UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation No.:
OUTBOARD ENGINES FROM JAPAN	)	731-TA-1069
	)	(Preliminary)

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Thursday,
January 29, 2004

Room 101
U. S. International
Trade Commission
500 E Street, SW
Washington, D.C.

The preliminary conference commenced pursuant to Notice, at 9:30 a.m., before the United States International Trade Commission, ROBERT CARPENTER, Director of Investigations, presiding.

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BOB DEPUTY, Vice President, Godfrey Marine
SCOTT DEAL, President, Maverick Boat Company
DOUG GOMES, Vice President for Sales and Marketing, Grady White Boats, Inc.

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JEFF KALIBAT, K&K Outboard
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P R O C E E D I N G S

(9:30 a.m.)

MR. CARPENTER: Good morning and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of Antidumping Investigation No. 731-TA-1069 concerning imports of outboard engines from Japan.

My name is Robert Carpenter. I am the Commission's director of investigations, and I will preside at this conference. Among those present from the Commission staff are, from my right: Larry Reavis, the investigator; on my left, Karen Driscoll, the attorney-adviser; Jim Fetzer, the economist; Charles Yost, the accountant; and Deborah McNay, the industry analyst.

The purpose of this conference is to allow you to present your views with respect to the subject matter of the investigation in order to assist the Commission in determining whether there is a reasonable indication that a U.S. industry is materially injured or threatened with material injury by reason of imports of the subject merchandise.

We will start the conference with a five-minute opening statement from each side, beginning with the Petitioner. Following the opening

statements, each side will be given one hour for their direct testimony. The staff will ask questions of each panel after their presentation, but no questions from opposing parties will be permitted. At the conclusion of the statements from both sides, each side will be given 10 minutes to rebut opposing statements and make concluding remarks.

Speakers will not be sworn in; however, you are reminded of the applicability of 18 U.S.C. 1001, to false or misleading statements, and to the fact that the record of this proceeding may be subject to court review if there is an appeal. Additionally, speakers are reminded not to refer in their remarks to business-proprietary information and to speak directly into the microphones.

Finally, we ask that you each state your name and affiliation for the record before beginning your presentation.

Are there any questions?

(No response.)

MR. CARPENTER: If not, welcome, Mr. Wolff. Please come forward for your opening statement.

MR. WOLFF: Mr. Carpenter, staff members, good morning. I'm Alan Wolff of Dewey Ballantine, LLP, counsel to Petitioner Mercury Marine, the leading

manufacturer of marine outboard engines in the United States.

This is a critical time for the domestic industry. Since the year 2000, the volume of imports from Japan has increased substantially, both in absolute numbers and relative to U.S. consumption. The share of the U.S. market held by Japanese imports has grown from 43 percent in the year 2000 to 59 percent in the first three quarters of 2003.

Mercury will demonstrate that Japanese imports have gained this market share by undertaking an aggressive campaign of price cutting, offering substantial discounts and rebates off normal pricing to key purchasers, both OEM boat builders and leading dealers, undercutting domestic prices.

This flood of imports at heavily discounted prices has come at a challenging time of transition for the domestic industry.

Air-pollution regulations are requiring the industry to phase out the traditional, carbureted, two-stroke, outboard engine, the industry standard for decades. In response, domestic producers have engaged in a major and successful effort to develop and introduce new-technology engines, including two-stroke, direct-injection, and four-stroke engines,

which, while having significantly lower emissions, are also more costly to produce.

The domestic industry now offers a broad array of low-emission engines to meet the varied needs of the boating community. Mercury Marine took the lead in redesigning its products to reduce emissions to not only meet, but also exceed, the new standards without sacrificing the performance characteristics that its customers demand.

Its direct-injection, outboard engine design was created to deliver exceptional performance from a two-stroke outboard with a completely new technology. Today, Mercury offers the most extensive array of direct-fuel-injection two-stroke and four-stroke engines of any producer, and it is in the process of introducing even more innovative models into the market.

Developing and marketing these new engines require sufficient financial resources. That is why the aggressive underselling by Japanese imports has been so damaging. By undercutting domestic producers, Japanese manufacturers are suppressing and depressing domestic prices and thereby depriving domestic producers of the financial resources they need now more than ever. Unfairly traded imports from Japan

are causing present material injury.

Japanese imports also threaten to cause imminent additional material injury. The Japanese producers have large excess capacity. The United States is the primary market for marine outboard engines. There is a rapidly increasing volume of subject imports at prices underselling domestic production. Absent antidumping relief, the domestic industry will clearly suffer further harm.

The American outboard engine industry consists of thousands of people who have dedicated their lives to perfecting engines for use on the water. Employees of Mercury Marine have, for over 65 years, built a brand that boat builders, dealers, and consumers count on for quality, design, and innovation. The sheer magnitude of Japanese imports sold as less than fair value in recent years has forced this industry to seek relief under the trade laws. Because there are only two American producers, as you know, much of the data demonstrating the material injury being suffered by the domestic industry is necessarily business confidential and, therefore, can be discussed here today only in general terms. But you have this information, and it demonstrates beyond doubt the extent of harm that

Japanese imports have caused to the domestic industry.

We ask that the Commission take the first step in restoring fair competition, permitting the domestic industry to receive a fair price for its products, for its workers to continue to earn a decent living, and for an entire American community to continue a way of life. The modern, state-of-the-art, marine engine plant that we are seeking to preserve from dumping today is just down the road from another plant that owes its existence substantially to action by this Commission, also a part of the industrial fabric of this country, Harley Davidson.

We ask you today to prevent further injury to another famous American product and institution, Mercury Marine outboard engines. Thank you.

MR. CARPENTER: Thank you, Mr. Wolff.

Mr. Barringer, could you please come up?

MR. BARRINGER: Good morning. I'm Bill Barringer, a partner in Wilkie Farr & Gallagher. We represent Yamaha. This opening statement is being presented on behalf of all of the Japanese manufacturers and importers opposed to the interpretation: Suzuki, Honda, Dahatsu, Nissan, and Porjanan.

There is no disputing the fact that imports,

including imports by both of the domestic manufacturers, have increased during the period of investigation. The question is whether these imports have increased because they are dumped and underselling domestically manufactured products or whether the increase is due to other factors.

In this regard, we would call the Commission's attention to the fact that neither of the domestic manufacturers of outboard motors produces a complete line of four-stroke engines. Indeed, we would point out that, as far as we can tell, the only four-stroke engine that is manufactured in the United States without the use of an imported power head is the 25-horsepower, four-stroke engine produced by Mercury. All of the Bombardier engines are produced in Japan by Suzuki. Either the power heads of the complete engines for all of the Mercury four-stroke engines, with the exception of the 25-horsepower engines, are imported from Japan.

Why is this important? Mainly because only four-stroke engines and the two-stroke, direct-injection engines are capable of meeting current California Air Resource Board standards and EPA standards which become effective in 2006. The combination of environmental requirements and consumer

desires for clean engines has led to a migration from two-stroke, carbureted engines, to cleaner, two-stroke, direct-injection engines and four-stroke engines.

Because the two-stroke, direct-injection engines initially introduced by Johnson, Evinrude, and Mercury experienced severe technical problems which tarnished the reputation of this technology, and because direct-injection engines have only been offered in limited horsepower ranges, the market has migrated to four-stroke engines, which are almost exclusively produced by the Japanese manufacturers. These four-stroke engines are priced at a premium above comparable two-stroke and two-stroke, direct-injection engines.

Nevertheless, an increasing share of the market is accounted for by these higher priced engines. To the extent that these engines are offered by the domestic manufacturers, they are almost all either imported or made from imported power heads. Thus, of necessity, as the market has migrated to four-stroke engines, imports have increased, both absolutely and relative to domestic sales.

The second factor affecting the performance of the domestic industry was the bankruptcy of

Outboard Marine Corporation, once a dominant U.S. manufacturer. While Mercury has claimed OMC was a victim of dumping, there is absolutely no evidence that this was the case.

In fact, it is well documented that the causes of OMC's bankruptcy were, one, the failure of its direct-injection engines and consequent liabilities on what claimed were 75 percent of these engines; and, two, the overall decline in the quality of Evinrude and Johnson engines when OMC decided to relocate its principal manufacturing facilities and increase outsourcing parts. The combination of trying to introduce a new, complex technology and changing the sourcing patterns for its engines was, simply put, a disaster for OMC. This had nothing to do with imports.

Having said this, when the second-largest supplier to the outboard motor market stopped production for nearly one year, the dealers and boat builders relying on their product had to find new sources. Historical rivalries between Mercury and Johnson and Evinrude dealers caused many of these dealer to seek out Japanese suppliers. Concerns about the ability of Mercury to adequately fill the OMC void led others to seek out Japanese suppliers. The choice

mad had nothing to do with price and everything to do with the ability of abandoned dealers and boat builders to continue operating their business without their traditional engine supplier.

Thus, initially, we saw an increase in imports to fill the void created by the OMC bankruptcy. Subsequently, we saw an increase in imports as the boat companies previously owned by OMC were bought by Genmar, an independent boat builder not affiliated with an engine manufacturer, which required alternative sources for engines while Bombardier brought back OMC engines to the market.

These two events, neither associated with pricing, -- the shift to cleaner, four-stroke technology and the bankruptcy and subsequent interruption of production of Johnson and Evinrude engines -- caused the increased imports during the POI. Subsequently, when Bombardier restarted production of Johnson and Evinrude engines, it priced aggressively to regain the market share lost during its shutdown. It offered, and continues to offer, the lowest prices in the market in order to regain market share. Indeed, materials provided to dealers and boat builders confirm the view that Bombardier was underselling to regain market share while OMC was out

of business.

What OMC offered was an engine lineup of old-technology, two-stroke, carbureted engines and FIC direct-injection engines, which had caused OMC so many problems, a lineup similar to that of Mercury without a U.S.-produced, four-stroke engine. Bombardier was unable to compete in the growing four-stroke market, a market on which Mercury also relied for imports.

As a consequence, Bombardier captured market share primarily, if not exclusively, from Mercury, and this competition was not based upon technology but on price.

Thus, the undisputed price leader in the market, by its own admissions in documents that we will provide the Commission, is a domestic manufacturer that has rapidly gained market share since its recommencement of production. Meanwhile, the Japanese have increased market share exclusively because of the acceptance in the market of higher-priced, four-stroke technology.

While some of the information that the Commission has collected does not address this issue, we will provide ample information in our post-hearing brief to demonstrate the movement, the migration, of the four-stroke engines to the Japanese and the

absence of those engines in the lineups of the domestic manufacturers. Thank you.

MR. CARPENTER: Thank you, Mr. Barringer.

Would the domestic panel now please come forward for their presentation?

(Pause.)

MR. CARPENTER: Please proceed whenever you're ready.

MR. WOLFF: Thank you. For the record, I am Alan Wolff of Dewey Ballantine, counsel to Petitioner, Mercury Marine. We will begin our presentation today by going through a set of exhibits, which we have provided to the staff and to counsel for the other side.

On the first slide, this case is about fierce price competition in the market for marine outboard engines where Japanese engine manufacturers have offered large price rebates and discounts to major purchasers of outboard engines in a successful effort to gain market share at the expense of the domestic industry.

Slide 2. The result of the aggressive pricing strategy by Japanese producers is that prices of domestic outboard engines have been suppressed and depressed at a critical time when the costs are

increasing for domestic producers due, in part, to the transition to lower-emissions engine technologies required by environmental regulations.

Price undercutting by the Japanese producers has been especially aggressive at certain large boat builders and dealer operations, which account for a significant portion of total engine sales in this market. This aggressive dumping has led to a rapid increase in the volume and market share of the Japanese producers directly at the expense of the domestic industry. Domestic producers, as a result, are suffering material injury by reason of the subject imports and are threatened with even more injury in the very near future absent the granting of antidumping relief.

Slide 3. Contrary to claims made by Japanese producers, there is no technological gap between the domestic industry and the Japanese producers on lower-emissions-technology engines, either direct-injection two-stroke, or the four-stroke engines. Mercury Marine has been a leader in developing new lower-emissions-technology engines that meet the new EPA requirements without sacrificing the performance capabilities of traditional, carbureted, two-stroke, outboard motors. Mercury was the first

engine manufacturer to offer the direct-injection technology for sale. Mercury has also received numerous awards for four-stroke engine design, which we will make part of this record.

The issue in this case is really one of financial resources. The Japanese producers, all parts of much larger companies, are seeking to use their deep pockets to finance an assault on the U.S. market by selling their products at dumped prices, thereby depriving the U.S. industry of the returns on sales needed to complete their transition to new, costlier, low-emission engine technologies.

You can see on page 4, a review of the statutory factors that the Commission is to consider in its determination as to material injury demonstrates that relief is clearly warranted in this case.

First, the question of the volume of the subject imports. According to official U.S. import statistics, the volume of imports of outboard engines from Japan has increased very substantially, growing from over 171,000 units in the year 2000 to nearly 212,000 units in 2002, an increase of almost 24 percent over three years. This increase has continued during the first three quarters of 2003, compared to

the same period in the prior year.

If you turn to page 5, you'll see that U.S. import statistics, since they report not only imports of completed engines but also power heads and possible other parts of outboard engines with the same HTS categories, that it's worth looking at official Japanese export statistics, which we understand are limited to completed engine units. These data show a similar significant rate of increase in the volume of Japanese outboard engines exported to the United States, with subject imports growing from 148,000 units in the year 2000 to 180,000 units in 2002, an increase of more than 21 percent, with an additional 14 percent growth in volume during the interim period.

The decline in units exported from Japan to the United States in 2001 coincided with an overall decline of demand in the market during that same time period. What is particularly noteworthy here, however, is that this decline in absolute volume was not matched by a decline in Japanese market share, as is demonstrated on the next slide, Slide 6.

Here, we see the significant growth in the Japanese share of the U.S. market over the period of investigation. Despite the drop in demand in 2001, Japanese market share increased dramatically, from

almost 43 percent in the year 2000 to nearly 54 percent in the year 2001. Japanese import penetration grew even more the following year, reaching 55 percent in 2002. And as the Japanese producers' aggressive pricing continued into the most recent period, the Japanese share of the market grew further, to over 59 percent of the U.S. market in the first three quarters of 2003. Overall, this represents a very significant gain in market share over the period of investigation.

Slide 7. The subject imports are gaining share at the expense of the domestic industry by underselling domestic production. In fact, one leading boat builder that is a major purchaser of both domestic and imported outboard engines has been quite open in advertising the fact that Japanese engines are being sold at prices below those of domestically produced outboard engines. Indeed, the differential in prices has become so pronounced that Genmar announced last fall that it would begin passing on to its dealers some of the significant price differential, the increased prices for those dealers and consumers that continued to purchase Mercury engines.

Slide 8. This is not a new phenomenon. In 2001, Genmar announced that due to "noncompetitive

pricing," the company would be cutting back on Mercury Marine outboard engines while also indicating that "Yamaha's business could be up as much as 300 percent with Genmar that year" and that Suzuki would have a very big year with Genmar. Genmar Chairman Irwin Jacobs stated publicly, at the time, that the cutbacks in purchases of Mercury outboard engines were not related to quality issues but, rather, were related more to the cost of the engines.

Slide 9. As a result of this aggressive price underselling by Japanese producers, domestic prices for outboard engines are being suppressed and depressed. Indeed, based on industry-wide data covering all outboard engine technologies, average unit values for outboard engines sold in the United States in most power ranges have declined from the year 2000 to 2002, and the price declines have been most pronounced in the larger engines that are the most costly to produce. The specific data is confidential and is contained in Exhibit II-11 of the petition.

Moreover, it's worth noting that the most significant price declines have been in the higher horsepower ranges where Japanese producers have focused their sales efforts in recent years. As I'm

sure you will hear later today, the Japanese producers claim that their gains in market share, especially in the larger engine sizes, are due to product quality, not price differences.

But if they are making these sales of expensive, technologically sophisticated engines on the basis of quality, why are prices in this segment of the market declining so significantly? In fact, if the consumer wanted most four-stroke engines of the higher horsepower, why is there such significant price underselling? The reason is because they are making these sales through aggressive discounting, not through offering a high-quality product.

Data for the interim period of the first three quarters of 2003, compared to the previous year, again reveals the general downward trend in prices at most horsepower levels.

Slide 10. The result of all of this is clear: Material injury to the domestic outboard engine industry due to underselling by Japanese producers that has suppressed and depressed domestic prices for outboard engines. The underselling has also permitted Japanese imports to gain significant volume and take market share away from the domestic industry.

Decreased domestic sales volume is lower capacity utilization and increased unit cost. While the specific data are confidential, it is clear that these price and volume effects had a substantial adverse effect on the operating performance of the domestic industry producing outboard engines.

MR. DEMPSEY: Good morning. This is Kevin Dempsey, also at Dewey Ballantine. I'll continue with Slide 11 and the issue of the conditions of competition facing the industry during the period of investigation.

There are six basic marketing conditions of competition of what has been occurring in the outboard engine market during the period of investigation. First, the EPA mandated a transition to low-emission-engines technologies; second, the essentially flat trend in demand over the period of investigation; third, the fact that U.S. imports are almost exclusively subject imports, especially when viewed in terms of value; fourth, the importance of the boat builder's distribution channel; fifth, the manner in which prices are established in this industry, through a series of complicated discounts and rebates; and, sixth, the fact that all outboard engines compete with one another.

Turning to Slide 12, the domestic outboard engine industry is nearing the end of an EPA-mandated transition period to low-emission engines. The period of investigation falls right in the middle of this transition period, as you see on the chart. We've presented, along with the chart, a short timeline to put this transition into perspective.

The 1990 amendments to the Clean Air Act provided authority to regulate exhaust emissions from outboard engines. The EPA's final rule establishing these emissions standards for new outboard engines was published in 1996. This rule provided for a nine-year, phase-in period, beginning with the 1998 model year, which starts in July of 1997, and ending with the 2006 model year, beginning in July of 2005. By the end of the phase-in period, each manufacturer is required to achieve a 75 percent reduction in hydrocarbon emissions on a corporate-average basis.

This transition period has been technically and financially challenging for the industry. The industry has had to reinvent its whole engine product line, to reengineer and design its whole product offering, to meet these new emissions targets. This condition has made it especially difficult for the domestic industry to confront the Japanese dumping

assault on the U.S. market.

The Japanese producers have all ramped up production of new four-stroke and direct-injection two-stroke engines in this transition period, but they have had to sell that new supply in a market that has been flat. That has meant pushing out of the market competing domestic engines, two stroke, four stroke, and direct-injection two stroke, through aggressive pricing. Thus, the price data by power range that Alan Wolff reviewed earlier shows that prices have been generally flat to down over the period of investigation, even though a greater portion of the market is comprised of these higher-cost, low-emission engines.

Turning to Slide 13, while the transition to low-emission engine technologies has been technically and financially challenging, the Japanese producers are all parts of much larger corporate entities that provide the opportunity to cross-subsidize the cost of engine development, an option not available to Mercury Marine and Bombardier, Mercury being part of the Brunswick Corporation.

On Slide 14, this chart graphically illustrates the fact that two-stroke engines had dominated the outboard engine market prior to the EPA

emissions regulations. Before the phase-in period for emission reduction, the EPA had estimated that 99 percent of outboard engines sold were the traditional two-stroke engine, either carbureted or with electronic fuel injection, EFI, even though smaller, two-stroke engines were produced by some manufacturers.

Today, the traditional two-stroke engines are less than half of the market, as engine manufacturers phase in the lower-emissions, two-stroke and direct-injection, four-stroke engines.

Turn to Slide 15. This chart shows the recent trend in engine technology hype: Low-emission engines, direct-injection two-stroke or four-stroke engines, reached more than half of total wholesale sales in the second half of 2002. By the end of the period of investigation, low-emission engines were approaching 60 percent of the market, while the traditional two-stroke engine had slightly more than 40 percent of the total sales. The time period -- this chart begins with the second quarter of 2001 because that is when the trade association for the marine manufacturers industry began collecting sales by technology type.

Slide 16 provides a simple overview of the

advantages and disadvantages of the various engine technologies. Rick Davis, from Mercury, will discuss this in more detail shortly. This chart makes clear why the traditional two-stroke engine dominated the outboard engine sales for so long. It is a relatively light and simple design for the power produced. In terms of cost, it is the least expensive of the three types of technology to manufacture.

The torque curve is more favorable in a two stroke than a four stroke, which means basically that the engine delivers more thrust and gets the boat up on plane more quickly. Basically, this means the boat's back end rises up so the boat is level and moving over the water instead of through it, at dramatically higher speed.

A four stroke has a lower emission profile, but it is also heavier and more expensive and, as I said, has a less-favorable torque curve. The two-stroke, direct-injection, which Mercury took the lead in developing, has the lower emissions and fuel consumption of the four stroke but without sacrificing the performance benefits of the two stroke.

MR. NOELLERT: This is Bill Noellert from Dewey Ballantine. I'll finish the discussion of the conditions of competition.

The chart on page 17 depicts a 12-month, rolling average of wholesale sales of outboard engines reported by the National Marine Manufacturers Association. Wholesale sales of outboard engines fell significantly in 2001 and then recovered much of that decline by the end of 2002. The peak of the 12-month, rolling average during the period of investigation was in May of 2000, while the trough was in December of 2001.

On an annual basis, wholesale sales fell, from 345,000 engines in 2000 to about 262,000 engines in 2001, a decline of 24 percent.

Sales recovered in 2002, to about 324,000 engines but were still 6 percent below the level in 2000.

In the first three quarters of 2003, sales were up just over 1 percent, compared to the same period in 2002.

Overall, sales of outboard engines during the period of investigation have been relatively flat. It is important to note that during this period of relatively flat demand in the United States, which is the largest market for Japanese outboards, the Japanese industry added significant capacity.

The trend in outboard engine sales has

generally tracked the overall economy. Slide 18 presents the quarterly change in real gross domestic product during the period of investigation. The 2001 decline in engine sales coincides with the three consecutive declines in quarterly gross domestic product in 2001.

The demand for outboard engines is driven by the demand for all of the different types of boats that these engines power. A boat purchase is generally a substantial purchase for a consumer that is discretionary. Consumer discretionary goods are income elastic, and, thus, it is not surprising that boat and engine sales tend to track the overall economy.

You'll see this clearly if you -- these two charts, which is done on Slide 19. The decline in engine sales in 2001 was clearly associated with the real GDP declines in the first three quarters of the year and corresponds with the recession period from March to November 2001, as determined by the National Bureau of Economic Research.

These trends in engine sales and real gross domestic product helped to perform out analysis of the subject import trends.

As we showed earlier, on Charts 5 and 6,

Japanese export volume was down slightly in 2001, but import share increased. In 2002, when the market improved, Japanese export volume increased substantially. The subject imports were gaining market share throughout the period of investigation, irrespective of consumption trends. This supports the conclusion that the subject imports are not being pulled in by greater domestic demand without being pushed in by increased Japanese supply.

In addition, the swings in demand over the period of investigation do not explain the trends in domestic industry conditions. We cannot address the specific data here because it is APO, but we will show, in our post-conference brief, that the trends in domestic industry performance trend to track the volume and share gains of the subject imports and not the -- cycle of engine sales.

Ninety-eight percent of the value of U.S. imports of outboard engines are from Japanese, as shown on Slide 20. This is due to the fact that U.S. and Japanese producers dominate the production and sale of outboard engines worldwide. This fact also means that any increase in Japanese import volume or market share will come at the expense of the domestic industry.

Another important condition of competition for this industry is the manner in which engines are distributed to consumers. Slide 21 shows that there are two major distribution channels for outboard engines: boat builders or original equipment manufacturers and dealers. It is helpful to distinguish in the dealer channel between multistore dealers and single-store dealers. The larger, multistore dealers buy a volume of engines that is more in line with a boat builder than a normal dealer. The vast majority of engines today are sold to boat builders, around 75 to 80 percent.

Mercury Marine has experienced some of the most aggressive Japanese pricing at the larger boat builders and multistore dealers. This is because the Japanese manufacturers have targeted the large boat builders and dealers due to the high volume of engines that they purchase.

Slide 22 is from a Yamaha Motor Company investor presentation from April 2002 and was included in the injury volume of Mercury's petition. We have highlighted on that chart the first listed business objective for the marine engine segment, which is to expand the business scale in North America by expanding boat-builder business. The fact that

Mercury has experienced aggressive underselling by Japanese producers at major OEM and large dealers is understandable, given the business objectives of their Japanese rivals.

The way in which engine manufacturers compete on price is by offering various discounts and rebates off of a published price list. Engine list prices vary by rated power and by technology. Most of the discounts are pursuant to a published program that identifies what the boat builder or the dealer has to do to receive the discounts under the program. There is a separate program for the two distribution channels, one for boat builders and one for dealers.

We have listed some of the more common discounts on Slide 23. There may also be discounts that go beyond the maximum program discounts to the larger-volume customers. Denny Sheller were discuss this in more detail shortly.

Once the base price, or MSRP, is established by an engine producer, this discounting applies across the entire range of engines that a manufacturer sells, although, depending on market conditions, there may be special promotions that apply only to certain engines or power ranges.

Finally, for the larger-volume purchasers,

the engine manufacturers usually have multiyear sales agreement and other signed-contract arrangements that establish more formally the program and any other discounts to be offered, the expected volume of engines to be purchased, and other terms of sale. These agreements can be subject to renegotiation, depending on competitive or market conditions.

As the Commission's questionnaires recognize, it is important to take account of all of the discounts and rebates to arrive at the actual net price to the engine manufacturer, especially given the fact that most of these discounts are not reflected on the invoice and are generally paid out on a quarterly or annual basis based on the program performance.

On the simple flow chart presented on Slide 24, for example, the price on the invoice would be the base price in the box just below the MSRP. But all of the other discounts or rebates would be paid out separately.

Denny Sheller will discuss this in more detail, but the bottom line is that Mercury believes that if the Commission obtains the true net price, it will show significant underselling by the Japanese imports.

MR. DEMPSEY: This is Kevin Dempsey again

with Dewey Ballantine. Turning to Slide 25, the different engine technologies, once again, it is important to understand that outboard engines of the different types all compete with one another. The basic functionality provided by an outboard engine is to propel a boat through the water. Given a specific power requirement, all of the engine technologies can provide this functionality.

Now, not every manufacturer produces every power and technology range. Honda, for example, only produces four-stroke engines, but Mercury offers an extensive lot range of outboard engines equal to that of any other manufacturer, whether it's the traditional carbureted or EFI two-stroke engines or the new, low-emission engine technologies, such as the direct-injection two stroke or the four-stroke engine. Thus, Mercury has engine models that compete with what the Japanese producers are offering across the entire power spectrum.

Turning to Slide 26, and to the issue of the definition of the domestic like product, an analysis of the Commission's traditional six-factor test establishes conclusively that the Commission should define the domestic like product in this case as consisting of all outboard engines. Two stroke,

direct-injection two stroke, and four-stroke engines all have the same physical characteristics and uses. At any given size, they all appear very similar and have the same use. They all are used to propel various types of boats from the aft of the boat, where they are mounted, and the different engine technologies are fully interchangeable at a given horsepower level.

Producers offer the different engine technologies in direct competition with each other, and consumers perceive all of the technologies as the same product. Each of the different outboard engine models are manufactured in the same facilities, using the same production equipment, processes, and workers. And, finally, while there is a wide range in the price of outboard engines due to the wide range of models offered at different horsepower levels and with different features, there is no clear dividing line along the continuum of models that are sold as outboard engines.

On Slide 27, we have included a picture of a typical outboard engine and identified the three subassemblies that together make up every outboard engine: the power head, the midsection that is attached to the transom of the boat, and the gear

assembly. Again, in terms of outward appearance, there is little physical difference between the traditional two-stroke, a direct-injection two-stroke, and a four-stroke engine. All have the same physical characteristics and uses.

On Slide 28, we contrast inboard and stern-drive engines, which are very different from outboards, most obviously, because of where the engine is mounted in the boat, but also because the inboards and stern drives use a heavy, iron engine block and horizontal crankshafts rather than the lighter aluminum blocks and vertical crankshafts used for outboard engines. Moreover, while Mercury produces its own outboard engine blocks, it buys engine blocks for its inboards and stern drives from General Motors, and while Mercury produces all of its outboard engines in Fond du Lac, Wisconsin, it produces its inboards and stern drives in a completely separate facility in Stillwater, Oklahoma.

Slide 29. The scope of this investigation includes not only completed outboard engines but also power heads, the main subassembly we discussed just a minute ago. Under the Commission's semi-finished-product analysis, power heads should also be included within the same domestic like product as the completed

outboard engines for a number of reasons. Power heads are generally dedicated to the production of outboard engines. There is no significant separate market for power heads sold separately. In fact, most power heads that are separately shipped in the U.S. market are for warranty repair of outboard engines.

The only real difference in physical characteristics and functions between the power head and the completed engine is that the power head is only one of the subassemblies and cannot propel a boat on its own without being assembled together with the midsection and the gear assembly. But the power head is generally the largest single-cost item in an outboard engine and generally comprises 50 to 70 percent of the overall cost of the outboard engine itself.

