

ROBERT C. PASSMORE
SENIOR DIRECTOR, PERSONAL LINES POLICY

October 24, 2011

Federal Trade Commission
Office of the Secretary
Room H-113 (Annex G)
600 N. Pennsylvania Ave., NW.
Washington, DC 20508

Re: **Magnuson-Moss Warranty Act Rule Review, 16 CFR Part 700, P114406**

Dear Sir or Madam:

On behalf of over 1,000 member companies, the Property Casualty Insurers Association of America (PCI) is pleased to have the opportunity to comment on the Federal Trade Commission's interpretations, rules and guides regarding the Magnusson-Moss Warranty Act. Together, PCI's members write over 38 percent of the property-casualty insurance in the United States, representing over \$180 billion in direct written premiums.

Our members who write auto insurance are particularly interested in preserving a competitive marketplace for auto repair parts. The mere availability of a competitive source for collision repair parts reduces the price of an OEM part by 8 percent¹, or \$16 per part. In addition, PCI estimates that auto insurance loss costs could increase by \$2.4 billion if competition from aftermarket parts were eliminated. That figure that does not take into account salvage or reconditioned parts, which in the aggregate are used more often in vehicle repairs.

Section 2302(c) prohibits manufacturers from employing "tying" agreements that condition a warranty on the use of a particular brand of parts. In July of 2011, the commission issued a "consumer alert" that contained the following language:

Will using 'aftermarket' or recycled parts void my warranty?

No. An 'aftermarket' part is a part made by a company other than the vehicle manufacturer or the original equipment manufacturer. A 'recycled' part is a part that was made for and installed in a new vehicle by the manufacturer or the original equipment manufacturer, and later removed from the vehicle and made available for resale or reuse. Simply using an aftermarket or recycled part does not void your warranty. The Magnuson-Moss Warranty Act makes it illegal for companies to void your warranty or deny coverage under the warranty simply because you used an aftermarket or recycled part. Still, if it turns out that the aftermarket or recycled part was itself defective or wasn't installed correctly, and it causes damage to another part that is covered under the warranty, the manufacturer or dealer has the right to deny coverage for that part and charge you for any repairs. The FTC says the manufacturer or dealer must show that the aftermarket or recycled part caused the need for repairs before denying warranty coverage.

¹ "Estimation of Benefits to Consumers from Competition in the Market for Automotive Parts," Frederick Warren-Boulton, PhD, Daniel E. Haar.

Although the law is clear, and has been reinforced in guidance from the commission on several occasions, the impression that using a part other than the vehicle manufacturer's brand will negatively affect the warranty persists, and not just with consumers. We find many state body shop owners, legislators and regulators are under this false impression as well.

PCI believes the commission's interpretation of the prohibition is correct, and that clarifications such as the one contained in the July 2011 alert benefit consumers as well as the legislators and regulators that deal with these issues at the state level.

With regards to whether the regulations should be amended to address service contracts, we see no compelling reason to do so at this time. We believe service contracts are best regulated at the state level, and know of no issue related to their sale that would benefit from federal regulation. States have proven themselves capable of responding to consumer protection issues surrounding service contracts, including most recently in Missouri where legislators enacted legislation earlier this year addressing the questionable telephonic sales practices of certain motor vehicle service contract brokers.

Thank you for the opportunity to comment on these matters. As always, PCI is happy to respond to any questions or provide any additional information the commission may need.

Sincerely,



Robert C. Passmore
Senior Director, Personal Lines Policy