



THE WANADA BULLETIN

NEWS AND INFORMATION FOR AND ABOUT FRANCHISED NEW CAR DEALERS IN THE WASHINGTON AREA

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Dealer leaders from across the U.S. convene in Washington to carry industry agenda to Congress

NADA pushes passage of HR 1737 to curb overreach by CFPB regulators

New auto dealer leaders from every corner of the U.S. were in DC this week to attend NADA's Annual Washington Conference where they were brought up to speed on the national dealer legislative agenda, which they in turn took to their members in Congress. Regulatory overreach by federal agencies aimed at dealers was a recurring topic this year as members of Congress, a commissioner from the Federal Trade Commission (FTC) and Washington political pundits, the like of Charlie Cook, addressed the conferees. The conference itself was comprised of dealer association representatives from the national boards of NADA, NAMAD and AIADA, along with dealer group leaders from state and metropolitan associations affiliated with the Automotive Trade Association network (ATAE). Representing WANADA at the conference were: Dick Patterson (RRR Automotive), Geoff Pohanka (Pohanka Automotive), and Jack Fitzgerald (Fitzgerald AutoMalls), WANADA chairman, NADA director for Metro Washington, and WANADA DEAC representative, respectively. Additionally, John O'Donnell and Gerard Murphy were at the Washington Conference, attending as WANADA CEO and general counsel, respectively.

Rep. David Scott (D-Ga), an African American member of the Democrat Caucus in the House, reiterated his early and steadfast co-sponsorship of HR 1737, *Reforming CFPB Indirect Auto Financing Guidance Act*, that would get the Consumer Finance Protection Bureau out of the dealers' business of arranging credit in vehicle sales where, as an express part of the Dodd/Frank Finance Reform Act, CFPB regulatory authority is excluded. Of note was Rep. Scott's unequivocal rejection of CFPB's well publicized claim that there is widespread, illegal discrimination against minorities in the vehicle credit process by dealers arranging higher credit

rate offers for minorities than non-minorities. “There is nothing to support CFPB’s contention that dealers discriminate against minorities when they’re arranging credit for vehicle buyers other than CFPB’s say so, and that simply doesn’t justify their position that dealers shouldn’t be credit arrangers,” Scott said.

Besides Scott there are 133 cosponsors of HR 1737 from both sides of the isle, including a number from the metropolitan Washington area who are or will be signing on to the legislation. WANADA teamed up with MADA and VADA in bringing dealers together with members of Congress in an all-out effort to check CFPB’s misdirected regulatory zeal through the passage of HR 1737. For NADA’s run down on HR 1737, [click here](#).

Another important area of regulatory concern discussed at the Washington Conference was stepped up scrutiny of the automobile business by FTC. This report came directly from one of the FTC commissioners who spoke, Maureen Ohlhausen, who cautioned dealers about engaging in deceptive advertising, pointing to a marked increase in law enforcement actions by the FTC against dealers. Commissioner Ohlhausen also reminded dealers about the relatively new realms of FTC law enforcement they need to regard, such as the Safeguards Rule and Red Flags Rule. These, of course, have to do with the dealer’s obligation to protect consumer information, such as -- social security numbers -- from identity theft. Concluding on a helpful note, the commissioner referred dealers to www.nada.org for NADA’s Fair Dealer Advertising Guidelines, along with FTC’s website, which she said had useful business compliance references, @ www.ftc.com.

Rounding out the Conference presentations was Rand Paul, senator from Kentucky and Republican candidate among a field of many for president of the United States. And then there was everyone’s favorite Washington pundit, Charlie Cook, who during his Conference segment referenced a member of the current 114th Congress who had this to say reflecting on his job: “When I’m in Washington, I try to convince people that I’m not crazy, but when I go home, I try to convince them that I am.”



Member of Congress with fellow dealers. Pictured 3rd from the right, above, is Don Beyer, Jr., one of Virginia’s newest congressmen and longstanding owner of Don Beyer Motors in Northern VA. Right of Beyer are WANADA officers Charles Stringfellow (Malloy Hyundai) and Dick Patterson (RRR). Left of Beyer are John O’Donnell, WANADA CEO; Michael Harrington, NADA legislative; Geoff Pohanka, NADA director, Met. Wash (Pohanka Automotive); and Daniel Jobe, NADA director, Maryland (Capitol Cadillac).



Van Hollen for U.S. Senate. Pictured above, right of Dottie Fitzgerald (Fitzgerald AutoMalls) is Rep. Chris Van Hollen, longtime Maryland Congressman representing Montgomery County who is looking to get elected to the Senate to represent the state. Pictured left of Van Hollen is Peter Kitzmiller, MADA; Gerard Murphy, WANADA; Robert Fogarty, Sr, Sport Automotive; Pat Kavanaugh, Hamilton & Hamilton; and Daniel Jobe, Capitol Cadillac. To the right of Van Hollen is John O'Donnell, WANADA; Robert Hisaoka, RRR; Jamie Darvish, DARCARS; John Darvish, Jr, DARCARS; Chip Doetsch, Apple Ford; and Jack Fitzgerald, Fitzgerald AutoMalls. Back row, right most is Rob Smith, Fitzgerald AutoMalls.

