



Permitting, Licensing and Consumer Protection Division

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September 19, 2008

Federal Trade Commission
Room H-135 (Annex H)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Public Comments to Proposed Changes in the Used Motor Vehicle Trade Regulation Rule
(Rule 455), Matter No. P087604

Dear Commissioners:

The attached comments are being filed by the Broward County Permitting, Licensing and Consumer Protection Division, Broward County Government, as part of the public comments to be considered in connection with your review of, and proposed changes to, the Used Motor Vehicle Trade Regulation Rule (Rule 455). Please make them part of the public record in this matter.

Thank you for your consideration.

Very Truly,

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JM/JD:gl
Enclosure

Comments on Questions A1 – A14

1. Is there a continuing need for the Rule? Why or why not?

This office believes there is a continuing need for the Used Motor Vehicle Trade Regulation Rule 16 CFR Part 455 (hereinafter referred to as the “Rule”). The Rule establishes a standard document that all used motor vehicle dealers must use to disclose warranty information (hereinafter referred to as the “Buyers Guide”), thus making it easier for consumers to shop for used motor vehicles and compare the warranties associated with them. It also deters used motor vehicle dealers from making oral representations that are confusing or inaccurate.

This office believes that without the Rule the likelihood of unfair and deceptive trade practices in sales of used motor vehicles would increase. This office receives dozens of complaints a year relating to unfair and deceptive trade practices against used motor vehicle dealers. It is through the use of the Rule, especially where the Buyers Guide is concerned, that this office is able to police unfair and deceptive trade practices and resolve consumer complaints.

In addition, this office acts as a watchdog over the sales representations of used motor vehicle dealers. It is through reference to the Rule that we are able to insure that local used motor vehicle dealers refrain from unfair and deceptive trade practices with regard to warranties being offered and consumers are provided with reliable information. We believe that if the Rule is discontinued consumers would be significantly disadvantaged when buying a used motor vehicle.

2. What benefits has the Rule provided to consumers? What evidence supports the asserted benefits?

The Buyers Guide provides consumers with a quick snapshot of the warranties provided with a used motor vehicle. Consumers know up front what systems of the used motor vehicle are covered by a warranty, how they are covered and for what time period. In this day and age, with warranties ranging from 1,000 miles or 1 month to 5 years or 60,000 miles, it is beneficial for consumers to see that information in print prior to making a purchase. Also, with the high price of gasoline, consumers are paying closer attention to warranty coverage as a cost saving device. Perhaps even more important than knowing when a warranty is provided is knowing when one is not provided. The Buyers Guide clearly lets a consumer know when a used motor vehicle is being sold “AS IS.” In bold lettering the Buyers Guide also informs consumers that “YOU WILL PAY ALL COSTS FOR ANY REPAIRS”.

Lastly, the reverse side of the Buyers Guide lists “...some major defects that may occur in used motor vehicles.” This list provides consumers with guidance in negotiating a used motor vehicle warranty and the purchase price of the used motor vehicle. This office believes that without the Rule and the specific information provided on the Buyers Guide the likelihood of unfair and deceptive trade practices by used motor vehicle dealers would increase and put consumers at a disadvantage in purchasing used motor vehicles.

3. What modifications, if any, should be made to the Rule to increase its benefits to consumers?

Section 455.2(b)(2)(v) states: “If the vehicle is still under the manufacturer’s original warranty, you may add the following paragraph below the “Full/Limited Warranty” disclosure: MANUFACTURER’S WARRANTY STILL APPLIES. The manufacturer’s original warranty has not expired on the vehicle. Consult the manufacturer’s warranty booklet for details as to warranty coverage, service location, etc.” It is this office’s belief that the Buyers Guide should contain a mandatory section which details any existing manufacturer’s warranty, refers the purchaser to examine the manufacturer’s written warranty, and the manufacturer’s written warranty, if one still applies, should be made available to the consumer by the used motor vehicle dealer . In this way, the possibility for misrepresentation where there is a manufacturer’s warranty and what it covers can be greatly reduced.

