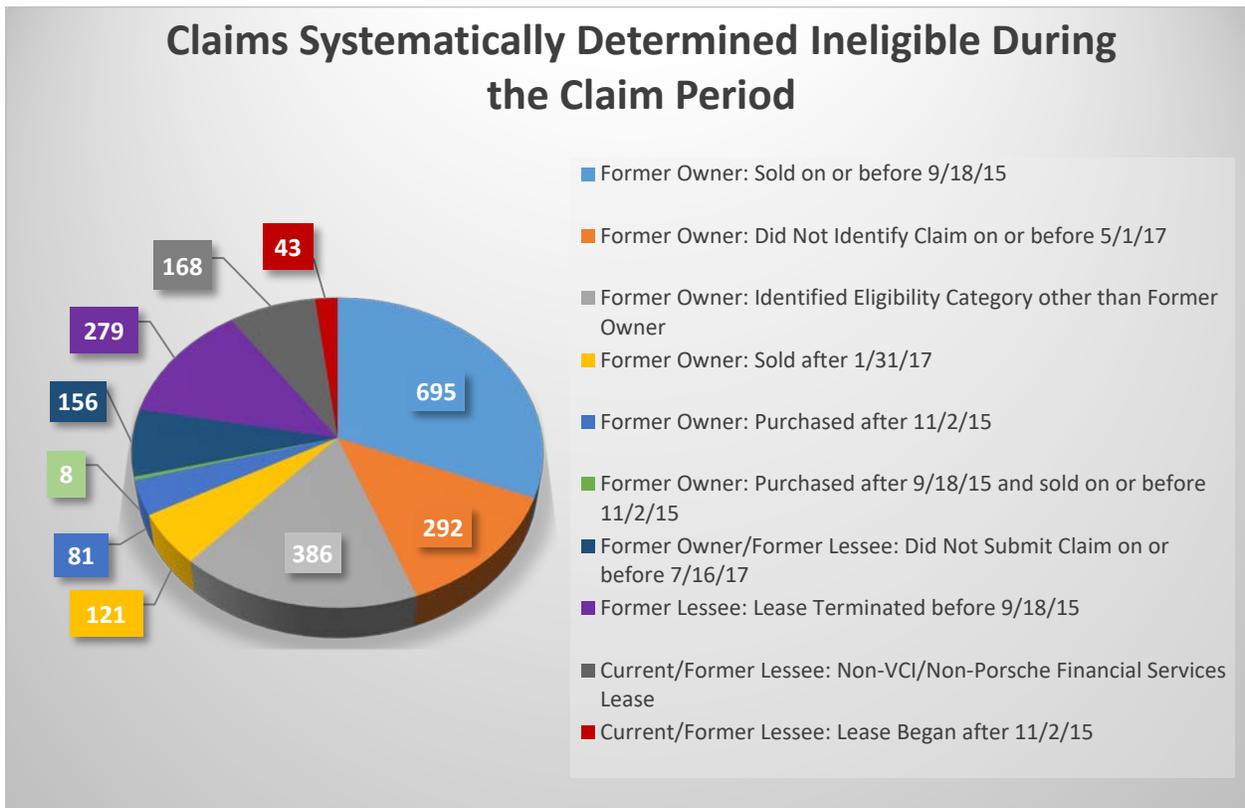
**Chart 2-4**



With respect to the population of 2,229 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 2,229 claims that have been deemed systematically ineligible.

**Chart 2-5**



There only have been ninety-seven systematic ineligibility determinations made during this quarter. The Claims Supervisor reviewed all of these determinations and confirmed that Volkswagen's systematic ineligibility logic continues to operate appropriately.

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

Following registration and preliminary remedy selection, a 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 March 7, 2018, a total of 60,111 consumers had submitted unique claims for Volkswagen to review, including 8,339 claims submitted by consumers during this quarter.<sup>5</sup> Of these, 16,697 related to Generation One vehicles (15,423 individuals and 1,274 businesses), and 43,414 related to Generation Two vehicles (39,690 individuals and 3,724 businesses).

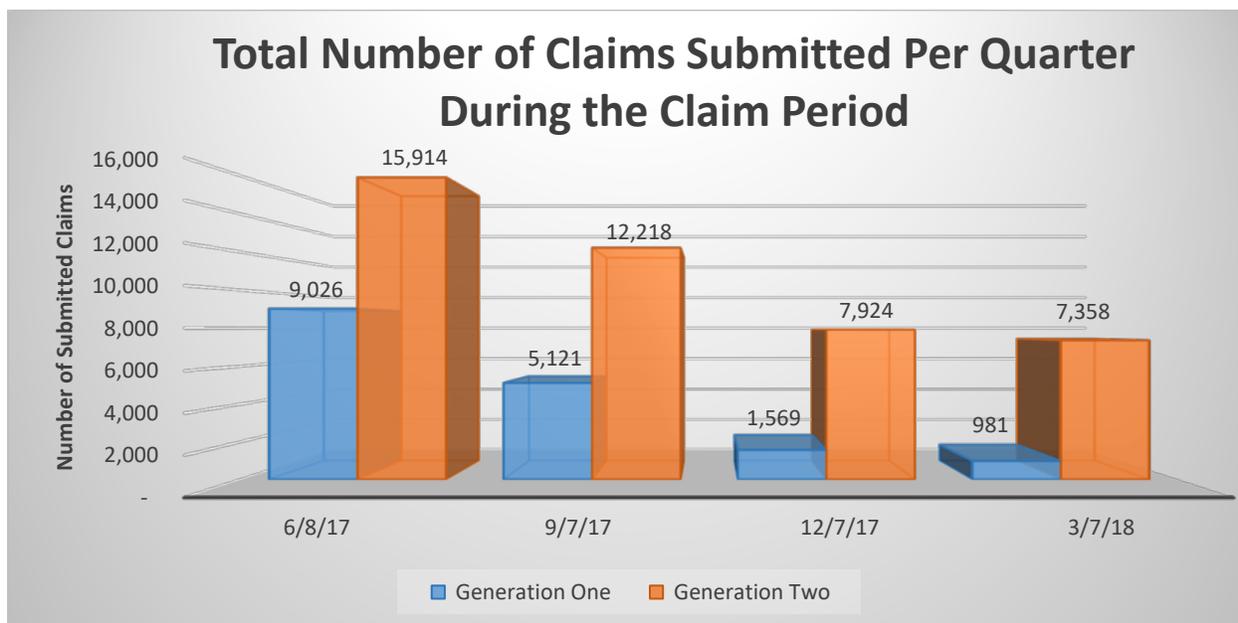
Chart 2-6 shows, across Generation One and Generation Two vehicles, the total number of unique claims submitted by consumers during each quarter of the Claim Period.

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<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.

**Chart 2-6**



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**



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

**Chart 2-8**

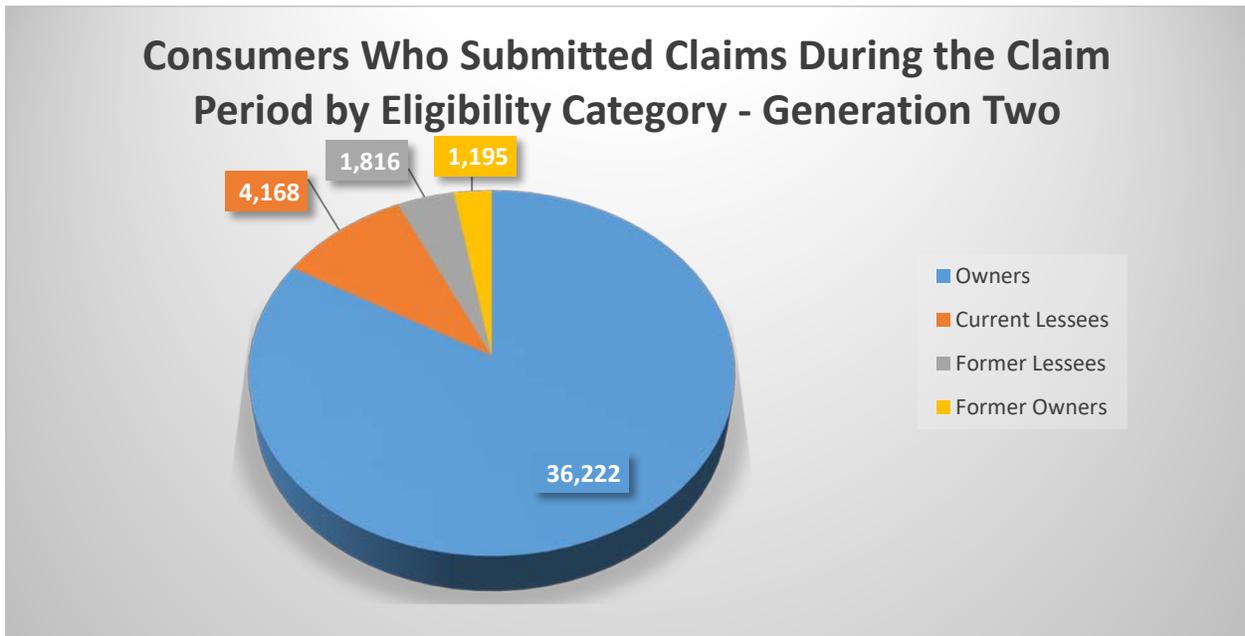
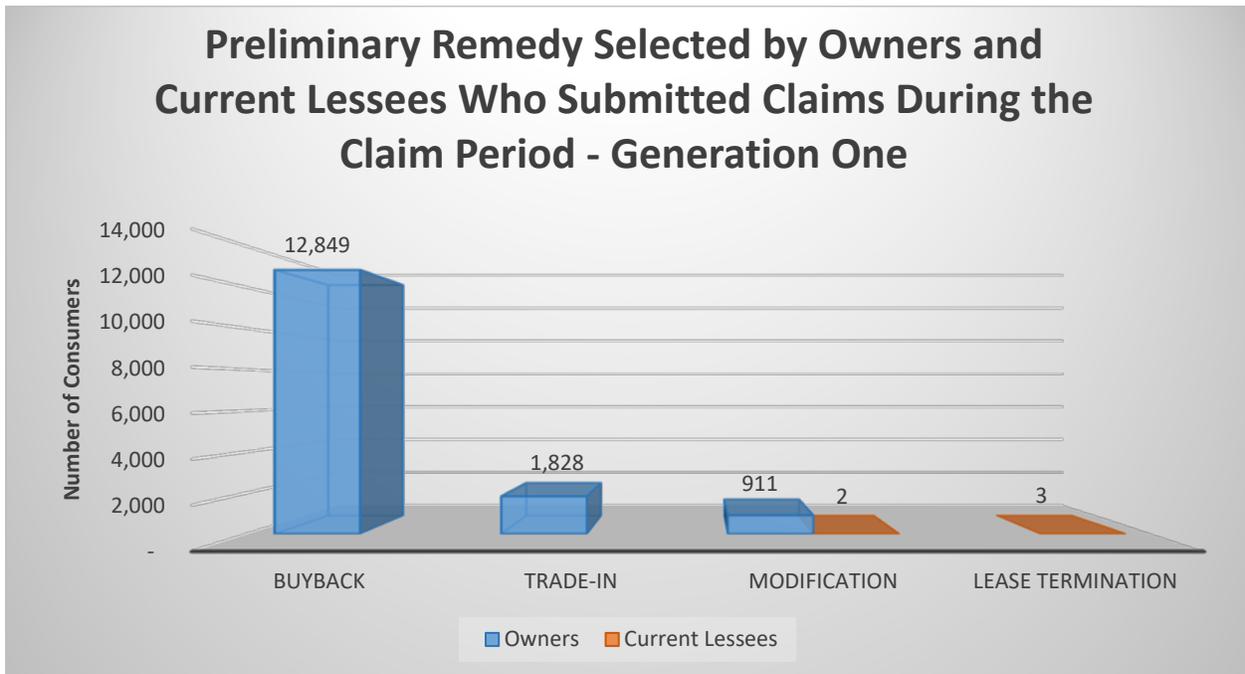


Chart 2-9 shows the preliminary remedy selections for Owners and Current Lessees of Generation One vehicles who had submitted claims through March 7, 2018.

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



As consumers with Generation Two vehicles only have one remedy available, all 35,411 Owners and 4,023 Current Lessees of Generation Two vehicles who had submitted claims through March 7, 2018, sought an ECR. A Repair Payment is the only remedy available for the 1,789 Former Lessees, as well as 1,187 Former Owners, and 118 Owners with totaled vehicles who had submitted claims associated with Generation Two vehicles. Additionally, there were 872 claims that were cancelled, usually as a result of the submission of duplicate claims or at the consumer's request, as well as 13 claims that ultimately were deemed not eligible.

Throughout the Claim Period, Volkswagen has continued to substantially satisfy the requirement that it timely issue first ten-business-day review period decisions. As of March 7, 2018, excluding the 229 claims that were pending a determination but for which the first ten-

<sup>7</sup> Chart 2-9 does not include remedy selections for 702 Former Owners, 47 Owners with totaled vehicles, or 11 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 338 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. Notably, while consumers with Generation One vehicles can preliminarily select a modification remedy, at this time no Reduced Emissions Modification has been approved for these vehicles.

business-day review period had not yet elapsed, Volkswagen had been required to make 90,194 first ten-business-day review period determinations. The company timely rendered 89,819 decisions for an overall first ten-business-day review period compliance rate of 99.6%. During this quarter, Volkswagen was required to make 13,468 first ten-business-day review period decisions and timely did so in 13,368 instances for a first ten-business-day review period compliance rate for this quarter of 99.3%.