And, finally, the processes used to transform the power head into a completed engine are limited to assembling the three subassemblies together. This assembly operation is a relatively low-cost operation compared to the cost of producing the power head and the other subassemblies.

Turning, on Slide 30, to the issue of threat, the domestic outboard engine industry is also clearly threatened with additional material injury in

the imminent future for a number of reasons. As I will discuss further in a moment, the Japanese producers have significant excess capacity with which they could increase further their exports to the U.S. market, and the significant rate of increase in volume and market share and the declining prices in subject imports signal that these imports will inflict even more damage on the domestic industry in the very near future.

Indeed, as Slide 31 demonstrates, the Japanese industry is highly export oriented, with 96 percent of its production being exported.

And on Slide 22 we see that while the U.S. market is the largest market for outboard engines in the world, the Japanese industry also has substantial exports to other markets which could be easily shifted to this market in an effort to gain an even larger share, especially as the demand for larger-sized, more profitable engines grows.

Moreover, as Slide 33 shows, based on Petitioner's own research and estimates, it is clear that, due to capacity expansions in recent years, the Japanese producers have significant excess capacity, we estimate, sufficient to produce an additional 165,000 units, or approximately 90 percent of all of

the units shipped from Japanese to the United States in 2002. This significant, additional, available capacity establishes that the Japanese producers have the capability to substantially increase their shipments to this market in the imminent future, causing further price suppression and depression and additional material injury to the domestic outboard engine industry.

Finally, on Slide 34, to conclude this part of our presentation, aggressive pricing by the Japanese producers of outboard engines is suppressing and depressing domestic prices at a critical time of transition for the domestic industry. This aggressive dumping has led to a rapid increase in the volume and market share of Japanese producers directly at the expense of the domestic outboard engine industry. Domestic producers, as a result, are suffering material injury by reason of the subject imports and are threatened with even more injury in the very near future, absent the granting of antidumping relief.

I would now like to introduce Mr. Denny Sheller, the vice president of marine strategy at Mercury Marine, to present his testimony.

MR. SHELLER: Hello. My name is Denny Sheller, vice president of marine strategy for Mercury

Marine, a division of the Brunswick Corporation and a domestic producer of outboard motors in Fond du Lac, Wisconsin.

Mercury Marine is the last remaining U.S.-owned and based manufacturer of outboard engines. I've been with Mercury Marine for 21 years and have been in my current role since March of '03. Before that, I was vice president of OEM sales, which included outboard sales, mainly to boat builders. In my current and former positions, I had detailed and extensive experience with sales of outboard engines to both dealers and boat builders, including the administration of pricing policy and the negotiation of contracts with major OEM builders and dealers throughout the United States.

My current job includes developing a commercial strategy in the U.S. market and reviewing competitive-pricing data on outboard engines sold in the United States.

I would like to talk to you today about how outboard engines are priced and sold in the market and some of the changes that we've experienced in the industry over the last few years.

All outboard motor manufacturers distribute outboard engines through two major channels -- OEMs or

boat builders -- and package the engines with the boats for sale to dealers and directly to dealers, who then sell the engines to consumers. Dealers are retail outlets that sell boats and engines, typically from a variety of engine and boat manufacturers, directly to the consumers. All engine manufacturers sell through both of these channels. We estimate, 75 percent of all outboards sold in the United States are sold through the OEM builders.

In this industry, the way outboard motor manufacturers price products is by first establishing a list price of many of the models in the manufacturer's line and then offering various rebates and discounts, according to separately published, dealer and boat-builder programs. These programs generally change July 1st of each year.

The programs identify which rebates and discounts will apply for each customer's purchase of outboard engines based on a variety of factors. The discounts for each buyer depend on a lot of things: distribution channel, volume of purchases, engine size purchased, seasonal specials, advertising, freight benefits, forecast incentives, and the like. Most dealers get at least the base discount off invoice in the program.

Most rebates and some discounts are provided a dealer each quarter or once a year by the manufacturer, depending on how many program goals the dealer actually meets. Often, special incentives are offered in the fall of each year at major meetings for these dealers to commit to certain volumes.

Pricing to OEM boat builders works in a similar way. The base discount and overall discounts to OEMs are generally deeper than they are for dealers. In addition, OEMs may have agreements or contracts with the engine manufacturers that provide additional incentives beyond the base of the OEM program.

An example is where a manufacturer offers special discounts for a boat builder that hits target sales volume or a volume level that is greater than might be available on the standard program. Usually, such additional discounts are only available to boat builders that commit to either a long-term agreement or certain levels of volume. This is important, as it shows that customers get a significant array of discounts and rebates off the published base price for each engine model. In order to understand the actual pricing that a dealer or boat builder might get, it's important to explore all of the rebates, discounts,

special contractual pricing which the purchaser might receive. Just looking at the standard programs will not get you to the standard price or get you to the final price.

This is where the aggressive Japanese pricing has hurt the domestic industry. In recent years, Japanese producers have been offering steep discounts and rebates off their base prices, especially at large OEMs and dealer accounts. Moreover, because of the way the discount structure works for sales to OEMs and dealers, price competition with Japanese imports generally occurs across the entire product line, for all engines, technologies, and horsepowers.

An OEM, for example, doesn't negotiate a price for just a single engine or horsepower; rather, the discounts are negotiated off the entire line. Because of the selling structure, competitive, large OEMs or Japanese producers have been particularly aggressive all but guarantees that all models and technologies are affected by the aggressive Japanese discounting.

Now, there might be some here today that will try to give you reasons for why the Japanese companies have gained share in the market over the

last few years, but even Irwin Jacobs of Genmar Holdings, which is one of the largest boat builders in the United States, said publicly earlier this month that we've got the most fierce competition in engine business he's ever seen. This fierce competition reflects the aggressive Japanese underselling.

The bottom line: Japanese underselling is hurting the domestic industry today and has been for quite a few years. It's no secret either, just this past October, Grant Opegaard, president and chief executive officer of Genmar, sent a memo to dealers summarizing points of an engine questionnaire that was sent to Genmar's boat dealers. The memo confirmed that domestically produced, outboard engines are priced higher than the others.

It says, and I quote: "Quite frankly, certain engines cost us more than other engines, and Genmar is not able to continue to absorb the significant price differential among the engine manufacturers. Genmar will pass on to the dealer and the consumer some of this differential from Mercury and Mercury's brands." The memo also says that less than 10 percent of consumers, less than 10 percent, are predisposed to a certain brand.

So, in other words, the consumers see the

engines as interchangeable. In that environment, major differences in price will allow the Japanese to continue to gain market share through aggressive price discounting.

Back in 2001, Mr. Jacobs publicly announced that Genmar would be cutting back on Mercury engine orders because of the cost of the engines in comparison to others in the marketplace. At the same time, he announced that Suzuki would be having a very big year with Genmar, that Yamaha's business would be up as much as 300 percent, and that Genmar would be offering Honda and Suzuki engines for the first time to their boat divisions.

The example makes the facts clear. The Japanese producers have been offering very aggressive pricing, underselling our engines, and that is the reason why they have gained market share. That is also the main reason that the outboard industry here in the United States is being injured.

Let me add that this is just not an issue at Genmar. Genmar is simply more candid about the pricing realities that we face in the market today as a result of Japanese dumping. We face the same aggressive discounting at many customers, both OEM and boat builder, and I know we're going to supply you

confidentially with a significant list of those. I've personally had more than one customer tell me that the Japanese producers are offering discounts 7 to 10 percent below what we are offering. At one major customer, our inability to meet the level of discount caused us to lose sales of more than 4,000 engines a year just at that one account.

All of this downward pricing pressure comes at a particularly bad time, given the added costs we bear due to the shift to lower emission technologies brought on by the EPA regulations, and Rick Davis will talk to you a little bit more about that.

Let me just say that we, at Mercury Marine, have every intention of competing with all of the new technologies being developed to meet the new EPA emissions standards. Since our company was founded, in 1939, Mercury has consistently emphasized quality, innovation, and reliability. The pledge remains as strong today as ever, and with over 4,000 U.S. employees backing that pledge.

While no manufacturer offers a comprehensive line of outboard engines in all technologies, Mercury Marine offers the most extensive selection. Each manufacturer offers its own array of outboard engines by horsepower and other performance characteristics.

Mercury's line provides the most extensive product-line combination of two strokes, direct-injected two strokes, and four strokes.

The extensive product line gives us a platform to compete with the Japanese. We also have to be competitive with price with Japanese-produced engines. Our analysis indicates that we haven't been able to consistently because Japanese producers are offering engines at prices that are well below the prices at which we sell our motors.

If Japanese manufacturers are allowed to continue to use aggressive pricing to undersell our engines, it is going to damage the domestic industry and limit our ability to continue to develop and maintain a complete engine line. The damage runs deep because, as I have already indicated, the products are competitive across the line.

For example, a 115-horsepower, direct-injected two stroke or a 115-horsepower four stroke are interchangeable. Thus, if the Japanese producer lowers the four-stroke price, this not only affects our four-stroke price but also the price for comparable direct-injected models. Similarly, if a Japanese producer lowers the price on a 60-horsepower four stroke, for instance, we would have to respond by

lowering our price on not only the comparable four stroke but also on the two stroke because they are interchangeable.

Because, historically, four strokes have been more costly, since they have been, quite simply, more expensive to produce than two strokes, the customer knows this and feels that he is getting a better deal on a four stroke that is at or about the same price as a two stroke.

The result of this aggressive underselling by Japanese producers is that Mercury is left between a rock and a hard place. Either we drop our price to try to match the Japanese import price or we lost volume. Neither is a viable option for us. The fact is, the confidential data before the Commission demonstrates, by any measure, the industry is being injured by dumped Japanese imports now, we face even more damage in the very near future, and without relief from the Japanese imports, the industry will find itself in very dire straits.

Thank you for letting me present this testimony, and I would certainly be glad to answer any questions, if I can.

MR. DEMPSEY: Next, we will hear from Mr. Rick Davis of Mercury Marine.

MR. DAVIS: Good morning. My name is Rick Davis, and I'm the vice president of engine development and chief technology officer for Mercury Marine. I've got a bachelor of science degree from the University of Florida, and I've worked in the marine engine industry for the last 25 years.

I began my employment in the marine industry in 1975 at the former Outboard Marine Corporation, OMC, that manufactured Johnson and Evinrude outboard motors, and I joined Brunswick in 1986. I've held my current position since 1998, in which I focus on advanced engineering and product development.

I intend to talk to you about the different outboard engine technologies in the market today and also about Mercury Marine's approach to engine development and production.

Mercury Marine is the world's leading manufacturer of marine-propulsion systems, including outboard engines. Each outboard motor contains an internal combustion engine and generates power to propel the boat when delivered through a shaft and gear case to a propeller. All of the outboard engines we produce are basically similar, from the transom of the boat down. The only real discussion between them occurs above the transom, where the power head is.

The power head is the most expensive component of a completed outboard engine, and each power head is developed for the production of particular outboard engine models.

Mercury makes all three types of outboard engines found in the market today: the two stroke, the direct-injection two stroke, and the four-stroke engine. The conventional two stroke was the industry standard for many decades but is now being phased out in the U.S. market due to environmental concerns. The direct-injection engine is a variation on the conventional two stroke, in that it uses a sophisticated fuel-injection system to inject pressurized fuel into each cylinder. This results in greatly improved combustion efficiency, lowering the emissions of hydrocarbons, and increasing fuel economy.

The four-stroke engine is more akin to an automotive engine, which uses an oil sump, and, as the name implies, a four-stroke cycle in which the piston is ignited every other stroke. Four strokes are also more fuel efficient and have lower hydrocarbon emissions than the traditional two-stroke engine. But despite these differences, all three types of outboard engines are used for basically the same purpose: to

propel various sized boats from the aft of the boat, where they are mounted. In fact, many people can't even tell them apart.

At a given horsepower level, all three engine technologies are generally interchangeable. They are each mounted to the transom of the boat and provide the power to propel it through the water. Although each engine type has certain advantages and disadvantages over the other types -- for example, two strokes generally have higher power, more torque, and are lighter than the other engine technologies. This allows a boat to accelerate or get up on plane more quickly. On the other hand, two strokes have the highest fuel consumption and, as a result, highest exhaust emission of the three types of engines.

Four-stroke engines have the lowest emissions, are quieter, generally more reliable, but they are also heavier. They have more moving parts, produce less torque, and are more costly to produce.

The direct-injection engine capitalizes on the favorable attributes of the traditional two-stroke engine while achieving the more favorable emissions profile of four strokes without the performance deficiencies of the four stroke.

We make outboard engines in a wide range of

horsepower, from two to 300 horsepower, in order to serve the needs of a wide variety of boat designs and sizes, but despite the wide range of horsepower and the three different technologies, the similarities of the different engine models we produce outweigh the differences.

In addition to being made up of the three basic subassemblies discussed earlier, all of our outboard engines are produced and assembled using the same basic production processes and the same employees. For example, Mercury Marine manufactures conventional two-stroke, direct-injection two stroke, and four-stroke engines in the same production facility in Fond du Lac, Wisconsin, using the same workers for production of all types of outboard engines.

I would also like to note that there is a fundamental distinction between our outboard business and our inboard and stern-drive business. Our inboards and stern drives are very different from our outboards, using heavy, iron engine blocks and horizontal crankshafts rather than lighter aluminum blocks and vertical crankshafts used in our outboard engines. In fact, while we cast our own outboard engine blocks in Fond du Lac out of aluminum, we

purchase long-block, automotive engines for our inboards and stern drives from General Motors, and we build our inboards and stern drives in a completely separate facility in Stillwater, Oklahoma, where no outboard production takes place.

One of the major recent developments in the marine industry has been the Environmental Protection Agency decision to regulate the emissions of outboard engines. Emission limits are being phased in between 1998 and 2006, at which point, we and other manufacturers will basically have to stop selling traditional two-stroke engines in the U.S. market. The two-stroke, direct-injection and four-stroke outboard engines that we and other manufacturers produce were developed by outboard engine manufacturers to meet the low-emission requirements mandated by the EPA.

Mercury took the lead in redesigning its products to reduce emissions and not only meet, but also exceed, the new standards. Our Optimax direct-injection, outboard engine concept was created to deliver exceptional performance from a two-stroke outboard with a completely new technology. With Optimax, the sophisticated fuel system that I mentioned earlier is combined with a two-stroke engine

to more efficiently utilize the fuel supply to the engine.

With an average of 45 percent better fuel economy and smooth, smokeless, misfire-free operation, the Optimax models were, and are, the benchmark for direct-injection two-stroke outboards. Indeed, Mercury Marine has been working on developing lower-emission technologies since the late-1980's. For example, Mercury produced its first running, direct-injection engine back in 1988. Mercury was the first manufacturer to offer a direct-injection engine for commercial sale.

Today, Mercury offers an extensive line of direct-injection outboards, from the new 115-, 90-, and 75-horsepower 1.5 liter, which are perfect for mid-range applications, all the way up to the powerful, new, 3-liter, 250-horsepower XS model. Mercury has put significant effort into the direct-injection technology option for lower emissions, and we were the first to bring the large V-6, direct-injection technology to the market.

At the same time we were developing the two-stroke, direct-injected engine, Mercury was also working on developing its own four-stroke engine. In 1993, in order to save on development and

manufacturing costs, Mercury and Yamaha entered into a co-development and manufacturing arrangement and small, four-stroke engines, 9.9 to 50 horsepower, which resulted in four-stroke model introductions that actually preceded the Optimax introductions.

While each company continued to market and distribute its own line of outboard engines, we agreed to split up the development and manufacturing of key components of these four-stroke engines. Under the arrangement, which continues for a subset of engine models today, Mercury produced specific parts for the engines that were used by both Mercury and Yamaha; Yamaha did the same for other parts of the engine. For example, Yamaha chose to develop and manufacture cylinder heads, while Mercury developed and manufactured engine blocks.

As a result, today, Mercury buys cylinder heads from Yamaha, and Yamaha buys engine blocks from Mercury. This arrangement increased manufacturing scale for both companies to lower unit costs. As a result, for the four-stroke engines that remain subject to this arrangement today, Mercury engines have some Yamaha parts, and Yamaha engines have some Mercury parts.

The cost of development and manufacturing

of each engine is an important issue for our company because we are relatively small for an engine producer and small relative to the competitors we face in the market, and yet we produce dozens of different engine models. For Mercury, this joint-development-and-manufacturing arrangement with Yamaha was considered the most expedient and least-expensive way to begin four-stroke production.

Mercury also has a joint venture with Tohatsu to produce small two-stroke and four-stroke engines. Under our longstanding, Tohatsu joint-venture agreement, TMC produces small outboard engines, up to six-horsepower four strokes and up to 40-horsepower two strokes, for Mercury's worldwide distribution use. TMC also produces similar engines for Tohatsu's own distribution system under the Tohatsu brand and supplies other models as Nissan brands. Again, as with the Yamaha co-development arrangement, this is a longstanding relationship to help increase scale economies and lower manufacturing and development costs for both parties.

As a result of our numerous, ongoing development efforts, Mercury Marine provides the most extensive product line of any outboard engine producer across the range of two-stroke, direct-injection two-

stroke, and four-stroke engine models sold in the market today.

We have also improved on designs jointly developed with Yamaha. For example, we've patented an electronic-fuel-injection, EFI, four-stroke engine today. The result is that the reliable performance normally associated with higher-horsepower engines is now available for mid-sized, four-stroke configurations. Indeed, we offer more engines in the category than any other manufacturer, and we are the only manufacturer to offer a 30-horsepower, EFI four stroke. In addition, our Mercury-made, 50 and 60 horsepower received an award, recently voted "the best of the best." This was an engine jointly developed with Yamaha, and we have since improved upon it.

When it comes to producing advanced-technology engines for marine use, Mercury Marine is second to none. Indeed, come this February, we will be rolling out a complete line of improved-performance, four-stroke engines at the Miami Boat Show, making our product line even more comprehensive. We've been developing these new engine technologies for the last six years to provide two-stroke performance with four-stroke technology.

In sum, there is no reason why consumers

cannot find anything they need from our line of products. Unfortunately, however, our efforts to continue to innovate and develop new, more powerful, fuel-efficient, and low-emission outboard engines are endangered by the aggressive dumping of outboard engines by our Japanese competitors.

Thank you. I would be happy to answer any questions you might have.

MR. DEMPSEY: This is Kevin Dempsey again.

Just to sum up in the available time left, there is no dispute that the market for outboard engines due to EPA regulations is shifting from the tradition 2-stroke to lower emission technologies, both direction injection 2-stroke and 4-stroke technology.

But the question is, who is gaining market share and how are they gaining it?

Mr. Barringer suggested that all of the 4-strokes sold by Mercury area really Japanese engines. As you have heard from Rick Davis, this is simply not true. There are Japanese parts in some Mercury 4-stroke engines, as there are Mercury parts in some Yamaha 4-stroke engines due to various joint development and co-production arrangements developed over the years to share cost and increase scale of

economies.

Similarly, there are joint venture arrangements at Tohatsu that lead to production of some 4-stroke and smaller 2-stroke engines.

But Mercury has been developing and is developing a full range of its own low emissions technologies. It has developed its own low emission direct fuel injection, 2-stroke engines, which has been very successful. This is what we call the OPTIMAX, just to make clear what the OPTIMAX is. But there is also a range of 4-stroke engines that Mercury is producing in the United States using its own powerheads, and it is developing further engines in the 4-stroke category.

The question is not who has a better line up. In fact, Mercury and Yamaha have extensive line ups of direct inject and 2-stroke, 2-stroke direct inject and 4-stroke engines. Some of the other Japanese manufacturers are only in the 4-stroke engines so they have a more limited line up. But Mercury has a line up of low emission technology engines that can compete with any of the other producers.

The question is how is market share, why is market share being taken by Japanese producers. And

we submit that the evidence is clear that it is because of aggressive price discounting by the Japanese producers.

Now, Mr. Barringer suggested that this was really all the result of the OMC bankruptcy at the end of 2000 and the sudden gap in domestic production in 2001. But I think certainly if you look at the confidential record you will see that there is evidence that the OMC bankruptcy does not explain all of the change, and we will go into that in greater detail in our post-conference brief.

But to say publicly at this point, both Mercury and the Japanese producers sought to fill the void left by OMC, but the gain that Mercury was able to get has since been eroded because of Japanese underselling and aggressive pricing that is continuing to eat away at market share.

And we think that when you look at the data in the confidential record it will be clear when properly analyzed that the Japanese producers are underselling the domestic producers.

Mr. Barringer also mentioned Bobardier, and suggested that it was their -- it's their coming back into the market that is underselling Mercury and leading to Mercury's difficulties.

We think that the record is clear when you look at the full record, including the confidential data, that the price leadership is coming from Japanese producers, not from domestic producers, and we will be happy to go into that in greater detail in our post-conference brief.

At this point we will conclude, and be happy to answer any questions.

MR. CARPENTER: Thank you very much, gentlemen, for your testimony. We will begin the questions with Mr. Reavis.

MR. REAVIS: First of all, I would like to compliment all the parties on their timely questionnaire responses. We do have some clarifications forthcoming, and some additional data that we have asked for, but by and large it's very rare to get this good of a data set this early in the game, and I want to thank you all again for working on that so diligently and getting that information to us.

We heard a little bit this morning in an opening statement this whole issue of 4-stroke engines. One has to wonder if it is true that 4-stroke engines are gaining an increasing share of U.S. market, and that there are relatively few of these produced in the United States, then what the U.S.

industry would have to benefit by an antidumping duty. And this, of course, would include duties on powerheads that were imported for U.S.-produced engines as well.

You don't need to answer that question directly. I am just giving you a further opportunity, as you started to do, Mr. Dempsey, of defending this whole issue. Could you elaborate that on more? Specifically, what, for example, particular engines, and you can put this in your post-conference brief if you want to, what particular engines that are produced in the United States, including those for which you import powerheads, do you actually go head to head with in the market with the Japanese product?

But feel free to defend yourself fully on this issue.

MR. DEMPSEY: This is Kevin Dempsey.

Let me just start, and I can ask some of the Mercury folks if they want to continue. Mercury is producing 4-stroke engines in the United States, and I won't go into the details of which models, et cetera, but Mercury Marine, there is domestic production of 4-stroke engines, and they are expanding production of 4-stroke engines. And the details we can go through in the confidential submission.

I would also add that Mercury produces a wide range of direct fuel injection 2-stroke engines, which are directly competitive, interchangeable with the 4-stroke in terms of meeting the EPA emissions requirements, and in fact in many cases provide superior performance in terms of a more favorable torque curve, allowing the boat to get up on plane earlier, and that is a large portion, there is a large amount of production of that as well in the United States that's directly impacted by dumping the 4-strokes by the Japanese producers in the U.S. market.

Mr. Davis, do you want to add anything?

MR. DAVIS: Yes. The subject with regard to the production of four stoke engines is, as you can see, we are in a transition, going from '98 to '05, and as I mentioned, the most expedient way to begin 4-stroke production from zero was to do an alliance with Yamaha where we would share in that volume, because there were no 4-stroke outboard engines produced by either company.

We currently produce of our own manufacture 50 - 60 horsepower, which we won the award for, and we produce the 25 horsepower, as was mentioned earlier, but that's a moving target. We are, as we mentioned, going to introduce in Miami a whole array of 4-stroke

engines that are manufactured in Fond du lac.

MR. REAVIS: Now, these 50 and 60 horsepower engines, would these engines that the powerhead would be produced in the United States as well, or is this an engine that is manufactured in the U.S. but using an imported powerhead?

MR. DAVIS: No, this is -- that's a very good question. This is the engine that began with the co-manufacturing agreement. That agreement has as five-year minimum co-manufacture. Once the 50 reach the five year, which was in the year 2000, we took it out of the agreement, and we began to manufacture it completely of our own, so we make it completely in Fond du lac.

MR. REAVIS: Mr. Dempsey, I just want to say I think Mr. Sheller had a point he wanted to make also.

MR. SHELLER: I think it's been interesting in the marketplace with the introduction of the very large 4-strokes. There was gravitation by both the dealer and the consumer towards that 4-stroke, but we have seen it come back to the lighter weight, higher weight-to-power ratio directed 2-stroke over the last six months or a year.

So I don't think it's safe to assume that

all of the marketplace for the large engines is headed towards 2-stroke. Again, we have seen it go in that direction -- I'm sorry -- 4-stroke, but now in a lot of applications the direct injected 2-stroke has proven to be the engine of choice.

MR. REAVIS: So you are reiterating Mr. Dempsey's point that we can't isolate the 4-stroke engine from the 2-stroke; that in fact, at least for the direct injection models, everything else being equal, they could be interchangeable?

MR. SHELLER: That's correct.

MR. REAVIS: Anybody else want to touch on this issue before we go on.

This issue of OMC's bankruptcy, could you industry representatives perhaps enlighten us on how you think that affected the market, and what was your plan of approach to dealing with any effect if you think I have influenced you?

MR. POMEROY: This is Joseph Pomeroy from Mercury Marine.

The demise of OMC in late 2000 presented an opportunity. It was an unfortunate outcome for a company that had been in business even longer than Mercury Marine had been in the marine industry. But it presented an opportunity for the remaining

competitors to enhance their dealer networks and enhance their sales volume.

I think all of the manufacturers aggressively pursued that opportunity, and there was for a period of time a division of the remaining market share that had been held by OMC among the existing manufacturers. Mercury's participation in that, however, after an initial surge, which one would expect, has declined substantially, we believe in direct response to Japanese underselling.

MR. REAVIS: Was there -- perhaps this should be better addressed to some of the boat builders or dealers that we have today, but was, from your perspective at least, a decline in the supply of U.S.-produced product to the market during that period of transition; that is, between the bankruptcy of OMC and Bombardier taking over the company?

MR. POMEROY: Pardon me for interrupting, but if you're asking did we have the capacity to fill the void from domestic production?

MR. REAVIS: No, I wasn't asking that.

MR. POMEROY: Okay.

MR. REAVIS: But if that was your response, if you knew that you had the capacity --

MR. POMEROY: Yes, we did.

MR. REAVIS: -- and intended to meet it --

MR. POMEROY: Yes, we did.

MR. REAVIS: -- that would be a good response. Okay.

I only have one other question, that's of clarification. It appears from the scope language that outboard engines that are waterjet-driven would not be excluded from the scope; is that correct?

MR. DEMPSEY: Mr. Reavis, this is Kevin Dempsey.

That is correct, and in fact we filed a letter yesterday just clarifying that with the Department of Commerce as well as with the Commission.

MR. REAVIS: So the data that we have from you in your questionnaires include --

MR. DEMPSEY: Include, jet outboards were included in that data, yes.

MR. REAVIS: Fine. I have no further questions at this time.

MR. CARPENTER: Ms. Driscoll?

MS. DRISCOLL: Thank you, Mr. Carpenter. Good morning, gentlemen.

Thank you very much for coming here today all of you. Some of you, I take it from Wisconsin and far always, and the same to the respondents, their

counsel and their executives here today.

First of all, I would like to ask some questions about your exhibits. Perhaps Mr. Davis might be the right person to answer these questions.

You have these different types of engines. When it says DI at the end, can I assume that means direct engines? If there is a 4S at the end, it means 4-stroke?

MR. DAVIS: DI is for direct injected. It's just an abbreviated form.

MS. DRISCOLL: Okay. So if it says 1154S as the engine, then that's a 4-stroke?

MR. DAVIS: Correct.

MS. DRISCOLL: Okay. So my understanding is that Mercury, and this is sort of a summary, you make 4-strokes yourself in the United States. Some of them, well, powerheads made in the United States as well, correct?

MR. DAVIS: Yes, we do both.

MS. DRISCOLL: Okay.

MR. DAVIS: We purchase some powerheads complete from Yamaha for the 75, 90 and 115. It's a complete powerhead we purchase. That's not the co-manufacturing, that's just a purchase agreement.

The co-manufacturing was from our line from

9.9 to 50, and that had a five-year horizon. Some of those that have emerged from the five year, then we produce entirely on our own.

MS. DRISCOLL: All right.

MR. DAVIS: Some are still in the five-year window, and we jointly manufacture.

MS. DRISCOLL: Okay.

MR. DEMPSEY: This is Kevin Dempsey, just to clarify that last point.

There are other engines in this co-development arrangements. The powerheads are not a solely Japanese product. They are the result of a collaboration between a U.S. producer and Japanese producer and contain a blend of both U.S.-manufactured parts and Japanese parts.

MS. DRISCOLL: I understand. Okay, thank you.

I have a question. That exhibit, so that the record is clear and the transcript, from page 25. I have another question on exhibit page 27.

You have got the powerhead, the midsection, and the gear case. There was testimony earlier that it's a relatively small procedure to take the powerhead and assemble it with the midsection and the gear case, but yet the midsection and the gear case

themselves are fairly sophisticated machinery, correct?

MR. DEMPSEY: That's correct.

MS. DRISCOLL: I mean, producing them can cost up to, I believe it said in here, 50 percent or 30 percent of the value of the overall engine; is that correct?

MR. DEMPSEY: Correct.