Section 455.2(3)(f) states: “Optional Signature Line. In the space provided for the name of the individual to be contacted in the event of complaints after sale, you may include a signature line for a buyer’s signature. If you opt to include a signature line, you must include a disclosure in immediate proximity to the signature line stating: “I hereby acknowledge receipt of the Buyers Guide at the closing of this sale.” You may print this language on the form if you choose.” This office believes that the Rule should require two copies of the Buyers Guide be signed, one by the consumer and the other by the used motor vehicle dealer, that acknowledges the consumer received a copy of the Buyers Guide. One copy should be required to be retained by the used motor vehicle dealer and kept as part of the transaction file as required by state law. The other copy should be provided to the consumer. This practice would help eliminate issues that arise in the investigation of complaints concerning used motor vehicle warranties such as where the consumer claims there is a warranty, the used motor vehicle dealer denies there is one, and the consumer denies having received the Buyers Guide or states it has been lost. Often the used motor vehicle dealer will state that it did provide the Buyers Guide to the consumer but did not retain a copy of it for its files. Or, the used motor vehicle dealer has a copy in its transaction file, but it lacks the consumer’s signature and therefore it cannot be established whether or not the consumer received it. Requiring the consumer’s signature on the Buyers Guide and that the used motor vehicle dealer retain one copy in its transaction file would help resolve these issues.

Section 455.5 states: “If you conduct a sale in Spanish, the window form required in §455.2 and the contract disclosures required by §455.3 must be in that language. You may display on a vehicle both an English language window form and a Spanish Language translation of that form...” This office believes the Rule should require the Buyers Guide to be provided in the language that is used to conduct the sale. The Rule should not be limited to only Spanish. Today, the United State has one of the largest immigrant populations it has had in the last 100 years (as a percentage of population). For example, in Miami-Dade County, Florida, over 50% of households speak a language other than English at home as their first language. In addition, immigrants are coming from more geographically varied places than ever before. Thus, in South Florida there is a large Haitian Creole population. It does not advance consumer protection to have similarly situated groups, such as non-English speakers, treated differently in the marketplace, with one group receiving additional protection (Spanish speakers) not afforded to speakers of other languages.

This office believes that a modification should be made to the list of systems on the back side of the Buyers Guide. It should be reformatted to contain boxes next to each section for marking (☑). The warranty information on the front of the Buyers Guide would refer to the systems listed on the back side of the Buyers Guide. The used motor vehicle dealer would check each system box on the list to which a warranty is applicable. This would provide consumers with very specific warranty information as to what systems of the vehicle are covered and for how long. In addition, a column for the duration of the warranty provided would be added on the back side of the Buyers Guide. Combining the warranty coverage and duration information with the list on the back side of the Buyers Guide would clear up space on the front side of the Buyers Guide for proposed changes such as adding an area for non-dealer warranties. This office believes that such a format and procedure would result in omissions of warranty coverage decreasing and more extensive warranty coverage being provided. The consumer would not have to worry about whether or not some system or problem was inadvertently overlooked. The consumer could feel confident that all the pertinent information was set forth on the Buyers Guide. There should also be extra lines available to write in additional systems/problems not covered on the list.

(a) What evidence supports the proposed modifications?

This office receives many consumer complaints alleging that there is a warranty on a used motor vehicle, but the consumer does not have the Buyers Guide or the Buyers Guide the consumer has does not indicate that there is a warranty. Making the Rule more specific and requiring more documentation and recordkeeping, can only benefit and protect consumers in a transaction where the used motor vehicle dealer is the expert who engages in such transactions every day, has greater knowledge and information about the vehicle being sold, and keeps records as a matter of business practice and legal requirements.

(b) How would these modifications affect the costs the Rule imposes on businesses, and in particular on small businesses?

There would be little expense for used motor vehicle dealers to comply with such a modified Rule as it would only mean downloading a new form. In addition, the dealership has better access to the information on the manufacturer's warranty. It is also practically no additional expense for a used motor vehicle dealer to obtain two signed copies of the Buyers Guide and retain one for its records while providing the consumer with the other. Lastly, the Buyers Guide can be translated into many languages just like the Spanish version is translated and the official translated versions posted on the FTC's website. The official translations would then be available to used motor vehicle dealers for downloading and printing. As a used motor vehicle dealer would only download, print and make available Buyers Guides in the languages that its sales people speak, a used motor vehicle dealer would only be downloading and printing Buyers Guides in a few languages. The expense of downloading and printing the Buyers Guides in a few languages should not be a substantial increase in cost over what is incurred at present.

(c) How would these modifications affect the benefits to consumers?

These modifications would enhance the effectiveness of the Rule. Consumers would know specifically if there is a manufacturer's warranty on a used motor vehicle and what that manufacturer's warranty is. Having the used motor vehicle dealer provide this information means consumers can shop at non-manufacturer used motor vehicle dealers and compare various motor vehicle manufacturers' warranties. As used motor vehicle dealers are required by state laws to maintain records of their transactions, requiring a signed copy of the Buyers Guide to be maintained as part of the used motor vehicle dealer's records and be available for review if any issue arises after the transaction is completed, decreases the probability of disputes arising. And if a dispute does arise, increases the probability that it can be resolved based on the documentation in the file.

