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SUBMITTED ELECTRONICALLY

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex H)
600 Pennsylvania Avenue, N.W., Washington, D.C. 20580
Electronic address: www.regulations.gov (CRT Docket No. 106)

Re: “Used Car Rule Regulatory Review, Matter No. P087604

The National Independent Automobile Dealers Association (“NIADA”) submits the following comments to the Federal Trade Commission (“FTC” or the “Commission”) regarding its notice of request for public comment (“Notice”) on its Used Motor Vehicle Trade Regulation Rule (“Used Car Rule” or “Rule”).

I. INTRODUCTION

The Federal Trade Commission (FTC or Commission) enacted the Used Motor Vehicle Trade Regulation Rule, more commonly referred to by the motor vehicle industry as the “Used Car Rule”, in 1985.¹ The Used Car Rule requires used motor vehicle dealers to disclose information about warranty coverage, if any, on used motor vehicles they offer for sale. To convey such information to consumers, dealers are to display a Buyers Guide (Guide) that, among other things, discloses information about warranty coverage on each used vehicle offered for sale. As part of its regular review of regulations and guidelines, the FTC has invited comment on whether the Rule should be revised to permit use of a single, bilingual Buyer’s Guide and the possible design of a bilingual Guide. The Commission has also requested comment on the efficacy of retaining the current pre-printed list of major systems and defects that must be disclosed on the Guide. Finally, comment is requested on the utility of developing alternative Buyer’s Guides to assist in disclosing a dealer’s own warranty, unexpired manufacturer warranties, manufacturer’s used car warranties, and used car warranties provided by third parties other than the manufacturer.

The National Independent Automobile Dealers Association (NIADA) has represented independent (non-franchised) motor vehicle dealers for over 60 years. The NIADA and its State Affiliate Associations represent more than 20,000 independent motor vehicle dealers located across the United States. Most of these dealers own and operate small businesses as defined by the Small Business Administration. Any changes to the Rule or the Guides will significantly impact not only our members but also every motor vehicle dealer in the United States that offers used motor vehicles for sale or lease. NIADA and its members recognize that the Used Car Rule has had a positive impact on dealers and consumers through the provision of standardized information about used motor vehicle warranty information, delivered in a consistent and recognizable format. The Rule and the current Guides should be retained, with only minor

¹ 49 Fed. Reg. 45,692 (November 19, 1984).

modification, to continue the process begun in 1985 to assure more accurate disclosure of warranty information on used motor vehicles.

On behalf of the Association, its State Affiliate Associations and all used motor vehicle dealer members, NIADA submits the following comments with respect to possible modifications of the Rule relating to the format, design and content of the Buyer's Guide.

II. SPECIFIC COMMENTS AND RESPONSES

1. Is there a continuing need for the Rule? Why or why not?

NIADA believes there is a continuing need for the Rule. The Rule has been in place for almost twenty-five years. In that time, Dealers have developed procedures for compliance with the Rule and have used it to communicate information to customers. Further, the Guide has become part of the car shopping/selling process. It is a mechanism that dealers use to impart information to customers and that customers have become accustomed to receiving. As the Commission knows, one of the main uses of the Guide is to advise potential customers of the availability of warranty coverage, what is covered by the warranty and the duration of any warranty on a used vehicle. The Association believes that the availability of such information is valuable for customers and often assists in completing transactions because potential purchasers have more information about the vehicle being considered. The purposes of the Rule are being achieved every day in thousands of transactions. To abandon or fundamentally alter the Rule or the Guides would lead to less accurate disclosures and increase confusion among dealers and consumers.

2. What benefits has the Rule provided to consumers?

By providing consumers information on the Guide concerning a vehicle's warranty or the fact the vehicle is being sold "AS-IS," the Rule enables consumers to obtain standardized, understandable information that can be used to compare vehicles and to assist in making a decision whether to purchase a vehicle.

3. What modifications, if any, should be made to the Rule to increase its benefits to consumers?

NIADA supports minor modifications to the Buyer's Guide to reflect current market practices and allow used motor vehicle dealers to more fully and accurately disclose the panoply of warranties available in today's used motor vehicle market. The examples of modified Buyer's Guides, attached to the Notice as Appendices A and B, propose an improved disclosure method and, with certain limited revisions, should be adopted.

(a) What evidence supports the proposed modifications?