MS. DRISCOLL: Okay. And my question is -- these are also clarifications but they are important for the Commission and the staff to really understand this. There is no domestic producer now in the United States who only -- who does not produce powerheads; would that be correct?

MR. DEMPSEY: There are two domestic producers in the United States.

MS. DRISCOLL: There are no finishers, if you will?

MR. DEMPSEY: You are saying is there anyone who only buys powerheads from someone else.

MS. DRISCOLL: And finishes them.

MR. DEMPSEY: And finishes them.

MS. DRISCOLL: Correct.

MR. DEMPSEY: As far as I'm aware, there is not.

MS. DRISCOLL: Okay.

MR. DEMPSEY: Those who manufacture in the United States manufacture powerheads.

MS. DRISCOLL: Okay. Thank you very much. That's the end of my line of questioning on that.

The other question I had was raised through your discussion of the EPA regulations. It seems to me there was a sea change, if you will, in '98 then when these EPA regulations came in. And at that time were there DI, 2-stroke DI engines made, and were there 4-strokes made? Or were they brought in because of the regulations?

MR. DAVIS: Well, the regulations became imminent a couple of years as was mentioned when the ruling went in in late '96. We realized 1998 would be regulated.

There were 4-stroke engines in existence prior to that, and there were 4-stroke engines introduced because we're in the '97, '97, '98 time frame because once that began we had to reduce our CAFE average by eight and one-third percent each model year.

So we had to begin to have an increasingly larger mixture of low emission engines in order to maintain that CAFE average reduction.

MS. DRISCOLL: Mr. Dempsey, is CAFE average a -- I take it that's emission levels; is that correct?

MR. DAVIS: That's right.

MS. DRISCOLL: All right.

MR. DAVIS: We had both 4-stroke and 2-stroke DI in order to bring down our average.

MS. DRISCOLL: Okay.

MR. POMEROY: I think, though, it's important to understand that by the mid to late eighties there was recognition that emissions regulation was coming. So Mercury, for example, began developing direct injection 2-strokes back in the late eighties.

MS. DRISCOLL: Okay.

MR. POMEROY: In the early nineties, we formalized arrangements -- I participated in negotiating a number of those -- that would lead to our ability to fully comply with all the requirements of the EPA in a completely timely fashion, and we were able to achieve that by introducing 4-strokes in the mid nineties in part through our arrangement with Yamaha.

And through our own development of DFI technology, we were the first entrants with a direct

injected 2-stroke engine in 1996, so I hope that --

MS. DRISCOLL: Yeah, that helps.

This is something that I think is probably more appropriate for your post-conference brief because I'm sure it will touch on some BPI, but I would like to have you comment on directly how the EPA regulations affected your production and your sales and other financial data.

In other words directly, did you change -- you may have just mentioned some of this just now, that you changed directions due to the EPA requirements. I mean, I don't want to --

MR. POMEROY: This Joe Pomeroy again.

MS. DRISCOLL: Okay.

MR. POMEROY: I'll try and address that as generally as I can, recognizing we'll make a subsequent submission on that.

But by and large, as I indicated, we had recognized for years that the EPA regulations were coming. The question was, as among these different technologies that were likely to be available to meet the needs of the outboard engine industry, was there a single right choice, was it important for manufacturers to offer an array of product offering different technologies to meet different boating

needs.

And Mercury determined that the best answer and best solution that we thought would meet the needs of our customers was a multi-technology line that could be offered both for 4-stroke, which is important to some customers, direct injection 2-stroke important to other customers, and still retaining traditional technology 2-strokes for as long as the EPA would allow us to have those available because they met yet another segment, very price conscious, price point marketplace.

And you know, so we evolved those technologies simultaneously, trying to understand which one would ultimately be successful. And now that we are well into implementing the EPA requirements it's still not entirely clear that there is a single technology answer.

As Mr. Sheller indicated in his response earlier, there was an initial migration to 4-stroke technology. There now appears at least to us to be a shift back to direct injection technology. So I'm not sure that the answer is entirely clear even today.

MS. DRISCOLL: Okay. Along those lines, at the end of 2006, when you have implemented your compliance with the regulations, will you still be

selling some 2-stroke carbureted engines?

MR. POMEROY: Not in the United States.

MS. DRISCOLL: Not in the United States, okay.

Related to what you have just been talking about, one thing struck me is that there is a real price differential between these engines. I mean, impressive, in fact. They even go from 2-strokes here to obviously some very high, expensive, I'm sure very high quality engines.

Why is there such -- why is there such a differential? I mean, is it because the boats are bigger? Is it because you want more speed?

MR. POMEROY: There is a cost differential, at least as far as we're concerned, in the production of the engines. A traditional carbureted 2-stroke technology outboard is in some respects complicated, in other respects relatively simple because you simply don't have as many moving parts as you do in, for example, a 4-stroke engine.

So the cost to produce traditional technology 2-strokes on an existing base that you already have in place to manufacture those, with all the design, the development and everything else that has gone into it, is simply less expensive to produce.

Then you have got direct injection 2-stroke which has a much more complicated fuel delivery system and combustion process that allows you to meet EPA emissions requirements, but is a much more complicated, much more expensive fuel system than the traditional 2-stroke technology. And then you've got 4-stroke, and they are not necessarily all mutually exclusive, but this is generally how they escalate the cost of production with a much larger number of moving parts, much more machine involved, much more difficult to achieve weight requirements, which are very important in a boat. It's important to keep your weight as low as possible.

Rick, I don't know if there is anything else you want to add.

MR. DEMPSEY: Yes, I think the other part, if I understood Ms. Driscoll's question correctly, and looking at the range of prices -- this is Kevin Dempsey for the record -- is you're looking at price ranges from the very small horsepower engines, like a four horsepower up to a, you know, 250 or 300 horsepower, and obviously just the size and weight of the engine is dramatically different.

I mean, these small ones are ones you can literally pick up and carry, whereas the big ones are

very large engines that are bolted onto the back of the boat. I don't know if you want to go into that any further. I mean, are we clear?

MS. DRISCOLL: Excuse me?

MR. DEMPSEY: Did we answer your question?

MS. DRISCOLL: Well, I think so. I think they are both helpful. I think my point was simply that I guess bigger boats take bigger engines, if you will. Okay. All right.

Okay, there was something raised by respondents that I wanted to ask, and I'm not sure, perhaps Mr. Dempsey or Mr. Wolff would be the first. They are talking about -- in terms of the pricing, this is more of a conditions of competitions type question -- that rigging was an important aspect of sales, and I don't know if you want to go into this now, or in your post-conference brief.

But they were sort of talking about how sales were made sort of as these packages, and I was wondering if you were willing to comment on that.

MR. DEMPSEY: Well, I don't know if any of the industry folks want to go into that. I mean, rigging is generally sold separately from the engine. I mean, it's not part of the engine sale, but we can go into it in further detail.

Rigging is not covered by the case, for instance. It's a separate product that is sold. I don't know if there is anything further that any of the witnesses -- we can go and answer any further questions in the post-conference brief, but I'm not sure what your question is.

MS. DRISCOLL: Okay. Well, my understanding, and I may be -- but my understanding is they were saying that, for example, if you discounted rigging, then you were essentially discounting your engine. It's sort of a condition of competition issue, whether, you know, there are other aspects to a package to selling the engine that affects the price. I guess that's the best way I can put it, and rigging was the biggest one that came to mind in those stand-out issues.

MR. DEMPSEY: I am aware of that. I mean, we agree that there are a large -- many different ways in which people can discount the cost of engines. I mean, in our petition and in our presentation today we noted that to get to the true price that engines are being sold for in the United States you need to carefully investigate all the various forms of discounts that are provided. And you know, all the data that we have provided is net of all discounts.

And it's very important, we think, for doing any proper price comparisons to make sure that the pricing data you get from all the producers is net of all discounts.

MS. DRISCOLL: Okay. Just one more question I had in that regard is, in several of your exhibits to the petition we have as exhibits discounting documentation. If there is a way that you can sort of walk through some of that; in other words, you could pinpoint parts of the exhibits or talk about the exhibits, it might be helpful.

MR. DEMPSEY: We would be happy to do that in our post-conference submission.

MS. DRISCOLL: Okay, I think those might be my -- and I picked this up, it's the emissions level that's the reason that the 4-stroke and the 2-stroke DI are better from the EPA standpoint, correct, Mr. Davis?

MR. CARPENTER: Yes, that's correct.

MS. DRISCOLL: Okay.

MS. DRISCOLL: Okay, that concludes my questions at this point, Mr. Carpenter. Thank you.

MR. CARPENTER: Mr. Fetzer.

MR. FETZER: Thanks, Jim Fetzer, Office of Economics.

I would like to thank all the panelists for their testimony this morning. It's been very enlightening and a subject that I don't know too much about, but I do have a few extra questions.

One, I want to follow up on the rigging question just to make sure I understand. If someone buys a Mercury engine, do they have to buy the rigging from Mercury?

MR. DEMPSEY: Mr. Sheller, can you answer that?

MR. SHELLER: Generally there is a control and cable involved. Those are probably the primary parts of a rigging. There is also gauges. They can buy them from Mercury Marine, but there are significant other manufacturers that make similar components.

MR. POMEROY: We don't require the purchase of rigging components with the engine.

MR. FETZER: Is it competitively priced if they buy it from someone else or is there -- I mean, I guess -- I mean, do most people do -- do most people buy their rigging with the engine?

MR. SHELLER: We sell a significant amount of controls, which is the boxes which controls the shifts. In the cable market, our share is relatively

small. So it depends on the item. Also in the gauge market, our share is relatively small. So it varies depending on the component.

MR. FETZER: So just to clarify, you're saying that you don't sell as much rigging as you sell engines?

MR. POMEROY: We do not.

MR. FETZER: Okay.

MR. POMEROY: We do not sell near one for one of rigging accessories for an engine that we sell.

MR. FETZER: I mean, can you estimate how much? Fifty percent or?

MR. POMEROY: Again, it would depend on the component. I 'm sure we can get that answer for you.

MR. FETZER: If you could put the estimates in your post-conference submission.

MR. DEMPSEY: This is Kevin Dempsey.

Let us try to get some details, but I think the important point here is there is not sort of a single package of rigging. There are a bunch of different components involved in this. I think it's a more complex situation, but the key point is that it's not -- there is not a one to one. It's not a requirement when you buy the engine, that you buy all the rigging components from Mercury.

MR. FETZER: I guess the issue is if you have to buy it with it, then any discount that would be associated with that would really be a discount on the engine, okay.

MR. DEMPSEY: I think I understand, and we will try to get you the details for the post-conference brief.

MR. FETZER: Okay.

MR. DEMPSEY: Yes, just to clarify, as I think the witnesses said, in the case of Mercury Marine you certainly do not have to buy the rigging from Mercury Marine as a condition of buying the engine. And in many cases people buy rigging components from other manufacturers to go with Mercury Marine engines.

MR. FETZER: Okay. And if you can try to estimate the prevalence of that, that would be -- I would appreciate that.

Moving on to contract discounts, I guess, Mr. Sheller, in your testimony you were talking about how often there is a discount, a basic discount given across a range of engines.

Is that usually negotiated like year by year or is it long-term contracts?

MR. SHELLER: It's some of both. Typically,

there is a general program which many of the builders buy on, but very, very large customers, in those case there will a negotiated agreement which could be, and generally it's a multiple year agreement.

MR. FETZER: Okay. Do you give discounts -- does this vary by type of engine? For example, would there be a different discount for 4-stroke or 2-stroke injected, or 2-stroke, or is it all the same across the board typically?

MR. SHELLER: Not typically. Typically, it would be a discount across the whole array of engines.

MR. FETZER: Okay.

MR. SHELLER: That would be --

MR. POMEROY: I write most of the contracts, I think it's fair to say.

MR. FETZER: Okay.

MR. POMEROY: And I don't recall a single one where there is a discount differential based on technology.

MR. FETZER: Okay.

MR. POMEROY: I'm sorry. This was Joe Pomeroy for the record.

MR. FETZER: And do you ever renegotiate these discounts over time? Over the life of a particular contract, do they usually stay the same?

MR. POMEROY: We have negotiated contracts when they were still in effect, yes.

MR. FETZER: Okay. Turning to substitution between different types of engines, inboard, the stern drives, I think in slide 28 you were trying to show that basically the different engines come from different production facilities, and I think that was looking more towards a like product argument.

But in terms of consumer demand, do consumers see these as different things? Do they -- or do they see inboard engines operating these different ways to go in terms of substitution? I guess in terms of your marketing and pricing, do you look at the prices of other types of engines as substitutes in the marketplace at all?

MR. SHELLER: They are marine engines. If you took a boat, for instance, let's just say a pontoon boat, you might be familiar with it, in most cases the decision on whether it's going to be a stern drive or an outboard is made long before it's manufactured. It's very difficult, and they are not interchangeable on the manufacturing floor between stern drives and outboard, it's going to be an outboard, and for certain segments of the marketplace in certain usage outboards are just favored

Stern drives have generally a different purpose and usually will be more dominant in a different segment.

So the interchangeability, although they will both take you boating, and they both propel a boat, the crossover is not that significant.

MR. DEMPSEY: Just to clarify, this is Kevin Dempsey, I think one of the points he was trying to make is you really have to design the boat either to sit in a stern drive or an outboard.

MR. FETZER: Okay.

MR. DEMPSEY: Now, if you take a boat that you had an outboard on it, and redesign it so that for future production you are going to use a stern drive, you can do that, but that requires redesigning the boat, and then it's going to be pretty much dedicated to stern drive application unless you redesign it again. So that's not a simple transition back and forth.

MR. FETZER: So I guess the question is how much of the market is for people who already have boats who might be putting new engines in versus people who are just entering the market and could have a substitutability between different types of boats.

Do you have any sense of that? Is it mostly

people who are replacing engines and a few new entrants, or is it people who -- because if everyone is buying a new boat, then obviously there would be, obviously, I guess more substitutability between these different types of engines.

MR. SHELLER: Well, on the outboard side, I may stand corrected, approximately 15 percent of the engines are sold for repower. About 85 percent are sold for on the back of new boats. Am I answering the question correctly?

MR. FETZER: I think so, yes. Yes.

MR. SHELLER: Would you agree with that, Bill? That's the approximate percentages of the engine sales, and that can vary by year, but again, the bulk of new outboard sales with new boats.

MR. FETZER: So those consumers conceivably could choose to buy an inboard or a different type of engine, although it might depend on the use which one they would purchase?

MR. POMEROY: No.

MR. FETZER: No?

MR. POMEROY: If a consumer is buying an engine to repower a boat --

MR. FETZER: Right.

MR. POMEROY: -- and he's got an outboard

powered boat, he has to buy an outboard motor to repower. He can't buy an inboard stern drive because the boat isn't designed to accommodate that.

MR. FETZER: Right. Okay, I'm sorry, is that the 15 percent or --

MR. SHELLER: That's the 15 percent of the repower.

MR. FETZER: I'm talking about the 85, the people in the 85 buying the new boat, they have the flexibility?

MR. SHELLER: They have. They have to make a decision between their usage and an outboard powered boat, or a stern drive powered boat, certainly.

MR. FETZER: Okay.

MR. SHELLER: I think it's would be similar to somebody buying a front-wheel drive vehicle versus a rear wheel-drive vehicle, and they have to make a decision. What they probably won't be able to do is say I want that vehicle even though it's front-wheel drive, I want you to change it to rear-wheel drive.

MR. FETZER: Now I understand.

MR. SHELLER: That's what they can't do, it's difficult to do.

MR. FETZER: So in marketing or in terms of deciding how much you're to -- how you're going to

price your products, do you look at the prices of these other types of engines at all, or other substitutes to guide you in terms of like if you see, oh, outboard engines are going to be cheap right now, we'd better lower our prices? Does that enter into your marketing equation at all?

MR. SHELLER: It's certainly a factor, but it's a very small factor.

MR. FETZER: Okay.

MR. SHELLER: The price of outboards and the price of stern drives are different. I mean, certainly I can't tell you that it's not something you wouldn't look at, but it's not a major consideration in the pricing of outboards.

MR. FETZER: What do you look at in guiding how demand is going? Do you look at the prices of your competitors, and how the economy is going? I guess the testimony earlier was indicating that, you know, an indication of how demand is going. Is there anything else in terms of other recreational products that are out there, other things that are indicators that you could --

MR. SHELLER: Certainly, you know, it's a discretionary purchase. Again, is that a large part of the process? No. Certainly it's a marine

environment and some of the things you've just mentioned. You take a look at the competitive environment, the cost structure, and that's probably mostly what determines what pricing there is in an outboard.

MR. FETZER: Is price the most important factor for a sale, or how does quality and other factors sort of work in?

MR. SHELLER: There is no doubt that there is a lot of factors, I think, in the consumer's purchase process. I think that quality is certainly one; availability, you know, at the right dealership; numerous factors, but price has become more and more important through this transition process from low emissions to the environment going down, the lower emissions environment.

MR. FETZER: Do you want to add something, Mr. Dempsey?

MR. DEMPSEY: I was just going to make the point that obviously you have to remember that most of the engines that are being bought today are being bought by the boat builders, not the ultimate consumer. The boat builders are buying the engines, and then marrying them with the boat, and that's where we see a lot of the very significant price competition

being -- a very significant, the leading factor in who is making the sale.

MR. FETZER: I don't know if this better address to Mr. Sheller or Mr. Davis, in your recent experience have you had issues of quality, particularly in switching over to 2-stroke injected engines with the new technology in terms of --

MR. DAVIS: I think it's fair to say that everyone going to a new technology goes through a learning curve, and it's fair to say that Mercury has gone through that learning curve on OPTIMAX, and it's fair to say that Yamaha goes through that learning curve on HPDI.

So the answer would be yes. We have gone through a technology development period. However, as of late last year our OPTIMAX sales are our fastest growing category; very, very strong. It's been very well accepted by the market.

MR. FETZER: And do you have any sense of how your quality issues have compared to other competitors? Have you had a harder time or pretty much been the same thing, or better time than -- particularly you have competitors who are producing 4-stroke engines?

MR. DAVIS: It's difficult to quantify that.

MR. FETZER: Okay.

MR. DAVIS: But we can get you that answer in more of a dive.

MR. POMEROY: I think that, as Rick has pointed out, when you are the first person introducing a new technology in the marketplace sometimes you go through some learning curves that are not what you would prefer that they be.

I think that Mercury's position in the marketplace over the years, and its continuing reputation in the marketplace as a quality manufacturer is virtually unchallengeable. We can argue over some small points, I think, but I think that Mercury's overall reputation for soundless of product, for technical innovation, for the performance of the product is probably second to none.

MR. FETZER: And so that would probably be an important factor in terms of people purchasing the engine in addition to price?

MR. POMEROY: Well, I think that a quality product is more and more as we are all experiencing in the marketplace with the products that we buy simply an entry level starting point. It's almost a given today. If you don't have a quality product, you're not even in the game.

I think our continued presence in the marketplace, our continued vitality is a demonstration that we have sound quality. All of our factories, I believe, we are the only engine manufacturer in the marine industry to have all of our factories ISO 9001-certified.

So I don't think we have to take a back seat to anybody with respect to our overall quality.

MR. WOLFF: I would, if I might, Alan Wolff, just reiterate that most of the decision on which engines are being purchased are being made by the boat builder, and since comparable ability, and quality, price seems to be the driving factor from everything we can determine as to which engine go into those boats.

MR. FETZER: Okay. Do you have any idea of how many of your engines had to be sent back or recalled for warranty purposes? And you could put that in your post-hearing submission if you would like.

MR. DEMPSEY: Yes, let us look into that and see what information we have that we can put into the post-conference submission.

MR. FETZER: Okay, thanks.

As to the substitutability issue between 2-

stroke and injection and 4-stroke, if you can look at slide 16 in your presentation. I'm a little confused. I think the testimony indicated that 2-stroke are direct injection and 4-stroke are interchangeable, but looking at the chart here, the 4-stroke has heavier parts, is currently less favorable torque curve, and is more expensive, which I would think would say that the 2-stroke direct injection would be better, but I'm probably missing something here.

Could you guys help clarify that?

MR. POMEROY: Well, I'll take a shot at it. As I indicated before, I think we are engaged in a practice of ferreting out what is going to be the prevailing technology if there is one, and I think that my understanding of the boating industry is that there are different applications in which some products may have an edge over others.

For example, in the bass boat market, a bass boater is going to be very interested in the lightest weight engine he can get with the greatest and most favorable torque curve that can be found, which lends itself to the traditional 2-stroke that you can't buy that because of EPA regulations, you're going to be driven in the direction of a 2-stroke direct injection.

On the other hand, a pontoon boater whose performance is not a significant issue because the boat is not going to be a high performance craft to begin with may prefer quiet, may prefer other features, noise issues, vibration issues, that may make for that boater the 4-stroke product a better choice.

But the engines are completely interchangeable. You can take our 75 direct injected and immediately substitute it for a 75 four-stroke, and there will be slight variability in the performance that may make you favor one over the other, but they are truly interchangeable.

MR. FETZER: When you say they are interchangeable, you mean you can move one from off the boat and put the other one on the same boat, but in terms of the applications, a consumer might prefer one or the 2-stroke direct injected to the 4-stroke or vice-versa?

MR. POMEROY: He may prefer it, but they are very close. They are very comparable.

MR. FETZER: Okay.

MR. POMEROY: So, you know, like I say, somebody who is attuned to a bass boat and particular requirements might slightly favor a direct injection

2-stroke over a comparable sized 4-stroke.

MR. DEMPSEY: This is Kevin Dempsey.

So the key point, I think, is that while there may be pluses and minuses that affect every consumer's decision about which technology to go with, they are both good technologies. They are competing for sales for the sale -- being put on the same types of boats in many cases in the market.

MR. FETZER: But they may not be competing on the same application like the bass boat might be more of the 2-stroke, the 2-stroke direct injection than a 4-stroke?

MR. SHELLER: I think they compete, but one again may be more preferable. Again I go back to the front-wheel drive/rear-wheel drive. They both compete, but one may be more preferable because of location or usage, whatever. It's a very similar situation.

MR. FETZER: Okay. In particular, is there any applications where they both are exactly interchangeable? You know, maybe in a post-conference submission if you could provide those, and give a sense of how much of the market those type of applications take up versus ones where they might be more, one might be preferred to another.

MR. DEMPSEY: We'll be happy to provide some further information on that in the post-conference brief.

MR. FETZER: Okay. And do they generally sell for about the same price at retail or does that depend on horsepower?

MR. SHELLER: It certainly depends on horsepower. And in most cases the higher the horsepower the higher the selling price. But typically the traditional 2-stroke hasn't been the lowest price engine. The OPTIMAX has been higher, or the direct injected 2-stroke. The 4-strokes have been slightly higher than that. That's the way the market has shaped up over the last three years.

MR. FETZER: For comparable horsepower, I guess?

MR. SHELLER: A comparable horsepower, that's correct.

MR. FETZER: You compare -- like is it the same horsepower for a 2-stroke direct injection the same as the 4-stroke, or because it's heavier is there some --

MR. SHELLER: There may be some. I think the horsepower, I guess I'd have to defer to Rick. I think the horsepower is the same, but again, because

of the power-to-weight ratio performance may be different. The acceleration may be different. The top end may be different.

MR. FETZER: Okay.

MR. SHELLER: And again, usually based on the weight and the power-to-weight ratio.

MR. DEMPSEY: This is Kevin Dempsey.

I think it's also fair to say because of all the price competition, you know, any variation in price has become much, much more limited in recent years, and of course, when you factor in all the discounts off of any base price, any particular manufacturer 4-stroke to a particular boat builder after working all the discounts could very well be below the price of a comparable direct injection engine from another manufacturer.

Remember, you have to look at that final net price, not just at the base price or the MSRP.

MR. WOLFF: I guess I would just add that the 4-stroke is more expensive to make. It has more moving product, heavier, and normally would have sold at a higher price. And one of the problems is that that band that should have been caught would have been between the 2-stroke DFI and the 4-stroke have now either disappeared or I understand that they could

with the 4-stroke, although it's a more expensive engine to make.

MR. FETZER: Okay, thank you.

I guess, Mr. Davis, the production facilities you use to produce your engines, can you use it for other purposes? Can you convert -- I mean, you said earlier you use different facilities for outboard -- inboard engines. But can you use them for anything else? Can you shift it to anything else?

MR. DAVIS: We are kind of expert dye casting and machining designers of metal and non-metal components, particularly for marine. Our casting facilities could be used for other purposes. And we currently are a supplier to Harley-Davidson, for example, for their engine blocks. We cast for them. And we have done some supply for others on a more limited basis like Paralis Engine for ATV.

But by and large, we are specifically tailored to marine in that we cast around alloys that are non-automatize alloys. They are made for marine use. We are kind of a specialist at that.

MR. FETZER: Okay, thanks.

And have you any issue recently with input costs going up, fluctuating that have affect your firm at all?

MR. POMEROY: Yes, I think with respect to any detail, we would have to submit that afterwards.

MR. FETZER: Sure.

MR. POMEROY: I am not as I sit here aware of any significant input issues that has risen dramatically in the cost.

MR. FETZER: Okay. Well, if you could just verify or elaborate on that in the post-conference submission.

MR. POMEROY: Be happy to.

MR. FETZER: Okay. Oh, on slide 21, I just want to clarify. Do boat builders, the OEMs, do they also sell to multi-store dealers and single-store dealers as engine manufacturer or is it just to one type of dealer?

MR. POMEROY: They do.

MR. FETZER: They do? So it would be sort of the same -- the bottom part of the flow chart from the boat builder over to the customer?

MR. POMEROY: Correct.

MR. FETZER: Okay, I just wanted to clarify that.

I don't have any further questions right now. Thanks for your responses.

MR. CARPENTER: Mr. Yost.

MR. YOST: I'm Charles Yost from the accounting department. Thank you for your testimony. I have a few questions.

One of your existing outboard engines that is carbureted, can that be retrofitted with a direct injection? Is that a possibility?

MR. DAVIS: It requires extensive changes of the engine block of the oiling system, of the pistons, the cylinder heads of the complete fuel system, the calling system, and the electronics completely.

So the answer would probably be no.

MR. YOST: It wouldn't be cost effective. It's not something that somebody with an existing outboard comes to you and says, hey, you know, I would like to take advantage of the new EPA regs, and so forth and so on, and you know, can you do this for 15 bucks? And you would probably say no.

MR. DAVIS: No, that's right.

MR. YOST: I think what you are saying is you have to redesign, or it would be more cost effective to supply them with a new engine?

MR. DAVIS: It requires extensive modification to the base engine, yes.

MR. YOST: So you are not looking forward to selling powerheads as powerheads for replacements as

replacement parts for existing engines?

MR. DAVIS: No, usually the purchase a new outboard that meets the regulations.

MR. YOST: Okay. I have a couple of data questions that you can please address in the post-conference brief.

With regard to warranty costs, if you could please break those out in your questionnaire response where they are classified in the amounts for each of the periods. Start-up costs, if they are included in your questionnaire response, would you please break those out as well for each of the periods?

And rebates, promotional expenses and discounts, also if those are included in sales or in some other place, some other classification in your questionnaire response, would you please break those out?

That completes my questions. Thank you very much.

MR. DEMPSEY: This is Kevin Dempsey.

We will get that information for you in the post-conference.

MR. YOST: Thank you.

MR. CARPENTER: Ms. McNay?

MS. McNAY: I'm Deborah McNay from the

Office of Industries.

I am interested in getting more details on the manufacturing and production process; specifically, what kind of lines you operate. Are they long transfer type lines, or do you sell manufacturing? Feel free to answer this in the post-hearing brief if you would prefer.

If you consider your product labor-intensive versus capital-intensive, technology-intensive, I'm interested in sort of the characteristics of the production process in a little bit more detail. What types of production processes do you employ, you mentioned dye casting with steaming; what kind of products you are dye casting. I mean, the whole gamut.

MR. DAVIS: Yes, we do everything -- I'll just take a broad brush and you tell me what we need to get deeper on.

MS. McNAY: Okay.

MR. DAVIS: We do everything from smelting at the alloy. We create the alloy specific for marine with our own metallurgy department. We mix the alloy, smelt it. Then we dye cast it in our own captive facility. So I would classify us as capital intense in that we have our own dye casting dyes. We have our

own dye casting equipment and smelting equipment.

We then move the castings, and we have also got loss foam facility, where we do loss foam casting.

We then move the casting across the street to our machining facility where we treat the alloy with EDP processing, and then we move it into Mazac machining centers, which I would classify very capital intense, and we have a Mazac shuttle that shuttles the part throughout C&C Mazac machines to single point machine the entire block and crank case, and then the assembly.

We then take that move it into our cleaning and then assembling where we take and combine that with crank shaft that we purchase the forging; finish machine the crank shaft; and then we take those cranks that we machine, the blocks and crank cases that we machine, purchase the pistons. We machine our own connecting rods. Then we assemble that in our facility and test it, and then we put the engines in a box.

So it's very, very complete.

MS. McNAY: Do you have substitutable production lines? Are you manufacturing different types of engines on the same production?

