



May 1, 2017

The Hon. Jeb Hensarling
Chairman
House Financial Services Committee
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hensarling:

On behalf of the National Automobile Dealers Association (NADA), a national trade association of more than 16,000 franchised new car and commercial truck dealerships which employ 1.1 million people, I am writing regarding H.R. 10, the Financial CHOICE Act of 2017. NADA members operate in every congressional district in the country, the majority are small businesses as defined by the Small Business Administration, and 39 percent of our members sell less than 300 new vehicles a year. Among other things, H.R. 10 makes much-needed and long overdue reforms to the Consumer Financial Protection Bureau (CFPB). NADA strongly supports these reforms and urges the House Financial Services Committee to favorably consider H.R. 10.

Among the provisions in H.R. 10 that NADA strongly supports are the following:

Section 734, which would rescind CFPB Bulletin 2013–02. The CFPB issued this guidance in 2013 to achieve the policy result of eliminating consumer discounts made by dealers in the showroom. When issuing the guidance, the CFPB provided for no public comment, used statistics and a methodology the Bureau knew was flawed (and was not forthcoming about it to Congress), and failed to analyze the impact of the guidance on consumers. A *Wall Street Journal* article stated that a CFPB enforcement action related to the guidance could have raised the price of credit by \$586 for some car buyers. In November 2015, the House overwhelmingly passed, by a vote of 332-96, nearly identical language (H.R. 1737) to rescind the CFPB's flawed guidance and require any new guidance in this area to be issued with public input and transparency. NADA urges its passage again by the Committee to ensure auto loans remain affordable.

Section 713, which would enhance CFPB accountability by bringing this agency under the appropriations process. This provision begins to restore traditional government "checks and balances" to the CFPB. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, Congress allowed the CFPB to set and approve its own budget priorities. The indirect auto finance guidance issued by the CFPB illustrates the flawed actions that inevitably result from Congress surrendering its constitutional "power of the purse." With no control over the Bureau's spending power, the only avenue for the people to express their will through their elected representatives is the passage of authorizing legislation.

If the CFPB initially had been subject to the normal congressional appropriations process, it is doubtful the agency would have attempted to fundamentally change the \$1 trillion auto loan market via guidance without (1) prior public comment or hearing; (2) providing responsive answers to direct and specific questions from Congress; and (3) first assessing the impact of its guidance on consumers. The CFPB instead chose to implement this anti-consumer, anti-small business policy through guidance and

enforcement actions to avoid the full range of procedural requirements that are part of the public rulemaking process. While the CFPB was prevented from raising credit costs in this instance because of the bipartisan efforts of this Committee, enactment of Sec. 713 would likely have prevented such abuses in the first place.

CFPB should not fear the appropriations process if its policies can withstand public scrutiny. If its policies cannot withstand scrutiny and are overturned by Congress through its spending power, then the public is well-served.

Congress created the CFPB with little to no accountability, and the results have been as predictable as they have been harmful. Unfortunately, consumers and small businesses are paying for the CFPB's flawed structure, via higher credit costs, less competition, and less access to auto credit. For these reasons, we urge the Committee to reform the CFPB by passing H.R. 10.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter K. Welch". The signature is fluid and cursive, with a large initial "P" and "W".

Peter K. Welch
President and CEO
National Automobile Dealers Association