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**

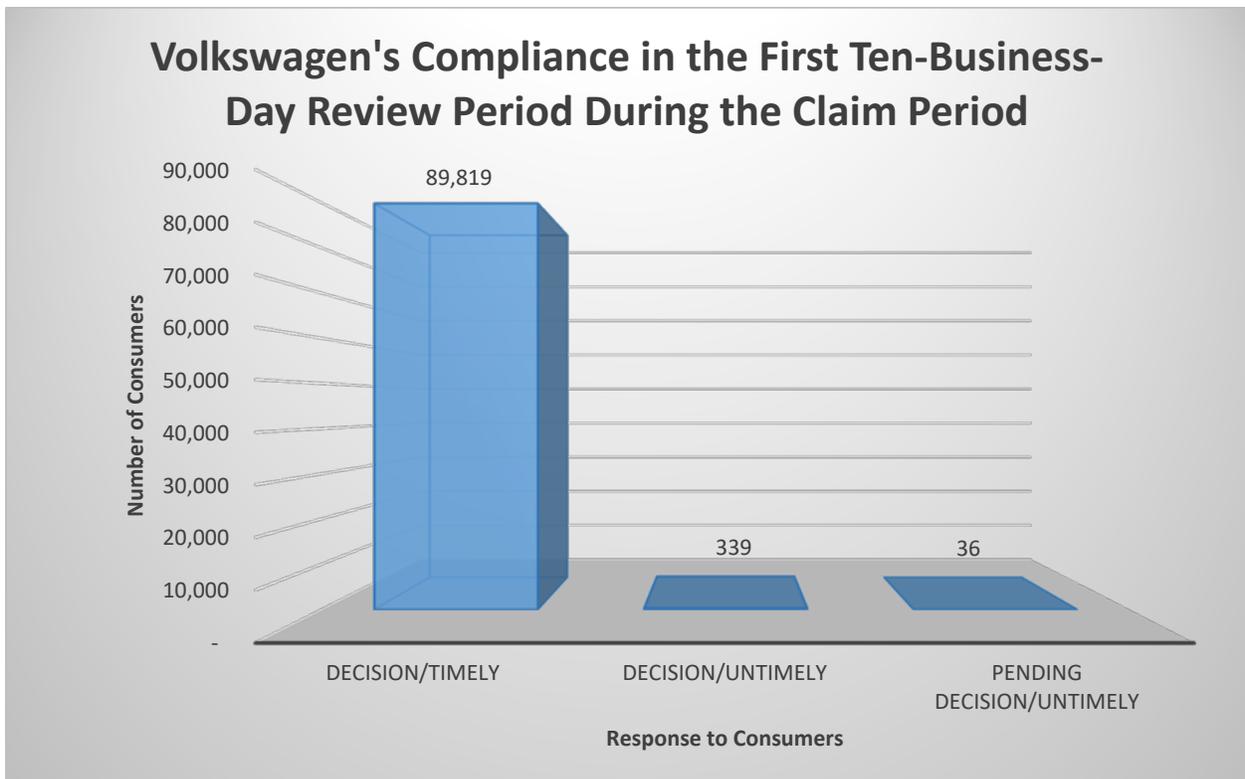


Chart 2-11<sup>8</sup>

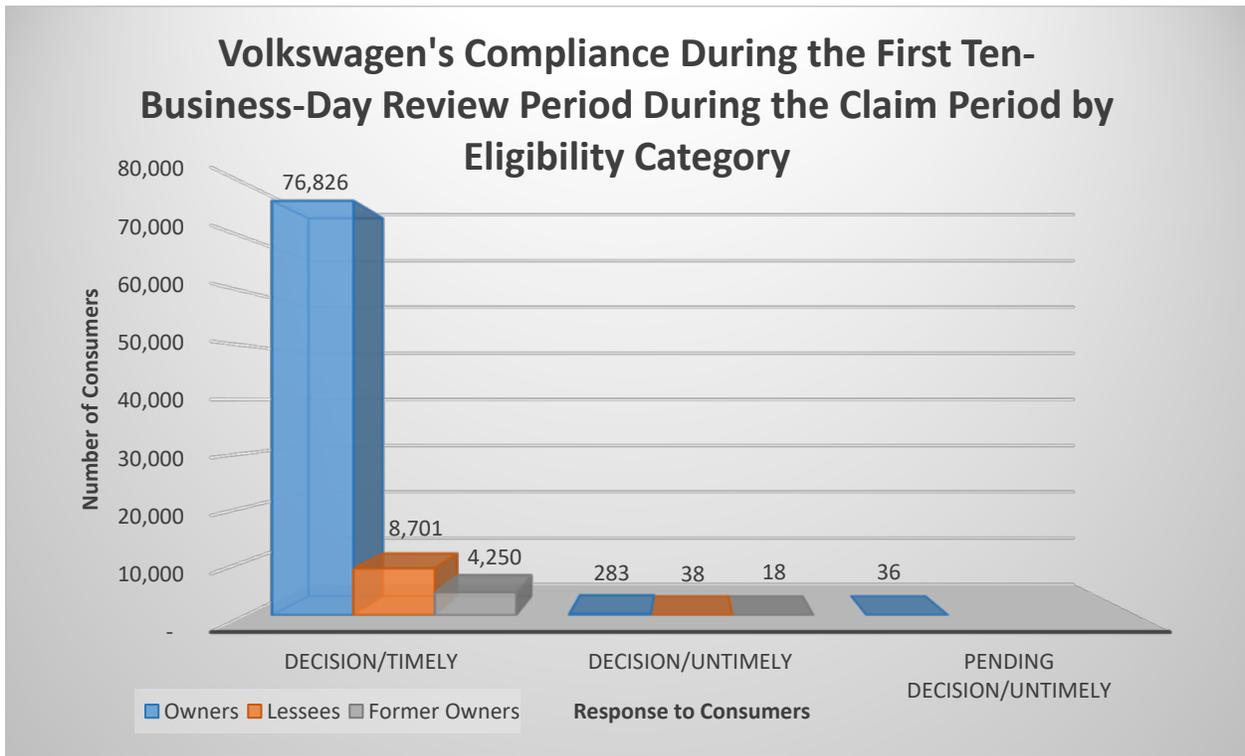
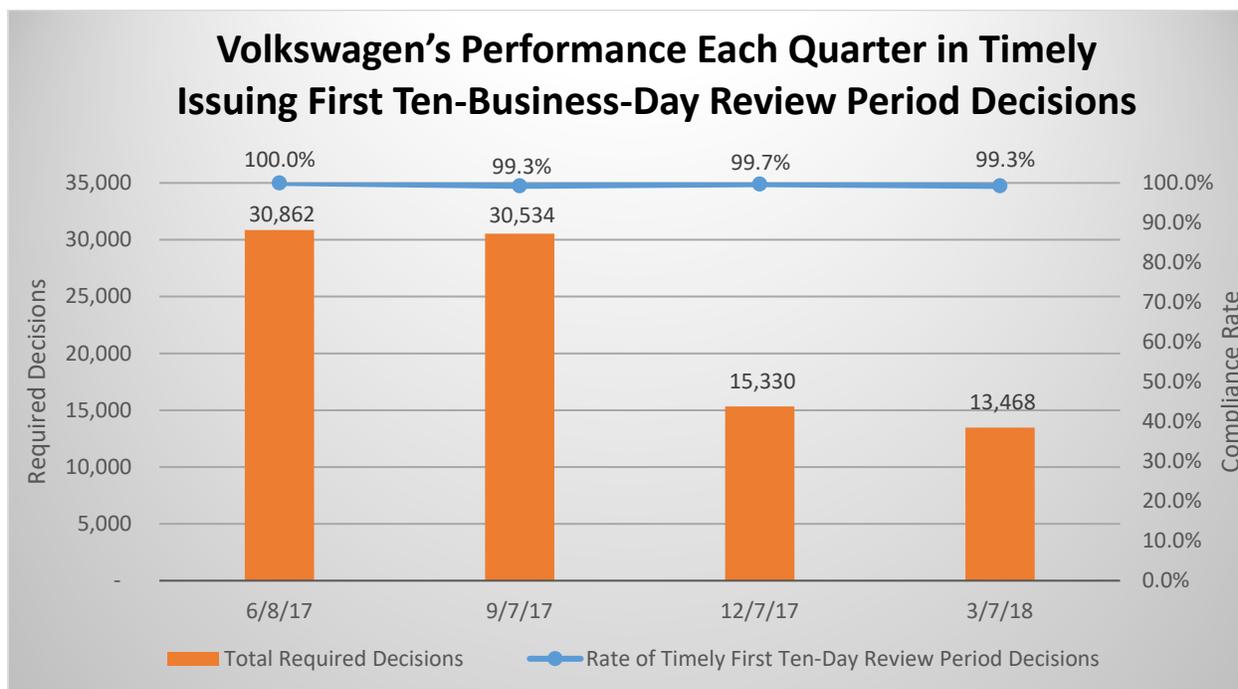


Chart 2-12 shows Volkswagen's performance in timely issuing first ten-business-day review period decisions across all quarters of the Claim Period.

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

Chart 2-12



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. First, as of March 7, 2018, there were 202 active claims from consumers who initially purchased Eligible Vehicles in the United States but registered them in Canada.<sup>9</sup> As discussed in Section III below, Volkswagen is awaiting court approval of a proposed settlement in Canada, and will determine how to address these claims after the court rules. Second, as of March 7, 2018, there were twenty-one 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 verify the information in these claims submissions and, where verified, engage with these types of consumers. However, these consumers will not receive funds out of the Funding Pool because they are not eligible Class Members.

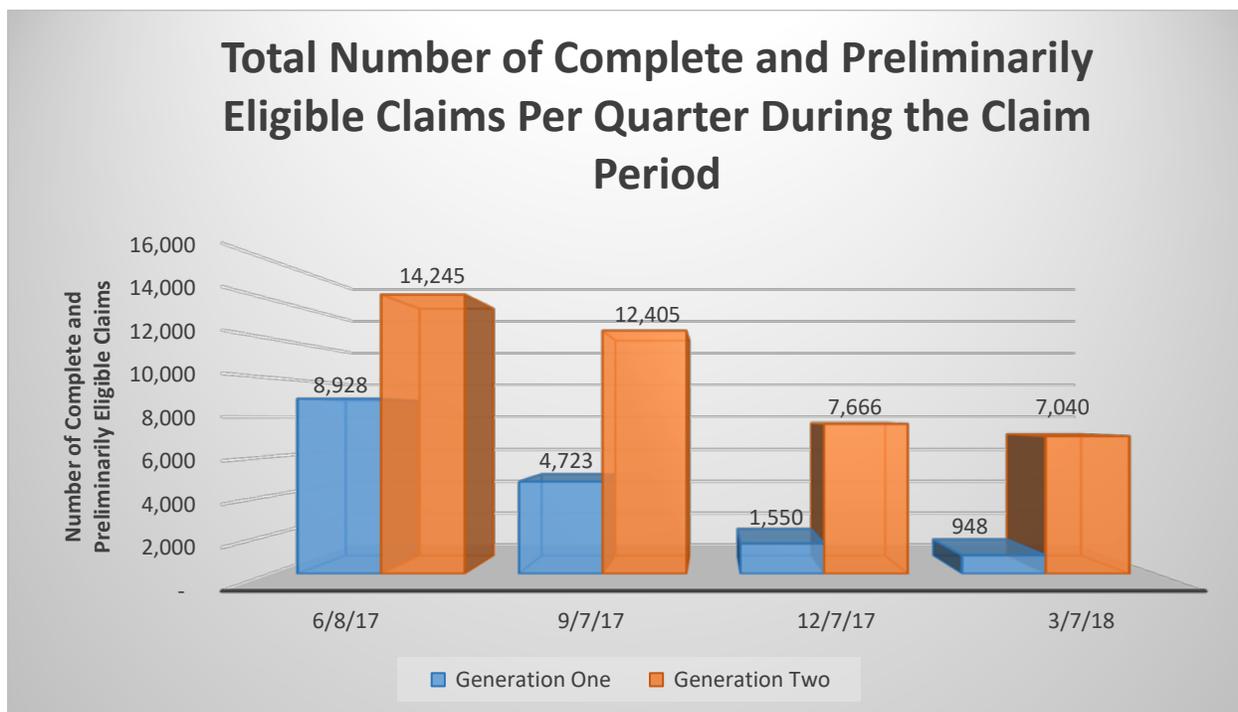
<sup>9</sup> For these purposes, a claim is considered “active” once a consumer submits it, but before a final determination on eligibility and award (or ineligibility) has been rendered.

Finally, the timeliness analysis also continues to exclude certain claims associated with vehicles with a branded title. At the end of February 2018, Volkswagen and the PSC, working with the CRC, agreed to protocols that would govern the processing of branded title claims, some of which have been on hold for months. However, Volkswagen and the PSC recognized that unique factual circumstances associated with certain claims may require further collaboration. Through March 7, 2018, Volkswagen had processed one branded title claim while 225 claims remained to be processed (123 in the first ten-business-day review period; 60 in the second ten-business-day review period; and 42 for which offers previously were extended). Branded title claims are discussed in greater detail in Section III below.

C. Preliminary Eligibility Determinations and Deficiencies

Through March 7, 2018, of the 60,111 unique claims that had been submitted by consumers for Volkswagen to review, a total of 57,505 claims (95.7%) had been determined by Volkswagen to be complete and preliminarily eligible. This includes 7,988 unique claims submitted during this quarter that Volkswagen deemed complete and preliminarily eligible. Across all 57,505 claims, 16,149 claims related to Generation One vehicles (15,026 individuals and 1,123 businesses) and 41,356 claims related to Generation Two vehicles (38,159 individuals and 3,197 businesses). Chart 2-13 shows, for Generation One and Generation Two vehicles, the total number of claims deemed complete and preliminarily eligible by Volkswagen during each quarter of the Claim Period.

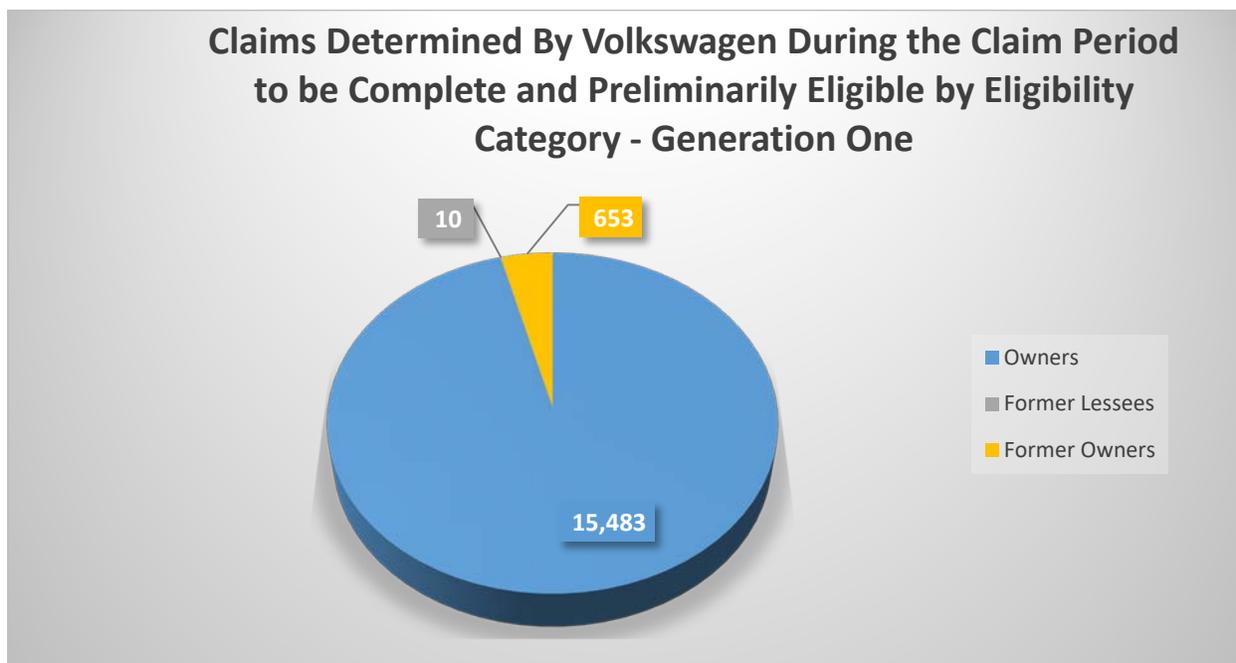
**Chart 2-13**



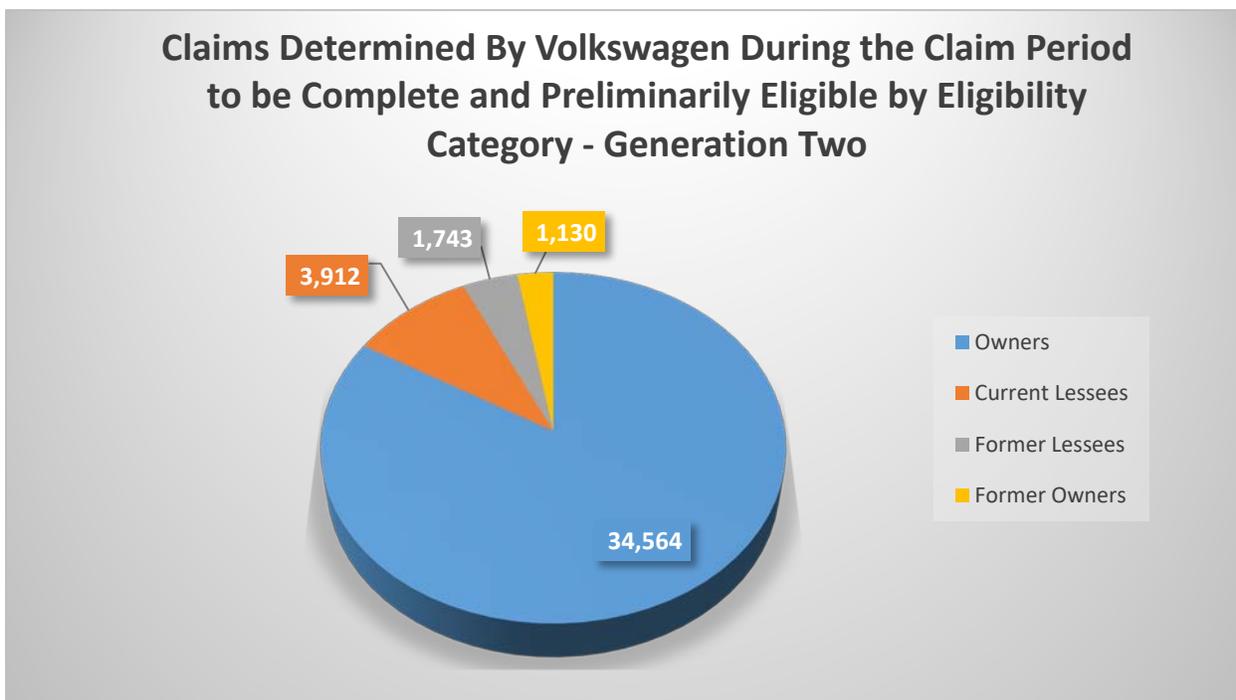
Charts 2-14 and 2-15 reflect the number of claims Volkswagen determined to be complete and preliminarily eligible by eligibility category across Generation One and Generation Two vehicles, respectively, as of March 7, 2018.<sup>10</sup>

<sup>10</sup> The three claims not accounted for in Chart 2-14 and seven claims not accounted for in Chart 2-15 were ultimately deemed not eligible.

