



# THE WANADA BULLETIN

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

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## Headlines...

Dealer associations convene on public policy, gov't relations and the franchise system

Reminder: Dealers with health care plans must provide SPDs

Sign up for WANADA's Annual Luncheon with George Will, Dec 2

NADA: New-car sales healthy, used prices down, incentives up

Flat auto fees are anticompetitive, says NADA chairman

Fuel economy hits record high in 2013, but growth rate is slowing

Know your market: Retirement income ample in DC, not Md., Va.

Hybrid owners satisfied, non-owners consider buying a hybrid

Voice-based technologies may increase driver distraction – AAA

Staying Ahead...

## Dealer associations convene on public policy, gov't relations and the franchise system

New auto dealer associations making up the Automotive Trade Associations network (ATAE) came together last week in Chicago to focus on state and national level public policy initiatives for their automotive retailer members in the context of external industry relations with the government; internal industry relations between OEMs and dealers; the integrity of the franchise system; and plaintiffs' lawyer- inspired consumer protection initiatives. WANADA was in attendance for the two day conference along with sister dealer associations from states and major metropolitan areas across the U.S. and Canada. NADA's legislative, regulatory and legal teams were on hand, working in tandem with ATAE coordinators on the agenda, joined by AIADA and NAMAD representatives.

Specific issues covered were the following:

1. The Tesla- inspired challenge to state licensing laws governing the retailers of motor vehicles was presented as Massachusetts, New Jersey and Pennsylvania this year came to terms with Tesla and the respective dealer associations in those jurisdictions as the high end , electric car maker continues its ongoing state- by- state quest to retail its cars without dealers in violation most vehicle retail sale requirements.
2. With the massive GM recalls as a backdrop, the rules of engagement for vehicle recalls were front and center with respect to dealer rights and obligations. And not surprisingly, consumer advocates, with their plaintiffs' lawyer associates, were out and about in the states looking to legislatures to broaden recall liability to older used cars where lost paper

work and/or unresponsive prior owners would leave the vehicle without recall repairs opening the door to regulatory agency reprisals and plaintiffs' lawyer suits against dealers.

3. Consumer Finance Protection Bureau (CFPB)'s position that minorities are discriminated against in dealerships when they apply for auto financing continues to have ATAE and the national dealer organization concerned. First and foremost, NADA is focused on providing dealers with staff programs to ensure that the dealer can document that they do not discriminate against minorities in arranging credit for auto sales. The related issue is the banks and finance companies CFPB regulates, with the threat of regulatory reprisal against them, to ensure the bank's dealer partners don't discriminate. How so? By lowering or flattening the compensation the dealer gets as a credit arranger from the bank, CFPB says. CFPB continues to be unresponsive to scrutiny of their regulatory methodology which has caused NADA to introduce legislation in Congress (HR 5403), that to date has garnered bipartisan support, to compel CFPB to be more transparent and accountable as a regulatory agency.
4. The impact of state right to repair laws enabling independent repair facilities to access OEM service protocols that were once the exclusive domain of dealer service departments was reviewed.
5. The implications of the withdrawal of the lawsuit by OEM members of the Alliance of Auto Manufacturers filed several years ago against the state of Florida and Florida auto dealers on a *second generation* warranty reimbursement bill that passed into law were considered, principally because of the constitutional questions the OEMs raised relative to their being held to a standard where they could not treat Florida dealers differently than dealers in other states.
6. A final matter discussed was the dealer's obligation to keep private secure and private customer information and the new challenge in this regard presented through on board vehicle telematics.

ATAE and NADA come together several times per year in forums like the aforementioned Chicago Law and Legislative Conference to consider government relations and public policy. These include the recently concluded NADA Washington Conference; the Annual ATAE Summer Conference; and the ATAE Annual Meeting at the NADA Convention. Focus groups include the Auto Shows of North America; the ATAE Insurance Programming Meeting; the ATAE Event Planners Meeting; and new next month, the PR and Communications Symposium. Included in the ATAE network, too, are meetings of all four ATAE Regions, covering Northeast, Southern, the Midwest and the West. The Chicago Law and Legislation Conference was immediately followed by the ATAE Region I that covers the Northeast of which WANADA is a part. The ATAE Region meetings typically focus on dealer association programs and projects that can be shared among the participants.

In total, the ATAE network, including NADA, consists of about 90 dealer association in the U.S. and Canada.

## Reminder: Dealers with health care plans must provide SPDs



Summary Plan Descriptions must be made available during open enrollment meetings.

Here's a timely reminder for dealers with health care plans: Plan administrators must provide certain documents on the operation and management of their plan to all plan participants. One of the most important documents, the Summary Plan Description (SPD), must be made available around the time of renewal – in other words, during open enrollment. The SPD tells participants what the plan is and how it operates.

In most cases, the information required in the SPD is provided by the insurance carrier, though it does not usually appear in a single source. The three sources may have different names depending on the carrier, but in general are: 1) the "Evidence of Coverage" or "Certificate of Coverage;" 2) the "Group Agreement" or "Plan Agreement;" and 3) the "Summary of Benefits" or "Summary of Benefits and Coverage." Legal guidance on the distribution of the SPDs states that they must be furnished in a way that is reasonably calculated to ensure receipt using a method likely to result in full distribution.

