Specific comment addendum, by Chris Llana on direct car sales to consumers

I'm a strong supporter of electric cars. They represent a sea change in automotive technology, especially if they are designed for single-pedal speed control—the one pedal to increase power to the traction motor, and the same pedal to modulate regenerative/magnetic braking. Both control and efficiency are thereby improved. EVs are much more responsive and pleasant to drive. Internal combustion engine cars are primitive by comparison—archaic.

But people selling the big manufacturers' gasoline cars are shockingly ignorant about EVs, and cannot answer consumers' questions about them (or they just make up answers). Often, it is the consumer who has to educate the dealer. The people who staff Tesla sales outlets are very knowledgeable and open. First and foremost, they want to educate. Their cars sell themselves.

EVs do not pollute the air, do not contribute to global climate change (as renewable power generation comes on line), are safer (no on-board, easily ruptured container of highly combustible liquid), are much quieter, and are much simpler and more reliable, needing much less maintenance.

Established U.S. public policy strongly encourages the adoption of electric vehicles by consumers. State laws that inhibit that policy are therefore contrary to the policies of the U.S. government. Tesla is the leading promoter of electric cars in the U.S., builds only electric cars, and builds them in the U.S. It will also build the batteries for its cars in the U.S., providing thousands of new U.S. jobs. To the extent that state laws limit Tesla from educating and distributing its cars to the public, those state laws have the effect of contravening U.S. public policy.

I am retired, have an engineering degree, and for many years was a member of the District of Columbia Bar, working in Washington in regulatory and policy positions, and later was an active participant as a consumer advocate in the FCC's digital TV transition regulatory process. A lifelong car enthusiast, I am also a decent hobbyist car mechanic, adept at repairs and complete rebuilds. In the last five years, my expertise has extended to electric cars; I've written technical articles (EV drivetrains and batteries) for popular internet sites. I know cars; I know special interest lobbying. I can certainly tell the difference between consumer protections and industry protections, and in this case, the NADA couldn't care less about consumers.

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My experience with car dealerships of late has been extremely bad. In the 1970s, I dealt with a small Alfa Romeo dealership that was good—the owner was always there and knew me, and the service manager as well. It's not like that any more. Dealerships are owned by national companies; they own many dealerships for one brand across whole regions, they own dealerships for numerous brands, all co-located together. They're slick.

The sales part of dealerships is not the worst. That would be the service department.

That's where they make their money, so any argument about "intra-brand competition," which is specious in any case, avoids their real fears.

I have in most cases, when I did not do my own repairs, found independent mechanics to work on my cars. There are some very good ones—very competent, honest, trustworthy, personable, etc.

I have found dealership service departments that I have dealt with to be quite the opposite. They often lie. They often scam. I have caught them at both. If you're knowledgeable, and watch them, and study all the paperwork they don't want you to read, you can easily catch them. They apparently cheat customers so routinely, they seem to become blatant about it, not expecting the typical consumer to question their "expert" BS—like claiming brake rotors are supposed to be softer than the pads, like billing you for a 4-wheel alignment (after you say just front-wheel) on your car that has a solid rear axle—that physically *can't* be aligned, like charging you for five hours of labor when you sat there and watched one mechanic spend just 1.5 hours on your car.

Franchised dealers don't want to sell electric cars because they require minimum maintenance. Electric motors last forever without maintenance. With regenerative/magnetic braking, the conventional friction brakes may *never* need maintenance. No oil changes, no mufflers, no tune-ups, no filters. Again, NADA franchised dealers make their money on service; they want to discourage the sale of electric cars (and there are many anecdotal stories of this in the EV forums and web sites). The idea suggested by the NADA lobbyist on the panel that Tesla could make relationships with independent dealers that were unaffiliated with an existing conventional car mega-dealer is folly. Today's huge dealer conglomerates will not tolerate new small fish in their pond, and they have the bucks to back that

up. They only want to maintain the status quo. They have the power, and they feel threatened.

Your specific questions:

• What are the underlying public policy goals of a statutory prohibition on direct sales by motor vehicle manufacturers?

—The historic policy goals were to protect the franchised dealers' business interests from competition by the manufacturer of the cars they sold.

• Have these public policy goals changed over time since these types of regulatory restrictions were first enacted? Do these public policy goals remain relevant today?

—The goals of the statutory prohibitions have remained the same, but their relevance has faded as dealership ownership has become concentrated in large corporate enterprises with regional and national scope, with enough power to bargain on an equal basis with car manufacturers. And if the NADA-associated panelists can be believed, car manufacturers have not been successful selling their own products, and so would not pose a threat to dealers. (But these policy goals have relevance *only* to manufacturers and their franchised dealers, and *not* to manufacturers who do not chose to distribute their cars to consumers via franchised dealers.)

• What are the advantages and disadvantages to manufacturers, dealers, and consumers of the existing system of motor vehicle dealer franchising?

—To manufacturers and dealers, the advantage is that it is apparently the only system they know. It is their culture, to which they cling.
—To consumers, the disadvantage of the existing system is that they have no choice in buying a car, and the dealer knows it. The dealership is a money machine. If you want a car, you have to submit to the con. And the harm to consumers has long been demonstrated by the system of powerful middlemen in Japan, which has added substantial costs and inefficiencies to that economy.

• To what extent, and in what ways, might consumers be harmed or benefitted by a system that would permit manufacturers greater flexibility in choosing how to distribute their products?

—Smart consumers would benefit hugely by having a choice. Given choices, the smart consumer will flock to the distribution system that is most agreeable, and flee from the unpleasant, stressful, and onerous system that franchised dealers have perfected over a century. With choices, car sales would therefore evolve to the benefit of consumers, and be free to change over time as technology and society changes.

Some years ago I read a book about car sales (written by a very successful salesperson), that explained the manipulative sales techniques used to close a sale. Apparently dealers see consumers as nothing more than a source of income, ripe for fleecing. Salespersons heaped the most scorn on those customers who didn't bargain, who agreed to all their terms. Those submissive sheep might be more comfortable with the existing system—having someone tell them what to do—but I can't see that as good public policy for the rest of us.

• To what extent, and in what ways, should existing regulations apply to new manufacturers without dealer networks, versus manufacturers that already have established dealer networks?

—Existing prohibitions intended to protect franchised dealers from their manufacturer-partners should—of course!—*not be applied* to manufacturers without dealer networks. *Is this a trick question?*

• To the extent direct sales prohibitions serve legitimate public policy goals, are there regulatory alternatives that would achieve these goals with fewer restrictions on competition?

—Direct sales prohibitions do not serve any legitimate public policy goals. Today's franchised dealers have sufficient bargaining power to negotiate a fair contract with their respective car manufacturers, without needing the government to mandate the terms of that relationship for them. In any case, the role of powerful special interest lobbyists and the track record of elected politicians leaves quite in doubt the impartiality of imposed relationships.