The impetus for change is the development of warranty programs that did not exist when the Rule was adopted, e.g. dealers now offer a variety of "Certified Pre-Owned" programs to their customers. These programs offer a range of warranty protections from a variety of sources outside the dealer. Most motor vehicle manufacturers now offer certified programs on used vehicles of that manufacturers' make and that are sold by that manufacturer's franchised dealers. Beginning in the early 1990's, after the enactment of the Rule, these programs and the sale of certified used motor vehicles has grown dramatically. NIADA believes that the proposed revisions to the Buyer's Guides address deficiencies in the current forms.

(b) How would these modifications affect the costs the Rule imposes on businesses and, in particular, on small businesses?

Please see NIADA's comments at (B)(1)(a) below.

(c) How would these modifications affect the benefits to consumers?

Modifications reflected in the Exhibits could increase the accuracy of the disclosures provided in the Buyer's Guide, while still using the same, basic standardized form. One of a consumer's primary goals in shopping for a used motor vehicle is to know what warranty coverage is available and how long it lasts. Dealers want to provide that information because, among other things, it is a valuable selling tool. The small changes noted would assist both parties in meeting their respective goals.

4. What impact has the Rule had on the flow of truthful information to consumers and on the flow of deceptive information to consumers?

The Rule has increased the flow of truthful information, in part, because the information is required in writing and is, therefore, easier to verify. Conversely, the Rule has led to the development of standardized practices at dealerships for completion of the Guide in all transactions. Thus, dealers are more careful in preparing the Guides due to the potential penalties, thereby minimizing inaccuracies on the Guides.

5. What significant costs has the Rule imposed on consumers?

NIADA does not believe the application of the Rule and use of Buyer's Guides has imposed any significant cost on consumers. Any real costs have been borne by the dealers in developing compliance procedures, purchasing Guides, time spent completing Guides and, when necessary, modifying the Guides.

6. What modifications, if any, should be made to the Rule to reduce the costs imposed on consumers?

There are no real costs imposed on consumers, therefore, there is no need for a change in this regard.

7. How have the 1995 amendments to the Rule affected purchasers of used motor vehicles? How have the 1995 amendments to the Rule affected used motor vehicle dealers?

Since Guides no longer have to be placed on windows, consumers have benefited by the Guides being more accessible and, therefore, easier to read. Additionally, it is believed that test drives in vehicles are now safer than under the earlier version of the Rule. A benefit to dealers is better customer relations from the effects on consumers just noted. Additionally, without having to place the Guide on a window, the paper does not as easily or as often get torn, thus eliminating the need to replace Guides periodically.

8. What benefits, if any, has the Rule provided to businesses, and in particular to small businesses?

Use of the Guide in retail transactions generally results in fewer questions being asked or in making questions/problems easier to resolve because of written information on the Guide.

9. What modifications, if any, should be made to the Rule to increase its benefits to businesses, and in particular, to small businesses?

No comment.

10. What significant costs, including cost of compliance, has the Rule imposed on businesses, and, in particular, on small businesses?

Any costs associated with the Rule have been borne almost entirely by dealers. For example, although there are multiple resources from which a motor vehicle dealer may obtain the Buyer's Guides, it is the dealers' obligation to ensure that the forms they obtain comply with the Commission's Rule, whether they do so themselves or retain outside professionals to assist them. A number of the forms offered by vendors do not meet the font size requirements, omit required language and/or contain extraneous text or pictures. For vehicles sold "as is," a dealer must copy vehicle-specific data from its inventory cards. If a vehicle is sold with a warranty, additional information is required. If the manufacturer's limited warranty has not expired, dealers can disclose this by checking the warranty box and include in the "systems covered/duration" section a statement indicating that the manufacturer's limited warranty still applies and that the consumer should consult the manufacturer's warranty booklet for details regarding coverage, service location, etc. Since most independent dealers do not have access to manufacturers' databases that contain information about any warranty and any balance remaining, costs must be expended to comply with the Rule. Likewise, dealers have an obligation to check the box next to the words "Service Contract" if a service contract is available. Both service contract and limited warranty programs have guidelines governing whether a vehicle qualifies for coverage. There may be exclusions and limitations depending upon mileage, model year and whether the vehicle has preexisting mechanical conditions. Determining what, if any, warranty or service contract applies to a particular vehicle adds costs to the compliance process. In addition to completing the Guide, if the dealer offers a limited written warranty, or if the manufacturer's warranty still applies, the dealer must comply with the Magnuson-Moss Warranty Act and other FTC Rules, including the Warranty Disclosure Rule, as well as applicable State laws. The warranty information provided on the Buyer's Guide is not sufficient to meet the requirements of the various laws. Therefore, additional expense is incurred by a dealer in assuring that the written warranty, Retail Purchase or Lease Agreement and the Buyer's Guide accurately reflect the terms and conditions agreed upon by the dealer and consumer. Given the expense to comply with these procedures, as they currently exist, NIADA urges the Commission to avoid any unnecessary changes that would lead to increased costs to comply with the Rule.

