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State AGs press the FTC to focus on certain dealer practices

The Federal Trade Commission's Roundtable fact finding meetings on dealer practices and advertising that took place in three cities last year may be over, but pressure on the agency to regulate dealers continues as evidenced by recommendation made to the FTC by the Attorneys General of 31 states and the District of Columbia.

The AGs specifically are asking the FTC to:

1. Adopt rules to prompt enforcement actions to deter failed vehicle credit sales where the terms change adversely for the buyer, or so called "yo-yo sales,"

Specifically, the AGs want the FTC to adopt rules that:

- Require dealers to retain consumer's trade-in until financing is approved;
- preclude dealers from threatening to repossess vehicles, while prohibiting charges for "wear and tear" pending financing approval;
- Require dealers to offer the consumer either a complete unwinding of the deal, or more favorable credit;
- Bar dealers from retaining any portions of incentive payments or deposits when a deal unwinds;
- Require dealers to tell the consumer that if the first attempt to get financing is rejected, he/she has the right to walk away; and
- Require dealers to disclose, before completing a spot delivery, that financing has not been finalized and what the potential consequences are for the consumer if financing doesn't go through.

2. Adopt a rule requiring that all advertised pricing and price quotes to consumers for motor vehicles include all non-governmental fees, while defining as an “unfair and deceptive trade practice” any representation by a dealer of a sales price or monthly payment number which includes optional purchases or the cost of financing optional purchases without disclosing that the quoted payment price includes optional purchases and financing costs.
3. Adopt rules regulating rent-to-own and lease-to-own auto transactions.
4. Join with the state attorneys general in enforcement actions against false automotive advertising.
5. Take action against dealers who fail to include in disclosed interest rates certain fees the dealers pay lenders in connection with subprime loans.
6. Bring enforcement actions against dealers who engage in “unfair and deceptive practices” in connection with yield spread premiums in auto loans.
7. Act against lenders which fail to comply with the FTC’s Rule Concerning Preservation of Consumers’ Claims and Defenses, more commonly known as the “Holder in Due Course Rule.”

In their letter to the FTC, the AGs urged the agency to focus its resources on specific areas which they believe are of the greatest import in the marketplace – those practices that affect the most consumers, are the most “prevalent and harmful,” or may target “more vulnerable” consumers, such as those in the subprime category.

The FTC has made no response to the AGs recommendation and has indicated since it completed its Roundtable discussions that it will act regarding automobile sales and advertising practices only where a demonstrated need is indicated.

The AGs who signed the letter to the FTC, all members of the National Association of Attorneys General (NAAG), are from the following jurisdictions: Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Georgia, Hawaii, Idaho, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Vermont, Washington and West Virginia.

MD may be looking at two Special Sessions to resolve budget

Gov. Martin O’Malley said this week he is considering the possibility of holding two Special Sessions, one in May to focus on revenue to avoid \$500 million in budget cuts, and another in August to look into an expansion of gambling in the state.

“If we’re able to resolve the budget in May and then come back, say, in early August to resolve the open questions on gaming, that would be enough time to put a referendum on the ballot in the fall,” O’Malley told reporters.

O’Malley met with Senate President Thomas “Mike” Miller and House Speaker Michael Busch before making the announcement, but did not elaborate on how far apart the two are on reaching a consensus on a proposal to raise income taxes as part of the revenue raising plan.

If additional revenues are not forthcoming in a Special Session, the governor is facing a May 23 deadline, when he needs to deliver roughly \$130 million in cuts to the Board of Public Works to balance the budget.

O'Malley said lawmakers should start with the revenue agreement they had reached at the end of the Regular Session earlier this month, which called for tax increases on those making more than \$100,000. "It was a product of compromise that didn't make anyone entirely happy, but I think that's a very, very good starting point," he said. "And if there are other things that we need to do, such as further cuts or deferral of some issues, then we'll have to do that, because there are simply not the dollars there to fund the state," he said.

Dealers are reminded that A/C technicians must meet EPA regulations on recycling

With warmer months arriving and more repair work on vehicle air conditioners coming, the Environmental Protection Agency (EPA) is reminding dealers about complying with the agency's Air Conditioning Refrigerant Recycling Rule.