WANADA Annual Luncheon to feature radio host Laura Ingraham



Radio host and best-selling author Ingraham will address members at the WANADA Annual Luncheon.

Save the Date: Tues., Dec. 8, Ritz/Tysons

The WANADA Annual Meeting and Luncheon will feature popular political commentator and talk radio host Laura Ingraham, whose *The Laura Ingraham Show* is ranked in radio's Top 5 and is the third most streamed show in the country. The meeting will take place Tuesday, December 8, at the beautiful Ritz-Carlton Tysons Corner. The occasion always provides excellent opportunities for networking and seasonal camaraderie.

Ingraham is the author of several *New York Times* bestsellers, including *Of Thee I Zing*, *The Obama Diaries*, *Power to the People* and *Shut Up & Sing*. As the primary substitute host on *The O'Reilly Factor* and Fox News contributor, she is among the most prominent political and cultural commentators in America today. Ingraham is a former white collar defense attorney and Supreme Court law clerk.

The agenda for the meeting includes a networking reception at 11:30 a.m., lunch at 12:00 p.m., WANADA Business Session at 12:30 p.m., Ingraham's keynote speech at 1:00 p.m. and adjournment at 2:00 p.m. Please note the Dec. 8 date and registration information will be emailed and distributed in the next couple weeks to members.

Upgrade to new credit card technology to avoid liability

Starting October 1, all retailers, including auto dealers, could be liable for credit card fraud damages if they have not upgraded their credit card technology to accept a new type of card. The new cards, known as chip cards, are embedded with an anti-fraud computer chip that makes the information on the card much harder for a thief to steal and clone onto a new card.

Chip cards are based on a global card payment standard called EMV (Europay, MasterCard, Visa), used in 80 countries, according to the Small Business Administration. Credit card fraud has dropped significantly in those countries, and the U.S. is migrating to the new technology.

Although no law requires merchants to adopt the new technology, liability for credit card fraud shifts from the credit card issuers to retailers as of October 1. After that date, any dealership where a chip card is used but the store has old credit card technology can be held liable for fraud. To acquire an EMV-compliant processing device, check with your payment services provider.

The SBA and Square, a credit card processing service, are offering a free webinar for small businesses on October 14 at 2:00 p.m., *EMV 101 - What Small Businesses Need to Know about the Switch to Chip Card Technology*. Topics include what the transition to EMV chip card technology means for small businesses; what EMV chip card technology is and why it's more secure, and how to prepare for new fraud liability rules affecting merchants starting October 1. Registration is free but required. Click [here](#) to register.

Dealers must send Medicare notice by October 15

Before October 15, all employers with prescription drug benefits in their group health plan must provide an annual Notice of Creditable Coverage to all Medicare-eligible employees. This notice should inform the employee if the drug coverage offered through the group plan is as good as the benefits offered through Medicare Part D. The Notice of Creditable Coverage must be sent **before October 15**. Medicare D annual enrollment is October 15 through December 7.

The Centers for Medicare and Medicaid Services (CMS) have provided forms and instructions on the required notice to aid employers:

Instructions – Click [here](#).

Sample Letters – Click [here](#).

All employers are also required to provide an annual disclosure to the CMS stating whether the group plan provides prescription drug coverage that is creditable or non-creditable. This disclosure must be filed online – Click [here](#).

Please contact our team at WANADA (202-237-7200) should you have any questions about the annual Medicare Part D notices.



Employers offering prescription drug benefits must provide a notice to Medicare-eligible employees.

Dealers wait for more help from VW on emissions scandal

At this point, Volkswagen's 650 dealers are stuck with thousands of diesel vehicles on their lots that can't be sold, irate customers and a plunging brand image. Dealer lawsuits are a possibility, and about 25 class action suits were filed across the country just in the first four days

after the scandal broke. Until now, diesel has made up nearly a quarter of VW and Audi's U.S. sales.

Dealers have been offered some financial recompense, according to *Automotive News*. They will receive floor plan financing reimbursement for both new and certified pre-owned diesel vehicles that are grounded on their lots. Dealers will also be paid 1 percent of sticker for each vehicle sold in the third and fourth quarter. The "jury is out" on any set back to VW sales in the weeks of 2015.

VW was already at or near the bottom of NADA's Dealer Attitude Survey, and sales were down nearly 3 percent through August. A few days after the scandal broke, NADA issued this statement:

"Volkswagen's acknowledged misconduct regarding its vehicle emissions has been extremely disappointing, and dealers are deeply concerned about how this breach of trust will affect their customers. Consumers deserve to be able to take manufacturer claims about vehicles at face value, and dealers stand ready to perform recall work and do whatever they can to help affected customers deal with the fallout from Volkswagen's egregious misconduct." Any dealers with questions may call NADA's Industry Relations department at (703) 821-7010.