11. What modifications, if any, should be made to the Rule to reduce the costs imposed on businesses, and, in particular, on small businesses?

No changes should be made to the current forms. As to "specific issues," see below.

12. What evidence is available concerning the degree of industry compliance with the Rule?

NIADA's General Counsel, identified at the end of these Comments, has been involved with the Rule and compliance issues from its inception. First as an Assistant Ohio Attorney General for two years then as an attorney in private practice for twenty years, twelve of which include representation of NIADA, guidance and advice has been given on compliance with the Rule. From rudimentary beginnings to now, there has been an enormous increase in compliance, such that NIADA believes, across the motor vehicle industry and based upon the number of transactions per year, there is a high degree of compliance. Due to the interplay and overlap of state and federal regulations, substantial time and resources have been expended in developing seminars and training videos that have been attended or viewed by thousands of new and used motor vehicle dealers. Over the last five years, NIADA has also launched Internet availability of training in compliance issues that has been viewed by thousands of dealers. All of these efforts have been directed toward achieving compliance with the Rule so dealers can avoid costly and

time-consuming litigation and regulatory investigation. Today, for the number of transactions annually, there are relatively few claims of non-compliance by dealers.

13. What modifications, if any, should be made to the Rule to account for changes in relevant technology or economic conditions? What evidence supports the proposed modifications?

Subsequent to the Rule's enactment, commerce has experienced an explosion of Internet advertising across the full spectrum of commerce. This applies to all dealers. Virtually every one has a computer and the ability to develop, at a minimum, a limited website for the purpose of advertising inventory or may use a third party website. NIADA believes it would be advantageous to dealers and consumers for the dealer to be able to post "an example" of its Buyer's Guides along with its Internet advertising, e.g. to highlight "AS-IS," Dealer warranty, or certified programs. Having an example of what a Guide would look like for each category (not for each vehicle in inventory) would enable dealers to get valuable information to potential customers in preparation for a visit to the dealership. The Association believes providing an example Guide in this fashion is similar to the Magnuson-Moss Warranty Act² pre-sale availability requirement where dealers must have a representative example of a warranty document available for customers to review prior to entering into a transaction to acquire a motor vehicle.

14. Does the Rule overlap or conflict with other federal, state, or local laws or regulations?

Yes. State Unfair and Deceptive Acts and Practices statutes often incorporate by reference Federal laws, thus leading to an overlap. Conflict may arise, for example, where states may limit implied warranties or require that a dealer offer a minimum express limited warranty. Additionally, a dealer may offer an implied warranty only on certain systems for a limited length of time. The Guide is currently not capable of accommodating all of these variables.

B. Specific Issues

1. Should the Used Car Rule be modified to permit used motor vehicle dealers the option of using a Buyer's Guide that combines both the English and Spanish language versions of the Buyer's Guide into a single bilingual document?

Due to the increase of Spanish-speaking population in the United States, NIADA believes that it would be useful to permit use of a Buyer's Guide that combines both the English and Spanish language version of the Guide into a unified bilingual document. NIADA's support of this issue is conditioned, however, upon an understanding that use of such form is optional for those dealers who choose to use it. It should not be viewed as a replacement for the forms that currently exist. For example, all dealers, especially those in a location where there is a significant Spanish-speaking population, should have the option of using a combined form. However, dealers in locations where there is little to no need for a combined form should be free to continue to operate with the same individual forms that are currently approved by the Commission.

(a) If recommending that bilingual Buyer's Guides should be permitted, provide as much detail as possible about the form that the bilingual Buyer's Guides should take.

In considering any new form, consideration should be given to the current type style, size and format. If forms become significantly larger, type size is changed, etc., this will have an

² 15 U.S.C. §§ 2301-2312.

enormous negative impact on small businesses. Virtually all dealers already have computer systems programmed to print the forms they use. To depart significantly from that would impose a huge cost on dealers for re-programming, data mapping, key stroking, and related data entry operations. If any modified form is kept in the same format as currently used, then the financial impact of such change will most likely be minimal. Use of any new combined Guide must be elective with that cost being incurred on a go forward basis only by dealers that desire to have the convenience of the combined Buyer's Guide.

