



June 21, 2023

The Honorable Steve Womack
Chairman
House Financial Services and General Government Appropriations Subcommittee
2412 Rayburn House Office Building
Washington, DC 20515

The Honorable Steny Hoyer
Ranking Member
House Financial Services and General Government Appropriations Subcommittee
1705 Longworth House Office Building
Washington, DC 20515

Dear Chairman Womack and Ranking Member Hoyer:

On behalf of the National Automobile Dealers Association (NADA)¹, the American International Automobile Dealers Association (AIADA)², and the National Association of Minority Automobile Dealers (NAMAD)³, we are writing to request that you include language in the Fiscal Year 2024 Financial Services and General Government (FSGG) Appropriations bill to stop the Federal Trade Commission (FTC) from finalizing or enforcing the proposed [Motor Vehicle Dealers Trade Regulation Rule](#)⁴ (the “Vehicle Shopping Rule”). NADA, AIADA, and NAMAD members, the majority of which are small businesses, are committed to providing transparent business practices and treating consumers fairly, but the Vehicle Shopping Rule would needlessly upend the car buying experience for our customers, adversely affect auto retailing which generates 17% of national retail sales, and needlessly impose unnecessary paperwork burdens on millions of consumers and every franchised dealership.

The Vehicle Shopping Rule would cost consumers \$38.1 billion. The FTC’s inadequate cost-benefit analysis understates the costs and overstates the benefits of the proposed rule. Without a single cite of supporting data, the FTC assumes that customers will spend 3 fewer hours shopping for a new vehicle, despite the new paperwork mandates. The FTC claims the 3-hour savings will generate \$29.7 billion in consumer benefits, but a recent [study](#) by the Center for Automotive Research finds that the proposed rule would increase transaction times by 2 hours (1 hour during the sales process and 1 hour to review additional paperwork mandates). *This finding shows that the proposed rule, instead of yielding \$29.7 billion in benefits, would cost consumers \$38.1 billion.*

¹ NADA represents over 16,000 franchised automobile and truck dealerships with domestic and international nameplates in all 50 states which sell, finance, and lease new and used motor vehicles and engage in service, repair, and parts sales. NADA members collectively employ 1.2 million people nationwide.

² Established in 1970, AIADA is the only national trade association with the sole purpose of representing America’s international nameplate automobile franchises. AIADA’s members make a positive economic impact both nationally and in the local communities they serve, providing over 543,000 American jobs.

³ The National Association of Minority Automobile Dealers (NAMAD), founded in 1980 and led by African American, Latino, and Asian/Pacific Islander auto dealers, represents ethnic minority automobile dealers in the United States. NAMAD is committed to increasing opportunities for ethnic minorities in all aspects of the automotive industry.

⁴ 87 Fed. Reg. 42,012-42,048 (Jul. 13, 2022) (to be codified at 16 C.F.R. § 463).

The Vehicle Shopping Rule is deeply flawed substantively and procedurally. The FTC relies on data that is unverified, previously rebutted, anecdotal, or non-existent. A major rule with such market-changing ramifications requires data-driven, *quantitative* evidence of systemic issues. The FTC rule instead relies primarily on a *qualitative*, internal study which included only 38 Washington, D.C. area residents in its sample size. This “study” explicitly stated that data from the study should not be used to form any *quantitative or generalizable conclusions*. NADA⁵ and many other organizations⁶ filed comments documenting the multiple problems with the proposed rule.

The FTC’s rushed public notice and comment process reduced stakeholder input. While under no congressional or judicial mandate to proceed, the FTC pursued a rushed, nontransparent process. A total of 72 bipartisan [members](#) of Congress have sent letters to the FTC raising concerns about potential harm to consumers and the FTC’s unwarranted rush to judgment.⁷

The FTC omitted the proposed rule from the FTC’s Fall 2021 Regulatory Agenda and the 2022 Spring Regulatory Agenda because of missed “publication deadline[s.]” During routine meetings in the spring of 2022 between NADA and FTC staff, no agency staff mentioned that the FTC was drafting a major rule that would affect tens of millions of consumer transactions annually and dramatically expand recordkeeping burdens for dealerships. Despite proposing a novel, complex regulatory regime and asking 49 open-ended questions in the proposed rule, the FTC refused routine requests, including [from](#) the Small Business Administration’s Office of Advocacy, for an extension of the 60-day comment period.