Modifying the systems list on the back side of the Buyers Guide, would provide consumers very specific and clear information as to what systems are covered under the used motor vehicle dealer's warranty and the duration of that warranty. Having a specific check list would settle any disputes as to which systems are covered and which aren't. Basically, if the system is checked off there is warranty coverage. If the system is not checked off, there is no warranty coverage for that particular system.

Lastly, requiring that the Buyers Guide be in the language used by the parties to negotiate the transaction increases the likelihood that a consumer will be able to understand the transaction he/she entered into. This will afford non-English and non-Spanish speakers the same opportunities and protection as English and Spanish speakers now enjoy under Rule 455.

4. What impact has the Rule had on the flow of truthful information to consumers and on the flow of deceptive information to consumers?

This office believes that the Rule has both increased the flow of truthful information to consumers and decreased the flow of incorrect and deceptive information to consumers. By requiring that the Buyers Guide be affixed to used motor vehicles, the Rule has deprived used motor vehicle dealers of the ability to make oral representations about the warranty accompanying a used motor vehicle without the consumer having the ability to confirm that oral information by seeing it in writing on the Buyers Guide. This is accomplished by Sections 455.3(b) and 455.4. Section 455.3(b) states that the information in the Buyers Guide is part of the contract of sale and that it overrides any contrary language in the contract. Section 455.4 prohibits a used motor vehicle dealer from making any statements contrary to the information stated on the Buyers Guide. Together, they require used motor vehicle dealers to provide consumers with clear, accurate information in writing about the warranty on a used motor vehicle offered by that dealer that becomes part of the contract of sale and enforceable in court.

5. What significant costs has the Rule imposed on consumers? What evidence supports the asserted costs?

This office does not believe consumers have incurred significant costs because of the Rule.

6. What modifications, if any, should be made to the Rule to reduce the costs imposed on consumers?

No comment submitted.

(a) What evidence supports the proposed modifications?

No comment submitted.

(b) How would these modifications affect the benefits provided by the Rule?

No comment submitted.

7. How have the 1995 amendments to the Rule affected purchasers of used motor vehicles? How have the 1995 amendments to the Rule affected used motor vehicle dealers? Please provide any evidence that has become available since 1995 concerning the costs, benefits, and effectiveness of the Rule. Does this new information indicate that the Rule should be modified? If so, why, and how? If not, why not?

No comment submitted.

8. What benefits, if any, has the Rule provided to businesses, and in particular to small businesses? What evidence supports the asserted benefits?

No comment submitted.

9. What modifications, if any, should be made to the Rule to increase its benefits to businesses, and in particular to small businesses?

No comment submitted.

(a) What evidence supports the proposed modifications?

No comment submitted.

(b) How would these modifications affect the costs the Rule imposes on businesses, and in particular on small businesses?

No comment submitted.

(c) How would these modifications affect the benefits to consumers?

No comment submitted.

10. What significant costs, including costs of compliance, has the Rule imposed on businesses, and in particular on small businesses? What evidence supports the asserted costs?

No comment submitted.

11. What modifications, if any, should be made to the Rule to reduce the costs imposed on businesses, and in particular on small businesses?

No comment submitted.

(a) What evidence supports the proposed modifications?

No comment submitted.

(b) How would these modifications affect the benefits provided by the Rule?

No comment submitted.

12. What evidence is available concerning the degree of industry compliance with the Rule? To what extent has there been a reduction in deceptive oral representations and unfair omissions made by used car dealers concerning warranty coverage since the Rule was issued? Please provide any supporting evidence. Does this evidence indicate that the Rule should be modified? If so, why, and how? If not, why not?

This office monitors the compliance of used motor vehicle dealers with the Rule. When used motor vehicle dealers violate the Rule this office is able to take enforcement action. In 2003, this office entered into 32 voluntary settlements with used motor vehicle dealers concerning violations of the Rule. In 2004, the necessity for such agreements dropped to 2. In subsequent years, compliance with the Rule has continued to increase, and it has not been necessary for this office to take enforcement action.

This office believes that although the Rule has made great strides in protecting consumers from deceptive practices, improvements can be made. This office believes that the modifications we have proposed will enhance the protection consumers receive with regard to some of the common disputes that arise with regard to warranty coverage in purchasing a used motor vehicle.

13. What modifications, if any, should be made to the Rule to account for changes in relevant technology or economic conditions? What evidence supports the proposed modifications?

No comment submitted.

14. Does the Rule overlap or conflict with other Federal, state or local laws or regulations? If so, how?

No comment submitted.

