



NATIONAL AUTOMOBILE DEALERS ASSOCIATION
Office of Legislative Affairs
412 First Street, S.E. • Washington, D.C. • 20003
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May 20, 2010

Dear Senator:

Re: The Brownback Amendment Retains Protections for Military Personnel

On February 26, Under Secretary of Defense Clifford Stanley sent a letter to Assistant Treasury Secretary Michael Barr supporting the Administration's position that the Bureau of Consumer Financial Protection's regulations should apply to dealers who arrange financing for consumers. On May 14, Senator Brownback sent a letter to Under Secretary Stanley asking him to substantiate the claims in the February 26 letter, which Under Secretary Stanley responded to on May 18.

The purpose of the attached summary is to address the serious yet unsubstantiated charges made by the Department of Defense (DoD) and other military groups regarding optional dealer-assisted financing. Even when given the opportunity to provide any substantiation of alleged auto dealer-specific problems with auto finance, the response by Under Secretary Stanley was a series of anecdotes of already illegal activity and an informal and unscientific study that does not prove their claims with regard to auto dealers. The following summarizes the flaws with the DoD and military response and demonstrates the lack of any reliable or credible data to back up its claims regarding dealer-assisted financing.

1. **The Department of Defense has failed to produce any credible data to justify subjecting dealers to additional regulation.** The May 18 letter to Sen. Brownback from Under Secretary of Defense Stanley reveals the following:
 - a. The "informal, non-scientific polling data" upon which DoD relies to justify its apparent opposition to the Brownback Amendment "did not include any inquiry into the source of the auto loan." In other words, DoD cannot say how many of the allegedly abusive auto loans it cites were actually made by auto dealers – or whether they were made by finance sources that would be subject to CFPB regulation, such as community banks, credit unions, or buy-here-pay-here dealers.
 - b. Even though DoD found scant evidence of problems between service members and dealers in the portion of DoD's own database specifically designed to record consumer complaints by service members, the Pentagon instead decided to justify its policy position based on (i) an informal survey where no inquiry was made to ensure the abusive loans were even made by auto dealers, and (ii) case studies by a special interest group with a known bias against auto dealers.

2. The letter re-states that DoD would “welcome and encourage CFPA protections...provided such protections would not limit access to legitimate credit products.” However, under S. 3217, the CFPB would have the power to eliminate a “legitimate product” upon which service members rely – optional dealer-assisted financing. When specifically asked if the Pentagon would still support CFPA “even though it will limit access to dealer-assisted financing?” DoD passed on taking a position.
3. **Despite a Department of Treasury release stating that auto dealers “threaten military readiness” DoD’s letter concedes that they cannot quantify the scope of the threat to military readiness that auto dealers pose.**
4. **In addition, DoD ignores its own comprehensive report from 2006, entitled “Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents” which, in** responding to an open-ended directive from Congress to review predatory lending against service members and their families and to make recommendations for further legislative protections, did *not* include dealer-assisted financing among its list of predatory lending practices. Rather, it identified other forms of lending (e.g., payday loans, auto title lending, and refund anticipation loans) based on input from military financial counselors and legal assistance attorneys.
5. **The Brownback Amendment will complement the creation of an Office of Service Member Affairs within the CFPB.**
 - a. The Senate has adopted the Reed-Brown Amendment which will create an Office of Service Member Affairs within the CFPB.
 - b. This Office will be able to focus on auto finance problems within the direct jurisdiction of the CFPB. Payday lenders, auto title lenders, and buy-here-pay-here lenders will all be covered by the CFPB, and *none* will be exempted by the Brownback Amendment.
 - c. The Brownback Amendment will further buttress this new office by mandating that the FTC and the Federal Reserve Board coordinate with this Office, and give special attention to service members and their families, “with a focus on motor vehicle dealers in proximity of military installations.” If the Office receives complaints from service members, their complaints must be addressed, and if appropriate, referred to the authorized agencies to pursue enforcement action.

Support the Brownback Amendment to preserve affordable credit options for consumers, especially for our men and women in uniform.