**Chart 2-14**



**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**

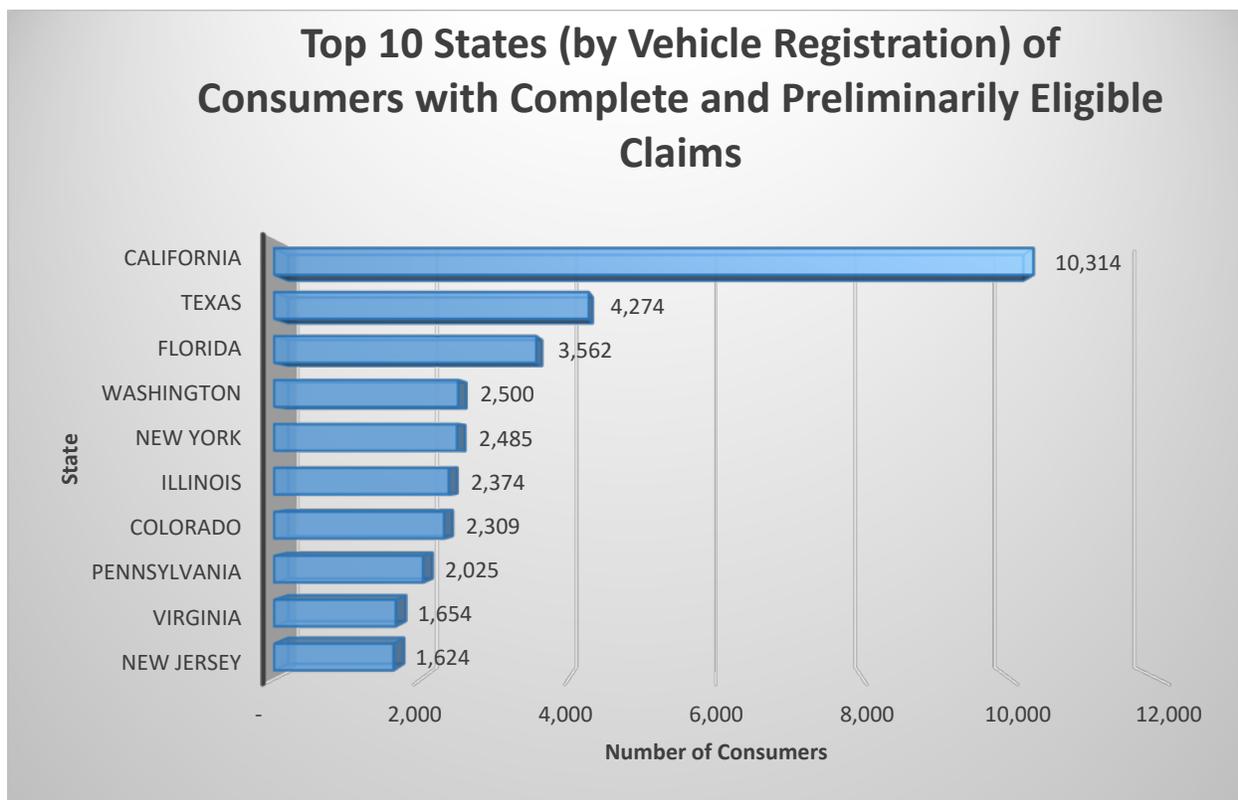
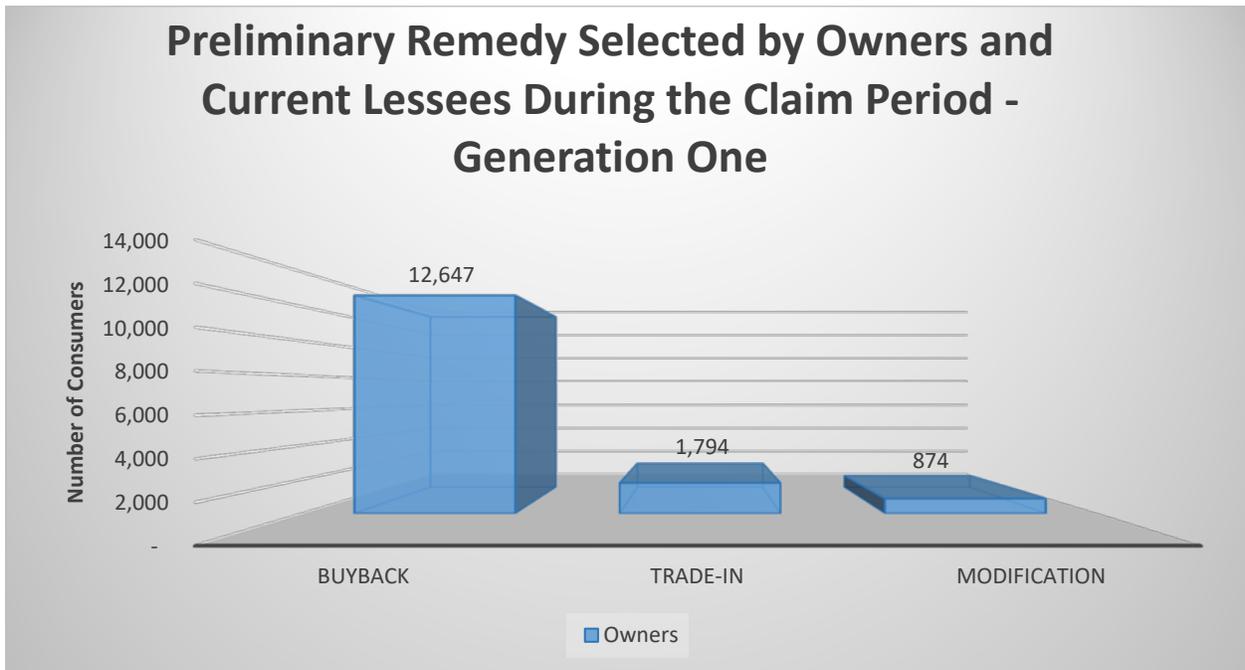


Chart 2-17 shows, as of March 7, 2018, the remedy selected by Owners and Current Lessees of Generation One vehicles whose claims Volkswagen had deemed complete and preliminarily eligible.

Chart 2-17<sup>11</sup>



For Generation Two vehicles, there is only one remedy option available to consumers. As a result, all claims of the 34,220 Owners and 3,835 Current Lessees of Generation Two vehicles that had been deemed complete and preliminarily eligible by Volkswagen through March 7, 2018, were for the ECR remedy. A Repair Payment is the only remedy available for 1,730 Former Lessees, as well as for 1,127 Former Owners, and 110 Owners with totaled vehicles who had submitted claims associated with Generation Two vehicles that, through March 7, 2018, had been deemed complete and preliminarily eligible by Volkswagen. There were also 327 cancelled claims, and 7 other claims that had been deemed not eligible.

Through March 7, 2018, there were 27,182 instances where Volkswagen had deemed a claim deficient during the first ten-business-day review period. More than 45,000 individual

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<sup>11</sup> Chart 2-17 excludes 651 Former Owners, 44 Owners with totaled vehicles, and 10 Former Lessees because Restitution is the only remedy available for those consumers. It also excludes 126 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 ineligible.

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 (12,163 claims); (ii) a document was illegible (8,616 claims); (iii) a document was incomplete or the document image was cut off (6,433 claims); and (iv) a document was missing pages (3,693 claims).

As the same claim may be resubmitted to Volkswagen after initially being deemed deficient, the 27,182 instances of deficiency determinations implicated 18,461 unique claims. Of those 18,461 unique claims, 17,366 consumers (94.1%) had made at least one attempt to cure, while 1,095 consumers (5.9%) had not yet made any attempt to cure. Across consumers who attempted to cure: (i) 16,268 consumers (93.7%) successfully cured the deficiency; (ii) 87 consumers (0.5%) resubmitted claims that were pending a completeness determination by Volkswagen as of March 7, 2018; and (iii) 1,011 consumers (5.8%) had not subsequently resubmitted claims after their initial attempt to cure the deficiency was unsuccessful.

Through March 7, 2018, there were 1,314 consumer claims with active deficiencies. The most common deficiency codes among actively deficient claims were: (i) an incorrect document was uploaded (541 claims); (ii) a document was illegible (359 claims); (iii) a name on the documents did not match the name in the Claims Portal (191 claims); and (iv) a document was incomplete or the document image was cut off (171 claims).

Finally, the Claims Supervisor reviewed a sample of 600 deficiency codes applied this quarter to assess whether Volkswagen reviewers properly were applying deficiency codes. The Claims Supervisor substantiated Volkswagen's deficiency determinations in 571 instances (95.2%). This concurrence rate is relatively consistent with that of the last two quarters. Trend analyses showed that instances of disagreements involving complex documents decreased

slightly as compared to the previous quarter,<sup>12</sup> while instances of disagreements involving financial consent forms, identification documents, and proof of ownership documents marginally increased.

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 March 7, 2018, there have been 699 instances in which a claim 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 March 7, 2018, there were no actively tolled claims.

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>13</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>14</sup>

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<sup>12</sup> “Complex documents” include: power of attorney; death certificate; proof of VCI account; corporate document; 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.

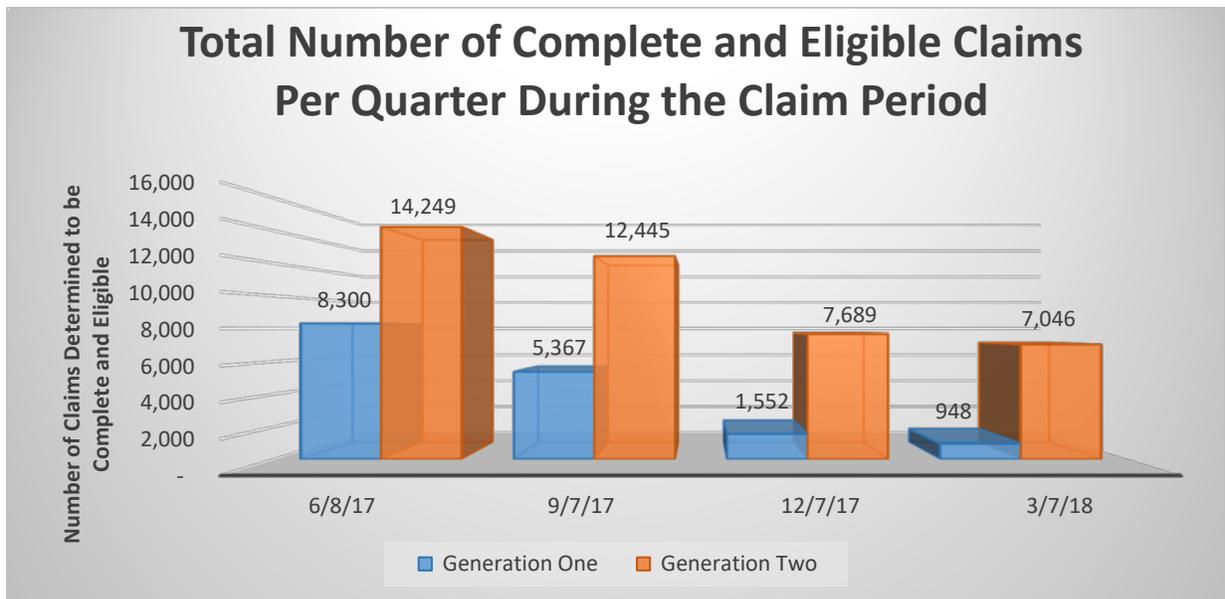
<sup>13</sup> As stated above, for claims by Owners of Generation One vehicles who elect a Buyback or Trade-In and whose vehicles are encumbered by a third-party loan, the second ten-business-day review period does not begin until Volkswagen receives from the lienholder the loan payoff amount information necessary to calculate the award and generate the offer letter.

<sup>14</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

As of March 7, 2018, a total of 57,596 consumers had reached the second ten-business-day review period after having been deemed preliminarily eligible by Volkswagen, including 7,994 such consumers during this quarter.<sup>15</sup> Of these, 16,167 claims related to Generation One vehicles (15,044 individuals and 1,123 businesses) and 41,429 claims related to Generation Two vehicles (38,230 individuals and 3,199 businesses). Across this population, 56,080 consumers (97.4%) had been issued offer letters, including 7,811 offer letters issued during this quarter.

Chart 2-18 shows, for Generation One and Generation Two vehicles, the total number of claims reaching the second ten-business-day review period during each quarter of the Claim Period, including this quarter.

**Chart 2-18**



ineligible by Volkswagen’s system based on information input by the consumer in the Claims Portal. Through March 7, 2018, there had been 413 instances in which claims had been deemed ineligible upon review by Volkswagen. For 237 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 claims were deemed deficient instead of ineligible, offering the consumer a chance to cure.

<sup>15</sup> As described above, there were 55,505 consumers whose claims were deemed complete and preliminarily eligible by Volkswagen, but 57,596 preliminarily eligible claims reached the second ten-business-day review period. The difference 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.

Throughout the Claim Period, Volkswagen has continued to substantially satisfy the requirement to timely issue second ten-business-day review period decisions. As of March 7, 2018, excluding the 497 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 61,871 second ten-business-day review period decisions. The company timely rendered determinations in 60,598 instances, for a second ten-business-day review period compliance rate of 97.9%. During this quarter, Volkswagen was required to make 8,915 second ten-business-day review period decisions, and timely did so in 8,745 instances for a quarterly compliance rate of 98.1%.

