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OFFICE OF THE COMMISSIONER

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STATEMENT OF COMMISSIONER PATRICIA P. BAILEY
Congressional Veto of FTC Used Car Rule

Today, the House of Representatives joined the United States Senate in voting to reject the Federal Trade Commission's Used Car Rule. The rule is therefore vetoed and cannot go into effect. This is the first time in 68 years that the Congress has voted to overturn an FTC rule.

The veto is a deep disappointment to me and to the Commission. A review of the Congressional calendar reveals that the used car rule was the major consumer protection initiative that has been considered by the Congress during this session. The proposition before the Congress, simply put, was: should used car dealers be required to tell potential buyers of major defects that they know about in the cars they offer for sale? That the Congress voted "no" to that proposition casts doubt on our efforts to mitigate unfair and deceptive trade practices in the marketplace.

Six years ago, in 1976, the Congress directed the FTC to investigate the used car market and to promulgate an industry-wide rule concerning warranty and other sales practices, if the evidence developed during the proceeding called for such relief.

We initiated that proceeding immediately six years ago. We held hearings in six cities involving more than 200 witnesses; we commissioned studies; we sought public comment.

The result is a 50,000 page record which clearly documents two specific, prevalent problems in the used car marketplace: first, dealers misrepresent the mechanical condition of used cars at the time of sale and, second, dealers either fail to disclose or misrepresent what, if any, warranty coverage is offered on the car. The record shows that more than half the used cars sold in this country are purchased "as is", which means that dealers have no responsibility to repair anything that goes wrong after the car is driven off the lot. The record also reveals that consumers do not understand that the car is being sold "as is", or what such a sale means.

The record shows clearly that these problems are widespread-- or, prevalent, in the industry. To address them the Commission considered various possible remedies. We considered and rejected a rule which would have required the inspection of all used cars prior to sale. We considered and rejected a rule which would have provided for optional inspection. During this period, a major dealer trade association which has been active in the lobbying effort against the rule, advised us to adopt, instead, a requirement that dealers disclose major known defects. The Commission took this advice and the rule as promulgated says, quite clearly, this: if you discover during the ordinary course of your business that major defects exist in the car, you must share this information with the consumer. You do not have to inspect the car, but you must share what you know with the buyer.

This final rule was the least burdensome, least intrusive

measure that the Commission could adopt and still provide effective buyer protection. It gained widespread support not only from major national consumer organizations, but also from the National Association of Attorneys General, who represent state law enforcement officials that have to deal every day with consumer complaints about used car purchases.

In 1981, used car sales outpaced new car sales three to one, as the average price of a new car rose to \$10,000. Not that a used car is cheap: the average used car price last year was \$3500 and consumers spent nearly 71 billion dollars purchasing used cars a year ago. At the FTC, the leading source of complaints here, and in our regional offices, continues to be from car buyers.

I regret deeply that the Commission, after its best effort based on substantial evidence in the record, is unable, with this veto, to address the problems of used car buyers in what is surely a costly and risky market.