(a) What evidence supports the asserted conflicts?

No comment submitted.

(b) With reference to the asserted conflicts, should the Rule be modified? If so, why, and how? If not, why not?

No comment submitted.

Comments on Questions B1 – B12

1. Should the Used Car Rule be modified to permit used motor vehicle dealers the option of using a Buyers Guide that combines both the English and Spanish language versions of the Buyers Guide into a single bilingual document? If not, why not? If so, why? If so, how should bilingual Buyers Guides be designed and formatted to minimize consumer confusion?

This office does not believe that the Buyers Guide should be altered to provide for one single combined English/Spanish document. This office believes that the Buyers Guide should reflect the language used to conduct the transaction. This could be French, Creole, Portuguese or any of a number of other languages. Therefore, combining English and Spanish into one Buyers Guide still does not help consumers who speak languages other than English or Spanish. Rather, this office believes the Buyers Guide should be available for downloading in a number of languages and the language-specific document used in the transaction, as appropriate.

The following questions B1(a) through (f) are not answered as this office does not believe that a bilingual English/Spanish Buyers Guide is an appropriate solution:

(a) If recommending that bilingual Buyers Guides should be permitted, provide as much detail as possible about the form that the bilingual Buyers Guide should take. Provide examples of bilingual Buyers Guides for use in states that permit “as is” sales (i.e., sales in which implied warranties are disclaimed) and states that prohibit “as is” sales (i.e., “Implied Warranties Only” sales). Indicate the type, styles, sizes, and format used in examples of bilingual Buyers Guides that are submitted.

(b) What benefits, if any, would bilingual Buyers Guides provide consumers? What evidence supports the asserted benefits?

(c) What burdens, if any, would bilingual Buyers Guides impose on consumers? What evidence supports the asserted burdens?

(d) What benefits, if any, would bilingual Buyers Guides provide businesses, and in particular small businesses? What evidence supports the asserted benefits?

(e) What burdens, if any, would bilingual Buyers Guides impose on businesses, and in particular small business? What evidence supports the asserted burdens?

(f) Question 8 below discusses possible alternate Buyers Guides intended to facilitate the disclosure of manufacturer’s and other third-party warranties. How would your answers to the preceding questions about bilingual Buyers Guides change if the Commission adopted a revised Buyers Guide as described in Question 8?

The following questions B2(a) through (c) are not answered as this office does not have a position on particular language to be used in the Spanish language version of the Buyers Guide:

2. Should the translation of the Buyers Guide into Spanish be revised as described below? If so, why not? If not, why not?

(a) Should the term “dealer” be translated into Spanish as “concesionario,” instead of “distribuidor” or “vendedor?”

(b) Should the term “regardless of” in the statement below the AS IS-NO WARRANTY box on the front of the Buyers Guide be translated into Spanish as “independientemente de” instead of “sean cuales sean?”

(c) Should the following revisions be made to the Spanish translation of terms used in the list of major defects in automobile systems on the reverse side of the Buyers Guide?

i. Should the term “Frame-cracks” in the Frame & Body section be translated as “Grietas en el chasis,” instead of “Chasis-grietas?”

ii. Should the term “Cooling System” in the Cooling System section be translated as “Sistema de enfriamiento,” instead of “Sistema de refrigeracion?”

iii. Should the term “Air conditioner” in the Inoperable Accessories section be translated as “Aire acondicionado,” instead of “Acondicionador de aire?”

iv. Should the term “Defroster” in the Inoperable Accessories section be translated as “Desempanador,” instead of “Descarchador?”

v. Should the terms “Not enough pedal reserve” in the Brake System section be translated as “Distancia insuficiente del pedal,” instead of “Juego insuficiente en el pedal?”

3. What purposes, if any, does the list of systems and major defects that may occur in a used motor vehicle on the reverse side of the Buyers Guide serve?

The purpose of the list of major defects on the back side of the Buyers Guide is to serve as a guide for consumers as to what problems may occur after a used motor vehicle purchase.

(a) What benefits does the list provide to consumers?

If the used motor vehicle is sold “as is” then the list provides the consumer with information as to what problems may occur after a used motor vehicle purchase. It also provides the consumer with a checklist

of what he/she should seek to have inspected by his/her own mechanic in deciding whether to purchase a specific used motor vehicle, and what an appropriate purchase price is for that vehicle. If the used motor vehicle comes with a warranty, the list provides a check list for the consumer to use in seeking warranty coverage.

(b) What burdens does the list impose on consumers?

This office does not believe that the list imposes any burdens on the consumer.

