



Statement of

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Before the  
Subcommittee on Commerce, Trade, and Consumer Protection  
of the House Energy and Commerce Committee

“NHTSA Oversight: The Road Ahead”

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Chairman Rush, Ranking Member Whitfield, and members of the Subcommittee, thank you for the opportunity to testify on the road ahead for the National Highway Traffic Safety Administration (NHTSA). I am Ami Gadhia, Policy Counsel with Consumers Union (CU), the non-profit publisher of *Consumer Reports*®.<sup>1</sup>

The recent Toyota recalls involving sudden unintended acceleration have focused national attention on safety problems that are infrequent, but potentially fatal. Much of the ongoing debate and public outcry has centered on why these issues weren't caught or properly acted upon earlier. But while the U.S. has arguably the best automotive safety net in the world, these types of problems can be hard to catch and difficult to diagnose – in this case, with deadly consequences.

Consumers Union believes that addressing this formidable challenge demands a coordinated effort by the government, automakers, the public and independent consumer groups such as our own.

Below are recommendations that we would like to see implemented to improve our auto-safety system.

## **I. What the Government Can Do**

The government is at the center of the nation's auto-safety net and is one of the keys to catching new problems as early as possible.

Even given difficulties in identifying and diagnosing an issue like unintended acceleration, Consumers Union believes government regulators should have moved aggressively to pursue the

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<sup>1</sup> Consumers Union of United States, Inc., publisher of *Consumer Reports*®, is a nonprofit membership organization chartered in 1936 to provide consumers with information, education, and counsel about goods, services, health and personal finance. Consumers Union's publications and services have a combined paid circulation of approximately 8.3 million. These publications regularly carry articles on Consumers Union's own product testing; on health, product safety, and marketplace economics; and on legislative, judicial, and regulatory actions that affect consumer welfare. Consumers Union's income is solely derived from the sale of *Consumer Reports*®, its other publications and services, fees, noncommercial contributions and grants. Consumers Union's publications and services carry no outside advertising and receive no commercial support.

issue and protect consumers' safety. Yet various news reports<sup>2</sup> and our own analysis of documents from the investigation point to a pattern of missed opportunities. NHTSA and Toyota were aware of unintended acceleration complaints involving Toyota models as early as 2003, when the agency received a petition to investigate the problem. It took almost seven years for this safety issue to be more fully addressed with the current recalls of more than 7 million Toyotas. Consumers Union believes government regulators must be better prepared to spot and fully address similar safety issues going forward. We are pleased that NHTSA is now looking into potential electronics issues behind the sudden unintended acceleration (SUA) events involving Toyotas, and we look forward to the agency's findings.

**Our recommendations include:**

- **Improve public access to safety information:** NHTSA's Office of Defects Investigation (ODI) collects complaints and data about autos from the public and manufacturers in two separate databases: the consumer complaints database and the agency's Early Warning Reporting (EWR) system. But both have limitations and the data they provide are not integrated, making it more difficult for investigators to spot issues and consumers to find information.

Public access to this information should be dramatically improved. Consumers shouldn't have to visit different site sections to see all of this information, or be forced to search it using tools that are less than user-friendly. All complaint information should be visible via a single consumer-facing site. And this service must include intuitive tools that allow users to easily find information for particular models and compare vehicle safety records.

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<sup>2</sup> See "Secretive Culture Led Toyota Astray," *Wall Street Journal*, Feb. 8, 2010, <http://online.wsj.com/article/SB10001424052748704820904575055733096312238.html>; and see "Safety Agency Scrutinized As Toyota Recall Grows," *New York Times*, Feb. 9, 2010, <http://www.nytimes.com/2010/02/10/business/10safety.html>.

We also recommend that NHTSA initiate a program to raise public awareness and invite more drivers to participate in data gathering. We believe many safety problems are not reported to NHTSA and that public participation in the complaints program clearly needs to be encouraged. Dealers should also be asked to contribute by educating new owners about the complaints program, and encouraging them to report problems. The more public complaints there are to analyze, the greater the chance that problems such as unintended acceleration will be identified at an early stage.