The Clean Air Act Amendments of 1990 require technicians who open refrigeration circuits in automotive air conditioning systems to be *certified* in refrigerant recovery and recycling procedures.

The EPA is increasing enforcement of this rule, and is prepared to fine dealers for violations. Regulators note the following areas where they will be looking for compliance:

- Technician certification -- EPA officers will match technicians' photocopied certification cards against repair orders for the past three to four years to verify that a certified technician was doing A/C related work. Technicians need to obtain A/C Technician Certification only once; but, because of turnover, service managers need to be sure technicians doing AC related work are certified.
- Equipment certification -- In addition to properly training technicians, dealers are required to use approved recover/recycle equipment, and submit certification of equipment to the EPA. Also, if there is a change in ownership, the new owner of the equipment must certify equipment to the EPA within 30 days of the change of ownership. NADA's *Dealer Guide to the EPA Mobile Air Conditioning Coolant Recycling Regulation* contains the form required for certifying equipment.
- New Refrigerants to be Recycled -- The EPA requires service technicians to recycle HFC-134a and other non-ozone depleting refrigerants. Any equipment used to recover and recycle HFC-134a from air conditioners must meet EPA standards and be tested by an approved laboratory. Technicians currently certified for CFC-12 systems are certified automatically to handle non-ozone-depleting chemicals.
- Dealers Allowed to Buy and Sell Non-Ozone-Depleting Refrigerants - The EPA allows the sale of HFC-134a or any other non-ozone-depleting refrigerants, and, unless local regulations dictate otherwise, anyone may purchase these refrigerants in any size

container. However, CFC-12 in units under 20 lbs. are restricted from being sold to a person who is not A/C certified.

Cost of owning car up 3.4% in 2011, mounting to nearly \$9,000/yr

The average annual cost to own and operate a sedan in the USA rose to \$8,776, according to the American Automobile Association (AAA).

The increased costs to own and operate a vehicle were driven mainly by large increases in fuel prices, depreciation costs and tire prices, says John Nielsen, AAA national director of auto repair, buying and consumer programs. The findings are based on 15,000 miles of driving and reflect a 1.9 cents per mile increase to 58.5 cents per mile, he said.

AAA notes that the cost of tires has increased significantly (15.7%) “because of higher raw materials, energy and transportation costs and because the manufacturer is putting a better grade of tire on as original equipment.”

Rising gas prices fueled an 8.6% increase to an average of 12.34 cents per mile to operate a sedan. Average depreciation costs, the largest cost for vehicle owners, rose 4.9% to an annual average of \$3,728 for sedans.

Maintenance and insurance costs, however, both declined. Maintenance costs fell 2.2%, to an average of 4.44 cents per mile for sedans, reflecting a trend by automakers to include a portion of scheduled maintenance in the purchase price and extend recommended maintenance intervals. Average insurance costs for sedans fell 6.1%, to \$968 a year, based on estimates for low-risk drivers with excellent records.

The auto club has published the annual “Your Driving Costs” since 1950. That year, it cost 9 cents a mile to drive a car 10,000 miles per year, with the price of gas at 27 cents/gallon.

Cars safer than ever, but NHTSA wants more

In 2010, US highway deaths fell to their lowest level since 1949 even as Americans traveled 21 *billion* more miles than they did in that year. The National Highway Traffic Safety Administration (NHTSA) says this achievement is due in large part to the fact that cars today are being built stronger, smarter, and safer than ever before. But the safety agency says it wants to do better.

To save more lives, especially at intersections or while changing lanes, NHTSA is studying multiple approaches with nearly all of them beginning with advanced crash avoidance technology, examples of which are autonomous-vehicle (computer controlled) driving, vehicle-to-vehicle communication, brake-throttle override, and Driver Alcohol Detection System for Safety (DADSS). NHTSA’s strategy also includes a continuing attack on distracted driving and rules to prevent it.

“We envision, and are working to create, a new safety era that will revolve around safe vehicle designs and emerging technologies,” said Ronald Medford, deputy administrator, NHTSA. “On

the horizon are some very promising crash-avoidance technologies that we think will help us to save more lives.”

