

At the risk of piling on, let me offer my own thoughts–and a specific proposal–regarding yesterday’s decision by General Motors, Fiat Chrysler, Toyota and the automakers’ trade organization to intervene in support of the Trump Administration in California’s recently-filed litigation challenging the feds’ attempted revocation of California’s Clean Air Act waiver.

Legal Planet colleagues Ann Carlson and Julia Stein have already done an excellent job of describing the automaker’s legal tactic and its ramifications here and here. I won’t attempt to retread that ground.

Instead, I offer a concrete step that individual consumers and state and local government procurement agencies can take to demonstrate their profound dissatisfaction with these automakers’ litigation stance.

Specifically, consumers in California should simply boycott and refuse to purchase motor vehicles manufactured by GM, Fiat Chrysler and Toyota unless and until those companies either withdraw from the litigation or–as Ann suggests–switch sides. (Californian is–by far–the largest single state in terms of personal car and light truck purchases.) So too should consumers in the 13 other states that have “opted into” California’s more stringent tailpipe emission standards–as Congress expressly permits them to do under section 177 of the CAA. (When you add those states to California’s purchases, that accounts for over *40%* of the nation’s automotive purchases.) And, if you add the other 10 states that have joined California and the “opt-in” states in suing the Trump Administration to contest the legality of its revocation of California’s CAA section 209 waiver, that’s well over *half* of the nation’s auto-buying public.

Going a step further, state and local governments in those 24 jurisdictions can (and should) revise their car/truck procurement practices to boycott GM, Toyota and Fiat Chrysler vehicles as well.

(Legal Planeteer Cara Horowitz has just posted a related comment arguing that this automakers’ Hall of Shame should include a broader array of companies that are part of the trade group and thereby quietly supporting the GM, et al. intervention in support of the Trump Administration. No argument from me…)

In the aggregate, consumers’ and government purchasing decisions can send an important economic and political message to these automakers and to the industry in general: we reject your legal and policy position in the pending waiver litigation, and are prepared to demonstrate that opposition via our private and public pocketbooks.



So where should those consumers and government agencies go to make their purchases? I’d recommend Ford, Honda, BMW and Volkswagen. Those are, of course, the four companies that last July presciently–and courageously–publicly supported California’s more stringent GHG tailpipe emission standards and pledged to meet them. (As we’ve previously reported, the Trump Administration has launched a bogus antitrust investigation of those firms as political retribution for their alliance with California.) All of these companies have in recent years reformed their business models to increase substantially their production of hybrid, all-electric and other alternate fuel vehicles.

In sum, let’s send a clear and pointed economic message to the corporate cretins at GM, Toyota and Fiat Chrysler that we reject their policies and legal position. Conversely, we can use our individual and collective purchasing power to reward those more visionary automakers who see the wisdom of joining the states’ effort to ensure a greener, more climate-friendly future.