(c) What benefits does the list provide to businesses, and in particular to small businesses?

No comment submitted.

(d) What burdens does the list impose on businesses, and in particular on small businesses?

No comment submitted.

(e) Should the list be retained? Why or why not?

This office believes that the list should be retained because it provides important information to consumers. This office believes the list provides consumers with a convenient reminder of the major mechanical problems that can occur after the purchase of a used motor vehicle, what systems to have a mechanic check prior to making a purchase, and what systems and problems the consumer should negotiate to have covered by any warranty issued by the used motor vehicle dealer.

(f) Should the list be modified? If so, why, and how? If not, why not?

Please see response submitted in answer to Question A3.

4. The Rule permits dealers who opt to disclose an unexpired manufacturer's warranty to add the following statement to the Buyers Guide below the FULL/LIMITED WARRANTY boxes in the SYSTEMS COVERED/DURATION section:

MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle. Consult the manufacturer's warranty booklet for details as to warranty coverage, service location, etc.

Separately and beneath that statement, in states that permit "as is" sales, dealers may add:

"The dealership itself assumes no responsibility for any repairs, regardless of any oral statements about the vehicle. All warranty coverage comes from the unexpired manufacturer's warranty."

(a) What benefits, if any, does the method permitted by the Rule for disclosing unexpired manufacturer's warranties provide consumers?

No comment submitted.

(b) What burdens does the method permitted by the Rule for disclosing unexpired manufacturer's warranties impose on consumers?

This office does not believe the current method imposes any burden on the consumer.

(c) What benefits does the method for disclosing unexpired manufacturer's warranties permitted by the Rule provide businesses, and in particular small businesses?

No comment submitted.

(d) What burdens does the method for disclosing unexpired manufacturer's warranties permitted by the Rule provide businesses, and in particular small businesses?

No comment submitted.

(e) Should the current method permitted by the Rule for disclosing unexpired manufacturer's warranties be modified? If so, why, and how? If not, why not?

The current method of disclosing unexpired manufacturer's warranties does not provide disclosure. This is because such disclosure is optional. Even when made, it does not inform the consumer what systems are covered and for what duration. A used motor vehicle dealer should be required to provide a copy of any in-force manufacturer's warranty on all used motor vehicles it sells.

The optional language that a used motor vehicle dealer is encouraged to add concerning any in-force manufacturer's warranty is somewhat informative to the consumer. This optional language is more specific than the fact that there is a full or limited warranty in that it also informs the consumer that the dealership will not be responsible for any repairs no matter what is said. This presently optional language should be made required language, and it should be required to be printed in 10 point size, bold capitalized type.

(f) Should the Rule provide an option to use a similar method for disclosing other warranties that are included in the price of the used vehicle, such as manufacturer's certified used car warranties and warranties provided by other third parties? If so, why, and how? If not, why not?

This office believes that all non-dealer warranties should be required to be disclosed. The consumer has a right to be fully informed in writing, in connection with a purchase of a used motor vehicle being made pursuant to a written contract, about all warranties that are applicable to the used motor vehicle being purchased. Therefore, if there is a manufacturer's warranty, a certified used car warranty, or a third party extended warranty in force, there should be a place on the Buyers Guide for that information to be disclosed and a copy of that warranty should be required to be provided to the consumer by the used motor vehicle dealer. It should also be required to be disclosed how multiple warranties will operate in conjunction with each other; and, if there is an order of priority among the warranties, what that order of priority is.

5. Should the optional statement provided by the Rule to indicate that a manufacturer's warranty applies be revised to alert consumers to check the warranty booklet for the expiration date of the manufacturer's warranty by stating: "Consult the manufacturer's warranty booklet for details as to warranty coverage, expiration, service location, etc?" Why or why not?

This office agrees that the Buyers Guide optional statement that a manufacturer's warranty still applies should be amended by adding the additional language. "Consult the manufacturer's warranty booklet for details as to warranty coverage, expiration, service location, etc." In addition, this office believes any applicable manufacturer's warranty should be made available to the consumer by the used motor vehicle dealer. The Buyers Guide should provide for a place for the used motor vehicle dealer to check whether or not a manufacturer's warranty still applies. In this way, the possibility for the misrepresentation of the existence of a manufacturer's warranty can be greatly reduced.

6. Should the Rule require dealers to indicate whether a manufacturer's warranty applies and provide information about the scope of that coverage? Why or why not? Should disclosure of manufacturer's warranties be optional as the Rule currently provides? Why or why not?

