

ROY COOPER
ATTORNEY GENERAL

State of North Carolina

Department of Justice
P.O. BOX 629
RALEIGH, NC 27602-0629

Reply to: Kevin Anderson
Consumer Protection Division
kander@ncdoj.gov
Voice: (919) 716-6006
Fax: (919) 716-6050

March 13, 2013

Via Electronic Mail

Federal Trade Commission
Office of the Secretary Room H-113 (Annex T)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Regulatory Review of the Used Motor Vehicle Trade Regulation Rule

Dear Secretary Clark:

The North Carolina Attorney General's office appreciates the opportunity to comment on the Federal Trade Commission (FTC)'s request for public comments regarding the Used Motor Vehicle Trade Regulation Rule ("Used Car Rule"), as published in the December 17, 2012 edition of the *Federal Register*.

We believe the FTC should: (1) require vehicle title history information to be included in the used car Buyer's Guide so that consumers can better determine if a used car has previously been damaged by a collision or a flood; (2) require that the Buyer's Guide contain an "as is" statement that, on the one hand, makes it easy for consumers to understand that they will generally have to pay for the repairs to the used vehicle they buy, while, at the same time, not giving consumers the impression that they do not have any recourse if a used car dealer made misrepresentations about the vehicle or concealed known problems with the vehicle or its history.

Vehicle Title History on Buyer's Guide

Many used vehicles have been damaged by storms or floods in recent years. For example, it is estimated that over 250,000 used vehicles were damaged by Hurricane Sandy. Consumers who purchase used vehicles without knowing about such damage may be paying more than the true retail value of the vehicle and may be putting themselves and others at risk.

The Buyer's Guide, which is posted on vehicles so that consumers can view the information before speaking with a salesperson, provides consumers with useful information that helps them make more informed purchasing decisions. However, currently, an important piece of information – the vehicle's past title history showing whether a vehicle has been substantially damaged by collision or flood - is not included in the Buyer's Guide. We believe the FTC should include vehicle title information in the Buyer's Guide so that consumers can better determine whether a used vehicle has previously been damaged by collision or flood and make more informed purchasing decisions.

"As-Is" Disclosure Statement

The Buyer's Guide contains an "as is" statement that is designed to inform consumers that, notwithstanding what a salesperson might tell them in order to close the sale on a used vehicle, a used car dealer typically doesn't assume responsibility for repairs and instead the consumer will have to pay for repairs. The FTC has proposed a revision to the as is" statement which would read as follows: "THE DEALER WON'T PAY FOR ANY REPAIRS. The dealer is not responsible for any repairs, regardless of what anybody tells you."

The FTC's proposed revision is problematic because it may cause consumers to believe that, when a used car dealer uses an "as is" disclosure, the dealer has no legal responsibilities whatsoever and the consumer has no legal remedies at all. However, there are situations, such, for example, when a used car dealer has made misrepresentations about the vehicle or concealed important, known information about the vehicle, when a dealer is responsible and may have to provide the consumer with a remedy. Therefore, we believe that the FTC should reconsider the wording of its "as is" statement so that consumers clearly understand: (1) that used car dealers generally do not assume responsibility to fix problems with used vehicles, notwithstanding what a salesperson might have said; (2) consumers do have possible remedies if the dealer made misrepresentations, concealed known defects, or engaged in other misconduct, notwithstanding the dealer's use of an "as is" disclosure. Therefore, we encourage the FTC to adopt an "as-is" statement that makes it easy for consumers to understand both of these things.

With that goal in mind, we suggest the FTC consider the following "as is" statement: "THE DEALER WON'T PAY FOR REPAIRS. The dealer does not agree to pay for the vehicle's repairs. But you may have legal rights and remedies if the dealer misrepresents the vehicle's condition or engages in other misconduct."

Respectfully submitted,

Kevin Anderson
Senior Deputy Attorney General
Director, Consumer Protection Division
North Carolina Department of Justice