

**Consumer Action
Consumers for Auto Reliability and Safety
Consumer Federation of America
Consumer Federation of California
National Consumer Law Center¹
U.S. Public Interest Research Group
Watsonville Law Center**

November 18, 2008

Mr. Donald C. Clark
Secretary
U.S. Federal Trade Commission
Room H-135 (Annex G)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Via Electronic Transmission and FedEx

Re: Request for Public Comments, Used Car Rule Regulatory Review, Matter No. P087604

Dear Mr. Clark:

On behalf Consumer Action, Consumers for Auto Reliability and Safety, Consumer Federation of America, Consumer Federation of California, National Consumer Law Center on behalf of its low income clients, U.S. Public Interest Research Group and the Watsonville Law Center, these comments are submitted in response to the Federal Trade Commission's Request for Public Comments regarding the Used Car Rule (Rule). Thank you for the opportunity to comment. We believe that modification and enforcement of the Rule is vitally important to protect the public from deceptive auto sales that cost our nation billions of dollars each year, endanger lives, and sometimes cause serious injuries and fatalities. Those shady practices have also played a significant role in causing the current economic crisis.

We realize that the FTC's request for comments is only preliminary at this stage, and look forward to commenting in more detail in the future, and to working with the Commission and staff,

1 National Consumer Law Center ("NCLC") on behalf of its low income clients.

should the Agency decide to move forward with amending the Used Car Rule.

Summary of Necessary Steps

In the Federal Register notice seeking comments, the FTC raises the broad question:

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

The short answer is that while the Used Car Rule as currently drafted and enforced has not protected the public from unsafe used cars and widespread frauds, with modifications and effective enforcement, it has unique potential for significantly reducing the risks involved in buying used cars.

An effective Used Car Rule is urgently needed to save lives, prevent injuries, and curb auto sales frauds that cost our nation billions of dollars each year. The following steps are necessary in order for the Used Car Rule to achieve those goals:

Strengthen Enforcement

- Strengthen enforcement of the Used Car Rule, and make enforcement of the Rule a top priority for the agency
- Improve protections for members of the U.S. Armed Forces and their families
- Increase the penalty when dealers engage in a pattern or practice of violating the Rule
- Spot-check dealers on a regular basis and report the results to the news media
- Provide grants to states, counties and cities to increase enforcement of the law at the state level
- Coordinate with the National Highway Traffic Safety Administration to strengthen enforcement of the Federal Odometer Act
- Crack down on illicit activity by unlicensed dealers, commonly known as “curbstoners,” particularly in states where there is little or no enforcement against unlicensed dealer activity
- Investigate auto manufacturer and dealer programs promoting vehicles as “certified”

Modify the Rule and Used Car Buyers Guide

The FTC should amend the Used Car Rule to:

- Require auto dealers to inspect used vehicles prior to offering them for sale
- Require auto dealers to provide written disclosure of known defects and prior use
- Require auto dealers to check with warrantors to ascertain whether any warranty on the vehicle, including the manufacturer's warranty, is still in effect and not void due to prior damage or other condition, and accurately report that information on the Guide
- Require auto dealers to check the Vehicle Identification Number (VIN) of used vehicles they offer for sale, in the National Motor Vehicle Title Information System (NMVTIS) database, and disclose essential information from NMVTIS on the Buyer's Guide
- Require dealers to provide the more detailed, complete disclosures required by the state of Wisconsin, using the Wisconsin version of the Used Car Buyers Guide as a model
- Require auto dealers to provide a separate Buyers Guide, placed on the driver's side of the windshield, warning prospective buyers when either 1) a vehicle is designated in NMVTIS as "salvage," "flood," "junk" "rebuilt" or otherwise totaled, or 2) the dealer knew or should have known a vehicle was totaled by the insurer or self-insured entity (a sample of this Guide is attached)
- Remove misleading language from the existing Buyers Guide, regarding "AS IS- NO DEALER WARRANTY" sales, stating that "THE DEALER WILL NOT PAY ANY COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle"
- Preclude 50/50 Warranties or other dealer warranties where dealers represent they will split the cost of repairs with the customer, as qualifying as a warranty under the Buyer's Guide
- Require auto dealers to provide a completed translation of the Buyer's Guide in the language used to negotiate the contract
- Prohibit the sales of certain categories of less valuable / problem vehicles as "certified"

Why the Used Car Rule is needed

Auto sales frauds are a serious problem for American car buyers and the nation's economy

Last year, American car buyers purchased approximately 57,500,000 vehicles. Of those, 16,100,000 were new and 41,400,000 were used. For most consumers, a motor vehicle is the second-largest purchase they make, second only to a home. The average price of a new vehicle is now estimated to be over \$27,800, and used cars average about \$13,900.²

For most car buyers, a safe, reliable vehicle is a necessity of life. It is usually their only means of transportation to get to work, school, shopping, and medical appointments. Owning a motor vehicle opens up economic opportunities and enables people to participate more fully in our society.

For example, “data from the Urban Institute's National Survey of American Families show that twice as many welfare recipients with cars were working than those without cars. Studies of welfare recipients in Michigan and Los Angeles also underscore that access to a car is a critical factor in getting a job.”³

As documented in “Pursuit of the Dream: Cars and Jobs in America,” a video produced by the Annie E. Casey Foundation, a fair deal on a safe, reliable car can transform the lives of families who are otherwise living on the edge, opening new opportunities for them and their children. According to the Foundation:

“Low-income workers who are trying to reach self-sufficiency, stabilize their finances and move up the economic ladder must be able to connect to good jobs and meet family obligations. A car is often a necessity. However, common obstacles such as overpriced and unreliable cars, sub prime (high interest rate) loans, high down payments, hidden purchase costs, and the limitations caused by poor credit histories can prevent them from improving their lives through car ownership.”⁴

However, consumer protections for car buyers have proven to be woefully inadequate. Instead, auto sales and financing is fraught with fraud and predatory and discriminatory practices.

2 Edmunds.com. See website at: <http://www.edmunds.com/advice/buying/articles/45310/article.html>

3 “Use of TANF, Wheels to Work and Job Access Funds for Transportation,” Federal Transit Administration, U.S. Department of Transportation, September 5, 2007.

4 “Pursuit of the Dream: Jobs and Cars in America,” Annie E. Casey Foundation, posted at: <http://www.aecf.org/MajorInitiatives/FamilyEconomicSuccess/PursuitoftheDream.aspx>

According to the most recent survey of consumer complaints compiled by the Consumer Federation of America, National Association of Consumer Agency Administrators, and North American Consumer Protection Investigators, new and used car sales, repairs, and service problems once again top the chart of consumer complaints filed with consumer protection agencies.⁵

Also, today's motor vehicles are extremely complex and loaded with highly sophisticated electronic equipment. The days of being able to lift the hood and kick the tires in order to know enough about the condition of a vehicle are long gone. Instead, buyers find themselves at a greater disadvantage than ever before regarding the condition of vehicles offered for sale. It takes technical skill and expensive equipment to ascertain the condition of vehicles, plus a knowledge of their history, to gauge whether they are safe and reliable. Auto dealers, as sales professionals, have access to far more information about vehicles' history and condition than potential purchasers.

Increasingly, car buyers seek information about vehicles on the Internet and from private database services such as Carfax and Autocheck. However, the information offered by those services is far from complete and often unreliable. Often, pertinent information such as prior damage histories, do not appear in a timely fashion, or at all, so the data can be quite misleading. There are also other gaping holes in the data, such as an absence of reporting by insurers and self-insured entities. In addition, access to the data is generally limited to those who have access to computers and to credit, resulting in a serious digital divide that leaves millions of car buyers vulnerable.⁶

While some auto dealers check Carfax and Autocheck and provide reports, many do not. Some dealers have also been found to have altered the reports to give potential purchasers a false sense of security about the condition of the vehicles. Some seek out damaged autos with clean "Carfax" reports and traffic in them.

Therefore, an effective Used Car Rule is often the single most important bulwark against dangerous frauds. However, it in its current form and at existing levels of enforcement, it has failed to provide the level of protection the American public needs and deserves.

An effective, well-enforced Used Car Rule is needed to protect the public from unsafe used cars and fraud

An effective, well-enforced Used Car Rule is essential in order to protect the American public from unsafe used cars and massive auto frauds. Modifying and enforcing the Rule will help deliver the enormous benefits of advanced auto safety technologies that save lives and prevent debilitating injuries to millions of used car buyers.

According to the Centers for Disease Control, auto safety advances such as air bags, improved seat belt systems, enhanced side impact protection, stability control and other technological improvements are one of the leading public health benefits of the 20th Century. Not only do those safety advances save lives and prevent injuries, they also provide enormous cost savings to our health system

⁵ The complete report is posted at: http://www.consumerfed.org/pdfs/07_complaint_report.pdf

⁶ West v. Carfax, Inc. No. 04-CV-1898. Court of Common Pleas, Trumbull County, Ohio.

and national economy, reducing the societal costs of vehicle crashes by tens of billions of dollars each year and also preventing incalculable human suffering.

However, as discussed later in these comments, those safety systems are seriously compromised or non-existent in millions of vehicles currently registered for use and being driven on our nation's highways.⁷ There is also little reason to believe that the current owners are aware they are driving vehicles that would fail to meet even the minimum federal safety standards for that particular make and model.

Modifications of the Rule and improved enforcement are urgently needed to protect the American public from the single most dangerous product on the market in the United States, the previously damaged used car.

If the Rule is successful, it will accelerate delivery of important safety benefits that accrue to the purchasers of new vehicles, which have been delayed or denied the purchasers of used vehicles.

Strengthening the Rule will also help the public distinguish between purchasing vehicles from licensed auto dealers and unscrupulous individuals who are unlicensed and unregulated, commonly referred to as “curbstoners.”