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**

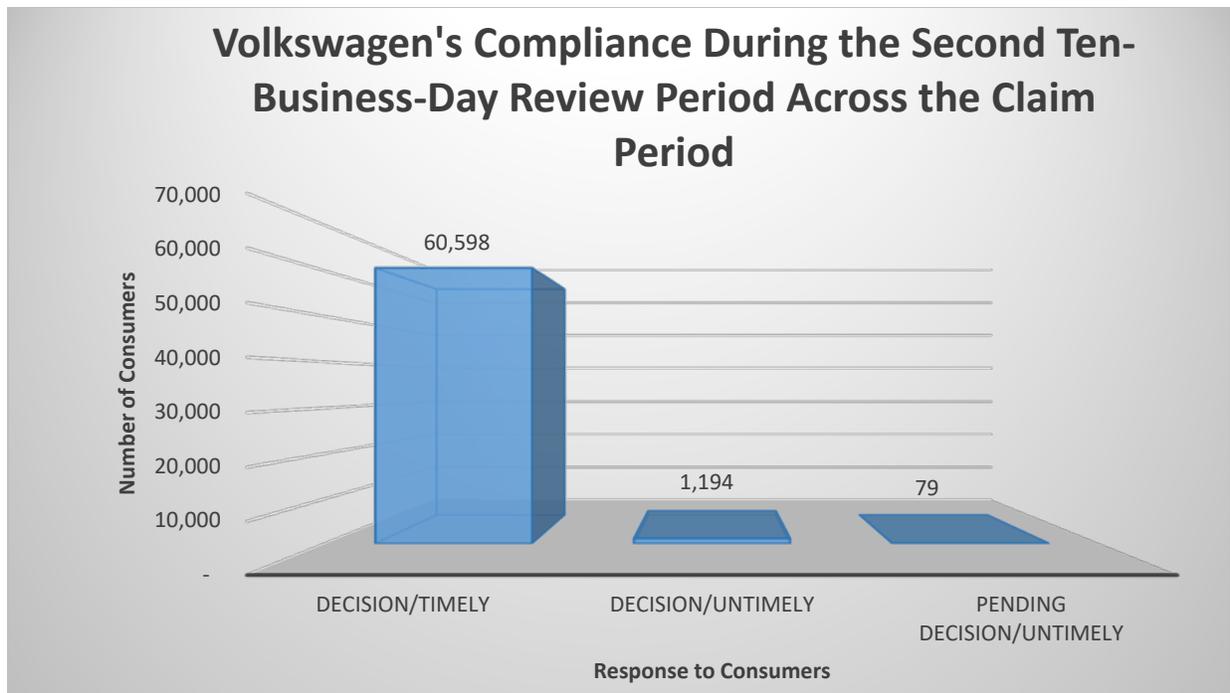


Chart 2-20<sup>16</sup>

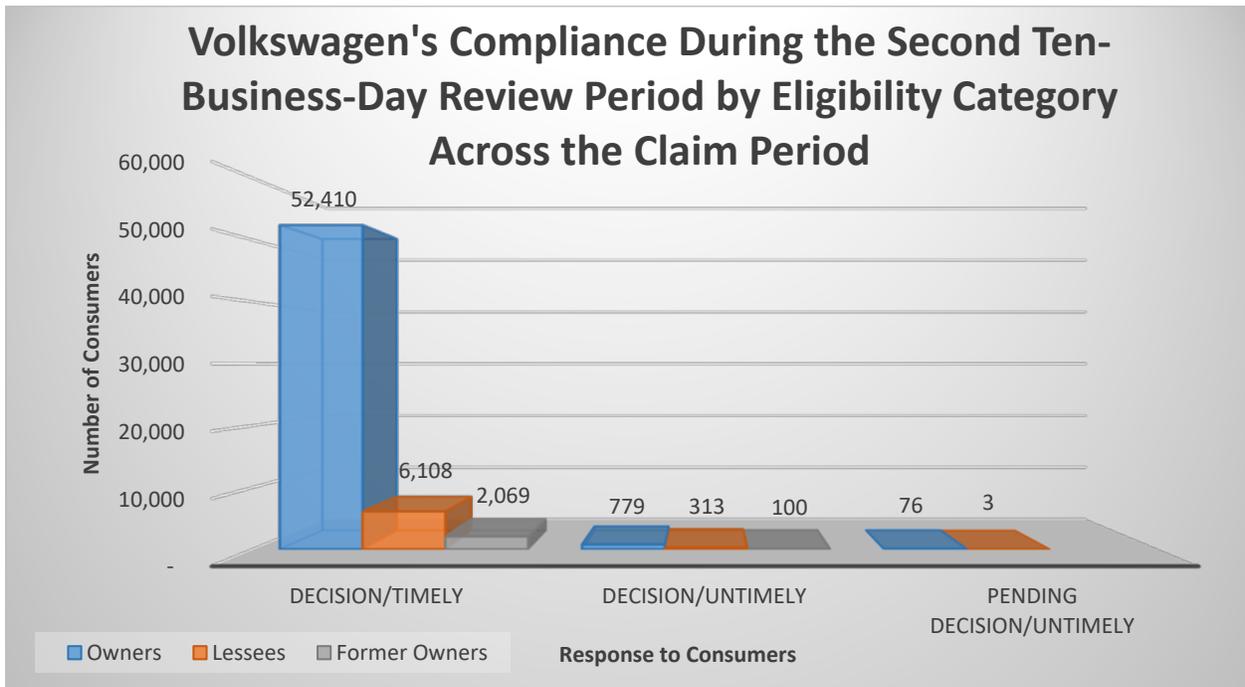


Chart 2-21 reflects Volkswagen’s performance in timely issuing second ten-business-day review period decisions across each quarter of the Claim Period, including this quarter.<sup>17</sup>

<sup>16</sup> The thirteen claims not accounted for in Chart 2-20 are associated with claims that ultimately were deemed not eligible, eleven of which were timely decisions and two of which were untimely.

<sup>17</sup> As discussed above, claims associated with branded titles have continued to be excluded from the timeliness analysis. Volkswagen and the PSC, working with the CRC, in late February adopted protocols for processing branded title claims, but recognized that certain claims may present unique factual circumstances that require further collaboration. From the adoption of the protocols through March 7, 2018, Volkswagen had processed one branded title claim. An additional 225 claims remain in process (123 in the first ten-business-day review period; 60 in the second ten-business-day review period; and 42 which previously had offers extended).

**Chart 2-21**

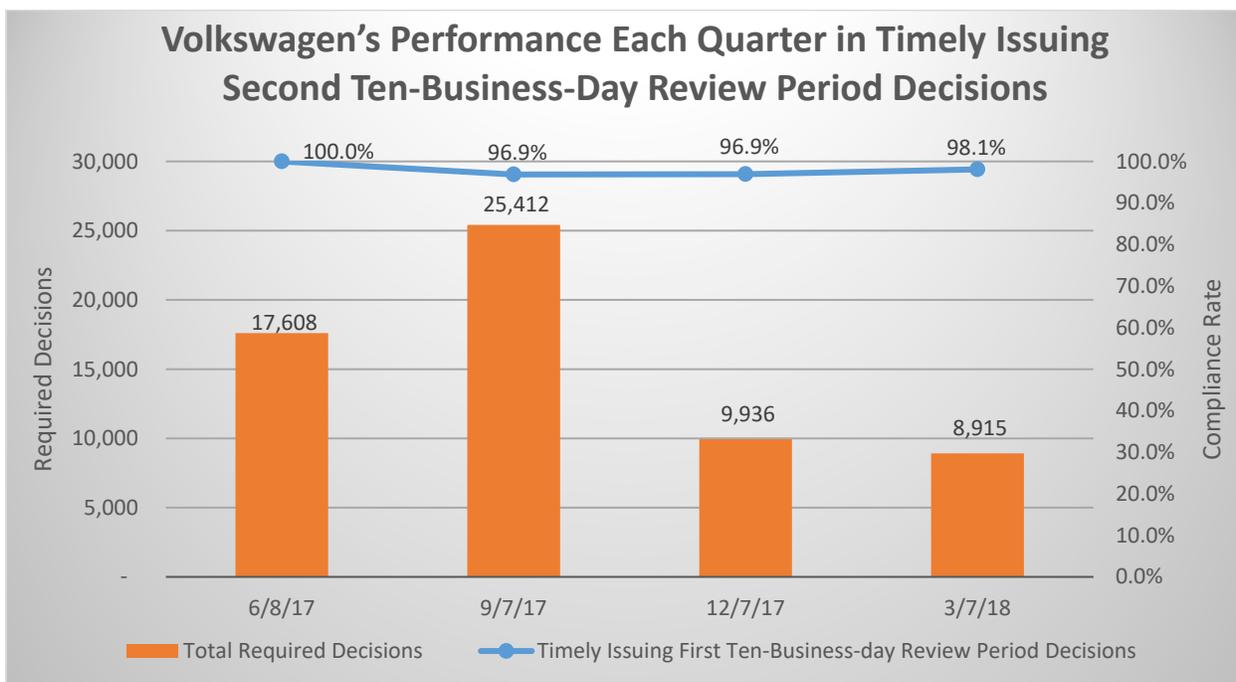
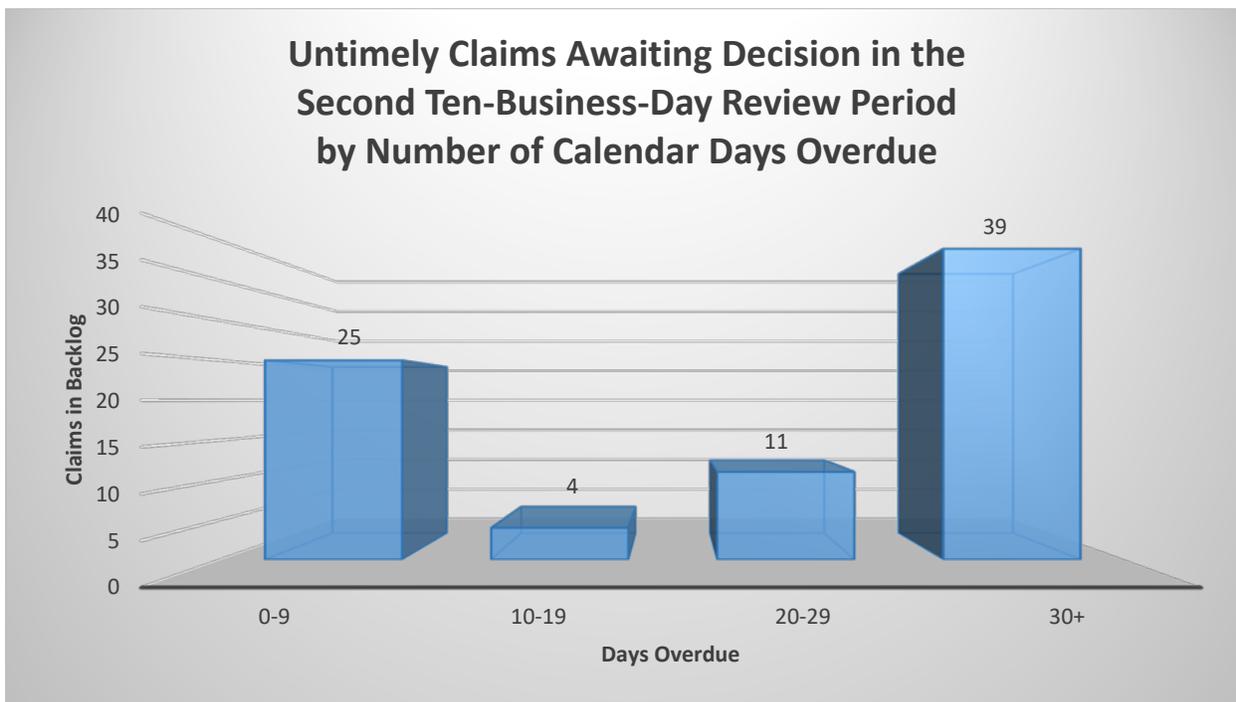


Chart 2-22 shows the 79 claims in Volkswagen's backlog by the number of calendar days those claims were overdue.

**Chart 2-22**



Of the seventy-nine claims in Volkswagen's backlog as of March 7, 2018, forty-two 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 has created an offer letter specifically tailored to these types of consumers. While Volkswagen has significantly reduced the number of these types of claims in its backlog during this quarter, the remaining claims comprise twenty-eight of the thirty-nine total claims in the backlog that were more than thirty calendar days overdue. Of the remaining thirty-seven claims in the backlog, thirty-two were pending resolution by Volkswagen of a document deficiency, non-document deficiency, or eligibility concern associated with the claim. The remaining five claims were 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 March 7, 2018, Volkswagen had issued 56,080 offer letters, the aggregate value of which totaled \$891,077,432.12, including 7,811 offer letters issued during this quarter aggregately valued at \$93,229,811.26.<sup>18</sup> Of these, 15,905 offer letters with an aggregate value of \$593,729,130.80 related to Generation One vehicles (14,829 offers to individuals with an aggregate value of \$553,628,712.00, and 1,076 offers to businesses with an aggregate value of

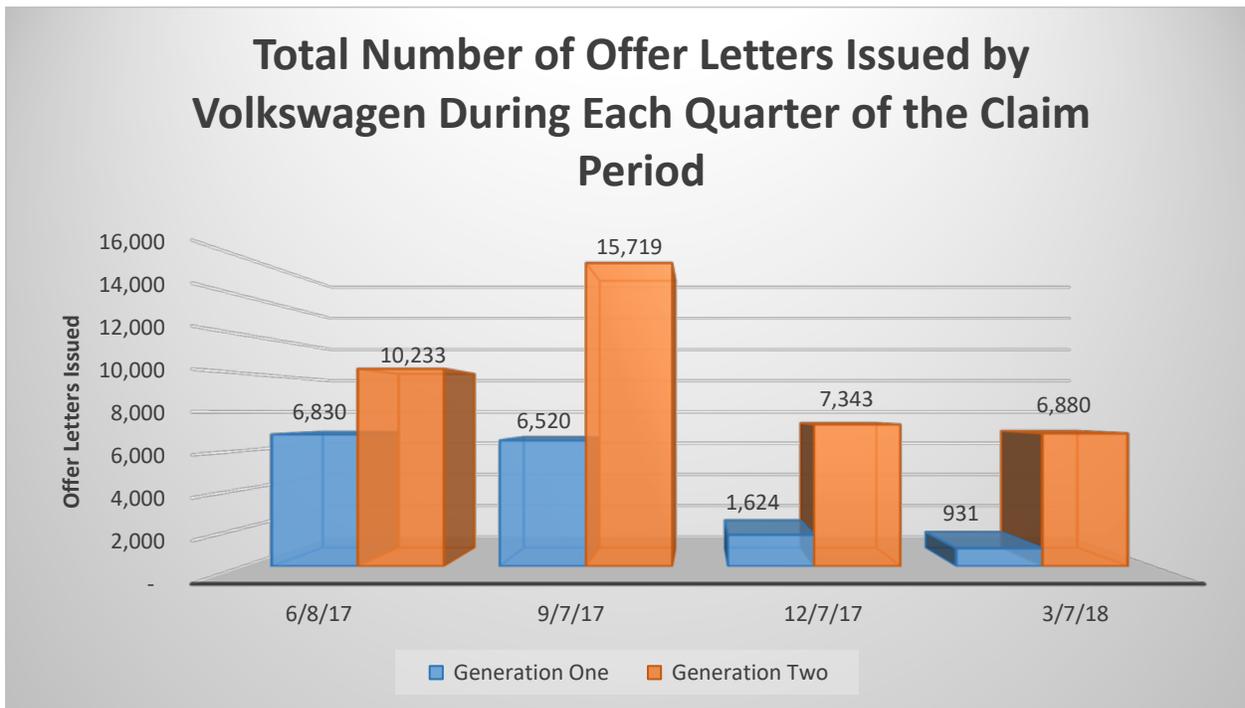
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<sup>18</sup> The Claims Supervisor identified 513 claims -- 492 related to Generation Two vehicles and 21 related to Generation One vehicles -- where it appears that consumers who leased Eligible Vehicles and later purchased the vehicles after January 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 513 claims will be captured as Owner claims, as that is how they are currently reflected in Volkswagen's claims system.

\$40,100,418.80). The remaining 40,175 offer letters with an aggregate value of \$297,348,301.32 related to Generation Two vehicles (37,218 offers to individuals with an aggregate value of \$275,840,119.51, and 2,957 offers to businesses with an aggregate value of \$21,508,181.81).

Chart 2-23 shows, for Generation One and Generation Two vehicles, the total number of offer letters issued by Volkswagen during each quarter of the Claim Period.