2. *Should the translation of the Buyer's Guide into Spanish be revised as described below?*

Based upon information received in this Comment process, if the FTC believes that the translation changes are beneficial, then NIADA has no objection to such changes.

3. *What purposes, if any, does the list of systems and major defects that may occur in a used motor vehicle on the reverse side of the Buyer's guide serve?*

NIADA believes the list provides useful information to a customer who might, otherwise, have no or limited knowledge of the mechanical systems in a motor vehicle. One advantage of the disclosure is that if the customer takes the vehicle to a mechanic for inspection, the information may make possible a more understandable exchange between the mechanic and the customer prior to the customer electing to purchase a vehicle. The list is beneficial for dealers because it brings to the attention of customers information that can be used to explain issues about used vehicles. Additionally, by providing information to a customer, a dealer is less likely to have a dispute where a customer claims that the dealer did not communicate information about the vehicle to the customer. Retaining the list is useful but not critical. For example, if space is needed to achieve other goals for revising the Guide, then deletion of part or all of the list should be considered.

4. *The Rule permits dealers who opt to disclose an unexpired manufacturer's warranty to add the following statement to the Buyers Guide below the FULL/LIMITED WARRANTY boxes in the SYSTEMS COVERED/DURATION section:
MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle. Consult the Manufacturer's warranty booklet for details as to warranty coverage, service location, etc.
Separately and beneath that statement, in states that permit "as is" sales, dealers may add:
The dealership itself assumes no responsibility for any repairs, regardless of any oral statements about the vehicle. All warranty coverage comes from the unexpired manufacturer's warranty.*

- (a) *What benefits, if any, does the method permitted by the Rule for disclosing unexpired manufacturer's warranties provide consumers?*

As noted previously in these Comments, NIADA believes that the benefit to consumers is the delivery of useful information about used motor vehicles, including what, if any, warranty coverage is available.

- (b) *What burdens does the method permitted by the Rule for disclosing unexpired manufacturer's warranties impose on consumers?*

See (d) below.

(c) What benefits does the method for disclosing unexpired manufacturer's warranties permitted by the Rule provide businesses and, in particular, small businesses?

See (a) above.

(d) What burdens does the method for disclosing unexpired manufacturer's warranties permitted by the Rule provide businesses, and, in particular, small businesses?

See # 10 above. The current disclosure method has several problems. Confusion often arises concerning whether the "Manufacturer's Warranty Still Applies" and what, in today's market, that means. First, while the Commission permits dealers the option of including the language noted above, dealers may not deviate from that language in any respect. This "all or nothing" disclosure could be handled effectively with use of a check box that could be placed on the Guide.

Further, the "all or nothing" approach does not allow dealers to clearly disclose the full range of warranties available, often leading to customer and dealer confusion. Currently, the Guide does not adequately allow for disclosure of manufacturer certified used motor vehicle warranties. Because such warranties may or may not be "manufacturer's warranties," dealers are likely to be confused about whether to disclose such certified warranties. Even if a dealer wants to make such a disclosure, there is no provision under the current version of the Rule to do so.

Another potential problem arises because used motor vehicle dealers often do not know whether a manufacturer's warranty still applies. Manufacturer warranties vary widely in length, transferability, application and effect. While franchise new motor vehicle dealers may be familiar with the warranty programs offered by their manufacturers, used motor vehicle dealers are less familiar with manufacturer's programs, and even if they are aware of the details of those programs, most likely do not have access to information needed to ascertain whether the manufacturer's warranty applies and to what extent. To determine whether a manufacturer's warranty applies, the dealer needs to know the "in service" date of a vehicle. In addition, some manufacturer's warranties transfer while some do not. A dealer needs to know about any restriction on warranty coverage.

Dealers simply cannot obtain all the information needed to determine whether a manufacturer's warranty applied. Because of the dilemma and the high cost of non-compliance, most dealers are likely to provide only very rudimentary information or just mark the Guide "as-is." The end result is that consumers may not be given the most complete information regarding vehicle warranty coverage.

(e) Should the current method permitted by the Rule for disclosing unexpired manufacturer's warranties be modified?

NIADA does not see a compelling need to modify the manner of this disclosure.

(f) Should the Rule provide an option to use a similar method for disclosing other warranties that are included in the price of the used vehicle, such as manufacturer's certified used car warranties and warranties provided by other third parties?

As an option, additional types of warranties could be disclosed in the same manner as disclosing "balance of manufacturer's warranty." Make available a check box and instead of

“balance of manufacturer’s warranty,” have space to disclose the source of the warranty and any limitations on such warranty.