We urge the FTC to aggressively curb frauds and to address the proliferation of predatory practices that target vulnerable consumers, including:

- Teenagers purchasing their first vehicles
- High school and college students
- Recent immigrants and those who are not proficient in English
- Members of the Armed Forces and their families
- Car buyers who tend to be more trusting, for personal and/or cultural reasons
- Members of other groups targeted by unscrupulous auto dealers
- Others who cannot afford to pay for a new vehicle, or who believe they are saving by purchasing a vehicle that has already depreciated significantly, making it a better value

Safety implications

Vehicles severely damaged in crashes, floods, and other catastrophes pose a serious risk to used car buyers

As reported by a Task Force of insurers, auto body experts, and state agency experts, in the State of California: *Report to the Legislature: A Study of Auto Body Repair Problems with Findings and Recommendations* (July 1, 1994):

“According to a 1984 DCA/BAR [Department of Consumer Affairs Bureau of Automotive Repair] study of unibody repairs, the ability of improperly repaired unibody vehicles (ninety-five percent of today’s passenger

⁷ According to the California DMV, as of July 1, 2007, the agency had 1,692,535 vehicles with “salvage” brands registered in the state. This number does not include those vehicles with “washed,” altered or counterfeited titles, where the “salvage” brands have been removed. The number is also far lower than before the ruling in *Martinez v. Enterprise*, interpreting California’s definition of “salvage” to allow a vehicle to be destroyed up to 100% of its pre-crash value before it must be branded as “salvage.”

cars are of unibody design) to withstand a second crash is significantly compromised and would result in serious injury and death to the occupants....Finding: More than 70,000 structurally damaged and 150,000 salvaged vehicles are returned to our streets and highways every year without a safety inspection, and they pose a potential hazard to all of California's twenty million unsuspecting motorists."

However, like most states, California – the nation's largest auto market – still does not provide for any safety inspections at all, to protect the public from totaled vehicles. The California Highway Patrol is tasked with spot-checking salvage vehicles for theft purposes ONLY. The agency lacks the authority and the budget to inspect salvage vehicles prior to their being offered for sale to used car buyers.

States generally do not license or regulate auto mechanics or auto body technicians, adding to the lack of protection for consumers.

Previously used seat belts

Seat belts, when they work as designed, are the single most effective piece of lifesaving safety equipment in a motor vehicle. According to the National Highway Traffic Safety Administration, functioning safety belts, when properly worn, reduce the risk of death in a vehicle crash by a whopping 50%. However, once belts have done their job, they must be replaced in order to provide the same level of protection in a subsequent collision. In a serious crash, seat belt fabric tends to stretch and/or fray. In some cases the fabric is sliced through on impact. Seat belts with pre-tensioners or sensors also must be replaced, along with the pre-tensioners or sensors, in order to provide adequate protection in the future.

Yet, despite the threat to public safety, no state specifically requires that rebuilders replace seat belts or sensors on vehicles that are rebuilt and sold to used car buyers.

Missing Air Bags

Growing numbers of used vehicles fail to provide adequate protection in a crash due to missing air bags. Air bags are missing due to vehicle crashes, air bag thefts. Air bags are a costly item to replace. It is also difficult for used car buyers to detect whether an air bag has been previously deployed, or is not functioning, since the air bag systems are tucked away, where they cannot be easily inspected.

In response to the increasing problem of salvage vehicles that did not have the air bags replaced, California enacted legislation (SB 1331, in 2002) to require that rebuilders replace air bag systems with air bags in good working condition that comply with applicable manufacturer specifications and federal motor vehicle safety standards. However, that law is seldom enforced and also fails to apply to vehicles that are damaged but are not branded as "salvage." As a result, unsuspecting used car buyers and their families are still at risk of death or serious injury due to missing air bags.

In one tragic incident, an 18-year-old in the San Diego area was killed when the truck he was riding in, driven by one of his friends, collided with another vehicle. An expert who examined the circumstances of the crash opined that, had the air bag deployed, he would have survived. Unknown to the family that purchased it, the truck had previously been in a serious frontal crash. In the original

crash, the driver and front seat passenger air bags had deployed. The insurer, State Farm, took possession of the vehicle in the settlement of a claim and sent it to an auction. It was sold to an individual who failed to replace the air bags, with tragic results.⁸

Some entities openly advertise on the Internet that they offer “fake air bag covers” that appear to be like the original manufacturer covers, and conceal the fact that the air bag compartment lacks air bags. In some cases, air bag compartments have been filled with newspapers, shop rags, or whatever else was handy, when the vehicle was rebuilt. The temptation to engage in air bag fraud is great because the cost of replacement air bags is high, so rebuilders can boost their profits when they cut corners, and this crime is difficult to detect. It is also easy for unscrupulous rebuilders to tamper with the circuitry that reports that the air bag is not functioning.

Flood cars

Flood cars are inherently dangerous, particularly vehicles that are deemed to be a total loss due to saltwater flooding. Floodwaters contaminate sensitive electronic systems that control virtually every operation, from engines to windows, doors and brakes. Saltwater is highly corrosive, and exacerbates the damage due to exposure with water, silt and other contaminants.

In the aftermath of Hurricanes Katrina, Wilma and Rita, an estimated 500,000 to 600,000 flood damaged vehicles were dumped back into the automotive marketplace. While many were shipped abroad, others were towed by insurers to salvage pools and auto auctions, where they were auctioned off to the highest bidder. At the time, the National Automobile Dealers Association, major insurers, the National Insurance Crime Bureau, consumer groups, the news media, Carfax and Experian, and others warned the public about the serious hazards those vehicles posed. Among the many warnings:

- “A total loss vehicle can be a nightmare,” said Craig Horton, Vice President of Claims Operations for AAA of Northern California. “No matter what you pay for it, the car is no bargain and it can be very dangerous to drive.”⁹
- “Pat Kelly of Allstate [Insurance Company] said any flooded car experiences corrosion of electrical systems, airbags, and brakes.”¹⁰
- “Insurance adjuster Jack Larson admitted that the Honda looked good once the detailer was through. But he said...even with a thorough cleaning, such a car can be rotting from the inside out and pose a danger to anyone riding in it. ‘It’s just a matter of time before the vehicle fails,’ he said.”¹¹

8 This case was featured in “Air Bag Scams: Dashboard Danger,” *Reader’s Digest*, February, 2008. The Ellsworth family, whose son Bobby was killed, filed a declaration in the Public Citizen et.al. v. Mukasey, No. CV 08-0833 (N.D. Cal. 2008) to promulgate the rules required by the Anti-Car Theft Act of 1992 and the Ant-Car Theft Improvement Act of 1996.

9 “Insurance Commissioner Garamendi and AAA Warn Consumers to Beware of Katrina Flood-Damaged Cars Being Sold as Used Vehicles in Northern California.” News Release issued by John Garamendi, Commissioner, State of California Department of Insurance, January 26, 2006.

10 KCRA Call 3: Flood-damaged vehicles being resold in Sacramento. December 20, 2006.

11 KCRA Call 3: Flood-damaged vehicles being resold in Sacramento. December 20, 2006

- “Flood cars are always bad cars, but these are worse because—even though many were scrapped—contaminated parts salvaged from them can hurt you...Some bacteria have the ability to go dormant and revive when subjected to moisture. Without sterilization, flood cars and parts from them might remain dangerously contaminated for years.”¹²
- “Every flooded car seen by this writer appeared beyond redemption, including the dozens of new cars at Toyota of New Orleans. They were not just flooded—they’d been marinated in a brackish stew of polluted, toxic salty water, simmering for days under a hot September sun. Some were even considered biohazards by environmental officials, but there was still a demand for them.”¹³
- “Q: Is a flooded car necessarily junk? Tom: Pretty much, yes. There are some obvious problems. If water gains access to one of the cylinders...that cylinder can fill with water. Then, when the engine is started, that cylinder will ‘hydro-lock,’ and everything connected to the cylinder will break or bend...you might need a new computer, or several new computers depending on the car, which can cost \$1000 each...the water...can wreak havoc on electronic seat controls, windows and ignition switches and air bags....Ray: Then there’s the whole issue of mold. When a car is filled with water and then closed up and baked in the sun for a week, you have mold-spore heaven. That’s not only a health hazard, it’s nearly impossible to fix. Tom: So we’d say that if water advanced any further up than the floor of the car, it’s junk.”¹⁴
- “Though most experts agree that cars that have been submerged in saltwater should never be driven, they also agree that as many as half of the vehicles that were damaged by Katrina probably will be rebuilt and resold.”¹⁵
- “Vehicles with flood damage [from Hurricane Katrina] will have varying levels of residue. Testing of the floodwaters revealed high levels of raw sewage, hexavalent chromium, arsenic and lead....Escheria coli (E-coli) has been measured at many times the acceptable level...People who will handle flood vehicles during removal, repair and/or disposal should be clearly informed of personal risk and illness prevention methods. Each flooded vehicle can potentially carry an extraordinary amount of harmful residue...Consideration and training should be given regarding the safety of those who will come in contact with contaminated vehicles...EPA and ATSDR/CDC [Agency for Toxic Substances and Disease Registry/Centers for Disease Control] conclude that exposures at these levels to emergency responders are not expected to cause adverse health effects as long as the proper protective equipment is worn such as gloves and safety glasses....Bacterial contamination consistent with the presence of sewage was also detected. EPA and ATSDR/CDC recommend avoiding all contact with sediment deposited by the flood water, where possible, due to potential concerns associated with long-term skin contact....The most likely places in a flood vehicle for water to stand and blood borne

12 “A Flood Car Warning,” Goss’ Garage, by Pat Goss, Washington Post, May, 2006.

13 “A Flood of Fraud,” Car and Driver Magazine, by Bob Zeller. January, 2006.

