



## Wisconsin Automobile & Truck Dealers Association

March 4, 2016

Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Ave NW, Suite CC-5610 (Annex B)  
Washington, DC 20580

Dear Commission Members:

My name is William Sepic. I have had the privilege of serving the Wisconsin Automobile & Truck Dealers Association for seven plus years. We are an association that represents 580 franchised motor vehicle dealerships. Those dealerships include automobiles, heavy duty trucks, motorcycles and motorized recreational vehicles. I am writing to share some brief thoughts regarding the January 19 workshop.

Wisconsin was the first state in the nation to implement franchise laws. Those laws aid consumers, dealers and manufacturers. Yet, the workshop did not provide for a thoughtful exchange, only a point counter point. The basis for franchise laws are as valid today as they were when they were first enacted.

The workshop started with a speech that laid out how antiquated the franchise system is and what we could expect to hear from panelists. In my opinion, nothing could be further from the truth. Motor vehicle franchise laws are constantly changing to best serve current market conditions and ensuring a smooth economic apparatus that serves consumers, governments, dealers and manufacturers.

The second speech was about how anticapitalistic any type of franchise system is. That may be so in a purely theoretical environment, but in the real world history has proven that any purely unregulated capitalistic economy fails. In fact, the Federal Trade Commission was established to regulate market players and temper the inevitable corporate greed that leads to monopolies, antitrust consumer strife.

To the FTC's credit, panelists consisted of proponents representing views from the dealers and manufacturers.

The first panel spoke of the state regulation of dealer networks. I am simply going to remind the FTC, that laws were developed because of issues or challenges that could only be addressed through legislation. If we find it a burden to research why those laws were originally implemented and we throw them out because we believe times have changed, we are doomed to have history repeat itself and we will find these same laws surfacing in years to come. Motor vehicle franchise laws are beneficial to consumers, dealers and manufacturers.

Specifically, consumers benefit greatly by establishing exclusive market areas for franchised dealers. Manufacturers require dealers to provide specific types of facilities and services for customers. Dealers invest millions of dollars in facilities, tools, inventory, personnel, training, regulatory compliance, etc. the establishment of a reserved market area (in theory) allows the dealer to earn a return on that investment, which allows them to stay in business, pay state and local taxes, employ local residents with decent paying jobs and benefits. Further, consumers benefit because it creates intra-brand competition. Keep in mind that the reserved areas are typically 10-15 miles as the crow flies, and they are not a prohibition on the establishment of another dealership of the same franchise within a designated area, but only a check on it. Under the typical franchise law, if a manufacturer wants to establish another same brand point within the reserved area, they can do so via an administrative hearing and showing the State that it is in the best interest of the manufacturer and consumers to establish the new point.

As the second panel spoke about warranty reimbursement rates, I found myself quickly answering the question as to why manufacturers don't receive a discount from the dealers. They are not a good partners and only look at part of the equation. The dealer's best customer doesn't force special tools, diagnostic equipment, technical training and loaner vehicles, all at the dealer's expense, and then expect a discount. If the dealer wasn't advocating for the consumer regarding warranty repair, many of our vehicles would go unrepaired and endanger others on the roadway. Warranty cost are figured into the purchase price of a vehicle and customers should not expect additional costs to a new vehicle.

The direct distribution piece leaves me shaking my head. If today I tell you I have a new way of driving a car, does that mean I get to choose to ignore which laws I believe should no longer exist. We are a country of rules and laws. Many of these laws have been in place decades before these new manufacturers decided they should get to do something different. The rules are in place for a reason. Operate within the framework that is the law and if it makes sense, the marketplace will change those rules.

In fact, if you want an example of a possible peril of allowing manufacturers to operate their own retail outlets, look no further than Tesla. Last year a doctor from Wisconsin was having so many problems with his new Tesla that he finally engaged an attorney to file a lemon law claim. News of the claim spread throughout the automotive industry and the Tesla faithful took to the Internet and mercilessly criticized, made fun of and accused the claimant of making false allegations and being a serial scam artist. Ultimately Tesla settled the case for exactly what the claimant was seeking and subsequent to that settlement, Consumer Reports downgraded their assessment of the Tesla based on problems the vehicle they tested started experiencing the exact same problems that the aforementioned gentleman had complained about.

The last panel discussed the future. I enjoy looking at how the dealer network can act as an agent of change. I can say with confidence that whatever type of vehicle sales are necessary to satisfy and protect the public going forward, the public will be best served by the dealers and the marketplace.

The FTC was established to regulate commerce and protect the health, safety and welfare of consumers and the market place. The motor vehicle franchise system is a perfect model of pseudo market regulation that adroitly addresses the business and market concerns. It preserves strong intra and inter brand competition which consumers benefit by keeping vehicle costs and expenses down due to fierce competition, it allows dealers to make a return on their investment, thereby staying in business,

employing people with good paying jobs and allows manufacturers to mass distribute their products across the country in cities, towns and rural areas (which also benefits consumers). The franchise laws provide for all of the players (manufacturers, dealers, consumers and government) to prosper. In 2015, over 17 million new cars and light duty trucks were sold in the United States. Many manufacturers realized record profits, dealers profited and consumers enjoyed purchasing a vehicle while taking advantage of comparing and shopping in a competitive marketplace. I hope the FTC looks beyond theory and tries to understand the history of how we got here before reaching conclusions that are unwarranted, unnecessary and ill advised.

Sincerely,

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William A. Sepic  
President  
Wisconsin Automobile & Truck Dealers Association