This office believes used motor vehicle dealers should be required to indicate, with the language set forth in Question B5, if a manufacturer's warranty still applies, and the scope of the manufacturer's warranty. It is this office's belief that the Buyers Guide should be formatted to contain a separate mandatory area which sets forth this information. This separate area should have "yes" and "no" boxes and the applicable box should be required to be marked by the used motor vehicle dealer. In addition, the manufacturer's actual warranty should be made available to the consumer by the used motor vehicle dealer.

7. Is checking the AS IS-NO WARRANTY box to indicate that the dealer is not obligated to perform warranty service clear and understandable to consumers? Why or why not? Does checking the AS IS- NO WARRANTY box confuse consumers about whether other warranty or service coverage, such as manufacturer's warranty, applies? Why or why not? How could the Buyers Guide be redesigned to prevent consumer confusion about the meaning of the "as is" disclosure?

This office believes the AS IS-NO WARRANTY box is not clear and understandable to consumers. This office receives many phone calls and written complaints regarding this disclosure. Consumers often do not understand what the phrase "as is" means. Frequently, this office needs to point out to the consumer that he/she has signed a contract indicating that the used motor vehicle was sold "as is" and received a Buyers Guide stating the same fact, and that this means the vehicle was purchased in the condition it was in when the consumer examined it. This office explains to the consumer that by signing the contract with this specific language and having received a Buyers Guide stating the same fact, it means that he/she has agreed to purchase a used motor vehicle without a warranty from the used motor vehicle dealer and, almost always, no manufacturer's warranty.

This office believes that the AS IS-NO WARRANTY box as presently written is confusing to consumers. The Buyers Guide should be redesigned to prevent consumer confusion. This office suggests that it be

reworded to read: "THE DEALER WILL NOT PAY ANY COSTS FOR ANY REPAIRS AFTER YOU DRIVE THE VEHICLE OFF THE PREMISES. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle." When read in conjunction with the information in the separate manufacturer's warranty area as this office recommends in the response to the foregoing Question B5, the consumer will have a clear explanation of what warranties are being provided and by whom.

8. Examples of revised Buyers Guides that provide a different method to disclose manufacturer's warranties and third-party warranties that are included in the price of the used car attached are appendices A and B. Appendix A is designed for use in states that permit dealers to sell used cars "as is" i.e., without any warranty from the dealer. Appendix B is designed for use in states that prohibit "as is" sales.

The Buyers Guide attached as Appendix A states:

"AS IS"- NO DEALER WARRANTY THE DEALER WILL NOT PAY ANY COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.

If a dealer chooses to use a Buyers Guide like Appendix A and does not offer its own warranty, the dealer would check the box to indicate that the car is being offered "AS IS" – NO DEALER WARRANTY.

If state law limits or prohibits "as is" sales of vehicles or the dealer chooses to offer the vehicle with implied warranties only when offering a car for sale in a state that permits "as is" sales, the following should be substituted for "AS IS"- NO DEALER WARRANTY, and its accompanying language:

IMPLIED WARRANTIES ONLY

This means that the dealer does not make any specific promises to fix things that need repair when you buy the vehicle or after the time of sale. But, State law "implied warranties" may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

Appendix B is a Buyers Guide that uses the above disclosure to indicate that the dealer is offering implied warranties only.

If a dealer chooses to use a Buyers Guide like Appendix A or B and the dealership provides its own used car warranty, the dealer would check the DEALER WARRANTY box, indicate whether the warranty is full or limited, and identify the percentage of labor and parts that the dealer will pay for repairs:

DEALER WARRANTY

FULL LIMITED WARRANTY. The dealer will pay ___ % of the labor and ___ % of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under state law, "implied warranties" may give you even more rights.

Immediately beneath this section, the dealer would indicate the Systems Covered and Duration of coverage for the identified systems:

SYSTEMS COVERED:

DURATION

If the dealer does not provide its own warranty and state law permits the dealer to sell used cars “as is,” in the space provided for the SYSTEMS COVERED/DURATION, the dealer may fill in (or pre-print or use a rubber stamp) the following statement: “The dealership itself assumes no responsibility for any repairs, regardless of any oral statements about the vehicle. All warranty coverage comes from the unexpired manufacturer’s warranty, manufacturer’s used car warranty, or other used car warranty indicated below.”

The Buyers Guide would have additional boxes below the SYSTEMS COVERED/DURATION section where the dealer could indicate whether the dealer is offering a used car with a manufacturer’s warranty or other third party warranty. If a dealer chooses to disclose manufacturer’s warranties and third party warranties using Appendix A or B, dealers would check the appropriate boxes to indicate the types of warranties that are provided as part of the sales price of the car.

