



**National Association of Motor Vehicle
Boards and Commissions
San Diego, CA**

2014 Fall Workshop Minutes

Wednesday, September 17, 2014

5:30 p.m. - 7:30 p.m.

**Welcome Reception
Embassy Suites Hotel**

**Welcoming Host Brian Kelly
California State Transportation Agency Secretary**

Thursday, September 18, 2014

9:00 a.m. – 9:30 a.m.

**Welcome Remarks by Jean Shiimoto
Director, CA Department of Motor Vehicles**

Conference Attendee Introductions

9:30 a.m. – 10:30 a.m.

**California ZEV Mandates Legal & Market Expectations
Intertwined**

- Jonathan Morrison –President, Auto Advisory Services
History of Ca ZEV Mandate, Development of ZEV Market
& potential consequences of increasing stringent fleet
penetration requirement

10:45 a.m. - 11:45 p.m.

Internet Advertising and Marketing

- Moderator, Aaron Jacoby, Esq., Arent Fox
- Bruce Zulauf, Director, Department of Revenue, Auto
Industry Division, Colorado Motor Vehicle Dealer Board
- Ken Levin, General Counsel, Edmunds.com

Bruce Zulauf: Detailed CO experience in establishing the work group for internet advertising

Ken Levin: Overviewed internet advertising. Explained that dealers provide an overview of the vehicles and pricing information for each internet advertising provider.

Bruce: Issue with regulators in Colorado is when does market research (as they refer to internet providers) turn into an advertisement. In Colorado it's when the dealers name appears that it now becomes an advertisement. Bruce emphasized needing a trust between the dealer and marketing group to ensure compliance by both the dealer and the internet provider.

Ken: Discussed that manufacturers are now disclosing more information on the vehicle than perhaps

the dealer is providing. Raised the concern about maintaining accurate information on the availability of vehicles.

There was a discussion on regulating dealers advertising across state lines, and how that applies to the internet. Consensus was that regulators generally do not discipline or regulate dealers across state lines.

Payments: Discussion on controversy with how the internet provider is paid. Bruce brought up bird dogging fees, and Ken responded that he felt it was inconsistent that dealers calculate the value on the individual sale with the overall marketing cost.

There was a detailed discussion from a number of regulators with a back and forth on how the brokering and birddogging laws, and how these relate to the payments by dealers.

1:00 p.m. – 2:00 p.m.

Tesla: A Year Later – Where are we now?
Panel discussion

- Jonathan Chang, Associate General Counsel, Tesla
- Bruce Gould, Executive Director, Virginia Motor Vehicle Dealer Board
- Mark Schienberg, President, Greater New York Automobile Dealer Association

Bruce Gould: Update on Virginia's licensing of Tesla. Initial problem with no good faith effort to find a dealer. All parties got together and hammered out an agreement to allow Tesla to open a store – AG's office, board, Tesla, and dealer associations. Also a problem with public opinion. Dealership in Virginia will be a stand alone dealership that must meet all the criteria.

Mark Schienberg: New York had a very poor law on specifying a dealer. New York already had factory owned store and "anything" stores. The law changed to clarify that only franchise dealers can sell new cars. Allowed 5 factory owned stores

Jonathan Chang with Tesla: Listed the statutory changes, lawsuits, and "victories" over the past year for Tesla.

Bruce expressed concern that the relationship hasn't improved based on language from Tesla.

Jonathan reiterated they are not looking to up end the franchise system. They instead want to get to the level that necessitates a franchise system. Made the point that one dealer per state is essentially the effect as a factory owned store.

Mark: Example of Ford taking over stores in Rochester New York, and stated it was not successful.

Questions from the audience included whether consumer groups participated in the discussion; the negative view by the public of auto dealerships.

2:00 p.m. – 3:00 p.m.

Growth of Public/Private Partnership Programs
Electronic temp tags/registration, etc.