**Chart 2-23**



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

Chart 2-24<sup>19</sup>

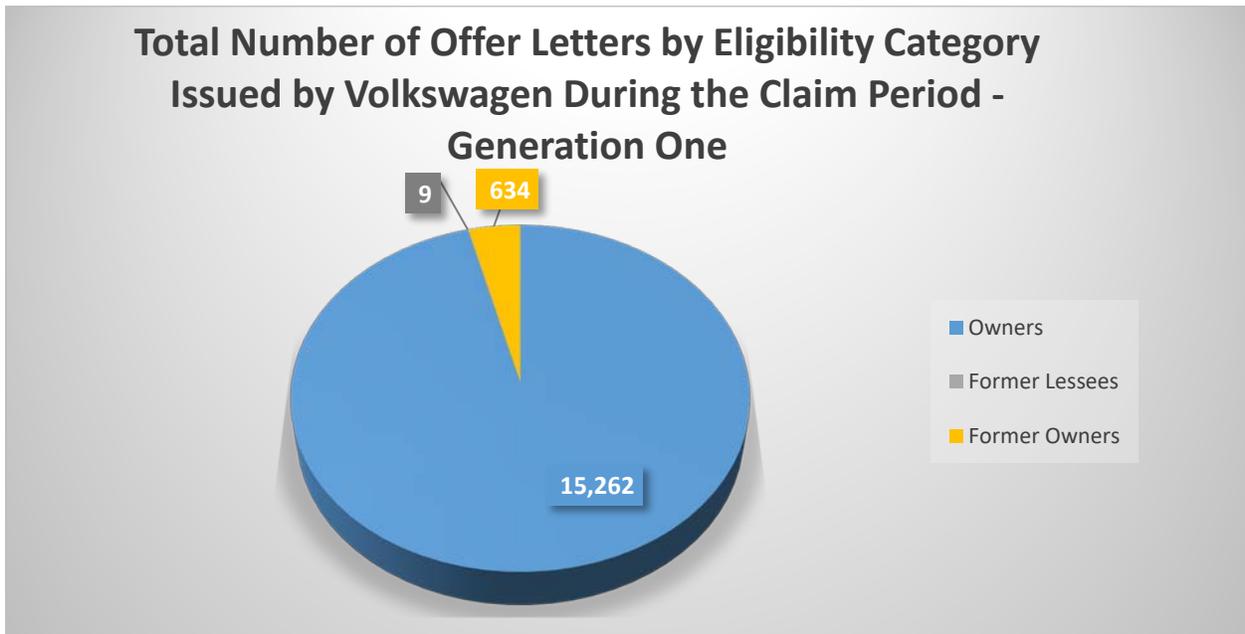
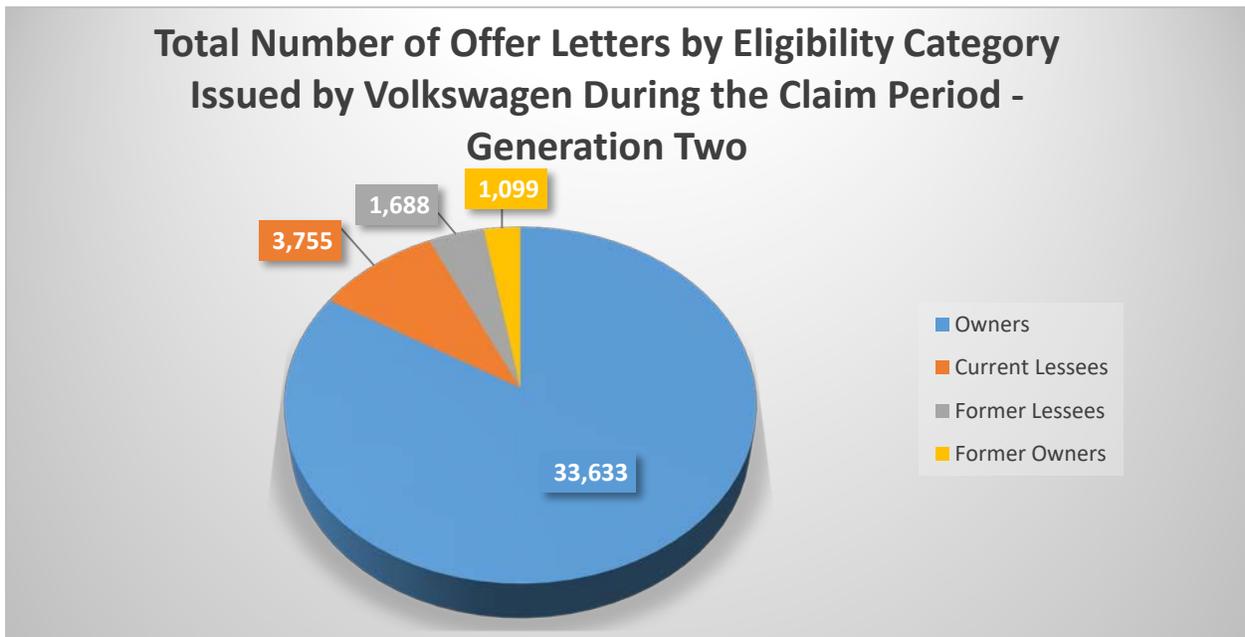


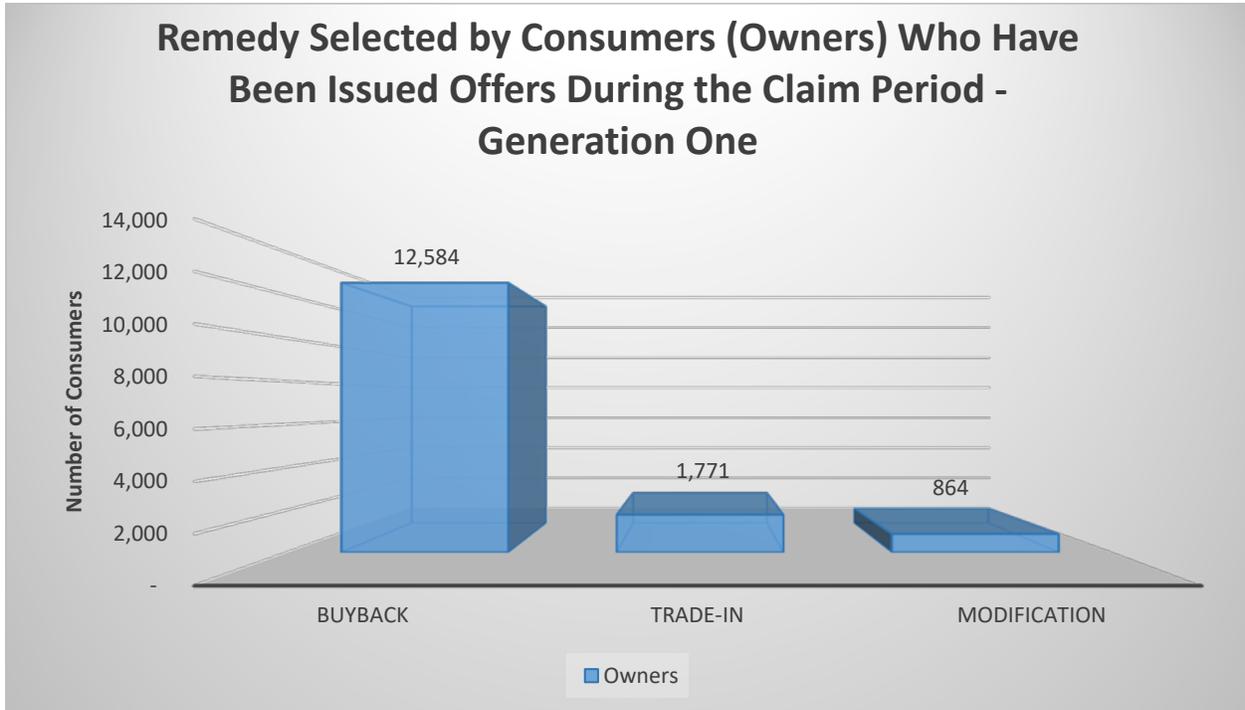
Chart 2-25



<sup>19</sup> Through March 7, 2018, no offers had yet been extended to Generation One Current Lessees. Only five 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.

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

**Chart 2-26<sup>20</sup>**

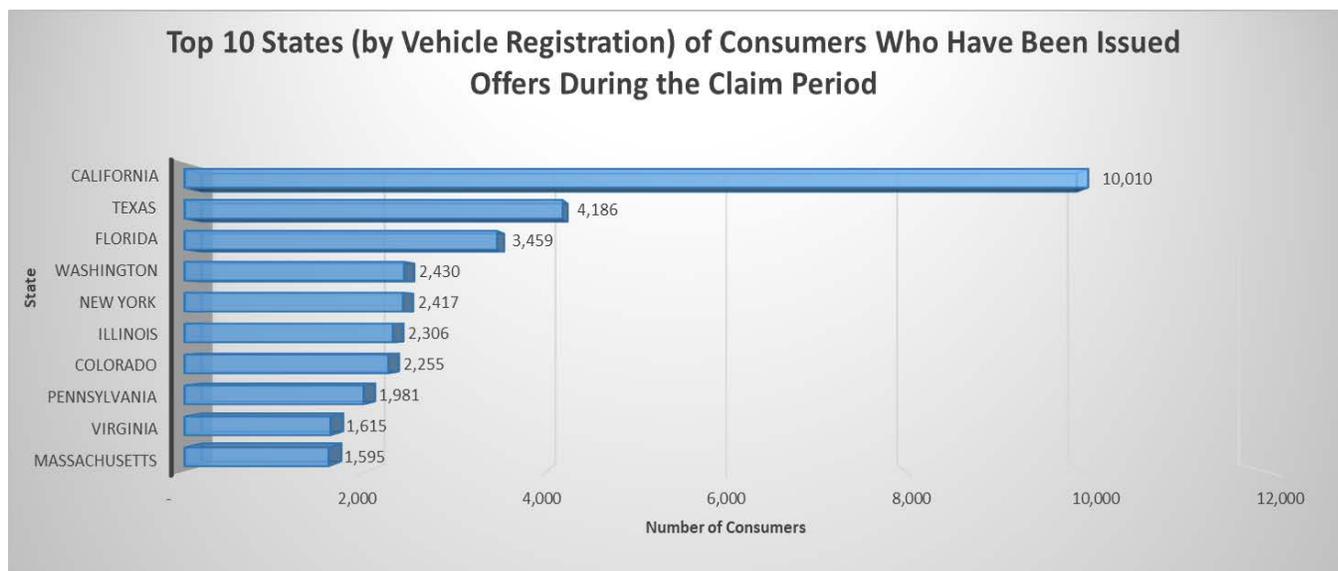


As to Generation Two vehicles, a total of 33,523 Owners and 3,755 Current Lessees had received offer letters for an ECR, while 1,688 Former Lessees, 1,099 Former Owners, and 110 Owners with totaled vehicles had received offer letters associated with Repair Payments.

Chart 2-27 shows the top ten states by vehicle registration of consumers who had received offer letters through March 7, 2018.

<sup>20</sup> Chart 2-26 excludes 634 Former Owners, 43 Owners with totaled vehicles, and 9 Former Lessees who had received offer letters because the only remedy available to those consumers is Restitution.

**Chart 2-27**



Through March 7, 2018, of the approximately \$593.73 million corresponding to the offer letters issued by Volkswagen relating to Generation One vehicles, Owners account for about \$590.45 million. Across these consumers, about \$381.82 million related to Owners without loans; \$208.19 million related to Owners with loans; \$425,739.82 related to forty 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>21</sup> The remainder was split among Former Owners (634 offer letters valued in the aggregate at about \$3.23 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 March 7, 2018.

<sup>21</sup> Through March 7, 2018, there had been one instance where a 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. The difference between the loan value and 130% of the award value was approximately \$3,300.

**Chart 2-28<sup>22</sup>**

<b>Eligibility Category and Offer Selection</b>	<b>Average Value</b>	<b>Min Value</b>	<b>Max Value</b>
Owner – Buyback	\$40,325.20	\$17,722.73	\$64,846.12
Owner – Trade In	\$41,759.95	\$18,055.75	\$62,984.50
Owner – REM	\$9,961.71	\$4,002.50	\$13,206.76
Owner – Totaled Vehicle Restitution	\$9,900.93	\$4,808.48	\$12,516.20
Former Lessee – Restitution	\$5,538.48	\$5,100.00	\$6,344.12
Former Owner – Restitution	\$5,100.82	\$2,466.91	\$6,997.50

Through March 7, 2018, of the approximately \$297.35 million associated with offer letters to consumers with Generation Two vehicles, Owners accounted for about \$281.79 million. The remainder was split among Current Lessees (3,755 offer letters valued in the aggregate at \$7.51 million); Former Lessees (1,688 offer letters valued in the aggregate at \$3.376 million); and Former Owners (1,099 offer letters valued in the aggregate at about \$4.67 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 March 7, 2018.

**Chart 2-29<sup>23</sup>**

<b>Eligibility Category and Offer Selection</b>	<b>Average Value</b>	<b>Min Value</b>	<b>Max Value</b>
Owner – ECR	\$8,429.29	\$3,519.62	\$12,545.64
Owner – Totaled Vehicle Restitution	\$8,358.61	\$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	\$4,249.94	\$1,841.69	\$5,722.12

<sup>22</sup> With respect to the figures for Owner-REM claims, Chart 2-28 excludes the twenty-one Generation One claims discussed in footnote 18 above that were categorized as Owner instead of Eligible Lessee claims.

<sup>23</sup> With respect to the figures for Owner-ECR claims, Chart 2-29 excludes the 492 Generation Two claims discussed in footnote 18 above that were categorized as Owner instead of Eligible Lessee claims.

Finally, Chart 2-30 shows, through March 7, 2018, data related to two categories of non-standard claimants: (i) military personnel deployed overseas with their vehicles; and (ii) decedent estates.

**Chart 2-30<sup>24</sup>**

	<b>Military Overseas</b>	<b>Decedent Estates</b>
Registrations	80	97
Submitted Claims	79	81
Deemed Complete and Eligible	78	77
Offer Letters Issued	76	75
Total Offer Amounts	\$1,531,879.10	\$1,621,739.77

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

As of March 7, 2018, a total of 51,328 consumers had accepted offer letters from Volkswagen, the aggregate value of which totaled \$842,344,056.27.<sup>25</sup> This includes 15,333 accepted offer letters associated with Generation One vehicles valued in the aggregate at \$574,268,615.93, and 35,995 accepted offer letters associated with Generation Two vehicles valued in the aggregate at \$268,075,440.34. During this quarter, 9,432 offer letters with an aggregate value of \$108,988,331.97 have been accepted by consumers.

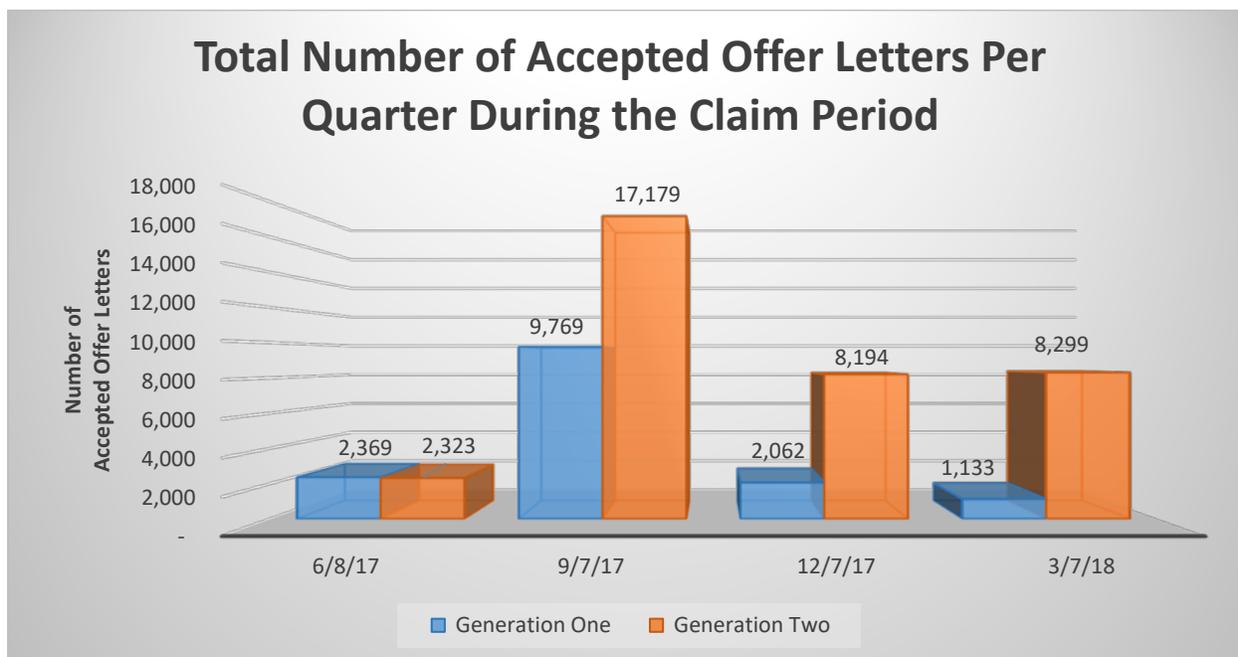
Chart 2-31 shows, for Generation One and Generation Two vehicles, the total number of accepted offer letters during each quarter of the Claim Period.

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<sup>24</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. Information on military consumer closings is set forth in Section III below. 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>25</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.