NON-DEALER WARRANTIES

MANUFACTURER’S WARRANTY STILL APPLIES. The manufacturer’s original warranty has not expired on the vehicle.

MANUFACTURER’S USED CAR WARRANTY APPLIES.

OTHER USED CAR WARRANTY APPLIES.

Consult the warranty booklet for details as to warranty contract coverage, expiration, service location, etc.

NO INFORMATION PROVIDED. The dealer provides no information about other warranties that may apply.

The Rule’s **SERVICE CONTRACT** box and corresponding explanation that a service contract is available would appear below this statement separated by a line to distinguish service contract availability from warranty coverage:

SERVICE CONTRACT. A service contract is available at an extra charge on this vehicle. Ask for details as to coverage, deductible, price and exclusions. If you buy a service contract within ninety days of sale, state law “implied warranties” may give you additional rights.

(a) Should the Rule be revised to permit dealers to disclose unexpired manufacturer’s warranties, manufacturer’s used car warranties, and other used car warranties as shown in Appendices A and B.

This office believes a consumer has a right to know about all the warranties on a used motor vehicle before purchasing the used motor vehicle and that this information should be presented in one document in simple, clear language. An orderly and fair marketplace requires such a standard. Having such requirements will promote the fair treatment of buyers of used motor vehicles and result in an increase in the number of transactions that occur without a warranty coverage issue arising. Therefore, this office believes that the Rule should be revised to not only permit dealers to disclose all warranties on a used motor vehicle but to require them to do so on the Buyers Guide. This can be accomplished by using the proposed Buyers Guide shown in Appendix A and making the layout shown required, not optional, and by addition to the second section of “yes” and “no” boxes for each statement which must be marked by the used motor vehicle dealer .

(b) What benefits, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B provide to consumers?

This office believes consumers would benefit greatly from used motor vehicle dealers disclosing all warranties associated with a used motor vehicle. If such disclosure is required, consumers will have full knowledge of all warranties, have all the warranty information set forth in one document, and have it presented in clear, simple language. Consumers will then be able to make more informed buying decisions than is now the case. The result will be greater parity of bargaining power between buyers and sellers, which is one of the basic goals of consumer protection laws.

(c) What burdens, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B impose on consumers?

This office does not believe that the consumer would incur any burden if the used motor vehicle dealer discloses all warranties on the Buyers Guide.

(d) What benefits, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B provide to businesses, and in particular to small businesses?

This office believes that disputes between consumers who purchase used motor vehicles and used motor vehicle dealers would decrease substantially if all warranties are required to be disclosed. This is because consumers would have a better understanding of the warranties accompanying the used motor vehicle before any purchase is made, and would therefore be in a better position to make a more informed decision about whether to purchase the particular used motor vehicle and at what price.

(e) What burdens, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B impose on businesses, and in particular small businesses?

No comment submitted.

(f) What alternatives, if any, should be considered? Why? If no alternatives should be considered, why not?

This office recommends changing the wording in Appendix A to read: “THE DEALER WILL NOT PAY ANY COSTS FOR ANY REPAIRS AFTER YOU DRIVE THE VEHICLE OFF THE PREMISES.” This will clarify to the consumer that even if the car breaks down one block away from the dealership that he/she is solely responsible for any repairs. This office also recommends that the words “WILL NOT” be printed in red ink to stand out. This way, even if the consumer takes a cursory glance at the document, the disclaimer will catch the eye of the consumer.

(g) Does stating “AS IS” – NO DEALER WARRANTY (See Appendix A) instead of AS IS – NO WARRANTY make the Buyers Guide more clear and understandable to consumers? Why or why not?

It is this office’s belief that adding the word “DEALER” is clearer and understandable to the consumer when used in conjunction with the recommended required additional area for disclosing whether or not there is a manufacturer’s warranty and the requirement that a used motor vehicle dealer be required to disclose all warranties. The present wording can be read to mean that there are no warranties at all; and that may not be the case. There may be a manufacturer’s warranty or a third-party warranty.

(h) Is checking the box marked “AS IS” – NO DEALER WARRANTY to indicate that a dealer does not offer its own warranty clear and understandable to consumers when a dealer also checks one or more of the boxes indicating that a NON DEALER WARRANTY from someone other than the dealer applies? Why or why not?

This office believes that the above language is clear and understandable to consumers when the dealer is also required to complete a manufacturer’s warranty area and also disclose all warranties. It is clear and understandable because consumers have a complete explanation of all warranties pertaining to the used motor vehicle in one document in clear, simple language.