14 “Guide to Vehicles, Flooding. Flooding presents many safety issues in vehicles.” Click and Clack, syndicated column by Tom and Ray Magliozzi. “Car Talk” Radio show on National Public Radio, May 15, 2006.

15 “Washed-up Cars Trickle to Market,” *Chicago Tribune*, December 30, 2005. Reprinted by *the Los Angeles Times.com*.

pathogens to exist are: (1) All interior pieces...There are no known, readily available processes that can return interior “soft” parts back to a clean, hygienic and sanitary condition. (2) Water residue and/or leftover sludge, which may remain for long periods of time in enclosed places such as doors, frame rails, rocker panels, gas tanks and quarter panel/trunk floor low areas...**As of this writing, there is no recommended method or procedure to restore submerged vehicles from New Orleans to pre-accident condition.”**¹⁶

Bent frames and other structural damage

Bent frames and other structural damage pose a serious threat to subsequent purchasers. Bent frames can cause vehicles to be off-track, causing uneven tire wear and mis-alignments. In the worst-case scenarios, bent frames can cause drivers to lose control, and vehicles to flip over.

Bent frames also compromise the structural integrity of vehicles in a subsequent crash. They can affect the vehicle's “crash pulse,” which transfers energy in a controlled way. The crash pulse for each make and model is built into the vehicle's design, and intended to ensure that all the vehicle's safety systems work properly to protect the occupants. For example, the air bags must inflate at precisely the right moment, within milliseconds, to prevent injury.

Faulty Suspensions

Unscrupulous rebuilders usually take out the dents and apply a new coat of paint, but leave structural members including the suspension unrepaired. This can cause catastrophic steering failures. In some cases, the wheels fall off while the vehicle is being driven, causing a loss of control. For example, in *Adam Nowak v. Anaheim Mitsubishi*, a jury awarded \$130,000 in punitive damages against a dealership, after finding that the dealer had engaged in “unlawful or deceptive acts or practices.” According to the consumer's attorney, Michael Lindsey of San Diego:

“At the time of purchase, Adam Nowak was a corporal in the United States Marine Corp. He was in the first wave that went into Iraq. He returned from Iraq in August of 2003, just six months prior to purchasing the [used] car. In January of ‘05, the left front control arm collapsed while making a left hand turn coming home from [Camp] Pendleton, causing the wheel to fold under the vehicle, leaving Adam stranded. Fortunately the accident happened at low speed and no one was injured.

Unknown to Adam, the vehicle had been in a 45 mph head-on collision [involving] the first owner. The service contract denied coverage due to the prior collision. The dealer refused to repair the vehicle. Everyone who looked at the car spotted the prior collision damage and noted the shoddy repairs.

Finally, Adam contacted me I sent a certified letter requesting a refund. The dealer’s response was that Adam was free to trade the car in and buy another one from them, "on

¹⁶ Coordinating Committee for Automotive Repair. Includes the U.S. Department of Health and Human Services—Centers for Disease Control and Prevention, the U.S. Environmental Protection Agency (EPA), and other public health agencies. *Industry Concerns Regarding Handling, Disposal and Repair of Flooded Vehicles from New Orleans Following Hurricane Katrina. Analysis of risk to workers and vulnerability of persons coming in contact with submerged or flooded vehicles.* Edition 1.4, Posted: October 7, 2005.

approved credit". This was unacceptable and we filed suit.”¹⁷

Impact of auto fraud on auto financing, shrinking auto market

A fair, transparent auto market is a prerequisite for ensuring that auto loans do not exceed the value of the car being purchased. When a car buyer owes more on the loan than the car is worth, they have are “upside down” in their loan, or have “negative equity” Currently, the level of negative equity in auto transactions is burgeoning, with car buyers averaging about \$4,000 in negative equity when they enter into a their next vehicle purchase transaction.

Salvage fraud and misrepresentations about the general condition and reliability contribute to spiraling levels of auto debt, causing a ripple effect throughout the entire economy. Unsuspecting car buyers who are duped into buying salvage vehicles pay far more than they are worth, and take out loans to cover the artificially elevated prices they pay. Unlike the mortgage arena, where appraisals and inspections, if properly conducted, provide some protection for both the lender and the consumer from over-pricing and defective homes, auto transactions leave consumers almost entirely reliant upon the dealer.

Car buyers often strain their budgets to get the most expensive vehicles they can afford, in hopes they are getting safe, reliable transportation. They often pay substantially more for a warranty and/or an extended service contract. However, those inevitably exclude coverage for prior damage, and “salvage” histories render them entirely void.

As a result, when a vehicle needs expensive repairs a consumer cannot afford, there is little choice but to trade it in for another vehicle. That is when the consumer learns that because of the defects the car had at the time of sale, or because their vehicle is “salvage,” it is worth far less than the purchase price – and far less than what is still owed. The car is then “upside down,” with “negative equity” that is rolled into the next transaction, if the consumer can finance another car.

Currently, approximately 30% of American car buyers have negative equity when they make their next vehicle purchase. The amount of negative equity, on average, has risen to around \$4,000 per vehicle.¹⁸ The only way to make the monthly payments affordable is to extend the length of the auto loans. According to Edmunds.com data, the average length of an auto loan has soared “from 57 months in January 2002 to 64 months in March, [2008]. But some banks, credit unions and captives [lenders affiliated with auto manufacturers] such as Toyota Motor Credit Corp. and GMAC Financial Services offer loan terms of as long as 84 months or more.”¹⁹

According to the *Los Angeles Times*, “Americans haven't just been taking out risky mortgages for homes in the last few years; they've also been signing larger automobile loans for significantly longer terms than they used to. As a result, people are slipping into a perpetual cycle of automobile debt that experts think could lead to a new credit crunch extending from dealerships to driveways and all the way to Wall Street.”²⁰ In fact, the credit crunch, which was entirely foreseeable, is now threatening to

17 Case No. GIC 844037, Superior Court of the County of San Diego

18 See J.D. Power report, posted at: <http://www.powerinfont.com/news/documents/PIN-Insights080307.pdf>

19 “Dealers hunt upside-down buyers with leases, incentives and long-term loans,” *Automotive News*, May 5, 2008.

20 New Cars that are fully loaded – with debt, *Los Angeles Times*, December 30, 2007. Posted at:

bankrupt entire auto companies and their suppliers, and throw tens of thousands of workers out of their jobs.

The auto industry was repeatedly warned about the potential negative impact of extremely long auto loans. For example, in 2004, several leading auto analysts raised alarms.

“The Power Information Network, an affiliate of J.D. Power and Associates, said the problem is that an increasing number of potential car buyers are finding that they owe more on their trade-in vehicles than they're actually worth... 'the long-term ramifications are questionable'... Scott Sprinzen, the chief auto analyst at Standard & Poor's, predict[ed] more 'subpar financial performance' this year at GM, Ford and the Chrysler arm of DaimlerChrysler. Sprinzen cited 'rising interest rates, declining lease terminations and lengthening consumer auto loan terms' among other negative factors facing Detroit's traditional Big Three....

Deutsche Bank analyst Rod Lache noted that so-called negative equity on the average upside-down trade-in vehicle had jumped from \$2,900 to \$4,000 over the last five months alone. 'The problem is particularly acute for Ford and GM customers,' Lache said. 'We project this negative equity problem will get worse,' he wrote. 'The impact on U.S. demand, price and mix from this phenomenon could be devastating, particularly if the impact is compounded by rising rates'”²¹

An effective Used Car Rule is desperately needed to restore fairness and transparency to the used car market, so consumers can actually get what they are paying for, without sinking deeper into debt.

Potential benefits of an effective Used Car Rule

Because the Used Car Rule requires disclosures on the vehicles themselves, it offers enormous potential for providing prospective car buyers with important information in a timely, uniquely effective manner. If it were modified and enforced, it could become one of the most cost-effective measures available to the motoring public for curbing fraud and preventing motor vehicle-related fatalities, injuries and economic losses.

Uniquely useful form of disclosure

The Used Car Buyers Guide owes its potential largely to the fact it must be posted where the information is most useful for most buyers – on the vehicle, where prospective buyers can see it before they make any decisions.

The Used Car Buyers Guide has parallels with similar on-vehicle disclosures required by the National Highway Traffic Safety Administration, for new car buyers. It is important to note that NHTSA also concluded that vital information about a vehicle's safety is most useful and effective when it is provided on the vehicle itself.

As part of the Department of Transportation and Related Agencies Appropriations Act, 1995

<http://articles.latimes.com/2007/dec/30/business/fi-autoloans30>

21 “Longer loans seen backfiring on U.S. Automakers,” Automotive News, March 25, 2004.

(P.L. 103-331; September 30, 1994), Congress provided NHTSA funds "for a study to be conducted by the National Academy of Sciences (NAS) of motor vehicle safety consumer information needs and the most cost effective methods of communicating this information." The NAS study was completed and released to the public on March 26, 1996. It is titled "Shopping for Safety - Providing Consumer Automotive Safety Information," TRB Special Report 248. Based on its findings, the study makes recommendations to NHTSA on ways to improve automobile safety information for consumers.

After extensive research into effective means of disclosing vehicle safety information to the public, the National Academy of Sciences issued a report recommending that the relevant information be provided on a separate sticker on the vehicle itself. The National Highway Traffic Administration sought comments on that approach, and adopted the Academy's recommendation, requiring on-vehicle safety ratings disclosures on all new vehicles.

Titles not an effective disclosure to consumers

It is also important to note that vehicle title brands are not an effective form of disclosure to consumers, for a number of reasons. Therefore, on-vehicle disclosures are all the more important, since they are often the ONLY form of written disclosure the consumer will see, prior to making a commitment to buy the vehicle.