- Tom Fullington, Arizona Automobile Dealers Association
- Andrew Conway, Registration Policy & Automation, Department of Motor Vehicles

Tom Fullington: Explained the e-titling model in Arizona. Contract between public (MVD) and private (eDS) sector. As a private party eDS provides a public electronic solution and assume all financial, technical and operational risk. eDS brings all parties together to provide improved efficiency. He presented the specifics on the temporary tag. He also illustrated their eTitling and eFiling system.

Andrew Conway: California DMV Dealer Vehicle programs. Gave an overview of CA registration and titling process. Tremendous growth. There is pressure to implement a paper tag system at the time of sale to fill the gap between purchase and the buyer receiving their license plates.

3:15 p.m. – 4:15 p.m.

Funding Future Highway Repair Costs (Gas Tax v. VMT or Other Solutions?)

- Norma Ortega, Deputy Director, Finance CA Department of Transportation

Norma Ortega: Gas tax vs. Vehicle Miles Travel (VMT). Norma laid out the current state of the gas tax collections. To make up the gap other funding options include increase the gas tax, increase in vehicle licensing fee, transportation bonds, tolling, road usage charge or mileage based user fee. Road Usage charge is a user pays funding concept where drivers pay for maintenance and upkeep of the state roadway network. California is looking at user fees and revenue options.

Friday, September 19, 2014

9:00 a.m. – 10:00 a.m.

Autonomous Vehicles – California's Drive to Automated Vehicles

- Bernard Soriano, Deputy Director, Enterprise Risk Management, California Department of Motor Vehicles
- Ron Medford - Google, Audi-VW
- Bryant Walker Smith, Assistant Professor at the School of Law and the School of Engineering at the University of South Carolina

Bernard Soriano provided an update on California's implementation of the autonomous vehicle regulations. Regulatory Package 1 have been implemented with three permits issued: VW, Mercedes, Google. Regulatory Package 2 is a more substantive operational regs are in the draft stage, and are due for implementation at the end of the year. Additionally CA is doing a great deal of outreach to all manufacturers.

Ron Medford (Google): Project X – Googles autonomous vehicle. 4 questions: Where am I? What's around me? What's coming up? What's going to happen as a result? Google is developing maps where they know within 10 centimeters at all times of where we are. Maps are key. Google is computing and predicting every millisecond. Ron showed a video of the google self-driving vehicle.

Bryant Walker Smith: Three key misconceptions in vehicle automation. Capability, Deployment Connectivity. Automation is incremental. The automated vehicle will not necessarily or likely look like the car today. Deployment – a war of press releases. A big divide between testing a vehicle on a closed course and actually buying and deploying. Connectivity: Divide between autonomous and connected vehicles. Connectivity more than just vehicle to vehicle, but also manufacturer to vehicle. Legal liability concerns due to manufacturer updates during the ownership of the vehicle. In many ways, companies become co-pilots.

10:15 a.m. – 11:15 a.m.

Year of the Recall

- Stephen Lending, Managing Counsel, Toyota Motor Sales, USA, Inc.
- Doug Greenhaus, Chief Counsel, NADA
- Rosemary Shahan, President, Consumers for Auto Reliability and Safety ("CARS")

Stephen Lending. Discussed the manufacturer requirements for safety defects. Manufacturer required within 5 working days to put in a report. Report must be made even if no fix available. 80% of recalls are voluntarily reported. Dealer requirements – a dealer may sell a vehicle only after it is remedied. Toyota posts all recalls in its news room and recalls are instant news. Safety recalls serve owners by providing essential safety information. NHTSA VIN lookup for safety recalls and service.

Doug Greenhaus. Purpose of recall. As vehicle miles traveled has skyrocketed, vehicle deaths has plummeted. Over 17,000 safety recalls impacting over 740 million parts. In CY 2014 over 500 safety recalls. Dealers Responsibilities: dealers provide information of problem to OEM, and then provide service to correct problem. Dealers are mandated to hold recalled vehicles until parts are available and vehicle is fixed. Several things are not a safety recall such as lemon law repairs and paint problems. In 2014 72.8% completion rate for recalls. Encourage consumers to go to safercar.gov which is NHTSA's safety recall site.

