

**Opening Remarks of FTC Chairwoman Edith Ramirez**  
**Auto Distribution: Current Issues and Future Trends**  
**Washington, DC**  
**January 19, 2016**

Good morning and welcome to the Federal Trade Commission's auto distribution workshop.

The FTC is no stranger to the world of auto distribution. In fact, one hundred years ago, when the agency was brand new, our country was in the midst of a major transformation. The newly-formed domestic auto industry was, at that point, rapidly replacing horse-drawn carriages with new "horseless carriages" – thanks largely to the popularity of the first mass-market car, Ford's Model T.

A major report on the auto industry the FTC produced for Congress in 1939 details that history. More than a thousand pages long, the report lays out the story of the early years of the auto industry, from the expansive growth in the 'teens and twenties, through the setbacks of the Great Depression. It also highlights the origins of our current system of auto distribution, which has remained remarkably unchanged in the subsequent 80 years despite dramatic changes that have swept across other retail sectors.

The FTC continues to examine the complex system of automobile sales. And we are still asking whether consumers benefit from that system or if change is needed.

Just as the United States was experiencing significant changes a century ago, the automobile marketplace may be on the precipice of dramatic change today. Manufacturing upstarts like Tesla and Elio, which seek to sell their vehicles directly to consumers rather than through dealer networks, are forcing us to reexamine the way that cars are sold. In addition, evolving trends related to the sharing economy and autonomous vehicles could change the demand for and sale of cars.

With today's workshop, our aim is to explore these issues in greater depth and examine their impact on consumers. Aside from a home, a car is frequently the single-most expensive purchase a consumer makes. In 2014, American consumers bought more than 16 million new cars and light trucks, at an average price of nearly \$33,000 each.<sup>1</sup> And having access to a vehicle is essential for many Americans to carry on their daily lives. Yet very few consumers understand the role that state government plays in determining how vehicles are priced, valued, and sold. That's why our agenda today is focused on how state-based laws and regulations affect consumers, competition, and innovation.

Throughout the workshop, we will also explore the future of the automobile marketplace. Changes gripping the market may raise additional questions about the regulatory structures we currently have in place and whether they will best serve consumers.

To frame our discussion for today, I would like to briefly describe the origins of the current system of automobile distribution and touch on some of our recent work in this important sector before concluding with some thoughts on today's program.

## **I. Historical Origins**

The early 20<sup>th</sup> century witnessed a dramatic increase in the use and purchase of automobiles. In 1913, there were approximately 1.25 million motor vehicles registered in the United States. Twenty years later, motor vehicle registrations passed the 25 million mark.<sup>2</sup> Notably, though, as car sales grew rapidly, the number of auto manufacturers declined dramatically. By 1937, the so-called "Big Three" firms – General Motors, Ford, and Chrysler – manufactured approximately 84 percent of the motor vehicles sold in the United States.<sup>3</sup>

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<sup>1</sup> NAT'L ASS'N OF AUTOMOBILE DEALERS, NADA Data 2014 at 3, *available at* <https://www.nada.org/nadadata>.

<sup>2</sup> FEDERAL TRADE COMM'N, Report on Motor Vehicle Industry, 76th Cong., 1st Sess., H.Doc. 468 (1939) ("1939 FTC Report") at 17.

<sup>3</sup> 1939 FTC Report at 1074.

With these events as a backdrop, car sales changed as well. As detailed in the FTC's 1939 Report, during the first two decades of the 20<sup>th</sup> century, the same men who owned and operated garages and service stations often sold cars and trucks, typically from the same locations. But with rising car sales, those former garage owners began to focus more on selling those cars, often making significant investments in buildings to serve as display areas and salesrooms. Gradually, manufacturers came to deal with the retail sellers not as agents but as independent merchants who took title and resold the vehicles, operating under a franchise agreement with the manufacturer. By the early 1930s, the basic system of independent franchised auto dealers that operates today had already become established industry practice.<sup>4</sup>

As this system evolved, though, those dealers who had made large investments became concerned that they would be at the mercy of their affiliated manufacturer, especially with few automobile manufacturers to turn to as alternatives. Dealers turned to policymakers about what they believed were abusive and coercive practices by manufacturers and the regulation of automobile distribution ensued.<sup>5</sup> Over time, all fifty states passed laws regulating the relationship between auto manufacturers and dealers.

