



The FTC Act and other laws the Commission administers permit the collection of public comments to consider and to use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. To read our policy on how we handle the information you submit - including routine uses permitted by the Privacy Act - please review the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

**FOR FURTHER INFORMATION CONTACT:** John C. Hallerud, (312) 960-5615, Attorney, Midwest Region, Federal Trade Commission.

**SUPPLEMENTARY INFORMATION:**

The Commission promulgated the Used Car Rule in 1984 and the Rule became effective in 1985.<sup>2</sup> The Used Car Rule is intended primarily to prevent oral misrepresentations and unfair omissions of material facts by used car dealers concerning warranty coverage. To accomplish that goal, the Rule provides a uniform method for disclosing warranty information on a window sticker called the "Buyers Guide" that dealers are required to display on used cars. The Rule requires used car dealers to disclose on the Buyers Guide whether they are offering a used car for sale with a dealer's warranty and, if so, the basic terms, including the duration of coverage, the percentage of total repair costs to be paid by the dealer, and the exact systems covered by the warranty. The Rule additionally provides that the Buyers Guide disclosures are to be incorporated by reference into the sales contract, and are to govern in the event of an inconsistency between the Buyers Guide and the sales contract. The Rule requires Spanish language versions of the Buyers Guide when dealers conduct sales in Spanish.

The Rule also requires other disclosures that must be printed directly on the Buyers Guide, including:

(1) A suggestion that consumers ask the dealer if a pre-purchase inspection is permitted;

(2) A warning against reliance on spoken promises that are not confirmed in writing; and

(3) A list of fourteen major systems of a used motor vehicle and the major defects that may occur in these systems.

In 1995, as part of its periodic review, the Commission amended the Used Car Rule.<sup>3</sup> Specifically, the Commission amended the Rule by: (1) adopting several minor grammatical changes to the Spanish language version of the Buyers Guide; (2) permitting dealers to display a Buyers Guide anywhere on a used motor vehicle so long as the Buyers Guide is displayed prominently and both sides of it are readily readable; and (3) allowing dealers to obtain a consumer's signature on the Buyers Guide to acknowledge receipt.

The Rule provides for both English and Spanish Buyers Guides. In the past, Commission staff has advised dealers who conduct substantial numbers of sales in Spanish to display both English and Spanish Buyers Guides.<sup>4</sup> In response to questions from industry, the Commission is seeking comments on whether the Rule should be revised to permit dealers to use a single bilingual Buyers Guide. The Commission is also seeking proposals for the design of bilingual Buyers Guides.

The reverse side of the Buyers Guide contains a pre-printed list of fourteen major systems and the defects that may occur in those systems. That list has not been changed since the Used Car Rule was promulgated in 1984. The list was promulgated from the rulemaking proceeding and from information gleaned from prior versions of the Used Car Rule. The Commission is seeking comments on the value of the Buyers Guide's pre-printed list of major systems and defects and whether the list should be revised or eliminated.

The Commission is also seeking comments on how well the current method for disclosing unexpired manufacturer's warranties on the Buyers Guide is working. In connection with that inquiry, the Commission is seeking comments on a possible alternative Buyers Guide to aid in disclosing dealers' warranties, unexpired manufacturer's warranties, manufacturer's used car warranties, and used car warranties provided by third parties other than the manufacturer. Examples of Buyers Guides that incorporate a revised method for

disclosing these various types of warranties are attached to this notice as Appendices A and B.

The Commission reviews all of its rules and guides periodically to examine their efficacy, costs, and benefits; and to determine whether to retain, modify, or rescind them. This notice commences the Commission's review of the Used Car Rule.

*A. General Areas of Interest for FTC Review*

As part of its review, the Commission is seeking comment on a number of general issues, including the continuing need for the Used Car Rule and its economic impact, the effect of the Rule on deception in the used car market, and the interaction of the Rule with other regulations. Since the Commission's last revisions of the Rule in 1995, new used car products, such as certified used car warranties, have become increasingly popular. The Commission believes that this review is important to ensure that the Rule is appropriately responsive to any changes in the marketplace.

*B. Specific Areas of Interest for FTC Review*

Since the last revisions to the Rule in 1995, the Commission occasionally has received informal input regarding the efficacy of the Rule and requests for clarification about the Rule's application. Some of the questions included in this notice, therefore, address specific issues. By including these issues, the Commission intends to facilitate comment, and the inclusion or exclusion of any issue is no indication of the Commission's intent to make any specific modifications to the Rule.

