ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6115

MAJORITY (202) 225–2927
FACSIMILE (202) 225–2525
MINORITY (202) 225–3641

energycommerce.house.gov

Opening Statement of Rep. Henry A. Waxman
Chairman, Committee on Energy and Commerce
Update on Toyota and NHTSA's Response to the Problem of Sudden Unintended Acceleration
Subcommittee on Oversight and Investigations
May 20, 2010

Chairman Stupak, I want to thank you for holding today's hearing on sudden unintended acceleration in Toyota-made cars and trucks.

This hearing is the second we have held on this subject since Toyota recalled millions of vehicles due to consumer complaints about sudden unintended acceleration in their vehicles. A key question we raised at our first hearing was whether the thousands of complaints of runaway vehicles reported by consumers could be linked to electronic defects in Toyota's vehicles. We will further explore this issue today.

During our February hearing, I asked Toyota Motor Sales President James Lentz whether he was certain that the recalls Toyota had ordered, which involved replacing floor mats and sticky accelerator pedals, would solve the problem of Toyota cars racing out of control. He replied, "not totally."

This appears to have been a rare moment of corporate candor. The next day, Toyota Motor Sales issued a press release entitled "Clarification of Testimony Regarding Effectiveness of Recalls" in which the company reiterated that "extensive testing" made it "confident that no problems exist with the electronic throttle control system in [its] vehicles." The same day, in testimony before another House Committee, Toyota Motor Corporation President Akio Toyoda testified that he is "absolutely confident that there is no problem with the design" of Toyota's electronic throttle control system because "very rigorous testing" conducted by Toyota identified "no problem" or "malfunction." A few days later, Toyota ran a full page advertisement in *The Washington Post* declaring that floor mat and "sticky pedal" recall "solutions are effective and durable," and that Toyota is "confident that no problems exist with the electronic throttle control system."

These assurances were baffling. In preparation for our February hearing, we had

reviewed over 100,000 pages of documents from Toyota and the National Highway Traffic Safety Administration. As I said at the hearing, what was most notable was what was missing from the documents: there was no evidence that Toyota or NHTSA took a serious look at the possibility that electronic defects could be causing the problems.

In the months since the hearing, the Committee has investigated the basis for Toyota's repeated assertion that its vehicles do not have an electronic defect. We asked Toyota to bring from Japan the engineers most familiar with the testing of Toyota's electronic throttle control system, and we conducted lengthy transcribed interviews of these officials. We also took a transcribed interview of the person most knowledgeable of the testing Toyota is doing in the United States through the consulting firm Exponent. And we have reviewed many more documents.

What we have learned is deeply troubling: there is no evidence that Toyota has conducted extensive or rigorous testing of its vehicles for potential electronic defects that could cause sudden unintended acceleration.

During our investigation, we asked Toyota for the basis for its assertions that its vehicles do not have electronic defects. Toyota pointed to two primary justifications: one is the testing done in recent months by the consulting firm Exponent in the United States and the other is the premarket testing done over the years by Toyota's own engineers in Japan. As a result, we focused our investigation in these areas.

Toyota says that Exponent's work is "comprehensive" and "independent," but the documents reviewed by the Committee do not support these assertions. On the screen is the only record that either Exponent or Toyota produced to the Committee that explained the relationship between the company and the consulting firm or described the scope of Exponent's work. It's a contract between Toyota's litigation defense counsel and Exponent for "engineering consulting services related to class actions filed against Toyota." Nowhere in this document do Toyota's lawyers ask Exponent to conduct a "comprehensive" examination of sudden unintended acceleration. In fact, the words "sudden unintended acceleration" do not even appear.

When the Committee interviewed Dr. Shukri Souri, the Exponent engineer who oversees this work, what we learned was astonishing. Exponent has no written work plan for this project, no written time line, and no written specifications for the experiments it has run or plans to run. Exponent has no written list of the potential causes of sudden unintended acceleration that it plans to study. And though he is personally responsible for the hardware, software, and electronic interference testing Exponent has done or will do for Toyota, Dr. Souri takes no written notes on Exponent's work.

We asked Dr. Souri what could explain this remarkable lack of documentation. He explained that writing down what Exponent does would "limit the creativity" of the engineers working on the project.

