



FEDERAL TRADE COMMISSION  
Chicago Regional Office

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COMMISSION RECEIVED

Suite 1437  
35 East Monroe Street  
Chicago, Illinois 60603  
Area Code 312 353-4423

April 24, 1987

The Honorable Woods Bowman  
State Representative  
2100 Ridge  
Evanston, IL 60201

Dear Mr. Bowman:

The Federal Trade Commission staff is pleased to have this opportunity to respond to your letter of April 15, 1987, requesting our comments on House Bill 1173.<sup>1</sup> This bill would have the effect of prohibiting fleet dealers, such as Avis and Hertz, from conducting fleet sales outside a 10 or 15 mile radius around their licensed, permanent dealer lots. The probable result of this legislation would be to reduce competition and to increase the prices paid by Illinois consumers for used cars. We believe that consumers will be best served if the market is left free to operate without unnecessary regulation, and we therefore recommend that this bill not be enacted.

Our interest in this legislation stems from the Commission's mandate to enforce the antitrust and consumer protection laws of the United States. Section 5 of the Federal Trade Commission Act prohibits unfair methods of competition, and unfair or deceptive acts or practices. By enforcing this statute, the Commission staff has gained substantial experience in analyzing the impact of various restraints on competition and the costs and benefits to consumers of such restraints. In recent years we have been involved in several such issues that specifically related to the used car market. In 1984, for example, the Commission issued the "Used Car Rule" to reduce the effects of oral misrepresentations in used car transactions.<sup>2</sup> The development of this rule, as well as the conduct of investigations and studies relating to the

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<sup>1</sup> The views presented in this letter are those of the Chicago Regional Office and Bureaus of Competition, Consumer Protection, and Economics and are not necessarily those of the Commission itself. The Commission has, however, voted to authorize us to present these comments.

<sup>2</sup> Used Motor Vehicle Trade Regulation Rule, 16 C.F.R. § 455.

automobile industry, have provided the Commission staff with substantial experience in several aspects of the automobile market.<sup>3</sup>

In November of 1986, we were invited to provide written comments on House Bill 787, which was very similar to the legislation that is now being considered. We opposed that bill. It was our belief that HB 787 was likely to harm consumers by increasing the price of used cars. Therefore we believe that the Illinois legislature acted in the best interest of consumers when it chose not to enact that bill.

HB 1173 raises the same issues. HB 1173 would amend the Illinois Vehicle Code to prohibit the issuance of a supplemental license to a new or used vehicle dealer intending to hold a sale outside of his or her relevant market area.<sup>4</sup> It is our understanding that most fleet sales are currently held outside the seller's relevant market area. HB 1173 therefore proposes to virtually eliminate fleet sales as they are presently conducted.

The purpose of this bill is apparently to protect consumers against "fly-by-night" used car sellers. Illinois already addresses these concerns, however, through the Illinois Consumer Fraud Act<sup>5</sup> and through its regular licensing of new and used car dealers.<sup>6</sup> We are not aware of any reason to believe that HB 1173 would provide consumers any addition protection from fly-by-night operators.

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3 The FTC Bureau of Economics' Staff Report on the Effect of State Entry Regulation on Retail Automobile Markets, January 1986, is a recent example of the FTC's concern with anti-competitive regulations in the automobile market.

4 Section 2 of the Motor Vehicle Franchise Act defines relevant market area as a 10 or 15 mile radius around the dealer's principal location, depending upon the population of the county. Ill. Rev. Stat. ch. 121 1/2, § 752 (1985).

5 Illinois Consumer Fraud and Deceptive Business Practices Act, Ill. Rev. Stat. ch. 121 1/2, § 262 et seq. (1985).

6 Illinois Vehicle Code, Ill. Rev. Stat. ch. 95 1/2, § 5-101 et seq. (1985).

Indeed, we believe that HB 1173 would adversely affect Illinois consumers by restricting competition in the used car market. This in turn would be likely to lead to price increases. The usual practice of fleet dealers, such as Avis and Hertz, is to hold used car sales on credit union property. Such sales entail low overhead, and fleet dealers may therefore pass along substantial savings to consumers. Credit unions recently surveyed by the Illinois Credit Union League estimated that members paid an average of \$1,118 less for a used car sold at a credit union sponsored fleet sale than they would have paid a "conventional" used car dealer. Credit unions, however, tend to be located in parts of the state other than where the fleet owners maintain their principal lots. Thus the principal effect of restricting supplemental licensing for used car dealers will be to increase the prices paid by consumers for those cars.

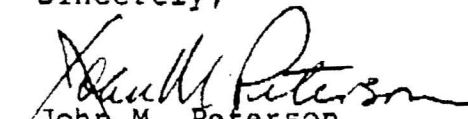
The effects may be particularly pronounced in certain areas of the state. We understand that many fleet sales are made in the smaller cities or towns where there may only be a limited number of conventional dealerships. Competition from the fleet sales may be especially important in this context.

In addition, the proposed bill would harm consumers in the car rental market. Fleet sales benefit this market by enabling fleet dealers to turn over their inventories more efficiently. By effectively prohibiting fleet sales as they are now conducted, HB 1173 would tend to increase the cost of car rentals.

In conclusion, we believe that HB 1173 would ultimately harm consumers of used vehicles. The unjustified limitations on fleet sales would lead to unnecessary increases in fleet dealers' costs and, correspondingly, to unnecessary increases in the prices consumers pay for used vehicles. Restricting fleet sales in the manner proposed would also reduce the competition that these sales provide to other segments of the used-car market. The proposed bill may also lead to similar increases in price in the rental vehicle market. For all of the above reasons, the staff of the Federal Trade Commission recommends that HB 1173 not be enacted.

We appreciate having had this opportunity to provide our views on these issues.

Sincerely,

  
John M. Peterson  
Director  
Chicago Regional Office