Vehicle titles do not comprise meaningful disclosure to consumers, for the following reasons:

First, most car buyers do not pay cash, but take out loans. In all but a few states, they do not even see the title to the vehicle for years after they bought the vehicle, if at all, since the title goes directly to the lienholder, who holds it until the loan is paid in full. Today's vehicle loans last for an average of 60 months, with many lasting far longer. The approximately 30% of vehicle purchasers who roll over negative equity into a subsequent transaction usually will not see the title at all, since it will go directly from the lienholder to a subsequent owner, skipping them entirely.

Second, most states allow dealers to sell traded-in vehicles or vehicles purchased from auctions or other dealers before they obtain clear title to them. The dealer cannot show the buyer the title because it is still in the possession of the previous owner or the lienholder. It may take a month or longer before the dealer obtains title, if at all.

Third, even if the buyer were to see the title, it would still not be a reliable form of disclosure. Title-washing is rampant. It is also easy for scamsters to alter or counterfeit titles, erasing the brands and concealing their damage history. For example, after hurricanes in the Carolinas left tens of thousands of "flood" cars in their wake, the titles to many vehicles were branded as "flood" in compliance with laws in those states. But then those same vehicles turned up in Florida with clean titles, after someone used a hole punch to cut out the "flood" brand on the paper title.

Fourth, even if the consumer sees the title and the brand is intact, it is not an effective form of disclosure. The brand terminology is often confusing or misleading, at best. Even many relatively sophisticated consumers have no idea what "salvage" means, or that a "salvage" vehicle may be grossly unsafe. The brand "rebuilt" does not in any way connote the seriousness of the threat such a vehicle can pose to a teenager, who is already at high risk of death or injury in a vehicle crash.

Buyers Guide useful for bridging Digital Divide

The Used Car Buyers Guide also has the potential to be uniquely beneficial for the millions of consumers who lack access to computers, particularly at the point of sale. Many also lack access to credit or bank account debit cards, which are needed in order to obtain vehicle histories from private vendors such as Carfax or Autocheck, unless the history is provided by the dealer. Car buyers who pay cash deserve the same level of protection as those who use plastic, and must not be penalized by being sold unsafe vehicles, simply because they lack access to credit or choose not to have a credit or debit card.

Unburdensome, Cost-Effective

The Used Car Rule is also singularly unburdensome, requiring little action on the dealer's part, other than to do due diligence and disclose basic information on a single sheet of paper. The costs involved for dealers are minimal. Any competent dealer should already perform an inspection and find out a vehicle's history, in order to know how much to pay for it, whether it is safe to sell to prospective buyers, and how much to charge for it.

Even the modified version of the Used Car Buyers Guide which we propose, would simply require that dealers share information they should already have, with prospective buyers, on a sheet of paper posted on the vehicle. In other words, they should not conceal material facts, or otherwise commit fraud.

Ease of enforcement

The Used Car Rule is also relatively easy to enforce, since monitoring compliance involves simply checking to see what is posted on the vehicle, instead of attempting to decipher what transpired in verbal exchanges between sellers and buyers, what documents were signed or forged, whether documents were presented in a deceptive manner, or other unfair or deceptive practices occurred.

The modifications we propose, including the separate sticker for "salvage" and otherwise totaled vehicles, is also relatively easy to enforce. It would simply involve checking the disclosure on the vehicle against the publicly available NMVTIS database. In some cases, it may also involve determining where the dealer obtained the vehicle (for example, from a salvage pool or insurance auction).

Strengthen Enforcement

We believe that the bullet points in the initial Summary above regarding enforcement are largely self-explanatory, with the exception of the two points amplified below, regarding improved protections for members of the Armed Forces and coordinating activity with the National Highway Traffic Safety Administration to enforce the Federal Odometer Act.

Improve protections for members of the U.S. Armed Forces and their families

According to the Armed Forces, the single worst financial readiness problem our troops and their families face is the purchase of a vehicle. Fraudulent and predatory practices continue to plague those who are serving our country, causing serious problems for the purchasers and harming readiness,

morale and their ability to accomplish their mission. In some cases, fraudulent used car sales are causing troops to lose their security clearances, costing our nation their desperately needed, highly trained expertise during a time of war.

According to advocates who assist troops scammed by auto dealers, it is common for auto dealers to threaten to harm military members' credit reports if they do not make payments on faulty or inoperable vehicles. Bad credit can cause service members to lose their security clearances.

For example, Fort Huachuca in Tucson, Arizona, a base that trains troops for intelligence missions, recently declared certain dealerships off-limits due to repeated deceptive and predatory practices. According to a report in *Automotive News*,

“This spring, base officers [at Fort Huachuca] ordered military personnel not to do business with two auto dealerships here [in Sierra Vista, AZ] and one in nearby Tucson...[because] the base felt the need to “protect” its soldiers --- as many as 80 percent of whom are sent to Iraq or Afghanistan – from abuse by the dealerships.”

“We were concerned that our service members are being taken advantage of,” [a spokesperson for the Base] told *Automotive News*. {She} and others cited complaints that the dealerships cheated or at least misled customers and threatened them with arrest or a tarnished credit history when they complained. {She} said that many soldiers who complained asked not to be identified out of fear of 'retribution' by the dealerships.”²²

In Harm's Way—at Home: Consumer Scams and the Direct Targeting of America's Military and Veterans, Report by National Consumer Law Center, May 2003. “Automobile-related scams: Cars are a big source of financial trouble for service people. The Navy-Marine Corps Relief Society, for instance, gives the largest single portion of its cash aid to military families—nearly a quarter of all its aid—for car-repair assistance....military legal assistance officials in the San Diego region told NCLC that high-priced used car sales are ‘the single largest consumer [contract] problem that we see here in Legal Assistance.’”

Financial Fitness: The Importance of Financial Fitness to the United States Marine Corps' Mission. A Final Report. Prepared for and funded by The United States Marine Corps, prepared by The Financial Fitness Evaluation Team, University of California, Riverside. August 2000: “We found widespread agreement that when Marines have pressing financial problems, their performance in the field can be significantly compromised, even to the point of endangering themselves, their unit, and the mission itself...Buying cars causes more problems than any other single financial factor.”

“Scammers preying on military families,” *Los Angeles Times*, April 2, 2003. “Operating just outside the gates of major bases, some car repair shops and dealerships prey on military families, particularly when a husband has been shipped out of the country, said Karen Varcoe, a consumer economics specialist at UC Riverside who has written academic studies on the financial problems of military personnel.”

“After car breaks down, Iraq vet wages new battle—with dealer.” *Sacramento Bee*, April 14, 2005: “Last month, the Assembly Committee on Banking and Finance heard testimony about financial scams aimed at members of the military. John Irons, director of the Navy-Marine Corps Relief Society in San Diego, told lawmakers his informal survey of Navy lawyers found ‘the number one issue they are confronted with is used car dealers who are taking advantage of military personnel.’ Among the alleged

22 “Army puts Arizona dealership off-limits,” *Automotive News*, August 11, 2008.

problems: sale of 'certified' junkers...." [Note: Active duty representatives of the U.S. Armed Forces also testified that they had conducted their own informal surveys and reached the same conclusions.]

One dealership in Virginia lost its license after it became known the dealer was luring Marines from Camp Lejeune in North Carolina, with the offer of free rides to the dealership. What he didn't reveal was that the rides were one-way only, and often the troops would arrive so late that they had little choice but to purchase a vehicle in order to return to their base in time to report for duty the next morning.²³

The following statement by U.S. Army Staff Sergeant Rosa Williams typifies the practices that are harming our troops and their families:

"My name is Sgt. Rosa-La Williams. I am a supply staff sergeant with the U.S. Army based in Honolulu. I have a 9-year daughter and a baby on the way. It's funny, I can laugh about what happened with my car now because it has been going on for years, but I wasn't laughing back then.

Two years ago, I went to a big auto dealer here named Auto Source, a place where a lot of service members buy vehicles. They have a beautiful showroom; it's indoors with marble floors. I wanted a BMW, so I did my research before going in and got my financing together beforehand, too. I was pretty surprised that I was able to talk them down \$4,000 and purchase the vehicle for \$20,000. But I had some reservations while I was waiting to receive the check from my bank to pay the dealer.

The front headlights were not working right and even though the car came with a written warranty, it was not in detail. That bothered me. The dealer said to come back with my check and they would fix the lights. I did that, and when I picked up the car, the lights worked at first. I was happy, or so I thought. The very next morning, the lights didn't work. I called them and brought the car back three times altogether. The lights still come on when they want to and turn off when they want to. There was no prior history report on this. So I decided to call BMW to see if it was still under a manufacturer's warranty. When I gave them the VIN number, they said that no, it was not under warranty and should not even be on the road because it was totaled. It had hit a tree on another island and the engine had caught fire. It had gone to a "Pimp My Ride" kind of high-end body shop and they made it look really nice. You could never tell from the body that there was an accident and fire; there was no smell.

I told the dealer this and he didn't believe me. BMW sent me a computer printout of their records and I faxed it to the dealer. All of this happened within a few weeks of buying my BMW. I went to the dealer and said I wanted my money back, the vehicle doesn't work right and I have a child I'm worried to drive in the car with. The owner of Auto Source was very mean and rude to me. He said no, you don't get your money back, too bad, so sad. I told him, "Do you understand, as a service member, I can go to military lawyers and make sure that other service members don't buy from you," but he wouldn't budge. I meanwhile learned that the same car had already been returned to him several times by

²³ "Yorktown, VA dealer turns in license," Daily Press, Newport News, VA, August 19, 2004. Regarding Carland dealership.

other customers before he sold it to me.

We drove it for a couple of months because we had to. First it was the headlights, and then the engine started knocking. By then I was getting ready to deploy to Iraq, so the military referred me to a lawyer to investigate my case and I left the car with my mother. He has a whole list of people with problems like mine.”