That's preposterous. A former Exponent engineer consulted by the Committee told us that the reason Exponent doesn't write anything down is to avoid creating documents that might

have to be produced in lawsuits. He said this is "absolutely bad practice" as a matter of science.

Toyota's lawyers appear to be involved in every aspect of Exponent's work, and the lawyers have the right to approve publication of all of Exponent's work. Dr. Souri reported to Committee staff that "all communications with Toyota have counsel present." The two reports Exponent has issued on sudden unintended acceleration both state that they were "prepared for Bowman & Brooke," the law firm defending Toyota in litigation. A confidentiality agreement between Exponent and the Bowman & Brooke law firm defines Exponent's work product as "Confidential Information" owned by Bowman & Brooke and prevents Exponent from revealing that material to anyone other than Toyota or Bowman & Brooke without written authorization from the company or its attorneys.

Exponent has issued two public reports to date, but they are not a comprehensive examination of sudden unintended acceleration. The first was an "interim report" requested by Bowman & Brooke for use at our February hearing. Dr. Souri told Committee staff that this report was unusual because Exponent had not completed its work, and outside experts criticized the report as having an unclear methodology and overly narrow focus. Exponent's second report was even narrower, designed only to rebut testimony provided by an expert witness at the Committee's first hearing. It did not offer any discussion of Exponent's investigation of sudden unintended acceleration other than its replication of a laboratory experiment conducted by the Committee's witness.

These reports do not come close to supporting Toyota's contention that Exponent has thoroughly examined Toyota's electronic throttle control systems.

The other basis for Toyota's assertions is the premarket testing that Toyota's own engineers do before manufacturing vehicles for sale to the public. This testing occurs during the design phase of its vehicles' production. As one of the Toyota engineers we interviewed told the Committee: once "mass production is initiated, then that means that the design is completed, so we do not conduct anything additional."

This premarket testing has significant limitations. The company's durability testing is done only on prototype vehicles and components. Toyota does not test the cars and parts that are used by actual drivers. In addition, the sample sizes in many of Toyota's design-phase tests are small. Sometimes only a single vehicle is tested. Independent experts consulted by the Committee have told us that Toyota would need much larger sample sizes to rule out potential causes of a rare and intermittent event like sudden unintended acceleration.

Furthermore, Toyota does no testing for multiple-event faults or faults that could affect more than one component in the same way at the same time, even though independent experts identified several potential causes of sudden unintended acceleration – like tin whiskers, corrosion, and electromagnetic interference – that could create multiple events or affect more than one component.

In addition, Toyota acknowledged to Committee staff that it does not control the testing performed on critical parts of the electronic throttle control system that are made by many of its

suppliers. Toyota has no documentation to confirm the results of any tests these suppliers choose to perform.

The premarket testing regime described to Committee staff by Toyota engineers may be appropriate for testing the design of Toyota vehicles before manufacturing starts. But no amount of premarket testing can be a substitute for the rigorous examination needed to identify a post-manufacturing defect. And there is no evidence Toyota has done this post-manufacturing testing.

The results of our investigation raise serious questions. Toyota has repeatedly told the public that it has conducted extensive testing of its vehicles for electronic defects. We can find no basis for these assertions. Toyota's assertions may be good public relations, but they don't appear to be true.

Even more confounding is why Toyota has not done more. If Toyota is serious about putting safety first, how can it justify hiring a litigation consulting firm that takes no written notes to lead its investigation into potential defects?

The public has a right to expect that Toyota will do everything possible to find any potential electronic defects. But Toyota didn't do that. Instead, Toyota asked its defense counsel to hire a firm whose mission appears to be the exact opposite: to obfuscate and to find no problems.

I want to be clear about what we know and what we don't know. I am not an engineer or a scientist, so I don't know whether there is an electronic defect in Toyota's vehicles. But I do know that dozens of people have died in accidents linked to runaway Toyota vehicles. Many of these incidents have occurred in vehicles that did not have faulty floor mats or sticky pedals. Toyota's priority should be to do everything it can to figure out what is causing these frightening events, not to protect itself from lawsuits.

I do not believe Toyota has met this obligation.

Chairman Stupak, thank you for holding this hearing and I thank our witnesses for their cooperation with this investigation.