

Dodd-Frank, Dealers, and Financers:

**The changing landscape of federal
consumer protections for car buyers and
how you can make a difference**

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National Consumer Law Center

**This webinar is sponsored with a grant from the Annie E. Casey
Foundation and is one of a series of webinars about working cars for
working families.**

March 31, 2011

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Presenter – John Van Alst

- Joined NCLC in 2006 as a Staff Attorney at the Center's Washington, DC Office.
- At NCLC John specializes in issues related to car sales and finance.
- Prior to joining NCLC John work for seven years as an Attorney with Legal Aid of North Carolina.

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Dodd-Frank, Dealers, and Financers

*The changing landscape of federal
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Agenda

- Origins of the new the bureau
- The new landscape of federal consumer protections for car buyers
- Questions
- FTC new authority and Auto Dealer Taskforce
- How you can be involved
- Questions

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Origins of the New the Bureau

- Elizabeth Warren call for new agency
- Identified several problems:
 - Complex products
 - Likelihood of certain products to fail
 - Impact of unsafe products
 - Patchwork of protections
 - Regulation based on issuer of credit rather than the product

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Fight over the Bureau

- Foreclosure crisis
- Recession
- Derivatives, securitization, and credit default swaps
- The butcher, the baker, the candlestick maker

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Fight over auto dealers

- New Allies
 - Labor groups and unions
 - Military
 - Credit unions
 - The President
- Dealers' involvement in lending
- Auto dealers got exemption in house bill, covered in the senate bill, exemption in conference

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Poll

- Do those you serve ever experience problems or abuses when obtaining financing at a car dealer?
 - Often
 - Sometimes
 - Never
 - I wouldn't know

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New Consumer Financial Protection Bureau

- Within the Federal Reserve but largely Independent
- Rules subject to veto by Financial Stability Council (panel of regulators)
- Director appointed by President, confirmed by the Senate
- Budget a percentage of Federal Reserve

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New Consumer Financial Protection Bureau

- Required Units within the Bureau include:
 - Research
 - Complaints
 - Financial Education
 - Service Members Affairs
- Responsibilities include:
 - Rule writing
 - Financial Education
 - Collecting Complaints
 - Research
 - Examination
 - Enforcement

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CFPB rule writing

- Existing legislation: TILA, FDCPA, EFTA, FCRA, HMDA, RESPA
- New: regulate unfair, deceptive or abusive acts and practices
- Arbitration
- Exemptions:
 - Merchants
 - Some car dealers

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New Consumer Financial Protection Bureau

- Preemption
- AG enforcement
- Private enforcement

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Auto Dealer and Lender Regulation

- Exemption for dealers results in a more complex jurisdiction
- Lots possibilities
- Need for cooperation between regulators, state attorneys general and others

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Dodd–Frank Who Regulates Auto?

	UDAP Rulemaking	Enumerated Rulemaking	Supervision	Enforcement
Dealers <i>traditional</i>	FTC	FRB FTC	No federal Supervision	FTC, State AG/Regulator
Dealers <i>BHPH</i>	CFPB	CFPB	CFPB FTC	CFPB, FTC, State AG/Regulator
Small Banks	CFPB	CFPB	Regulator	FDIC/FRB OCC/NCUA AGs
Large Banks	CFPB	CFPB	CFPB	CFPB, AGs Regulators,
Non-Bank Lenders	CFPB	CFPB	CFPB FTC	CFPB, FTC, State AG/Regulator

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Other car related Issues

- Scope of non-mortgage, non-student loan TILA and CLA increased from \$25,000 to \$50,000
 - New rule issued by FRB March 24th, effective July 21, 2011
 - Annually adjusted by CPI
- Authority to restrict arbitration- arbitration study
- Designated Transfer Date: July 21, 2011

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Public Sentiment

Support for Congressional Legislative Achievements

Now, thinking back on some of the major pieces of legislation Congress has passed in the last two years, would you say you approve or disapprove of _____?

	Approve	Disapprove	No opinion
	%	%	%
Increased government regulation of banks and major financial institutions	61	37	3
The economic stimulus package	43	52	5
Government aid to U.S. automakers that were in danger of going bankrupt	43	56	2
The healthcare overhaul	39	56	5
Government aid to banks and major financial institutions that were in danger of failing	37	61	2

USA Today/Gallup, Aug. 27-30, 2010

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Dodd–Frank FTC Rulemaking

- Previously, rulemaking at the FTC was a cumbersome mix of administrative and adjudicative requirements
- Now, Administrative Procedures Act for FTC Act Sections 5 and 18(a)(1)(B)- Unfair or deceptive acts or practices in or affecting commerce

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FTC Rulemaking

- 1916 - 1963 only procedural rulemaking
- 1964 light bulb advertising rule
- 1972 “cooling off” rule on door to door sales
- 1975 Section 18 added to FTC Act
- FTC Used Car Rule

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Poll

- Have consumers you work with experienced (check all that apply):
 - Misrepresentations about the financing or the car
 - Products or fees the consumer did not want or understand being added to the transaction
 - High pressure sales tactics for add-on products
 - Yo-yo or other attempts by the dealer to change the terms after the sale

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FTC Auto Dealer Task Force

- March 15 announcement
- FTC is hosting a series of public roundtables
- Three to five cities around the United States
- The roundtables will provide an opportunity for regulators, consumer advocates, industry participants, and other interested parties to discuss consumer protection issues in connection with motor vehicle sales and leasing.