In that vein, NHTSA will conduct autonomous vehicle and vehicle-to-vehicle communications studies this summer; gather public comments on its brake-throttle override proposal and continue work on DADSS, which would immobilize a vehicle if the system’s breath analyzer detects higher than permitted alcohol levels. NHTSA is also looking at a DADSS that can measure alcohol concentration in a driver’s skin with infrared lighting.

Automakers on edge as gas prices *decline*

Automakers, grappling with a federal mandate to double fuel efficiency standards to 54.5 mpg by 2025, are raising concerns about what happens if gas prices fall.

At the SAE World Congress in Detroit this week, engineers from many of the major automakers said that if gas prices fall they pose a challenge for them to meet new fuel requirements but still build cars that consumers want to buy.

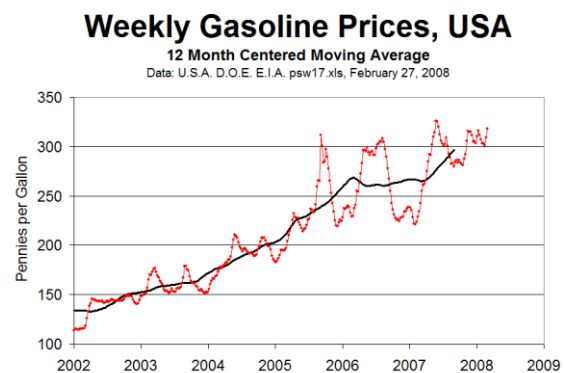
“We have to have an industry that can go forward, but the biggest challenge we have moving forward is cost-effective CO2 reduction,” said Chris Cowland, director of advanced & SRT powertrains at Chrysler Group LLC.

Cowland said the industry needs to focus on technologies that can get big demand from consumers — as opposed to current EV and hybrid technologies that only account for 1 to 3 percent of the market.

Robert Bienenfeld, Honda's senior manager for environment and energy strategy, said if oil prices fall, automakers will struggle to meet the 2025 requirements. “It's going to be very challenging to meet these fuel standards,” he said. Ironically, current mileage standards may also be an impediment to meeting the tougher 2025 requirements, he said. That is because improving fuel efficiency is reducing the cost per mile of driving even as fuel prices continue to rise. “By 2025, \$6-a-gallon gas could have the same impact on pocketbooks and cost-per-mile as \$4-a-gallon gas does today,” Bienenfeld said. “As a result, consumers may not be swayed to buy more fuel-efficient vehicles,” he added.

Meanwhile, the industry is forging ahead with new technologies that continue to improve fuel efficiency in internal combustion engines. Nearly all are committed to downsizing their engines to four or six or even two cylinder models, while using turbocharger and supercharger type technologies to boost performance.

“Internal combustion engines will remain a large presence in the future until we can know for sure what oil prices will do in the years ahead” said Michael Mahan, GM's general manager for EV infrastructure, noting that GM's fuel price forecasts from nine years ago wasn't exactly correct.”



IBM has demonstrated a 500 mile EV battery that breathes

IBM, which is looking to build a battery capable of powering a car for 500 miles, has designed one that produces power by taking in oxygen and recharges by expelling oxygen. Because it's driven by the outside air, such a battery can be significantly smaller and lighter than traditional lithium ion batteries, providing a much longer life and power per square inch.

Researchers have long explored this sort of "lithium-air" battery, but IBM's demonstration shows it can actually be built. "The fundamental operation of the battery is no longer in question at all," says Winfried Wilcke, the senior manager of IBM's Battery 500 project. The company is confident that with this technology, it can produce a car battery with a range of at least 500 miles, which Wilcke believes will happen sometime after 2020.

In the IBM lithium-air battery, oxygen flows into the battery's "open system" cell, much as it moves into a combustion engine. Inside this cell, it slips into minute spaces and reacts with lithium ions on the battery's cathode. That reaction turns the lithium ions to lithium peroxide, releasing electrons and generating electricity for the engine.

Once the battery is saturated with oxygen, it reaches the end of its charge and it must be connected to a power source to recharge. When recharging, it releases oxygen back into the air, returning the lithium back to its ion state.

We need to know how to reach you

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Thank you!

Staying ahead...

Hard times and travail are inevitable in life; misery is optional.

--Rev. Joel Osteen

WASHINGTON AREA NEW AUTOMOBILE DEALERS ASSOCIATION