The FTC failed to coordinate with the Federal Reserve Board to resolve conflicts between the proposed rule and the Truth-in-Lending Act (TILA). TILA and Regulation Z (under the exclusive jurisdiction of the Federal Reserve) provide a time-tested standard for consumer financial disclosures in auto finance. Rep. Luetkemeyer (R-Mo.) and Rep. David Scott (D-Ga.) sent a [letter](#) to Federal Reserve Board Chairman Powell which warned that the new disclosures required by the FTC’s rule would conflict with dealer

⁵ NADA’s complete [comments](#) are summarized [here](#).

⁶ These entities filed comments critical of the rule: the National Federation of Independent Business, The Better Business Bureau, the American Financial Services Association, the Consumer Bankers Association, the Alliance for Automotive Innovation, the Consumer Credit Industry Association, the Competitive Enterprise Institute, the Service Contract Industry Council, the Guaranteed Asset Protection Alliance, the Motor Vehicle Protection Products Association, the Credit Union National Association, the Marine Retailers Association of the Americas, the Motorcycle Industry Council, the Specialty Vehicle Institute of America, the Recreational Off-Highway Vehicle Association, the National Independent Automobile Dealers Association, the American Property Casualty Insurance Association, and the National RV Dealers Association.

⁷ Here are the congressional letters (to which the FTC has not substantively [responded](#)):

1. Rep. Kelly Armstrong (R-N.D.) – bipartisan [letter](#) signed by 40 House members and six Senators urging the FTC to withdraw the proposed rule and issue an ANPRM.
2. Rep. Chris Pappas (D-N.H.)-Rep. Doug LaMalfa (R-Calif.) – [letter](#) signed by 29 House members urging the FTC to reopen the comment period.
3. Sen. Cynthia Lummis (R-Wyo.) – [letter](#) signed by six Republican Senate Commerce, Science, and Transportation Committee members questioning all aspects of the proposed rule.
4. Rep. Glenn Thompson (R-Pa.) – [letter](#) opposing the proposed rule, calling it “grossly misguided.”

obligations under TILA.⁸ Chairman Powell's [response](#) documents the FTC's failure to coordinate with the Federal Reserve and the Fed's willingness to collaborate to avoid conflicts with TILA.

The FTC has failed to verify that the new consumer disclosures would work in the real world. Forcing dealers to inject new forms at different times during the sales process will create confusion as the vehicle sales process already is paper intensive. Consumer testing of the form, content, and timing of any new disclosure is essential to determine the real-world effect on consumers. Moreover, the FTC should conduct consumer testing jointly with the Federal Reserve to eliminate any risk of confusion among consumers and compliance by dealers related to TILA.

The Office of Advocacy of the U.S. Small Business Administration filed [comments](#) which concluded that "the proposed rule, while well-intentioned, is problematic" because:

- Prior to issuing the proposed rule, the FTC ignored key statutes enacted to protect small businesses from unduly burdensome regulations;
- The proposed rule could prolong the vehicle shopping process and stifle innovation; and
- The FTC does not provide sufficient information to support the issuance of the rule.

For the reasons listed above, we urge Congress to include in the Fiscal Year 2024 Financial Services and General Government appropriations bill language which stops the FTC from finalizing, implementing, or enforcing *the Motor Vehicle Dealers Trade Regulation Rule*.

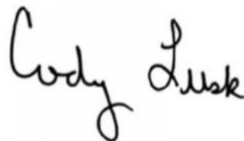
In closing, we note that unfair and deceptive practices in vehicle sales or financing are already illegal, and federal regulators should continue to police this market. Furthermore, this appropriations limitation, if enacted into law, would have no bearing on the FTC's ability to continue to enforce existing law or re-issue a trade regulation rule that does not suffer from the numerous flaws of the proposed rule.

Thank you for your consideration.

Sincerely,



Mike Stanton, President and CEO
NADA



Cody Lusk, President and CEO
AIADA



Damon Lester, Vice Chairman
NAMAD

⁸ For example, the FTC's proposal would require several new "cash price" disclosures that differ from the TILA "cash price" disclosures—creating conflicting "cash prices" for the same vehicle. As a result, dealers would face the impossible task of complying with conflicting mandates and likely lose credibility with consumers.