



## POLICY & ACTION FROM CONSUMER REPORTS

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Docket Management Facility  
U.S. Department of Transportation  
1200 New Jersey Avenue S.E.  
West Building Ground Floor, Room W12-140  
Washington, D.C. 20590

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**Comments of Consumers Union to the  
National Highway Traffic Safety Administration on Visual-Manual Driver Distraction  
Guidelines for Portable and Aftermarket Devices (Phase 2 Guidelines)  
Docket No. NHTSA-2013-0137**

Consumers Union, the policy and mobilization arm of Consumer Reports,<sup>1</sup> welcomes the opportunity to comment on driver distraction and the proposed Phase 2 Guidelines developed by the National Highway Traffic Safety Administration (NHTSA). These proposed guidelines seek to provide a safety framework for developers of portable and aftermarket electronic devices to use when developing user interfaces for their systems. They are intended to encourage ways to reduce the potential for unsafe distraction by limiting the time a driver's eyes are off the road, while at the same time preserving the full functionality of the devices when they are not used while driving.

Consumers Union supports and shares NHTSA's goal of reducing distracted driving, a major safety problem that has grown into an epidemic. Driver distraction is associated with approximately 10% of fatal crashes—representing some 3,500 deaths on our roadways last year—and 16% of all crashes, in which more than 400,000 people are injured annually. According to NHTSA, the primary distraction for those involved in crashes is often visual-manual interaction, in which drivers look away from the road to manipulate something with their hand. Fatalities resulting from distraction-affected crashes rose 8.8% from 2014 to 2015, which is a greater rate than the overall increase in fatalities that occurred.<sup>2</sup> Preliminary figures for 2016

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<sup>1</sup> Consumers Union is the policy and mobilization arm of Consumer Reports, an independent, nonprofit organization that works side by side with consumers to create a fairer, safer, and healthier world. As the world's largest independent product-testing organization, Consumer Reports uses its more than 50 labs, auto test center, and survey research center to rate thousands of products and services annually. Founded in 1936, Consumer Reports has over 7 million subscribers to its magazine, website, and other publications.

<sup>2</sup> NHTSA, *Visual-Manual Driver Distraction Guidelines for Portable and Aftermarket Devices*, 81 Fed. Reg. 87656 (Dec. 5, 2016) (notice of proposed federal guidelines).

indicate that overall fatalities continue to rise, and we are concerned that distraction may be a significant part of the reason why.<sup>3</sup>

To address distracted driving, we have long encouraged a coordinated effort involving driver education, strong laws, strict enforcement, and technology solutions. For our part, we have sought to educate consumers by presenting them with actions they can take to help reduce the risk of a distracted driving crash, including:

- *Put down the device.* Use a handheld cell phone or other personal electronic device only when the car is stopped.
- *Don't enable.* If you know someone is driving, don't call or text. As a passenger, speak up if a driver picks up a device to use.
- *Educate yourself.* Learn the rules in your state, but impose your own restrictions even if a law isn't in place.
- *Be heard.* To help pass or strengthen laws in your state, call your legislators to voice your concerns. Cite examples of dangerous behaviors you've seen on the road.
- *Lead by example.* Kids mimic their parents' behavior, so if you are using the phone or texting while driving, they will think it's OK to do the same.
- *Go hands-free.* If you must talk on a phone while driving, keep your eyes on the road and your hands on the wheel.

We also have warned of the threat of distraction even when handheld devices are not being used. There are numerous ways a driver can be distracted, including from overly complex or otherwise difficult-to-use control systems, such as certain touch screens or multifunction controllers.<sup>4</sup>

On the regulation and enforcement front, we are pleased that NHTSA has taken steps to encourage states and localities to pass strong anti-distraction laws. In 2012, Consumer Reports conducted a nationally representative survey of adult drivers, which asked about in-car use of a handheld phone and looked at the impact of state laws on distracted driving behaviors. Our findings indicated that state laws prohibiting the use of handheld cellphones or texting while driving were making an impact, with 71% of those surveyed saying they had stopped or reduced texting, using a handheld phone, or operating a smart phone while driving. More than half of that group indicated that they did so because of state laws. Today, according to Advocates for Highway and Auto Safety, 41 states and the District of Columbia have laws with primary enforcement of an all-driver text messaging restriction. Nine states lack such a law, including several of the most populous states like Texas, Florida, and Ohio.<sup>5</sup>

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<sup>3</sup> See, e.g., NHTSA, *Early Estimate of Motor Vehicle Traffic Fatalities for the First 9 Months of 2016*, Traffic Safety Facts (Jan. 2017).

<sup>4</sup> See, e.g., "The danger in the next lane," Consumer Reports (June 2013).

<sup>5</sup> Advocates for Highway and Auto Safety, *2017 Roadmap of State Highway Safety Laws* (Jan. 2017).

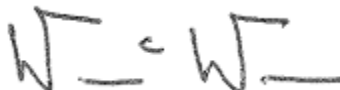
With regard to new software or hardware technologies, we have delivered our assessments to consumers depending on our testing and analysis. For instance, after Snapchat was implicated by media reports and a lawsuit as playing a role in several crashes involving teenage drivers, we discussed our disagreement with the company's approach. In commenting on the social media company's speed filter, which superimposes the current speed over a picture, we said it can tempt drivers into dangerous speeding—and that it was hard to see the upside of providing this feature, particularly given Snapchat's popularity among a teen audience who often makes bad decisions.<sup>6</sup> By contrast, after examining the Cellcontrol DriveID, a device that sharply limits texting and web surfing while driving, we concluded that it was a system with several benefits, particularly as a "safety mentor" to new and experienced drivers alike.<sup>7</sup>

The proposed Phase 2 Guidelines could help stem vehicle crashes associated with distraction, and we appreciate NHTSA's work to complete them. In our 2014 comments to the docket, we shared our observations regarding phone pairing and our recommendations to reduce distractions from aftermarket devices. Among other comments, we encouraged any pairing to be readily available, familiar to consumers, and easy to use. We urged special consideration by NHTSA of the safety implications of apps that may encourage interaction from consumers while they are driving.<sup>8</sup> We appreciate NHTSA's attention to these matters in the guidelines.

However, we recognize that addressing the widespread in-car use of electronic devices and the special challenges of the distraction issue will require a wide-ranging effort, with all parties—automakers, tech companies, regulators, safety groups, and consumers—playing a role in helping ensure that a strong and effective statement gets through about what constitutes safe behavior. As NHTSA considers the appropriate role of pairing and the proposed "Driver Mode" in a multifaceted approach toward distracted driving, we urge the agency to ensure that the simpler, broader message—"don't drive distracted"—is not lost.

Thank you for the opportunity to comment. We look forward to continuing to work with NHTSA and all stakeholders to ensure continuous and expeditious progress in reducing distracted driving crashes, and in fostering a safety culture that consistently stresses the seriousness of driver distraction.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "W. C. Wallace". The signature is stylized with a large "W" and "C" and a smaller "W" and "L" at the end.

William C. Wallace  
Policy Analyst  
Consumers Union

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<sup>6</sup> "'Talking Cars' Video Podcast Looks at Corporate Responsibility," Consumer Reports (May 9, 2016).

<sup>7</sup> "Cellcontrol Provides a Solution to Distracted Driving," Consumer Reports (May 18, 2016).

<sup>8</sup> Consumers Union submissions to Docket No. NHTSA-2013-0137 (March 2014, May 2014).