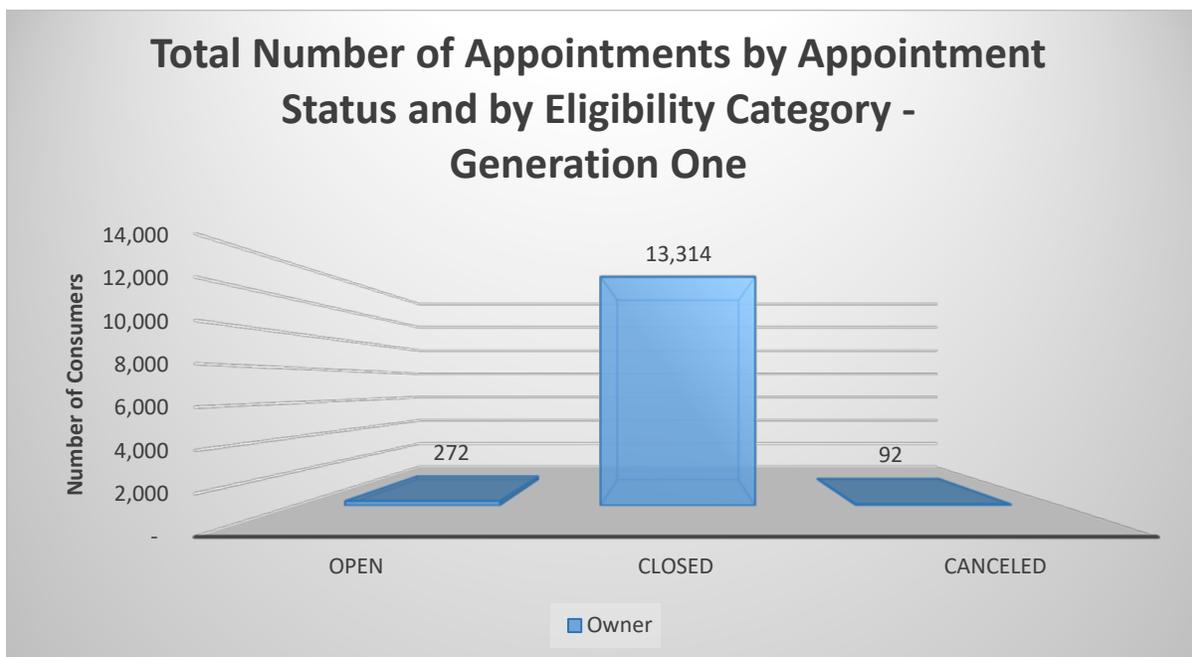
**Chart 2-31**



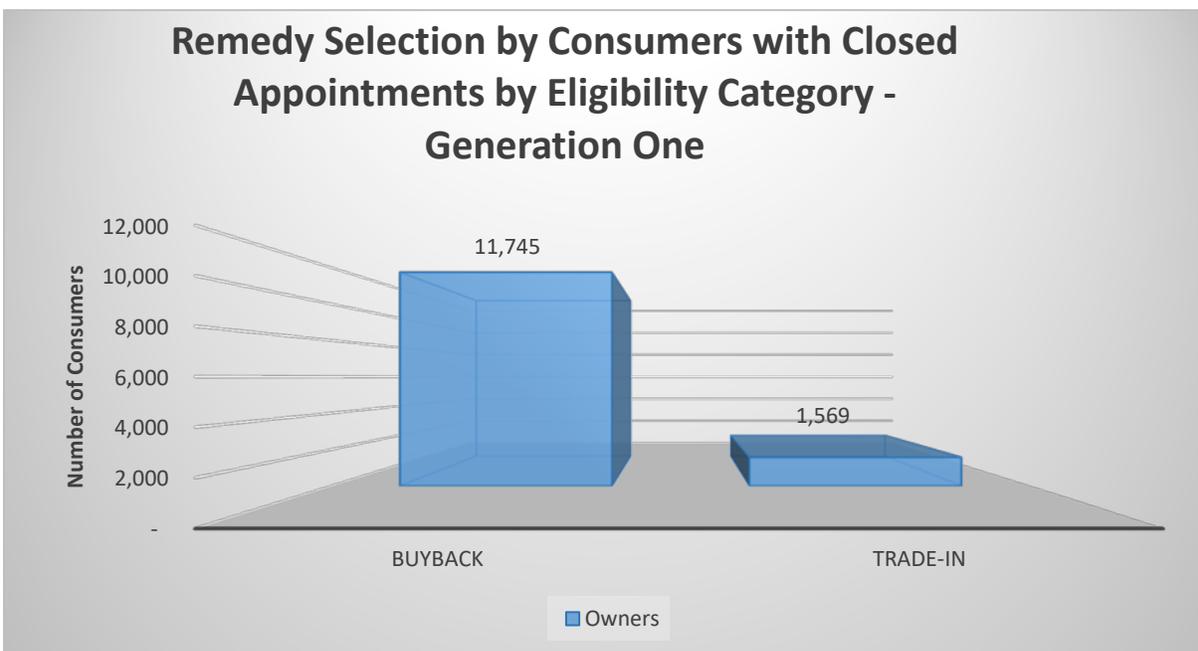
Of the 15,333 consumers with Generation One vehicles who had accepted offer letters as of March 7, 2018, 14,664 were Owners. Within that group of 14,664 consumers, 13,678 consumers (93.3%) had scheduled closing appointments as of March 7, 2018. Chart 2-32 shows for these consumers the total number of appointments by appointment type across eligibility categories, and Chart 2-33 shows the remedy selection of consumers with closed appointments.<sup>26</sup>

<sup>26</sup> As of March 7, 2018, there had been 4,570 instances where a scheduled Buyback or Trade-In appointment for a Generation One vehicle had resulted in cancellation. Of these, 4,299 appointments (94.1%) were cancelled at the consumer's request. Other common reasons for cancellations included: (i) the consumer did not show up to the appointment (127 instances); (ii) the title holder was not present at the closing (24 instances); and (iii) the Owner or Current Lessee was not present at the closing and the consumer did not provide a valid power of attorney with his or her claim submission (17 instances).

**Chart 2-32**



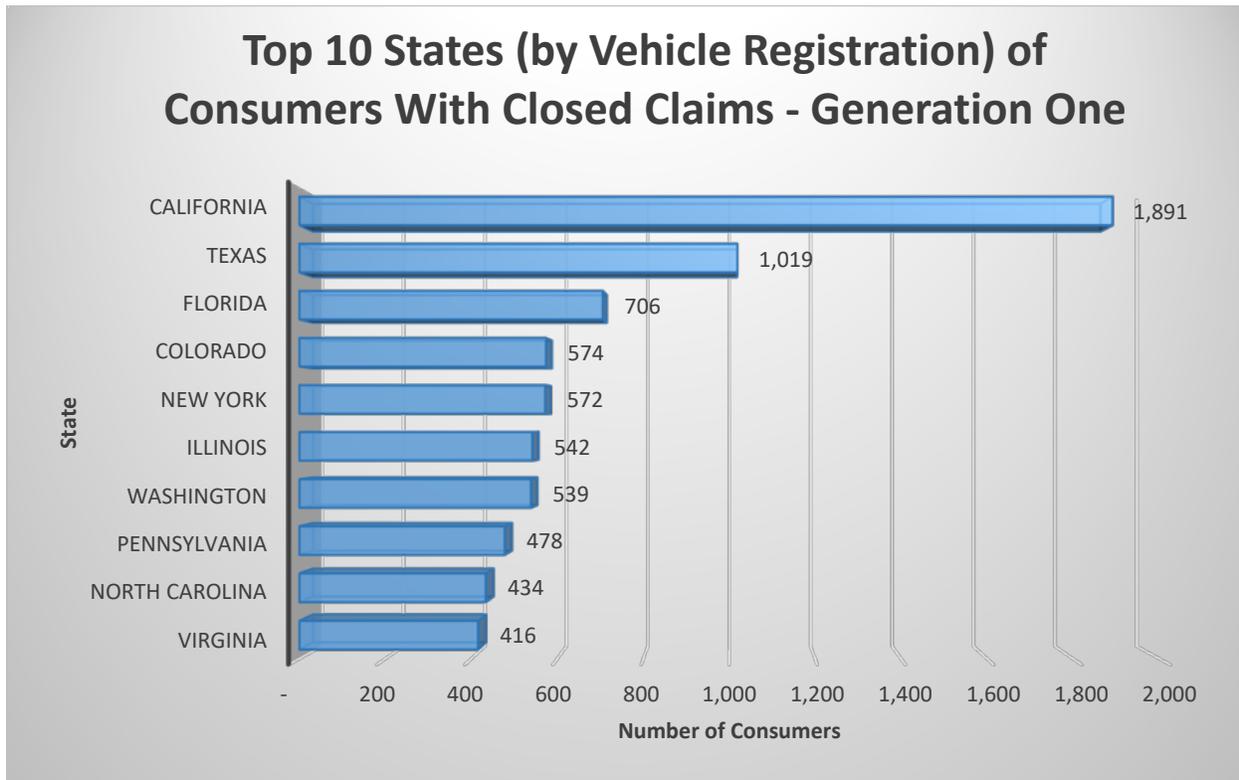
**Chart 2-33**



As set forth in Chart 2-32, there had been 13,314 appointments associated with Generation One vehicles that had resulted in closing as of March 7, 2018. The aggregate value of offer letters for these claims totaled \$538,236,030.18. This includes 1,387 closings during this

quarter with offer letters aggregately valued at \$56,916,732.96. Chart 2-34 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.

**Chart 2-34**

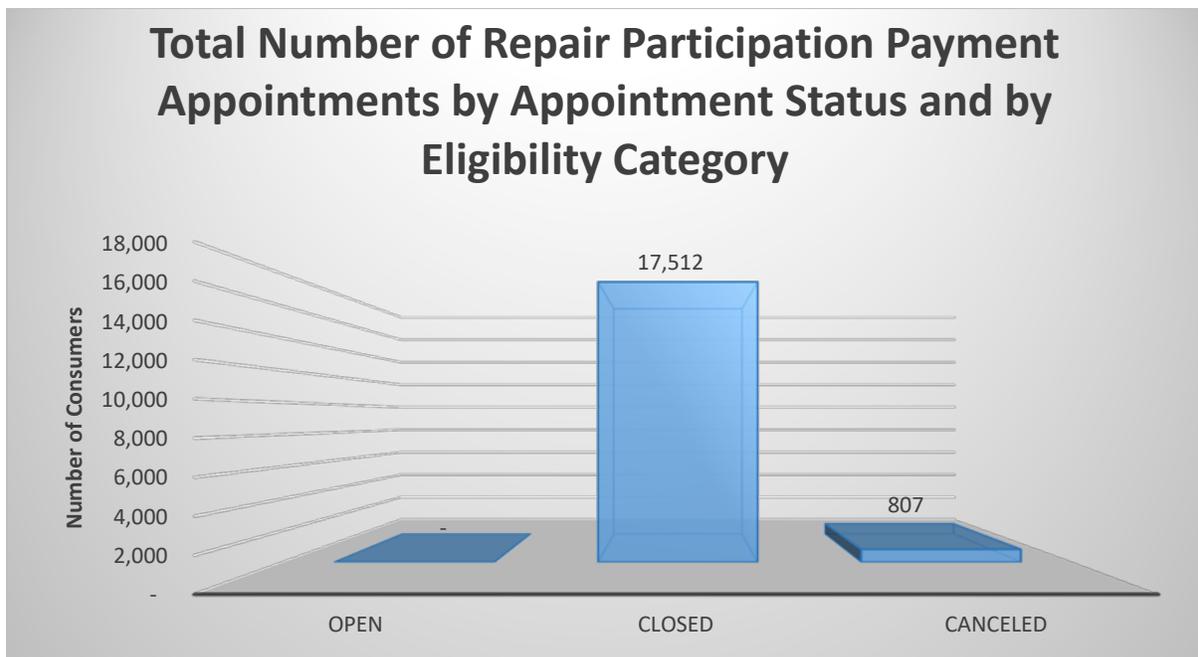


Through March 7, 2018, Volkswagen had paid \$533,251,455.98 to, or on behalf of, Owners with Generation One vehicles who had closed Buyback or Trade-In claims.

As to Generation Two vehicles, with the December 18, 2017 approval by EPA and CARB of an ECR for Generation Two PCs, Volkswagen has received an approved ECR for all Generation Two vehicles (i.e., Generation 2.1 Sports Utility Vehicles (“SUVs”), Generation 2.2 SUVs, and Generation 2 PCs). As a result, consumers no longer can schedule Repair Participation Payment appointments, and the data indeed reflect no such open appointments. Consumers who had not completed a Repair Participation Payment appointment must now schedule an ECR through an approved dealership. Upon completion of the ECR, they receive

their entire award amount so long as they have submitted a valid claim and have been issued an offer letter. Consumers who previously had received a Repair Participation Payment while an ECR approval was pending will be entitled to receive the remaining 50% of their award once the ECR is completed. Chart 2-35 therefore reflects completed Repair Participation Payments appointments by eligibility category that preceded ECR approvals for each respective type of Generation Two vehicle.

**Chart 2-35**



Based on data provided by Volkswagen, through March 7, 2018, there had been 30,655 consumers with Generation Two vehicles who had completed an ECR. Of those consumers: 27,093 also had completed the claims process; 2,083 had not yet completed the claims process; and 1,479 had cancelled or not yet registered a claim. Consumers who have completed the ECR, but who have yet to register or complete the claims process, 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 March 7, 2018,

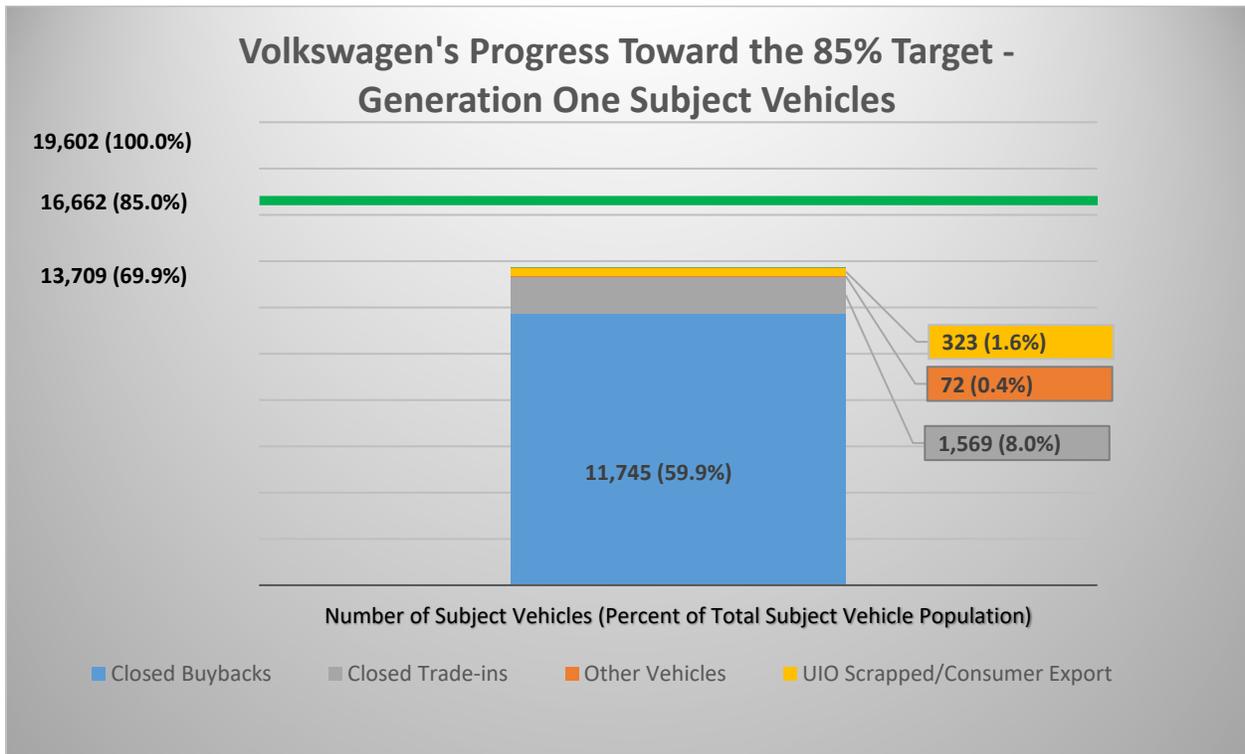
Volkswagen had paid \$223,698,215.92 to Owners and Current Lessees with Generation Two vehicles, which amount includes both Repair Participation Payments and ECR payments.

