

## **Auto Distribution: Current Issues and Future Trends A Federal Trade Commission Workshop**

The Federal Trade Commission (“Commission” or “FTC”) will host a one-day workshop exploring competition and related issues in the context of state regulation of motor vehicle distribution and how these regulations affect businesses and consumers. Specific topics for discussion will include: the regulation of dealer location; laws relating to reimbursement for warranty services; and restrictions on manufacturers’ ability to engage in direct sales to consumers. Additionally, the workshop will examine whether and how the existing pattern of auto distribution and regulation may be affected by new developments such as autonomous vehicles, connected cars, and the rise of subscription-based automobile sharing services.

The Commission invites public comment on the questions outlined below. The Commission seeks the views of consumers, industry representatives, economists, lawyers, academics, and other interested parties. As explained below, comments will be considered for workshop planning purposes, and may inform further public discussion about these issues.

Prior to the workshop, the Commission will publish an agenda, names of speakers, and additional information on the [workshop website](#).

### **Details**

The workshop will take place on January 19, 2016, in the Auditorium of the FTC’s Constitution Center offices at 400 7th Street SW, Washington, DC 20024.

The Commission invites interested parties to submit written comments electronically or in paper form. Comments in electronic form should be submitted by using [this weblink](#) and following the instructions on the web-based form. Comments filed in paper form should be mailed to Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex B), Washington, DC 20580, or they may be delivered to Federal Trade Commission, Office of the Secretary, 400 7<sup>th</sup> Street SW, 5<sup>th</sup> Floor, Suite 5610 (Annex B), Washington, DC 20024. Please write “Auto Distribution Workshop, Project No. P131202” on your comment.

The record will be held open to receive comments from any interested person through March 4, 2016. Comments will be posted to the workshop’s public webpage.

### **Contacts**

For further information, contact Patrick Roach, Attorney Advisor, Office of Policy Planning, 202-326-2793, or James Frost, Attorney, Bureau of Competition, Office of Policy and Coordination, 202-326-2189. You may also send an email to [autoworkshop@ftc.gov](mailto:autoworkshop@ftc.gov).

## **Background on the Motor Vehicle Industry and Distribution Methods**

The motor vehicle industry is a critical sector of the U.S. economy. After a home, a car is often the largest purchase a consumer will ever make. In 2014 American consumers bought more than sixteen million new cars and light trucks, at an average price of \$32,618 each.<sup>1</sup> Consumers generally purchase new vehicles through independent franchised dealers, which operate under contractual relationships with motor vehicle manufacturers regarding the sale and service of vehicles.

The relationship between manufacturers and dealers is closely regulated by the states in a variety of different ways. In particular, states regulate the process of adding and terminating dealerships as well as the provision of warranty services, and have limited the direct distribution of automobiles by car manufacturers. State laws regulating auto distribution, some of which date back to the early 1950s, were enacted to address perceived inequalities in bargaining leverage between dealers and manufacturers, regulate auto manufacturer conduct, and protect small, locally-owned businesses.

This workshop will explore the rationale for the regulatory structure that currently governs manufacturer-dealer relationships in the motor vehicle industry from various perspectives, including manufacturers, dealers, and consumers. What are the public policy justifications for these regulations? What are their current effects on competition and consumers? Do less restrictive alternatives to direct regulation exist, and if so what would they look like?

Dealers and manufacturers have been arguing about the proper scope of these laws almost from their inception, and future industry trends are likely to increase the intensity of these disagreements. The motor vehicle industry has undergone substantial technology-driven change, and appears poised to undergo even more dramatic changes in the years ahead. For instance, developments in autonomous vehicles, connected cars, and automobile sharing likely will present new opportunities and challenges for industry participants, regulators, and consumers. This workshop will examine competition and consumer issues arising from the intersection of the current motor vehicle distribution system, the current regulatory environment, and anticipated future trends in the automobile industry. The workshop will consider whether, and the extent to which, these emerging trends may disrupt the marketplace or challenge existing regulatory frameworks, and what the effect may be on consumers and competition.

Information gained during this workshop will enrich the Commission's knowledge about this critical sector of the economy and support the Commission's advocacy and consumer education efforts. The workshop also will provide an opportunity for public discussion and comment on these issues.

