



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Secretary

October 21, 2015

Aaron M. Lowe
Senior Vice President, Regulatory and Government Affairs
The Auto Care Association
State of Maryland

Meredith Robertson, Executive Director
Automotive Oil Change Association
State of Texas

Roy Littlefield, Executive Vice President
Executive Vice President
Tire Industry Association & Service Station Dealers of America
State of Maryland

Re:

Second, you ask that the proposed consent include additional affirmative obligations. Specifically, you state that BMW should be required to do more than send letters to current affected MINI consumers. You propose that the Commission require BMW to include in its owner's manuals and automotive warranties a plain English anti-tying disclosure, modeled directly upon language in the Commission's Consumer Alert entitled, "Auto Warranties, Routine Maintenance, and Repairs: Is Using the Dealer a Must?"¹

Part III of the proposed consent order requires BMW to send notices to all affected MINI consumers informing them that their warranties are not conditioned on repair work being performed by MINI dealers or on the use of genuine MINI parts. The letter's message is similar to the guidance contained in the Consumer Alert, and states that absent a Commission waiver, or unless the warrantor provides the parts or service free of charge, the Magnuson-Moss Warranty Act "makes it illegal for manufacturers or dealers to claim that your warranty is void or to deny coverage under your warranty simply because someone other than the dealer did the work," and "[s]imply using an aftermarket or recycled part does not void your warranty."² The Commission believes such a letter is appropriate under the facts of this case.³ The proposed order also requires BMW to post a copy of the notice on the MINI Division's No Cost Maintenance & Warranty webpage for one year.

The Commission will remain vigilant in its efforts to enforce the MMWA and continue to monitor the marketplace and take enforcement action where necessary. The Commission will also continue to evaluate whether additional guidance is necessary to better inform consumers and businesses concerning their rights and responsibilities under the MMWA.

After carefully considering your comment, along with others received in this matter, the Commission has determined that the public interest is best served by issuing the Complaint and Decision and Order in final form without modification. The Complaint and the final Decision and Order are available on the Commission's website, ftc.gov.

¹ FTC, Auto Warranties & Routine Maintenance (July 2011, updated May 2015) ("Consumer Alert"), available at <http://www.consumer.ftc.gov/articles/0138-auto-warranties-routine-maintenance>.

² *Id.*

³ In its recent MMWA rule review, the FTC examined the issue of, and declined to impose, a mandatory disclaimer requirement in warranty documents. See FTC, Final Action Concerning Review of Interpretations of Magnuson-Moss Warranty Act; Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions; Rule Governing Pre-Sale Availability of Written Warranty Terms; Rule Governing Informal Dispute Settlement Procedures; and Guides for the Advertising of Warranties and Guarantees, available at https://www.ftc.gov/system/files/documents/federal_register_notices/2015/07/150720magmossfrn.pdf (July 20, 2015).

Thank you again for your comment. Hearing from a variety of sources is helpful to the Commission's analysis, and we appreciate your interest in this matter.

By direction of the Commission.

Donald S. Clark
Secretary



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Secretary

October 21, 2015

Mr. Michael Wilson
CEO, Automotive Recyclers Association
Commonwealth of Virginia

Re: *In the Matter of BMW of North America, LLC ("BMW")*, FTC File No. 1323150

case.³ The proposed consent order also requires BMW to post a copy of the notice on the MINI Division's No Cost Maintenance & Warranty webpage for one year.

In addition, you note that auto manufacturers have become more aggressive in their advertising by releasing position statements claiming that recycled parts are inferior to OEM parts. You ask that the Commission combat attempts by automakers to deceive consumers about repair part options through misrepresenting warranty provisions. In its MMWA regulatory rule review, the Commission reaffirmed that "Section 5 requires warrantors making performance claims regarding non-original or recycled parts to have a reasonable basis for those claims, thereby ensuring that such claims are not unfair, deceptive, false, or misleading."⁴ The FTC will remain vigilant in its efforts to enforce the MMWA and will continue to evaluate whether additional guidance is necessary to better inform consumers and businesses concerning their rights and responsibilities under the MMWA.

After carefully considering your comment, along with others received in this matter, the Commission has determined that the public interest is best served by issuing the Complaint and



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Secretary

October 21, 2015

Momberger
State of New Mexico

Re: *In the Matter of BMW of North America, LLC* (“BMW”), FTC File No. 1323150

Thank you for your comment on the Federal Trade Commission’s (“Commission”) proposed consent agreement in this proceeding. The Commission has considered your comment

The FTC will continue to remain vigilant in its efforts to enforce the MMWA and will continue to evaluate whether additional guidance is necessary to better inform both consumers and businesses concerning their rights and responsibilities under the MMWA.

After carefully considering your comment, along with others received in this matter, the Commission has determined that the public interest is best served by issuing the Complaint and Decision and Order in final form without modification. The Complaint and the final Decision and Order are available on the Commission's website, ftc.gov.

Thank you again for your comment. Hearing from a variety of sources is helpful to the Commission's analysis, and we appreciate your interest in this matter. 1



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Secretary

October 21, 2015

Miro Kefurt, CEO
SynLube Incorporated
State of Nevada

Re: *In the Matter of BMW of North America, LLC* (“BMW”), FTC File No. 1323150

Dear Mr. Kefurt:

Thank you for your comment on the Federal Trade Commission’s (“Commission”) proposed consent agreement in this proceeding. The Commission has considered your comment and placed it on the public record pursuant to its Rules of Practice. 16 C.F.R. § 4.9(b)(6)(ii).

Your comment expresses support for the initiation of the Commission’s action in this matter and does not propose any specific modification to the proposed consent agreement. After carefully considering your comment, along with others received in this matter, the Commission has determined that the public interest is best served by issuing the Complaint and Decision and Order in final form without modification. The Complaint and the final Decision and Order are available on the Commission’s website, ftc.gov.

Thank you again for your comment. Hearing from a variety of sources is helpful to the Commission’s analysis, and we appreciate your interest in this matter.

By direction of the Commission.

Donald S. Clark
Secretary