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To: Federal Trade Commission
From: Charles C. Howard, Executive Vice President
Date: March 4, 2016
Re: State Franchise Laws of the Automotive Industry

My name is Charlie Howard and I am the Executive Vice President of the Greater Cincinnati Automobile Dealers Association. I represent the interests of 85 franchised new motor vehicle retailers in Southwest Ohio, Northern Kentucky and Southeast Indiana.

Our members employ over 5,300 people at an annual payroll of over \$235 million. In addition, our members collect over \$122 million in sales tax and pay over \$52 million in payroll, real estate and business taxes as well as make contributions in the community which are far too numerous to list in this letter.

I am writing today in regards to the workshop the FTC conducted on January 19, 2016. This workshop focused on automobile distribution and the franchise laws that my states and 47 other states have enacted to regulate certain aspects of the relationship between manufacturers and independent franchised motor vehicle retailers.

The public policy grounds which supported the enactment of these laws originally (the need for consumer protection, the disparity in bargaining power between manufacturers and dealers, and the value of community-based businesses) are as valid today as when these laws were first enacted.

First and foremost, the franchise system and those laws associated with the system benefit consumers. For example, when dealing with recalls or warranty work the local motor vehicle retailer fields the concerns of their customer. They are the advocate for the consumer to the manufacturer. Whether providing a loaner vehicle for a lengthy recall or advocating that a repair falls under warranty the dealer is always there for the customer.

In addition to acting as an advocate to the manufacturer, motor vehicle retailers also act as advocates with finance sources and the state while providing consumers the ability to:

- (1) **Find competitive financing within their budget and credit ability.** Motor vehicle retailers have contractual relationships with dozens of lenders. These lenders compete with each other through the dealership, providing consumers with the best possible interest rates. This provides consumers additional choices beyond their own bank or credit union often offering a better deal when it comes to financing their purchase.
- (2) **Sell their trade-in vehicles into a ready market for used cars and trucks.** Motor vehicle retailers understand their local market and are in the best position to estimate the value of trade-in's providing consumers an alternative, if they choose, to finding other outlets to sell their current vehicles.
- (3) **Obtain worry-free registration and titling services.** In many states, Ohio, Kentucky and Indiana included, consumers turn to the dealership to secure titles and registrations for their vehicles. Dealers also provide assistance in securing out-of-state titles, lost titles and transferring titles to family members.

- (4) **Have immediate access to inventory, maintenance and repairs.** Local motor vehicle retailers have access to inventory of parts necessary to repair all makes and models. This is supplemented by collision repair centers operated by dealers. The franchised dealer network helps to insure that these services are locally and readily available to consumers.
- (5) **Access competitive pricing – dealers are the competition.** The new motor vehicle industry is one of the most competitive industries in our society. Franchise motor vehicle laws help insure that consumers have the ability to shop like-brand retailers in their community and negotiate their best price between these competitors. This is in sharp contrast to other consumer goods where company-owned stores have specified pricing where the consumer has no ability to negotiate a better deal. Clearly the existing franchise system offers the best value for the consumer.

The franchise motor vehicle laws were established to provide a more equal playing field between the retailer and their manufacturer. Contrary to the opinions of some of the speakers at the January 19th workshop the disparity and the balance of power still exists today as manufactures continue to have the upper hand. Franchisees invest millions of dollars in each of their stores. This investment in dollars, their employees and their communities deserves the protection that the manufacturer cannot arbitrarily terminate their franchise agreement. Franchise laws in the 50 states have provided a basic framework to insure that the franchisee investment is protected. Without these basic protections the ability to receive financing and to make the investment required of a modern dealership would be jeopardized. It should also be noted that the cost of building, remodeling or “re-imaging” these stores is frequently required by the manufacturer.

Further illustrating the disparity in the relationship between the manufacturer and the franchisee, franchise agreements between the parties are contracts of adhesion. In other words, they are “take it or leave it” agreements written by the manufacturer. When disputes arise, franchise laws provide the franchisee protections against unreasonable demands or criteria from the manufacturer. The franchise laws insure that manufacturers act objectively and not subjectively.

The franchise motor vehicle industry has served the public and local communities for 100 years. It has created one of the most competitive retail environments in this country. It is an economic engine that has brought us back from one of the worst recession periods in US history and provides thousands of jobs in each local community. In all 50 states, state legislators have voted time and time again to insure that the system of retailing new motor vehicles remains stable, reliable and consumer friendly. The legislators live, work and buy vehicles in their local communities and see this dynamic play out every day. This system has served all stakeholders well, including the manufacturers, the retailers, the consumers and the local communities. I urge the FTC to continue to allow the 50 states to choose the proper regulatory framework for this industry that is so critical to our economy.

Thank you for your consideration on this important matter.

Warm regards,



Charles C. Howard, Esq.
Executive Vice President

CCH/scm