

State Regulation Of Dealer Networks: Observations (Personal!) From An OEM Attorney



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Impact On Manufacturer Dealer Networks

- “Face Of The Brand” To Consumers
- The Challenge Of “One-Size Fits All Brands”
- Need to Adapt Distribution Model To Changes In Consumer Expectations and Habits In Internet Age
- Need To Respond To Performance Issues
- Negative Effects On Dealers Who Do Or Wish To Invest In Their Brands/Operations

Restrictions On Add-Points/Relocations

- “Protected” Areas Are Often Expansive (e.g., TX)
- Most States Grant An “Automatic Stay” Of Appointments And Relocations
- Relocation Restrictions Impede Dealer-Initiated Actions/Upgrades
- Delays Appointment Of Competitor For Months Or Years
- “Compensation” Issues
- In Many States, Promotion Of Competition & Public Interest Are Only Two Of Many Factors That Govern Outcome Of Case

Restrictions On Termination

- Process Is Expensive And Time-Consuming
- Dealers Get Automatic “Preliminary Injunction” In Many States, Even In “Going Dark” Cases
- Even Material Breach Of Contract Is Not Enough To Justify Termination Under Certain Statutes
- Even Settlements (!) Are Precluded In Some States By Broad Anti-Waiver Provisions (e.g., NH)
- In Some States Dealers Participate In Decision-Making Process