The Evidence (or Certificate) of Coverage and the Group (or Plan) Agreement are documents sent out by the carrier around the time of renewal if any plan changes have occurred – around the same time as the SPD.

If you have any questions about the SPD requirement, please call Ed Mullaney or Joe Koch at WANADA, (202) 237-7200. More information can also be found online at these websites:

[US Department of Labor, Plan Information](#)

[US Department of Labor, Reporting & Disclosure Guide for Employee Benefit Plans](#)

[Cornell University Law School, 29 CFR 2520.104b-2 - Summary plan description.](#)

## Sign up for WANADA's Annual Luncheon with George Will December 2, Ritz Tysons Corner

In addition to the electronic version of the registration form for WANADA's annual lunch and the Bio on George Will, these materials were sent by U.S. mail in hard copy this week to all WANADA members and bulletin readers. The event will take place December 2nd at the Ritz-Carlton, Tysons Corner, Va.

Will is not only known for his authoritative and lively commentary on national news shows, but is also America's most widely read columnist. His column has been syndicated by the *Washington Post* since 1974 and appears twice weekly in 500 newspapers in the United States and Europe. He received an enthusiastic reception when he spoke at WANADA's Annual Luncheon ten years ago and will surely have plenty to say about the gridlock in Congress and the difficulties on the international stage.



George Will will be the keynote speaker at WANADA's Annual Luncheon.

During the Annual Meeting and Luncheon, WANADA leadership will present a comprehensive state of the industry and regional automobile business report to the membership. Members will also elect WANADA's 2015 Board of Directors in the Annual Meeting portion of the luncheon, as Danny Korengold *passes the chairman's gavel* to Dick Patterson.

Luncheon tickets are available now for individual seats or at a discounted table rate. To pay by credit card click [here](#). To pay with a check, click [here](#) and download the registration form. For more information on the Annual Meeting & Luncheon, contact Kristina Henry, director of events, at (202) 237-7200 or [kh@wanada.org](mailto:kh@wanada.org).

## NADA: New-car sales healthy, used prices down, incentives up

A new report from NADA Used Car Guide shows optimism about the economy and new car sales (again), along with lower wholesale prices for used cars and manufacturer incentive spending year-to-date 9 percent higher than in 2013. NADA is sticking to its 16.4 million light vehicle sales forecast for 2014.

Despite wage stagnation and a decline in labor force participation, the U.S. economy has strong fundamentals and appears to be headed for growth. The weakness of other economies helps strengthen the dollar, which in turn should keep inflation low, says Steven Szakaly, NADA chief economist.

"Used vehicles depreciated at an above average rate for the third straight month in September, as wholesale prices of vehicles up to eight years in age fell by 3.6 percent compared to August," says the report, the October issue of *Guidelines*. It was the weakest third quarter for prices since 2002. The reasons: downward pressure from the successful new vehicle market and increasing volumes of off-rental units.

Pent-up demand, an array of new models and continuing economic growth were the main drivers of new sales, but manufacturer incentives also played a role. Incentives jumped 18 percent from third quarter 2013 to a level not seen since mid-2005 (except during the recession in 2009). Incentives on new vehicles no doubt persuaded some traditional used car buyers to buy new. Szakaly predicts that manufacturers will continue to offer aggressive incentives.



Luxury utilities up to eight years old, such as this 2010 Lexus GX, will likely take some of the great depreciation hit in October.

Higher volumes of off-rental 2013 and 2014 vehicles at auctions added to the pressure on wholesale prices. Depreciation in September was strongest for the subcompact, compact and midsize car segments.

Szakaly's used vehicle forecast for October: Prices of vehicles up to eight years old are expected to drop by 3.1 percent to 3.6 percent. Luxury cars, luxury utilities and midsize vans will see the greatest drop in prices, thanks to their increase in off-rental supply.

## Flat auto finance fees are anticompetitive, says NADA chairman

"Dealer-assisted financing provides car buyers with the ability to get a discounted auto rate from the dealer," NADA Chairman Forrest McConnell said in a speech to the Automotive Press Association in Detroit last week. "But the government is trying to take away a customer's right to get that discount."

The Consumer Financial Protection Bureau (CFPB)'s insistence on flat fees eliminates a customer's right to get a discount, McConnell told reporters. "The current system works because it forces banks to compete and offer dealers low rates to get their business. Next, dealers have to discount those rates to beat the competition or meet a customer's budget." Both those factors drive down customers' rates.

But if the current system were changed to flat fees, McConnell said, "Lenders will want to pay higher flats to get business." Dealers would have the incentive to choose the lender with the highest flat fees – and that would drive up rates for customers.

As an alternative to flat fees, McConnell set forth NADA's program that sets a standard starting point for dealer reserve. A dealer who adopts the program could discount the finance rate when there is a legitimate business reason, such as helping a customer fit a monthly payment plan into his or her budget.

