



Submitted Electronically

Federal Trade Commission

Office of the Secretary

Room H-113 (Annex T)

600 Pennsylvania Avenue, N.W., Washington, D.C. 20580

Electronic Address: <https://ftcpublic.commentworks.com/ftc/usedcarrulesnprm/>

Re: Used Car Rule – Project No. P087604

Copart submits the following comments to the Federal Trade Commission (“FTC”) regarding its Supplemental Notice of Proposed Rulemaking (“SNPRM”) in connection with its Used Motor Vehicle Trade Regulation Rule (“Used Car Rule” or “Rule”) and the Rule’s Buyers Guide.

I. Copart Overview

Copart, Inc. is a leader in the vehicle auction business. Copart offers a range of services for processing vehicles and selling them over the Internet through its online auction technology platform. Copart sells vehicles for a variety of consignors including insurance companies, charities, banks, finance companies, fleet operators, and rental car companies.

II. FTC Proposed Amendments to the Used Car Rule

- a. Require dealers to indicate on the Buyers Guide whether they obtained a vehicle history report, and, if so, to provide a copy of the report to consumers who request it.

Copart does not agree with the FTC’s proposed amendment regarding the use of vehicle history reports. As noted by previous commenters, vehicle history reports have limited value for consumers. History reports, whether sourced from commercial or government-maintained databases, are often inaccurate or not up to date with regards to vehicle information.¹ Incorporating such reports into the Buyers Guide would result in the FTC endorsing and giving credibility to these reports. Instead of endorsing unreliable reports, Copart believes that the consumer is better served by emphasizing pre-purchase inspections on the Guide. An independent mechanic’s inspection will provide more consumer protection than an often incomplete vehicle history report.

¹ Numerous lawsuits have been filed against CARFAX including a current class action suit in the Southern Dist. of New York in which hundreds of dealers accuse CARFAX of unreliable history reports, among other claims.



- b. Revise the Buyers Guide statement describing the meaning of an "As Is" sale in which a dealer offers a vehicle for sale without a warranty.

Copart believes that clarifying the phrase "As Is" can be beneficial to dealers and consumers. Copart supports the following part of the SNPRM "As Is" statement:

THE DEALER WILL NOT PAY FOR ANY REPAIRS. The dealer does not accept responsibility to make or to pay for any repairs to this vehicle after you buy it regardless of any oral statements about the vehicle.

Copart does not support the remaining part of the SNPRM "As Is" statement: "But you may have other legal rights and remedies for dealer misconduct." This catch-all consumer protection phrase is overly broad because it covers any possible dealer conduct involving the purchase of the vehicle, including those not related to warranty issues. It also takes away from the FTC's intent to clarify the existing language, but not to change its meaning.

- c. Move boxes to the front of the Buyers Guide for dealers to indicate whether non-dealer warranties apply to a vehicle.

Copart agrees that moving the non-dealer warranty boxes to the front of the Buyers Guide will make them more visible to consumers. However, Copart does not agree with the presumption that all non-dealer warranties should be disclosed on the Buyers Guide. As Copart has previously commented, the Used Car Rule should not require dealers to disclose whether a manufacturer's warranty or other non-dealer warranty applies. Such warranties should be disclosed at the option of the dealer.

The Used Car Rule does not currently require dealers to disclose warranties that are the responsibility of another party, such as the "certified" warranties that many dealers now offer. Instead, dealers have the opportunity to evaluate the potential risk in relation to the perceived benefit in disclosing a manufacturer's warranty in connection with the sale. However, by requiring disclosure of manufacturer's warranties, this opportunity to evaluate potential exposure and conduct a cost benefit analysis is effectively eliminated and dealers are forced to accept a level of responsibility for manufacturer's warranties. Such a requirement is an inappropriate allocation of risk, and would serve to be significantly burdensome on and potentially devastating to dealers who, would otherwise choose to not accept this risk.



III. Copart Responses to Other Public Commenters

- a. NSVRP's recommendation: Requirement for a warning notice of current branding, branding history and active stolen status to be prominently displayed on vehicles offered for sale.

Copart agrees with the NADA that “the Buyers Guide’s primary purpose is to create readily understandable disclosure of the warranty coverage offered by a used car dealer.”² Accordingly, NSVRP’s recommendation on title branding and branding history is far beyond the scope of this SNPRM and the Used Car Rule. If the FTC wants to take up the matter of title branding, then it can begin an investigation into title branding practices to determine if there are unfair or deceptive practices that are prevalent and can be addressed by a rulemaking.³

- b. NSVRP's recommendation: Requirement for dealers to actively confirm if open safety recalls exist.

Similar to the title branding recommendation, Copart finds that the recommendation on open safety recalls is beyond the scope of this SNPRM and does not comport with the primary purpose of the Buyers Guide. If the FTC wants to take up the matter of open safety recalls, then it can begin an investigation into related practices to determine if there are unfair or deceptive practices that are prevalent and can be addressed by a rulemaking.⁴

IV. Conclusion

Copart believes that the Used Car Rule has served consumers and dealers well in avoiding confusion in purchasing used vehicles. Copart believes that any changes to the Rule should be minor and not change the Rule’s intent or incorporate new subject matters that are better left to a new rulemaking process.

Copart appreciates the opportunity to comment on these important issues. Please contact us for additional information that may be useful to you in this matter.

² National Automobile Dealers Association comment, March 13, 2013 at 3; 77 Fed. Reg. 74750.

³ 15 U.S.C. §57a(b)(3).

⁴ 15 U.S.C. §57a(b)(3).



Respectfully submitted,

/s/ James R. Hines

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