The Commission requests written comment on any or all of the following questions. The Commission requests that responses to its questions be as specific as possible, including a reference to the question being answered, and reference to empirical data or other evidence wherever available and appropriate.

*A. General Issues*

(1) Is there a continuing need for the Rule? Why or why not?

(2) What benefits has the Rule provided to consumers? What evidence supports the asserted benefits?

(3) What modifications, if any, should be made to the Rule to increase its benefits to consumers?

<sup>3</sup> 60 FR 62,195 (December 5, 1995).

<sup>4</sup> See Staff Compliance Guidelines, 53 FR 17,660, 17,664, 17,667 (Illustration 3.10) (May 17, 1988). The Staff Compliance Guidelines and other information about the Used Car Rule are available online from the Commission's Web site at [www.ftc.gov](http://www.ftc.gov).

<sup>2</sup> 49 FR 45,692 (November 19, 1984).

- (a) What evidence supports the proposed modifications?
- (b) How would these modifications

MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle. Consult the manufacturer's warranty booklet for details as to warranty coverage, service location, etc.<sup>5</sup>

Separately and beneath that statement, in states that permit "as is" sales, dealers may add:

The dealership itself assumes no responsibility for any repairs, regardless of any oral statements about the vehicle. All warranty coverage comes from the unexpired manufacturer's warranty.<sup>6</sup>

(a) What benefits, if any, does the method permitted by the Rule for disclosing unexpired manufacturer's warranties provide consumers?

(b) What burdens does the method permitted by the Rule for disclosing unexpired manufacturer's warranties impose on consumers?

(c) What benefits does the method for disclosing unexpired manufacturer's warranties permitted by the Rule provide businesses, and in particular small businesses?

(d) What burdens does the method for disclosing unexpired manufacturer's warranties permitted by the Rule provide businesses, and in particular small businesses?

(e) Should the current method permitted by the Rule for disclosing unexpired manufacturer's warranties be modified? If so, why, and how? If not, why not?

(f) Should the Rule provide an option to use a similar method for disclosing other warranties that are included in the price of the used vehicle, such as manufacturer's certified used car warranties and warranties provided by other third parties? If so, why, and how? If not, why not?

(5) Should the optional statement provided by the Rule to indicate that a manufacturer's warranty applies be revised to alert consumers to check the warranty booklet for the expiration date of the manufacturer's warranty by stating: "Consult the manufacturer's warranty booklet for details as to warranty coverage, expiration, service location, etc.?" Why or why not?

(6) Should the Rule require dealers to indicate whether a manufacturer's warranty applies and provide information about the scope of that coverage? Why or why not? Should disclosure of manufacturer's warranties be optional as the Rule currently provides? Why or why not?

(7) Is checking the AS IS - NO WARRANTY box to indicate that the

dealer is not obligated to perform warranty service clear and understandable to consumers? Why or why not? Does checking the AS IS - NO WARRANTY box confuse consumers about whether other warranty or service coverage, such as a manufacturer's warranty, applies? Why or why not? How could the Buyers Guide be redesigned to prevent consumer confusion about the meaning of the "as is" disclosure?

(8) Examples of revised Buyers Guides that provide a different method to disclose manufacturer's warranties and third-party warranties that are included in the price of the used car are attached as Appendices A and B. Appendix A is designed for use in states that permit dealers to sell used cars "as is," *i.e.*, without any warranty from the dealer. Appendix B is designed for use in states that prohibit "as is" sales.

The Buyers Guide attached as Appendix A states:

"AS IS" - NO DEALER WARRANTY THE DEALER WILL NOT PAY ANY COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.

If a dealer chooses to use a Buyers Guide like Appendix A and does not offer its own warranty, the dealer would check the box to indicate that the car is being offered "AS IS" - NO DEALER WARRANTY.

If state law limits or prohibits "as is" sales of vehicles or the dealer chooses to offer the vehicle with implied warranties only when offering a car for sale in a state that permits "as is" sales,

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<sup>5</sup> 16 C.F.R. § 455.2(b)(2)(v).

<sup>6</sup> Staff Compliance Guidelines, 53 Fed. Reg. 17,660 at 17,663 (May 17, 1988).

on this vehicle. Ask for details as to coverage, deductible, price, and exclusions. If you buy a service contract within ninety days of sale, state law "implied warranties" may give you additional rights.

(a) Should the Rule be revised to permit dealers to disclose unexpired manufacturer's warranties, manufacturer's used car warranties, and other used car warranties as shown in Appendices A and B?

(b) What benefits, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B provide to consumers?

