

Written Testimony of John W. Van Alst
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Before the Committee on Financial Services
Subcommittee on Oversight and Investigations
U.S. House of Representatives
"Examining Discrimination in the Automobile Loan and Insurance Industries"
May 1, 2019

Chairman Green, Ranking Member Barr, and distinguished members of the Subcommittee, thank you for inviting me here today to discuss discrimination and cars. I offer my testimony on behalf of the low-income clients of the National Consumer Law Center.¹

I am an attorney with the National Consumer Law Center. On a daily basis, NCLC provides legal and technical consulting and assistance on consumer law issues to legal services office, government attorneys, and private attorneys representing low-income consumers across the country. I direct NCLC's Working Cars for Working Families project which works to ensure that families get a fair deal when buying and financing a car and that the lack of a car does not stand in the way of families' ability to become economically successful. We seek to bring transparency and fairness to the markets for used cars and car finance. We also promote solutions to help non-profit car-ownership programs that assist struggling families to get a car.

A car often provides not only physical mobility but also economic mobility. In many places a car is needed to get to work, access affordable housing alternatives, and take advantage of educational opportunities. Cars are also very expensive to buy. In 2018, the average used car price exceeded \$20,000² and the average interest rate for a consumer with sub-prime credit buying a used car was over 16%.³

Yet for some the costs of buying, financing, and using a car can be even greater based on their race or ethnicity. Consumers of some races and ethnicities are sometimes charged hundreds and even thousands of dollars more to finance a car⁴ and are charged more for the car itself.⁵ They are more likely to be pressured to buy add-on products such as service contracts, sometimes being

¹ The National Consumer Law Center is a nonprofit organization specializing in consumer issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys, as well as community groups and organizations, from all states who represent low-income and elderly individuals on consumer issues.

² Nathan Bomey, Used car payments hit record \$400 per month as prices top \$20,000, USA Today, Nov. 8, 2018.

³ Experian, State of the Automobile Finance Market, Fourth Quarter 2018.

⁴ Cohen, Mark A. Imperfect Competition in Auto Lending: Subjective Markups, Racial Disparity, and Class Action Litigation, available at: <http://ssrn.com/abstract=951827>.

⁵ Ian Ayres, "Fair Driving: Gender and Race Discrimination in Retail Car Negotiations," 104 Harv. L. Rev. 817 (Feb. 1991); Ian Ayres and Peter Siegelman, "Race and Gender Discrimination in Bargaining for a New Car," The American Economic Review, Vol. 85, No. 3 at. 304-321 (Jun. 1995) (analyzing over 300 paired audits and finding that white male car buyers were quoted significantly lower prices than African American or female buyers). See also Ian Ayres, "Further Evidence of Discrimination in New Car Negotiations and Estimates of Its Cause," 94 Mich. L. Rev., 109 (1995).

told that the add-ons are required,⁶ and then are charged more for those same add-ons.⁷ Attempting to negotiate for better terms has been shown to not be effective to address these disparities.⁸

These disparities make cars more expensive for some races and ethnic groups and keep some families from getting a car at all. They contribute to the differences we see in the ability of families to get a car. Of households that are at or below the poverty line, 13% of White households lack access to a car, compared to 31% of African American households and 20% of Hispanic households.

Many disparities arise because the market for cars is troublingly opaque and inconsistent. A more consistent and transparent marketplace would not only benefit consumers of color but all marketplace participants, including car dealers, finance entities, and insurers that want to compete fairly and openly on price and quality on a level playing field. To move toward this goal, federal and state policymakers should:

- **Ban dealer interest rate markups.** Any compensation paid to the dealer as part of the financing process should not be based on the interest rate or other financing terms, and should be consistently applied to all transactions.
- **Amend the Equal Credit Opportunity Act (ECOA) regulations (Regulation B)** to enable and require the collection and analysis of race and ethnicity data for auto financing transactions.
- **Prohibit discrimination in the pricing of goods and services.**
- **Increase enforcement of the ECOA.**
- **Increase enforcement against general abuses in the sale and financing of cars.** Given the evidence of discrimination in the sale and financing of cars, it is likely that many other abuses, from yo-yo sales to failure to pay off existing liens, are more likely to affect people of color. Stepped-up enforcement against all abuses in the sale and finance of cars could help address disparities and level the playing field for everyone.

We have attached a draft of our forthcoming report, *Time to Stop Racing Cars*, which was written in preparation for this hearing. Also attached are our reports *Auto Add-Ons Add Up: How Dealer Discretion Drives Excessive, Arbitrary, and Discriminatory Pricing* (2017) and *New Ways to Understand the Impact of Auto Finance on Low-Income Families* (2016).

⁶ Delvin Davis, Non-Negotiable: Negotiation Doesn't Help African Americans and Latinos on Dealer-Financed Car Loans, Center for Responsible Lending, January 2014, available at: <https://www.responsiblelending.org/other-consumer-loans/auto-financing/research-analysis/CRL-Auto-Non-Neg-Report.pdf>.

⁷ John W. Van Alst, Carolyn Carter, Marina Levy, and Yael Shavit, National Consumer Law Center, *Auto Add-Ons Add Up, How Dealer Discretion Drives Excessive, Arbitrary, and Discriminatory Pricing* (October 2017), available at: <https://www.nclc.org/issues/auto-add-ons-add-up.html>

⁸ Delvin Davis, Non-Negotiable: Negotiation Doesn't Help African Americans and Latinos on Dealer-Financed Car Loans, Center for Responsible Lending, January 2014, available at: <https://www.responsiblelending.org/other-consumer-loans/auto-financing/research-analysis/CRL-Auto-Non-Neg-Report.pdf>.

I commend the Subcommittee for holding today's hearing on such an important topic. We stand ready to work with this Subcommittee and other interested parties in bringing consistency, transparency, and fairness to the auto market. Thank you.