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November 15, 2022

BY MAIL

Ed Markey, Senator
Massachusetts
255 Dirksen Senate
Office Building
Washington, D.C. 20510

Re: LED Headlights and LED Strobe Lights

Dear Senator Markey,

The Soft Lights Foundation has previously contacted your office regarding the lack of regulation of Light Emitting Diode products, including LED headlights. On November 15, 2022, you and nine other Senators sent a letter to NHTSA requesting a written update on NHTSA's implementation of IIJA safety provisions. Item 6 in your letter is in regards to FMVSS-108 vehicle headlamp performance standards and public safety.

In 1968, Congress passed the Radiation Control for Health and Safety Act, authorizing and directing the Food and Drug Administration to regulate electromagnetic radiation from electronic products. Since LED headlights are an electronic product, the regulation of LED headlights falls under the authority and jurisdiction of the FDA, not NHTSA. It is the FDA's responsibility to publish the comfort, health, and safety standards for LED headlight systems. In addition, the existing NHTSA FMVSS-108 regulations are not applicable to LED headlights because of the physics of flat surface radiation emitters such as LEDs.

We have notified NHTSA Acting Administrator Ann Carlson many times about this issue, but it appears to us that NHTSA has never informed Congress that the regulation of LED products is under the authority of the FDA and that LED headlights do not comply with existing federal safety standards. All other federal agencies that have responded to us have made clear that they defer entirely to the FDA for regulation of the visible radiation from LED products. This includes the EPA, FMCSA, FHWA, CPSC, OSHA, and the FAA. NHTSA has not responded to our inquiry about authority to regulate LED headlights.

To date, nearly 35,000 people have signed the change.org petition to ban blinding LED headlights: <https://www.change.org/p/u-s-dot-ban-blinding-headlights-and-save-lives> - We urge you and the other 9 Senators to investigate the dangers and toxicity of LED products and to develop an understanding of how existing LED headlights are endangering public safety. The Soft Lights Foundation is available to assist in this investigation.

Sincerely,

Mark Baker

Mark Baker

President

Soft Lights Foundation

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