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: \$3,090,733.86 across 619 Former Owners; \$345,957.88 across 35 Owners with totaled vehicles; and \$49,846.33 across 9 Former Lessees. For Generation Two vehicles, these figures were: \$2,860,000.00 across 1,430 Former Lessees; \$4,541,658.03 across 1,069 Former Owners; and \$708,356.46 across 84 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 AEM on at least 85% of Generation One 3.0 Liter 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<sup>27</sup>

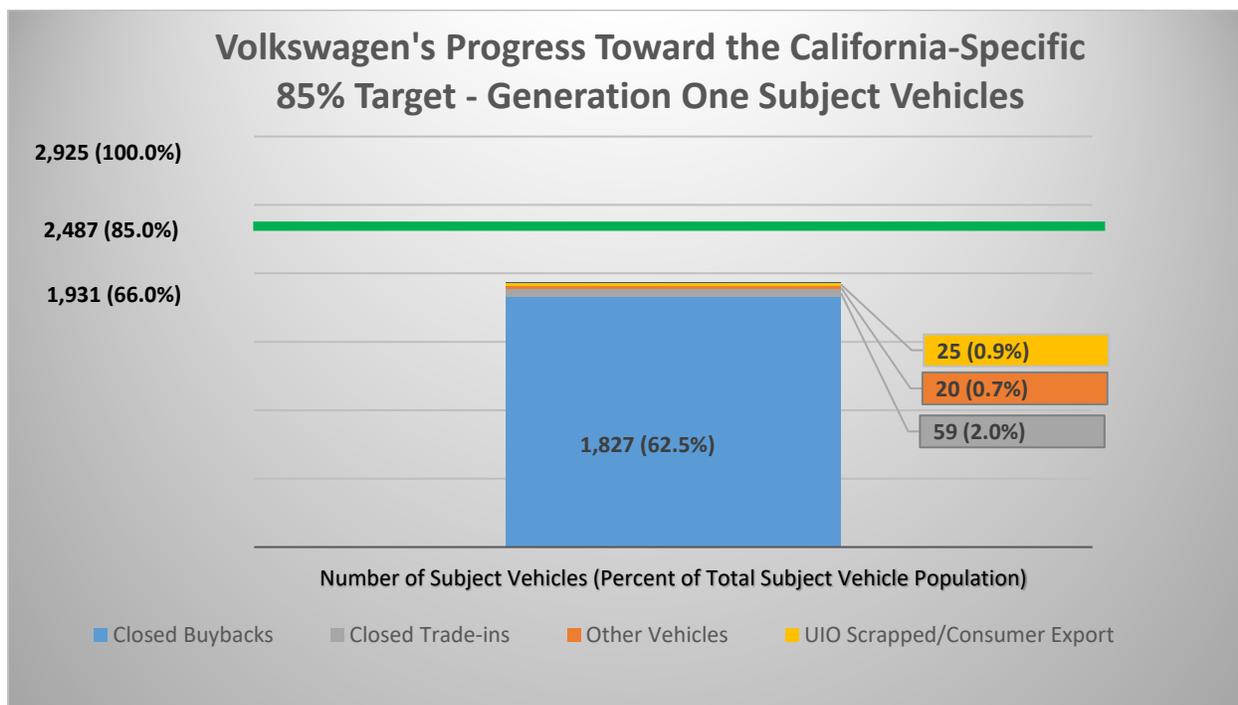


The “Other Vehicles” category depicted in Charts 2-36 through 2-39 represents vehicles Volkswagen has removed from commerce outside of the Claims Program. This includes, among others, used vehicles that Volkswagen acquired from dealerships and company cars previously utilized by Volkswagen employees that have since been retired.

Additionally, the 3.0 Liter DOJ Consent Decree states that by November 30, 2019, Volkswagen must remove from commerce or perform an AEM 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.

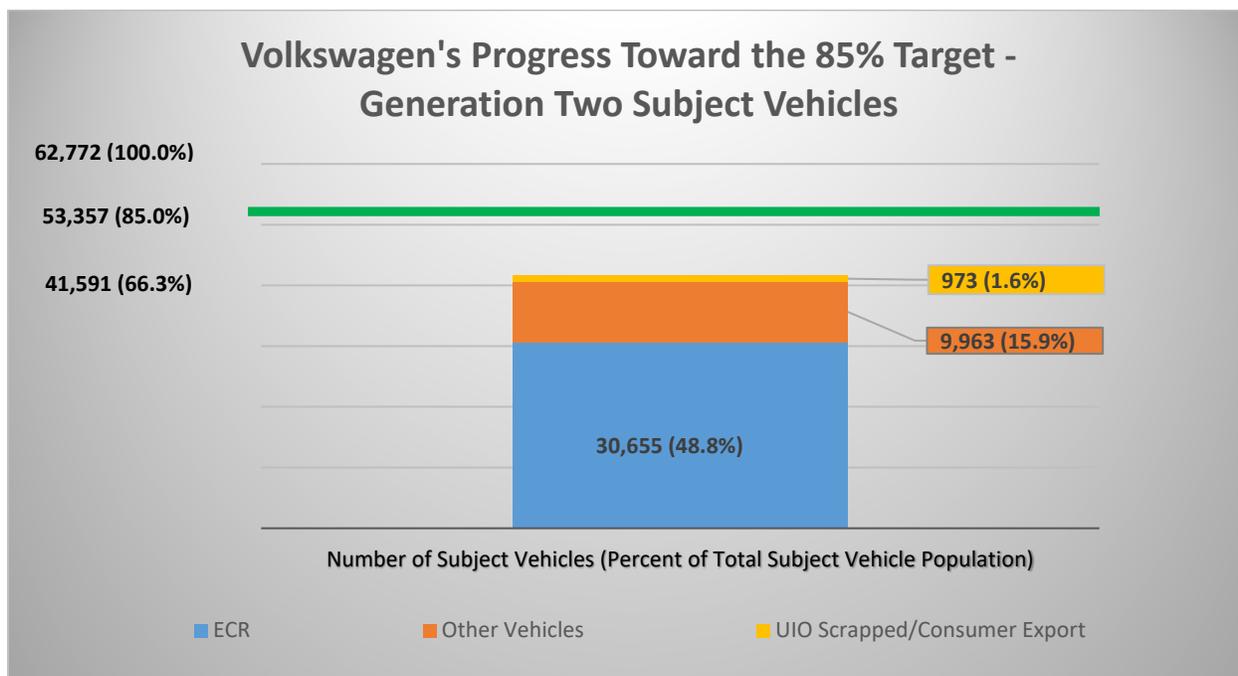
<sup>27</sup> Figures related to “Other Vehicles” and “UIO Scrapped” vehicles in Charts 2-36 through 2-39 are based on Volkswagen data as of January 31, 2018.

**Chart 2-37**



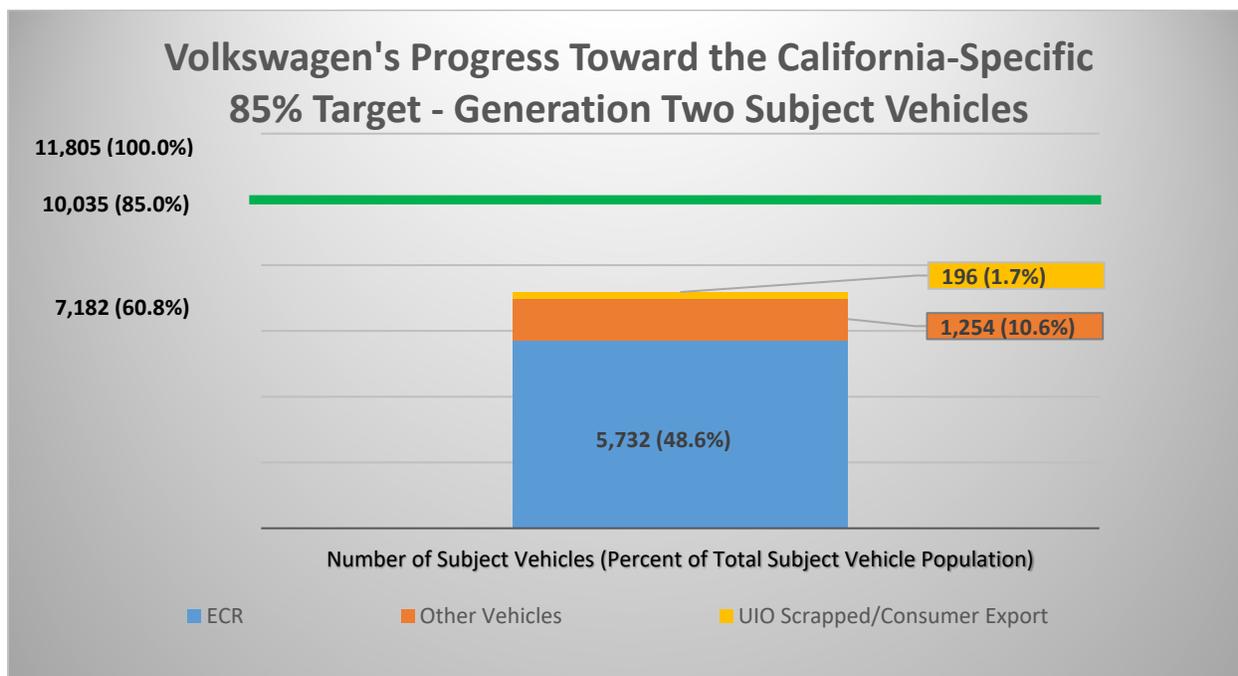
There are similar targets for Generation Two vehicles. The 3.0 Liter DOJ Consent Decree provides that by May 31, 2020, Volkswagen is required to perform an ECR on at least 85% of Generation Two 3.0 Liter Subject Vehicles. The 3.0 Liter DOJ Consent Decree also states that “the total number of Generation 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.

**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. The 3.0 Liter Consent Decree states 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.

Chart 2-39



### III. Claims Program Updates

#### A. Non-Standard Claims

##### 1. Branded Title Claims

As set forth in previous reports dating back to September 2017, Volkswagen and the PSC have been engaged with the court-appointed CRC to address how the eligibility requirements in the 3.0 Liter Class Action Settlement Agreement apply to certain consumers who submitted claims involving vehicles they acquired with a branded title sometime after September 18, 2015 -- the date the EPA issued its first notice of violation after discovering the existence of defeat devices.<sup>28</sup>

<sup>28</sup> 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 will be analyzed accordingly, so that the eligibility requirements are consistently applied.

Following the EPA's issuance of a notice of violation on November 2, 2015 related to 3.0 Liter vehicles, a limited number of consumers acquired vehicle models that were subject of the notice of violation -- often at insurance auctions after the vehicles had been totaled in an accident. Indeed, out of the 225 branded title claims currently pending, 140 (62.2%) of the associated vehicles were acquired after the proposed settlement was submitted to the Court for approval on January 31, 2017. By undertaking repairs necessary to convert these vehicles back to an operable state, the apparent intent of many of these consumers was to profit through participation in the Claims Program. Some of these consumers have taken the position that, because claims on these types of vehicles are not expressly excluded in the 3.0 Liter Class Action Settlement Agreement, they should be deemed eligible.

The 3.0 Liter Class Action Settlement Agreement expressly excludes claims by consumers with a vehicle that "had a Branded Title of Assembled, Dismantled, Flood, Junk, Rebuilt, Reconstructed, or Salvage on September 18, 2015, and was acquired from a junkyard salvage yard, or salvage dealer after September 18, 2015." The settlement also expressly excludes vehicles that are not "Operable," which is defined as "a vehicle [that] can be driven under its own 3.0-liter TDI power and is in a reasonable condition such that it can be driven lawfully and safely on public roads, even if it has a mechanical issue that can be repaired, under a common-sense understanding of what is an acceptable condition for driving."

It does not, however, expressly address certain circumstances involving a vehicle with a title that was branded subsequent to September 18, 2015. The stated goal of the 3.0 Liter Class Action Settlement Agreement "is to compensate owners or lessees of 3.0-liter Eligible Vehicles for any harm they suffered as a result of the emissions issues and to ensure that any excess NOx emissions from Defendants' 3.0-liter TDI vehicles are mitigated and minimized." Because some consumers acquired the vehicles at issue with a branded title after discovery of the defeat device

became public, and many of the vehicles were out of commerce at the time they were acquired, Volkswagen, the PSC, and the CRC undertook to further scrutinize whether these claims should be deemed eligible.

Based on a holistic review of the 3.0 Liter Class Action Settlement Agreement in response to consumer appeals, the CRC adopted a general framework for processing branded title claims, which has been implemented by Volkswagen. The following is a non-exhaustive list of categories of branded title Buyback claims for Generation One vehicles, and branded title ECR claims for Generation Two vehicles, and the eligibility determinations that Volkswagen anticipates reaching as to each, based on the CRC's guidance:

- (i) Owners of vehicles that were branded on or before September 18, 2015, and were acquired from a junkyard, salvage yard, salvage dealer or the equivalent (i.e., insurance auction) with a branded title after September 18, 2015, will be deemed ineligible for compensation.
- (ii) Owners of vehicles with branded titles (including salvage and salvage rebuilt titles) who acquired their vehicles prior to September 18, 2015 with a non-branded or salvage rebuilt title may be eligible for both Vehicle Value and Owner Restitution for Generation One vehicles, or an ECR and Owner Repair Payment for Generation Two vehicles, provided that all other eligibility requirements are met, including that the vehicle meets the definition of an Operable vehicle under the settlement. If the vehicle currently has a brand of junk, non-repairable, "parts only," or any equivalent brand denoting that the vehicle can never be rebuilt or repaired, the consumer is eligible only for Owner Restitution for Generation One vehicles, and ECR and/or Owner Repair Payment for Generation Two vehicles.

- (iii) Owners of used vehicles that were purchased with a branded title and had a “salvage rebuilt” or equivalent title as of February 26, 2018, potentially are eligible for Vehicle Value for Generation One Vehicles or an ECR and Owner Repair Payment for Generation Two vehicles, if all other eligibility requirements are met. If the previous owner of a Generation One vehicle does not submit a claim for Owner Restitution by the Claim Submission Deadline, the consumer also may be eligible to receive Owner Restitution. Current Owners of a Generation One vehicle also may be eligible for a REM or Owner Restitution in lieu of Vehicle Value.
- (iv) Owners of used vehicles that were purchased with a salvage title and continue to have a salvage title on or after February 26, 2018, are ineligible for compensation. Once a vehicle has been deemed ineligible to participate in the Claims Program due to the existence of a salvage title, no new claims submitted in connection with the VIN will be accepted for processing.

Volkswagen, the PSC, and the CRC all recognize that some claims relating to vehicles with branded titles involve unique factual circumstances. When more intricate facts are involved, the Claims Supervisor has been advised that the Parties will continue to work collaboratively with the CRC to address such claims requiring more detailed analysis, so that determinations may be reached in conformity with the letter and spirit of the 3.0 Liter Class Action Settlement Agreement. As with all eligibility determinations, consumers may file an appeal from Volkswagen’s claims determinations with the CRC.

Following the CRC’s framework, Volkswagen has begun processing branded title claims that were previously on hold, and has reached a determination in connection with one such claim. Of the 225 related claims that have not yet been processed, 123 claims are in the first ten-

business-day review period and 60 claims are in the second ten-business-day review period.<sup>29</sup> Forty-two claims had offers extended prior to being placed on hold. Volkswagen anticipates completing its review of the remaining claims that were on hold by early May 2018. The Claims Supervisor will continue to monitor the status of Volkswagen’s processing of claims involving vehicles with branded titles, and will provide updates in future reports.

2. Military Overseas Claims

As of March 4, 2018, Volkswagen has identified eighty-eight claims submitted by military personnel deployed overseas with their vehicles, including twenty-nine Buybacks and fifty-nine AEMs. All of the Buybacks have been completed.<sup>30</sup> Volkswagen leadership has advised that it continues to work towards developing and implementing processes for completing AEMs for military personnel serving overseas.

B. ECR Approval

The EPA and CARB approved an ECR on December 18, 2017 for the vehicles depicted in Chart 3-1 below, which the 3.0 Liter DOJ Consent Decree classifies as Generation Two PCs.

**Chart 3-1**

<b>Generation 2 PCs</b>	
<b>Model</b>	<b>Model Years</b>
Audi A6	2014-2016
Audi A7	2014-2016
Audi A8	2014-2016
Audi A8L	2014-2016
Audi Q5	2014-2016

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<sup>29</sup> Included in these totals are claims submitted by consumers who Volkswagen has identified as acquiring a significant number of vehicles with branded titles for the purpose of participating in the Claims Program. Although some of these consumers also have 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 CRC and analyzed the details surrounding these consumers’ acquisition of their vehicles.