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FTC Roundtable Topics

- What categories of motor vehicle dealers (i.e. “franchise,” “independent,” and/or “buy here, pay here” offer credit or leases to consumers?
- What types of financing and leasing are offered to consumers today?
- What practices involving motor vehicle dealers raise consumer protection issues? How prevalent are these practices in the industry as a whole or in any subset of the industry?

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FTC Roundtable Topics

- Do motor vehicle dealers engage in “yo-yo financing?”
- Do finance companies provide incentives or payments to motor vehicle dealers in exchange for consumers receiving more expensive credit?
- Do motor vehicle dealers misrepresent credit or lease terms to consumers?
- Do motor vehicle dealers charge interest rate mark-ups or up-front charges to consumers for credit or leases about which consumers are unaware?

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FTC Roundtable Topics

- Is substantial negative equity from a prior purchase, or money owed on a prior lease, frequently rolled into consumers' next vehicle purchases or leases?
- Do motor vehicle dealers engage in credit or lease packing, such as by including amounts for credit insurance, guaranteed automobile protection (“GAP”), or other add-ons into payment amounts or other terms quoted to consumers?

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FTC Roundtable Topics

- Do dealers include warranties, service contracts, and other add-ons in credit or lease contracts?
- Do consumers experience discrimination in motor vehicle financing or leasing?
- Do military personnel or their families face unique consumer protection concerns when purchasing motor vehicles?

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FTC Roundtable Topics

- Do motor vehicle dealers fail to pay off liens or trade-ins or otherwise fail to transfer title at a sale?
- Do motor vehicle dealers use global positioning systems or similar devices to locate and track financed and leased cars?
- Do consumer protection issues exist in connection with auto auction houses?

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How you can get help

- To inform their efforts, the FTC would like to hear from people regarding problems related to auto dealers. Submit your comments online at: <https://ftcpublic.commentworks.com/ftc/motorvehicleroundtables1>
- Information available at the Working Cars for Working Families website: <http://www.workingcarsforworkingfamilies.org/>

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Contact Information

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For more information

- To subscribe to the listserv of those interested in Cars and Working Families just go to: <http://lists.nclc.org/subscribe/> and check the Auto Ownership, Finance, and Policy list
- Visit the following website:
 - National Consumer Law Center's Auto Page:
 - <http://www.consumerlaw.org/issues/auto/index.shtml>

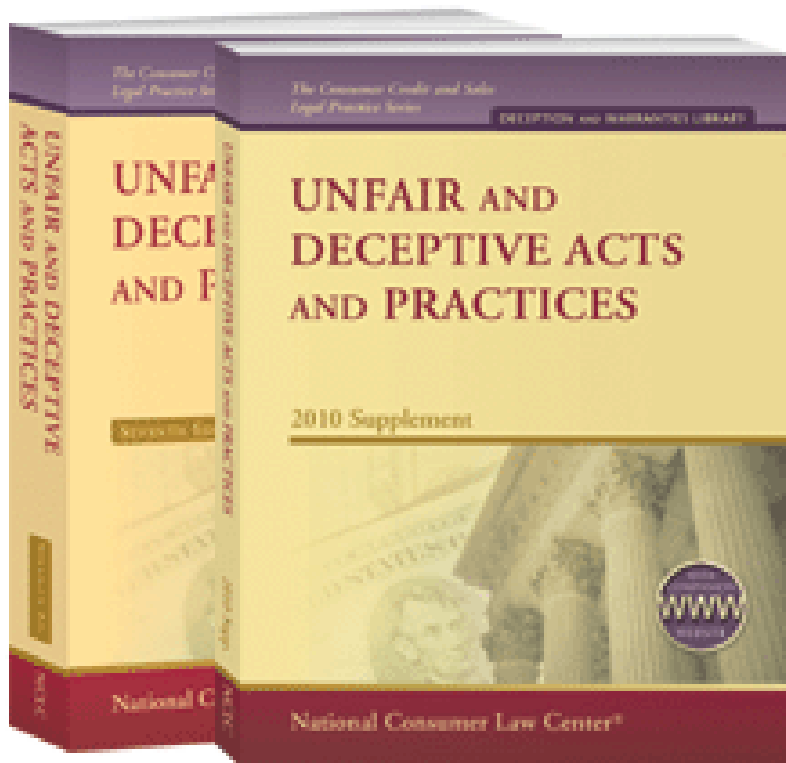
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For More Information on Federal Protections for Car Buyers



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