Rosemary Shahan. Discussed efforts to close the rental car safety recall issue. And a requirement that licensed dealers be required to correct a safety recall. She gave a number of examples of accidents relating to recall problems.

11:15 a.m. – 12:00 p.m.

Dealerships of the Future

- Glenn Mercer, Automobile Industry Consultant

Beware of experts making forecasts. He went through a number of predictions in the auto industry past including BTO, multiline dealerships, and different purchasing methods.

Looking at the past to learn about the future. Public dealerships created fear. AutoBytell, CarsDirect, and the Invasion of the OEMs such as the Ford Retail Network in 1998. The reality: AutoNation found scale economies elusive and market share is flat. Ford Retail network gone by 2001.

No country has a majority manufacturer owned dealers. Mercedes found private stores were more efficient.

Warranty work has fallen as quality rose. Dealer counts fell but then stabilized. Shopping moved online with narrowing price bands. F&I carries more profit of the store. Most dealerships have lost the body shop (down to 20%) but that may be changing. OEMs moved profits from up-front margin to back-end payments.

Inertial forces slowing change – Regulation (although no organized constituency interested in changing the dealership experience). Complexity – a dealership is several businesses in one. Risk Aversity – car purchase is so difficult and there is little desire for change.

Prediction for the future in 2025: number of dealership will be about the same (19,000); fast turning low margin stores (1,000 or more/30 days inv.); regional mid and local high; service as a % of profit

currently at ½ may go to ¾; Balance of power shifting from dealer to customer; Now the average dealer is a retailer (getting incentives) and by 2025 it will be more of a company store.

By 2025 a typical dealership: 1) Store has 3 branches, 2 satellite service, 1 demo point; 2) Part of 5 store privately held local group carrying 5-7 brands; 3) Retail units are 1,500 new + 1,500 used with inventory down to 30-days; 4) express delivery lane; 5) Service absorption greater than 120%; 6) Facility restyled at low cost every few years, rebuilt every 10-15 or so; 7) Highline service is mostly pickup/dropoff.

Mercer thinks cars are more like furniture and less like music in terms of internet sales in that it's under 5%

Tesla: Disruption or Distraction? 2 camps: pro-dealer and anti-dealer. Sides are talking past each other, by confusing two issues (pro-dealer side is worried about ownership channel. Anti-dealer side is concerned with format issues). Most of what Tesla does dealers working with OEMs and regulators could do also-industry has experimented before. Economic evidence is that dealers as owners is superior globally (see Keller report). The real issue is fairness to existing dealers today, and exposure to future (foolish) large-volume OEM-direct experiments tomorrow

1:00 p.m. – 2:00 p.m.

Millennials – The No Car Generation?

- Sheryl Connelly, Ford Motor Company Futurist

Generational Cohorts. Life-defining values are set in your late teens. Sheryl defined the mature generation (parents of baby boomers), the baby boom generation, generation X, millennials. 11,000 millennials turned 16 every day in two years. But a huge drop in numbers getting license at 16. There are a number of reasons: economic, competing purchases, freedom and independence is found in a cell phone rather than a vehicle, access or ownership (more likely to rent than buy).

Ford's response – Ford recognized the car wasn't the most important item owned. Ford created SYNC. Ford partnered with zip car (you're renting one car at a time). Marketing for Fiesta and Escape Routes.

2:00 p.m. – 2:45 p.m.

Recent FTC Actions Regarding Auto Dealer Advertising

- Christin Tusan, FTC's Western Regional Office – Los Angeles

Christina defined the regulations in a very extensive PowerPoint presentation. Four administrative actions against dealerships in 2012 for "Pay Off Your Trade" Cases. In 2013 filed deceptive price, discount and rebate cases against two dealers. A case filed in 2014 for improper collection efforts by dealers against consumer portfolio service. In 2012 case against Georgia Auto dealer Franklin Budget Car Sales, Inc. for improper exposure of consumers sensitive personal information.

Operation Steer Clear: Involved 10 dealers for a variety of deceptive practices. And it involved dealerships in California, Texas, Massachusetts, Illinois, Michigan, Georgia, and North Carolina.

