



July 16, 2009

Mr. Ronald L. Medford
Acting Deputy Administrator
1200 New Jersey Avenue, SE
West Building
Washington, DC 20590

RE: Consumer Assistance to Recycle and Save Act of 2009

Dear Mr. Medford:

The American Financial Services Association (AFSA)¹ understands that National Highway Traffic Safety Administration (NHTSA) will promulgate regulations implementing the Consumer Assistance to Recycle and Save Act of 2009 (CARS Act). AFSA understands that because the CARS Act requires NHTSA to issue final regulations within 30 days after the enactment, i.e., by July 24, that NHTSA will not be issuing a notice of proposed rulemaking. Nonetheless, AFSA members believe that they could be impacted by the regulations and ask that NHTSA consider the following issues in promulgating regulations implementing the CARS Act:

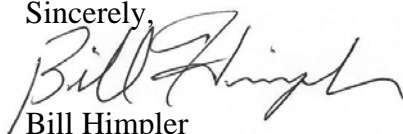
- The regulations should be clear that the obligation to disclose to the consumer the best estimate of the scrappage value of the trade-in vehicle applies to dealers only. Vehicle finance companies do not participate in negotiations or discussions between the dealers and their customers, and only have a relationship with the customer after the dealer and customer enter into a contract. As such, the dealer is in the best position to provide the required disclosure.
- The regulations should be clear that dealers are not required to disclose the best estimate of the scrappage value of the trade-in vehicle on a financing contract, such as the retail installment sale contract. Requiring dealers to include this disclosure on such a contract would impose a significant burden on dealers as they would need to modify the contract forms and reprogram their contract systems. Given the short duration of the CARS program, some dealers may decide that this burden outweighs the benefits of the program, especially given its short duration, and decide not to participate.
- AFSA suggests that NHTSA create a separate form that the dealer may use to disclose the best estimate of the scrappage value of the trade-in vehicle. As discussed above, this disclosure should be a safe harbor form, separate from the retail installment sale contract. A separate disclosure is easier to create and quicker to remove when the program ends. NHTSA should provide such a form in its final regulations to help the program operate more smoothly and clearly.

¹ AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. Its 350 members include consumer and commercial finance companies, auto finance/leasing companies, mortgage lenders, credit card issuers, industrial banks and industry suppliers.

- The regulations should be clear that the dealers do not need to complete a sale of the trade-in vehicle to an entity that will ensure proper disposal of the vehicle in order to obtain reimbursement under the Program. Such a requirement would be inconsistent with the CARS Act which merely requires that the dealer certify that the vehicle will be transferred to such an entity. Moreover, it would also impose an unreasonable delay in the reimbursement process, and delay the availability of such funds for application to the dealer's floorplan and other obligations.
- AFSA believes that dealers should have the option of providing required documentation to NHTSA electronically in order to limit any delay in the dealers' receipt of the voucher funds so that such funds will be available to apply to their new floorplan and other obligations. But for the CARS program, these funds would come from either the dealer's sale of the trade or the receipt of used floorplan funding (which often occur more quickly than the 10 days required for delivery of the voucher amount).
- AFSA requests that NHTSA clarify that dealers may assign the electronic vouchers to their creditors or other third parties who may then redeem them under the CARS program.
- AFSA asks that NHTSA define the term "voucher" as used in the legislation, and distinguish the voucher delivery from the actual funds transfer as such distinction exists.
- AFSA requests that NHTSA clarify that in determining what the customer owes, the dealer may reduce the purchase or lease price by both any scrap value amount negotiated between the dealer and the customer and the voucher amount associated with the transaction.
- AFSA requests that NHTSA specifically state that financial institutions are NOT bound by the provisions of the CARS Program and hence are not liable for dealer violations of the CARS program provisions and subject to the civil penalties of the Act.
- AFSA requests that clarification be given regarding the actual documentation requirements for the dealer and the retention periods for all documents for the CARS Program. Additionally, this should state whether electronic or hard copies are allowed.

Thank you for your consideration. Please contact me with any questions at 202-296-5544 (ext. 616) or bhimpler@afsamail.org.

Sincerely,



Bill Himpler
Executive Vice President
American Financial Services Association

CC: David Sparks, Director, Office of Odometer Fraud Investigation