5. *Should the optional statement provided by the Rule to indicate that a manufacturer’s warranty applies be revised to alert consumers to check the warranty booklet for the expiration date of the manufacturer’s warranty by stating: “Consult the manufacturer’s warranty booklet for details as to warranty coverage, expiration, service location, etc?”*

Again, as an option, NIADA believes the suggested change could be a beneficial one. Adding a specific reference to expiration of a warranty would add information about a used vehicle. Further, the dealer can avoid claims that it misled the consumer about the extent of or duration of warranty coverage.

6. *Should the Rule require dealers to indicate whether a manufacturer’s warranty applies and provide information about the scope of that coverage?*

No. Direction to a warranty booklet should be sufficient. Independent dealers generally do not have access to manufacturers’ databases that contain such information. Making it a requirement to supply such information would automatically place most independent dealers in violation of the Rule.

7. *Is checking the “AS IS-NO WARRANTY” box to indicate that the dealer is not obligated to perform warranty service clear and understandable to consumers?*

Yes, in most circumstances. Although NIADA believes the current language is clear, we also acknowledge that inclusion of the word “DEALER” in the phrase to then say “AS IS-NO DEALER WARRANTY” may make the form even more understandable and eliminate some confusion. This change, and those suggested in request for comments #8 dealing with specific references to “THE DEALER”, e.g. (g), (h), (i), and (j), will assist dealers in making more complete and clear disclosures to customers and should aid in avoiding disputes or make resolution of disputes easier.

8. *Examples of revised Buyer’s Guides that provide a different method to disclose manufacturer’s warranties and third party warranties that are included in the price of the used car are attached as Appendices A and B...*

- (a) *Should the Rule be revised to permit dealers to disclose unexpired manufacturer’s warranties, manufacturer’s used car warranties, and other used car warranties as shown in Appendices A and B?*

Yes.

- (b) *What benefits, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B provide to consumers?*

As with other Comments herein, NIADA believes providing this additional information would benefit consumers and avoid confusion regarding new categories of warranty coverage developed after the Rule was adopted.

- (c) *What burdens, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B impose on consumers?*

None.

(d) What benefits, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B provide to businesses and, in particular, to small businesses?

The disclosure would permit more accurate descriptions of vehicles and their benefits.

(e) What burdens, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B impose on businesses and, in particular, on small businesses?

Dealers will have to expend time and resources to determine how to disclose the information. If the Commission retains the concept that such disclosure is at the election of the dealer, any impact will be ameliorated.

(f) What alternatives, if any, should be considered?

No comment.

(g) Does stating "AS IS"-NO DEALER WARRANTY (See Appendix A) instead of AS IS – NO WARRANTY make the Buyer's Guide more clear and understandable to consumers?

Modifying the phrase to "AS IS"-NO DEALER WARRANTY should make the Guide clearer and more understandable. Such additions should also eliminate some misunderstandings between consumers and dealers.

(h) Is checking the box marked "AS IS" – NO DEALER WARRANTY to indicate that a dealer does not offer its own warranty clear and understandable to consumers when a dealer also checks one or more of the boxes indicating that a NON-DEALER WARRANTY from someone other than the dealer applies?

Yes.

(i) Does stating, "THE DEALER WILL NOT PAY ANY COSTS FOR ANY REPAIRS" (See Appendix A), instead of "YOU WILL PAY ALL COSTS FOR ANY REPAIRS" to explain "AS IS" – NO DEALER WARRANTY make the Buyer's Guide in Appendix A more clear and understandable to consumers?

As with (g) above, NIADA believes that inclusion of the change will make the Guide clearer and more understandable and lead to fewer disagreements about warranty coverage.

(j) Does adding the statement "FROM THE DEALER" help show that the boxes marked IMPLIED WARRANTIES ONLY and DEALER WARRANTY apply only to warranties that may, or may not, be offered by the dealer?

While NIADA does not believe there is any real confusion regarding this issue, it does not have any profound objection to the proposed change.

(k) Does eliminating the lines for text in the SYSTEMS COVERED/DURATION section of the Buyer's Guide, as shown in Appendices A and B, make it easier or more difficult to disclose each system covered and the duration of coverage for each system?

Dealership computers are already programmed to print on the lines provided. While it is most likely something that can also be programmed to print without the lines, an additional cost will be imposed on small businesses by having to re-program computers to properly fill in the information in whatever space is provided.