<sup>30</sup> No Buybacks occurred during this quarterly reporting period. One Buyback that was reported as occurring overseas in the December 2017 Report ultimately was conducted in the United States, resulting in one fewer overseas Buyback than previously reported.

As discussed in prior reports, 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 by mail 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 vehicles for which the ECR is available and allows consumers to conduct a free-of-charge search by VIN to determine if an ECR is available. The website also is 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, on December 27, 2017, it provided by regular mail notices of the ECR to approximately 22,000 Owners and Lessees of Generation Two PCs. Additionally, on January 10, 2018, Volkswagen emailed notice of the ECR approval to approximately 15,000 consumers who had previously registered a Generation Two PC in Volkswagen's Claims Portal. The notifications included approved emissions modification disclosures and information pertaining to extended emissions warranty coverage. The Claims Supervisor verified that [www.audidiesellookup.com](http://www.audidiesellookup.com) remains available for consumers 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.

On January 3, 2018, Volkswagen began offering ECR appointments to Eligible Owners and Lessees of Generation Two PCs. The ECR involves the modification of the vehicles' emissions control system software and installation of updated emissions control system hardware

components. The approved emissions modification disclosures state that, once the ECR is performed, the vehicles' emissions control system will function effectively in all normal driving conditions and the vehicles will be certified to the same emissions standards to which they were originally certified. However, Volkswagen reference materials also state that the ECR may have effects that are potentially noticeable to the consumer -- namely, differences in engine sound, slight changes in shift patterns, the potential for an increase or decrease in diesel exhaust fluid consumption depending on the vehicle, and a potential decrease in fuel economy by up to one mile per gallon. Consumers should not incur any cost to obtain the ECR and will be provided a complimentary loaner vehicle for the duration of the appointment, which is expected to last approximately one-and-a-half hours. After the ECR is performed, consumers will be eligible to receive applicable Repair Payments.<sup>31</sup>

### C. 3.0-Liter Canada Settlement

In mid-January 2018, Volkswagen reached a preliminary agreement to resolve class action litigation in Canada related to approximately 20,000 3.0 Liter vehicles. If approved by the Canadian courts, current owners and lessees of Generation One vehicles registered in Canada will be entitled to receive a Buyback, Trade-In, Early Lease Termination, or REM (if one is approved by the EPA) plus restitution (referred to as "Damages Payments"), provided they meet eligibility requirements.<sup>32</sup> Current owners and lessees of Generation Two vehicles registered in Canada will be entitled to an ECR and restitution, provided they meet eligibility requirements.

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<sup>31</sup> Any consumer who previously received a 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. Because an ECR has been approved by the regulators, no other remedies will be available to consumers with Generation Two PCs pursuant to the terms of the 3.0 Liter Resolution Agreements.

<sup>32</sup> The Canadian settlement defers to the U.S. EPA's approval of emissions modifications for 3.0 Liter vehicles.

Because the United States and Canada share a territorial border, vehicles are occasionally purchased in Canada, but registered in the United States. In these instances, consumers will be able to participate in the proposed settlement (provided they meet all other eligibility requirements), and will have the option of scheduling their closing appointment at authorized dealerships in Canada or the United States; however, Trade-Ins must be completed at an authorized dealership in Canada.<sup>33</sup> The deadline for consumers to opt out of the proposed settlement is March 19, 2018, and Canadian courts will hold hearings in early April 2018 regarding approval of the settlement.

#### D. Status of Extended Warranty and Service Contract Refund Program

As discussed in the December 2017 Report, Volkswagen and the vendor it engaged to administer the refund program for unused and otherwise nonrefundable portions of qualifying extended warranties and vehicle service contracts implemented a detailed action plan in October 2017 to address processing challenges that have persisted since the inception of the program. Over the course of the quarterly reporting period, the vendor continued to process claims with improved accuracy and Volkswagen was able to begin making payments to eligible consumers.

As of March 7, 2018, consumers had submitted claims in connection with 1,934 extended warranties and service contracts. A total of 259 of these claims had been deemed deficient and were awaiting a response from the consumer;<sup>34</sup> 513 claims had been deemed ineligible; and 26 claims had been deemed eligible. An additional 286 claims were classified as ineligible after

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<sup>33</sup> The proposed settlement does not appear to cover vehicles purchased in the United States, but registered in Canada. Volkswagen has advised that it will make a determination as to whether these claims will be compensable once the Canadian courts rule on the proposed settlement.

<sup>34</sup> When a claim is deemed deficient, the consumer is sent a deficiency notification. If the consumer does not respond to this communication or otherwise attempt to cure the deficiency within thirty days, the claim is deemed ineligible.

consumers failed to cure identified deficiencies within thirty days. The vendor is in the process of communicating these ineligibility decisions.

During the quarterly reporting period, payments were processed in connection with nine claims and offers were extended for an additional seventeen eligible claims, with two of those offers subsequently being accepted. The remaining claims have not yet been fully adjudicated, including 794 claims deemed preliminarily eligible that were on hold pending confirmation from the warranty provider of whether the consumer is eligible to receive a refund. Volkswagen's vendor has encountered challenges confirming information with warranty providers, with some providers refusing to cooperate with the vendor's requests for information. On February 2, 2018, the Court issued an order requiring warranty providers to provide information requested by Volkswagen unless they can demonstrate a valid legal basis for their refusal. Volkswagen reports that this order has facilitated information flow with warranty providers.

During this quarterly reporting period, Volkswagen's vendor reviewed refund claims with improved accuracy. The Claims Supervisor reviewed 1,156 refund determinations over the course of the quarterly reporting period and concurred with all but 30 determinations, resulting in an error rate of 2.6%, a significant improvement. Upon reconsideration, the vendor agreed that twenty-six of its original determinations had been made in error, and is in the process of re-analyzing the remaining four determinations. The Claims Supervisor will continue to monitor refund program progress in this area and provide updates in future reports.

#### E. Claims Review Committee

Over the course of this quarterly reporting period, the CRC continued to make progress in adjudicating consumer appeals. As of March 7, 2018, a total of 597 unique appeals (1.0% of all submitted claims) had been filed by consumers, the majority of which challenged Volkswagen's eligibility determinations or award calculations. The CRC had reached determinations and

provided consumer notifications with respect to 100 of those appeals, including 30 determinations and notifications over the course of this quarterly reporting period. The 30 determinations made during this quarter were as follows:

- The CRC denied twenty-one appeals;
- For four consumers, the CRC advised that the issues that were the subject of the appeal had previously been resolved, thus mooted the appeal; and
- In five instances, the CRC advised consumers that they 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 continue to work together to resolve pending appeals with the assistance of the court-appointed neutral where necessary.

#### F. Virtual Closing Process

As described in the July 2017 Report, closing appointments for Buybacks and Early Lease Terminations have historically been facilitated by on-site program ambassadors and settlement specialists. Program ambassadors are employed by the dealer and are responsible for escorting consumers to settlement specialists who are Volkswagen's agents responsible for conducting the closing.

Between October 25, 2017 and November 10, 2017, Volkswagen instituted a pilot program to explore the possibility of conducting closing appointments for Buybacks and Early Lease Termination appointments virtually by Volkswagen closing support agents located in Auburn Hills, Michigan with the assistance of program ambassadors located with the consumer on-site at dealerships. Volkswagen developed the pilot program to achieve the following objectives: (i) memorializing the closing process for the benefit of both the company and

consumer through the voluntary recording of audio and video; and (ii) enhancing the efficiency with which closings are conducted by utilizing dedicated and specially trained personnel (i.e., closing support agents).

The virtual closing process begins with the establishment of a connection between the consumer and closing support agent through a mobile device application that is enabled to record audio and video. The closing is led by the closing support agent who interacts with the consumer through the application. The on-site program ambassador provides assistance to the closing support agent by, among other things, operating the mobile device, taking photographs of the consumer's vehicle and identification, assisting the consumer with the completion of any documents, and providing payment if the consumer is owed money and elects to receive a check.

Thirty-nine consumers agreed to participate in the pilot program at nine different dealerships. Based on the generally positive feedback provided by those consumers and the company's own analysis of the efficacy of the pilot program, Volkswagen began to implement the virtual closing process for Buybacks and Early Lease Terminations closing appointments more broadly, seeking the participation of dealerships throughout the country. As of March 9, 2018, about 87% of Volkswagen dealerships and 95% of Audi dealerships had agreed to participate in the virtual closing process. At this point, the virtual closing process has been fully implemented and consumers are required to schedule a Buyback or Early Lease Termination appointment at a dealership that has elected to participate in the virtual closing program. Based on analysis, Volkswagen has determined that there is sufficient geographical coverage, even for consumers located in rural areas. Consumers electing an AEM may select any authorized dealership.

The virtual closing process does not have any impact on the claims process prior to the closing appointment stage. Consumers will, therefore, continue to utilize the Claims Portal to

register and submit claims and, if approved, they will continue to schedule Buyback, Trade-In or Early Lease Termination closing appointments at dealerships of their choice (provided those dealerships have opted into the virtual closing process). Prior to attending a closing appointment, the consumer will be provided with a notification generally describing the virtual closing process and advising that, with the consumer's consent, audio and video of the closing will be recorded. The notification also will advise consumers that photographs, including of the consumer's vehicle and identification, are mandatory.<sup>35</sup> Finally, the notification will include disclosures regarding, among other things, the use and storage of photographs and recordings stemming from the closing.

As of March 8, 2018, approximately 482 closings were conducted utilizing the virtual closing process and the company has reported that they have generally proceeded without issue. The limited issues experienced so far have mainly related to difficulties establishing connectivity between the closing support agent and consumer. To address connectivity issues, Volkswagen has developed a workaround solution that allows the closing to be completed telephonically, with the requisite photographs being taken by program ambassadors who then upload them through a web application to the closing support agent. This solution allows all other aspects of the virtual closing process to proceed as intended, including the recording of the audio, provided the consumer consents. The Claims Supervisor will continue to monitor the progress of the implementation of the virtual closing process and provide updates in future reports.

#### **IV. Customer Service**

Consumer call and chat volume continued to decline over the course of the quarter. Between December 5, 2017 and March 4, 2018, call volume decreased slightly to an average of

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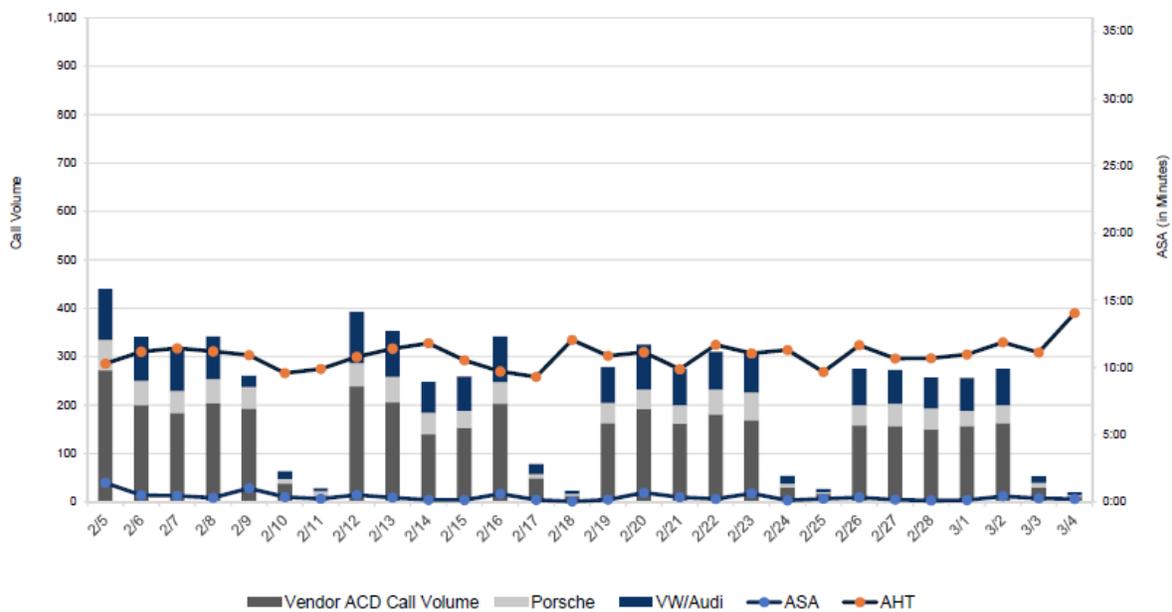
<sup>35</sup> At the beginning of the appointment, the consumer's consent to record the closing is requested. If the consumer provides consent, the closing support agent will notify the consumer that he or she is waiving the right to inspect or approve any audio and video captured during the closing.

approximately 409 calls per weekday, as compared to 478 calls per weekday during the prior quarterly reporting period. The average abandonment rate over the course of the quarter was 4.4%, slightly higher than the previous quarterly abandonment rate of 2.9%. The average wait time -- or speed of answer -- averaged thirty-five seconds throughout the reporting period, slightly higher than the prior quarterly reporting period.

Chart 3-2 depicts the daily Hotline call volume and related data from February 5, 2018 to March 4, 2018.<sup>36</sup>

**Chart 3-2**

**3.0 Call Stats (2/05/18 – 3/04/18)**



Compared to the previous quarterly reporting period, chat volume increased from 190 chats per day to an average of 264 chats per day, while the abandonment rate increased only slightly, from 14% to 15% for the quarter.

<sup>36</sup> ASA is the abbreviation for average speed of answer and AHT represents average handle time.

A review of a sample of 746 recorded calls and 1,044 chats that occurred between December 1, 2017 and February 21, 2018 indicated that Volkswagen continued to deliver effective customer service, with 93.6% of calls and 97.6% of chats being deemed successful. There was a slight increase in the error rate for calls from the prior quarterly reporting period error rate of 97.3%. The limited instances where a call or chat was deemed unsuccessful were mainly the result of agents not properly following the company's protocols for verifying a consumer's identity, which is an error that has been increasing in frequency over the last several months. In February 2018, the company took steps to address the issue by re-training all agents on proper caller verification through email communications, posting caller identity verification protocol reminders at workstations, and providing personalized feedback to agents as necessary.

Volkswagen's Resolution Team continued to provide assistance in connection with more challenging consumer inquiries and claims over the course of the quarterly reporting period. From December 5, 2017 to March 4, 2018, the Resolution Team received 341 inquiries and resolved 373 inquiries. Since the inception of the Claims Program, the Resolution Team has received a total of 1,696 inquiries and resolved 1,678 of them (a 98.9% resolution rate). Consistent with prior reporting periods, the most common consumer inquiries handled by the Resolution Team involved payment issues, although the overall volume of such inquiries has declined, which Volkswagen has attributed, in part, to the company's inclusion of more detailed EFT instructions in the appointment packets consumers receive prior to attending closing appointments.

Consumer complaint volume remained relatively low. In addition to general complaints related to the claims process, including its length and frustration with delays, a new complaint emerged this quarter: dissatisfaction with vehicle performance following the completion of the ECR, specifically challenges with shifting patterns, unpleasant odors, and decreased fuel

economy. Though the total number of complaints received were low -- forty-one over the course of the quarter -- this was the most frequent complaint. The Parties are aware of these complaints and Volkswagen has advised that specially trained customer care representatives have been assisting consumers in determining whether perceived vehicle changes are attributable to the ECR, including facilitating evaluations by dealerships, when necessary. The Claims Supervisor will continue to monitor this issue.

**V. Conclusion**

During the quarterly reporting period, Volkswagen generally applied Claims Program resources effectively and efficiently to process the vast majority of claims submitted by consumers across the United States. By March 7, 2018, the company had paid out \$768,546,224.46 in connection with eligible claims to, or on behalf of, eligible consumers, and also had completed 30,655 ECRs for consumers. Additionally, following the EPA's and CARB's approval of Volkswagen's proposed ECR for Generation Two PCs, the company has secured an ECR approval for all Generation Two vehicles. With respect to the extended warranty and service contract refund program, Volkswagen was able to begin making payments to eligible consumers and its vendor decreased the backlog of claims under review. Moreover, significant progress was made by the parties in coordination with the CRC to address consumer frustration emanating from delays in processing claims for vehicles with branded titles.

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**



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