- **Mandate specific safety changes in new cars:** NHTSA should promulgate the following safety regulations to prevent sudden unintended acceleration in all automobiles:

- **Require cars to be able to stop within a reasonable distance, even with the throttle fully open.** A sustained press on the brake pedal should allow the car to stop in a reasonable distance, even if the throttle is wide open. One method to reduce stopping distances is “smart throttle” technology that allows the brakes to override the throttle. But other methods may be appropriate. To us, the most important safety feature is to ensure that a vehicle can stop within a reasonable and safe distance to be determined by NHTSA.
- **Require simple, standard controls that can easily turn off the engine in an emergency.** In many current Toyota vehicles, for instance, the engine is shut off with a single press of the button when parked, but when the car is moving it requires a sustained three-second push. Though that is a safety precaution to prevent accidental engine shut-off, it is an action many owners may not know and -- particularly in a panicked situation -- may be unable to do. Recently, Toyota announced that it will change how its start-stop ignition button operates to improve

ease of use.<sup>3</sup> Ignition controls including push buttons should provide immediately intuitive operation in the event of an emergency.

- **Mandate intuitive, clearly labeled transmission shifters in all new cars.** If your car is accelerating out of control, hitting the brakes and shifting into Neutral is your best strategy. The advent of gated and electronic shifters can make finding Neutral difficult if the driver is in a panic. Shifters should be designed so that a driver can quickly identify the Neutral position and easily shift gears to regain control.
- **Require a minimum distance between the gas pedal and the floorboard.** Floor mats that entrapped throttle pedals have been a major focus in recent recalls. People frequently use thick all-weather floor-mats, ill-fitting mats, or stack one mat atop the other. Simply allowing for sufficient clearance between the pedal and the floor mat, no matter what position the pedal is in, will reduce the risk of pedal entrapment.

- **Remove NHTSA's cap on civil penalties:** NHTSA has the authority to seek civil penalties from automakers and suppliers for a variety of violations. If agency officials determine that a company violated such statutory obligations, the company can be fined up to a maximum of \$16.4 million in civil penalties. This amount might be considered by a large, multi-billion dollar manufacturer as just the “cost of doing business.” We recommend removing this cap on civil penalties to act as a deterrent for future violations of the law.

- **Improve the recall compliance process:** According to NHTSA, the average consumer response rate to vehicle recalls is 74.1 percent. We are also concerned that when consumers purchase used cars, they may have no way of knowing whether the vehicle has had all recall-related repairs performed. Further complicating the process, not every model year of a particular vehicle is subject to recall; sometimes, only a range of vehicle identification numbers (VINs) is recalled. For

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<sup>3</sup> See “Toyota to Redesign Start-Stop Buttons to Improve Safety,” <http://blogs.consumerreports.org/cars/2010/02/toyota-to-redesign-start-stop-buttons-to-improve-safety.html>.

example, only cars with a component manufactured at a certain facility, or during certain months, are at issue. But for the safety of all drivers on the road, it is important that recall repairs are made.

Car manufacturers monitor the recall and repair process. Manufacturers notify dealers about recalls, and the dealers, in turn, notify car manufacturers when the cars are repaired in response to a safety recall.

CU suggests that going forward, car manufacturers submit to NHTSA in a timely manner the individual VINs of cars subject to a recall as well as information when the recall repairs have been performed on the vehicles.

NHTSA would then be able to match up safety recalls with the manufacturer-provided VIN numbers in a consumer-friendly, searchable database. The consumer would be able to enter a VIN number to check for any applicable recalls without waiting days or weeks for the recall letter to arrive from the manufacturer. (We envision this system as supplementing, not supplanting, direct consumer notification by, e.g., letter from the manufacturer.) Purchasers of used cars could also check to see whether the car they are buying has any outstanding recalls. We would further encourage states to consider linking safety recall compliance with the ability to obtain a vehicle registration - similar to the way consumer must show proof of insurance to register their cars now.

And as a final note on privacy, we do not believe any personal information should be stored with VIN numbers in NHTSA's database; we simply urge that a method be established by which consumers can check to see if a specific vehicle is subject to a safety recall and, of special value to used car purchasers, learn whether the recall repair has been performed.

