Department of Transportation
1200 New Jersey Ave., S.E.
Washington, D.C. 20590

Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20004

September 6, 2019

Mary Nichols
Chairman
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Dear Chairman Nichols:

On July 25, 2019, CARB, on behalf of the State of California, announced a "groundbreaking framework agreement" with four automakers—Ford, Volkswagen, Honda, and BMW—to apply certain new greenhouse gas (GHG) emissions standards and related terms to the light-duty cars and trucks the four automakers manufacture for sale in the United States. These automakers have agreed to build vehicles to meet new specified emissions standards beginning with model year 2022 and not to "challenge California's GHG and ZEV [zero-emission vehicle] programs." In exchange, California has announced its intention to treat the four automakers' compliance with the emissions standards and other terms set forth in the "framework" as satisfying CARB's regulatory program for GHG emissions and ZEVs. Notably, one of the terms of the "framework" addresses credits for model year 2020 vehicles, which appears to have imminent, if not already effective, impacts on cars in commerce today. The State in its announcement of this deal styled it as "an alternative path forward for clean vehicle standards nationwide."

The purpose of this letter is to put California on notice that this framework agreement appears to be inconsistent with Federal law. Congress has squarely vested the authority to set fuel economy standards for new motor vehicles, and nationwide standards for GHG vehicle emissions, with the Federal government, not with California or any other State. Section 209 of the Clean Air Act prohibits California and other States from adopting or attempting to enforce their own emissions standards. And the Energy Policy and Conservation Act (EPCA) expressly preempts States from setting fuel economy standards for motor vehicles or taking any other action "related to" the regulation of fuel economy. Given the direct, scientific link between tailpipe GHG emissions and fuel economy, any effort by California to adopt or apply the standards and related commitments agreed to in the framework clearly implicates EPCA's preemption provision. Moreover, the State cannot take any action that does not comply with the requirements of Section 209 of the Clean Air Act.

Under EPCA and the Clean Air Act, it is DOT and EPA that have controlling authority to establish fuel economy and nationwide GHG emissions standards for new motor vehicles in the United

States, and the standards and commitments laid out in the framework agreement have not been issued pursuant to Federal law. Accordingly, CARB's actions in furtherance of the framework appear to be unlawful and invalid. We recognize California's disagreements with the Federal government's policy proposals in this area, but those policy disagreements cannot justify CARB's pursuit of a regulatory approach that would violate Federal law.

Given the importance Congress placed on the authority of DOT and EPA for motor vehicle fuel economy and nationwide vehicle emissions standards under Federal law, we urge you to act immediately to disassociate CARB from the commitments made by the four automakers. Those commitments may result in legal consequences given the limits placed in Federal law on California's authority.

Sincerely,

Steven G. Bradbury
General Counsel
U.S. Department of Transportation

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency

Cc:

Gavin Newsom, Governor of the State of California
Xavier Becerra, Attorney General for the State of California
James Hackett, President and CEO, Ford Motor Company
Shinji Aoyama, President and CEO, American Honda Motor Company
Scott Keogh, President and CEO, Volkswagen Group of America
Bernhard Kuhnt, President and CEO, BMW of North America