



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

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ATLANTA REGIONAL OFFICE**

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**June 9, 1999**

The Honorable George W. Miller, Jr.  
Chairman, Finance Committee  
House of Representatives  
532 Legislative Office Building  
Raleigh, North Carolina 27601-1096

Dear Chairman Miller:

The Atlanta Regional Office of the Federal Trade Commission<sup>(1)</sup> is pleased to respond to your April 28, 1999, request for comments on Senate Bill 420, "An Act To Clarify The Dealers and Manufacturers Licensing Law" (S.B. 420) and Senate Bill 419, "An Act to Clarify Motor Vehicle Dealer Transfer Rights" (S.B. 419), currently being considered by the North Carolina Legislature. Both bills would amend existing North Carolina law <sup>(2)</sup> governing how motor vehicle manufacturers distribute their automobiles in North Carolina and the relationship between motor vehicle manufacturers and dealers by prohibiting manufacturers from owning or controlling a dealership in North Carolina except in limited circumstances.

The proposed legislation would further shield motor vehicle distribution from market forces and thus could increase prices to consumers. In general, most distributors know that if they attempt to charge more than the competitive price or offer poor customer service, manufacturers can move their business to new distributors that are willing to charge lower prices or offer better customer service. Or, in the alternative, the manufacturer can distribute its products on its own. The current North Carolina law, which is further tightened by both bills, eliminates this competitive pressure by making it extremely difficult for manufacturers to alter their distribution system. The staff believes that the likely result of such a restrictive distribution system will be increased consumer prices.<sup>(3)</sup>

The Commission is an independent administrative agency responsible for maintaining competition and safeguarding the interests of consumers. In the course of research, investigation, and litigation of antitrust and consumer protection matters, the staff applies established principles and recent developments in economic theory and empirical analysis. Upon request, the staff of the Commission also analyzes regulatory or legislative proposals that may affect competition or the efficiency of the economy.<sup>(6)</sup> Commission staff also has gained experience relating to the motor vehicle industry through many investigations and cases.<sup>(7)</sup>

### **Current North Carolina Law Governing Motor Vehicle Dealerships**

Current North Carolina law regulates the relationship between a motor vehicle manufacturer and a dealer. Generally, it is unlawful for a manufacturer: (1) to coerce a dealer to accept delivery of any motor vehicle not ordered, (2) to threaten to cancel a dealer's franchise, (3) to prevent the transfer of a dealership, (4) to grant additional franchises, or (5) to terminate a franchise without good cause, etc. The statute vests with a state commissioner the authority to enforce the provisions of this regulatory scheme. The current statute also provides existing motor vehicle dealerships with administrative avenues for challenging a decision by a dealer's manufacturer to establish a competing dealership in the same "relevant market area" (RMA). In addition, North Carolina currently restricts a manufacturer from owning

or controlling any motor vehicle dealership in a relevant RMA already served by the same line or make from the manufacturer.

**Additional Restrictions Contained in Both Bil**



