

Submitted via electronic FTC Public Comment form

March 3, 2016

Ms. Edith Ramirez
Chairwoman, Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: Public Workshop Examining the U.S. Auto Distribution System

Dear Ms. Ramirez,

In response to the recent FTC Workshop held on January 19, 2016 regarding auto distribution regulations, kindly accept and consider the information below based upon my personal knowledge of the relationship between auto manufacturers (“OEMs”) and their independent franchise dealers (“Dealers”). Based on my experience in the retail automotive business for the past forty-five (45) years, I have real-world information to share about the real-world relationships between auto manufacturers and their dealers. Unfortunately, the opinions and hypotheticals shared by many of your participants at the Workshop failed to accurately describe the actual OEM-Dealer relationship that exists today, and I strongly encourage you and the Commission to give this matter substantial consideration before making any decisions concerning the best interest of this industry and consumers.

Contrary to the assertions made by some of the speakers during the Workshop, the franchise agreements between OEMs and Dealers provide OEMs with extensive control over their Dealers in a number of respects, including: (1) facility construction and remodeling requirements; (2) incentive sales programs that often distort product pricing and margins; (3) image upgrade programs designed to promote the OEM’s brand without tangible returns to the Dealers; (4) advertising and marketing; (5) location selection; and (6) product availability. The notion that today’s Dealers now operate on a level playing field with their OEMs is grossly inaccurate and naïve for those who believe this is true. Those with experience in the retail automotive world know that Dealers have little to no control over OEM programs and policy decisions, including the volume and quality of vehicles. To permit OEMs to undermine their existing franchise agreements with Dealers would be inherently unfair and contrary to the principles of bargaining in good faith.

Anyone considering this matter cannot forget that OEMs made the decision to create the current dealer-distribution model many years ago, primarily because of the cost savings this afforded them by avoiding the huge expense to build and maintain dealership sales and service facilities, specialized equipment, hiring and training personnel, and financing substantial vehicle and parts inventories. Unlike most franchise operations in other industries, today’s Dealers are typically forced to spend more than Twenty Million Dollars (\$20,000,000) for facilities, inventories and working capital before they can open their doors for business. Further, most Dealers pledge all of their personal assets to their dealership businesses – in the truest sense of the words, they are “All In”. Except for the existence of state regulations, OEMs would have the unrestricted power to treat Dealers in an irrational and arbitrary manner, without respect to the commitments and accomplishments of the dealer-operators who have supported and developed their brand on a daily basis with consumers.

Most importantly, anyone with an intimate knowledge of the retail automotive industry knows all too well that competition among today's Dealers is intense, especially among intra-brand competitors. Even the most critical of the current dealer-distribution system will agree that competition among retailers will nearly always produce lower prices and increased customer service standards, as compared to a vertically integrated system where the OEM controls every aspect of the product cycle. For those unaware, as recently as the 1990's, Ford Motor Co. failed miserably in its efforts to develop an OEM-owned retail sales operation in several cities, including Oklahoma City, Tulsa, Salt Lake City, San Diego and Rochester. The market dynamics that caused this result are still in place, so we have no reason to believe the outcome would be any different today.

Finally, it is important to remember that OEMs with their own distribution channel will not result in lower pricing to the consumer -- a result not understood by many of those who have submitted comments in response to the Workshop. Clearly, shareholders of the OEMs will demand market-based returns on such investments in facilities, equipment, personnel and training -- returns that will certainly be passed on to consumers without the benefit of competition between Dealers. According to public information, Dealers only average pre-tax profit margins equal to 2% of their gross sales. On the other hand, OEMs regularly report margins of 3-4 times higher than those of Dealers (look it up!). Given their push for profits, OEMs will inevitably force higher prices in the showrooms and service drives. Those who believe this lack of competition will lead to lower retail prices for consumers are fooling themselves.

Respectfully,

Mike Dever