



International Association of Lemon Law Administrators

March 13, 2013

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

Re: Used Car Rule Regulatory Review, Project No. P087604

Honorable Commissioners:

Thank you for the opportunity to respond to the Notice of Proposed Rulemaking.

The International Association of Lemon Law Administrators ("IALLA") is an association of both U.S. state lemon law administrators and the Canadian Motor Vehicle Arbitration Program. Our mission is to support and promote the role of government agencies tasked with the responsibility of ensuring an honest, safe and informed marketplace, and to promote consumer and business responsibility in a competitive economy. In other words, it is our mission to support an agency like the FTC in the pursuit of *its* mission:

[t]o prevent business practices that are anticompetitive or deceptive or unfair to consumers; to enhance informed consumer choice and public understanding of the competitive process; and to accomplish this without unduly burdening legitimate business activity.

In two significant respects, however, the proposed amendments fail to further the objectives of the FTC's mission.

The Commission has declined to revise the Buyers Guide to include a check box within the dealer warranty section that discloses the fact that "state warranty law applies" when a vehicle qualifies for state-specific coverage, opting instead to make such a disclosure optional (potential revision #1). In so doing, the Commission has missed an opportunity to provide critical information to consumers about their rights and the dealer's obligations with regard to a particular vehicle. It should be the dealer's responsibility, not the consumer's, to know the legal obligations that attach to the sale of a particular vehicle in a particular state; if state law requires the dealer to provide a warranty to the consumer, for whatever reason, it is disingenuous for the dealer to claim ignorance of the law's existence.


Similarly, the Commission has rejected the recommendation that the Buyers Guide include a box in a non-dealer warranty section disclosing that the vehicle is a "manufacturer buyback," along with a space indicating the applicable manufacturer's warranty coverage period. Instead, the Commission has proposed including a statement advising consumers to obtain buyback history, as well as other vehicle history information, for themselves with the help of a website proposed for development by the Commission (potential revision #2). In support of this recommendation, the Commission cites the existence of "extensive state laws and regulations on this topic," and finds that "a Buyers Guide disclosure that a vehicle is a manufacturer repurchase appears to be unnecessary and duplicative [because] [s]tate laws already require dealers to disclose [this fact] to the first retail purchaser after the repurchase"

This conclusion, however, overlooks the very reason for promulgation of the Used Car Rule: providing a uniform method for disclosing information to consumers. State disclosure laws regarding manufacturer buybacks vary. Some states already require the posting of this information on a window sticker that is visible and accessible to the consumer early in the car buying process (e.g. Texas, Maine, Washington and Vermont). Other states, however, only require that a dealer acquire the consumer's signature on a notice form that acknowledges written disclosure of the buyback at some point prior to consummation of the sale (e.g. Hawaii, New Jersey, Ohio, California, Georgia and Florida). Signing this notice can occur quite late in the car-buying process, amidst the review of numerous other forms a consumer must sign and after the consumer has committed a significant amount of time and energy to that process.

The suggestion that consumers access vehicle history information through avenues that would be provided on the proposed Commission website is not a sufficient remedy and erroneously presumes that all consumers shopping for used cars have ready access to the internet. The purchase of any automobile is a stressful process; the purchase of a used vehicle is especially so. Between the well-documented decline in the availability of used cars and the pressures placed on consumers by ambitious salespeople, the time and effort needed to seek out the vehicle history on each individual vehicle under consideration may be a luxury that consumers will not feel they have. The dealer, on the other hand, has the time, the ability, the knowledge and the resources to obtain and provide this information to the consumer, and may already be required to do so by state law. While the Commission is sensitive to the understandable concerns of dealers worried about providing incomplete information, appropriate disclosure language should alleviate potential liability concerns, while still providing consumers with valuable information necessary to make a truly informed, educated choice. At a minimum, IALLA would support the general check box proposed by NAAG to alert consumers about known defects in a vehicle's history, accompanied by a reference to the proposed FTC website. This would provide consumers with valuable baseline knowledge as they maneuver through the car-buying process, "without unduly burdening legitimate business activity" engaged in by the dealers.

Thank you again for this opportunity and for the work you do on behalf of our nation's consumers.

Sincerely,


Carol O. Roberts
Executive Director