

# Assessment of Costs Associated with the Implementation of the Federal Trade Commission Notice of Proposed Rulemaking (RIN 2022-14214), CFR Part 463

Center for Automotive Research

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## About the Authors

The Center for Automotive Research (CAR) produces industry-driven research and analyses, develops forecasts, fosters dialogue, and convenes forums, and publicly disseminates our research through events, our website, and the media.

As an independent, Michigan-based non-profit (501(c)(3)) research organization with a multi-disciplinary approach, CAR engages with leaders in the global automotive industry to support technology advancements and improve the competitiveness of the U.S. automotive industry. We succeed through close collaboration and strong relationships with automakers, suppliers, industry associations, government, non-profits, labor organizations, and educational institutions. CAR is well-respected, independent, and has historical connections to the University of Michigan.

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880 Technology Drive, Suite C | Ann Arbor, MI 48108 | [www.cargroup.org](http://www.cargroup.org)

CAR's mission is to produce independent research, convene stakeholders, and analyze critical issues facing the mobility industry and its impact on the economy and society.

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## Executive Summary

The Federal Trade Commission (FTC) published a proposed Motor Vehicle Dealers Trade Regulation Rule (16 C.F.R. § 463) (“Trade Rule”) on July 13, 2022. In the Trade Rule, the FTC solicited “comments from the public to improve [benefit or cost] estimates before promulgation of any final Rule.”<sup>1</sup> In response to this solicitation, the National Automobile Dealers Association (NADA) requested the Center for Automotive Research (CAR) to conduct this study to help determine and analyze the potential impact of the Trade Rule, if finalized as proposed, on franchised light-duty vehicle dealerships, their likely actions in response, and the costs associated with compliance.<sup>2</sup>

Estimated costs for dealer compliance and the impact on their transactions with consumers were derived from approximately 60 dealer surveys and 15 interviews, conducted from August 2022 through December 2022, with dealers, ESIGN contract technology providers and IT developers,<sup>3</sup> as well as regulatory training professionals. CAR’s survey focused on five key areas including: 1) prohibited misrepresentations, 2) new consumer disclosure requirements, 3) “Add-On” prohibitions and disclosures, 4) recordkeeping, and 5) consumer vehicle transactions. Importantly, dealers were asked for incremental costs, directly related to regulatory compliance only.<sup>4</sup>

CAR also included qualitative feedback from dealers within our study to support key survey findings, to provide essential dealer feedback, and to capture respondents’ viewpoints on key regulatory challenges for consideration. Additionally, CAR researchers elected to present our dealer survey findings using median values (see Appendix 1 for full data sets including median, and averages, as well minimum-maximum ranges whenever methodologically consistent), to reduce the influence of outlier responses, and to provide the most conservative estimate of costs.

According to the analysis in this study, median upfront costs for compliance with the FTC Rule, if finalized as proposed, were estimated by dealers to be USD 46,950 per location. These upfront costs include updated training, IT system investment, as well as planning and preparation. This results in a total median upfront cost of USD 2,184,348,750 for automobile dealers nationally.

Similarly, median recurring annual costs for dealers were estimated by dealers to be USD 50,958 per location. Incremental annual costs for Rule compliance, if the Rule is adopted as proposed, include ongoing training, IT spending, and compliance reviews. This results in a total median recurring annual cost of USD 2,370,820,950 for automobile dealers nationally.

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<sup>1</sup> 87 FR 42036.

<sup>2</sup> Using franchised light-duty vehicle dealership survey data, CAR applied the FTC’s estimate that there are 46,525 motor vehicle dealers to estimate total dealership compliance costs (2022). The FTC did not distinguish between franchised or independent dealers for purposes of estimating costs; accordingly, CAR relied upon FTC dealership count data for comparative purposes.

<sup>3</sup> Upfront system development costs for IT and ESIGN (contract) developers were also identified during interviews and would cut across multiple Rule provisions, as currently proposed, but the direct impacts are difficult to quantify for dealers at this time. Therefore, CAR elected to exclude these expenses from total estimated costs (and present value of net costs). Based on interviews, CAR estimates that IT and ESIGN (contract) developers would incur upfront development costs that could potentially exceed USD 10 million each for requisite IT systems programming, CRM (Customer Relationship Management) systems integration for records retention of all consumer

In addition to calculating the dealer compliance costs introduced by the proposed rule, CAR utilized the information from the dealer surveys and interviews to calculate the benefits or costs the proposed rule would deliver to consumers in the form of decreased or increased transaction times. In this latter analysis, CAR estimated that, if the rule were implemented as proposed, an additional 2 hours would be required to successfully complete a typical transaction, i.e., 1 hour during the sales process, and 1 hour to review additional F&I disclosures and supplemental documentation.<sup>5</sup> Then, utilizing the rubric by which the FTC calculated the dollar value of the proposed rule's impact, CAR estimated that the median costs to consumers would be \$44.40 per vehicle transaction<sup>6</sup> which, when multiplied by the 62,107,000 annual vehicle sales figure used by the FTC to develop its cost estimate, equals USD 2,757,550,800 per year (or USD 27,575,508,000 over ten years).<sup>7</sup>

communications and dealer disclosures, security encryption, and for additional record keeping requirements. Furthermore, interview respondents indicate that dealers – and ultimately consumers – would likely incur higher costs as a result, which are too early to estimate but should be also considered.

<sup>4</sup> Respondents were asked to estimate incremental compliance costs-only, i.e., additional costs not related to pre-existing regulatory framework, such as (but not limited to) the Equal Credit Opportunity, Fair Credit Reporting, Truth in Lending Acts, as well as the Amended Safeguards Rule (effective 9 June 2023) and other considerable, existing regulations that impact dealers. These regulations may be issued by multiple federal agencies including the Federal Trade Commission, Federal Reserve Board, National Highway Traffic Safety Administration (NHTSA), the Occupational Safety and Health Administration (OSHA), the Department of Transportation (USDOT), the Department of the Treasury, the Internal Revenue Service, the Federal Communications Commission (FCC), as well as numerous State and local government mandates.