Additional references to the impact of fraudulent and predatory activity on troops is posted on the website of Consumers for Auto Reliability and Safety, at:

http://www.carconsumers.com/military_ripoffs.html

See also the case cited above, Adam Nowack v. Anaheim Mitsubishi, under the section regarding the safety hazards posed by salvage vehicles.

Coordinate with the National Highway Traffic Safety Administration to strengthen enforcement of the Federal Odometer Act

According to a report submitted by the National Highway Traffic Safety Administration to Congress, “Odometer tampering continues to be a serious crime and consumer fraud issue. In 2002, NHTSA determined this crime allows more than 450,000 vehicles to be sold each year with false odometer readings, milking American car buyers out of more than \$1 billion annually.”

NHTSA's Office of Odometer Fraud Investigation now states that “From 2002 to 2005, we have seen a definite escalation of odometer fraud. New car prices, coupled with the increased demand for late-model, low-mileage used cars, have made odometer fraud more profitable than ever. Strong enforcement of the federal and state odometer laws, i.e., prosecutions with stiff sentences, appears to be the most effective deterrent.” However, NHTSA has only a handful of staffers who are assigned to enforcing the Federal Odometer Act, for tens of millions of transactions each year. According to NHTSA, while the agency occasionally works with state law enforcement officials to prosecute large odometer fraud rings, no state has a single official designated to specialize in enforcing the Act.

Odometer fraud contributes significantly to the high incidence of “negative equity” in vehicle transactions. It is a triple whammy for car buyers. First, consumers are duped into paying more than vehicles are worth. Second, they incur excessive debt based on fraud. Third, they also face having to pay out of pocket for unanticipated, expensive repairs that are not covered by warranties or extended service contracts, even if they paid extra for coverage, because the coverage has already expired or is void due to the odometer discrepancy.

Therefore, we urge the FTC to work cooperatively with the National Highway Traffic Safety Administration to enforce the Federal Odometer Act and curb burgeoning odometer fraud.

Necessary Steps

1. Require dealers to inspect used vehicles prior to sale

Whether dealers purchase used vehicles from auctions, other dealers, individual consumers, or other sources, they should perform an inspection prior to offering a vehicle for sale to the public, for transportation. Most dealers already do this in order to protect their own interests. Dealers must sell whatever car they purchase and want to know what problems the vehicle has before purchase. Although the inspections typically conducted by dealers are done in just a few minutes, such inspections can reveal a great deal about the condition of a used car. In addition to protecting the dealer, conducting such inspections is simply a matter of performing the absolute minimum level of due diligence, as sales professionals, to ascertain whether the vehicle is safe and fit to drive. Consumers have a reasonable expectation that if they purchase a used vehicle from a licensed dealer that the dealer exercised due care and performed an inspection prior to offering the car for sale; otherwise, there is little or no reason for car buyers to purchase used vehicles from dealerships, as opposed to other individuals. Such inspections can be, and typically are, conducted by employees of the dealership. Even if a dealer elects to have an auction house or other independent entity perform such inspection, the costs of performing the inspection are minimal for those who are in the trade.

2. Require disclosure of known defects, prior use

As part of the Used Car Rule, the FTC should require that dealers disclose to consumers known defects in the cars they offer for sale. One main purpose of the Rule is to reduce oral misrepresentations. One of the most common misrepresentations is that a vehicle offered for sale is reliable and in good condition.

Because of the imbalanced bargaining position between consumers and dealers in a used car transaction, dealer misrepresentations are extremely harmful. While the spread of information and technology has served to provide consumers with easier access to pricing information for used cars, consumers still must generally rely upon dealers for information as to the condition of individual cars.

From its inception, it was understood that an effective rule would cover not only disclosure of warranties offered, but also address misrepresentations about the condition of the vehicle.²⁴ The initial proposed Rule suggested a disclosure of mechanical defects and an opportunity for an independent inspection.²⁵ Subsequent recommendations included mandating that dealers perform inspections prior to offering used vehicles for sale. Responding to the call for mandatory inspections, the National Independent Automobile Dealers Association stated:

“NIADA believes that a beneficial balance in consumer and dealer knowledge can be achieved by means of a rule requiring a window sticker which would disclose both significant known defects and defects discovered during any state-required safety inspection. By “significant known defects,” we mean all defects which the dealer is personally aware of other than cosmetic or minor defects.”²⁶

As noted by the dealership association, requiring disclosure of known defects would indeed

²⁴ See, Seattle Regional Office Used Car Analytical Programming Guide (Sept. 17, 1973) (Recommending that the commission require inspections by dealers and disclosure of defects). See also, 15 U.S.C. 2309(b) which states that the FTC, when conducting rule making under Magnuson-Moss on used car warranties “may exercise any authority it may have under this chapter, **or other law**” (emphasis added).

²⁵ 41 FR 1089 (Jan. 6, 1976).

²⁶ Bruce K. Mulock, *The FTC's Used Car Rule*, Congressional Research Service, Library of Congress, issue Brief #IB81159, update Oct. 14, 1984.

help remedy the imbalance of information between consumers and dealers. Anything less than required disclosure of known defects encourages oral misrepresentations by dealers and subverts a main purpose of the Rule. A modified rule that requires disclosure of all known defects and any known prior use of the car would go far to stop such misrepresentations. Consumers could then be advised to check the Buyer's Guide and compare it to what a dealer says verbally about the vehicle. If dealers tell the truth, compliance with such a Rule will be easy and will not detract from a dealer's current business. If, on the other hand, a dealer is lying to consumers about a vehicle, such a rule would make it much more difficult for a dealer to continue to engage in such practices.

Dealers should be required to disclose on the Buyers Guide when they know, or should have known, that a vehicle is a former taxicab, daily rental, police vehicle. Those vehicles are inherently worth less than other vehicles without such a history and failure to provide that information to buyers would constitute concealment of a material fact.

3. Require that dealers check to ensure warranties are in effect

The current Buyers Guide allows used car dealers to disclose that a vehicle has a warranty coverage or that a service contract is available *without requiring dealers to determine whether the vehicle is ineligible for warranty or service contract coverage because of prior damage*. Such disclosure misinforms the consumer about the existence of valid warranties, contrary to the intent of the Rule.

Dealers are well-positioned to determine if an existing or provided warranty is valid or void due to prior damage. If dealers fail to determine this information, the disclosures made to the consumer can be inaccurate and misleading.

4. Require disclosure of essential information about vehicles in National Motor Vehicle Title Information System

A report commissioned by the U.S. Department of Justice found that fully implementing the National Motor Vehicle Title Information System (NMVTIS) and curbing salvage and odometer frauds and related crimes would save the public between \$ 4 billion and \$11.3 billion annually.²⁷ Clearly, improvements to the Used Car Rule that further the purposes of NMVTIS and makes the data in NMVTIS readily accessible to the car-buying public would be enormously cost-effective.

Currently, the U.S. Department of Justice is under a court order to promulgate a rule, on January 30, 2009, to comply with the Anti-Car Theft Act of 1992 (Public Law 103-272) and the Anti-Car Theft Improvements Act of 1996 (Public Law 104-152). Under the Act, that rule must require insurers, salvage pools, and junkyards to submit data to NMVTIS about totaled vehicles, update the data every 30 days, and make the data available to the public at cost. The court order requires that the insurers, salvage pools and junkyards provide the data to NMVTIS beginning on March 31, 2009.²⁸

²⁷ Logistics Management Institute, National Motor Vehicle Title Information System Cost-Benefit Analysis, performed at the request of the U.S. Department of Justice, June, 2001.

²⁸ Public Citizen et.al. v. Mukasey, No. CV 08-0833 (N.D. Cal. 2008)

By requiring dealers to first check the NMVTIS database prior to filling out the Used Car Buyers Guide, and to ensure that information on the Guide accurately reflects the NMVTIS data, the FTC can greatly improve the accuracy and value of the disclosures on the Guide.

The information in NMVTIS will be easily accessible to dealers. In contrast, consumers are often pressured to consummate a purchase without leaving the dealership. This limits the consumer's ability to access NMVTIS information. In addition, some consumers do not have ready access to technology to easily check the database. The dealer is in a position to easily check the database and post the information the database contains.

5. Require Wisconsin Car Buyers Guide

We recommend that the FTC require uniform compliance with the version of the Used Car Buyers Guide required by the state of Wisconsin²⁹, which is more complete and informative than the existing Guide used in other states, with the following changes:

- The vehicle history and title brands should be more prominent
- The misleading title brand terminology should be changed from “manufacturer buyback” to “repurchased lemon.” (Note: California and several other states require title brands that include the term “lemon.”)

Note: this Guide should be supplemented by the separate form (attached) warning consumers about vehicles that were totaled.

6. Require a separate Buyer's Guide for totaled vehicles

One of the greatest weaknesses of the Buyers Guide as presently designed is that it provides no protection against totaled vehicle fraud: the sale of used vehicles so severely damaged the insurer or self-insured entity decided it was not worth repairing.

Salvage fraud costs the American public billions each year, and sometimes causes deaths and serious injuries. Insurers, rebuilders, and used car wholesalers exploit minor differences in state automobile title procedures to “wash” salvage brands from titles, or avoid having the title branded in the first place. For example, just three years ago, a major national insurer, State Farm, settled with 48 state Attorneys General over allegations that it had sold 30,000 to 40,000 salvage vehicles without obtaining salvage titles required by state law.³⁰

Salvage vehicles have less actual value than represented by the dealer. Worse, they often have major safety defects, either because the damage was essentially unreparable or because inadequate

29 Wisconsin Administrative Code at Chapter Transportation 139

30 *State Farm Violated Agreement on Selling Totaled Cars*, St. Louis Post Dispatch, Jan. 24, 2005. *See also State Farm Still Facing Problems From Salvage Title Controversy*, Austin American-Statesman, Jan. 28, 2007.

repairs were made. A consumer who buys an undisclosed salvage vehicle will be unaware of the possibility of major structural damage or dangerously inadequate repairs and will not know to take appropriate precautions. Salvage vehicles are a safety hazard, threatening not only the buyer's life but also the lives and safety of passengers and other drivers on the road.