- **Give NHTSA more resources:** Consumers Union believes NHTSA is in need of additional funding and staff. In 2007, motor-vehicle crashes accounted for 99 percent of all transportation-related fatalities and injuries. Yet NHTSA's budget currently amounts to just over 1 percent of the overall Department of Transportation (DOT) budget.

The need for additional funding support will be even more imperative if NHTSA proceeds with the recommendations outlined above, which could put more pressure on agency resources. It is important to make sure that the agency's budget and staffing for auto-safety and consumer-protection functions is commensurate with the realities of traffic safety and can keep up with the agency's other priorities.

We are also concerned about reports that former NHTSA employees have gone to work for the companies that they once regulated and that this may have impacted safety decisions.<sup>4</sup> We urge Congress to examine this issue and the loopholes in current government ethics rules, and to consider additional ways to stop the "revolving door" at NHTSA and other federal agencies.

## **II. The Roles of Manufacturers, Consumers, and Consumer Reports®**

We believe that car manufacturers, consumers, and Consumer Reports® can all do more going forward.

### **A. Auto Manufacturers**

First and foremost, vehicles should be well designed from a safety perspective, with modern safety features and good crash-test results. In addition, automakers receive a steady stream of feedback on service and safety problems, directly from dealers, through warranty claims, from complaints made directly to the automaker, and other sources. This information is critical to identifying and resolving issues – and to alerting dealers, the government and consumers to issues and fixes.

But Consumers Union believes manufacturers should go above and beyond when designing for safety, even when not mandated by specific government regulations. Many advanced safety features – including electronic stability control - are not currently offered on some budget cars. Young families and teenagers are often driving vehicles that are the last to get what we consider to

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<sup>4</sup> See "Analysis Finds Uneasy Mix in Auto Industry and Regulation," *Washington Post*, Mar. 9, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/08/AR2010030804900.html?hpid=topnews>

be basic and essential safety features. We call on manufacturers to make all safety features standard on all cars. We also call on manufacturers to end the practice of packaging critical safety options with luxurious amenities that people prefer not to purchase. For instance, if buyers are interested in electronic stability control for their Honda Civic, they are required to equip the car with leather and heated seats – at thousands of dollars in extra cost.

Regarding information sharing, manufacturers are required by the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act to report select information to NHTSA. That information is given to NHTSA via the EWR system. But only the tallies for fatalities, injuries and property damage and production numbers are currently made public under the EWR system; consumer complaints to the manufacturer are currently kept confidential<sup>5</sup>. We believe consumer complaint numbers submitted by manufacturers to NHTSA under the EWR system should also be made public by NHTSA and should be easily searchable, as described in Section I.

We also call on manufacturers to make information from black box recording devices more immediately accessible to government investigators. Most new passenger vehicles are equipped with Event Data Recorders (EDRs), often referred to as black boxes, which record such data as vehicle speed, throttle position, air-bag deployment, brake application, and safety belt usage. These data can help police and accident investigators reconstruct what happened in a crash. But it can be difficult for carmakers and investigators to easily access this information. Toyota, for instance, has only limited proprietary data retrieval tools for their black boxes. Other companies use formats that can be easily read by commercial tools. We encourage all automakers to quickly adopt formats to enable swift information retrieval and dissemination to crash investigators.

EDR information must also be standardized and expanded - and much of it will be, based on a 2006 mandate from NHTSA that defines detailed monitoring requirements for EDRs, including

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<sup>5</sup> See: <http://www-odi.nhtsa.dot.gov/ewr/qb/documents/NHTSA-ODI-EWR-Facts.pdf>

which systems should be recorded and for how long. These standards must be implemented in EDRs that are installed in the 2013 model-year cars. We encourage carmakers to apply these monitoring standards to their vehicles as soon as possible, with the appropriate privacy controls.

## **B. What Consumers Can Do**

Data from the field—actual owner experiences—is a key component to unearthing defects and safety-related faults. Consumers drive cars on a daily basis, under all sorts of conditions, and are arguably our best real-world automotive testers. As drivers put cars through these daily stresses, and issues arise, they can act as an important early alert system simply by registering complaints and issues with government databases and manufacturers. Indeed signs of possible sudden unintended acceleration issues were reported to NHTSA as early as 2003.