- (l) *If the Rule is revised to permit dealers to use the Buyer's Guides in Appendices A and B, what combination of type size, paper size, and formatting, particularly the amount of space allotted for the SYSTEMS COVERED/DURATION section, should be used to accommodate the additional text and other information in the Appendices, while assuring that the Buyer's Guides are clear and understandable to consumers?*

With respect to this general question and the more specific questions in (i), (ii) and (iii), NIADA urges the Commission to make every effort to maintain the format, design and type size of the current Guides. While larger paper size may still fit printers, changing the other items noted will only lead to additional costs that will be borne by the individual dealers.

9. *Does the statement "IMPLIED WARRANTIES ONLY" and accompanying text clearly disclose that the dealer offers no express warranty?*

Yes.

10. *Should the Rule's type style, size, and format requirements for Buyer's Guides be revised to accommodate current word processing programs?*

Dealers are currently set up to comply with type style, size and formatting requirements. If there is a way to modify the Guides and make the changes compatible with what is currently being done, then NIADA has no objection. However, if the changes require dealers to assume another expense, then NIADA cannot agree.

11. *What other changes to the format of the Buyer's Guide should be considered to increase its benefits?*

No comment.

12. *What other changes to the format of the Buyer's Guide should be considered to reduce compliance costs or burdens?*

No comment.

III. REQUEST FOR CLARIFICATION

Motor vehicle dealers and consumers will benefit from modifications that increase understanding of what information is to be provided and how to provide that information. However, with any change comes uncertainty about compliance. This is especially of concern to dealers who face substantial penalties from rescission of deals to treble damages, attorney fees and class actions for non-compliance. Therefore, NIADA urges the Commission to provide clarification or "safe harbors" concerning the following issues:

1. *May the dealer check more than one box under "Non-Dealer Warranty"?*

Because there are differing manufacturer warranty programs, including certified programs, it is possible that both the "manufacturer's warranty" and the "manufacturer's used car warranty"

would apply to a particular used motor vehicle. If a dealer has a vehicle where some of the original manufacturer's warranty, for example, bumper to bumper, still applies the certified used vehicle warranty will become effective after the expiration of the basic warranty. To accurately reflect the warranty available on that vehicle, the dealer should check both the first and the second box under "Non-Dealer Warranty." NIADA urges the Commission to clearly articulate that multiple boxes could be checked in such instances checked. This would enable dealers to accurately provide information to consumers while also having the type of safe harbor that is provided in similar consumer legislation like the recent revisions to Article 2, Sales, of the Uniform Commercial Code.

2. What should the dealer do when only a portion of the Manufacturer's Warranty still applies?

Many manufacturers offer a range of warranties on new vehicles, and as a result, when a used vehicle is offered for sale, only a portion of the manufacturer's warranty applies. For example, a new vehicle may include a 3-year, 36,000-mile "bumper-to-bumper" warranty, as well as a 5-year, 100,000-mile "power train" warranty. Therefore, if that vehicle is offered for sale as a used vehicle when it is 4 years old, with 50,000 miles, only a portion of the manufacturer's warranty applies.

Given the current "all or nothing" disclosure regarding manufacturers' warranties, many dealers are likely to be reluctant to disclose that the manufacturer's warranty still applies in such a circumstance because they are concerned that consumers may be confused by such a disclosure. That concern is that when consumers are told that there is a warranty, they may assume that means a "bumper-to-bumper" warranty. Dealers do not want disappointed customer, and often may take an overly conservative approach in disclosure as a result. We would ask the Commission to clarify what dealers should disclose in such a circumstance – both under the current method as well as under any modified Buyer's Guide.

3. What should the dealer do if it cannot determine whether the Manufacturer's Warranty still applies?

As noted earlier, it is not uncommon for a non-franchised used motor vehicle dealer to be unable to confirm the existence or extent of manufacturer warranty coverage on a particular vehicle. NIADA requests the Commission's guidance for dealers regarding the proper way to complete the Buyer's Guide in this circumstance.

4. When should a dealer check the "No Information Provided" box?

Inclusion of the "No Information Provided" box on the proposed Revised Buyer's Guide will undoubtedly lead to questions. The Commission should explain to dealers the intended purpose of this box, when checking this box would be appropriate, and include examples of how to complete the information.

NIADA would like to thank the FTC for the opportunity to comment with respect to this matter, and for the FTC's consideration of our comments. Please feel free to contact us if we can provide additional information that would be useful in your inquiry going forward.

Sincerely,

Keith E. Whann
NIADA General Counsel