## **II. The FTC's Efforts**

While many of these developments were detailed in our 1939 Report, the FTC's interest in the auto industry did not end there. Nor has it been limited to competition; we have addressed consumer protection issues as well.

Today, the FTC is the primary federal enforcement agency for most auto dealers. Last year, we announced the results of a nationwide effort we undertook together with 32 law enforcement partners to help ensure consumers are protected when purchasing or leasing a car.

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<sup>4</sup> 1939 FTC Report at 106-10, 114.

<sup>5</sup> Francine Lafontaine & Fiona Scott Morton, *State Franchise Laws, Dealer Terminations, and the Auto Crisis*, 24 J. OF ECONOMIC PERSPECTIVES 233, 238-39 (2010).

For instance, the FTC brought a case against a car dealer for failing to disclose substantial fees for add-ons, which can include extended warranties, payment programs, and road service.<sup>6</sup> We also pursued a case against a major car manufacturer for telling consumers their warranty would be voided unless they used original equipment parts and franchised dealers to perform maintenance and repair work, a practice that violates the Magnuson-Moss Warranty Act.<sup>7</sup>

In addition to enforcement efforts like these, the FTC also advocates for consumers in a number of ways. We engage in competition advocacy and outreach to policymakers across all levels of government; we conduct important research; and we educate consumers. For example, the FTC is currently seeking public comment on a proposed qualitative survey to learn about consumer experiences in buying and financing automobiles at dealerships.<sup>8</sup> And, in 2014 and 2015, the Commission submitted comments supporting legislative efforts to allow motor vehicle manufacturers to sell their products directly to consumers without using franchised dealers.<sup>9</sup> Work on those comments led to this workshop.

### **III. Today's Program**

Today, our panelists, representing manufacturers, dealers, and consumers, will explore this complex system of regulation governing automobile distribution. Our two morning panels will focus on how state laws currently regulate the relationship between manufacturers and their franchised dealers. One of our afternoon panels will address laws prohibiting direct

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<sup>6</sup> See Press Release, FTC, Multiple Law Enforcement Partners Announce Crackdown on Deception, Fraud in Auto Sales, Financing and Leasing (Mar. 26, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/03/ftc-multiple-law-enforcement-partners-announce-crackdown>.

<sup>7</sup> See Press Release, BMW Settles FTC Charges that Its MINI Division Illegally Conditioned Warranty Coverage on Use of Its Parts and Service (Mar. 19, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/03/bmw-settles-ftc-charges-its-mini-division-illegally-conditioned>.

<sup>8</sup> See Press Release, FTC Seeks Public Comment on Proposed Survey of Consumers Regarding Their Experiences Buying and Financing Automobiles from Auto Dealers (Dec. 29, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/12/ftc-seeks-public-comment-proposed-survey-consumers-regarding>.

<sup>9</sup> See, Marina Lao, Debbie Feinstein & Francine Lafontaine, FTC Competition Matters Blog, Direct-to-consumer auto sales: It's not just about Tesla (May 11, 2015), available at <https://www.ftc.gov/news-events/blogs/competition-matters/2015/05/direct-consumer-auto-sales-its-not-just-about-tesla>.

manufacturer sales to consumers. And, in our final panel, we will hear from experts on how technological changes affecting the industry may impact state auto distribution rules.

With new changes on the horizon for the automobile marketplace, questions about the impact of regulation on competition and innovation will continue. While some regulation may be beneficial and necessary, regulation can have detrimental consequences for consumers if it harms competition or stifles innovation. We must continue to consider whether the state laws under discussion here today are necessary to protect dealers against abuses by manufacturers or if they serve some other purpose.

There are many other questions that need answers too. How do the laws affect the competitive decisions of manufacturers and dealers? Are other interests helped or harmed by particular aspects of state laws? Are the changes affecting the industry – like the connected and autonomous cars on display at this year's Detroit auto show – going to have an impact on methods of distribution?

These are complex questions with no easy answers. But today's workshop is designed to prompt meaningful dialogue on these issues and others. Like you, I look forward to learning more.

Thank you.