



**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

General Counsel

1200 New Jersey Avenue, S.E.
Washington, D.C. 20590



May 10, 2013

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

**Re: Used Motor Vehicle Trade Regulation Review
Project No. P087604**

The United States Department of Transportation (Department or DOT) is pleased to have the opportunity to share its views in this proceeding and appreciates the Commission's consideration of the important issues involved here.

The National Highway Traffic Safety Administration (NHTSA), an operating administration of the Department, is charged with, among other things, overseeing and implementing programs to enhance motor vehicle safety and reduce the incidence of vehicular traffic crashes, injuries, and deaths associated with motor vehicles or motor vehicle equipment that contain safety defects or fail to comply with Federal Motor Vehicle Safety Standards (FMVSS). NHTSA continually seeks to inform consumers about motor vehicle and equipment safety recalls. Through its website at www.safercar.gov, NHTSA announces new safety recalls and offers information on every safety recall conducted since 1966. It offers consumers a quick and easy way to search for safety recalls based on vehicle make and model year, as well as searches for equipment recalls, including child restraint and tire recalls. NHTSA also offers a free subscription to its recall notification alert system by which consumers can receive via e-mail or mobile phone daily (or weekly) notifications of new recalls. The Buyers Guide at issue in this proceeding is yet another avenue to provide motor vehicle safety information to consumers.

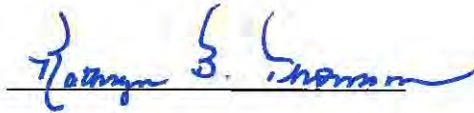
When vehicles or items of motor vehicle equipment contain a safety defect or fail to comply with FMVSS, the manufacturer of the vehicle or equipment is obligated to conduct a safety recall and provide, except in limited circumstances, a free remedy. 49 U.S.C. § 30118 *et. seq.* Further, dealers and retailers are prohibited from selling new motor vehicles or items of replacement equipment unless and until the vehicles or equipment are remedied per the manufacturer's instructions. 49 U.S.C. § 30120(i). However, this same prohibition does not extend to sales of used vehicles. Therefore, used vehicle dealers are permitted to sell vehicles that may not meet all of the Federal safety standards or that have safety defects. Moreover, there is no requirement under Federal law for them to disclose such information to potential buyers.

The FTC's proposed Used Car Buyers Guide presents an opportunity to educate consumers about the risk of purchasing a used vehicle for which safety-critical remedies have not been completed. We suggest that the FTC consider adding to the required information on the Buyers Guide a caution that any prospective buyer should check with the vehicle's manufacturer to learn whether there are any outstanding safety recalls on that particular vehicle. This is a simple measure that prospective buyers can take to better understand and properly evaluate the vehicles they are looking to purchase. The additional information may also have the indirect benefit of encouraging more used vehicle dealers to proactively research whether safety recalls are outstanding on vehicles they purchase or accept for trade-in, and to take measures to have the safety recall remedies applied by the manufacturer or its designated representative, at no cost to the selling dealership. Application of the manufacturer's free remedy to a vehicle effectively removes the safety risk attendant to the safety defect or compliance failure, and thereby reduces the incidences of crashes, injuries, and death to the motoring public.

The Department further suggests adding "Odometer Tampering" to the Buyer Guide. Congress has found that buyers of motor vehicles rely heavily on the odometer reading when assessing the condition and safety of a vehicle. 49 U.S.C. § 32701(a). Moreover, Congress has determined that buyers are entitled to rely on the odometer reading of a vehicle as an accurate indication of the vehicle's mileage, and that an accurate mileage reading assists the buyer in deciding on the safety and reliability of the vehicle. *Id.* § 32701(b), (c). The Department therefore recommends that the FTC consider adding to the required information in the Buyers Guide an additional caution that any prospective buyer should check the vehicle's mileage history to determine whether the vehicle's odometer is an accurate indication of its mileage history. A thorough check of the vehicle's history aids in the detection of odometer discrepancies in the vehicle's mileage history in addition to the identification of other vehicle safety issues, such as whether the vehicle has been involved in reported accidents or subject to any vehicle title change or re-branding. Transparency in a vehicle's history is the greatest deterrent to vehicle fraud; as such, the Department supports initiatives that direct consumers to vehicle history information.

The Department would be pleased to offer any additional assistance that it can to the Commission in the consideration of these issues.

Yours truly,

A handwritten signature in blue ink, reading "Kathryn B. Thomson", written over a horizontal line.

Kathryn B. Thomson
Acting General Counsel

cc: John C. Hallerud, Federal Trade Commission