

Congress of the United States
Washington, DC 20515

November 29, 2022

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chair Khan:

We write regarding the Federal Trade Commission (“Commission”) “Motor Vehicle Dealers Trade Regulation Rule” (“Proposed Rule”), published in the Federal Register on July 13, 2022.¹ We are concerned that the Commission’s process in offering the Proposed Rule has been inadequate and increases the risk that a final rule may create harmful, unintended consequences for both consumers and small businesses. We request that the Commission withdraw the Proposed Rule and issue a Request for Information (“RFI”) or an Advanced Notice of Proposed Rulemaking (“ANPRM”).

This wide-ranging Proposed Rule would affect tens of millions of Americans who purchase new or used vehicles from motor vehicle dealers. While protecting consumers is paramount, the Commission’s process for issuing the Proposed Rule has failed to demonstrate the need for additional regulation or that the proposed mandates will benefit consumers. For example, it appears that the Commission has not conducted consumer testing of any of these new requirements. Federal agencies typically engage in preliminary information gathering to inform the content of a proposed rule, particularly one with such an extensive effect on consumers and the national economy. There are also concerns that the Commission has failed to appropriately apply the Proposed Rule to all motor vehicle sales models and would therefore unfairly target regulatory burdens on motor vehicle dealers.

The Commission would produce a more effective rule by first issuing a RFI or an ANPRM seeking public comments on inefficiencies in the market and the effectiveness of potential solutions. These preliminary regulatory steps would provide the Commission with further stakeholder input on both the concerns it has raised and the 49 open-ended questions in

¹Motor Vehicle Dealers Trade Regulation 87 Fed Reg. 42012 (proposed July 13, 2022) (to be codified 16 CFR 463).

the Proposed Rule. Similarly, this process would enable the Commission to conduct consumer testing to verify the effectiveness of specific disclosure requirements and assess the effect of mandating additional paperwork, which will lengthen the sales process and increase costs.

The accelerated timeline for the Proposed Rule is also unnecessary. The public first learned of this entirely new regulatory structure from the Commission's June 23, 2022 announcement, as the Proposed Rule was omitted from both the Fall 2021 and Spring 2022 Unified Regulatory Agenda, which ordinarily identifies upcoming federal regulatory activity. The Commission refused requests for an extension of the 60-day comment period for this Proposed Rule and the comment period for stakeholder participation subsequently closed on September 12, 2022.

There is no statutory deadline for the Commission to act since Congress has not mandated a rulemaking on this issue. Due to the scope and complexity of this proposal, we ask the Commission to withdraw the Proposed Rule and issue an RFI or ANPRM to gather data and verify that any potential solutions will serve consumers. This due diligence will ensure that the Commission has the necessary record to promulgate a final rule, if necessary, that enhances consumer protection, small business compliance, and mitigates unforeseen consequences.

Thank you for your consideration.

Sincerely,



Kelly Armstrong
Member of Congress



Kevin Cramer
U.S. Senator



James Risch
U.S. Senator



Thom Tillis
U.S. Senator



John Hoeven
U.S. Senator



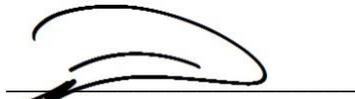
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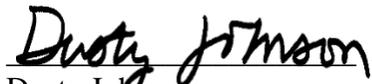
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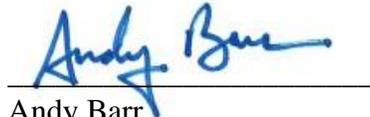
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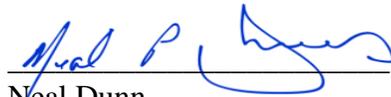
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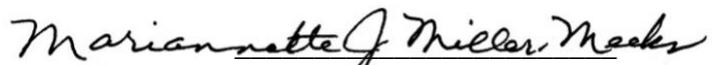
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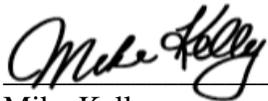
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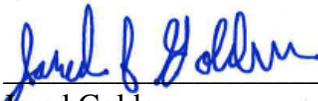
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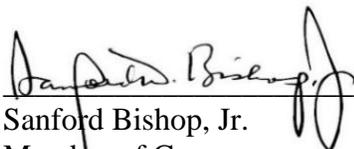
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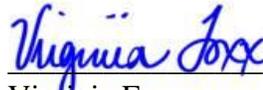
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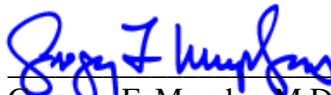
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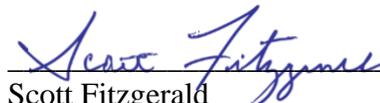
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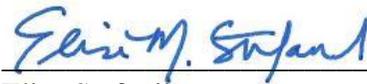
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