

January 19, 2016



Edith Ramirez, Chairwoman, Federal Trade Commission
Julie Brill, Commissioner, Federal Trade Commission
Maureen K. Ohlhausen, Commissioner, Federal Trade Commission
Terrell McSweeney, Commissioner, Federal Trade Commission
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Chairwoman Ramirez and Commissioners Brill, Ohlhausen and McSweeney:

As groups that advocate for competitive markets, we are concerned about the Federal Trade Commission's (FTC) January 19, 2016, workshop on the retail automotive market.

While the FTC's mission is to "prevent business practices that are anticompetitive or deceptive or unfair to consumers," both economic theory and empirical evidence show with little doubt that the retail automotive market is extraordinarily competitive. Thousands of franchised automobile dealers compete on pricing, financing and servicing, and empirical research shows that this competition drives down prices for consumers. In short, the FTC appears to be trying to find a problem in a market where no evidence of a problem exists.

In March 2015, the Phoenix Center for Advanced Legal & Economic Public Policy Studies released a report that examined large data samples of transactions for ten of the most popular new cars purchased in the state of Texas for the years 2011, 2012, and 2013, and found that intra-brand price competition between franchised new-car dealerships significantly lowers prices for consumers.

According to the research, which has not been challenged or rebutted in the public sphere, intra-brand price competition by multiple dealers has the effect of lowering prices on new cars substantially – in the case of a new Honda Accord or Toyota Camry sold in Texas, by approximately \$487 per automobile when multiple same-brand dealers compete in a given radius.

This matches the economic theory that when multiple sellers of a good or service compete on price, prices will drop. Eliminate sellers, and prices will rise.

Similarly, the National Automobile Dealers Association's annual report on dealer profitability show that profits on new cars average only 2.2% per car – far lower than many other retail businesses, even on high-priced or durable items like furniture or appliances. All evidence suggests that the retail automobile market is competitive, that intra-brand price competition drives down prices for consumers, and that eliminating dealerships will hurt consumers by driving prices higher.

Finally, we find it a bit ironic that the FTC is investigating the effect of state dealer franchise laws when it was the federal antitrust laws that motivated the enactment of such laws in the first instance. As you know, auto retailers are prohibited by federal antitrust laws from collectively negotiating their contracts

with manufacturers, and this artificial intrusion created an imbalance that disadvantaged dealers. Because exercising their collective economic power is prohibited by federal law, dealers had no choice but to turn to state legislatures to level the playing field while bargaining with manufacturers. A truly free marketplace would not have these antitrust prohibitions against auto retailers, nor state franchise laws. But eliminating one and not both would create an imbalance in the manufacturer-retailer relationship, and is tantamount to the government picking winners and losers.

As the Commission should be aware, there is no fact-based evidence in the public sphere that the current franchised dealer distribution system does not benefit consumers. In fact, all available evidence says that consumers will pay more for their vehicles if intra-brand price competition through dealers is eliminated. Given these facts, and the lack of any real-world evidence to the contrary, it is troubling that the FTC would spend valuable time and resources looking into an issue where no evidence of a problem exists.

We await your response to the fact-based research in the Phoenix Center study.

Sincerely,

Grover Norquist
Americans for Tax Reform

Andrew Langer
Institute for Liberty

Phil Kerpen
American Commitment

George Landrith
Frontiers of Freedom

Jeffrey L. Mazzella
Center for Individual Freedom

cc. Patrick Roach, Office of Policy Planning
James Frost, Office of Competition