U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF ADVOCACY
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Fact Sheet

Advocacy Submits Comments on the Federal Trade Commission's Motor Vehicles Proposed Rule

On July 13, 2022, the FTC published a notice of proposed rulemaking (NPRM) related to the sale, financing, and leasing of motor vehicles by motor vehicle dealers. The NPRM would prohibit motor vehicle dealers from making certain misrepresentations, require accurate pricing disclosures in dealers' advertising and sales discussions, require dealers to obtain consumers' express, informed consent for charges, prohibit the sale of any add-on product or service that confers no benefit to the consumer, and require dealers to keep records of advertisements and customer transactions. On September 8, 2022, the Office of Advocacy submitted a comment letter on the Federal Trade Commission's (FTC) notice of proposed rulemaking on the Motor Vehicle Trade Regulation.

- The FTC believes that the NPRM will not have a significant economic impact on small entities. However, they state that they did not consider specific alternatives for small businesses. The NPRM also does not provide description of the impact of the rule as required by the RFA. Since the FTC did not consider alternatives, the document is not an IRFA, and the FTC's certification is not supported by a factual basis.
- Advocacy encouraged the FTC to perform threshold analyses to determine whether the costs associated with the proposal are significant. If the threshold analysis indicates that there is a significant economic impact, Advocacy encourages the FTC to prepare and publish an IRFA outlining the costs associated with the rulemaking.
- The majority of the commissioners specifically referenced the sale of "cars" in the FTC's statement. The proposal, however, references "motor vehicle," a term that also includes boats, motor homes, and motorcycles. Advocacy asserts that the proposal went beyond the intent of the commission without providing any evidence to indicate that vehicle sales other than car sales were a problem.
- Advocacy encourages the FTC to clarify that the definition of "dealer" does not include a bank or financial institution, because some finance companies maintain dealer licenses to facilitate leased vehicle sales. Advocacy also encouraged the FTC to work with the industry to develop a safe harbor so that finance companies are not liable for activities of which they have no knowledge or control.
- The FTC states that the tens of thousands of complaints they receive each year indicate that dealership misconduct and deceptive practices persist. However, less than one percent of consumers reported a problem, which does not indicate a pervasive problem. Advocacy asserts that the FTC should educate consumers rather than punishing the industry for the behavior of a few bad actors.

Advocacy's letter to the FTC is available here. For more information, please contact Jennifer A. Smith, Assistant Chief Counsel, at Jennifer.Smith@sba.gov.