Prior wreck damage can make the information on the Buyers Guide illusory. A statement on the Buyers Guide that the unused portion of a manufacturer's warranty is still in effect is a misrepresentation if the vehicle has prior wreck damage, as prior wreck damage will void the manufacturer's warranty. Thus, once the prior wreck damage is discovered—which often occurs when other repairs are undertaken—the consumer will find that the purportedly warranted used car is actually not warranted at all. Similarly, a statement on the Buyer's Guide that a service contract is available will be a misrepresentation if the vehicle has wreck damage, as the service contract provider will revoke the service contract once the wreck damage is discovered.

Wreck damage is a major cause of the kind of malfunctions for which buyers seek warranty protection. Yet the Buyers Guide provides no protection to consumers against sale of used cars with undisclosed wreck damage. Indeed, the Buyers Guide subtly legitimizes their sale by allowing car dealers to give rebuilt wrecks the same Buyers Guide as other vehicles. The Buyers Guide allows used car dealers to disclose that a vehicle has a warranty coverage or that a service contract is available *without even taking steps to determine whether the vehicle is ineligible for warranty or service contract coverage because of wreck damage.*

The FTC should revise the Used Car Rule so that it no longer countenances this deception. First, the dealer should be required to disclose wreck damage on a separate window sticker, posted on the driver's side of the windshield, warning prospective buyers about the vehicle's history.

Second, the Rule should require dealers to check the National Motor Vehicle Title Information System (NMVTIS) database. The dealer should be required to disclose the status of the vehicle as recorded in that database. This disclosure should be required on the window sticker regardless whether the dealer represents that the car comes with a warranty. A buyer needs to know this information not only when determining to buy the car, but also when negotiating with the dealer about whether the dealer will warrant the car and how extensive the warranty will be.

7. Remove misleading information from existing Buyers Guide

The FTC should remove language from the existing Buyers Guide, stating below “AS IS- NO DEALER WARRANTY,” that “THE DEALER WILL NOT PAY ANY COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.”

This language is inherently misleading because it lends credence to the false notion that the dealer may misrepresent the condition of the vehicle with impunity. It goes beyond allowing dealers to disclaim implied warranties and creates the false impression they can lie to consumers about the condition of the vehicle or the dealer's intent to repair the vehicle and, if they check that box, avoid any liability for their statements.

While dealers may wish for such language to entirely insulate them from liability for their words and actions, this is generally not the case. Even if there is a valid disclaimer of implied

warranties, such disclaimer does not insulate them if they commit unfair or deceptive acts. Generally, state unfair trade practice claims survive even in the presence of valid warranty disclaimers. Therefore, despite such language, dealers may still be found liable.³¹

Even if the dealer offers no written warranty or express recommendations about the car, an implied warranty of merchantability may still apply.³² If the dealer knows that the consumer is relying on the dealer's judgment to help them find a car that can get them reliably to and from work and childcare, a guarantee of fitness for a particular purpose is also implied.³³

While the dealer may attempt to disclaim these implied warranties, such attempts may fail for a number of reasons including:

The dealer's misrepresentations as to the condition, value, quality, characteristics, or fitness³⁴

The unconscionability of a disclaimer³⁵

The dealer's oral statements create express warranties³⁶

The dealer's conduct after the sale, such as providing initial repairs

The dealer's conduct during the sale, such as discouraging or prohibiting the consumer from reading the disclaimer language

The consumer may still be allowed to revoke acceptance.³⁷

Because the dealer's attempt to avoid liability for statements it makes during the sale of the car may fail, the statement that the "dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle" on an official document is inherently misleading to consumers. In particular, the notion that the dealer is not responsible regardless of **any** oral statements, sends a false and discouraging message to consumers that dealers can lie with impunity. Rather than discouraging dealer misrepresentations, as the rule intends, the language encourages dealers to believe that they can say whatever is necessary to sell a used car and still evade liability.

The existing language is also ambiguous because the Rule defines warranty as an "undertaking in writing to refund, repair, replace, maintain, or take other action with respect to [the car]" at no extra charge.³⁸ For a consumer that attempts to inform himself by reading the Rule, the language on the Buyers Guide would seem to simply indicate that there are no written warranties, but that the implied warranties are still effective since the Rule's definition does not include oral or implied warranties.

Providing that the dealer may make statements contrary to the information provided on the buyer's guide and the dealer's alleged intent to structure the sale as an "as is" sale, anticipates that

31 *Morris v. Mack's Used Cars*, 924 S.W.2d 539 (Tenn. 1992) and *V.S.H. Realty, Inc. v. Texaco, Inc.*, 757 F.2d 411 (1st Cir. 1985)

32 U.C.C. § 2-314.

33 U.C.C. § 2-315.

34 *See, e.g., Murray v. D&J Motors, Inc.*, 958 P.2d 823 (Okla. Civ. App. 1998).

35 *See, e.g., Bernstein v. Sherman*, 130 Misc. 2d 741, 497 N.Y.S.2d 298, 1 U.C.C. Rep. Serv. 2d 375 (Justice Ct. 1986).

36 *See, e.g., Barksdale v. Van's Auto Sales, Inc.*, 62 Ohio app. 3d 724 577 N.E.2d 426 (1989) (when as is clause can not be construed as consistent with the dealer's oral express warranty, the express warranty prevails).

37 *See, e.g., Woods v. Secord*, 122 N.H. 323, 444 A.2d 539 (1982) (revocation of acceptance of used car sold "as is" allowed when seller had represented that it was in good running condition).

38 16 C.F.R. § 445.1(d)(5).

dealers will make contrary statements, prohibited under the Rule.³⁹ In this way the existing language acknowledges the rules will not be followed and could even be interpreted as condoning such violations.

Instead of the existing language, the Buyers Guide should state: “If this vehicle is sold “AS IS,” the dealer may still be liable for any false statement or concealment about the condition or history of the vehicle. However, verbal statements may be difficult to prove. Insist on getting any verbal representations in writing.” The Guide should also direct consumers to contact the FTC if the dealer makes contrary statements, so that the FTC may proceed to enforce the prohibition on contrary statements. The information about how to contact the FTC is important because contact without consumer input the FTC will be unaware of such violations and since there is no private right of action to enforce the Rule.

8. Preclude 50-50 Warranties as Unfair and Deceptive

As part of the Used Car Rule, the FTC should preclude “50-50” warranties, *i.e.* warranties that are conditioned upon the consumer’s payment of a percentage of the cost of the warranty work. Such warranties are inherently deceptive. What appears to be warranty coverage is in fact illusory, as the warrantor can recoup all of its costs for a given “warranty” repair simply by inflating its total charge for the repair so that the consumer’s portion covers the warrantor’s entire cost.

The FTC should define “50-50” warranties as deceptive. The Magnuson-Moss Act, 15 U.S.C. § 2310(c)(2), defines a deceptive warranty as one 1) that contains an affirmation, promise, description, or representation which would mislead a reasonable individual exercising due care, or 2) that uses a terms such as “guaranty” or “warranty,” if the terms and conditions so limit its scope and application as to deceive a reasonable individual.

50-50 warranties are deceptive under either of these tests. The promise of repair would deceive a reasonable person exercising due care, because the illusory nature of the warranty is hidden in its formula. Likewise, the terms and conditions of the warranty limit scope and application: it allows the warrantor to raise the overall price of repairs so that the warranty provides no protection at all. This deception is likely to deceive a reasonable individual.

In the alternative, the FTC should adopt an interpretation that a 50-50 warranty is a violation of the Magnuson-Moss Act’s anti-tying provision where the consumer is required to pay a portion of the dealer’s charge for parts or service as a condition of the warranty. 15 U.S.C. § 2302(c) provides:

No warrantor of any consumer product may condition his written or implied warranty of such product on the consumer’s using, in connection with such product, any article or service (other than article or service provided without charge under the terms of the warranty) which is identified by brand, trade, or corporate name... .

The reason for this prohibition is clear. If a warrantor could condition a warranty on the consumer’s purchase of other products or services, the warrantor would have the ability to make the warranty illusory. The warrantor could simply cover the costs of warranty service by charging artificially high prices for the tied product or service. Thus, allowing tying would enable warrantors to offer a warranty that in actuality provided no benefit to the consumer.

³⁹ 16 C.F.R. § 445.4.

The application of this prohibition to used car 50-50 warranties is illustrated by one of the interpretations of the Magnuson-Moss Act adopted by the FTC: “Under a limited warranty that provides only for replacement of defective parts and no portion of labor charges, [the anti-tying provision] prohibits a condition that the consumer use only service (labor) identified by the warrantor to install the replacement parts.”⁴⁰

A 50-50 warranty differs from this example in that it typically provides that the consumer is to pay half of the charge for labor and half of the charge for parts, instead of all of the charge for labor and none of the charge for parts. But the principle is identical. If the warrantor can charge whatever it wants for the parts and labor, and the consumer is required to pay half of that amount, then nothing prevents the warrantor from setting the consumer’s share at the full cost of the “warranty” repairs.