(i) Does stating, “THE DEALER WILL NOT PAY ANY COSTS FOR ANY REPAIRS” (See Appendix A), instead of “YOU WILL PAY ALL COSTS FOR ANY REPAIRS” to explain “AS IS” – NO DEALER WARRANTY make the Buyers Guide in Appendix A more clear and understandable to consumers? Why or why not?

This office believes that changing the wording does help clarify that the used motor vehicle dealer will not pay for any repairs to the used motor vehicle and any repairs are the responsibility of the consumer. This wording would be even further clarified if the words “WILL NOT” were required to be printed in red ink.

(j) Does adding the statement “FROM THE DEALER” help show that the boxes marked IMPLIED WARRANTIES ONLY and DEALER WARRANTY apply only to warranties that may, or may not, be offered by the dealer? If so, why? If not, why not? If not, how could the format and/or wording be improved?

No comment submitted.

(k) Does eliminating the lines for text in the SYSTEMS COVERED/DURATION section of the Buyers Guide, as shown in Appendices A and B, make it easier or more difficult to disclose each system covered and the duration of coverage for each system? Why?

This office believes that the SYSTEMS COVERED/DURATION section can be eliminated from the front side of the Buyers Guide if the back side of the Buyers Guide is reformatted to make it the warranty coverage section as well as an explanation section. This can be done by reformatting it to contain boxes next to each item for marking if it is covered by the used motor vehicle dealer's warranty (☑). The used motor vehicle dealer's warranty section on the front of the Buyers Guide would then be changed to refer to the list on the back side of the Buyers Guide. The used motor vehicle dealer would check each item box on the list to which its warranty applies. This would provide a consumer with very specific warranty information as to what systems are covered and for how long by the used motor vehicle dealer. In addition, a column for denoting the duration of the warranty provided would be added on the back side of the Buyers Guide having a line that corresponds to the checked boxes. Combining the warranty coverage and duration information into one list on the back side of the Buyers Guide would make room on the front side of the Buyers Guide for other additional information as proposed elsewhere in this submission.

(l) If the Rule is revised to permit dealers to use the Buyers Guides in Appendices A and B, what combination of type size, paper size, and formatting, particularly in the amount of space allotted for the SYSTEMS COVERED/DURATION section, should be used to accommodate the additional text and other information in the Appendices, while assuring that the Buyers Guides are clear and understandable to consumers? In particular:

i. Should the Rule be revised to specify smaller or larger type sizes for Buyers Guides like those in Appendices A and B than currently prescribed by the Rule? Why or why not? If so, specify the type sizes.

See iii below.

ii. Instead of, or in combination with, changes in type sizes, should the Rule be revised to specify that Buyers Guides like those in Appendices A and B be printed on paper larger than the currently prescribed 11" x 7 1/4 " minimum. Why or why not? If so, specify minimum paper sizes, and identify type sizes if in combination with a recommended type size.

See iii below.

iii. Instead of, or in combination with changes in type size and paper size, should the space allotted for dealer to disclose warranty coverage and duration in the SYSTEMS COVERED/DURATION section of the Buyers Guide be increased or decreased? Why, or why not? How do changes in type size and paper size affect your answer?

This office believes that the size of the Buyers Guide should be increased to 11"x14." Smaller type size should be used, especially for the AS IS-NO DEALER WARRANTY and similar type sized words. This would accommodate the additional information that this office believes should be included on the Buyers Guide, as discussed elsewhere in this submission.

9. Does the statement "IMPLIED WARRANTIES ONLY" and accompanying text clearly disclose that the dealer offers no express warranty? If not, how could the disclosure be made clearer?

No comment submitted.

10. Should the Rule's type style, size, and format requirements for Buyers Guides be revised to accommodate current word processing programs? If so, why, and how? If not, why not?

This office believes that the format of the Buyers Guide should be changed to accommodate current word processing programs and other technological advances. Used motor vehicle dealers should be able to, and encouraged to, download the Buyers Guide and translations from an FTC website using the internet.

11. What other changes to the format of the Buyers Guide should be considered to increase its benefits? What effect would such changes have on the costs or burdens imposed by the Rule? What empirical or other evidence supports opinions that such changes would or would not increase costs or burdens?

No comment submitted.

12. What other changes to the format of the Buyers Guide should be considered to reduce compliance costs or burdens? Would such changes have any detrimental effect on the benefits provided by the Rule? What empirical or other evidence supports opinions about whether such changes would have a detrimental effect on benefits?

This office believes that adding a "yes" and "no" column in the non-dealer warranties section would reduce compliance burdens. This office recommends placing 2 boxes next to each item; one marked "yes" and the other marked "no." This way all the used motor vehicle dealer has to do is check the applicable boxes.