



U.S. Department of Justice
Office of Consumer Litigation
Civil Division
Washington, DC 20530

4

October 12, 2010

Bristol, CT [REDACTED]

OCT 19 2010

Re: Toyota 2002 RAV4

Dear [REDACTED]

This letter is in reply to your correspondence to the Attorney General, postmarked September 7, 2010, which was referred to this Office for consideration and response. I regret the delay in response. Your letter concerns your dealings with Toyota. You indicate that "the ECU was causing the transmission to malfunction" on your 2002 RAV4 vehicle. Your major concern seems to be that despite this "malfunction" there was no service notification from Toyota. You believe that Toyota is responsible for this malfunction and should cover the cost of all the repairs.

Since your inquiry relates to a matter involving questions that do not come within the immediate jurisdiction of this Department, I am forwarding your letter to the agency indicated below for consideration.

In addition, you may wish to look online at National Highway Traffic Safety Administration's "Defects & Recalls" web page, at <http://www-odi.nhtsa.dot.gov/recalls/>. I note you have looked at NHTSA's web page in researching this matter.

Also, if you have not yet done so, you may wish to consult a private attorney who could advise you of your rights and any remedies that may be available to you.

Thank you for writing.

Sincerely yours,

Kenneth L. Jost
Deputy Director
Office of Consumer Litigation
Civil Division

JLA

By: Jamie Albrecht
Consumer Affairs Specialist

NM
110910
TGW

cc:

National Highway Traffic Safety Administration
Department of Transportation
400 7th Street, SW, Rm. 5232
Washington, DC 20590
Toll free DOT Safety Hotline: 1-888-327-4236 (DASH 2 DOT)
TTY: 1-800-424-9153
www.nhtsa.dot.gov

1949645.
(21)

[REDACTED]
Bristol, CT
Cell: [REDACTED]
Home: [REDACTED]

To Whom It May Concern:

We feel that we are being taken advantage of by Toyota. My wife noticed her Toyota 2002 RAV4 began having shifting problems on her way home from work. We called the local Toyota dealerships when she got home to get it serviced. We had her vehicle tested and diagnosed at Middle Town Toyota.

Our Toyota Rav 4 was tested and we were told that the ECU was defective and needed replacement. We were told the ECU was causing the transmission to malfunction and most likely caused irreversible damage. The error code was P0758. We asked the service rep why no check engine or service light ever came on at all. We realized that we could have been driving the vehicle while damage was being caused without any warning or notification. While at the Toyota Dealership we were told we likely needed a new transmission and possible some engine work also. We told the service rep that we were aware the ECU had a service notice on it and was already serviced. We believed Toyota required the ECU to be serviced and Toyota's acknowledgement the ECU was defective. We believed Toyota should pay of the cost of replacing of the ECU and/or transmission and any engine work that may be required. The service rep in the beginning denied there was a service bulletin until we said that we had it at home and would bring it in. The service rep said that they could do nothing for us and said to call Toyota's Customer Care number at 1-800-331-4331 to see if Toyota would help us. The rep alerted us that if we noticed that problem before 80,000 miles; the labor and ECU and/or transmission would have been covered under warranty. When we asked how much the costs of repair would be, we were told it could cost up to \$6000 or more in repairs. The service rep said if we wanted the repairs to be done at this time we would need to pay for any and all repairs at this point.

We did some research online on the error code through the National Highway and Traffic Safety Administration and we called 3 other Toyota dealerships in Connecticut and researched the problem on line thorough various web sites. Hundreds of Toyota customers have had problems with the ECU and made reports under different categories with NHSA because the computer, transmission, and engine were affected. Again, we called the Toyota dealerships in Bristol, Vernon, Wallingford and the Middletown again and after asking many questions on how to get the problems fixed. The Toyota service rep's acknowledged that Toyota has known about the 2001-2003 Toyota RAV4's ECU problems sense 2006. Toyota has known about the ECU and transmission problems and Toyota knew the ECU will malfunction and need to be replaced while causing irreversible damage. Several service reps said that the service update had to do with emissions and not the check engine light. The service notice we received (clearly in print) says it was issued to correct the problem with the check engine light coming on.

CM/CL

CM - 11719
For Sent 11/18

We found that Toyota released a technical service bulletin in 2006 warning the dealerships of customers reporting shifting problems with the transmission. This notice alerted the Toyota dealerships to replace the ECU and/or Transmission and that it would be covered under the federal emissions warranty of 80,000 miles. Toyota the manufacturer and the Toyota Dealerships made no attempt to alert the customers of this costly problem because it was not a safety issue. For those customers that noticed the problem (after the 80,000 mile warranty) Toyota expects the customers to pay for the repairs. When Toyota the company found out about the problem with the ECU Toyota placed the problem under the federal emissions warranty so they would not have to pay to properly fix any and all problems caused by the ECU. This left all customers with this type of vehicle unaware that ECU would become fault and cause costly damage to their vehicles. (We found it disturbing that the service notice for the ECU's reprogramming to fix the problem with the check engine light coming on was mailed to us and received in the mail in 2007 while Toyota had discovered the problems with the ECU and transmission in 2006.) We are convinced Toyota was trying to cover up any notification or alerts to its customer by the vehicles check engine light so they would not have to pay for the repairs, parts, and labor.

We called Toyota customer care and were told that the Toyota RAV4 has 3 computers and the ECU that became defective had nothing to do with the transmission or engine unlike what the Middletown service reps at the Toyota dealerships told us. The customer care rep first denied that there was service notice until we told them we still had the service notice in hand and that it was mailed to us. The customer care rep then explained the service notice had to do with the vehicles emissions and not the check engine light. The rep said that Toyota would do nothing for us.