In 1999, the FTC, in its review of its Magnuson-Moss rules, stated that 50-50 warranties “likely violate” the Magnuson-Moss anti-tying provision.⁴¹ The FTC went on to state: “Since the consumer must pay a significant charge for parts and labor under these warranties, the warranties may violate section 102(c) by restricting the consumer’s choices for obtaining warranty service.”⁴²

However, after consumers in Ohio sued low-end used car dealers for conditioning warranty service on the consumer’s payment of half the cost of parts and labor, the FTC was approached by dealers seeking a retraction of this statement. In 2002, the FTC issued a letter disavowing its previous statement.⁴³

We urge the FTC to return to the position suggested by its 1999 comments. The 2002 letter does not set forth a convincing rationale for holding that 50-50 warranties do not violate the anti-tying provision. Indeed, the 2002 letter recognizes that, unlike warranties that provide parts without charge but require the consumer to pay for labor, “in a 50-50 warranty the warranted repair work is not, as a practical matter, severable into two parts, one that the warrantor can perform and another part that another auto repair shop can perform.” In other words, a consumer who wishes to take advantage of a 50-50 warranty is bound--tied--to use of the warrantor’s services, and payment of the warrantor’s charges, whatever they may be.

For these reasons, the FTC should declare that 50-50 warranties are either deceptive, or that they violate the anti-tying provision of the Magnuson-Moss Act.

9. Require that the Buyer’s Guide be provided in the language used to negotiate the contract

A requirement that the Guide be provided in the language of the transaction helps to ensure that the useful information found on the Guide is available to consumers without discriminating on the basis of language proficiency. Otherwise, millions of used car buyers who purchase vehicles although they are not proficient in written, legalistic English are prone to be subjected to “bait and switch” tactics, where they are given misleading information about the vehicle’s condition in their native tongue, but receive a written disclosure that is meaningless to them, contradicting what they were led to believe.

⁴⁰ 15 C.F.R. § 700.10(b).

⁴¹ 64 Fed. Red. Reg. 19,700, 19703 (Apr. 22, 1999).

⁴² *Id.*

⁴³ Letter from the FTC to Keith E. Whalnn (Dec. 2, 2002), available at www.ftc.gov/os/2003/01/niadaresponseletter.htm.

Dealers who advertise and market vehicles to car buyers who are not literate in English, and who employ sales persons who negotiate with customers in their native tongue, should not be allowed to then switch into another language for important, basic written disclosures.

Meaningful disclosures are essential, since the safety of the buyer and the buyer's family, as well as the safety of others who share the road, may be at stake.⁴⁴

10. Regulate “Certified” used cars

The FTC also raised questions regarding so-called “certified” used cars. We recommend that the FTC investigate auto manufacture and dealer programs promoting vehicles as “certified,” which are sometimes misleading and deceptive. The FTC should also expressly prohibit the advertising and sale of certain categories of less valuable / problem vehicles as “certified.”

Auto manufacturers and dealers have stepped up advertising and sales of “certified” used vehicles that supposedly meet rigorous standards and have been subjected to thorough inspections. They often claim that they have undergone a “138 point” or “150 point” inspection. “Certified” used cars command a higher price than non-certified vehicles, but are they worth the extra cost?

The evidence indicates that they are not. In fact, many “certified” vehicles are nothing more than program cars, former daily rentals, and off-lease vehicles that are deceptively marketed as the cream of the crop. Typically, such vehicles would sell for less than Blue Book. In many cases, they are actually rebuilt wrecks that are worth far less than comparable undamaged vehicles and are actually unsafe to operate. In some cases, “chop jobs” that are portions of two different vehicles have been advertised and sold as “certified” cars.

Among news reports about “certified” vehicles:

“‘Certified’ used-car programs are coming under increasing attack from consumer advocates and lawmakers amid allegations that buyers are sometimes being overcharged for vehicles that aren't significantly different from regular used cars...a lawsuit... against DaimlerChrysler AG and a Chrysler dealership in California Superior Court... alleges consumers are being sold used rental cars through Chrysler's Five-Star Certified Pre-Owned certification program but that dealers don't always disclose the fact – an issue because rental cars typically command a lower resale value than normal used cars.

An earlier lawsuit against a Ford dealership, filed in San Diego Superior Court and settled within the past year, shed light on the certification process at one dealership. The suit centered on a certified pre-owned Explorer sold by El Cajon Ford, San Diego, to the Banaei family of San Diego. A few weeks after the sale, the vehicle was involved in an accident that killed 17-year-old Naghmeh Banaei, and in the aftermath the family learned that the vehicle had prior frame damage, which should have excluded it from the certification program.

Depositions taken in the case showed that technicians had to do little more than watch a 30-minute video and take a test online to qualify as an inspector for the program. A technician at

⁴⁴ California law, at Civil Code Section 1632, requires contracts to be provided in each of the 5 languages that are most prevalent in the state: English, Spanish, Tugalog, Chinese, Vietnamese, and Korean.

the California dealership where the Banaeis bought the car testified in a deposition that a certified preowned car inspection often took an hour, the same amount of time spent on a typical used car.”⁴⁵

The *Los Angeles Times* reported about a California car buyer who purchased a used S 340 Mercedes Benz that the dealership claimed “had earned the 'Starmark certified pre-owned' label...But his beloved \$62,000 leased Mercedes ended up as an expensive lawn ornament in his Chico Hills driveway...Less than a year after he took out a 60-month lease in 2001, he says he discovered the car had been in a serious accident in Florida, resulting in major frame damage...his tires began to wear out prematurely and require repeated alignment...Howard Miller, an attorney representing Fletcher Jones [the selling dealership] confirmed the Mercedes had frame damage from a prior collision but said it was not detected during its certification inspection...an expert warned that the car was unsafe to drive, the Mercedes is sitting in Johnson's driveway and he has continued to pay \$1,300 per month on the lease.”⁴⁶

In an attempt to curb abuses involving “certified” autos, California enacted a provision as part of the Car Buyers Bill of Rights (AB 68, Montanez, 2005), that specifically prohibits the advertising or sale of certain types of vehicles as “certified.” In addition, the law preserves existing rights and remedies and prohibitions on engaging in fraud.

The California law now states the following, at Vehicle Code Section 11713.18:

11713.18. (a) It is a violation of this code for the holder of any dealer's license issued under this article to advertise for sale or sell a used vehicle as "certified" or use any similar descriptive term in the advertisement or the sale of a used vehicle that implies the vehicle has been certified to meet the terms of a used vehicle certification program if any of the following apply:

(1) The dealer knows or should have known that the odometer on the vehicle does not indicate actual mileage, has been rolled back or otherwise altered to show fewer miles, or replaced with an odometer showing fewer miles than actually driven.

(2) The dealer knows or should have known that the vehicle was reacquired by the vehicle's manufacturer or a dealer pursuant to state or federal warranty laws.

(3) The title to the vehicle has been inscribed with the notation "Lemon Law Buyback," "manufacturer repurchase," "salvage," "junk," "nonrepairable," "flood," or similar title designation required by this state or another state.

(4) The vehicle has sustained damage in an impact, fire, or flood, that after repair prior to sale substantially impairs the use or safety of the vehicle.

(5) The dealer knows or should have known that the vehicle has sustained frame damage.

(6) Prior to sale, the dealer fails to provide the buyer with a completed inspection report indicating all the components inspected.

(7) The dealer disclaims any warranties of merchantability on the vehicle.

45 “'Certified' Used Cars Come Under Fire. Wave of Lawsuits Claim Widely Offered Guarantees Fail to Disclose Past Problems,” *Wall Street Journal*, July 12, 2005.

46 “Mint? No, it may be lemon. Buyers are burned by cars carrying the 'certified' tag, prompting a bid to change the rules.” *Los Angeles Times*, March 17, 2004.

(8) The vehicle is sold "AS IS."

(9) The term "certified" or any similar descriptive term is used in any manner that is untrue or misleading or that would cause any advertisement to be in violation of subdivision (a) of Section 11713 of this code or Section 17200 or 17500 of the Business and Professions Code.

(b) A violation of this section is actionable under the Consumers Legal Remedies Act (Title 1.5 (commencing with Section 1750) of Part 4 of Division 3 of the Civil Code), the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code), Section 17500 of the Business and Professions Code, or any other applicable state or federal law. The rights and remedies provided by this section are cumulative and shall not be construed as restricting any right or remedy that is otherwise available.

(c) This section does not abrogate or limit any disclosure obligation imposed by any other law.

(d) This section does not apply to the advertisement or sale of a used motorcycle or a used off-highway motor vehicle subject to identification under Section 38010.

One entity, which identified itself as "National Auto Care," advertised in *Automotive News* that

"NAC'S CERTIFIED PROGRAM is the tool that will help the dealer ensure their customer's satisfaction by allowing the dealer to certify **their entire inventory**. This unique program allows dealers (Honda, Toyota, GM, etc.) to certify **any vehicle on their lots** that is not eligible through the manufacturer's certified programs. It also allows the dealer to extend exclusionary coverage on both the manufacturer's certified vehicles and NAC's certified vehicles. Independent dealers can also participate by offering new car coverage on pre-owned vehicles and affording customers the peace of mind from having purchased a certified vehicle." (Emphasis added.)⁴⁷ This ad appeared with a prominent road sign proclaiming "Dealer Profits Ahead."

The New York Times also exposed the potential pitfalls of purchasing a "certified" vehicle, documenting that the ultimate nightmare vehicles – "chop jobs," which are literally halves of two different vehicles welded together--- are sometimes sold as "certified."⁴⁸

In order to prevent more widespread misleading use of the term "certified," we recommend that the FTC improve regulation and strengthen enforcement regarding the sales of "certified" vehicles. Among the categories of vehicles that should be prohibited from being advertised or sold as "certified:

- Vehicles with nonconformities that substantially impair the use, value or safety of the vehicles to the buyer (a standard similar to most state "lemon law" statutes)
- Vehicles with a manufacturer's warranty or extended service contract offered with the vehicle that excludes any portion of the vehicle due to prior damage

47 "Dealer profits ahead," NAC ad, *Automotive News*, January 26, 2004.

