

Spanish language version of the Buyers Guide, Section 455.5 of the Rule. The Commission received three comments favoring the changes and none in opposition.¹⁴ The Commission has thus determined to adopt the proposed amendments.¹⁵ The first change is grammatical: the "As Is" ("Como Esta Sin Garantia") section of the Buyers Guide reads "El vendedor no asume ninguna responsabilidad por cualquier *las reparaciones* * * *" (emphasis added). This language is amended to read: "El vendedor no asume ninguna responsabilidad por cualquier reparacion * * *". The second change appears in the "Warranty" ("Garantia") section of the Buyers Guide. The word "vendedor" in the second full sentence is amended to "vendedor." Consequently, the sentence is also amended to read "Pida al *vendedor* una copia del documento * * *."

IV. Responses to the Federal Register Notice

Question One

Is there a continuing need for the Rule?

a. What benefits has the Rule provided to purchasers of the products or services affected by the Rule?

b. Has the Rule imposed costs on purchasers?

i. *Summary of Comments.* The comments from the eight dealers and the CPA firm (its clients are dealers) all favored rescinding the Rule. They stated that the Rule places an enormous burden on small businesses. Generally, these dealer comments¹⁶ and the CPA firm¹⁷ contended that the consumer benefit derived from the Rule was not justified by the cost of displaying the form, and that consumers pay no attention to the Buyers Guide. None of these comments provided any specific information in support of their contentions.

All of the other comments, including those from dealer trade associations, stated that the Rule is beneficial and that there is a continuing need for the Rule. Both NADA and NIADA reported that the Rule has helped avoid confusion regarding warranty coverage, and that the Buyers Guide is beneficial to both customers and dealers. Both NADA and NIADA stated that the costs

associated with the Rule seem to be reasonable.¹⁸

NCCE noted that because young people and consumers with limited resources are the major purchasers of used cars, objective, reliable, point-of-sale information is essential to an effective consumer decision. The comment stated that the FTC Used Car Rule provides information to consumers that assists them in making a wise and well informed decision, stimulates comparison shopping, and stimulates the competitive spirit of our free enterprise system.¹⁹ Michigan's Department of State noted that the longer the Rule is in place, the more the public becomes aware of issues regarding warranty coverage and extended service agreements.²⁰ NCLC and NACAA noted that the Rule allows consumers an opportunity to see what warranty protection is available and to compare warranty coverage among vehicles and dealers.²¹ The Iowa Attorney General noted that because motor vehicle designs are growing increasingly complex and repairs more expensive, warranty coverage is of increasing importance to motor vehicle purchasers.²² Consequently, the Rule provides the consumer with valuable information.

ii. *Discussion.* In the original rulemaking, the Commission found that "many used car dealers mislead consumers into believing that they have broad post-purchase warranty coverage when in fact consumers receive limited or no warranty protection * * *". In many cases dealers make verbal promises to repair defects after sale that are contradicted by final written contract terms * * *."²³ The Commission concluded that the "practices are pervasive and among the chief sources of complaints received by various consumer protection organizations around the country."²⁴

Although the trade associations asserted that some of the aforementioned problems have abated, other comments suggested that some of these problems continue to occur. Used car complaints continue to be among the most frequent type of complaints received by consumer protection groups across the country,²⁵ and the majority of

these organizations suggested amending the Rule in ways they contend would provide even more protection to consumers.

No evidence was adduced during this review that contravenes the Commission's 1984 findings, and no persuasive reasons were advanced in the comments that would suggest that reconsideration is appropriate. The dealer comments favoring repeal of the Rule because it is burdensome are conclusory and contradicted by other comments. For example, Reynolds & Reynolds, a publisher of Buyers Guides, noted that the average cost of a Buyers Guide is 7.6 cents. It also noted that because the compliance costs are so small they are usually absorbed and rarely passed on to the purchaser.²⁶ Accordingly, because the Rule is achieving its objectives and is cost effective, the Commission is retaining the Rule.

Question Two

What changes, if any, should be made to the Rule to increase the benefits of the Rule to purchasers?

a. How would these changes affect the costs the Rule imposes on firms subject to its requirements?

The comments responding to this question are discussed category-by-category below.

A. Disclosing Defects

i. *Summary of Comments.* Many comments suggested general changes to the Rule to increase its effectiveness for consumers. Six comments recommended that the Rule require dealers to make written disclosure of known defects in all "As-Is" sales.²⁷ Texas's Consumer Credit Commissioner suggested amending the Rule to inform consumers that "As-Is" does not mean dealers can sell vehicles with material defects.²⁸

ii. *Discussion.* In the original rulemaking, after carefully considering the issue, the Commission decided not to require disclosure of known defects because it "concluded that the known

numerous consumer complaints. In surveys of NACAA members conducted in 1992 and 1993, auto sales were in the top five complaint categories. A report issued by the Council of Better Business Bureaus revealed that in 1993 auto sales problems were the fifth most frequent complaint made to BBBs nationwide. NAAG has also released 1993 statistics which list automobiles (including sales and service) as the third largest category of complaints." B-24 at 1.

²⁶ B-20 at 1.

²⁷ Alaska AG, B-01 at 1-2; Illinois AG, B-08 at 1; WBBM Newsradio, B-13 at 1; Michigan Department of State, B-14 at 1; Office of Consumer Credit Commissioner, B-16 at 1; NACAA, B-24 at 2-3.

²⁸ B-16 at 1.

¹⁴ NIADA, B-7 at 1; TADA, B-11 at 3; NACAA, B-24 at 3.

¹⁵ Dealers may use up existing stocks of the current version of the Spanish Buyers Guide.

¹⁶ B-05 at 1; B-06 at 1; B-09 at 1; B-18 at 1; B-26 at 1.

¹⁷ B-21. Henceforward, all references to the dealer comments will include this comment.

¹⁸ See, e.g., NIADA Comment, B-7 at 2.

¹⁹ B-12 at 1. The comment indicates that the Commission's objectives in promulgating the Rule have, in large part, been achieved.

²⁰ B-14 at 1.

²¹ NCLC, B-23 at 1; NACAA, B-24 at 1-2.

²² B-15 at 2.

²³ SBP, 49 FR 45692, 45702 (Nov. 19, 1984).

²⁴ *Id.*

²⁵ For example, NACAA's comment notes that "[a]uto sales consistently rank among the most