(c) What burdens, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B impose on consumers?

(d) What benefits, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B provide to businesses, and in particular to small businesses?

(e) What burdens, if any, would revising the Rule to permit dealers to disclose warranties as shown in Appendices A and B impose on businesses, and in particular on small businesses?

(f) What alternatives, if any, should be considered? Why? If no alternatives should be considered, why not?

(g) Does stating "AS IS" - NO DEALER WARRANTY (See Appendix A) instead of AS IS - NO WARRANTY make the Buyers Guide more clear and understandable to consumers? Why or why not?

(h) Is checking the box marked "AS IS" - NO DEALER WARRANTY to indicate that a dealer does not offer its own warranty clear and understandable to consumers when a dealer also checks one or more of the boxes indicating that a NON-DEALER WARRANTY from

someone other than the dealer applies? Why or why not?

(i) Does stating, "THE DEALER WILL NOT PAY ANY COSTS FOR ANY REPAIRS" (See Appendix A), instead of "YOU WILL PAY ALL COSTS FOR ANY REPAIRS" to explain "AS IS" - NO DEALER WARRANTY make the Buyers Guide in Appendix A more clear and understandable to consumers? Why or why not?

(j) Does adding the statement "FROM THE DEALER" help show that the boxes marked IMPLIED WARRANTIES ONLY and DEALER WARRANTY apply only to warranties that may, or may not, be offered by the dealer? If so, why? If not, why not? If not, how could the format and/or wording be improved?

(k) Does eliminating the lines for text in the SYSTEMS COVERED/DURATION section of the Buyers Guide, as shown in Appendices A and B, make it easier or more difficult to disclose each system covered and the duration of coverage for each system? Why?

(l) If the Rule is revised to permit dealers to use the Buyers Guides in Appendices A and B, what combination of type size, paper size, and formatting, particularly the amount of space allotted for the SYSTEMS COVERED/DURATION section, should be used to accommodate the additional text and other information in the Appendices, while assuring that the Buyers Guides are clear and understandable to consumers? In particular:

(i) Should the Rule be revised to specify smaller or larger type sizes for Buyers Guides like those in Appendices A and B than currently prescribed by the Rule? Why, or why not? If so, specify the type sizes.

(ii) Instead of, or in combination with, changes in type sizes, should the Rule be revised to specify that Buyers Guides like those in Appendices A and B be printed on paper larger than the currently prescribed 11" x 7 1/4"

minimum? Why or why not? If so, specify minimum paper sizes, and identify type sizes if in combination with a recommended type size.

(iii) Instead of, or in combination with changes in type size and paper size, should the space allotted for dealers to disclose warranty coverage and duration in the SYSTEMS COVERED/DURATION section of the Buyers Guide be increased or decreased? Why, or why not? How do changes in type size and paper size affect your answer?

(9) Does the statement "IMPLIED WARRANTIES ONLY" and accompanying text clearly disclose that the dealer offers no express warranty? If not, how could the disclosure be made clearer?

(10) Should the Rule's type style, size, and format requirements for Buyers Guides be revised to accommodate current word processing programs? If so, why, and how? If not, why not?

(11) What other changes to the format of the Buyers Guide should be considered to increase its benefits? What effect would such changes have on the costs or burdens imposed by the Rule? What empirical or other evidence supports opinions that such changes would or would not increase costs or burdens?

(12) What other changes to the format of the Buyers Guide should be considered to reduce compliance costs or burdens? Would such changes have any detrimental effect on the benefits provided by the Rule? What empirical or other evidence supports opinions about whether such changes would have a detrimental effect on benefits?

Motor Vehicles, Trade Practices.

15 U.S.C. 41-58, 15 U.S.C. 2309.  
By direction of the Commission.

Secretary

# BUYERS GUIDE

**IMPORTANT:** Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE                      MODEL                      YEAR                      VIN NUMBER

DEALER STOCK NUMBER (Optional)

## WARRANTIES FOR THIS VEHICLE:

[The following area contains a series of horizontal lines, likely representing a table or a list of warranties, but the content is obscured by heavy black redaction bars.]



# BUYERS GUIDE

**IMPORTANT:** Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE \_\_\_\_\_ MODEL \_\_\_\_\_ YEAR \_\_\_\_\_ VIN NUMBER \_\_\_\_\_

[Redacted area containing multiple horizontal lines, likely representing a table or list of items with obscured content.]

FROM THE DEALER:

**IMPLIED WARRANTIES ONLY**

[Redacted area containing multiple horizontal lines, likely representing a table or list of items with obscured content.]



