



February 11, 2013

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Federal Trade Commission  
55 West Monroe Street  
Suite 1825  
Chicago, IL 60603

**RE: Used Car Regulatory Review [Project No. P087604]**

To Whom It May Concern:

The American Association for Justice (AAJ), formerly the Association of Trial Lawyers of America (ATLA), hereby submits comments in response to the Federal Trade Commission's (FTC) notice of proposed rulemaking regarding the used motor vehicle trade regulation rule. *See* 77 Fed. Reg. 74745.

AAJ, with members in the United States, Canada and abroad, is the world's largest trial bar. It was established in 1946 to safeguard victims' rights, strengthen the civil justice system and promote injury prevention. AAJ is an advocate for numerous individuals who have been harmed as a result of faulty vehicles. We support the FTC in their endeavor to strengthen the requirements surrounding used vehicle warranties. Purchasing a car is often one of the largest purchases a consumer makes. Furthermore, consumers are often at a distinct disadvantage when purchasing a used car because of the complex technology involved. In addition, recent events such as Hurricane Sandy which flooded many vehicles increase the probability that a person might unwittingly purchase a dangerous vehicle. AAJ's comments predominantly focus on the liability concerns expressed during the Regulatory Review Notice comment period. However, we believe that the FTC's proposed update to the used motor vehicle trade regulation rule is an improvement but should go farther to protect consumers.

Several commenters suggested that they might be subject to increased liability as a result of having increased disclosure requirements for used car warranties. In addition, at least one commenter suggested that used car dealers should have a "safe harbor" from liability if they comply with certain disclosure requirements. The FTC does not have the authority to provide a safe harbor and should not consider offering one. A strong regulatory framework can and should work in tandem with state tort remedies. In fact, state tort law-based claims are the only remedies available to consumers when they are the victim of fraud or some other abuse in violation of regulations. This is an utmost priority when talking about used vehicles, which are particularly prone to problems and whose complex parts often make it extremely difficult for even an educated consumer to spot potential problems. In addition, consumers are at a distinct

disadvantage to used car dealers who are much more likely to be aware of potential defects with a used vehicle but have no incentive to disclose them. The FTC should not consider offering a safe harbor for dealers who comply with regulations. This leaves individual consumers without remedies and in this case without a vehicle which may be their only means of transportation.

In addition to not establishing any safe harbors, the FTC should strengthen the requirements regarding posting warranty information. According to the proposal, dealers could post information regarding an existing manufacturer warranty on the back of the warranty form where consumers are unlikely to see it. Information regarding existing manufacturer warranties should be posted in a much more visible location. Posting the information on the back of a form is entirely ineffective and should not be pursued. In addition to making this adjustment, the FTC should also require dealers to inspect vehicles prior to sale to determine their condition. Currently, there is no such requirement and dealers do not even have to evaluate whether a vehicle is safe to drive before selling it. Dealers should also be required to disclose any known defects in a vehicle before sale. These items are necessary to provide just a modicum of protection to purchasers of used vehicles.

AAJ appreciates this opportunity to submit comments regarding the role of the FDA and the states in the oversight of compounding. If you have any questions or comments, please contact Sarah Rooney, AAJ's Regulatory Counsel, at (202) 944-2805.

Sincerely,

MaryAlice McLarty  
President  
American Association for Justice