Provided information on the FTC Sentinel Network to access information on consumer complaints.

3:00 p.m. – 4:15 p.m.

Subprime Loans: Negative Consequences "Canadian and US Perspectives

- Michael Rothe, Director, Legal Department, Ontario Motor Vehicle Industry Council

- Mary Jane South, Deputy Registrar, Ontario Motor Vehicle Council
- James Moor, Senior Counsel and Director Franchising and State Law, NADA
- Jonathan Morrison, President, Auto Advisory Services

Jim Moors – Facts about vehicle financing. Jim presented a PowerPoint.

Jonathan – Powerpoint defining definitions of subprime lenders and average rates. And Negative equity – where the consumer owes more money

Michael Rothe – 30% of all financing is subprime. Average rate is 18-21%. \$17.2 billion in auto loan-backed securities in 2013 alone. \$80 billion auto loans v. \$1.6 trillion mortgages.

Saturday, September 20, 2014

9:00 a.m. - 11:00 a.m.

Roundtable Discussion

California: In 2007 new vehicle sales 2.2 million vehicles sold. In 2009, 1.1 million vehicles sold. Case load went up to 90 open cases. In 2013, 1.99 million vehicles sold and case load has dropped. Down to 18 cases, now at 30 cases. In California, Tesla is allowed to operate under state law. The DMV is very supportive of the new motor vehicle board. Expect 1.5 million undocumented persons will obtain drivers licenses as a result of a new state law. In anticipation they are hiring 1,000 new employees. The DMV is also facing a major computer problem in dealing with an old legacy system that is not reliable.

Mary Jane (Ontario): launching a variety of online services including allowing a dealer to terminate a salesperson. Utilizing a phone translator service

Diana Hagel, ALJ in California. Discussed cases often take two weeks of hearings in California.

Oklahoma (New Vehicles): Board is wanting to focus on advertising. Recent security breach of a dealer and the customer data. (Used Vehicles) Discussion on whether you have to sell a vehicle at an advertised price if a customer is unaware of the price.

Colorado: Dealing with a legacy system. Issues with failure to disclose. Medical marijuana passage slowed things down for the advertising task force.

Diane Farrell (RVIA): Discussed the problems that arise from RV's getting lumped into state franchise laws. RVIA is in the middle of an initiative to make state laws more uniform. About 1/3 of the states have implemented this law. Jay Landers discussed the consolidation of dealerships and that the industry is recovering.

Ken Murphy discussed that groups are looking to buy dealerships. Both import and domestic.

Deborah with Toyota discussed the requirement for a dealer operator and owner to actually be involved, and not just hire a GM as the operator. She also discussed a movement towards dealer representatives wanting to work through problems directly with the OEM.

Steve McElvey: mentioned getting "anti-dealer" language out of the vocabulary. Also, laws are having an unintended consequence of limiting the ability for a manufacturer have a diverse dealer group that is made up of local dealers.

Honda lawyer? – Many protections are no longer reasonable. Export provisions in state statutes are being

Ontario: Pricing issues in advertisements. "Mandatory Options" were being utilized

Jerry Sullivan with CoPart. Agent of record for 4 million auto transactions per year, and overwhelming number of vehicles are salvage vehicles. They track a variety of dealers at all ends of the spectrum. Salvage titled vehicles are treated overseas as parts so there not a 100% tariff on the vehicle.

Greg Kirkpatrick: RV law and grant program

Bruce Gould: Straw purchase issue for the purpose of exporting vehicles. A lively discussion on vehicle exporting issue. Prin: New system that enhanced licensing and scanning process. Field investigators will have access and a secure web portal to view the documents. Paperless temp tag system.

11:00 a.m. – 12:00 p.m. **Business Meeting – Government Members Only**

Minutes from the 2013 Fall were approved as written.

The Treasury Report was presented and approved as written.

The Committee deferred a decision on the 2015 Fall Meeting location to the 2015 Winter Workshop in San Francisco.

12:00 p.m. **Adjournment**