The implications go beyond VW dealers. AutoNation CEO Mike Jackson was among the industry observers who said diesel will likely take a major beating in the industry overall. If that's true, we'll see more hybrids and electric vehicles as automakers scramble to meet federal fuel economy regulations by 2025. It will certainly be hard for VW for meet those requirements now.

The Diesel Technology Forum defended the technology, saying in a statement, "The circumstances involving a single manufacturer do not define an entire technology, or an industry. Vehicle manufacturers and engine makes have invested billions of dollars in research and development to successfully meet the most aggressive emissions standards in the world."

Even the federal regulators feel betrayed. NHTSA Administrator Mark Rosekind told reporters that VW's admission of cheating, along with the problems of General Motors, Takata and Fiat Chrysler, show that regulators have to question everything they are told by automakers and manufacturers, according to the *Detroit News*. EPA Administrator Gina McCarthy said the agency is "upping its game" to catch automakers who cheat on tests. EPA plans to issue a recall of VW's diesel vehicles and said it will take a year to do the repairs. In the long term, Brett Smith of the Center for Automotive Research told NPR, regulators will have to rethink how they do emissions tests and will likely decide they want to do more testing themselves.

Save the date: NADA Convention now in the spring



After many years of winter dates, the NADA Convention has been moved to the spring.

Mark your calendars now to attend NADA's Convention and Expo in Las Vegas, Thursday, March 31 to Saturday, April 3, 2016. After many years, the dates have been moved to the spring to avoid any possibility of winter storms upsetting travel plans. The revised dates offer the added benefit of ensuring that WANADA members who want to attend the Washington Auto Show Media and Public Policy Days may do so without conflict with the NADA Convention. The NADA Convention will for the foreseeable

future be in Las Vegas, where excellent weather and good fortune are probable for all.

Internal memos show CFPB overestimated potential bias

The Consumer Financial Protection Bureau's internal documents show that the agency knew its "disparate impact" theory could overestimate potential discrimination in auto loans. But the CFPB considered that a preferable alternative to *underestimating* bias. The news was reported by *American Banker*.

Because auto loans don't reveal the buyer's race, the CFPB used a proxy method in its study, relying on aggregate information about surnames and zip codes. A potential problem with that method, *American Banker* notes, is that individual buyers who have not been discriminated against could receive refunds in a settlement. The outcome is still uncertain because very few cases have reached the point where borrowers are receiving refunds.

Internal CFPB memos were somewhat contradictory on dealer markup. Although the agency now says its aim is to abolish potential discrimination, not to eliminate dealer markup, one memo talked about "eliminating markup at many major lenders" as a way to resolve disparities in lending.

NADA chairman on cost of higher fuel economy

NADA Chairman Bill Fox says the federal fuel economy standards will take millions of car buyers out of the economy. He told WardsAuto that although he favors better fuel economy, the extra \$3,200 per car for the new technology (NADA's estimate) will make the cars unaffordable for many.

Current standards call for a fleet average of 54.5 mpg by 2025. The industry will no doubt work to make a case during the mid-term review in 2017 that the standard needs to be adjusted. Fox says that hybrid cars don't sell well in rural areas, where residents want trucks for farming.

Millennials favor some out-of-production used models

Several models that are no longer produced, including the Dodge Magnum, Chrysler Pacifica and Pontiac Aztek, are favorites among millennial buyers, according to Edmunds.com.

Edmunds found that 28 percent of used Magnums were bought by consumers age 18 to 34 in the first six months of 2015. The Pacifica is not far behind, followed by the Aztek (which saw a resurgence after it was featured in the TV series *Breaking Bad*), Saturn Outlook, Chevrolet Trailblazer and Volkswagen R32.



The Dodge Magnum was the favorite used vehicle of millennials in the first half of the year. Photo by IFCAR.

"When it comes to used cars, value and utility appear to trump just about anything else for many millennial buyers," said Edmunds.com analyst Jeremy Acevedo.

Consumers leery of self-parking features

As automakers increasingly integrate self-parking features into new vehicles, consumers say they are not ready to give up control. A new AAA survey found that nearly 80 percent of

American drivers are confident in their parallel parking abilities and only one in four would trust this technology to park their vehicle.

But AAA testing found that self-parking technology outperformed manual parallel parking in four areas: fewer curb strikes, fewer maneuvers, greater speed and greater closeness to the curb.

“While Americans report feeling confident in their parallel parking abilities, this technology proves there is room for improvement,” said Megan McKernan, manager of the Automobile Club of Southern California’s Automotive Research Center.

One caveat: AAA found that some systems parked the vehicles extremely close to the curb, leaving wheel and tires vulnerable to scratches and repairs.

Thought for the week...

A Republican ticket with Rubio for president and Kasich for vice president would be hard for the Democrats to beat in 2016.

--Charlie Cook
Washington Insider