MR. DAVIS: There are Mazac machines

centers. We have flexible machining. We can machine 2-stroke and 4-stroke.

MS. McNAY: Okay.

MR. WOLFF: If I could just add --

MS. McNAY: Sure.

MR. WOLFF: -- one thing as a person who has an interest in touring plants, and I hope that all of you get out to Fond du lac, Michigan -- Wisconsin, excuse me.

Aside from the casting facility, the production line is under one roof. It cover 28 acres. It is an astounding assembly facility and production facility from the machining all the way through to the final packing.

MS. McNAY: I would like to get out there, if not in connection with this, maybe some other.

I am curious also to get more information on the EPA and CARB regulations, and how they are actually implemented in 1998 and a 30 percent reduction for each year. Is that for each engine is it for a pool of engines? How is that determined and who certifies at the end of this process that the 75 percent reduction in hydrocarbons has actually been met?

MR. DAVIS: That's a very good question. We

are actually simultaneously serve both EPA and the CARB. CARB essentially accelerated the process, and demanded the 2006 levels way early, and not as a CAFE average but as a cap standard.

So to sell into CARB you have to certify to a one star, two star, or three star. And the single star is the '06 standard, and then the three star is a much lower standard than the EPA 2006.

But to answer your second question, we and the industry each run our engines and submit a family emission level, FEL for each particular engine family, and that's a submission made by model year to the EPA. And depending on where the engine exists to the standards, you have to either -- you have enough allowance to where you don't have to retest periodically, or you do internally retest to verify the audit.

But at any time we could come in -- EPA could come into our facility and say we would like to see your data, and we would have data to show them on how we are self-certifying and self-auditing.

MS. McNAY: Okay, thank you.

I have some questions on the distribution and marketing process. Is there a role in selling engines for buying groups, or do you sell directly to

the boat builders and the dealers, or there any sort of intermediary that might be involved in these type of sales?

I'm thinking something along the line of United Marines and the fact that it's an association.

MR. SHELLER: We sell directly to the dealers or the boat builders. We do not sell to buying groups.

MS. McNAY: Are you aware of any other companies that might be selling through buying groups? Is that a significant percentage of the market?

MR. SHELLER: I'm not so sure what percentage of the market, but I believe that Bombardier has a relationship with, for instance, the UMMA, and may have a relationship with other buying groups.

MS. McNAY: Okay. Are dealer selling purely after market or repowering engines?

MR. SHELLER: There are some out there that might specialize in repowering. Those are usually located on the water and usually in southern environments where the repower is more significant so, you know, they can exist and they can make a profit.

MS. McNAY: In salt water?

MR. SHELLER: Salt water is one, but again,

in warmer environments where there is a lot of engine usage and there is more replacement business you would have some dealers that might specialize only in repower.

MS. McNAY: Is that a different niche of engines that are sold to a dealer that might specialize in?

MR. SHELLER: It may be a slightly different mix. It may be a slightly larger mix, but I mean, you repower, people repower virtually anything. A lot of them will have a boat that they've had in the family for 30 years, and it might go through two or three engines in that period of time. It might only be a 30 horsepower. So you have repower, I think, at all levels.

MS. McNAY: Okay. How is an engine modified for salt water use? What steps are involved or what modifications occur?

MR. SHELLER: I'm going to let Rick hand that.

MS. McNAY: Okay.

MR. SHELLER: He was talking about it in the manufacturing process.

MS. McNAY: Okay.

MR. DAVIS: For salt water, what we do is we

increase the use of stainless steel on the engine. Any place there is carbon steel, bolts, or shafting, we would take that out, and we would install stainless steel. That's the largest single thing is more stainless steel.

MS. McNAY: Okay. So it's done at the engine manufacturing level. Are there companies out there that specialize in modifying for --

MR. DAVIS: No, it's done at our level. We would also have an easy way for the customer to flush its engine with a flushing kit, but we would install that.

MS. McNAY: Okay. I'm curious about the idea that the boat builders are now determining what engines are being packaged with which boats. Has this always been the case? Is this a trend that boat builders are now making that determination? And if so, how does that affect an engine maker's sales, the idea of wholesaling to a boat builder versus the packaging process that occurs now?

MR. SHELLER: Well, I think the trend probably started in the early nineties. Typically, the industry had for years sold the -- the engine manufacture sold engines directly to the dealer, and he then was a mini-assembly, a mini-assembly operation

at the dealership.

I guess through the years that the industry has decided that it's probably better done at a boat manufacturer where the boat may be finished. I think the installation and the rigging of the boat could be done more efficiently and more effectively.

So engine manufacturers have switched to selling to boat builders. Probably started in the early nineties, and has gradually increased to where again we're talking about 75 or 80 percent of all the engines are sold through the boat builder. And the boat builder in a lot of cases decides which engines they will put on and offer to his dealers, and then accordingly, on to the consumers.

I think that's probably the process that's in place today.

MS. McNAY: All right. So the customer really doesn't have a choice if they are buying a boat as to what engine they want -- what outboard engine they want installed. Is that that what --

MR. SHELLER: Well, I think there is probably a choice, but in most cases it's very convenient, it's there, it's part of a package. They are making the decision on a retail floor. I'm sure that in a lot of cases if they say, hey, I want to

special order it, I want it this boat with that engine, that they may be able to get it, but, you know, with a lengthy wait, et cetera.

But most of the decisions are made about the boat and the engines sitting on the dealer's floor as a package.

MS. McNAY: I guess I'm trying to get an idea of what impact that has on an engine maker. If the boat builder decides to go strictly with a 4-stroke engine --

MR. SHELLER: Or one brand of engine.

MS. McNAY: -- or one brand of engine, you are locked out of --

MR. SHELLER: It has an impact on the engine manufacturer, clearly depending on the size of the boat manufacture, but in a relatively small industry not being able to participate in the sale at some boat manufacturer certainly would be problematic.

MS. McNAY: Okay. I think that pretty much takes care of my questions for now, so thank you very much. Appreciate your testimony.

MR. CARPENTER: Thank you. I have a few questions. I think what I would like to do is start with a couple of points that Mr. Barringer made in his opening statement.

First, I heard him to say that both Mercury and OMC had experienced some production problems with direct injection 2-stroke engines.

Can you comment on that?

MR. DAVIS: I think I can comment on that. It's interesting that it's relatively similar issues, and those are issues that also Bombardier faced, and that is revolving around spark plug fouling.

A direct injection engine, if things aren't just right, you can sour soot the spark plugs, and that occurred to us with OPTIMAX. It's occurred to the FX engine and it's occurred to the HPDI.

So those are issues that are addressed through calibration, and through properly calibrating the amount of oil the engine sees and the amount of fuel it sees, and the size of the droplets of fuel in the proximity of the spark plugs. It's a fairly complex process.

But all three companies have suffered from that due to the nature of the beast of a direct injected 2-stroke engine.

MR. CARPENTER: Now, did these problems occur during the development stage or during the period while you were in full production?

MR. DAVIS: I guess I would say both. What

you do in the development stage is you to try to rule out every possible condition that a customer can use his engine, and make your engine durable and reliable in every case, and that's what every manufacturer does.

However, when you get into full-scale production customers find ways to use our products that you wouldn't believe, and in some of those conditions we will have issues, and then we step up to the plate and we fix them with service bulletins or however we need to to address the issue.

MR. DEMPSEY: This is Kevin Dempsey.

I just want to make sure for the record when Mr. Davis spoke of the HDPI, that's the Yamaha direct injection engine, which is experiencing the same types of spark plug fouling and sitting problems that have been experienced by other direct injection engines. So it's a problem that cuts across the U.S. and Japanese production.

MR. CARPENTER: Okay, so the third company that was mentioned would be the Yamaha?

MR. DEMPSEY: Yamaha, yes.

MR. CARPENTER: Okay. Thank you.

MR. DAVIS: The interesting thing is we have gotten that behind us, and I would say completely

through careful calibration and through electronic control of the fuel and oil systems, and through the capability of our injection system. That problem is clearly behind us.

MR. CARPENTER: Okay. So again, Mr. Dempsey, your point here is that this was not a problem that was unique to the U.S.-produced engines. It also involved the Japanese engines?

MR. DEMPSEY: Yes, that's true, and I think if you read the press, and we can supply some of this in the post-conference brief, you will see that while, as Mr. Davis says, Mercury has fixed this problem, Yamaha is still working on it. They are still issuing service bulletins about the problems with their direct injection engines.

MR. CARPENTER: Thank you.

Secondly, just to clarify, and I think, Mr. Dempsey, you earlier address this, at least in part. The assertion that the U.S. 4-strokes were either mostly imported or the powerheads for the 4-strokes were being imported.

I know Mercury produces 4-strokes themselves. Are you saying that the powerheads are imported but yet they have a good bit of domestic content in them, or are the powerheads also being

produced domestically.

MR. DEMPSEY: There are powerheads that are produced domestically by Mercury. There are powerheads that Mercury imports from Japan, produced in Japan, and there are powerheads that are a result of co-production and co-development that contain a significant amount of U.S. contents that are coming in from Japan after being assembled between Japanese and U.S. producers.

MR. CARPENTER: Thank you for that clarification.

A third point was when Bombardier entered the market, Mr. Barringer's point was that they had priced aggressively to regain market share, and that that hurt Mercury. And I was wondering what your response was to that.

And I know, Mr. Dempsey, again you answered that in part by saying that you felt that it was the Japanese suppliers who were the ones who were pricing aggressively.

But did Mercury feel any impact from this alleged aggressive pricing by Bombardier?

MR. SHELLER: We ran into some aggressive pricing by Bombardier. Most of the sales losses were really went to the Japanese manufacturers even during

that period of time.

Did we have some sales losses in different situations to Bombardier? Yes, but it was very, very small in comparison to the losses that we have had to Japanese manufacturers.

MR. CARPENTER: And what's the approximate time frame that we're talking about here?

MR. POMEROY: OMC filed bankruptcy, if I recall accurately, in December of 2000. The sale of the assets occurred in February of 2001. I believe Bombardier was back in production with some of those assets in late '01, early '02.

MR. CARPENTER: Okay, thanks.

Another point related to that was that when OMC went out of business, it ceased production, the dealers and boat builders experienced -- well, at least there was a disruption in the supply of engines to the market from OMC.

Was there a void there that was not filled for awhile, or to what extent was Mercury able to fill that void? To what extent was it filled by Japanese suppliers?

MR. POMEROY: Well, as I tried to indicate earlier, when OMC went under, which happened very suddenly at the end of 2000, there were customers who

had purchased a large quantity of OMC product right at the end because OMC wanted to get the inventory out the door and sold. And those customers did not have an immediate need for a supply of product. They wondered how they were going to sell what they had, obviously, without a manufacturer to back the product.

But there were other customers of OMC who had been substantially dependent on OMC who needed replacement product, and obviously the remaining manufacturers were more than happy to step in and fill that need.

It occurred at a time, however, when I think, as Kevin and Alan were pointing out earlier, the industry was beginning a decline. And so while there was increased demand as a result of OMC's demise, the increased demand occurred at a time when the industry was generally started to turn down.

There was no problem for any of the manufacturers, to the best of my knowledge, filling the needs of those dealers and boat builders who had been dependent on OMC product. There was plenty of capacity in the marketplace.

MR. NOLLERT: This is Bill Nollert, just to add some detail to that.

The decline in engine sales in 2001 was over

80,000 units, so it was a substantially smaller market in 2001 when the Bombardier or OMC's production was out of market.

MR. CARPENTER: Okay. And the inventory that OMC sold off at the end was enough to give the other suppliers the time that they needed to gear up production and to fill that potential void; is that correct?

MR. POMEROY: Well, again, my impression at the time was that there was more than adequate capacity. There was very little need to gear up in the sense that something significant had to be done to meet the demand. The capacity was there.

MR. CARPENTER: Okay, thank you.

Let me just turn to some of these charts. By the way, I appreciate the charts. I think they were very helpful to me in understanding what was going on in the market. I have a number of questions related to consumption and demand and supply that, you know, I'm just trying to piece together some of the -- what I have seen in different charts.

First of all, looking at the charts on page 5 and 6, the Japanese exports of outboard engines, as you pointed out, decreased from 2000 to 2001, but yet on the following chart on market share, they were able

to increase their market share substantially from about 43 percent to 54 percent.

Again, was there any, and I understand the market was going down quite a bit in 2001, and I guess if -- let me just turn to page 17 also -- the red line there that depicts consumption of outboard engines, I assume that's in the United States.

Do you consider that line to be a fairly accurate indication of what consumption of outboard engines is in the United States during this period?

MR. MILLER: Yes, we do. It's data reported to the NNMA, and they figure they figure they have 95 percent coverage of engine manufacturers.

MR. CARPENTER: Okay, good.

So I guess one question, how are the Japanese suppliers able to obtain such a big jump in their market share during that period from 2000 to 2001, and does the exit of OMC from the market have anything to do with that?

MR. DEMPSEY: This is Kevin Dempsey.

I think the exit of OMC created an opportunity and the Japanese took advantage of that opportunity and came in very aggressively. Price, with aggressive price discounts to take advantage of that opportunity to try to gain market share, and they

were successful through significant price discounting.

MR. CARPENTER: Okay, now, as I understand it, there are no significant non-subject imports. I'm assuming that the U.S. producers' market share must have declined during that period from 2000 to 2001; is that correct?

MR. NOLLERT: The domestic industry?

MR. CARPENTER: Yes, the domestic industry's market share --

MR. NOLLERT: Right, right.

MR. CARPENTER: -- did it go down pretty much correspondingly during that period?

MR. NOLLERT: Right.

MR. CARPENTER: Okay. Just to clarify, on page 11, the second point, it says that demand declined in 2001 and there was a partial recovery in 2002 and 2003. That seems fairly clear.

Mr. Dempsey, I thought you mentioned in your comments though something to the effect that demand was essentially flat over the period of investigation. Did I hear that right?

MR. DEMPSEY: Yes, I think I said that, and that's probably an overgeneralization.

MR. CARPENTER: Okay.

MR. DEMPSEY: The slide is more correct, and

it's the information on slide 17.

MR. CARPENTER: Okay.

MR. DEMPSEY: It came down, then it's come back up, so you know, I was speaking sort of from the beginning to the end. It's essentially flat. It's actually still down a bit.

MR. CARPENTER: Right.

MR. DEMPSEY: So the words on the slide are a more correct characterization than my words.

MR. CARPENTER: Okay. Okay, thanks.

Looking at the chart on page 19 now, I'm trying to factor in the recession which is shaded in gray, and I would expect that -- you made the point that demand for outboard engines correlates fairly well with the general economy, and you have a pretty share drop-off during that period. Again, this relates to an earlier question.

I mean, to what extent is that drop-off in consumption related to demand, the strength of demand, or is it all influenced by supply factors, again, such as the exit of OMC from the market?

MR. NOLLERT: This is Bill Nollert again.

I don't believe that the decline in the sales was affected significantly by OMC getting out of the market. There was plenty of supply domestic and

foreign to fill that. There is still plenty of excess supply in the engine market worldwide.

MR. CARPENTER: Okay, so that was a fairly sharp drop-off in consumption from late 2000 to late 2001, and it's your view that that is virtually all demand driven?

MR. NOLLERT: Yes.

MR. CARPENTER: Okay.

MR. DEMPSEY: Just to emphasize the point, this is Kevin Dempsey, you know, buying a recreational boat, it's a discretionary purchase, and obviously when the economy turns down it's a natural thing for people to hold off on buying a new boat, and that's why you see demand -- marine outboard engines correlates so well with overall economic conditions.

MR. CARPENTER: Right, that makes sense. Okay.

Now, on page 13, just looking at these relative size of companies in the outboard engine business based on net sales, are these an approximations of market shares in the U.S. market?

In other words, are Bombardier and Mercury that small, and Brunswick that small compared to the Japanese suppliers, or am I misinterpreting this?

MR. DEMPSEY: No. This is Kevin Dempsey.

These are total net sales for these corporations as a whole for which -- you know, Brunswick is both -- you know, does things beyond --

MR. CARPENTER: Oh, okay.

MR. DEMPSEY: -- outboard engines. So Mercury Marine is part of a relatively small company compared to --

MR. CARPENTER: I see.

MR. DEMPSEY: -- Honda's outboard engine division which is part of a very large company. But these are their total sales of all products by Honda. So it's through the corporate parents, you know, it goes to the financial resources available to the outboard engine divisions of the various companies, and we are -- in each case the outboard engine manufacturing is just a division of a bigger company, but the size of the parent companies are dramatically different.

MR. CARPENTER: I see. I missed that point the first time. Thank you.

In the chart on page 15, I was just wondering if the data from NMMA are available to breakout the direct injection 2-stroke and the 4-stroke into two separate lines. Would that be possible?

MR. MILLER: You can do that for certain power ranges, but for others they combine them.

MR. CARPENTER: Oh, I see.

MR. NOLLERT: So you can't do that for the entire -- you can't do that for the entire market.

MR. CARPENTER: Okay, that's fine. I just wondered if it was readily available. Okay.

A minor question, is the mix of products by horsepower size, if you look at consumption of the various size engines by horsepower, has that remained relatively constant over the last few years?

In other words, has there been any significant shift towards larger or smaller sized engines?

MR. SHELLER: This is Denny Sheller.

Over the last say eight or 10 years the average horsepower has gradually gotten larger, not by huge amounts, but say seven or eight years ago, and we'll get you the exact numbers, it might have been 65, and it's gravitated up to maybe 75 or 80 horsepower, but it has definitely gone up as opposed to going down or staying the same.

MR. CARPENTER: Is that driven by technology or just a desire for a larger, more powerful boat?

MR. SHELLER: I think it's usage and a

desire for larger, more powerful boats. And I think also a lot more boats are being used offshore in the ocean, one of the last places to really get away, and they typically use larger engines. That segment of the market has grown a little bit more than some of the others.

MR. CARPENTER: Okay, thank you.

Just one final request for the brief. To me, I think it would be helpful if Mercury could in your brief provide their U.S. shipments in the number of units separately for the 2-stroke carburetor, the 2-stroke direct injection, and the 4-stroke engines during each of the five periods of the investigation.

And I would also ask the respondent companies, either the foreign producers or the U.S. importers, to provide the same information for their U.S. shipments of those three general types of outboard engines during the period of investigation.

That's all the questions I have, and I really appreciate your responses to our questions.

I think there may be a couple of other questions here. Ms. Driscoll.

MS. DRISCOLL: Karen Driscoll, Office of the General Counsel.

One follow-up question, there is no separate

market for powerheads in the United States; is that correct? There is no other use that can be put it?

MR. DEMPSEY: I'm not aware of any significant other market for powerheads, no. They are used to make marine outboard engines, yes, and for warranty replacement occasionally.

MS. DRISCOLL: Okay. And just following up on Mr. Carpenter's questions. So this total net sales, this is worldwide sales, would that be correct, of Honda and Yamaha and Brunswick and Bombardier?

MR. MILLER: Yes.

MS. DRISCOLL: Right, okay. Thank you very much, gentlemen.

MS. McNAY: I have a couple of more. I was wondering to what extent technology in engine production design is transferrable from other types of product lines like motorcycles and motor vehicles. What advantage might a company gain if it, or disadvantages, if those exist, from having broader resources dedicated to motor vehicle and motorcycles that might be used for marine applications?

And I know some engines can be converted from motor vehicle usage, you mentioned the GM engine blocks. To what extent?

MR. DEMPSEY: Just to clarify. This is

Kevin Dempsey, to clarify on that point.

The GM engine blocks were for stern driven inboards.

MS. McNAY: Right, I understand.

MR. DEMPSEY: They are not transferrable for outboards.

MS. McNAY: I probably read too many articles, but I had also read something about an engine that had been or was in the process of undergoing conversion from a motor vehicle application, and I'm just wondering to what extent that might lend an advantage? How often that might occur? How many models might be developed from an original use for motor vehicles?

MR. DAVIS: The marine engines we build are engines, and so a company building automotive engines and building motorcycle engines that have a high output has a resource advantage versus a company that doesn't.

What Mercury chose to do was to align itself with world renowned consultancy agencies to bolster where we felt we were at a disadvantage. And the larger companies would probably pull from resources from within, if that helps.

MS. McNAY: That does.

One other question. There was an article in an industry magazine that sort of referenced discounts, estimated discounts that were given by engine makers to boat builders, and engine dealers, full-line engine dealers. I was just wondering if you could comment on the accuracy of these discounts.

For engine makers to boat builders, an estimated 32 to 45 percent, whereas full-line retail dealers would receive a discount of 18 to 19 percent.

MR. POMEROY: Well, I think we would prefer to respond to that in our briefing submission after the hearing is concluded.

MS. McNAY: Fine.

MR. POMEROY: It's not unreasonable to expect that there will be a difference between what a very large volume original equipment manufacturer will receive as a discount, particularly if they commit, as opposed to a dealer whose orders tend to be a little more sporadic and much smaller in volume.

MS. McNAY: Anything you could add to that would be great. Thank you.

MR. POMEROY: Okay, thank you.

MS. McNAY: That's it.

MR. CARPENTER: Thank you again, gentlemen, very much for your testimony this morning and your

responses to our questions.

We will take a brief recess until 12:25, and resume with the respondents' testimony at that time. Thank you.

(Whereupon, a short recess was taken.)

MR. CARPENTER: Let's resume the conference at this time.

Mr. Barringer, please proceed when you're ready.

MR. BARRINGER: Thank you, Mr. Carpenter.

We're happy to be here today. For the first time in 25 years that I've been representing foreign respondents, I have had more people come forth and want to testify than I have ever had. If you could have given us a couple of days, we probably could have enlightened you in even more detail about what is going on in this industry.

What we've attempted to do is to have before you some industry leaders, people that have been in the market a long time and that are well recognized in the industry.

We have Irwin Jacobs. He is the largest recreational board manufacturer in the world and the largest purchaser of outboard engines in the world.

Bob Deputy, who is President, not Vice

President and I apologize to him, of Godfrey Marine, is from one of the largest boat builders in the United States. He's a past chairman of the National Association of Boat Manufacturers, a past board member and treasurer of the National Marine Manufacturers Association, and a founding member of the independent boat builders.

Scott Deal is President of Maverick, which is a premier saltwater company. He is the chairman of the board of the Independent Boat Builders, Inc.

Doug Gomes from Grady White, is chairman of the National Marine Manufacturers Association.

Among the dealers, John Haddon has been a member of Southern California Marine Association for 26 years.

Jeff Kalibat is Vice President of the New York Marine Trade Association and Chairman of the New York Marine Trade Association's Education Committee.

We think we have very strong, very qualified, very knowledgeable witnesses and, with that, I will turn it over to Mr. Jacobs.

MR. JACOBS: Thank you, Mr. Barringer, and thank you, panel, for having me here today.

Good afternoon. I am Irwin Jacobs, Chairman of Genmar Holdings, which is the largest builder of

recreational boats in the United States.

Genmar sells approximately 65,000 recreational boats per year, made up amongst 18 different brands. Because Genmar sells most of its boats packaged with engines, Genmar also believes we are the largest purchaser of outboard engines in the U.S.

Genmar's policy has been to allow our dealers and the ultimate consumer to choose which engine brand they wish to purchase to power their boats. We have historically offered our customers a choice of all major brands of engines available in the market: Johnson, Evinrude, Mercury, Yamaha, Suzki, and Honda.

Genmar offers the comparably priced engines of all the leading manufacturers on comparable terms so that the choice of which engine to use to power their boats is not generally affected by the price.

Thus, historically, what drives the sales of engines on Genmar built boats is the market acceptance and popularity of a particular brand of engine.

It is my understanding here today that Mercury is alleging that underselling of imported brands of engines -- and, by the way, it's not clear to me whether this includes imports by Mercury

itself -- have caused it injury through loss of sales and revenues. Based on Genmar's experience, we believe this claim is sheer nonsense.

In terms of the price, it is important for the commission to understand the dynamics of the market. Generally, wholesale price is volume-based. That is, the more engines we purchase from an engine manufacturer, the better price Genmar receives. However, there is an additional factor and that is competition between the boat builders for sales of their boats packaged with an engine.

The boat builders that get the best engine prices from a manufacturer obviously have the ability to be more competitive interview he marketplace. Even during the period when Mercury was Genmar's lowest priced supplier, we believe Mercury contracted to sell engines at even lower prices to Tracker Marine. We have been told that Mercury has given Tracker a most favored nations' customer clause in their agreement which guarantees Tracker the lowest prices for all the engines Tracker purchases compared to all of Mercury's other customers. This obviously affects Genmar as well as all other Mercury outboard engine customers in their ability to obtain a lower price from Mercury despite very loge volume purchases.

In terms of import pricing relative to pricing by domestic manufacturers, based on Genmar's volume-based discounts and purchases in the recently completed 2003 model year, our lowest priced supplier is not a Japanese engine manufacturer, but a domestic manufacturer.

In terms of our Japanese suppliers, in accordance with our Genmar dealers' preferences for engines, we do a relatively small amount of business with Suzuki and Honda and, because of the limited volumes and purchases, we receive our smallest discounts from them.

As regards to Yamaha, we started to substantially increase Genmar's business with Yamaha in early 2000 due to the concerns we had about the financial health of OMC. Obviously bringing Yamaha into the picture gave Genmar a viable alternative in the event that OMC failed, which ultimately they did and filed for bankruptcy on December 22, 2000.

To the contrary belief of Mercury, we didn't bring Yamaha in because they offered lower prices than Mercury, because in fact they didn't. During the time period of this investigation, the biggest discount, that is, the lowest price Genmar received from any engine supplier, was the discount from Mercury.

Genmar believes Mercury has had several problems that account for its declining engine business with Genmar. I've already mentioned its most favored nations' customer relationship with Tracker, which prevents Mercury from providing customers buying comparable volumes as Tracker at a comparable discount.

Genmar, like most other boat companies, packages engines with its boats to provide the dealer and consumer with the best value. Surely the most important, even more so than the price of the engine, is the market acceptance of the engine. Mercury's biggest problems are that they do not have enough of a product variety of the right engines with customer acceptance and quality perception, as well as technology, i.e., four-stroke, that today the marketplace demands.

Genmar on average sells boats with 115 horsepower engines. Approximately 50 percent of our sales today are four-stroke engines and we expect this category to continue to grow. Both in the past and today, Mercury simply cannot supply the higher horsepower four-stroke engines. It's a known fact that Mercury buys their power heads for their four-stroke engines over 60 horsepower from Yamaha.

Why buy a hybrid four-stroke engine made by Mercury using a Yamaha power head rather than a four-stroke Yamaha?

While Mercury has and continues to promise a four-stroke high horsepower engine of its own, it has yet to produce and sell such an engine to the market and, if and when it does, it is likely to take several years for them to develop a full line of four-stroke engines in order to compete with the other four-stroke engine manufacturers. Mercury wants to financially penalize boat builders with tariffs on existing available technology until it can catch up.

Mercury touts and promotes its premium engine to be Optimax, a direct injection two-stroke engine. Over the years, problems with this engine are legendary in the marketplace and attached with my submission are attachments which I will read after this.

Genmar had documented failure after failure of this engine to perform in high profile big money fishing tournaments and to Mercury's own admission to Optimax's continued failures going back to 2001 and 2002, again, with attachments to my submission. These well-publicized failures, whether perceived or real, today have in turn led to a poor perception and

reputation with consumers who have had problems with the reliability and the quality in the past.

While we continue to offer Optimax engines on our boats to our dealers, its acceptance in the marketplace is basically up to Mercury's ability to change the dealers' and consumers' perception of Optimax's well-documented poor quality and failures dating back to 2001 and 2002. If Genmar's dealers and their customers want Optimax engines, Genmar will be happy to sell them, as well as any other engine preferences our customers have.

Again, Mercury doesn't necessarily have a price problem as much as it has a product problem, whether real or perceived, as well as a lack of new technology four-stroke engines to compete in today's engine preferences amongst Genmar's customers.

On the other hand, the Japanese manufacturers have offered a full range of four-stroke engines for years, while Mercury has attempted to compete and rely on its history of poor quality and problems, again, well documented back to 2001 and 2002, with its Optimax engines.

As the performance of four-stroke engines supplied by the Japanese manufacturers has improve, Mercury's reliance on Optimax has and will continue to

find it difficult to compete with the full line of four-stroke engines the Japanese are presently producing. This is not just Genmar's view, it is a view shared by the marketplace.

Mercury has consistently ranked near the bottom of the J.D. Power surveys of consumer satisfaction with their engines in three years of surveys, 2001, 2002 and 2003.

Finally, Genmar believes Mercury has compounded its product problems with a market strategy that favors Tractor Marine and its own boat companies at the expense of the independent boat builders.

Genmar is in the business of building and selling boats. We don't really care whether the boats we build and sell are powered by Mercury, Johnson, Evinrude, Yamaha, Suzuki or Honda engines. While Genmar's margins may somewhat vary, depending on the engine powering Genmar boats, our goal is to offer the consumer a full range of outboard engine options and let the customer decide on what engine they want on their Genmar boat.