48 "Certified? Yes. Satisfied? Not always," *New York Times*, May 23, 2007. Posted at:

<http://www.nytimes.com/2007/05/06/automobiles/06USED.html?ex=1336104000&en=792ac9c4021c8504&ei=5088&partner=rssnyt&emc=rss>

- Vehicles that were former daily rentals, program cars, taxicabs, police vehicles, or were reported as stolen
- Grey market vehicles

Ultimately, it is also in the best interests of auto manufacturers and dealers themselves to ensure that the term “certified” does not become synonymous with “overpriced junker.”

Conclusion

Finally, we wish to thank the FTC again for the opportunity to comment. We believe that if the recommendations proposed in these comments are implemented by the FTC, the agency will succeed in fulfilling its important mandate to provide protections for our nation's used car buyers, saving lives, preventing injuries, and curbing billions in economic losses.

Acknowledgements

We wish to thank all who contributed to these comments, especially Rosemary Shahan, President of Consumers for Auto Reliability and Safety; Steven Taterka, former Deputy Attorney General of Indiana and former Assistant Attorney General of Tennessee; John Van Alst, Staff Attorney, National Consumer Law Center; Linda Sherry, Director of National Priorities, and Sol Carbonell, Associate, National Priorities, Consumer Action; and Mark Steinbach, Board Member, National Association of Consumer Advocates. We also greatly appreciate U.S. Army Sgt. Williams speaking up on behalf of military members who are being harmed by auto salvage fraud.

Contact for questions, reply

Should the FTC have any questions regarding this submission, or wish to reply, please contact:

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Attachments

In addition to the comments above, we also attach the following:

- Spanish language translation and corrections to Spanish version of Used Car Buyers Guide, in response to specific request by FTC, written by Sol Carbonell, Associate, National Priorities, Consumer Action

- Separate Used Car Guide warning about total loss vehicles

In addition, we reference the following documents and testimony:

- Coordinating Committee for Automotive Repair. Includes the U.S. Department of Health and Human Services—Centers for Disease Control and Prevention, the U.S. Environmental Protection Agency (EPA), and other public health agencies. *Industry Concerns Regarding Handling, Disposal and Repair of Flooded Vehicles from New Orleans Following Hurricane Katrina. Analysis of risk to workers and vulnerability of persons coming in contact with submerged or flooded vehicles.* Edition 1.4, Posted: October 7, 2005. Posted at:

<http://www.ccar-greenlink.org/CCAR/Statement%20on%20Flooded%20Vehicles-1.4.pdf>

- Congressional testimony provided by the Attorney General of Iowa, Consumers for Auto Reliability and Safety (CARS), the National Automobile Dealers Association, American Association of Motor Vehicle Administrators, Experian Automotive, and National Insurance Crime Bureau to the U.S. Senate Commerce Committee Subcommittee on Consumer Affairs, Product Safety and Insurance, November 16, 2005 Hearing “Protecting the Consumer from Flooded and Salvage Vehicle Fraud.” Posted at:

http://commerce.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=e2e3b25e-9614-4ac7-b51e-d578398593a5

- Comments to be filed on November 21, 2008 by consumer organizations, in response to the Notice of Proposed Rulemaking published by the U.S. Department of Justice, seeking public comments regarding the National Motor Vehicle Title Information System (NMVTIS). See Federal Register, Vol 83, No. 184, September 22, 2008. 28 CFR Part 25, Docket No. FBI 117; AG Order No. 3000—2008. Posted at:

<http://edocket.access.gpo.gov/2008/pdf/E8-22070.pdf>

Used Car Buyers Guide

Model year _____ Make _____ Model _____
VIN _____

Odometer reading _____ If exempt or "not actual," write "unknown"

The title for this vehicle has the following brand(s) _____
List all brands listed in NMVTIS system for this vehicle, including current and prior brands

WARNING

This vehicle is listed in the National Motor Vehicle Title Information System, or NMVTIS, as salvage, junk, or otherwise totaled by an insurer or sold at a salvage auction.

It may be worth much less than similar vehicles that do not have this history.

It may also be DANGEROUS to drive.

Severely damaged vehicles often have problems, that make them unsafe:

- missing air bags, so they cannot inflate in a crash
- bent frame, causing them to be unstable and prone to tipping over
- flood damage, making electronic systems unreliable

The Federal Trade Commission strongly recommends that you find out more about this vehicle BEFORE you agree to anything. You can find out more by:

Checking NMVTIS online, at: _____

The FTC also recommends that you have this vehicle inspected by an expert BEFORE you agree to anything.

Any manufacturer's warranty or service contract that you obtain for this vehicle may be partially or totally VOID due to its history. If it is VOID, that means you will have to pay out of your own pocket for repairs.

Comments to the Federal Trade Commission
Issue: Used Car Rule Regulatory Overview, Matter No. PO87604.
Date: 11/07/2008
Organization: Consumer Action

B. Specific Issues.

(2) Revision of the translation of the Spanish Buyers Guide

(a) Consumer Action recommends that the term “dealer” is translated as “concesionario,” instead of “distribuidor” and “vendedor.”

(b) Consumer Action recommends that “sea como está” be replaced with “independientemente de”

(c)(i) Consumer Action recommends the term “Frame-cracks” be translated as “Grietas en el chasis.”

(ii) Consumer Action recommends the term “Cooling System” be translated as “Sistema de enfriamiento.”

(iii) Consumer Action recommends the term “Air conditioner” be translated as “Aire acondicionado.”

(iv) Consumer Action recommends the term “Defroster” be translated as “Desempañador.”

(v) Consumer Action recommends the terms “Not enough pedal reserve” be translated as “Distancia insuficiente del pedal.”

Additional items to be revised (see attached Buyers Guide):

-Page 1:

“Periodo” should be “período”
“Implicitas” should be “implícitas”
“GARANTIA” should be “GARANTÍA”
“DURACION” should be “DURACIÓN”
“Detalles” should be “detalles”
“MECANICO” should be “MECÁNICO”
“VÉA” should be “VEA”

-Page 2:

“Termino” should be “término”
“Periodo” should be “período”

“Implicitas” should be “implícitas”
“GARANTIA” should be “GARANTÍA”
“DURACION” should be “DURACIÓN”
“Detailes” should be “detalles”
“MECANICO” should be “MECÁNICO”
“VÉA” should be “VEA”

-Page 3:

“Emision” should be “Emisión”
“Cublerta” should be “Cubierta”
“Electrico” should be “eléctrico”
“Firma” should be “firme”
“Servodireccion” should be “servodirección”
“Serviodirección” should be “servodirección”
“Dañadas” should be “dañado”



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A continuación presentamos una lista de algunos de los principales defectos que pueden ocurrir en vehículos usados.

Chasis y carrocería

Chasis-grietas, soldaduras correctivas u oxidado
Chasis doblado o torcido

Motor

Fuga de aceite, excluyendo el escape normal
Bloque o tapa de recámara agrietados
Correas que faltan o no funcionan
Fallo o pistonéo
Emisión excesiva de humo por el sistema de escape

Transmisión y eje de cardan

Nivel de líquido inadecuado o fuga, excluyendo filtración normal
Cubierta agrietada o dañada visible
Vibración o ruido anormal ocasionado por una transmisión o eje de cardan defectuoso
Cambio de marchas o funcionamiento inadecuado en cualquier marcha
Embrague manual patina o vibra

Diferencial

Nivel de líquido inadecuado o fuga excluyendo filtración normal
Cubierta agrietada o dañada visible
Ruido o vibración anormal ocasionado por diferencial defectuoso

Sistema de refrigeración

Fuga, incluido el radiador
Bomba de agua defectuosa

Sistema eléctrico

Fuga en las baterías
Alternador, generador, batería, o motor de arranque defectuosos

Sistema de combustible

Escape visible de combustible

Accesorios averiados

Indicadores o medidores del cuadro de instrumentos
Acondicionador de aire
Calefactor y descarchador

Sistema de frenos

Luz de advertencia de falla dañada
Pedal no firma bajo presión (Especif. del Dpto de Transp.)
Juego insuficiente en el pedal (Especif. del Dpto de Transp.)

No detiene el vehículo en línea recta (Especif. del Dpto de Transp.)

Conductos dañados

Tambor o disco muy delgados (Especif. del fabricante)
Grosor de las bandas de los frenos menor de 1/32 de pulgada

Sistema de servofreno dañado o con escape
Partes estructurales o mecánicas dañadas

Sistema de dirección

Juego excesivo en el volante (Especif. Dpto. De Transp.)
Juego en el varillaje en exceso de 1/4 pulgada
Engranaje del volante de dirección se agarrota
Ruedas delanteras mal alineadas (Especif. del Dpto. De Transp.)
Correas del sistema de servodirección agrietadas o flojas
Nivel del líquido del sistema de servodirección inadecuado

Sistema de suspensión

Sellos de conexión de rodamientos defectuosos
Piezas estructurales dobladas o dañadas
Barra de estabilización desconectada
Resorte roto
Montura del amortiguador floja
Bujes de goma dañadas o ausentes
Estabilizador para curvas dañadas o ausente
Amortiguador tiene fuga o funciona defectuosamente

Llantas

Profundidad de la banda de rodamiento menor de 2/32 de pulgada
Diferentes tamaños de llanta
Daños visibles

Ruedas

Grietas visibles, daños o reparaciones
Pernos de montaje sueltos o ausentes

Sistema de Escape

Fuga

VENDEDOR

DIRECCIÓN

VÉASE PARA RECLAMACIONES

IMPORTANTE: La información contenida en este formulario forma parte de todo contrato de compra de este vehículo. Constituye una contravención de la ley federal (16 C.F.R. 455) quitar este rótulo antes de la compra del vehículo por el consumidor (salvo para conducir el automóvil en calidad de prueba).