These safety databases are only as good as the data they contain. And active contributions from consumers seem to be lagging. NHTSA gathers a modest 30,000-plus complaints each year; compared to the number of people who drive (the Department of Transportation says 203 million people were licensed in 2006) many incidents are likely going unreported.

We therefore encourage consumers to report major safety problems both to NHTSA and to the car's manufacturer. Consumers need not report squeaks and rattles, or parts that normally wear like brakes and mufflers. But if the brakes totally fail suddenly, if the car races out of control, catches fire, or the steering fails, they should take action and let NHTSA know about it. By reporting their information to the agency, they can ensure it becomes part of the public record. Whether reporting a complaint to a dealer, an automaker, or NHTSA, we urge consumers to accurately state their car's VIN. The information in this number can help experts isolate a problem that is common to, say, a specific assembly plant or to vehicles built in a certain period of time.

Consumers also have a critical safety role to play in ensuring that potentially unsafe recalled vehicles are fixed in a timely way. As noted above, according to NHTSA, the average consumer

response rate to vehicle recalls is 74.1 percent. The response rate is low in part because manufacturer recall letters may not reach all affected owners, including those who have changed their mailing address or those who have bought used cars. But owners who have been notified could do more to make sure recall fixes are implemented in more vehicles. We also have recommendations for improvements to the recalls process, described above in Section I.

### **C. What Consumer Reports Will Do**

Consumer Reports' role in the marketplace is to evaluate product performance and provide detailed Ratings and reliability information to help car buyers choose the best vehicle. Our Ratings, evaluations and recommendations are based on extensive vehicle testing and on reliability data on more than 1.4 million vehicles. Our formal testing is done at our Auto Test Center track in Connecticut and on surrounding public roads, and our testers put thousands of miles on each vehicle over a typical six-month period.

Safety is a major focus of our testing. We evaluate vehicles' braking capabilities on both dry and wet surfaces and perform a number of tests to see how vehicles handle at their limits. We combine our test results with crash-test scores from NHTSA and the Insurance Institute for Highway Safety (IIHS) to produce our overall safety Ratings. In our reliability survey, we ask for detailed information on problems that subscribers have experienced in 17 different areas, making it the most comprehensive survey of its kind.

Given our rigorous testing and survey process, why didn't we spot the sudden acceleration issues with Toyota or in any other vehicles? First, we didn't encounter any issues with either floor-mat entrapment or a sticking accelerator pedal in any of the Toyotas we've tested. These episodes are too rare to show up in our standard testing. And they did not surface as an issue in our annual reliability survey. Had we noticed a problem in our testing, we would have contacted the company immediately, as we did when we experienced a perceived brake failure in our Ford Fusion Hybrid.

Going forward we will broaden the scope of safety information on our site in as many of these areas as is practical, beginning with recall information. Consumers should not learn of safety related problems via news reports, only to wait weeks for notification by mail of a recall. Communicating recall information to consumers is currently the manufacturer's responsibility. But we will support these efforts by publicizing recall information on our Web site and possibly other venues.

NHTSA is our main safety watchdog, and we will continue to rely on the agency as our first line of defense. A more accessible NHTSA database (based on some changes we are recommending for the government) will also allow Consumer Reports to more thoroughly analyze and publish analysis of consumer complaints. If we were able to more fully mine the database, Consumer Reports and other independent groups like ours could do more to support NHTSA by flagging any spikes we see in problems with specific vehicles. Such information would be useful for car owners and buyers, as well as the agency and automakers.

We will make additional efforts to gather information about our subscribers' experiences with recalls. We will be gathering this information for all vehicles, not just Toyotas. We'll ask our more than five million subscribers to tell us if their car had a recall in the last year. We'll also ask them about the specifics of handling the recall, including how they first heard about it (from news reports, a letter from the manufacturer, or a letter from the dealer); whether they took their car in to be fixed; and how long it took to complete the fix. We will share our findings with consumers, government regulators and other groups that might find it useful.

### **III. Conclusion**

The current situation with SUA in Toyotas presents the Committee with opportunities for improvements to our auto safety net. Consumers Union thanks the Committee for the opportunity to present its recommendations as you move forward.