Thus, our customer demands have and will continue to determine how many engines we sell from each of the engine manufacturers. The fact is that Mercury simply does not have the necessary product and

quality, again, whether real or perceived, and/or technology to compete with other engine suppliers for the transoms of a new Genmar boat.

Before closing, I would like to address the issue of Yamaha's increasing volume with Genmar. The bankruptcy and subsequent interruption of production at OMC opened the door for Yamaha at Genmar. From the beginning, even when Yamaha was a relatively small supplier, the market acceptance of its engines was excellent. In effect, it replaced OMC because OMC stopped production. What has happened subsequently is that Bombardier returned to the market with high customer satisfaction for its Evinrude motors. These engines began displacing Mercury's business with Genmar. In fact, the recent J.D. Power survey of Evinrude engines rated them ahead of Mercury engines, even after Evinrude had redesigned its engines over the last two years after OMC's bankruptcy.

To the extent that market share is the issue, Genmar believes Mercury has been losing market share to the reinvigorated Bombardier Evinrude engines that recently won the J.D. Power award for excellence among all other two-stroke engine manufacturers.

I'd like to speak to a couple of other things. In response to Mercury's statement about the

OMC failure, OMC's failure had nothing to do with competitive imported outboard engines. It is a fact OMC's then new Ficht engine products were an absolute failure and a disaster, as well as the worst management team anywhere amongst the entire marine industry. Statements made by officials of Mercury and Brunswick publicly stated that OMC's products were a failure when OMC was in business.

After OMC's bankruptcy, Mercury made a presentation to Genmar to increase their business with Genmar. They were so convinced and arrogant about their new position in the engine market, even though their quality and performance had many well-known problems, they still proposed to substantially increase Genmar's price for Mercury engines and insisted that we had to purchase substantially more engines going forward than we did in the previous years in which the engines were cheaper, the point being that they thought they could take advantage of OMC's demise and raise our engine prices.

Fortunately, Bombardier was a knight in shining armor and now Mercury obviously hasn't as yet acknowledged such or, if they have, they're not talking about it.

When Bombardier purchased OMC's engine

business, there was a public statement made by Brunswick's chairman, George Buckley, "Bombardier is going to need more than their Jesus shoes to make it in the outboard engine business." Do I need to say more about arrogance?

Since OMC's bankruptcy, Brunswick and Mercury have consistently told Wall Street for the past four years that they are the best in the industry and that they are gaining and have gained market share. They recently told Wall Street and pre-announced better than expected earnings. Surely things can't be all that bad if they're telling Wall Street how great things are.

In the back of my submission, there are exhibits, one dated May 11, 2001. This is five months after OMC's bankruptcy. This is a letter that was sent out from Mercury to their customers:

"Dear Mercury Customer:

"This is to inform you that we are currently assessing some performance related problems in our 2001 model year 3.0 liter 200 and 225 horsepower Optimax engines. Regrettably, we have decided to discontinue shipment of these engines for the balance of the 2001 model year. A Mercury team is working on developing a solution that will incorporate into the

2002 model year a 3.0 liter 200 and 225 horsepower Optimax engine. Mercury Marine is committed to providing quality products to all its customers. If you currently have orders for 2001 model year engines, there are two options: (1) Order 2002 Optimax 3.0 220 or 225 models available for shipment in June."

Understand this letter is written in May.

"Convert your 2001 model year Optimax 3.0 liter orders to other Mercury engines. Please contact us for inventory."

"Between now and the end of May, Mercury will be investigating and developing solutions for the 2001 model year 3.0 liter Optimax performance-related problems. By the end of June, Mercury will announce the necessary field service actions. In the interim, if customers experience any problems with the 2001 model year 3.0 liter Optimax 200 or 225 engines, we will handle those situations through Mercury's normal warranty procedures.

"We are sorry for the inconvenience and disruption."

Also attached with this are two memos, both from Charlie Hoover, how is the President of FLW Outdoors. FLW operates 173 fishing tournaments and gives out over $23 million in cash and prize money to

the participants. These are the fishermen that fish the FLW. It is the highest profile competition fishing tournament in the world.

This is one written on March 3, 2002, almost a year later than the one I just gave you the reference from Mercury. This is to me from Charlie Hoover.

"We have a concern at the rising number of Mercury engine failures that is occurring in our 2002 FLW Outdoors tournaments. In our FLW events, we have seen numerous Mercury power head failures and engines fouling spark plugs which results in competitors competing for thousands of dollars losing practice, competition time or complete competition days.

"These engine failures are also occurring in our EverStart and BFL events and are causing a lot of frustration for our competitors who own Mercury engines. The first day of the Ranger M1 tournament, there were 26 engine failures caused from power head or spark plug problems and the second day was about the same. As you know, the competitors at the Ranger M1, EverStart and BFL levels are Mercury customers who have a significant investment in the product. Many times this reflects back to Genmar boat brands when the customer has to borrow a boat to continue to

compete in a tournament.

"Recently, we have heard the Mercury Optimax referred to as 'Mercury Potimax.' Yamaha appears to be gaining market share rapidly as their product's reputation is that it is very dependable. The best kept secret is the new Evinrude engine whose performance is unbelievable and with few problems. Mercury's continued failed engines could impact Genmar's boat business and dealers."

This was one written on the 26th, three weeks later, from Charlie Hoover to me:

"Irwin: Pat Mackey, President of Mercury Marine, called me today and asked for my observations for the problems that were occurring with the Mercury engines at our events. I explained that in 2002 events, the Mercury engines were having numerous power head failures and engines fouling spark plugs. In the Ranger M1 tournament, there were 26 failures on the first day and about the same the second. In the EverStart and BFL, where the most competitors are paying customers for engines, the problems have been occurring there, too.

"Pat explained that their problems were the result of a vendor problem and that they thought they had corrected it last year. The problems they are

having now are technically different, but the result is still power head failures and spark plug fouling.

"Pat said that they were attempting to correct the problem. I pointed out the word on the street was very negative to Mercury product and that it would affect the resale of their product in this time period. Also, we discussed the Boston Whaler dealers who were attempting to purchase Japanese engines as an alternative power source rather than Mercury engines, which is also negative."

Significant to that is Boston Whaler is owned by Mercury and Brunswick. Their own dealers were purchasing outside engines.

"I recommended a strong PR campaign is needed to counter the negative publicity Mercury has received. Pat agreed that this was a good idea and he would address it when they corrected the engine problems."

I also have the surveys from J.D. Power.

I think I've used up probably too much of my time already.

Thank you.

MR. DEPUTY: Good afternoon. I am Bob Deputy, President of Godfrey Marine.

Godfrey Marine is one of the largest

builders of recreational boats in the United States, producing approximately 14,000 boats per year. We manufacture pontoon and deck boats, as well as aluminum and fiberglass fishing boats under seven different brand names.

Although Yamaha is our largest engine supplier today, this was not always true and we continue to package our boats with engines from Mercury, Bombardier, and Honda.

Our history with Yamaha goes back over a decade. In the late 1980s, we had begun to package U.S. Marine's Force engines with our pontoon boats, what was then not the common practice in the industry that it is today. Although this relationship with Force was brief, we thought it was successful.

However, Force made a decision in mid 1989 not to sell engines to independent boat companies, including Godfrey. At the time, Brunswick owned U.S. Marine.

At this point, we decided that we wanted to continue to package boats and engines and sought a new supplier to replace Force. We sought out Yamaha because our dealers agreed with us that boats packaged with engines was desirable.

Even though Yamaha was more expensive than

Force, Yamaha was willing to work with us to develop engine features that our market desired.

At the time we developed our relationship with Yamaha, Honda had just introduced a few clean, quite four-stroke engines. They showed them running indoors in a drum full of water at boat shows. The four-stroke engines were quieter than the two-strokes, 30 percent more fuel efficient, more durable and reliable and required no gas/oil mix.

Yamaha was developing four-stroke products as well as other clean products and this made us believe that Yamaha was committed to being a leader in outboard engine technologies.

Our business with Yamaha grew when none of the other manufacturers wanted to partner with us. Godfrey, for its part, sold many of its dealers boat engine packages using Yamaha engines. As technology changed, Yamaha made a commitment to four-stroke technology which became the technology preferred by customers and certainly customers that were purchasing the type of boats that Godfrey built.

After our success with Yamaha, Mercury asked us to package their engines with their boats, as did OMC. We agreed to package with both. However, neither Mercury nor Bombardier presently has the

product offering that Yamaha has of four-stroke engines.

Today, over two-thirds of the engines we sell are four-stroke engines; whereas ten years ago the product was not even available to us. Because of this, we cannot do the kind of volume with either of the manufacturers that we are doing with Yamaha. They simply don't offer the range of four-stroke engines that the consumer demands.

The fact that the problems at Mercury and Bombardier are product not price-related is evidenced from Godfrey's experience with these manufacturers' products compared to Honda and Yamaha. Let me give you a few examples.

In the four-stroke category, we sell the Yamaha 150 horsepower four-stroke engine for almost 20 percent more than we sell the comparable Bombardier four-stroke engine, a 140 horsepower engine. Despite this price differential, Yamaha outsells Bombardier by a substantial margin. Indeed, the prices of our Bombardier engines are usually the lowest prices, yet we consistently sell substantially more of the higher-priced Yamaha engines on our boats.

We sell both Yamaha and Mercury engines on our boats at about the same prices, but, again, Yamaha

outsells Mercury. We sell four-stroke models at prices that are 10 percent or more above the same horsepower direct injection engines and the four-stroke engines consistently outsell the direct injection engine.

Neither Mercury nor Bombardier are moving towards solving their product problems. Mercury has announced that it will introduce several new high horsepower four-stroke engines which we understand will be in the 200 horsepower plus category, perhaps 250 or 300 horsepower. This, however, is a relatively small unit market in the aggregate and a market which doesn't meet many of my companies' needs.

We needed 150 horsepower four-stroke engines and Yamaha introduced them. The same is true of the 115 horsepower four-stroke. We sell substantial volumes of both. A 250 or 300 horsepower four-stroke engine, however, could be used only in a limited number of our products.

Similarly, Bombardier has concentrated its efforts on direct injection technology, rather than on developing a full line of four-stroke engines. In fact, it produces no four-stroke engines or power heads, but imports all its four-strokes from Japan.

While its newly introduced E-tech engines

may establish Bombardier's credibility in the two-stroke direct injection market, from our perspective this represents new competition for Mercury's Optimax engines and not a viable alternative to the four-stroke engines that the consumer is increasingly demanding.

Frankly, we are mystified by Mercury's decision to file this antidumping petition. Just as the boat and engine markets are recovering, Mercury is pursuing a strategy, which, if successful, undoubtedly will increase prices in the market. Increased prices could mean reduced demand and impact operating results for many boat builders and dealers. After all, most boat builders and dealers are small businesses with limited financial resources.

Wouldn't it make more sense for Mercury and Bombardier to develop and market the products that the market wants, rather than trying to drive those products out of the market by imposing antidumping duties?

Their problem is not that Japanese prices are underselling them, they are not. Their problem is that they are not making the product that the consumer wants: clean, quiet, reliable, fuel-efficient four-stroke engines.

Thank you for your attention.

MR. DEAL: Good afternoon. I am Scott Deal, President of Maverick Boat Company, a producer of recreational boats for the inshore and offshore saltwater fishing boat market. Maverick sells approximately 1500 high end boats per year under three brands. We package our boats almost exclusively with Yamaha engines at this time.

Maverick has in the past powered its boats with Mercury and OMC engines, but has not considered an alternative to Yamaha in recent years. The reason is quite simple. Saltwater customers, my customers, want Yamaha engines and particularly Yamaha four-stroke engines. Why? Because they are more reliable, they have superior technology and Yamaha simply offers the best service. Yamaha engines increase customer satisfaction with our boats, whereas neither Mercury nor Bombardier would.

As an illustration of this, let me recount an experience we had while we were still carrying Mercury. A dealer requested a number of our boats powered with Mercury engines. While our Yamaha powered products continued to pull through the retail chain, these Mercury powered boats sat on the dealer floor for 18 months without having been sold.

Eventually, we were forced to buy them back from the dealer and sell them at a loss through a wholesaler, which is not good business.

Maverick watches the market closely to ensure that we are providing both our dealers and our dealers' customers with the product that they want, including the engine power in our boats.

During late 2001 and early 2002, we had an availability problem with Yamaha engines. We surveyed our dealers to determine whether they wanted Maverick to seek alternative brands of engines to power our boats or to wait until we could get the appropriate Yamaha engine for their order.

The result was that only 10 percent of our dealers expressed any desire to have boats powered by an engine other than Yamaha. And even of those dealers that wanted them, only 10 percent of that order would be a non-Yamaha engine. In other words, our dealers gave Yamaha an approval rating somewhere approaching 99 percent.

The issue for Maverick and our dealers in choosing an engine is how well it performs and, equally important, how well it holds up in the real world of saltwater boating. The issue is not price.

The minor differences in price that we can

get from various manufacturers simply are not important to us. What is important is that the dealer and the customer be satisfied with their purchase. We can sell a boat for a higher price with a higher priced engine than a comparable boat if it is a quality product that the customer likes and prefers.

Let me give you an example. We sell our Pathfinder brand powered boat for around $9000 more than a competitor, Seafox, who sells a comparable boat powered with Mercury Optimax. The price differential on the final product is nearly 40 percent. We are clearly not trying to compete on price. We are selling a premium product and a premium product has to have a premium engine to power it.

The two U.S. manufacturers simply do not offer a comparable product line or a comparable quality product to that offered by Yamaha.

My plant is only a few miles from the Stewart, Florida test center for Johnson & Evinrude Outboard. I know and have known and am friendly with many of the engineers that work and have worked there. Over the years, they've kept trying to convince me to try their engines and to buy their engines and not long ago I agreed to talk with their sales representative.

The sales rep began his spiel about their great programs and great discounts. I told him that price was not the issue with my customers, it was reliability. We struck a deal. I said that if they would provide me an engine on my personal boat and it were to get through the summer without a failure, then I would agree to talk with them about a pricing program.

The engine broke down twice in the first three weeks, each time resulting in my boat having to be towed in from the Atlantic Ocean. The second time was during a major kingfish tournament. The entire lower unit housing had separated as if the motor were coming apart. Needless to say, we never got to the price program discussion because of the very public failure that this motor had.

I simply will not put myself in a position or my customers in a position to experience this type of negative event in their boating experience.

A final comment on pricing and quality. With the bankruptcy of OMC and the interruption in the production of Johnson & Evinrude engines, the market was quite tight for outboard motors. Indeed, at times we were simply unable to get Yamahas of certain specifications in any reasonable timeframe. Even

then, our dealers did not want us to power with Mercury engines. They wanted to wait until a Yamaha engine was available.

It's not hard to discover why both Bombardier and Mercury have problems in the market. Just visit one of the many Internet forums or chatrooms dedicated to the discussion of boating and fishing topics. Or look through the volumes of recall notices issued by OMC for their Ficht engines which Bombardier has inherited and Mercury for their Optimax engine. The problems with these engines were not isolated incidents affecting a few. These engines had major problems when they were introduced and, at least in the case of Optimax, continue to have problems. And people, the retail customers, know this.

In the meantime, manufacturers offering a full line of reliable four-stroke engines have increasingly captured the market for clean new technology engines. Increasingly, the four-stroke engine equals the two-stroke engine in acceleration and top end performance. We know this because we have tested Yamaha's four-stroke against the same horsepower two-stroke direct injected engine and found the performance in terms of acceleration and top end to be virtually identical.

Indeed, now the preferred engine on our 22-foot Pathfinder, our most popular boat and a boat that can be used in tournaments, is a 150 horsepower four-stroke motor.

In summary, we buy Yamaha because of the product, not the price. It's what our customers want. Indeed, we're not even interested in comparing prices of other manufacturers until they have the product which we can sell on our boats.

Thank you very much.

MR. GOMES: Good afternoon. I am Doug Gomes, Vice President of Sales and Marketing for Grady White Boats. We built 18 to 33-foot boats for saltwater fishing, all of which are powered by outboard motors.

Grady White years ago had an open platform in which we provided pre-rigging for OMC products, Johnson-Evinrude, Mercury outboards and Yamaha outboards. We also offered Yamaha outboards shipped directly from Grady White and later as a package.

Starting with the 2003 model year, we offered either a Yamaha package boat or a Yamaha pre-rigged boat for sale to our dealers. We no longer offer the option of pre-rigging for either Bombardier, Mercury, or any other outboard engine.

While I would not be surprised that Mercury has claimed that they have lost sales to Grady White because of price, this simply is not true. Our customers' experience with Mercury and Bombardier or previously OMC outboard engines was simply unsatisfactory.

This information on customer satisfaction with all brands of outboard engines on our boat has been gathered for over ten years by surveying our owners, both initial ownership and after one year.

It is not a question whether our price from Yamaha is higher or lower than our price from Mercury or Bombardier. The question is whether our customers are more less satisfied with our boats when they are powered by Yamaha, Mercury, or Bombardier.

What we have found is that customer satisfaction with our boats is uniformly lower when they are powered by Mercury or Bombardier than when they were powered by Yamaha. In fact, from 1993 through 199, when most of our decisions of shifting our business to Yamaha were made, our owner surveys indicated that those that were completely satisfied with their Yamaha outboard engines averaged almost 70 percent, while those completely satisfied for Johnson-Evinrude averaged 51 percent and those for

Mercury averaged 53 percent.

Those scores indicated an enormous gap that we simply could not ignore if we wanted our customers to be completely satisfied with their Grady White boat.

I think that the commission staff should understand that there were not great differences in prices that we got from the various engine suppliers when we were pre-rigging for multiple brands. If anything, we were always concerned that our product offerings for Yamaha were higher in the field than for Mercury or Evinrude-Johnson. What is different is not prices, but the product offered by the various brands.

In terms of two-stroke direct injection engines, both Mercury's Optimax motors and Bombardier's Ficht technology motors experience numerous technical problems, not small problems, but major power head problems, when they were introduced in the market, problems which have yet not been completely resolved.

We are aware of these problems and, more importantly, so are our customers. The reputation of Mercury's Optimax and Bombardier's Ficht motors is that they were unreliable and this reputation takes time for the public to trust that those issues are

gone.

While reliability may be less of an issue if you are on a lake or a river within sight of land and can swim to shore, it is of paramount importance when you are alone 50 to 75 miles offshore in the Atlantic or Pacific Ocean, in an enormous bay, or on the Great Lakes. If your engine stops running, it's a serious problem.

While we offer a complete line of Yamaha engines on our boats, including its version of the two-stroke direct injection technology engine or the HPDI, there has been an enormous shift in what our customers buy. Today, approximately 80 percent of the engines that we sell are four-stroke models.

Over the past several years, as Yamaha broadened its four-stroke lineup, we found that there was a dramatic shift by our customers into four-stroke engines, even though these engines are priced at a premium above comparable two-stroke engines.

Mercury and Bombardier are not at a price disadvantage vis-a-vis Yamaha or even other Japanese engine manufacturers. They are at a product disadvantage.

Unreliable two-stroke engines are simply not competitive for saltwater use with high quality clean

four-stroke engines, yet neither Mercury nor Bombardier has a full line of four-stroke engines and those that they have are either sourced from Japanese manufacturers or produced using, in almost all cases, power heads from Japan.

The question is why has Grady White shifted to Yamaha engines. Is it price? The definitive answer is no. Whatever price differentials exist are simply too small, particularly in the context of buying a boat-engine package, to make consumers choose one brand over the other.

We could undoubtedly get as good a price and probably a better price if we shifted our business from Yamaha to Mercury or Bombardier. However, if 80 percent of sales are four-stroke engines, why would we rely on companies that continue to be committed to two-stroke direct injected engines which have the reputation of being unreliable?

Similarly, if 80 percent of our sales are four-stroke engines, why would we rely on a supplier that does not have a full line of four-stroke engines of proven quality?

Finally, if 80 percent of our sales are four-stroke engines, why would we rely on a manufacture that has to import power heads to produce

four-stroke engines rather than relying on the manufacturer that produces those power heads and the engines themselves?

Grady White has chosen to partner with Yamaha not because Yamaha offers lower prices, because it does not, but because Yamaha offers engines that have the best reputation in the market and that helps us sell our product.

Bombardier has yet to make any commitment to four-stroke engines except to import and resell an incomplete lineup from Suzuki. Whether their new E-tech two-stroke direct injection engine will provide them a competitive clean technology engine is open to question, as it is in market acceptance, given the disaster of the Ficht technology engines that they had been marketing previously. However, we have few doubts that the four-stroke engine will continue to dominate the saltwater market for the foreseeable future. Two-stroke direct injection technology has yet to prove itself, while four-stroke technology is already established as the preferred technology, particularly in the saltwater market.

Mercury appears to have finally realized that it must make a commitment to four-stroke technology. While introduction of its "product X"

four-stroke engines has been repeatedly delayed, it now appears that Mercury will finally bring its own four-stroke engine to the market. However, for Mercury to gain a foothold in the four-stroke market, it will need to have a full of four-stroke models, something that is at least two or three years away.

It will also have to overcome the problems it has typically had with product introductions, namely, a product that will work and be reliable.

In closing, let me reiterate that our decision to commit to Yamaha was not a price-based decision. I am confident that everyone sitting at this hearing, no matter which side of this issue they represent, all know that Grady White Boats makes market-driven decisions based on the expectations of our customers, not in buying the cheapest materials or engines. Indeed, we undoubtedly could have gotten lower prices from either Mercury or Bombardier; however, our Grady White vision is together to deliver the ultimate boating experience and based on our customers' responses to our surveys, we could only accomplish this goal by offering Yamaha outboards.

The evidence of our decision is that for the last three years in a row we have won J.D. Power and Associates' highest satisfaction in saltwater fishing

boats. Why does Grady White power with Yamaha outboards? Because they have proven over the years to offer the best combination of excellence in product technology and reliability.

Thank you very much.

MR. HADDON: Good afternoon. My name is John Haddon. I am Vice President and General Manager of Sea Witch Marine in Vista, California, near San Diego.

Sea Witch Marine is a large outboard motor dealer devoted to the saltwater market with annual sales of about $7 million. Sea Witch Marine has been an outboard motor dealer since 1970, originally carrying exclusively Johnson & Evinrude products. However, beginning in the 2002 model year, we became an exclusive Yamaha dealer. Why we turned to Yamaha is an interesting story.

Beginning around 2000, the market for outboard motors in California began to switch overwhelming to four-stroke. This was prompted in part by the California Resources Board and the Environmental Protection Agency rules requiring cleaner burning, lower emission engines.

The consumers, particularly in California, were eager to move to the four-stroke engine as being

much more environmentally friendly than the old two-stroke engines. Outboard Marine Corporation, which then made Johnson & Evinrude engines, did not manufacture high horsepower four-stroke engines and neither did Mercury.

OMC's response to the demand for clean burning engines was to introduce in 1998 the Ficht engine, a two-stroke direct injected model in high horsepower engines. The Ficht engine sold very well at first, but quickly proved to be a disaster. The engines literally failed about 75 percent of the time. Customers brought the engines back in droves. The Johnson & Evinrude products quickly developed a terrible reputation that were difficult to sell, even when packaged with a proven boat brand.

We continued to struggle with the Johnson & Evinrude engines, still being an exclusive dealer for them until December 22, 2000, when OMC suddenly announced its bankruptcy. We were completely blindsided with no advance notice whatsoever from the company. We suddenly found ourselves with unfulfilled orders, no supply of the products we had been promoting for 30 years. At this time, we were left with $1.6 million inventory with no warranty, no availability and an uncertain Johnson & Evinrude brand

name.

We knew that it was time to go shopping for alternative suppliers. In our search, we looked both at Mercury and Yamaha. We looked at customer satisfaction surveys and evaluated a variety of factors. We took on Mercury as our main outboard brand in January of 2001. However, we were still fighting a four-stroke demand with two-stroke product offering. To make matters worse, Mercury's large engines, Optimax, had similar failure rates to the Ficht engines.

We concluded that there simply wasn't enough customer interest in Mercury engines to make the product worth selling. In short, we moved to Yamaha as a result of poor performance of Johnson & Evinrude, Mercury's Optimax, and the OMC bankruptcy.

We believe that many other dealers experienced similar situations and that Yamaha gained market share largely by replacing OMC's engines after the company went bankrupt.

Mercury might have hoped to pick up some of OMC's market share, but they simply didn't have a reliable product that customers wanted to buy. Yamaha's gain in market share, on the other hand, has never been about price. In fact, Yamaha engines are

almost always more expensive than Mercury's or Johnson's.

Because of Yamaha's credibility in providing a high quality product, our customers don't question the higher price, in some cases, a much higher price. From our point of view, we can make more money selling a product that the customer wants and that performs reliably than we can selling brands with limited high horsepower products that customers just won't buy, even when the domestic product is cheaper.

In the saltwater market in California, Yamaha has proven to be the only profitable choice.

MR. KALIBAT: Good afternoon. My name is Jeff Kalibat, President of K&K Outboard, established in 1962.

We started handling Mercury outboards in 1968. Growing up with Mercury, I had a great love for their product, but Mercury started to lose their edge as their quality began to diminish.

In 1984, we started selling Yamaha outboards along with Mercury. Yamaha had better quality and added features and we saw the Yamaha sales grow as Mercury sales fell.

By 1990, Yamaha sales surpassed Mercury sales. Our customers demanded the higher quality

product from Yamaha.

From the time we started selling Yamaha to the present, the customer was willing to pay a higher price for a higher quality Yamaha motor.

In 1999, I terminated my dealer sales agreement with Mercury. The two main reasons:

(1) There were other Mercury dealers selling motors for less than I could buy them for because of under-the-table pricing programs;

(2) Mercury quality had become intolerable. The joke in our shop was the recall book from Mercury where they tell us how to fix their design flaws. In one year, it was bigger than the Yamaha book for the last 1 years.

At the present time, I do not sell Mercury engines, but I have a 140-foot marina with a number of boats with Mercury engines. Our service shop still sees Yamaha quality exceeding Mercury's, especially the Mercury Optimax, that sounds like there are a few extra bolts rattling around in the engine.

Our local sea tow, a major boat towing operation, has both Mercury Optimax and Yamaha. The owner comments that he has a twin-engine boat with Mercury Optimax, he has never come back with both engines running, but the Yamahas always keep going.

Yamaha is a superior product than Mercury. They have always been more expensive to purchase and service. Quality is what sells. Yamaha has it, Mercury does not.

Additionally, the customer demands four-stroke technology, which Yamaha has a full line of products offered, while Mercury does not.

I have a letter from Mercury Marine to K&K Outboard dated 10/22/01. It shows the way Mercury changes the facts to hide from the truth and ignore their shortcomings. It states, "The reason for termination of your dealership contract is as follows: no longer operating a dealership at the above address."

The facts are K&K Outboard terminated their contract and are still operating at the above address.

Yamaha sells at a higher price than Mercury's, Yamaha's warranty repairs are less frequent than Mercury's, Yamaha's customer satisfaction is higher than Mercury's. Yamaha has quality, new technology that meets EPA and customer requirements that Mercury does not.

I say to Mercury, do not spend money on attorneys. Spend your money on producing a quality product, then your customers will stop leaving.

Speaking from firsthand experience, selling quality Yamahas at a higher price is easier than selling a poor quality Mercury at any price.

Thank you.

MR. VALOT: Good afternoon. My name is Brian Valot. I'm the owner of Attwood Lake Boats in Mineral City, Ohio.

Attwood Lake Boats is one of the country's largest dealers in the freshwater market, with annual sales in the neighborhood of $6 million. We have been in business for over 29 years and have been a Yamaha dealer since 1985. We used to carry Mercury engines as well, but terminated our relationship with Mercury as a supplier in the late '80s. We also continue to carry some Johnson & Evinrude engines, mainly as repair operation.

The reason we ceased connections with Mercury in the late '80s and do not carry Johnson & Evinrude's full line is that these companies have produced and continue to produce inferior product.

Part of the problem has been their inability to make four-stroke engines which today's customers increasingly demand and that are increasingly necessary to meet environmental restrictions. Both Johnson and Mercury have tried to adjust to this

change in market demand by manufacturing two-stroke direct fuel injected engines, but both companies' efforts have been dismal failures.

Johnson introduced the Ficht engine to the market before it had worked out the problems with the technology. The result was a nightmare. The models that used this engine were always in the shop. Mercury had had a very similar problem with its two-stroke fuel injected engine, the Optimax. As a result of these and other problems, both Johnson and Mercury have developed a reputation for producing poor quality unreliable engines.

Yamaha, on the other hand, has had a reputation for high quality reliable engines. Year after year, Yamaha comes out on top of the J.D. Power customer satisfaction surveys. Our experience has been that customers are well aware of quality differences between the engines and would rather have a Yamaha than a Mercury or a Johnson & Evinrude.

Let me stress that the reason we as a dealer have chosen Yamaha over Johnson and Mercury has never been price. Yamaha engines are generally more expensive than Mercury or Johnson engines. From a dealer's point of view, however, we end up making more money on a Yamaha product that we can sell, a product

that our customers want than on a Mercury or Johnson engines that the customer won't touch. And we do better with a product that starts out of the box, like Yamaha's, than we will with a product like Mercury's or Johnson's that is going to be in the shop all the time.

