NADA | National Automobile Dealers Association

**FTC's Unnecessary Vehicle Shopping Rule Will Harm Car Buyers with Added Costs, More Paperwork and a Longer Sales Process**
***Cosponsor the "FTC REDO Act" (H.R. 7101/S. 3014)***

## ISSUE

The Federal Trade Commission's (FTC) recently finalized Vehicle Shopping Rule "VSR" (also known as the FTC "CARS Rule") will add massive amounts of time, complexity, paperwork and costs to the car buying process. The FTC finalized the rule amid ongoing congressional oversight into the agency's vast regulatory overreach in proposing the rule, its lack of credible data-driven analysis, and other significant process flaws. All harms the rule is purportedly designed to address are already addressed under existing law. This unnecessary rule will make vehicle shopping worse, not better. **Members of Congress should cosponsor the "FTC REDO Act" to stop the flawed VSR and ensure that if the FTC opts to redo its rule, it must follow basic regulatory safeguards to avoid negatively impacting consumers and small businesses.**

## BACKGROUND

After ignoring Congressional inquiries into the flawed rulemaking process and repeated Congressional requests to provide a fact-based analysis of the rule, the FTC finalized the VSR on Jan. 4, 2024, with a new name (the misleading "Combating Auto Retail Scams" or "CARS Rule"). For example, when proposing the rule, the FTC flouted its own procedures by skipping an Advance Notice of Proposed Rulemaking (ANPRM). The agency also denied a routine request to extend public comment and neglected to consumer test any of the new paperwork or disclosures in the proposed rule. Through bipartisan letters, members of Congress expressed concerns that the proposed rule was rushed and would adversely affect consumers and small business dealers.

The final VSR contains some revisions, but it would still overwhelm car buyers and small businesses with added costs, paperwork and a longer car buying process affecting over 40 million consumer vehicle transactions and hundreds of millions of vehicle shopping inquiries each year.

NADA supports the "FTC REDO Act" (H.R. 7101/S. 3014), introduced by Rep. Kelly Armstrong (R-N.D.) and Sens. Jerry Moran (R-Kan.) and Joe Manchin (D-W.Va.), which would stop the VSR and require the FTC to follow basic regulatory safeguards should the agency choose to redo the rule. The bill requires the FTC to: 1) issue an ANPRM; 2) conduct a quantitative study on auto retailing; 3) conduct consumer testing; and 4) publish a cost benefit analysis based on actual data. The FTC failed to perform any of these essential steps before proposing a rule with massive impacts on tens of millions of American car buyers.

NADA also supports efforts to stop the FTC from enforcing the flawed VSR in the FY 2025 Financial Services and General Government (FSGG) appropriations bill. (NADA-supported language to deny FTC funding to enforce the VSR was included in the House FY 2024 FSGG bill.) This one-year funding pause would complement passage of the "FTC REDO Act."

## KEY POINTS

- **This FTC rule will add time, costs, and complexity for car-buyers and make it harder to conduct online sales**. Vehicle sales are already extensively regulated with a document-intensive process, yet the FTC finalized these mandates without testing whether they enhance consumer understanding, education or protection. Under the rule, every time a consumer asks about a specific vehicle or monthly payments, it would involve new written forms harming the industry's ability to streamline and modernize the car buying process.
- **The VSR is unnecessary and duplicative as all the harms the FTC's rule is aimed at addressing are already against the law, and the agency presently has sufficient enforcement authority to police any alleged wrongdoing.** The rule will duplicate and, in some cases, conflict with, extensive state and federal laws that protect consumers (*e.g.*, the Federal Truth-in-Lending Act). The rule introduces ambiguous terms such as "express informed consent" and states that a customer signature by itself will NOT suffice, contrary to many state laws.
- **The FTC's rule dramatically increases the agency's power without an informed regulatory process and will severely harm small businesses.** The rule empowers the FTC to issue $51,744 per violation fines against dealers for unnecessary and vague requirements. The rule also imposes new recordkeeping burdens that *more closely resemble retention requirements for supervised financial institutions,* such as forcing dealers to capture every written communication, including texts.

## STATUS

On Jan. 18, the FTC temporarily put the VSR on hold. The FTC postponed the VSR's effective date of July 30, 2024 pending judicial review in response to a petition filed by NADA.

*April 11, 2024*