



# Transport Workers Union of America, AFL-CIO

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***"AMERICA'S FIGHTING DEMOCRATIC UNION"***

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April 10, 2023

Robin Hutcheson  
Administrator  
Federal Motor Carrier Safety Administration  
US Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590

RE: Exemption Application From Waymo LLC, Aurora Operations, Inc.  
(Docket No. FMCSA-2023-0071)

Dear Administrator Hutcheson:

On behalf of the 155,000 members of the Transport Workers Union of America (TWU), we are filing these comments in response to the above referenced exemption application filed by Waymo and Aurora. The TWU is one of the largest and most diverse transportation unions in the country, representing workers in transit, air, rail and in other sectors. The decision made by this agency regarding Waymo's and Aurora's exemption application – "on behalf of a class of motor carriers operating autonomous driving systems (ADS)" – is critical to the frontline transportation workers we are privileged to represent, as well as to the traveling public.

The Waymo/Aurora application is inappropriate, represents an overreach and a misuse of the waiver and exemption process, and would significantly diminish the safety of our roads. It should be rejected in the strongest possible terms.

The TWU opposes this application for an exemption for several reasons:

- **This exemption request is an overreach and an intentional misuse of the exemption process.** Waymo and Aurora seek to certify an entire class of driverless CMVs under this exemption. Presumably, many of these operators currently utilize different systems and processes to meet the existing standards; it is highly unlikely that the safety claims the applicants make would apply to every operation in the proposed class. Even if such a class did exist and was actually deserving of the broad exemption requested by the applicants, the proper forum for this request is the FMCSA's ongoing rulemakings regarding ADS. Governing this entire class by exemption, as the

applicants want, is not in the public interest and would undermine the integrity of the exemption process.

- **This application seeks to fix a business problem for the applicants through exemption from a safety standard without any justifiable safety explanation.** While the applicants purport to be requesting this exemption as a safety measure, the rationale behind this exemption request is obvious: Waymo and Aurora do not wish to have humans onboard their vehicles and therefore cannot meet the existing standard. To be clear, the TWU believes that well-trained, qualified operators are an essential component of safety in our transportation systems. We believe that decades of experience on our roads is evidence of the clear safety improvements well-trained, qualified operators provide. Existing standards at the FMCSA are built on this core concept. If the applicants view reality differently, they should be building a case against the existing safety standards, not asking for an exemption. Ultimately, their business models are not viable unless every safety rule is bent to accommodate their unique needs. The FMCSA has an obligation to reach its findings based on safety outcomes, not the profitability of a nascent, untested technology.
- **Approval of this exemption would be premature at best.** At a time when the DOT still lacks strong, uniform standards and regulations that govern the deployment of ADS on our roads, highways, and transit systems, granting such a broad exemption would presuppose answers to many outstanding questions about the FMCSA's ultimate standards in this industry. The TWU has recently – in [comments filed with the FMCSA](#) – provided a strong basis for putting a pause on widespread ADS deployments until the DOT has issued clear, worker- and safety-centered set of ADS principles. This exemption, if approved, would move the agency's policies in the opposition direction.
- **This application does not demonstrate a viable alternative to meeting the existing safety standards.** The applicants seek an exemption from the regulations that require specific placement of warning devices around a stopped commercial motor vehicle (CMV); these placements are, today, performed by human operators. The applicants' rationale for seeking this exemption is that "Waymo and Aurora each separately tested variants of [alternative] devices and have concluded that the use of the cab-mounted warning devices was equally or more effective in enabling road users to recognize and react to the potential hazard presented by a stopped CMV." The TWU finds these conclusions interesting but hardly authoritative as they reflect the companies' opinions, not those of a safety authority. Waymo's and Aurora's explanation is inadequate even for their own operations and none of their reasoning provides any evidence that would justify an industry-wide exemption. Were the FMCSA to grant these applicants' request it would effectively be allowing CMV operators to substitute their judgment for its own.

If, as the applicants claim, these alternative devices are as safe or safer than the currently required warning devices then the DOT should, based on sound safety policy, amend its regulations as part of establishing a strong regulatory framework for deployment of ADS on our roads, highways and transit systems. The arguments and data provided by the applicants suggest, at most, that the FMCSA may want to consider a larger study on these warning devices to update its standards. Granting an exemption is not the appropriate way forward here.

- **This request seeks to ignore safety standards based solely on promises of future safety compliance.** As part of the applicants' exemption filing, they also seek permission for "all motor carriers operating ADS-equipped CMV's *without a human* on board (or with a human on board) ..." to use an alternative warning system that currently would violate federal safety requirements. Waymo and Aurora are asking federal safety regulators to make a leap with them, through an exemption, that running CMV operations without a human on board is safe. No federal agency has made such a determinative statement to date and the evidence on our roads actually points to the contrary conclusion. Second, advances in these types of warning devices have nothing to do with whether there is a human on board in control of or ready to intervene in the operation of the vehicle. Approving this request would require the FMCSA to de facto attach these concepts – a fallacy which would buoy AV companies' pace of implementation without any safety justification. The DOT and its modal agencies have not yet determined if humanless CMV operations are safe and to date, have failed to provide a responsible regulatory framework for how or if ADS deployment can be carried out safely. The question of whether eliminating the operator on board can be done safely remains unanswered by federal safety regulators and this exemption request is certainly not the forum for the FMCSA to make such a determination.
- **This application assumes that previous administration's approach to AV exemptions – one that leaned heavily towards allowing AV operators to police themselves – remains the governing philosophy at the FMCSA.** This administration has firmly rejected arguments of "innovation for innovation's sake" through the [DOT's Innovation Principles](#). The public interest is clearly not served by a governing-by-exemption policy that, dangerously, was the policy of choice in the previous administration's DOT. If what the applicants wish to deploy through the exemption process is truly a worthwhile safety upgrade, then the FMCSA should revise its standards and make them available to all CMV operations because the expert regulators have determined their safety benefits. Such a process would, as demanded by the Principles, serve larger policy priorities like creating high-quality jobs and "foster purpose-driven innovation" which supports the safety of workers and our communities. Exempting an entire industry, as Waymo and Aurora have requested, would simply render the current standard obsolete – an

outcome that contradicts commonsense, as well as the stated and statutory transportation safety objectives of the Department.

The TWU believes our nation's system of mobility is at a crossroads as ADS developers and their deep-pocketed investors attempt to bring their new, unproven transportation technology to market. Federal transportation regulators have a critical role to play. They must ensure that advanced ADS technologies are deployed safely and do not place passengers or frontline workers at risk. The DOT must reject the use of the exemption and waiver process as a substitute for responsible regulatory oversight. We urge the agency to advance strong, safety- and worker-centered federal regulations that subject these nascent technologies to rigorous oversight and standards before their widespread deployment is permitted. We strongly urge rejection of Waymo's and Aurora's request for an exemption, both for themselves and for their industry as a class.

Sincerely,

A handwritten signature in black ink that reads "John Samuelson". The signature is written in a cursive style with a large initial "J" and "S".

John Samuelson  
International President