We stay in business by having satisfied customers. That happens with the Yamaha engines. It doesn't happen with Mercury or Johnson. I am truly baffled that Mercury has filed this case alleging that Yamaha was gaining market share by underpricing U.S. made engines. Nothing could be further from the truth. Yamaha sells one of the most expensive products in the market. They have gained market share by selling a top quality reliable product, backing it with outstanding customer service. Their market share has been built entirely on quality, not price.

Thank you.

MR. MUDGETT: Good afternoon. My name is Jack Mudgett and I'm the President of Action Marine, Inc. of Powers Lake, Wisconsin.

Action Marine is a large dealer specializing in the freshwater market. Our outboard motor sales approach $1 million a year. Action Marine started out in 1985 selling exclusively Mercury and Johnson &

Evinrude engines. In 2001, we began selling Yamaha engines. Our sales are now about 75 percent Yamaha engines with the remainder split between Mercury and Johnson & Evinrude.

Action Marine's switch to Yamaha has been a long cumulative process, but it was given a big boost when OMC, which manufactured Johnson & Evinrude engines, went bankrupt in 2000. At that time, we were caught completely by surprise. We had sold a number of Johnson & Evinrude engines which were still under warranty, but with the bankruptcy, their warranty was no good any more. We had to absorb the cost of warranty repairs ourselves. Needless to say, from then on, we really didn't have much interest in dealing with Johnson & Evinrude. We had to find a better source of supply.

As we looked around for suppliers to replace Johnson, we found we really weren't interested in increasing our purchases from Mercury. We had dealt with both Mercury and Johnson for years and they continuously had problems with the quality and performance of their engines. The problem became particularly acute when the market started to move to four-stroke technology.

Mercury and Johnson, which could not make

four-stroke engines, introduced two-stroke direct fuel injected engines, both of which proved to be a disaster. Evinrude's Ficht engine was horrible, but Mercury's Optimax was, if anything, worse.

While Mercury would put a five-year warranty on many of its engines, that warranty does not make the consumer any happier if his products always in the shop.

We have one of the largest service departments in our area and a good 90 percent of our engines you see in the shop at any one time are Mercury and Johnson engines. No dealer wants to have that kind of service obligation. In this business, you make money on sales, not on warranty. So when we looked for a new supplier, we looked to Yamaha.

Let me emphasize that our turning to Yamaha was not ever based on price. In fact, it's been my experience that Yamaha engines are always more expensive than comparable Mercury and Johnson engines, but customers come to me for Yamaha because they know their quality and reliability and they are willing to pay more to get it.

I can sell Yamaha engines because of their quality. Customers want the best motor they can buy and that is Yamaha, even if it's more expensive.

Thank you.

MR. BARRINGER: Do we have a little more time left? Mr. Jacobs has a couple of comments. I don't know how tightly you've been timing this. By my watch we have about four or five minutes left?

MR. CARPENTER: You have several minutes left. Are there any other witnesses who are going to speak?

MR. BARRINGER: I think we've gone through all of our witnesses. Mr. Jacobs would like to make a couple of comments in that four minutes.

MR. CARPENTER: Yes. Go right ahead.

MR. BARRINGER: Cut him off when he's finished and then we'll do questions. We have company representatives here as well, if you have questions of them.

MR. JACOBS: Thank you very much. After listening to Mercury's presentation and having a copy of it here, since they made me their key witness in much of their presentation, I thought I should respond to what they said I said. And if you go to page 1 for an example, they talk about where I was quoted as saying "We've got the most fierce competition engine business I've ever seen."

The fact is they are right, that statement

is absolutely correct. Unfortunately, Mercury wants you to eliminate that, the competition, and win by default with U.S. government protection and intervention.

I have always believed that we lived and practiced the free enterprise system in America. Mercury obviously believes otherwise. They would prefer and they're asking the U.S. government to reduce competition so that they can increase their profits at the expense of the American consumer.

On another slide, Mr. Sheller referred directly to me, on page 7, "Japanese producers underselling the domestic industry," and he's talking about quotes that I made.

Mr. Sheller's statement regarding this slide is totally wrong and absurd because his friendly U.S. competitor, Bombardier, is more competitive than Mercury is today and nowhere did Mr. Sheller state that fact. Again, Bombardier is not only catching up with Mercury, but I think has surpassed Mercury's quality in two-stroke outboard engines.

The J.D. Power recent 2003 survey confirmed that fact. Imagine in just two years after a company goes bankrupt, OMC Bombardier is now looked at as the quality leader of two-stroke engines based on the J.D.

Power independent survey.

On page 8, again, referring to me, the Japanese targeted, and there was a statement made, what I said had nothing to do with quality regarding this statement.

Frankly, that is true. I never stated this slide was about quality because if I was going to express my real opinion as to the quality, to bad mouthing Mercury's engines, instead I let the market make the decision as to Mercury's quality and, quite frankly, if I would have given my opinion as to what it as at that time, based on our experience at Genmar, I'm sure they would have sued me for slander.

Further, on page 23, there is a group of things here that says price is established by discounting from base price. I think it's really important to understand Genmar has approximately 2300 dealers that represent our products. Obviously, we are in constant contact with our dealers. We know what deals the engine companies are giving them to display their engines or what they put on at boat shows and what they're paying for marketing and all of this that I'm seeing here, of all this money they claim that's being paid by the Japanese to take this business away from them, I don't believe that there's

another engine manufacturer in the entire world that spends more money any way they can or have to in order to force their engines into the marketplace.

I believe that Mercury spends more money than all of the engine manufacturers combined in what this slide on 23 days. Calling the kettle black is what this is really all about.

Thank you very much.

MR. CARPENTER: Does that conclude your testimony?

MR. BARRINGER: Yes, it does. Thank you.

MR. CARPENTER: Thank you very much. We appreciate this panel of witnesses coming here today to testify. Your testimony is very helpful.

We'll begin the questioning with Mr. Reaves.

MR. REAVES: Just for the record, how much of the boat building business, at least the boat building business that uses outboard engines, do you four boat builders account for? Do you have any estimate?

MR. JACOBS: I can speak to Genmar. We are approximately 20 percent of the industry.

MR. REAVES: The whole U.S. industry?

MR. JACOBS: Yes.

MR. DEPUTY: If he's 20 percent, we must be

4 to 5 percent.

MR. REAVES: You're 4 or 5 percent?

MR. DEPUTY: In units.

MR. REAVES: In units. I said the same thing, in units.

MR. DEPUTY: Units. Yes.

MR. JACOBS: That would be engines that we purchase, which would be approximately 20 percent, too.

MR. REAVES: I'm adding 20 to 5, we're talking about 25 percent of the industry.

And you other two folks?

MR. GOMES: Well, we're a small player. We're probably 1 or 2 percent. Probably 1 percent.

MR. DEAL: We're a small player as an individual, but representing as chairman of the largest buying group, we represent, using Mr. Jacobs' number, approximately an additional 10 percent.

MR. REAVES: So we're talking probably about somewhere between 30 and 40 percent of the boat industry that you're speaking for now?

MR. DEAL: That's not owned by another engine company.

MR. REAVES: Okay.

MR. BARRINGER: I think it's important to

understand that you could fill this building up and the building across the street with people who would love to come here and tell you what this is all about. Obviously, this is a large group for an hour.

MR. REAVES: Obviously, but we want to give the commissioners some kind of weight on your comments and that at least preliminarily will do that.

MR. BARRINGER: Can I just make one comment and put the numbers in perspective?

Brunswick is one of the largest producers of boats and it only powers its boats with Mercury engines and they also have an exclusive long-term contract with Tracker, which is one of the largest producers of boats, such that Tracker can only use Mercury engines. So if you take those out and you're looking at what is the competitive marketplace, these gentlemen here probably account for more than the percentage that they account for of boat building.

MR. JACOBS: Substantially.

MR. REAVES: Thanks for that clarification.

A preliminary glance at the data would lead one to believe, at least the data that we have available here, would lead one to believe that if imports are gaining a market share at all, they are gaining it in the original equipment manufacturing

market, that is, the boat building market, and I think you folks have gone to some detail this morning to explain why that is.

At least for Yamaha, I'd like to invite now any comments from any representatives we have here from Suzuki, Honda and or Tohatsu to address that question of why the market is shifting to imports. If you have any experience in these engines other than Yamaha.

MR. VANDIVER: Good afternoon. My name is Larry Vandiver. I'm the marketing director for American Suzuki Motor Corporation, who is the importer and distributor of Suzuki outboards in the U.S.

To answer your question very, very quickly, what we have found is as we've moved into the four-stroke arena, first of all, because of the EPA, but what the side event has been is that the customer has seen better durability, a better motor and that has allowed us an opportunity along with, quite frankly, the demise of OMC, has allowed us an opportunity to increase our business with boat builders.

MR. REAVES: Any comment from Honda or Tohatsu in this regard?

MR. TERRY: Good afternoon. I'm Wade Terry

with American Honda.

We only make four-stroke outboards and only have made four-stroke outboards since 1973. The unit that we introduced in 1973, the 7.5 horsepower, met the 2006 EPA standard at that time and still would today.

At Honda, we have an acronym of QDR, quality, dependability and reliability and since 1959 over 50 million U.S. consumers have bought various products of ours and that reputation has built upon itself and built upon itself and so in all of our surveys, we find that it's that reputation for quality, dependability, reliability that makes the difference. Certainly in the outboard market it is not price.

MR. REAVES: So you're also finding -- I know you can't speak for the dealers themselves, but you're also finding that your shipments have increased to dealers relative to, say, to U.S. producers, because of customer preference or reliability and dependability of the engine.

MR. TERRY: Exactly. And we have introduced higher horsepower four-stroke models over the last several years, that each time we introduce one we are able to sell into a new segment of the market.

MR. REAVES: Now, this leads to another question. I think Mr. Jacobs mentioned that they would prefer -- we all know that Mercury provides engines, U.S. produced engines, with -- we'll call them U.S. produced for the sake of argument -- with Yamaha power heads, but, you, Mr. Jacobs, said something very curious. You would prefer to buy an engine that was all Yamaha rather than part Yamaha.

Is this a general attitude throughout the ind?

MR. JACOBS: Let me just answer why I said that so that maybe you can ask them individually.

There's no secret to what we said here. The industry is really our dealers. They're the people that go out and sell this product every day. We can't talk to the consumer, we talk to the dealer. The dealer in turn makes that presentation.

I heard earlier today where they said, you know, if the dealer doesn't have the right product, doesn't give them an alternative, you have to sell them the engine that's on the floor, I heard Mr. Sheller say earlier.

The fact is that dealers have multiple engine supplies. They give the customer what they want. And I guess what I'm ultimately saying here is,

look, the idea behind giving the dealer what they -- they know better than anybody knows what the service level of that product is, whether it's working or not, and they don't get paid for aggravation, they get paid for selling something to make a profit with. So I think it's very clear that what you're hearing here today is that when you have it, you have it, and you don't, you don't. And I think it's quite clear what's going on.

When you talk about people like Bombardier, we're the only people -- we're their biggest customer today. I can tell you their engines are working just fine. We aren't having any problems. I've heard all the bashing of Bombardier here today, it's wrong. It's absolutely wrong. They have new engines out and they're doing a great job with it. But people haven't heard about it yet.

Our customer, we want to see them and we want to sell engines produced in America, but the fact is we're going to give people what they want.

MR. REAVES: Let me ask you this. Have any of you had experience with Mercury's imported engines, engines imported from Japan?

MR. JACOBS: Yes, we have.

MR. REAVES: Is there any difference in

dependability and reliability in those engines than those that you know of produced in the United States?

MR. JACOBS: Let me tell you exactly what happened. Approximately -- I'm going to say a year ago, I don't know if it's 18 months, they were getting hurt so bad in the marketplace without a four-stroke, large 225, I think, 225 engine, that they announced that they were going to have a new four-stroke 225 horsepower engine, like in a matter of weeks or moths, I don't know what it was.

Well, it turns out this was the existing Yamaha engine that they were putting their cowling on, their cover. They didn't even touch this engine from the standpoint -- and the reason they came out with this engine is because their Boston Whaler dealers were screaming so loud that they couldn't sell their boats with Mercury engines on them, they had to have four-stroke engines.

We contacted Mercury and said, look, we'll give you an order for some of those engines since we know they're Yamahas and they said, well, we have to allocate them. I think our people at the spoke to them and said -- I think they were bringing in 3000, is what the rumor was or what they told us. We offered to buy a substantial portion of those.

They said, well, we have to allocate them because we've got to take care of everybody.

Well, it backfired on them. They ended up where they didn't use all those engines because everybody found out they were Yamaha engines and why not buy Yamaha engines than by a Yamaha engine with a Mercury top on top if to?

That was directly relating to a situation that they tried to deal with where they had a real problem that they really tried to cover up the fact that this was a Yamaha engine. And that was a complete Yamaha engine.

MR. REAVES: Well, do any of the other of you have any experience with U.S. produced four-stroke engines versus those that they produce in Japan?

Have there been any specific tests with those or any customer perception of a difference of those two engines that you can enlighten us on?

MR. DEPUTY: This is Bob Deputy. I cannot get into the technical pluses or minuses on the product. From our perspective, I think the Mercury four-stroke product is fine. I think the real key to this is that when the four-stroke product was introduced to the market, Brunswick Corporation and OMC Corporation at that time looked upon that product

as something that was not going to be successful, whereas Yamaha and the other imports looked upon that as something that did solve the emissions problem and so invested to develop the product.

What we found is that because of the success of both Honda and Yamaha, who were the early leaders, the customer -- this is a very small industry, the consumer said these things work, we don't have to put oil with the gas, we don't have to do all this extra stuff, the engines are quiet, they're 30 percent more fuel efficient, and so in effect they, the consumers, the ultimate buyer is the one that went to the dealer and said I want a boat with a Yamaha or Honda on it because of the four-stroke technology.

Now, as Mercury moved into it, because they were forced to, and they used them co-building with Yamaha which is fine, the product is fine, but the product availability wasn't there. When the market took off and the consumer said we want -- in the primary case, 75, 90 or 115 horsepower motors, Mercury did not have them. They put everybody on allocation, whereas Yamaha had product available and the consumer is the one that drove this whole thing. And at this point, from my personal opinion, the new E-tech from Bombardier may be fabulous. The problem is, they've

got to get them in the hands of the consumers, the consumers have to be happy with them and not have problems with them. If the engine is everything they represent it will be, it will be a factor, but until it's in the hands of the consumer and they're using the engine and happy with it, right now, it's marketing and it's got to get there.

The four-stroke product from most of the imports is a pretty darn successful well-proven, well-accepted product by the people who are paying the bills, the ultimate consumers.

MR. REAVES: So have you seen any improvement in the customer perception of the U.S. produced engines in the last year or so or is it still at fairly low levels?

MR. DEPUTY: I don't think that the consumer has had a problem with the four-stroke engine coming from the domestic producers. The consumer doesn't necessarily know that the Johnson engine is built by Suzuki, all they know is they've got a Johnson engine, it's four-stroke and it works, it's pretty good. And so I think that the problem they've had is much more focused on the old direct injection Optimax and they've worked to solve their problems, but to my knowledge the four-stroke product, part of its success

has been when it was introduced it was ready. They didn't use the retail consumer to do their testing. The companies had already done their testing and so when you opened that motor, put it on the back of the boat and ran it, the darn thing worked and so people were real happy. And they were even more happy when it really did get better fuel economy. And when they really couldn't even hear it running, it was so quiet.

So I don't think it matters whether the engine was built or marketed by a foreign company of by a domestic company for whom the foreign company had built it, the product seemed to be pretty darn good.

MR. REAVES: Well, what I was hearing from some of the other dealers -- well, not dealers, but boat builders -- was that part of the reason that they were shifting, well, in this case, mostly to Yamaha, was because of the reliability or perceived reliability and dependability of the engine relative to the U.S. produced engine.

MR. DEPUTY: That's the U.S. produced direct injection engine. I think the thing everybody misread, the dealers misread it and most of the manufacturers misread it, is that when the EPA issued their 2006 rule and said you're going to have clean engines by 2006, when the four-stroke was made

available at the proper size, at 40 or 50 horsepower, to the consumer, the consumer wanted it. The dealers weren't ready for it, the manufacturers weren't ready for it.

The consumer said, hey, we'll pay more for it if it's clean, it does what you say it does, even though it costs more, we'll pay for it. And I don't think there ever was a major problem with four-stroke engines as they were being introduced, irregardless of who brought them in.

MR. REAVES: From whatever source?

MR. DEPUTY: From whatever source. The dealers can tell you better, they deal with the product, but I think that the Ficht and the Optimax, the direct injection two-stroke, there were some problems.

MR. GOMES: Doug Gomes with Grady White. It's not a matter of the reliability of whether the four-strokes are produced by Mercury or Johnson or Suzuki. They all seem to perform well. It's a matter of product offering. Do they have enough to make a difference in a boat building operation?

We can't live with one single offering in a 225. Our engines are 115 up to 250, but our core is around 200 horsepower. We need a lot of those engines

and a lot of offerings, 150 four-strokes, 115s, 200s, 225s, 250s. So it's a matter of do they have the product offering at the timing when the market was changing. And for whatever reason the domestic manufacturers were very slow out the gate on those and they were betting more on the direct injection and steadfastly sticking to that, even if their backroom R&D was doing all they could do on four-strokes, I'm not privy to that, but all I can say is when they introduced them, what was in the marketplace, for us it was a no brainer.

I mean, Honda, he's correct, they've had four-strokes for a long time, but never offered a lot of product at one time. Now they're starting to come in and have a full product line, but Yamaha for whatever reason adopted it very early, very aggressively, and came out with a product.

We wouldn't have any problem if Mercury had a four-stroke that was out in the marketplace and was reliable and produced.

Now, that said, I still would have questions based on our experience that the domestic manufacturers -- I'd still like to see them produce a four-stroke and have it out in the field for a year or two or three and see how it goes. Our customers do

not expect us to let them be the guinea pigs for product development. They want proven technology out there. And so we would be suspect, just based on the history, but certainly if Mercury brings a four-stroke product to the Miami Boat Show and it's the greatest thing since sliced bread, we'd have interest, even as a Yamaha customer, we'd have interest. But it's going to take a while for us to see them have it out in the field with customers to make sure that the quality and reliability was there.

MR. DEAL: Scott Deal, Maverick Boats. And another thing is that there's a halo effect in product lines, both positive and negative, and just because you might happen to have a 40 four-stroke that runs beautifully, it's going to be tainted by the rest of the negative or positive attributes of the rest of your product line. Yamaha took advantage of the high reputation that they had of their entire product line when they introduced their four-stroke. They got a bounce off of that. I would assume that Bombardier/Evinrude's four-strokes that were built by Suzuki probably suffered somewhat under the negative halo of the Ficht and the other problematic engines that they had in the market at the time.

It's a word of mouth business largely. My

buddy had an Evinrude that blew up, I'm going to get a Yamaha. My buddy had a Yamaha that didn't blow up. Now, do I want a four-stroke or do I want a two-stroke? I think the halo effect is certainly in play.

MR. JACOBS: This is all well-publicized, I'm sure you can pull it from the archives of the Internet or wherever else, but Mercury has been talking about putting out four-strokes, as long as I remember, about four years. It's coming, it's coming, there's new four-strokes. It's been four years.

They now say they're going to have it in Miami in February, but it isn't a whole line of engines. And to have our dealers or our companies all of a sudden jump into -- if it was the best, you'd have one or two engines. It takes time to do this. And they're very late. You've got to remember the Japanese started this 15, 16 years ago, so they are way ahead of them.

But I think what really is remarkable about this whole thing is there was a recent statement by George Buckley in the publications that said I don't necessarily agree that four-strokes are going to continue to grow. He said he thinks the Optimax is

the ultimate solution.

Now, you're sitting here today listening to all this, and all due respect to Mr. Buckley, I mean, I have a lot of respect for him, but I've got to tell you, maybe he believes it, but if he does, it isn't the way it is. The four-strokes are moving. And I think he's trying to buy time with what all this is, but it isn't working.

And, by the way, we don't really care -- I told you earlier, I don't think anybody here cares, in all due respect to Yamaha and the other people here, they're getting our business because they earned it. I mean, they're friendly, but, you know, that just goes so far. I'm not going to spend tens of millions of dollars a month because they're my friends.

MR. REAVES: Well, what I'm gathering from these last two or three statements is that having a full product line to offer a boat builder is a very, very important issue for several reasons. Would one of these reasons perhaps be related to offerings of, say, a four-stroke engine of one horsepower at a lower price because offerings of another four-stroke engine at a higher or lower horsepower in addition to that would also be in the making? Are there deals that

involve the full product range, as opposed to just one horsepower or another?

MR. JACOBS: Oh, for sure. I mean, I don't think there is a manufacturer sitting at this table that doesn't need the full range of horsepower. You just heard Grady White, what they need.

I mean, you can't sit and have one of these at 225 and have another brand at 115. You've got people that have parts and service and they've got to be consistent with their customers there to make sure that they can deliver this.

But, you know, there's an interesting point here that you reminded me of. You know, if you come out with a new product today, unless your name is Gucci or Mercedes Benz or something out there that you have that standard of excellence and you get a premium for it, if you have the taint or the problems in the marketplace that you're hearing about here today and suddenly comes a new product, they're not getting a premium for that product. Quite they contrary. They're going to have to bring that out in some enticing way of getting the market to try it. And then if it works, you win the marketplace. There's no question about that.

You're not going to get a premium. It could

be the best engine ever built, by the way, no one is going to pay you a premium for a Mercury four-stroke based on their history any more than they will today for a Bombardier and Bombardier, as I told you, is a great engine. I mean, they're not our biggest supplier, Yamaha is today.

So I'm just trying to tell you that they'd better make up their mind that if they're going to come to market with this whole series, that may be what this is all about, is the pressure that they're going to be under with which to compete in this market. They may have to do some things to win the market that is going to be very distasteful or hurtful or painful to them to get in the marketplace and just to have you raise the duties or tariffs to do it for them, that's not the way life is all about, we don't think anyway.

MR. GOMES: I think you're asking also is there an advantage to having a volume --

MR. REAVES: Incentive. Yes.

MR. GOMES: And certainly there is and that goes only so far. In other words, if we had three cushion suppliers, I doubt that we'd have the best prices we could if we put all of our business with one cushion supplier. But that only goes to one facet of

it and the other facet of it is it doesn't matter to the customer if I have the lowest priced cushions and the best volume if the cushion disintegrates in saltwater. The same thing with the engine.

I want to supply the engines that our customers are asking for and the customers and the marketplace are saying whenever there's a four-stroke, 80 percent of them switch right over. In our brand. Immediately. It's like night and day. It shocked us the first time it happened, but every time Yamaha introduced a new four-stroke horsepower engine, we got smart, we understood right away it was going to switch.

And so that's a big part of it, so it's double -- yes, it makes more sense, I'd love to have two qualified suppliers, I hate to put everything in one basket, but it is more advantageous if you could put it at least in two, rather than three or four or five. But the fact of the matter is Irwin, he's smart enough to know, he's not going to put engines on his boats that the dealers say I can't sell, they sit there and the consumer is not buying it. I don't care how smart he is, he can't survive that. They've got to move through the showroom and that's what happens, is that when they don't, it doesn't matter to me if

I say, okay, I love Yamaha and the consumer says, well, we want Suzuki. Well, guess what? I'll be calling Larry and saying we need some Suzukis, if that's where the market is.

MR. REAVES: Even though Suzuki couldn't offer you a full product line?

MR. GOMES: No, they would have to be -- and they're starting to develop the same way, but certainly that would be a consideration because then you get into frustrating a customer if you're saying, hey, I'm going to go with XYZ engine supplier and he can't supply them. We don't want to get into that situation either. But the bottom line is over the years, as we looked at our survey, our customers really forced us to make the decisions on what product to offer.

MR. VALOT: Irwin is right on the acceptance. Being a dealer, when Yamaha brings out a new product, it's immediately accepted. When Mercury comes out with a product --

MR. REAVES: Because of its reputation.

MR. VALOT: Because of its reputation, we'll say we'll wait a year or two before we purchase it, we'll let somebody else. That is not an issue for me with Yamaha. It comes out, it sells and it's quality.

Mercury doesn't produce a quality product sometimes and they have to correct those issues and it just hurts them right down the line.

MR. REAVES: Well, I could pursue this line of questioning all day. In the interests of time -- maybe some of my colleagues will pick it up.

MR. CARPENTER: Ms. Driscoll?

MS. DRISCOLL: Hello. I don't have a whole a lot of questions, but first of all, I think you're all going to jump up at this, in terms of the market moving to four-stroke versus the two-stroke DI, it seems what I was hearing from Mercury was that there was some question in their minds as to whether it was moving towards the two-stroke DI, but what I'm hearing from, I think, most of you, is that you believe that the market is definitely moving towards a four-stroke.

MR. GOMES: Well, for us, it's kind of interesting -- you guys asked some great questions, but I thought what is it that attracts a person to go from a direct injection in choosing either a two-stroke direct injection or a four-stroke? And you heard that, you know, the weight and all that type of thing, but the bottom line is you don't need to use oil with a four-stroke engine. You don't have to mix oil with four-stroke engines.

Well, for saltwater, when you go offshore and you're going a long way off, you don't want to have to worry about whether you have enough oil. It's in a separate container and it mixes with the gas and you have to pour it in and you've got to go through that hassle.

Well, the four-stroke is self-contained, there is no adding of oil. And then on top of that, it's a quieter engine. So for our marketplace, for our brand, saltwater fishing, that's what our customers were choosing. They don't even come in saying we want a direct injection comparable engine.

Now, I understand some markets may be different, like the bass market, but for us the customers don't want to mess around with oil and they like the quieter engine plus the reliability.

MS. DRISCOLL: Would anyone who handles the freshwater market want to comment on that or the bass market?

MR. BARRINGER: Can I just make one comment? Because I think one of the things we asked would be in the questionnaire and I think someone has now --

Bob, I think maybe you asked for it, was that we get a breakdown of two-stroke, two-stroke DI, and four-stroke.

We have that for Yamaha, okay? It shows their direct injection is flat, their two-stroke carbureted is down and their four-stroke is like that over the POI.

Now, not everyone can do that. Honda, obviously, can't do that because they only have four-strokes, but Yamaha has a full line in all of the areas and that's simply what is happening and I think that illustrates what the trend is and what the customers want.

MR. DEAL: One thing I can speak to, one of the brands that I build is called Maverick and we're a very super light, technically constructed carbon fiber and kevlar product line that's made for use in super shallow water and tournament technical fishing. I was very much convinced that the four-stroke products would not work and would not be accepted by our customers when they were initially introduced because of the additional weight.

The bottom line is I was way off the mark. Our customers have made the decision that, yes, they understand they're a little bit heavier; yes, they understand that maybe some of the motors don't have the low end torque, some of them do; but they want them anyway for the reasons Doug was saying. They

said I'll put up with that, it's just that much better a motor. And I did not expect that to be the reaction of the consumer.

MS. DRISCOLL: And that's freshwater as well? That's saltwater?

MR. DEAL: Saltwater.

MS. DRISCOLL: Okay.

MR. JACOBS: We have thousands -- I mean, we probably make 30,000 if not more, maybe 40,000 boats for freshwater and I can tell you that I also in the early days of the four-stroke, particularly when Honda came out first, I said who's going to put that monster on a boat? It will sink the boat. I mean, when I looked at it, it looked like it would weigh it down.

Well, the fact was that there was a lot of very -- it came up very positive to the marketplace, but the price was so high relative to what two-stroke was that I said it won't work.

And the fact was it really didn't take off in the Honda regime as much as until Yamaha came along and when Yamaha got serious about the business, that's when -- they built it a stone at a time. Yamaha didn't come in and everybody bought their engine. It didn't happen that way. I can tell you, we started doing business with Yamaha and we stopped for the most

part because, frankly, their engines were so high priced that we couldn't afford to compete in the marketplace and they came to us and they said, look, we're going to sell you a quality engine that you can depend upon and some day you're going to want that product in the marketplace.

Well, I don't send them letters reminding them of it, but the fact is that's what happened and it had a lot to do with their getting in the market, but it was a long process, it wasn't overnight.

I mean, when you look back, what's happening today is there's such a lag between what they've done and the Mercury situation.

And let me just tell you something. I'd say it here if every manufacturer was here, honest to God, I want to see Mercury put out a good engine. I have no problem, I'd love to see that and have more competition in the marketplace and have good products out there. But they're handing the market -- I mean, they basically -- Yamaha was given the market and they won it based on what they've got it out there, from the standpoint of what they've got, so freshwater, I can tell you, it's traveled everywhere.

People are buying an aluminum boat today that costs literally 8000, 10,000, 12,000 and they're

putting 8000, 10,000 dollar engines on there, four-strokes. I mean, it's again the price of a boat. I never thought I'd live to see that. But the fact is that that perception -- it is a reality, but there's a perception now that says, you know, you buy a four-stroke, these are lakes, people want to take care of their lakes, they're clean; you know, the sound and everything else, there's an awareness to that today.