---

<sup>1</sup> National Ass'n of Automobile Dealers, NADA Data 2014 at 3, available at <https://www.nada.org/nadadata/> (accessed Nov. 16, 2015).

## **Dealer Location**

State statutes commonly restrict the ability of motor vehicle manufacturers to create, relocate, or terminate dealerships. Under many of these statutes, existing dealers have the right to contest manufacturers' decisions regarding the location of other dealerships. In addition, these regulations typically establish procedures by which a manufacturer may end a relationship with a dealer.

In this workshop, the Commission intends to explore the scope of state statutes governing dealer location and related aspects of the manufacturer-dealer relationship. The Commission invites public comment on questions relevant to this topic, including:

- What are the underlying public policy goals of regulations that restrict manufacturers' decisions regarding dealer locations?
- Have these public policy goals changed over time, since these types of regulatory restrictions were first enacted? Do these public policy goals remain relevant today?
- To what extent do these regulations affect the ability of manufacturers and dealers to respond to changes in consumer demand, changing market conditions, or other factors that may influence their business strategy?
- To what extent, and in what ways, do these regulations affect consumers, both positively and negatively?
- To the extent these regulations serve legitimate public policy goals, are there regulatory alternatives that would achieve these goals with fewer restrictions on competition?

## **Warranty Services and Reimbursement**

States commonly regulate the provision of warranty services for motor vehicles. For instance, statutes typically provide that only dealers may perform warranty services, and regulate how manufacturers reimburse dealers for warranty parts and some services. The Commission seeks to better understand how regulations governing warranty services have developed and how they affect competition and consumers. The Commission invites public comment on questions relevant to this topic, including:

- What are the underlying public policy goals of regulating the provision of warranty services? Do these public policy goals remain relevant today?
- To what extent, and in what ways, does the statutory regulation of warranty services, or a statutory formula to set rates for reimbursement of warranty parts and services, create or alter economic incentives for manufacturers and dealers?
- To what extent might technological changes, such as those that permit remote electronic diagnostics for repair, affect the roles of manufacturers and dealers in the provision of warranty services to consumers?
- To what extent, and in what ways, do regulations governing the provision of warranty services affect consumers, both positively and negatively?
- To the extent these regulations serve legitimate public policy goals, are there regulatory alternatives that would achieve these goals with fewer restrictions on competition?

## **Direct Sales**

Many states restrict motor vehicle manufacturers from engaging in direct-to-consumer sales, and require manufacturers to sell only through independent franchised dealers. Recently, some new motor vehicle manufacturers have attempted to challenge this traditional distribution system by seeking to sell their products directly to consumers, without using franchised dealers. Their efforts have encountered substantial legislative resistance at the state level. The Commission invites public comment on questions relevant to this topic, including:

- What are the underlying public policy goals of a statutory prohibition on direct sales by motor vehicle manufacturers?
- Have these public policy goals changed over time since these types of regulatory restrictions were first enacted? Do these public policy goals remain relevant today?
- What are the advantages and disadvantages to manufacturers, dealers, and consumers of the existing system of motor vehicle dealer franchising?
- To what extent, and in what ways, might consumers be harmed or benefitted by a system that would permit manufacturers greater flexibility in choosing how to distribute their products?
- To what extent, and in what ways, should existing regulations apply to new manufacturers without dealer networks, versus manufacturers that already have established dealer networks?
- To the extent direct sales prohibitions serve legitimate public policy goals, are there regulatory alternatives that would achieve these goals with fewer restrictions on competition?

## **New Developments and Future Trends**

Like many other industries, the motor vehicle industry is undergoing significant, technology-driven change. Technological advances have created new business models for sharing, versus owning, automobiles, in ways that would have been impossible just a few years ago. Future developments in autonomous and connected vehicles may create additional disruptions to current business models by further altering incentives to own a vehicle. The Commission invites public comments on questions relevant to these topics, including:

- To what extent, and in what ways, might car-sharing services and autonomous vehicles spur changes in consumer use and ownership of motor vehicles?
- From the perspective of consumers, what are the advantages and disadvantages of these technologies?
- Will these changes require adjustments to the existing regulatory systems that govern the distribution of automobiles? If so, what changes will be required and how should competition and consumer interests be protected?
- To what extent, and in what ways, do these technologies present opportunities and challenges for the current system of automobile distribution and ownership?