Last month, Reps. Ed Perlmutter (D-Colo.) and Marlin Stutzman (R-Ind.) introduced H.R. 5403, a bipartisan bill to nullify the CFPB's auto lending guidance. So far, 60 Republicans and 40 Democrats have signed on as cosponsors.

## Fuel economy hits record high in 2013, but growth rate is slowing

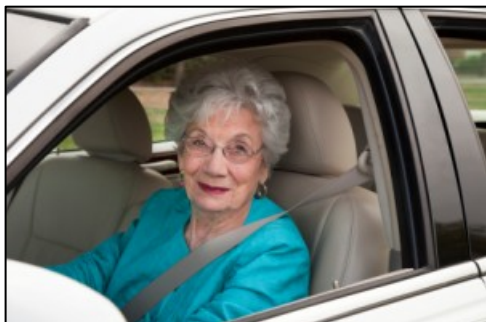
New vehicles hit an all-time high fuel economy of 24.1 mpg in 2013, the Environmental Protection Agency announced. That's a 0.5 mpg increase over 2012 and an increase of nearly 5 mpg since 2004. Average carbon dioxide emissions hit a record low.

To put the numbers in perspective, EPA requires the average fuel economy to double to 54.5 mpg by 2025. NADA called for relaxed standards, saying the requirements are "overly ambitious given moderating and falling fuel prices." The Alliance of Automobile Manufacturers said in a statement that the EPA report is "a vivid reminder that the ultimate success of the national program is not predicated on what we produce, but on what consumers choose to buy, especially with today's lower gas prices."

As dealers are well aware, consumer preference for utility vehicles and trucks is a big factor in recent high sales.

Advanced technologies-- including direct injection engines, turbochargers and advanced transmissions-- helped automakers achieve the higher fuel economy, the EPA said. Mazda, Honda and Subaru had the highest fuel economy.

## Know your market: Retirement income ample in DC, not Md., Va.



Will retirees in Maryland and Virginia be able to afford a new car?

Several studies have shown that baby boomers are the biggest group of car buyers. But will they continue to be able to afford a new car? A new study from Interest.com shows boomers may be financially unprepared for retirement in Maryland and Virginia.

Financial experts say you will generally need at least 70 percent of your preretirement income once you stop working. If counted with the states, DC is the only one that qualifies besides Nevada. The median income for District residents over age 65 is \$47,632, which is 74 percent of preretirement income. That's partly because the base for preretirement income in the study is the median income earned from age 45 to 64, and in DC (unlike every state) the highest paid group is instead those age 25 to 44. The study's author Mike Sante told the *Washington Business Journal* that federal government pensions are likely another factor.

Maryland residents older than 65 have a median income of \$49,494, a mere 56 percent of preretirement income. Although the median income of older Virginians is lower, at \$44,440, that's 59 percent of the state's preretirement income.

## Hybrid owners satisfied, non-owners consider buying a hybrid

Hybrid vehicle owners are very satisfied with their vehicles, and most plan to buy a hybrid again, say University of Michigan researchers. And nearly a third of non-owners plan to buy a hybrid for their next vehicle.

The University of Michigan Transportation Research Institute surveyed about 1,000 current hybrid owners and 1,000 car owners who don't drive hybrids. More than 80 percent of hybrid owners plan to buy another one for their next vehicle. A third of those plan to buy a plug-in car, and 3 percent plan to buy a fully electric vehicle.

Nearly a third of non-hybrid owners intend to buy a hybrid for their next vehicle. More than half of those not considering a hybrid said they would reconsider, especially if the initial costs were lower.

Hybrids made up less than 4 percent of light duty vehicle sales last year. The top reason owners said they bought a hybrid was environmental impact, followed by long-term costs and less energy use.

## Voice-based technologies may increase driver distraction – AAA

Although three out of four drivers believe that hands-free technology is safe to use, voice-activated technologies may increase driver distraction, according to new research by the American Automobile Association Foundation for Traffic Safety.

The study results show that developers of the technology can improve its safety by making it less complicated, more accurate and easier to use. In the meantime, AAA encourages drivers to minimize cognitive distraction by limiting the use of most voice-based technologies.

“We already know that drivers can miss stop signs, pedestrians and other cars while using voice technologies because their minds are not fully focused on the road ahead,” said Bob Darbelnet, chief executive officer of AAA. “We now understand that current shortcomings in these products intended as safety products may unintentionally cause greater levels of cognitive distraction.”

Some results from the study:

- Systems with low accuracy and reliability generated higher distraction.
- Writing text messages and emails using in-vehicle technologies was more distracting than using the systems to listen to messages.
- The quality of the systems’ voice (whether it was natural or synthetic) did not affect the degree of distraction.

### Staying Ahead...

If manufacturers sold directly to customers, there would be zero competition in pricing vehicles, parts and service. Car buyers would be stuck paying the full sticker price – because there would be no “same brand dealership” to shop and compare prices.

--NADA Chairman Forrest McConnell,  
speaking to the Automotive Press Association in Detroit