MR. CARPENTER: You're agreeing that the market is --

MR. JACOBS: It's a landslide. I never dreamt we'd be 50 percent.

MS. DRISCOLL: I have another question for you. You said very quickly in your testimony -- you turned to the exhibit on page 23 on the discounts. You essentially were saying that you thought that Mercury did a similar type of discounting? Is that correct?

MR. JACOBS: No, not similar. Way more.

MS. DRISCOLL: Way more? Okay.

MR. JACOBS: And by the way, this is coming from our dealers at the boat show, and dollars to put their engines out for a boat show, based on their space, separate from -- I mean, the one thing I can, the boat shows are the most important part of their

business. If your aren't on the boats during that, that means your engines is not posited. So, everybody psyches to get their engines on boats during the boat show. And it's like a war out there.

But, I can tell you, I was at the Toronto boat show and it was Mercury everywhere. I mean, I said to our people, what is going on up here. And they said, well, they paid a big price to get here, so they're on there. In the meantime, I looked at our sales and we weren't selling Mercury engines and we had them on ours.

MS. DRISCOLL: Mr. Barringer, I have a couple of questions for you. Are you agreeing with Petitioners' proposed domestic like product definitions, including the inclusion of power heads in the domestic like products?

MR. BARRINGER: Well, what I haven't figured out, and this was fairly dramatically displayed when we had to answer the 25 horsepower 4-stroke pricing question, it's not clear to me whether a Japanese engine made from an American power head is a Japanese engine or an American engine, and I think the flip is there. I don't disagree that power heads are the central -- the core of the engine. I just haven't figured out how it applies in this case or in your

analysis, in terms of what is in the domestic industry, what is in the foreign industry, because power heads are not a commodity sold to the customers.

So, we're not disagreeing; we're just trying to figure out what the implications are, in terms of how we look at the data, how we evaluate what is the 4-stroke produced in the U.S., what is the 4-stroke produced in Japan.

MR. JACOBS: Can I just ask one very important thing? We have imports coming into America, boats and engines. They come already. It's very early in the size of outboards, I would say; but, the dollar situation has been quite helpful to kind of curtail it right now. But, if the U.S. Government ever started to put a tariff on the import of these engines, we could conceivably be terribly damaged by import boats using those same engines from a different country with a competitive boat. They could come here and nail us. With the same engine that you put tariffs on here, you can't do it there, because they're shipping it from another country. Maybe there's someway you can do it; but, I can tell you, it will open up something that would be terrible from an import point of view.

MS. DRISCOLL: I believe what you're saying

is right. The question I have to you, what other markets for outboard engines from Japan, outside of the United States and Japan, itself?

MR. JACOBS: I think they would have to speak to that.

MS. MURPHY: We want to also just get back, at some point, to the like product question.

MS. DRISCOLL: Okay.

MR. JACOBS: Can you repeat that question again, please, Karen?

MS. DRISCOLL: Well, what, besides the United States says its home market, what other markets are there for outboard engines?

MR. JACOBS: Yamaha outboards are essentially marketed worldwide. They're a major player in Europe, Australia, throughout Asia, South America, the Carribean, as well as the United States. I think a similar scenario would be true of Hondas, Suzuki, and certainly of Mercury and Bombardia. I believe it's a fair assessment that we all compete in the major global marine market.

MS. DRISCOLL: Okay. It seems to me Mercury was saying that the United States is its primary export market; is that correct?

MR. DYSKOW: The United States is a very

large country and its unique in that we have large bodies of water, which lend themselves to boating and boating with large boats. So, for example, yes, boating is popular in Europe, but the usage is more prevalent with smaller boats and smaller engines. So, selling an average horsepower of 50 in Europe is far less significant financially than selling in the United States where the average horsepower is quite higher. So, the numbers may be the same, but the dollar value of that sale between Europe and the United States would be much higher in the United States, because we're selling a higher mix of engines here. Do you understand?

MS. DRISCOLL: Yes.

MR. DYSKOW: Bigger boats, bigger motors.

MS. DRISCOLL: Right.

MR. DYSKOW: It's not rocket science. The 12-foot boat gets the little motor; a 22-foot boat gets a much bigger motor; a 26-foot boat gets two motors; a 35-foot boat gets three motors. So, it's all about horsepower and length relating to dollar volume.

MR. JACOBS: So, you're saying that at least by value, you do believe the U.S. is the biggest export market?

MR. DYSKOW: Yes.

MS. DRISCOLL: Okay. Biggest user, okay.

MR. DYSKOW: Yes, biggest user.

MS. DRISCOLL: Barbara, did you want to --

MS. MURPHY: Yes. Thank you, Barbara Murphy for Tohatsu and Nissan. In terms of the like product, for purposes of prelim, I think we're going along with what the Petitioner is saying. But, we haven't foreclosed the possibility that there might be some significant price points within the engine ranges that comprise outboard engine motors that are significant, that might warrant separate like products, and probably focusing in terms of the size of the horsepower of the product. Even Mr. Dempsey recognized that he was talking about there's more portability in the small engine, entering just the motors and they're even differences in how you fix it to the boat, whether it's bolted on or clamped on.

So, I think that for now, we're probably not going to pursue it much; but, we just don't want to permanently close the door.

MR. JACOBS: Thank you. I believe those are all my questions at this time.

MR. CARPENTER: Mr. Fetzer?

MR. FETZER: Jim Fetzer, Office of

Economics. I'd like to thank all of you for traveling all the way here and giving us your testimony. It's been very enlightening. I do have a few more questions, sort of following along the lines of my questions this morning.

First of all on rigging, does someone, who is buying a particular engine, has to buy a rigging from the same company?

MR. JACOBS: No, they do not. There are people out there making generic dials or cables or what else it is out there. Now, I will tell you that, recently, we have been made aware of a program that Mercury is going to announce at the Miami boat show, that basically says, you know, our biggest problems are an installation, that the manufacturers are not necessarily installing the engines right. So, we're going to put somebody in your factor and make sure they're installed right. We're going to put a sticker on that engine. It's going to say, we signed off on it and, by the way, you're going to have to buy all of our cables to do that. You'll have to buy everything that goes on that engine to ensure that. And, then, at the end, they're going to send you a bill for $80 for just being there, for the engine.

I can tell you that our people lasted about

15 minutes with and they said, you want us to pay you a premium; and by the way, where do we stand in installation. We were number one and number two with no warranty for installation. The point is, they want to create it this way now to draw their cables and dials and everything in, because they get a premium for that, and that's a very high margin area.

So, I heard you ask the question earlier about where does this come from. This is one of the areas that I'll assure you, they will work very hard. The highest priced of all of them are Yamaha, though. I mean, Yamaha has the highest price for all of the parts that you buy with their engines.

MR. DEPUTY: I think from our standpoint, you have to look at not only the cost of the engine in the box, but all of the parts you have to use, so that you sell it or we sell it to a dealer, he's ready to sell it to a consumer, ready to go. That includes the prop, controls, cables, sending units, tilt gauges, and so forth.

We, as a company, normally buy those products -- specific items from the manufacturer of the engine. That way, when somebody buys a boat, if it says that it's a Mercury engine, it says Mercury on the control box and they're getting a complete matched

set of equipment from the same manufacturer of the engine. But, it is a significant part of the cost. It varies by engine and by all of the line. So, when you look at what is an engine, in itself, it's got to be ready to go. And an engine in a box is of very little value to most people, unless it's a re-power and the re-power business is not something we, as OEM builders, have anything to do with. So, this means that the cost of the rigging is definitely a cost of the final price of the engine.

MR. FETZER: You buy the Mercury rigging, but would you -- I mean, are you price sensitive to that? Would you buy a different rigging, if it was normally --

MR. DEPUTY: Normally, we would not be price sensitive to the key components that would relate to the engine: the controls, that type of thing. We want the same guy, who has built the engine, to have made the controls.

Now, the dials you see on the dashboard, they may not be made by Mercury or Yamaha, probably aren't, because that way, we can standardize on an instrument supplier across all the brands. We sell all the brands of engines and feel they're all good products. But, from the standpoint of the engine

specific parts of the rigging, we want to buy from the companies, whose engines are going on the back of that boat.

MR. JACOBS: I don't believe Mercury makes all of their controls. They buy them all from somebody. I believe that's true.

MR. FETZER: Okay.

MR. KALIBAT: Jeff Kalibat. I do a lot of different work than some of these people do here. Most of my work is with older boats with new motors. So, I'm doing the rigging of everything. The equipment is about 1,000 -- on an $8,000 motor, it's $1,000 in equipment. So, it's a significant part, sometimes, of the cost of the motor.

MR. FETZER: And do you always use the equipment provided by that --

MR. KALIBAT: Yes. Yamaha equipment is the only equipment I will use. It is a lot more money. There is very little failure rate on the equipment. I just like the motor. Whenever I use the after-market equipment, it doesn't function the way Yamaha equipment does.

MR. FETZER: Okay.

MR. GOMES: The business has changed in the 30 years that I've been in the business at first.

They're interesting questions to bring you up to speed. But, basically, the boat was sold as a blank boat to a dealer. The dealer would buy the engine. He would buy the pre-rigging. He would do everything at the dealership. And, eventually, it started that the boat manufacturers, for reliability and what the customer wishes, he wanted to get a complete package, everything -- just like a car. You know, the car manufacturers, whether he makes the gauges or he out sources them, they wanted that complete package. Nowadays, for Grady White, everything we do is 100 percent pre-rigged and rigged. Even if they choose not to buy the engine from us, it's pre-rigged Yamaha.

It's very, very difficult, the complexity of the boat, for our boat, for them to be able to rig it after it's produced. If you can understand, it's a three-part process that goes together, all the wiring and everything and cables can be run much easier when you're producing the boat and manufacturing it, than afterwards. And as the parts got more complex, it becomes even more difficult and less cost efficient for dealers to do that.

The consumer, probably depending on what brand of boat and where they're boating, don't really care a lot of times as far as what components are

used, as far as -- but, they like to see it from the manufacturer versus the dealer doing it. And then, in our product, they like to see 100 percent components. They want the Yamaha gauges. So for our stuff, pre-rigging is very important.

It used to be years ago, you could pre-rig for an OMC, Johnson or Evinrude, and you could send it to a dealer and he may de-rig it and put a Mercury pre-rig on it and sell it with a Mercury engine. But, those days are really gone, because it's so complex to be able to pay the price to de-rig something. So, rigging is important. If a boat went out, our boat went out pre-rig Mercury, it got a Mercury on it from somebody, from a dealer.

MR. FETZER: So, if a dealer -- the engine manufacturer offered you discounts on the rigging, would you consider that as part of a discount on the engine, itself?

MR. GOMES: It just depends. You know, it's all wrapped up in how they want to do it. So, you just kind of look at the basic plan. If you're going to come out in the market and where am I going to be when I offer a Yamaha powered boat, where am I going to be relative to our competition, which is like Boston Whaler, who has a Mercury-owned company and

they're putting Mercury on, how are we competitive from that standpoint. So, we understand it. Whether the discount is here, the discount is there, they're like, Mr. Jacobs said, you know, if the discount is in the aftermarket for paid shelf space at boat shows, it's still a discount. It just depends where the supply is.

MR. FETZER: Okay, thanks. In terms of discounts that you guys get from producers, do they vary by the engines usually or typically, or is it pretty much a straight across the board, the same discount?

MR. JACOBS: Yes. For us, it's not by the engine; it's across the board.

MR. DEPUTY: I concur. For us, yes.

MR. GOMES: The same with us, across the board.

MR. FETZER: Okay.

MR. JACOBS: By the way, it's different for stern drives, you understand. That's a different market.

MR. FETZER: Okay. I'm just talking about outboard. And typically, once a contract is set, are the prices renegotiated or not, the prices for the discounts renegotiated over time?

MR. GOMES: Normally, no. We have a contract. Whatever length of the contract, it stays that. Mr. Jacobs might be a better negotiator than we are and maybe he does get renegotiated. But, we generally stays with ours.

MR. JACOBS: I won't tell you that it hasn't happened before.

MR. FETZER: Okay. And if you want to provide more --

MR. DYSKOW: Let me digress for a second on that. If the game changes, in other words, if there's a catastrophic event in the marketplace, vis-a-vis bankruptcy, and some one that buys 2,000 engines a year is now buying 1,500 engines a year, of course, we would renegotiate that, because it's a volume-based business. Why would we pay them the 2,000 units discount on 1,500 units of product? See what I mean? If we have a specific contract based on volume and suddenly the game changes, we would renegotiate the contract.

MR. JACOBS: In respect to that, it can go the other way, too. You contract for so many and it turns out things aren't working out quite so well, the contract can be renegotiated.

MR. FETZER: I was more referring to the

same volume, the same other -- you know, everything else being held constant, would it be renegotiated?

MR. JACOBS: I'd say if things stay constant, everything is fine, there's no problems out there, it should stay the way it is.

MR. FETZER: Okay.

MR. HADDON: As a dealer, there was a couple of years that went on that we would have to buy so many loose motors to be a dealer, to be a full-line dealer. In Mercury's case, two years in a row, it happened to me that I fulfilled my obligations and then to find out during the show, they gave better deals, you know, if you fulfilled your obligations. So, now, I'm sitting on motors that cost more than the guy at the show and I couldn't sell it. So, they were changing in-line, in-stream, and that cost me a lot of money.

MR. KALIBAT: That was true in my case, when I was Merc and Yamaha. You always had to watch what deal was coming down at that month with Mercury. Yamaha, the program is told to you in July; that is the program you're going to buy for the entire year as a dealer. No change in that program, three months later, two weeks later. So, we can make a commitment to Yamaha, knowing what the deal is for the entire

year. Mercury, it was a very difficult commitment.

MR. FETZER: Okay, thanks. In terms of other types of engines, such as stern engines and jet engines, and I guess given the discussion this morning, I guess it would be directed more towards the new purchasers of boats, do you see that as a substitute for your market as competitive and do you keep track of what's going on with other types of engines?

MR. JACOBS: Your question again was what?

MR. FETZER: In terms of other types of engines, in-board engines, stern, drives, jet engines.

MR. JACOBS: What was the question about? Do I see what?

MR. FETZER: Are they substitutes for outboard engines?

MR. JACOBS: They are in new boards. But, I mean, I'll give you a little bit of quick history here. We buy more stern drives as a company than anybody in America does. And several years ago, we were 80-85 percent Merc cruise or stern drives. And, frankly, we're 85 percent Volvo today and it wasn't because of price. There was a similar situation there that Volvo won the marketplace and we aren't hearing about that today, obviously, for what it is. But the

fact is, there's something consistent here that you can see. It's not because their product was terrible in the market; but from a technological point of view, Volvo won the day.

We can get a premium for a Volvo product today. I can't get the same price for a Mercury, for the most part, unless it's a die hard Mercury dealer, who just absolutely is contracted, which there are many of, people that have to have Mercury, based on the relationship of the boats they carry. Like, a Mercury, if they handle a Bay Liner, a Sea Ray, or one of their products, they have to handle all Mercury. So, if we have a product we're selling, they'll order a Merc cruiser or Merc -- they have to take it that way.

MR. DEPUTY: I think that you'll find certain types of boats favor certain types of power. Outboard power is primarily used on fishing boats, aluminum boats, offshore fishing boats. IO power is preferred on runabouts, the fiberglass boats, some depth boats -- this type of thing. So, I think it's the type of boat that the consumer wants that really determine what kind of power they want, even though, as it was testified earlier today, when you go to build a boat, you can go either way, if you planned

that ahead. But, really, the market kind of chalk the field for what kind of engine is going to go with what type of boat.

MR. FETZER: Do you guys agree with the characterization this morning on demand since 2000? It fell in 2002 and has increased somewhat since, but maybe not back up to the original level, in the graph that was provided in the handout, and if you have any thoughts on what other things, other than the economy, that may have been driving that.

MR. DEAL: If I recall, and I don't have it in front of me, the graph was based on wholesale shipments and I think that some supply chain issues certainly would affect the slope of the change in that graph. And if a producer had over produced during the period and stopped the pipeline, then their wholesale shipments, obviously, would have to be constricted, to try to get inventory levels back where they need to be, to fit market demand. If that timing happens in a down market, of course, the slope of the graph is much greater.

MR. FETZER: Right.

MR. JACOBS: We've been fortunate enough. Although the market has been identical market for three years past, for what it is, our company has

grown substantially during that time. But, we take a lot of market share in doing that.

MR. FETZER: Okay. Any other thoughts on that? Mr. Jacobs, on your testimony regarding quality and the JD Power reports that you attached, I'm wondering, on the 2-stroke board engine survey by JD Power, does that include direct injection and the regular 2-strokes?

MR. JACOBS: Yes.

MR. FETZER: Okay. So, that's a mixture of the two. It's not looking --

MR. JACOBS: It's a 2-stroke, yes.

MR. FETZER: Okay. So, it could -- I mean, we can't really necessarily separate out the performance of Mercury's 2-stroke direct injection from their just old-fashioned 2-stroke carborated engine?

MR. JACOBS: Well, they say that their -- are you talking about 2003, now?

MR. FETZER: Well, this is 2002 on here, so --

MR. JACOBS: Well, I gave you three different years. This is 2002. Mercury was kind of at the bottom of the --

MR. FETZER: Okay.

MR. JACOBS: Yes, right. Yamaha was first, Evinrude was second, and then the 2-stroke engine, the Mercury. The next year, Evinrude overtook Yamaha in year 2003, in the 2-stroke. Evinrude, it surpassed even Yamaha in the 2-stroke area.

MR. FETZER: Okay.

MR. JACOBS: And Mercury continued to be on the bottom. This is not great PR, you understand, for anybody that has this. I mean, you have to work very hard to overcome this. You can't just do it by buying space or shelf space or selling your stuff at a discount. You need to have a product in the marketplace out there that people want and it does take time.

I agree with everybody here, this doesn't happen over night. I mean, I can look at every engine manufacturer we do business with today and I can tell you horror stories about the fact of the disasters that they've had over the years. But, they've overcome them. But, you don't make a huge mistake and fix it the next day.

MR. FETZER: Okay. And these surveys are based on customer perception. And I think you mentioned earlier, there's an issue of real and perceived quality.

MR. JACOBS: I was being kind when I said whether it is real or perceived. I wasn't going to sit there -- we had real problems and then there's perceived problems after that. You know, it's like you go to a fine restaurant, you have a great meal, you tell everybody you had a great meal, what it was. But, I guarantee if you had a bad meal, you'd tell a lot more people about the bad meal than the good meal. You have the same thing in everything that we buy in our life. You know, your greatest advertiser or the lack thereof is somebody, who uses your product.

In the case of what JD Power is, you know, there's no question that this is very damaging, because it hits all the trade papers. You cannot hide it from the dealers. The dealers know about all of this. And how can you sit here and say, I have the best product? You know, I heard the Mercury statement that basically said, they're the best in the industry. Well, that isn't what it says here. Maybe they're the best in the way that they're doing it, but the marketplace is not looking at it that way.

MR. FETZER: Are there any other sources that look at quality maybe? I mean, these are perceived and they're probably resulted real and --

MR. JACOBS: Pat can give you a stronger

one, if you want. We've got 2,300 dealers. They voted with their checkbook. They're basically saying, this is the engines we want. Now, we do buy Mercury engines today and I think we are a pretty good sized customer to them, as we are to all the engine companies, relatively speaking. But when it's all said and done, it's a mere pittance relative to what we used to do with them on a percentage of our business. And the fact was that they were the best priced engine at one time here, but we had problems. We went somewhere else. You know, we offered the engine.

By the way, there was a statement made earlier about this three percent. Remember when they said, I raised the price three percent, because Mercury had put on -- we put a statement out, we said we had to raise our price to be competitive, and Merc cruiser and Mercury was the one that we raised the three percent. And he was inferring that we raised that against the Japanese product.

Really, that was not the case. What is was is we raised it, because they were non-competitive with Bombardia. And Bombardia, we look at the two of them that's really competing in the marketplace to the U.S. market here with us and they were non-

competitive. And we were kind to them, because had we increased it what we should have relative to Bombardia, they probably wouldn't have bought their engines at all in the marketplace. So, we actually absorbed a great deal of the difference in that price that they're charging us today. It had nothing to do with the Japanese engine, nothing.

MR. FETZER: I was just wondering if there were any sources, which would compile returned engines, something that shows --

MR. JACOBS: Returned engines?

MR. FETZER: Or returned or engines that were –

MR. DYSKOW: I can give you another source, if you're interested. The National Marine Manufacturers Association does a CSI measurement program and produces results annually.

MR. FETZER: Okay. If you could submit that in your post-hearing submission, I would appreciate that.

Most of the dealers in OEM or boat builders here seem to just source from one or two companies. Is that typical? I'm sorry, Mr. Jacobs, you source from all --

MR. JACOBS: We source from all sides.

MR. DEPUTY: We do from all the companies. At this point, we don't from Suzuki, because the only product we could get from Suzuki would be their 4-stroke product and we have the identical product available from Bombardia. So, to avoid confusion, we source from Mercury, Yamaha, Honda, and Bombardia.

MR. FETZER: Okay.

MR. DEPUTY: And we have them all on our price list. They're all treated absolutely equally.

MR. GOMES: We used to; but, today, we're 100 percent Yamaha.

MR. FETZER: Okay.

MR. DEAL: And we're like them, we're 100 percent Yamaha now.

MR. FETZER: Okay. Is there an advantage to source from -- for dealers, to source from multiple sources and for liability, suppliers --

MR. JACOBS: Did you say, from dealers, did you say, or manufacturers?

MR. FETZER: From --

MR. JACOBS: Well, the dealers, you've got to have a service business. So, it's in their best interest to be a dealer for parts and spare parts. They make money -- although some may say we don't make a lot of money in that, some people make a business

out of it. And when they do, they have to be an authorized dealer, in order to do it. So, some people can be a dealer for -- I'm sure, Grady White has dealers that are more than just Yamaha parts dealers, because they have other boats they're servicing. And they're like we do.

I mean, it used to be -- by the way, it used to be one sign-up there: Mercury, Evinrude, Yamaha. Today, it's like a Mexican general. It's got everything up and down, like you've never seen.

MR. GOMES: Well, I think, generally speaking, it's sort of similar to the airlines, when they have Boeing 757, 767, and then you've got Southwest that only has 737. They have cost efficiencies of how they can do things, because they have one model plane. Our dealers -- us just offering Yamaha engines, again, was more market dictated. But, now that we're there, it's certainly to their advantage that we're offering our product, only Yamaha, because they train their technicians -- they don't have to worry about training them on different things. We do have dealers that do have other lines that have other engines with them and they carry other engines; but, the majority of them are Yamaha only dealers.

MR. DEPUTY: I think that we've got really quite maybe a different situation. We go back in the evolution of the engine packaging, when the concept first started, you had dealers, as Irwin said, that were a Johnson dealer, a Mercury dealer, whatever. And we, as a company, had been selling many of these dealers boats for 25 years. And they bought our boats, put an engine on, and did all the rigging, and delivered. So, when we had the chance to offer all of the various engines, it was important to us, even though we knew there was no one engine that we could negotiate the best deal with for us, because we weren't going to offer all of them, but we were going to do that, because we had to take care of our dealers.

The whole function was, take care of your dealer and take care of the consumer. And since we were dealing with dealers that sold Johnson, Evinrude, Mercury -- all of them, we tried to do whatever engines were available. And to this day, we offer all the engines, because we want to put whatever engine on the dealer wants for his customer and we'll do the best job we can for them. So, we offer them all. We build a very broad range of boats, from small aluminum boats, to 26-foot fishing boats. So, we need a broad

range of engines to satisfy that.

MR. FETZER: Okay.

MR. VANDIVER: I think what you plan, when you look in the marketplace with the dealers, very similar to what we're talking with the boat companies, who said, many of the dealers handle more than one of these boat lines. So, therefore, they could handle multiple lines of engines. And, also, the engines are a big repair center for them, so they like to have the parts and service business.

So, I think if you analyze the dealer network in the U.S. today, you'll find that most dealers are going to be multiple brands; whereas in the past, they may have been single brand.

MR. FETZER: Okay. Thanks. I think a lot has been said by this panel on 2-stroke injected versus 4-stroke. But, let me just ask, are there any uses you can think of where the 2-stroke direct injected is preferred, like bass boat fishing or something like that?

MR. JACOBS: Yes, there is preferences out there for it. But, it really has more to do with, I think, price than performance. There are people that can't afford the engine. And, you know, they've got to have an engine on their boat, so you get the bass

boats, of course, they're known for high horsepower. For some reason, they want to get there quicker than the next guy, so they want the biggest and the best. That is the one that probably is more catered by the engine manufacturers, because they all like to sell high horsepower engines, whether they're 4-stroke or whether they're 2-stroke. Obviously, there's more profit in the larger engine.

There's a lot of promoting to the bass boat end of the business. It's a very small segment relative to the big boating market, but we do -- we're the largest in the country in the bass boat segment. So, we understand what their preferences are and how they try to get it in there. But, we've got a lot of customers that can't afford the 4-stroke engine. So, I think they all like that, but price doesn't allow it.

MR. FETZER: So, some people that buy the 2-stroke direct injected --

MR. JACOBS: Yes.

MR. FETZER: -- for any purposes, because they can't afford the 4-stroke.

MR. JACOBS: Well, I think that's the big reason. Some people say, look, you know, what do I need it for, you know, I'm fine. I mean, there's not

a definite answer to this is why this person does this. If you went to 10 people and they all bought -- you know, half bought the 4-stroke and half bought the -- there might be five different reasons why one of them bought the 4-stroke than the 2-stroke. But, all said and done, I think everybody recognizes that the 4-stroke clearly is the engine out there that they want, if they can afford it. They're substantially more.

MR. GOMES: I think some of it has to do with -- like, in our largest boat, go back to that torque issue of direct injection, the bigger the boat, you know, the more horsepower you need. And it probably is a variable on two things: one is, if there's not a comparable 4-stroke in that same horsepower. For instance, Yamaha has a 300 HPDI engine, direct injection. Their next highest horsepower for 4-stroke is 225. So, our customers decide, do they want 500 two engines, 500 horsepower 4-stroke, or do they want the 600 horsepower combination HPDI. So, in relative terms of saying, okay, there may not be quite the same products offering, they may choose the direct injection.

In addition, even if there was 4-stroke, they still may choose it, depending on whether they

want that extra speed, that extra push getting on plane, getting out of the hole. Generally speaking, what we found is if you have comparable like engines, our customers are choosing 4-stroke. But, if you're asking if there is still some demand for direct injection, probably, depending, again, as Mr. Jacobs said, there's a lot of variables on somebody making that decision. But for our customers, it's gone 80 percent that way, 4-stroke, when there's comparable power. The decision they really have to make right now is what do you do when there's not comparable horsepower in both 4-stroke and direct injection.

MR. FETZER: Okay. Anybody else have thoughts on that?

MR. MORGENTHALER: Good afternoon. Jim Morgenthaler, general manager of Tohatsu America. We do offer a 2-stroke direct injection, mainly for smaller 40 through 90 horsepower. It's not really applicable to big-sized boats. There is a market for that type. A lot of it is weight turned -- a smaller boat, put a bigger, heavier motor on it for performance. I think weight is definitely another factor.

MR. FETZER: Okay, thank you.

MR. MUDGETT: I agree on that. There's

Douglas, talking about the HPDI -- there's still -- on a bass boat, we sell quite a few bass boats and performance is the issue on the top end. And there's a lot of money won by who is first in this game, in the bass game. And the 4-stroke, they're working on it and we're watching it. We've seen it with the 150; 4-stroke just, puff, dropped the weight right down. It's a great motor. But when you're talking 250 and 300 horse on these bass boats, you need the motor that's a little lighter, has a little more top end, and that's what -- the people I deal with prefer that right now.

Now, that probably will change, as the motor game changes. In the higher horsepowers, I believe that will change. I'll be one of those people, who will most likely change. But, I run a 300 HPDI and I prefer that over the 225 4-stroke on my boat, because I look for that top end speed, which my customers look for, too. So, there's still an area for the Optimax or HPDI, but I think two of those out of those three need to get it worked out before they start playing that game. Thank you.

MR. FETZER: Thanks. Anybody else?

MR. KALIBAT: What Jack said is right. There are a lot of situations where an HPDI or Optimax

would fill a spot on a particular boat. The 4-torque 200 is 140 pounds heavier than a 200 HPDI. Some boats cannot handle that additional weight, so you'd be forced to the HPDI 200 for that.

Yamaha has the ability, though -- as me selling it, I can sell him what he wants. Everything runs properly. So, I'm not forced to sell him what I have to sell. I can sell him whatever he needs. And that's where, I think, Mercury is having some trouble getting that situation squared away. They only have one option, at this point.

MR. FETZER: So, you're referring to a Yamaha 2-stroke direct injected?

MR. KALIBAT: I'm sorry, what?

MR. FETZER: Are you talking about a Yamaha 2-stroke?

MR. KALIBAT: No. What I'm saying is -- you were asking are there places where the 2-stroke HPDI direct injected is a better motor. There are certain applications where it's your only choice, because of weight issues.