Once again we called the Middletown Toyota dealership where the vehicle was diagnosed and asked if there was anywhere or anyone else we could talk to. The rep alerted us to call the Toyota customer service line again and that Toyota may or may not work with us based on our history with Toyota. The rep explained Toyota takes the vehicle care into consideration, if we have multiple Toyota vehicles, or if we are repeat customers, or if we were willing to pay the labor then Toyota may cover the cost of the ECU and or transmission.

We believe Toyota made no attempt to contact customers to avoid having to pay for the costly repairs and labor caused by the ECU on the Toyota RAV4 vehicles. We believe Toyota should pay and cover 100% of the cost and labor to repair my wife's 2002 RAV 4. We would not have considered doing business with Toyota if we realized how they really treat their customers when it comes to manufacturer errors and defects.

We are asking for your help in resolving this issue. My wife's vehicle now sits un-drivable because of the problem with the ECU. We have also noticed that when we start the vehicle to keep the battery charged a big cloud of white gray smoke comes out of the tail pipe that smells like burning metal for a few seconds and then goes away. And to this date there is still no check engine light or service light on to alert of any problem with the ECU and transmission.

The New York Times**Wheels****The Nuts and Bolts of Whatever Moves You**

AUGUST 26, 2009, 8:37 AM

RAV4 Owners Fume Over Toyota's Handling of Transmission GlitchBy **CHRISTOPHER JENSEN**

2001 Toyota RAV4.

Although customer satisfaction studies have often given Toyota's RAV4 "cute ute" high marks for quality, some owners are furious at the automaker because it failed to warn them of a serious transmission problem. Had Toyota warned them, they say, they could have avoided expensive repairs.

Benjamin Birkbeck of Yarmouth, Me., who owns a 2002 RAV4, is one of those consumers. His wife, Rhonda, was trying to merge into traffic when a suddenly faulty transmission meant she was "almost run over by a semitruck," he wrote in a complaint on the [Center for Auto Safety Web site](#). "This is a safety issue. My wife was almost killed."

Dianna Radford of Albuquerque, N.M., had to pay about \$4,000 for a repair on her 2002 model. "I have owned Toyotas for 12 years and I will never buy another one, the way I was treated," she said.

They are not alone. The [National Highway Traffic Safety Administration](#) has more than 120 complaints about transmission problems with the 2001–2003 RAV4, of which Toyota sold about 250,000. Often the blame is put on the engine control module (E.C.M.), which tells the transmission what to do.

In March 2006, Toyota sent dealers a technical service bulletin warning them that some consumers might complain about harsh shifting. It said improvements were made to the computer "manufacturing process to reduce the possibility of this condition occurring." It then told the dealers to replace the module and if that did not work to replace the transmission. But consumers owning the vehicles were never notified about the problem.

That kind of a warning is important because, as soon as the transmission begins to misbehave, consumers should stop driving it and get it fixed to avoid major transmission damage, said Lance Wiggins, the technical director of the Automatic Transmission Rebuilders Association. Mr. Wiggins said the association is quite familiar with the RAV4 problem.

Over all, Toyota has "a fairly responsible customer satisfaction program," said Clarence Ditlow, executive director of the Center for Auto Safety. But this time consumers are getting a bad deal.

"At best you can say it slipped through the cracks," Mr. Ditlow said. "At worst you can say that Toyota is knowingly imposing the risk of a very large repair on consumers."

Brian Lyons, a spokesman for Toyota, said that when the bulletin was sent out the automaker didn't notify consumers because it was not considered a safety problem; additionally, repairs were being covered by a warranty, he said, and Toyota did not realize that the E.C.M. problem might result in damaged transmissions.

Although it is now clear that the E.C.M. problem can damage transmissions, Mr. Lyons said the automaker isn't ready to send out notices to consumers because it is still studying the issue and whether to extend the warranty. He said consumers with problems should call Toyota's customer assistance center at (800) 331-4331.

Mr. Ditlow interprets the March 2006 service bulletin as an admission of a defect, something Mr. Lyons did not dispute. But despite the defect, Toyota did not offer any special warranty coverage. Instead, the bulletin said repairs would be covered under the federal emissions warranty of 80,000 miles or eight years from the time the vehicle was sold.

The bulletin also told dealers they could only make repairs under that warranty based on consumer complaints once a problem had been identified — not to prevent the problem.

Many owners have turned to the federal safety agency, saying they feel their vehicles are not safe and asking for help in the form of a recall. But the agency has not undertaken a defect investigation, which could lead to a recall.

Mr. Ditlow, who has watched the safety agency and the auto industry for three decades, says he has concluded that the agency is reluctant to open investigations into transmission problems unless they involve vehicles that stall or have problems on the highway, which constitutes a clear safety problem.

Rae Tyson, a spokesman for the agency, said the problem has been deciding whether the complaints are a safety issue or just consumer inconvenience. "They are watching it very closely," he said.

Rhonda Birkbeck says if an agency official had the same experience she had there wouldn't be any doubt it was a safety defect. "I just hope they won't still be studying it when someone loses their life," she said.

07 SEP 2010 PM 6 T



Bristol CT

MOULTON road

SEP 17 2010

X-RAYED

Attorney General of the United States
Eric H Holder Jr
US Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530-0001

501

0123456789

L.L.M., LL.D., B.S., B.A., M.A., Ph.D.

Washington, D.C. 20530

Official Business

Penalty for Private Use \$300



National Highway Traffic Safety Administration
Department of Transportation
400 7th Street, SW, Rm. ~~5232~~
Washington, DC 20590

Defects
PM