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Compliance under Automobile Industry

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ABSTRACT: Considering that the Indian automotive manufacturing sector is the primary target of the Indian government's "Make in India" initiative, a problem which largely remained unaddressed was the lack of relevant laws relating to automobile recalls and product liability in India. The Voluntary Code on Vehicle Recall (Code), devised by the Society of Indian Automotive Manufacturers, has so far driven car manufacturers. However, because the Code was drafted by a group and its commitment to it is voluntary, there is no binding legal force in India. Therefore, this paper discusses whether the compliance provisions need an amendment or there is a need for establishment of new laws.

KEYWORDS:Amendment, Automobile Industry, Legal, Vehicle.

I. INTRODUCTION

Although overall automotive recall campaigns are expected to be smaller in 2019 relative to previous years, the recent trend of large numbers of lower volume recall initiatives, particularly those that progressively include components of the electrical system, is likely to continue[1].

The increased pace of the introduction of new technologies and software integrated into new vehicles also will create new areas of risk for automotive suppliers in the coming years. If the subject of responsibility moves away from human drivers to elements of the electrical device and their applications, the control of warranty and recall risk would be crucial for manufacturers of these components[2].

More new cars are rapidly incorporating electrical system modules and networks to include automated control mechanisms, collision avoidance, adaptive cruise control, lane-keeping assistance, vehicle-to-vehicle contact, and hands-off steering. The further sophisticated these devices, structures, and networks are inside the car, the probability of failures and the warranty and recall costs associated with them rise.

As OEM procurement orders and associated general terms and conditions include extremely OEM-favourable terms, it is difficult to negotiate exceptions and restrictions to supplier warranties. At the contracting process, warranty risk management should commence.¹

¹<https://auto.economictimes.indiatimes.com/autologue/law-to-be-introduced-to-regulate-automobile-product-recalls-in-india/2286>

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II.DISCUSSION

The requirements to be designed and/or assembled by the part or device should be specifically set out in the contractual documentation and all unenforceable guarantees, including warranties beyond the scope of construction liability, should be the product of limited or disclaimed effort. Consider recording proposed alternate designs for a customer-declined, more durable or better performing part or device.

Automotive suppliers should register, at component, device and vehicle level, their obligations for testing electrical system devices, structures and networks and explain the scope of their responsibility for testing and validation.

Responsibility for the design and validation of equipment, software, and systems is not always apparent, especially when several suppliers are involved in the supply of different components and systems within the vehicle for hardware and software. It can be extremely difficult to handle the distribution of obligations and related guarantee and recall costs for errors within these system components. If a warranty problem occurs, to determine the root cause(s), enforce containment protocols, and set clean points, the supplier needs to respond quickly. Protocols for the analysis of the root causes of dealer repair codes that could affect the product should be created[3].

It is also important to develop procedures for managing warranty claims, including merchandise return, inspection, and the identification of the root causes of failure. The seller must also consider where the warranty term starts, the warranty period that will extend to the goods, and what responsibilities arise[4].

If several parties are interested in the lawsuit, the tier 1 vendor can work closely with the OEM to define and record quality problems early and clarify obligations promptly. Notice of the warranty claim, notice of a violation of relevant arrangements, proof of root cause(s) and documentary evidence justifying the damages are important if the claim concerns a lower-tier provider[5].

III. CONCLUSION

Indian Automotive Industry comprises of the automobile and the auto component segments and is one of the fastest growing manufacturing sectors in the country. Production and distribution of automobiles, trucks, buses, heavy equipments and automotive components have become global ventures involving diverse international relationships and transactions.

While the threat of tariffs is causing short-term volatility, the automotive industry is facing another more long-term top legal issue: that of environmental regulation. Lawmakers are making fuel efficiency a higher priority, with a set of national standards called the Corporate Average Fuel Economy (CAFE) in place since the 1970s getting a recent upgrade to increase fuel efficiency goals.

Car makers also face increasing scrutiny of emissions laws. It takes a lot of research and development money to test and mass produce emissions-limiting devices – organizations often set up a specific entity to separate R&D in the subsidiary structure. Plus, the automotive industry in Europe is not just facing regulation around the end product, but also the manufacturing process itself; the EU Industrial Emissions Directive seeks to regulate pollutant emissions from industrial installations, which means entity managers on the Continent must work with teams keeping track of both production processes and the environmental and sustainability impact of the production itself. Automotive



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industry players are likely to have a subsidiary structure set up to make a complex supply chain and a desire to import and export easier to manage.

It's also possible that this subsidiary structure will have established entities in jurisdictions considered tax-friendly for international businesses, which, while good for the bottom line, can be a burden for compliance teams.

Free trade and global supply chains make production more efficient and cost-effective, but it also exposes an organization to an ever-increasing set of regulations with which they must comply. For example, manufacturers must know the ultimate source of every component that goes into their product, in case conflict minerals are included in sourcing or the ultimate beneficial owner of a supplier is questionable.

When an organization is facing mounting regulatory challenges and an increasing tax burden, it's essential that it keeps on top of its entities to ensure all things are operating as they should. Keeping all the plates (or hubcaps) spinning can be time-consuming on its own, without the additional challenge of watching the markets for tariff increases, new sustainability measures and the ever-encroaching commercial threat of autonomous vehicles.

Under these circumstances, it makes sense for any player in the automotive industry to manage its compliance through entity management software. Such software helps a compliance team to centralize, manage and effectively structure the corporate record, creating a single source of truth for all entity-related information. This helps to improve entity governance by better ensuring compliance, mitigating risk and improving decision-making, as everyone in the business is looking at the same data.

Entity management software, such as Diligent Entities, acts as a central repository for entity information, documents and organizational charts, which helps the company secretary, general counsel and related compliance managers to visualize the entire subsidiary structure and see any gaps or potential challenges before they become major issues. Compliance calendars, reminders and workflows help to ensure better, more accurate data, while the highly secure cloud-based platform helps to surface the right information to the right people at the right time in order to complete routine business processes

To manage the increasingly complex corporate governance ecosystem, Diligent Entities seamlessly integrates with Diligent Boards and a secure file-sharing platform to create the Governance Cloud, enabling legal operations in the automotive sector to have the full picture from end to end.

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