MR. FETZER: And those would be, for example?

MR. KALIBAT: Certain kinds of boats cannot handle the additional weight, okay, that higher

weighted 4-stroke. That will change, like Jack said, as the weight changes. Yamaha's 4-stroke 150 now is as light as their HPDI. At this point, the HPDI will not be as saleable, because the 4-stroke gives you the weight and gives you the quietness. So, at that point, you get yourself a better package with the 4-stroke.

MR. GOMES: I think what Jeff is saying is he wins either way. He's got both direct injection technology from Yamaha, as well as 4-stroke. So, he's got a dual power requirement that he can sell for a customer.

MR. FETZER: Okay, thanks. Anybody else?

MR. DEPUTY: I think to respond to your question, what we've seen in the broad range as to boats we build, that the direct injection engine 2-stroke sells well until a 4-stroke is introduced in the same horsepower. And then, those customers migrate to the 4-stroke product. That was abundantly clear in the 150. When the 150 horsepower 4-stroke became available, the 2-stroke direct injection died.

MR. FETZER: Even if it weighs more?

MR. DEPUTY: The 150 doesn't weigh that much more.

MR. FETZER: Okay.

MR. DEPUTY: But, you are going to give up some weight, because they're just a consumer. The aficionados, these guys who run them maybe will understand all the nuances. The consumer really likes what the 4-stroke tells them about the joy of boating and the lack of headaches.

MR. FETZER: Thanks. One last question and I guess I direct this to the producers, is there any -- in answers this morning of the Petitioners, is there any uses of your production facility that you can use, you can make other things with? And they give some examples of some tool and die --

MR. DYSKOW: I think our answer would be almost identical to Mercury, but probably even stronger towards the fact that we've invested a tremendous amount of capital to build marine engines, in all of the areas that Mercury mentioned, only more so, because we're more developed in 4-strokes and the equipment involved in that is even more complex. So, we have purpose built marine factories, as well.

MR. FETZER: Okay, thanks. Well, I thank you for your responses and your patience. Those were my questions. Thanks a lot.

MR. CARPENTER: Mr. Yost?

MR. YOST: I, also, want to thank you for

your patience and all the responses that you've given to my coworkers and colleagues. I have no questions. Thank you, very much.

MR. CARPENTER: Ms. McNay?

MS. MCNAY: I have a few questions I'll take, at this time. Mr. Deal, I think I heard you mention earlier, buying groups, and if you could elaborate on that concept and its role in engine purchasing for independent boat builders and dealers. I'd appreciate your contributions there.

MR. DEAL: Buying groups, I think, in general, are formed to try to level the playing field, when you have a hostile competitive environment. There was a situation that -- we have some consolidators in our industry. One of them is sitting next to me and one of them is sitting behind me, and they both have boasted about their desire to use their size to their advantage. Independents, like myself and some of the other people that are, also, here, still need to have an opportunity to compete in the marketplace and buying groups have been formed to allow to buy materials, which represent, I think, part of our purchases and/or other things, hardware and, if need be the case, engines, to try to keep a level playing field and allow us the opportunity to compete

in the market.

I'm chairman of the board of the Independent Boat Builders, Inc. I did not survey my membership prior to coming here and so I'm speaking as an independent and give you my best guess of the sense of my membership. We do not have an engine supply agreement, at present, with any engine manufacturer.

MS. MCNAY: Thank you. I was wondering about the 2-stroke direct injection engine. Do you still have to -- I mean, does the boat owner still have to sort of fix the oil and gas, or are they now oil injection systems to these engines that eliminate --

MR. DYSKOW: If you'd let me answer that, Deborah.

MS. MCNAY: Okay.

MR. DYSKOW: They are smaller direct injection engine. The Tohatsu ones may have an oil tank on top of the engine. The larger ones have a remote oil tank. But, the customer still has to add the oil in either case. And to Mr. Gomes' point, in your driveway, that may not be a terrible inconvenience, but it could be a frightening experience if you're in the middle of the ocean, because the boat is going up and down and you're in

the back of the boat with this five-gallon jug of oil. Some of it goes in the tank, some of it goes on your top side, or some of it goes on the build to the boat. It's an inconvenience.

And, frequently, at boat shows, when a customer comes in and asks the question, since we sell boats, DI and 4-stroke, which should I buy, I honestly don't care which one he buys, because we sell both. So what I will say is, what do you use your boat for; what kind of boating do you do. And if he takes his family boating and he's into recreational, comfortable fishing and outdoor activity, I probably will recommend the 4-stroke. If the ultimate last micro-inch of performance is what he wants, we may recommend a DI. But, he's going to have to deal with the inconvenience of adding the oil. And there's way more customers that want the carefree lifestyle with their family, as opposed to that last micro-inch of performance.

MS. MCNAY: Thank you.

MR. JACOBS: May I add something?

MS. MCNAY: Sure.

MR. JACOBS: On the new Evinrude Etech, you only put oil in it once a year, period; you're done. So, that is a new technology that's in the 2-stroke,

that clearly avoids that problem.

MS. MCNAY: Just sort of a general question. I get the sense that 2- and 4-stroke engines have come closer together, I guess, in terms of characteristics and performance. And I wonder if you could sort of characterize the type of technologies that have made this possible, particularly for the 4-stroke engines, in terms of weight reduction, is it different materials that they're using. Do you have any sense of how this has developed?

MR. DYSKOW: Deborah, it's not material-based. It's, I would say, more technology and experience based. Just to digress for a second. In 1996, Yamaha had a full range of outboard motors, from two horse to 250 horse. We had a 9.9 horse 4-stroke and a 50 horse 4-stroke. Every other product in that lineup was a carborated 2-stroke engine. So, all of this technology is relatively new and it has been evolving at a feverish pace, from 1996 until today. So, earlier, someone made reference to a 200 horse 4-stroke that is bigger and bulkier than a comparable HPDI.

Our next generation engine was the F-150, the 4-stroke 150 that Mr. Deputy referred to, and that is the same basic size and weight as the HPDI 150 that

it competes against.

So, the technology has evolved at a feverish pace and its demand driven. The customer wants that and one of the biggest barriers is with size and weights, so we really go after size and weight. How did that get done? The HPDI 150 is a V-6 engine. The F-150 is an I4, in-line four cylinder engine; same horsepower, same performance, same weight, even though a 4-stroke should weigh more, because it has two left cylinders and has less of the complexity of a V-6. We've been able to get some of that size and weight out.

So, the technology is evolving and it's more due to that, than any mystery alloy or anything else. Because, I don't know what exist that would help us in that manner, while we're using relatively light alloys.

MS. MCNAY: Any other comments?

MR. VANDIVER: Can I answer for Suzuki?

MS. MCNAY: Sure.

MR. VANDIVER: Very similar to the same thing that Yamaha has just said, kind of if I can give you a quick commercial break for a second and tell you what all of my salesmen have now and I'll tell you about a new V-6 that we just produced. We're talking

about making motors lighter weight with 4-stroke. Well, we've engineered this motor, instead of a 60 degree V, we engineered it with a 55, which made it much more narrower, more compact. We've been able to come up with things such as we have a -- what we call an offset drive shaft. What it did is move the power head more forward, so that it balances it better on the transmit of a boat. So even though maybe the weight didn't change, the boat feels like the weight changed.

So, there's a lot of technology like that, that has come across, because, I think, in all respect to Yamaha, also, what we've all tried to do is we build 4-strokes, we've tried to build them with the basic same power characteristics and as light as we can, to the 2-strokes that we're trying to compete against, in that marketplace. And quite frankly, that's why it's growing.

MS. MCNAY: Okay, thank you. Any other -- yes, please.

MR. TERRY: Wade Terry with American Honda, again. The 4-stroke technology is helped, in our particular case, because of our size. We are driven to produce fuel efficient quiet engines, no matter what product line we're in, whether it's small general

purpose engines that you may see on your pressure washer, whether it's lawnmower engines, or automobile engines, or motorcycle engines. So, we do take advantage of the technology and manufacturing techniques, to help produce a product that meets the performance requirements of the customer, that all these gentlemen are talking about, and can meet the emission requirements or exceed the emission requirements, in our particular case.

So, yes, you see us advertise things like V-tech technology or three-way cooling or lean burn technology. And all of those things came from -- first from racing, and then from the automobile, and has now been adapted to the marine products, to meet the performance needs and the emission requirements.

MR. VANDIVER: We decided very early on to go 4-stroke. And as we've made those decisions, in order to get better engine performance and more reliability, we started using fuel injection in all of our 4-strokes, all the way down to 40 horsepower, which was a very small horsepower to start putting fuel injection on, but it gave the customer better midrange power, better power of the motor, plus easier starting, better fuel economy and so forth. And so, I guess what I was trying to say, is we've moved forward

each time. Each time we bought one of these motors, we've looked for more and more ways, as Yamaha has just said with their 150, more and more ways to make them more compact, lighter weight; but, yet, more and more ways to keep the performance up.

MS. MCNAY: Okay, thank you. That ends my questions. Thank you all for coming today.

MR. CARPENTER: I just have a couple of follow up questions. Mr. Terry and Mr. Vandiver, you indicated that you produce something like a 4-stroke engine, and do you see some advantages in terms of cost savings, in terms of the design and manufacture of the products and so on, just to specialize within the 4-stroke as opposed to producing the 2-stroke DI?

MR. TERRY: I'm not an engineering or manufacturing type. The reason we produce all 4-stroke engines, there's a philosophy. We want the best fuel economy, the best efficiency, and the quietest engine available to the customer. So we choose not to produce 2-stroke. And even in our other products we're going away from 2-stroke. For example, there's a new personal water craft that there was a 2-stroke design that the company rejected, and the engineers were told you must bring this out with a 4-stroke. And we did do that.

One other point I'd like to make is the Honda VF225, which, you know, is an outboard engine, it sits on the back of the boat, you saw the powerhead, the midrange and the gearbox. Well, that engine costs the same as a Civic, that has four wheels, seats, and all of the other stuff. I'm frankly quite confused about this price issue. We're very high priced.

MR. CARPENTER: Thank you. Mr. Vandiver?

MR. VANDIVER: Well, for Suzuki, we very early on -- when we took a look at what we had to accomplish with the EPA standards, we felt like we had to make a decision, and that decision was for us the logical decision for the future, and the long-run was, we thought, 4-stroke. We felt like it was where the market would go. We'd seen it, and we felt like that that was our forte, and what we could do.

So as we have created four-star 4-strokes, we have dropped the comparable 2-strokes out of our line, to the point that this year we're only going to produce 4-stroke product. Yes, of course, it is more economically feasible on a production line to only have to do that, but it was our decision more from looking at the future, at what we felt like the future held in meeting emissions and giving the customer the

kind of product that he'd like to have, also.

MR. CARPENTER: Now, with this discussion about the importance of maintaining extensive product offerings, do either of you feel that you're at any disadvantage at all because you just offer the 4-stroke or do you feel that your products, along the various source power ranges, compete effectively with the 2-stroke DI's?

MR. TERRY: For Honda, our only disadvantage is that we do not offer all the horsepower ranges as of yet in 4-stroke. We do not see any barrier because we don't have 2-stroke.

MR. VANDIVER: Well, the same. We have just this year introduced our V-6 product, and as we have increased our line of 4-stroke also we have increased our ability to sell and our ability to service customers that want a full line. And whereas there still may be some, as has been indicated, some boat lines or boats or applications that possibly our motor may not be a correct fit at this time, we really think as time goes on, those things will change, because we think the customer is going to start demanding that. We see better fuel economy, more durability, reliability, and all of those things. And we think that eventually those items will change to where our

motors will fit.

MR. CARPENTER: And, Mr. Morgenthaler, if I could ask you, what is Tohatsu's -- do you specialize in one or the other?

MR. MORGENTHALER: No, Tohatsu produces both 4-stroke and the direct injection, basically from 4 horsepower through 30 horsepower in 4-stroke technology and 40, right now up to 90 is the direct injection. They will be coming out with larger ones in the future.

MR. CARPENTER: Do you feel it's an advantage to you in the marketplace to offer both types, even though they're in different horsepower ranges?

MR. MORGENTHALER: Honestly, it's probably a disadvantage to us that we don't have a 4-stroke just because the market, the consumer demand is -- they have a 4-stroke mentality. I think a lot of that is probably -- is just the perception of the DI as a result of problems with Ficht and Optimax. It's kind of given the technology a black eye. So while we haven't experienced those problems with our technology, we kind of get sucked into that idea that, oh, your's is a 2-stroke direct injection; it must have the same problems as all the other people. So,

actually, in think in our standpoint it's probably a disadvantage that we don't have a 4-stroke.

MR. CARPENTER: And Mr. Dyskow, if I could ask you, you seem to have, of the Japanese suppliers, maybe the broadest product range. Do you see, do you feel that you have an advantage by also offering the 2-stroke DI that, for example, Honda and Suzuki do not?

MR. DYSKOW: This may be a long-winded response, but essentially we're in the customer satisfaction business, and we want to provide the customer what he wants. We have seen a growing demand for 4-stroke product. There are still some niches best served by HPDI 2-stroke, such as the Bass niche that Jack was referring to. But at the risk of being too long-winded, someone in the Mercury presentation said that consumers tend to buy the engine that is on the back of the boat when it's on the showroom floor. The only alternative would be to special order it. So what boats and what engines are being displayed at boat shows is very critical as far as determining trends of what ultimately the makeup in the market is going to be. They tend to buy what's in front of them.

We send people to boat shows across the

country to count the number of Evinrudes, the number of Johnsons, the number of Mercurys, the number of Yamahas, Hondas, and so on, so that we can see the various mix, to see if there's any trend changes amongst the brands.

We also do one important thing. We look at the technology that's on the back of the boat. Is it a 4-stroke is a DI or is it an old technology. And obviously, in the case of Honda, they only make 4-strokes, new technology engines. Suzuki and Yamaha are rapidly moving towards new technology engines, 4-strokes in particular.

So our mix of engines on display is very heavily skewed towards new technology and toward 4-stroke. Bombardier and Mercury have a much higher percentage of older technology engines on display than new technology engines. So with the people that have the strength in new technology, the demand is toward new technology. I can only assume that the reason that old technology engines are such a bigger part of the Bombardier and the Mercury display is because that's what people are buying from them.

MR. CARPENTER: Thank you, that's helpful.

I just have one other data related question. I guess I'll address this to you, Mr. Barringer, if

there's anyone else that you'd like to refer it to. The petitioners, in the petition, provided data on export -- Japanese export data conventions, indicating that that was a more reliable indicator of imports than U.S. imports, which would also include the powerheads. Do you feel that the Japanese government export data are a fairly reliable indicator of exports of the subject merchandise or imports of the subject merchandise in this case?

MR. BARRINGER: I think there is a question as to whether the powerheads are included or excluded from that, and we've been discussing it with them. We've also been discussing the HTS numbers in the U.S., and they're not absolutely certain that powerheads are included in the same HTS. So you're asking me a question which, I have to confess, I got from my client about a week ago, and I have not had time to answer.

MR. CARPENTER: That's fine, if you have any further insights in your brief on what you feel is the most reliable indicator of U.S. imports, I'd appreciate it.

MR. BARRINGER: Sure.

Any additional questions? Ms. Driscoll?

MS. DRISCOLL: Karen Driscoll, Office of the

General Counsel. I'd like to thank everyone for their testimony. Also, I have one last question for Mr. Mudgett and Mr. Kalibat. Have you had troubles with the -- it's the Yamaha HDPI. Have you had trouble with quality issues and problems from your customers with a bad engine? Mercury was saying that earlier.

MR. MUDGETT: On the HPDIs or the Optimax's?

MS. DRISCOLL: The HDPI, the Yamaha. Isn't that the Yamaha 2-stroke? Okay.

MR. MUDGETT: Yeah. I've been running the HDPI since -- well, this would be the sixth year, I believe, that I've been running them, and this year we ran into a minor oiling problem but the difference in this whole situation is that it was taken care of ASAP. It was done and handled. And there is another reason. But that's the first issue I've run into with my HDPIs.

When they first came out we got grouped in, and I had a hard time selling them, because I was grouped in with -- and I sold them -- with the Ficht and the Opti. So they said all the DI's are no good. Well, that wasn't the case. It was just a roll over thing. Like I say, I've been selling them for -- this is the sixth year. And I've never run into any major, major failures with them. I've filed some plugs this

year, and I have, you know, guys that run -- they probably put out 50 hours a week, 100 hours a week, fishing. I mean, they're gone all the time. Not really, but -- and we haven't had a lot of major problems.

MS. DRISCOLL: Okay. Mr. Kalibat?

MR. KALIBAT: The HDPI 150 and 200, since it came out I have not done one repair job on those motors. I'm a very large dealer for Yamaha. I'm up in the New York area. I sell a lot of HDPIs. It's amazing that a motor cannot have any issues in the amount of years they've had it. The HDPI 250, this year, they did have fouling plug issues. There were absolutely no powerhead failures of any kind. We changed spark plugs when we got the updates and took care of the problem. Yamaha, in general, when they do have an issue, which is so rare, they do take care of it, and it gets taken care of and it's over. But the 150, the 200 and the 175 for me has been bulletproof.

MS. DRISCOLL: Pardon me?

MR. KALIBAT: Bulletproof. Not one case of any warranty on that motor.

MS. DRISCOLL: Okay. Does anyone else have any comments on that?

Thank you, gentlemen, very much, for being

here.

MR. CARPENTER: Mr. Reavis?

MR. REAVIS: Just a couple of things. Are there any other makes of outboard engines in the U.S. market other than those that we've talked about today?

MR. JACOBS: Did you say outboards?

MR. REAVIS: Outboard engines.

MR. JACOBS: Well, outboards, no. But Global is the other manufacturer for stern drives, though, which is Mercury's only competitor in --

MR. REAVIS: No, I'd only be interested in -- for outboard engines, we're talking about.

MR. JACOBS: Well, Riggs & Stratton has put out a very small -- it's for very small engines, that they just started this last year, but it's really not what we're talking about. These are very small engines.

MR. REAVIS: All right. So then if we look at census data, for example, for imports from other countries, basically what we're talking about are the same makes that we've talked about today, just the production facilities of those companies in these other countries?

MR. JACOBS: Yes.

MR. REAVIS: Fine. Only one other thing.

If any of you --

MR. DYSKOW: Excuse me. There are some obscure brands manufactured in other countries that aren't officially imported in any numbers. There's a brand in Italy and I believe there's a Russian engine too, isn't there? They were at the Miami Boat Show a couple of years ago with a display, but I don't believe there's any imports of any significant number. You will find some obscure brands around the world.

MR. REAVIS: No, I mean just in the United States. You think there's a negligible presence in the United States of those?

MR. DYSKOW: Yes, at best negligible.

MR. REAVIS: And only one other thing. If any of you choose to segment the scope for like product purposes, make sure you indicate to us what product that segment is most like and similar to. Thank you. I have no further questions.

MR. CARPENTER: Okay, again, thank you very much for your testimony this afternoon, and for your detailed responses to our questions. We certainly appreciate it and appreciate your coming here this afternoon.

We still have the concluding statements from each side. And let me just ask, Mr. Wolff, Mr.

Dempsey, are you ready to go?

MR. DEMPSEY: We're ready.

MR. CARPENTER: Please proceed.

MR. DEMPSEY: Thank you. Well, good afternoon. Kevin Dempsey again, and I'll speak for the petitioners.

The respondents today would like you to believe that any difficulties that the domestic outboard engine industry is facing are due to their own failings. But their claims are belied by the record before the Commission.

First, respondents claim that domestic producers are losing market share because they do not offer the same range of 4-stroke engines as Japanese producers. But in fact, the leading domestic producer, Mercury Marine, offers an extensive array of new technology, low emission, outboard engines from four horsepower up to 250 horsepower, including both direct injection 2-stroke and 4-stroke. And I would note that none of the Japanese producers, as you heard some admit here under questioning, have a full range of 4-stroke technology either.

Each of the companies is in the process of rolling out new 4-stroke production each year. I think both Honda and Suzuki admitted they had holes in

their line up, and they're, of course, only in 4-stroke. Yamaha, for instance, does not have a 175 horsepower 4-stroke. They only just this year introduced a 150 horsepower 4-stroke, which was commented on as a critical area, and the 115 horsepower they just introduced a year or two ago.

Mercury is in the same boat. They're introducing new engine models every year. For all of the manufacturers, this is a process of transition. We're in a period where the engine makers are transitioning to the lower -- new technology, lower emission engines to respond to the EPA mandate.

But simply put, when you look at the 4-stroke and 2-stroke direct inject, Mercury has engine models that compete with the Japanese producers across the entire power range, the entire power spectrum, from four horsepower up to 250.

Second, respondents would have you believe that the domestic producers have been plagued by quality problems while they have a clean record. The truth is also otherwise on both counts. First, Mercury's new technology engines have been highly acclaimed. Ten Mercury engines have received three star ratings by the California Air Resources Board, and another 11 engines have received two star ratings.

These ratings match or exceed those of any of the Japanese producers.

In 2003, Mercury's 60 horsepower EFI 2-stroke -- and that's a completely domestically-produced engine, as we discussed earlier -- was voted the best of the best by Field and Stream Magazine. Motorboat and Yachting, England's leading, best-selling motor boat magazine, presented the Mercury Optimax it's Outboard Engine of the Year Award in 2001. And for the ninth time in 10 years, Mercury's engines won the grueling 24 hours of Ruen endurance powerboat race in Ruen, France, in May of 2003. Notably, nine of the top ten boats in that race were powered by Mercury outboards.

Motorboat and Yachting has been quoted as said “the Mercury Optimax range of outboards is currently wiping the floor with 2-stroke opposition, and with good reason. Fine results in endurance racing that have proved that the Optimax engines are light, powerful and practically bulletproof. These are not accolades that are achieved by poor-quality engines.

Meanwhile, Yamaha has had its share of problems. You heard a little bit from the respondents under some questioning. But what they didn't mention,

I don't think, was that just last September Yamaha was forced to recall several of its high horsepower 4-stroke engines, following reports of excessive drag on the linkage bushings, that could cause the throttle to stick at fast idle. A Yamaha manager was -- admitted in the press that they initiated the recall because "it could be a safety issue." "We have had a handful of actual occurrences of people running into docks."

And Yamaha's problems are not limited to its 4-stroke engines. In the last year, Yamaha has been forced to issue no less than four separate service bulletins. And we have them and we'll submit them in the post-conference brief, directing dealers to correct serious problems with their own version of the direct injection 2-stroke.

And I'll just quote from some of the points in their service bulletin. March 5th, 2003, symptom, excessive oil consumption at idle and midrange operation due to an incorrect oil pump rod link. March 14th, 2003, symptom, high speed misfired units resulting in an intermittent drop in rpm or surging while operating at high rpm. And again, on August 15th, 2003, the problem hadn't yet been fixed. Indeed, the symptom was identified as excessive oil consumption and spark plug fouling, even after the

modifications called for in the two earlier bulletins had been performed.

In sum, the Japanese producers have their own quality issues that need to be addressed. We're all facing this as we introduce new technology engines.

Another indication that the claims of the Japanese producers missed their mark is clear in the public data, and we believe will be confirmed by the Commission's own confidential records. The Japanese producers have been aggressively underselling the domestic product in an effort to gain market share. If the Japanese engines are expanding volume and market share because of better quality, then we should see that in relative prices in the market. Specifically, we should see significant Japanese overselling with respect to the domestic like product for the same engine types, if the quality or availability issue is what is driving sales of Japanese engines.

Mercury's experience in the market has convinced them that this is not the case, and we expect the Commission's record to support that conclusion, too. Look at your data that you collect. We think you will find significant underselling.

Numerous Yamaha customers said today that price is not the reason that they buy Yamaha, and that Yamaha and other Japanese producers are even higher priced. The problem with that testimony is that it is contradicted by the industry-wide pricing data from the NMMA that we have submitted in Exhibit 2-11 of the petition. This data shows the average unit values for outboard engines sold in the United States in most power ranges have declined from 2000 to 2002. And the price declines have been most pronounced in the larger engines that were the most costly to produce, the larger engines that are the new technology engines and are high priced. The Japanese engines have been gaining share, and have been gaining share despite these declining average unit values.

The question you have to ask is, if they're making these sales of expensive, technologically sophisticated engines primarily on the basis of quality and not on price, then why are prices in this segment of the market declining? Again, the reason is because the Japanese producers are making these sales through aggressive discounting on price. Of course, the customers today don't want to admit that they're really getting a good deal on price, because they don't want to pay more for their engines. But again,

the problem is, look at -- compare what they say with what they said a few years ago.

Mr. Jacobs said in the press in 2001, and again last year, that the real problem is that Mercury engines -- with the Mercury engines -- is that they cost more. So what do you believe? What he said today? Or what he said to the press in 2001? And remember, the quote from 2001 was from May, the very time that Mercury and the Japanese producers were battling to replace OMC after it left the market. This is contemporary evidence, on the public record, from 2001 that the competition to take that market share, that opportunity that was provided when OMC went out of the market, that that competition was significantly a price-based battle between the domestic producer left in the market, Mercury, and the Japanese producers.

The OMC shutdown gave the Japanese producers an opportunity to come in and aggressively price their product to gain market share. That's what they did. That's what they've continued to do to gain market share. We believe the record, both the information in the petition and the information gathered in the questionnaires will bear that out. And all that information calls for an affirmative determination.

Thank you.

MR. CARPENTER: Thank you, Mr. Dempsey.

Mr. Barringer, are you ready?

MR. BARRINGER: Thank you. I guess my retort was going to be what would happen if I'm not, and I probably would get strangled by everyone in the room. So with that, I will say that I am ready.

There are really a few comments that I think are appropriate at this point in time. Price, as we attempted to explain, is volume based in this industry. And as a result it is very different to take an average unit price across the board and compare it to another manufacturer's average unit price.

What we know is that the lowest price in the market, to an OEM, is to Tracker Marine. That fact was brought out by Mr. Jacobs, and it has been the experience of many other companies that Mercury has a most favored nation agreement with Tracker, and that it insulates Tracker from having to compete at the same price with other boat companies.

What we also know from the testimony today, and what we will see when we submit our briefs, and indeed, I would suspect what we will also see when the Commission's confidential information is put together,

is that outboard -- Bombardier, is offering the lowest prices in the market. And they're not even offering the lowest prices in the market when they're selling comparable quantities. They're offering the lowest price in the market when they're selling less volume to the same boat builder as other competing engines. And I think it's important to note that their market share has gone from zero to, I think they said they were at nine percent and moving towards 15 percent. I don't have the numbers quite in my head, but in their most recent public announcement their market share is going up. They're pricing aggressively, and in our view they are the price leaders in the market and indeed they are the company that has the most to gain by pricing extremely aggressively.

I would like to raise another issue. An issue which I believe the Commission should look into, which, in all of its bombast about discounts, et cetera, the Mercury people have left out. And it's a factor which I think you need to look at when you look at Mercury prices. It's an issue we will document in our briefs.

Mercury buys boat companies at inflated prices in order to get contracts. It gives loans up front in order to get contracts. It buys equity in

the boat company in order to get contracts. We haven't figured out how to value this, but we think you should certainly ask Mercury about any transactions that they have had other than the purchase -- the sale of an engine to a boat company during the time that they have had a relationship with that boat company.

Finally, I think the question should be asked as to how much is paid for payments made -- for under-the-table payments for such things as dealers placing orders at the boat show, whether it's cash, whether it's discounts, whether it's rebates. There are a whole series of off-program payments, which we have not seen in the -- in any of the -- in the framing of the questionnaires. The questionnaires seem to focus on normal programs, dealer programs, discounts, but there are a lot of off-program activities, as well as what I would call collateral incentives, which have been provided by Mercury and possibly by Bombardier in order to get their contracts.

I'm not -- we will address the quality issue -- I think we've probably heard enough about it today, so I'm not going to go back over that. It would be interesting, however, to know what the -- how much

advertising Mercury has placed in the magazines that have declared them to be these fabulous engines. And that's something you might also want to find out. That's not the way you get the J.D. Powers Award. And so I think that, gain, is another issue that the staff may want to look into.

Thank you very much for your patience, and I hope we've been helpful, and we are not looking forward to doing our briefs, but I guess we'll have to do them in a very short period. So thanks a lot.

MR. CARPENTER: Thank you, Mr. Barringer.

Just a couple of administrative details. The deadline for both the submission of corrections to the transcript and for briefs in the investigation is Tuesday, February 3rd. If briefs contain business proprietary information, a non-proprietary version is due on February 4th.

The Commission has tentatively scheduled its vote on the investigation for Monday, February 23rd at 11 a.m. It will report its determination to the Secretary of Commerce later that day. The Commissioners' opinions will be transmitted to Commerce a week later, on March 1st.

Thank you, everyone, for coming. This conference is adjourned.

(Whereupon, at 3:22 p.m., the conference in the above-entitled matter was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Outboard Engines from Japan

INVESTIGATION NO.: 731-TA-1069 (preliminary)

HEARING DATE: January 29, 2004

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: January 29, 2004

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
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Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
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I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

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Signature of Court Reporter