



NATIONAL AUTOMOBILE DEALERS ASSOCIATION  
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Legal & Regulatory Group

October 24, 2011

**SUBMITTED ELECTRONICALLY**

Federal Trade Commission  
Office of the Secretary  
Room H-113 (Annex G)  
600 Pennsylvania Avenue, N.W., Washington, D.C. 20580  
Electronic address: <https://ftcpublishcommentworks.com/ftc/warrantyrulesanprm>

**Re: “Magnuson-Moss Warranty Act Rule Review, 16 CFR Part 700, P114406”**

The National Automobile Dealers Association (“NADA”) submits the following comments in response to the request for comments by the Federal Trade Commission (“FTC” or the “Commission”) on its warranty-related Interpretations, Rules and Guides: its Interpretations of the Magnuson-Moss Warranty Act (“Interpretations” or “Rule 700”); its Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions (“Rule 701”); its Rule Governing Pre-Sale Availability of Written Warranty Terms (“Rule 702”); its Rule Governing Informal Dispute Settlement Procedures (“Rule 703”); and its Guides for the Advertising of Warranties and Guarantees (“Guides”).

NADA represents approximately 16,000 franchised automobile and truck dealers who sell new and used motor vehicles generally covered by manufacturer or other warranties. Together our members employ approximately one million people nationwide. NADA is particularly focused on ensuring that customers obtain the warranty information they need, in a timely and accurate fashion so that they can make informed choices in their purchase or lease decisions.

NADA believes that consumers as well as automobile and truck dealers have benefited from the predictability and stability of the current warranty regulatory regime provided under the Magnuson-Moss Warranty Act (“Mag-Moss”) and the Guides. However, NADA does urge the Commission during this routine review, to consider an update to the Guides to reflect the realities of modern commerce.

Of the many changes in commercial practice in the decades since the enactment of Mag Moss and the Guides, it would not be an overstatement to say that the advent of online commerce is the most fundamental. While the vast majority of automobile and truck sales are still conducted “face-to-face,” an increasing number of vehicle sales now take place exclusively online. Such sales present a number of regulatory and other challenges for dealers, including compliance with Rules 701 and 702.<sup>1</sup>

While the Commission has provided guidance on this issue, stating that “[w]arranties communicated through visual text on Web sites are no different than paper versions and the same rules apply,”<sup>2</sup> and that “warranties provided in electronic formats [on DVD or CD] could comply with [Mag-Moss] and the Disclosure Rule,”<sup>3</sup> NADA urges the Commission to update the Guides with respect to the delivery and pre-sale availability of warranties in electronic commerce. The Guides should provide explicit, detailed guidance explaining to retailers and warrantors how they can comply with Mag-Moss warranty requirements conducting business online.

NADA supports the Commission’s efforts in reviewing and updating the Guides, and requests the opportunity to fully detail any policy considerations should the Commission contemplate any changes to the Guides beyond those outlined here. On behalf of NADA, I appreciate the opportunity to comment on this matter.

Sincerely,

/s/

Bradley T. Miller

Associate Director, Legal and Regulatory Affairs

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<sup>1</sup> In particular, the provisions regarding: (i) Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 C.F.R. § 701.3, and (ii) Pre-Sale Availability of Written Warranty Terms, 16 C.F.R. § 702.3.

<sup>2</sup> *Dot Com Disclosures: Information About Online Advertising*, available at <http://www.ftc.gov/bcp/edu/pubs/business/ecommerce/bus41.pdf>

<sup>3</sup> FTC Staff Opinion 09-1, February 17, 2009.