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October 24, 2011

Richard Donohue
Acting Secretary
Federal Trade Commission
Office of the Secretary
Room H-113 (Annex G)
600 Pennsylvania Avenue, NW.
Washington, DC 20580

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

Dear Acting Secretary Donohoe:

The Automotive Recyclers Association (ARA) appreciates the opportunity to comment on the Federal Trade Commission's (FTC) interpretations of the *Magnuson-Moss Warranty Act*, as published in the August 23, 2011 edition of the *Federal Register*. ARA strongly urges the FTC to continue publishing these interpretations so that competing interests in the marketplace are well aware of what the law allows.

ARA has been representing the interests of thousands of businesses in the automotive recycling industry since 1943 and the use of recycled parts has been widely accepted for decades in automotive repairs for the following reasons:

- Recycled parts are generally fully functional original equipment manufacturer (OEM) parts; and
- Consumers often prefer recycled OEM collision repair parts to new parts because they allow consumers to save on costs while using parts identical to new OEM parts;
- Recycled parts are better for the environment, since no additional resources or energy are used to create the part; and,
- Automotive recyclers often provide warranties for recycled parts used in repairs indicating they stand behind the parts they sell.

ARA concerns center around the increasing practices of automobile manufacturers - who ARA believes are attempting to maintain their market power through activities such as issuing statements designed to plant a seed of doubt in consumers regarding the viability of recycled parts. With approximately 65% of ARA members running small businesses that employ 10 or less staff, our members rely on FTC's Interpretations and actions to combat these practices. These small businesses need the help of the FTC to ensure that they will be able to compete on a level playing field. We urge the Commission to continue to publish its Interpretations to support this crucial business sector.

Not surprisingly though, automobile manufacturers have increased their efforts to seemingly discourage the use of recycled parts by consumers as recycled parts use has grown in popularity. Statements made by many automobile manufacturers often leave the impression that recycled parts are inferior to new OEM parts and that consumers are at risk by using them

As automobile manufacturers watch their large market shares shrink from legitimate competition, they become concerned about loss of profit. According to a most recent Mitchell Collision Repair Industry Data, new OEM parts accounted for 66.2% of all parts used in repairs which represented a decline in their market share from previous quarters. As recently as the second quarter of 2008, new OEM parts accounted for 74.4% of all parts used in repairs. Much of this decline can be explained by consumers and the collision repair industry becoming better educated about quality part alternatives, such as recycled OEM parts.

As referenced above, many statements by automobile manufacturers seem to be designed to cause consumers to doubt the viability of recycled parts. For example, recent manufacturer statements have raised the prospect that a consumer's vehicle warranty could be voided by using a recycled automobile part. Regrettably, these types of statements often lead consumers to the mistaken impression that recycled parts are inferior to new OEM parts.

Earlier this year, this specific issue was raised to the FTC and, in July 2011, the FTC updated a Consumer Alert entitled "**Auto Warranties, Routine Maintenance, and Repairs: Is Using the Dealer a Must?**" In that alert, the FTC affirmed that "Warrantors may not claim that a warranty is void simply because a consumer has used a recycled part." ARA appreciates the FTC's statements in the Consumer Alert and expresses the need to be sure that the sentiments in that Consumer Alert are preserved and continue in any new statement or policy.

ARA believes the updated Consumer Alert is a positive first step in addressing the comments repeatedly made by automobile manufacturers about recycled parts. However, the attacks made by automobile manufacturers continue. For example, several manufacturers have announced "price matching policies" where they match the lower cost of a recycled part in an effort to encourage the purchase of more new OEM parts. Although maybe permissible on its own, when taken into consideration with past statements and other actions regarding the use of recycled parts, this recent trend by manufacturers indicates manufacturers are continuing their efforts to discourage consumers from using cost effective and environmentally friendly recycled automotive parts.

In response to these practices, it is imperative that the FTC continue to publish Interpretations in a manner that ensures statements and policies issued by automobile manufacturers about their warranties and the impact of using "non-new" or recycled OEM parts are correct and not misleading. ARA also believes that the alerts should highlight the fact that one of the most important issues in automobile repair is not whether the part is new OEM or recycled but rather the quality and competence of the person doing the repairs.

ARA respectfully requests that the FTC amend its consumer alerts whenever a questionable statement is made by a automobile manufacturer. ARA understands that the Interpretations do not carry the force of law, but that the Commission can take action under the FTC Act if a business makes claims inconsistent with the Interpretations. We strongly urge FTC to monitor these claims made by the automobile manufacturers and to use the FTC Act if necessary.

Thank you for the opportunity to address these important issues.

Sincerely,

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Michael E. Wilson, CEO
Automotive Recyclers Association