ROSENFIELD & Co. PLLC
TRADITIONAL VALUES | EXTRAORDINARY RESULTS

March 1, 2016

Federal Trade Commission
Office of the Secretary

Via: Electronic Submission

Dear Commissioners:

This letter is in regards to the Auto Distribution workshop held by the FTC on January 19, 2016. We are a regional public accounting firm that offers assurance, tax and consulting services to 200 plus automotive dealerships, both in the United States and abroad, all of which are privately held. Our firm has operated a niche-based practice in the automotive industry for 20 years now.

One of the agenda items from the workshop is that the FTC is considering whether state laws are needed to regulate the actions of the automobile manufacturers. Those that are opposed to the current state franchise laws feel that the laws are no longer needed, claiming that the manufacturers and the dealers are now economic equals. From our experience in working with dealers over the past 20 years, we can tell you that the economic imbalance between the parties is very much still prevalent and the current state franchise laws are necessary in mitigating the imbalance and thereby protecting the consumer.

There are several ways that exemplify the economic imbalance between manufacturers and dealers due to the requirements placed on dealers by the manufacturers. The requirements discussed below are (1) facility requirements, (2) vendor use requirements and (3) inventory requirements.

The most common situation we see that places dealers at an economic disadvantage is with the facility upgrade requirements made by the manufacturers. Dealers are "strongly encouraged" to upgrade their facilities to have the same look and feel of their same brand counterparts. The decision to make the upgrades or the level of upgrades to be made is not dependent on whether the dealer has the necessary capital or sales to support the upgrades. There is also no evidence which indicates an increase in sales due to the improvements. We've even had clients forced to spend money on attorneys to battle with their county in order to meet specifications required by the manufacturer. While the upgrade programs are typically labeled as "voluntary", the consequence to dealers for not doing the upgrades is they receive a reduced amount (in some cases a significant reduction) of the related incentive monies, putting them at a disadvantage with their same brand competitors whom may opt to do the upgrades.

Another way dealers are economically disadvantaged by the actions of the manufacturers are that the manufacturers require that the dealers use vendors that are "authorized" or "approved" by the manufacturers for purchases such as technician training, furnishings, facility design, etc., thus the dealers lose the ability to price shop in their local marketplace.

Lastly, dealers also don't have much control over the vehicle inventory or parts inventory that they carry. Sometimes the dealers have no control over what vehicles show up on their lots and if they don't fit the demand of their customers, whether it is because of the color, or interior offerings, for example, the dealers are forced to discount them, in some cases even below what they paid for them, in order to sell them. Dealers are required to maintain their parts inventory at a level which is prescribed by the manufacturer. These parts are paid for by the dealers when they are allocated, whether the demand is there from the customers or not, thus creating frozen capital for the dealer.

The two main variables that draw a customer to a particular dealership is price and customer experience. The numerous and capital intensive requirements placed on dealers by manufacturers, such as those discussed above, make it very difficult for dealers to be competitive with their pricing. Further, dealers operate in a very risky environment. Outside of the capital requirements by the manufacturers, dealers invest a significant amount of money in their local communities on facilities, inventory, employees and advertising, to name a few, all while their success is dependent on the reputation of the manufacturer. For example, any time there is a major recall which places the manufacturer in a bad light, the dealer suffers as well, through no fault of its own. Given the risk the dealer operates with and the onerous requirements by the manufacturers, state franchise laws are absolutely necessary for protection of both the dealer and in the end, the consumer.

Thank you for considering our comments.

Respectfully Yours,

Rosenfield & Company, PLLC