III. Applicability

A. This Final Judgment applies to defendant and to each of its officers, directors, agents, employees, committee or task force members, successors, and assigns.

B. Defendant shall require, as a condition of any merger with or acquisition by any other organization, that the organization to which defendant is to be merged or by which it is to be acquired agree to be bound by the provisions of this Final Judgment.

IV. Prohibited Conduct

Defendant is hereby enjoined and restrained from:

- A. Directly or indirectly entering into, adhering to, or enforcing any agreement with any dealer to fix, stabilize or maintain the prices at which motor vehicles may be sold or offered by any person for sale in the United States to any consumer;
- B. Urging, encouraging, advocating or suggesting that dealers adopt specific prices, specific gross or retail margins, specific pricing systems, specific markups, specific discounts, or specific policies relating to the advertising of prices, invoices or costs for the sale of motor vehicles by dealers in the United States;
- C. Urging, encouraging, advocating or suggesting that dealers refrain from adopting specific pricing systems or specific policies relating to the advertising of prices, invoices or costs for the sale of motor vehicle by dealers in the United States;
- D. Urging, encouraging, advocating or suggesting that dealers (1) refuse to do business with particular persons or types of persons, (2) reduce the amount of business they do with particular persons or types of persons, or (3) do business with particular persons or types of persons or types of persons only on specified terms;
- E. Terminating from membership any dealer for reasons relating to that dealer's price or prices, gross or retail margins, pricing systems, markups, discounts, or specific policies relating to the advertising of prices, invoices or costs for motor vehicles in the United States.

V. Limiting Conditions

- A. Nothing in this Final Judgment shall prohibit defendant from:
- 1. Continuing to disseminate specific valuation information in the N.A.D.A. Official Used Car Guide;
- 2. Engaging in collective actions to procure government action when such actions are protected under the Noerr-Pennington doctrine, as established by

- Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc., 365 U.S. 127, 81 S.Ct. 523 (1961) and United Mine Workers v. Pennington, 381 U.S. 657, 85 S.Ct. 1585 (1965);
- 3. Presenting the views, opinions or concerns of its members on topics to manufacturers, dealers, consumers or other interested parties, provided that such activities do not violate any provision contained in Part IV. above;
- 4. Conducting surveys or gathering statistical facts or other facts and data relating to dealers, publishing or disseminating such information in written materials, studies, reports, seminars or programs, or otherwise providing information to manufacturers, dealers, consumers or other interested parties in accordance with Maple Flooring Mfrs. Ass'n v. United States, 268 U.S. 563 (1925) and its progeny, provided that such activities do not violate any provision contained in Part IV. above;
- 5. Participating in bona fide dispute resolution activities, including but not limited to AUTOCAP, involving complaints by specific consumers or dealers arising from specific transactions to which such consumers or dealers are parties;
- 6. Disseminating information about, or encouraging compliance with, any laws and government regulations including, but not limited to, tax laws, Federal Trade Commission rules and guides, Internal Revenue Service cash reporting requirements, and Federal Reserve Board regulations.
- B. Nothing in this Final Judgment shall prohibit any individual dealer, acting along and not on behalf of or in concert with defendant or any of defendant's officers, directors, agents, employees, committee or task force members, successors, or assigns, from negotiating any terms of the dealer's business relationship with any manufacturer, including a manufacturer's policies.

VI. Notification Provisions

Defendant is ordered and directed:

A. To publish the Final Judgment and a written notice, in the form attached as Appendix A to this Final Judgment, in Automotive Executive within sixty (60) days of the entry of this final Judgment; and

B. To send a written notice, in the form attached as appendix A to this Final Judgment, to each dealer who becomes a member of NADA within ten (10) years of entry of this Final Judgment and who was not previously given such notice. Such notice shall be sent within thirty (30) days after the dealer becomes a member of NADA.

VII. Compliance Program

Defendant is ordered to establish and maintain an antitrust compliance program which shall include designating, within 30 days of entry of this Final Judgment, an Antitrust Compliance Officer with responsibility for implementing the antitrust compliance program and achieving full compliance with this Final Judgment. The Antitrust Compliance Officer shall, on a continuing basis, be responsible for the following:

A. Furnishing a copy of this Final Judgment within thirty (30) days of entry of the Final Judgment to each of defendant's officers, directors, employees, and committee or task force members, except for employees whose functions are purely clerical or manual and members of committees or task forces that do not address issues related to the sale or purchase of automobiles;

B. Furnishing in a timely manner a copy of this Final Judgment to any person who succeeds to a position described in Section VII (A);

- C. Arranging for an annual briefing to each person designated in Sections VII (A) or (B) on the meaning and requirements of this Final Judgment and the antitrust laws;
- D. Obtaining from each person designated in Sections VII (A) or (B), certification that he or she (1) has read and, to the best of his or her ability, understands and agrees to abide by the terms of this Final Judgment; (2) is not aware of any violation of the Final Judgment that has not been reported to the Antitrust Compliance Officer; and (3) understands that any person's failure to comply with this Final Judgment may result in an enforcement action for civil or criminal contempt of court against NADA and/or any person who violates this Final Judgment;
- E. Maintaining (1) a record of all certifications received pursuant to Section VII (D); (2) a file of all documents related to any alleged violation of this Final Judgment; and (3) a record of all non-privileged communications related to any such violation, which shall identify the date and place of the communication, the persons involved, the subject matter of the communication, and the results of any related investigation;
- F. Reviewing the final draft of each speech and policy statement made by any officer, director, employee, or committee or task force member in order to ensure its adherence with this decree;
- G. Reviewing the purpose for the formation or creation of each committee and task force in order to ensure its adherence with this decree;