

Toyota pays \$1.2 billion to escape prosecution for defect deaths and injuries

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The US Justice Department announced on Wednesday that Toyota will pay a \$1.2 billion fine in exchange for a criminal fraud charge being “deferred” for three years and ultimately dropped. The settlement stems from a protracted cover-up by Toyota of safety problems arising from driver-side floor mats and accelerator systems installed in numerous models.

US Attorney General Eric Holder told journalists: “Rather than promptly disclosing and correcting safety issues about which they were aware, Toyota made misleading public statements to consumers and gave inaccurate facts to members of Congress.” FBI assistant director George Venizelos declared: “Toyota put sales and profits over principle. The disregard Toyota had for the safety of the public was outrageous. Not only did Toyota fail to recall cars with problem parts, they continued to manufacture new cars with the same parts they knew were deadly.”

The fine is being touted as the largest ever levied on an auto maker, but it is less than 10 percent of Toyota’s 2013 worldwide profits. The Obama administration’s rhetoric aside, no-one will face any criminal charges for actions that have resulted in deaths, injuries and trauma for hundreds of people. Toyota North America’s chief legal officer, Christopher P. Reynolds, welcomed the settlement, calling it “a major step toward putting this unfortunate chapter behind us.”

The issue only came to public prominence when Mark Saylor, a California Highway Patrol Officer, was killed with his family in a horrific crash in San Diego on August 29, 2009. A subsequent US National Highway Traffic Safety Administration (NHTSA) investigation concluded that the accelerator pedal in Saylor’s vehicle became entrapped with the floor mat.

Those killed included Saylor’s wife Cleofe, 45; daughter Mahala, 13; and brother-in-law, Chris

Lastrella, 35. Saylor’s 911 emergency call minutes before his death was broadcast across the United States and around the world: “We’re in a Lexus... our accelerator is stuck... There’s no brakes... We’re approaching the intersection... Hold on and pray, pray, pray.”

The NHTSA had opened investigations in 2007 into complaints about unintended accelerations by Lexus ES350s, a mid-size sedan, but did not pursue them. Toyota conducted its own investigation the same year and discovered that “potentially problematic ... design features made gas pedal entrapment ‘likely’.” Toyota did not inform the NHTSA. Instead, it assured the regulator that no recalls were necessary. In Europe, Toyota moved to fix the problem, but took no such steps in the US.

In September 2009, following the Saylor tragedy, Toyota finally issued a recall of the floor mats of 4.2 million vehicles of nine separate models manufactured between 2004 and 2010. The company advised people to remove the floor mats, implying that was the cause of the safety issue. The top-selling Corolla model was not included in the recall, despite a Toyota engineer having concluded that it was among the most prone to the accelerator pedal becoming entrapped with the floor mat.

On November 4, 2009, the NHTSA belatedly responded to the safety dangers. It labelled Toyota’s recall notice as “inaccurate and misleading.” The actual defect in the vehicles was not the floor mat, but the design of the accelerator pedal. The dangers were exacerbated by the absence of any obvious means for drivers under duress to override a stuck accelerator. There was no brake override system to cut engine power if both the accelerator and brake were depressed.

The *Los Angeles Times* reported on November 8,

2009 that Toyota had ignored 1,200 complaints of unintended acceleration since 2001, relying on the NHTSA's dismissal of reports that vehicles did not stop when the brakes were applied. A Toyota spokesman confirmed to the *LA Times* that the brakes were ineffective when a vehicle was accelerating at wide open throttle. It had to be put into neutral first. The only way to turn off the engine altogether was the little-known method of depressing the keyless ignition button for three seconds.

On November 29, 2009, the newspaper reported that there had been 19 deaths since 2002 related to unintended acceleration in Toyotas, compared with 11 deaths in vehicles produced by other manufacturers.

On December 26, 2009, a Toyota Avalon, one of the models included in the recall, crashed into a lake in Texas, killing Monty Hardy, Hadassah Vance, Sharon Ransom and Wendy Akion. A witness recounted that the vehicle careered at high speed through a stop sign and smashed through a fence before hurtling into the water. Hardy's wife told the media that her husband had complained of the car's accelerator sticking. Its floor mats were found in the trunk.

In January 2010, Toyota issued recalls of 2.3 million vehicles of other models, including Corollas, manufactured between 2005 and 2010. It admitted that as well as the dangers associated with the floor mats, "a rare set of conditions" could exist in which accelerator pedals could become slow to return or stuck in a depressed position. The seriousness of the defect was downplayed in Toyota's explanations to the NHTSA, however, prompting one of its employees to tell the regulator: "Someone will go to jail if lies are repeatedly told. I can't support this."

The recall was eventually extended to vehicles sold in Europe and Asia. Numerous allegations were raised that the source of the problem lay in the drive-by-wire, electronic throttle system. Toyota continues to deny these allegations.

Further recalls were issued by Toyota in 2013 over defective seatbelts, after receiving complaints for at least two years. In February this year, the company recalled 1.9 million Prius hybrids sold internationally, due to a software flaw that could cause the vehicles to completely shut down, even while being driven at high speeds.

In 2013, Toyota paid out \$1.6 billion to settle

hundreds of civil claims over the acceleration defects. It also paid some \$66 million in fines to the NHTSA. It still faces large numbers of civil actions. None of the executives responsible for ignoring complaints over safety will face criminal sanction, however, as a result of the Obama administration's decision.

Across the auto industry, the Toyota settlement is viewed as a precedent that can also exonerate General Motors' management from any culpability for ignition switch and related air bag defects. Attorney General Holder told journalists on Wednesday the Toyota deal would "serve as a model for how we treat cases with similarly situated companies. Other car companies should not repeat Toyota's mistake."

As in the case of Toyota, GM was aware of the ignition switch problems as early as 2001. It did not issue a recall of 1.6 million defective vehicles until last month. The Center for Auto Safety estimates that 303 people have died in crashes in which air bags failed to deploy in the recalled GM models.

The author also recommends:

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