<sup>5</sup> The estimated consumer costs do not include time value associated with Pre-Sale dealer communications, estimated to be an incremental 1 hour per typical transaction for dealers.

<sup>6</sup> The estimated per vehicle transaction costs represent the value of a consumer's nonwork time of approximately \$22.20 per hour (the figure relied upon by the FTC from the Bureau of Labor Statistics), multiplied by the 2 additional hours that each transaction is projected to require.

<sup>7</sup> It is essential to note that CAR is relying on the FTC's estimate of the number of vehicle transactions that would be affected by the proposed rule, if finalized, which is based on the Department of Transportation's (DOT) calculation of 62,107,000 vehicle sales transactions occurring in 2019 (See FTC Table 2.1—Estimated Benefits of Time Savings for Completed Transactions (87 FR 42037)). However, it is apparent from data from S&P Global, Wards Intelligence, and NADA that the DOT figure includes both (1) fleet (commercial) sales and (2) sales between private parties (i.e., transactions not involving motor vehicle dealers).

Year	New Vehicle Sales			Used Vehicle Sales		Total New & Used Sales to Consumers
	Total New Vehicle Sales	to Fleets	to Consumers	by Franchise Dealers	by Independent Dealers	
2018	17,215,163	3,107,543	14,107,620	14,439,289	13,870,305	42,417,215
2019	17,108,156	3,307,415	13,800,741	14,937,110	13,982,455	42,720,306
2020	14,463,935	2,027,847	12,436,088	13,681,786	13,195,399	39,313,272
2021	14,926,933	1,943,129	12,983,804	14,714,858	14,208,095	41,906,758

Sources: S&P Global; Wards Intelligence; NADA estimates

When eliminating these transactions, which are unrelated to the proposed rule, data from these sources reveal that the number of transactions by franchised and independent dealers with consumers in 2019 was actually 42,720,306, as illustrated above. Nonetheless, because CAR is

For comparative purposes, CAR also summarized the estimated costs as the net present value over a 10-year time frame in Table 1, to be consistent with FTC rule review policy and with FTC preliminary regulatory analysis (Federal Trade Commission, 2022).

*Table 1: Present Value of Estimated Costs, Year 1—Year 10*

	Present value
Total Dealers:	
3% discount rate	\$22,344,310,535
7% discount rate	\$18,693,101,691
Total Consumers:	
3% discount rate	\$23,522,467,657
7% discount rate	\$19,367,882,897
Total Costs, Net	
3% discount rate	\$45,866,778,192
7% discount rate	\$38,060,984,588

**Thus, while the FTC estimates the proposed rule will generate USD 29.7 billion in net consumer benefit over a ten-year period<sup>8</sup>, CAR’s analysis reveals that the proposed rule would actually cost consumers USD 38.1 billion over those same ten years.**

According to dealers, however, estimated incremental compliance costs do not tell the entire story. For example, 52% of dealers surveyed said that the incremental liability exposure (at USD 50,000 per incident) would in fact result in “providing fewer details” in advertisements and consumer communications. Furthermore, 72% surveyed said the FTC Rule, if finalized as proposed, would require consumers to contact their dealership directly for pricing information in lieu of advertising or other forms of consumer communications. Lastly, dealer interviews suggest that smaller dealerships, for example with 1-2 locations, will be disproportionately impacted because regulatory compliance in some cases would necessitate hiring specialized, outside consultants and attorneys, as well as potentially significant IT investments – putting them at a competitive disadvantage versus larger dealers, who are in a better position to absorb the additional overhead expense and investment.

## Introduction

On July 13, 2022, the FTC proposed the Motor Vehicle Dealers Trade Regulation Rule (proposed Rule) regarding the sale, financing, and leasing of motor vehicles on franchised automobile dealerships. If finalized as proposed, the Rule would “prohibit motor vehicle dealers from making certain misrepresentations in the course of selling, leasing, or arranging financing for motor vehicles, require accurate pricing disclosures in dealers’ advertising and sales discussions, require dealers to obtain consumers’ express, informed consent for charges, prohibit the sale of any add-on product or service that confers no benefit to the consumer, and require dealers to keep records of advertisements and customer transactions.” (Federal Trade Commission, 2022)

Historically, increased regulatory burden and compliance costs have been ultimately passed on to consumers via higher transaction prices. Additionally, however, there could be potentially other unintended, negative economic consequences resulting from

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attempting to produce a cost/benefit estimate that can be compared directly to the FTC’s cost/benefit estimate, CAR is utilizing the FTC’s cost estimate rubric, including its reliance on the overstated number of individual sales transactions.

<sup>8</sup> See FTC Table 1.1 – Present Value of Net Benefits, 2022-2032 (87 FR 40236)

these new requirements, including but not limited to reduced advertisements and vehicle details provided to consumers overall, and reduced dealership employment resulting from costs that cannot be passed on, among others.

The National Automobile Dealers Association (NADA) – in response to the Trade Rule’s solicitation of “comments from the public to improve [benefit or cost] estimates before promulgation of any final Rule”<sup>9</sup> – has requested the Center for Automotive Research (CAR) to help determine and analyze the potential impact of the Rule if finalized as proposed on franchised light-duty vehicle dealerships, their likely actions in response, and the costs associated with compliance.<sup>10</sup>

## Methods

Data gathering for this project relied primarily on interviews and surveys with NADA member companies. The survey and interviews focused on the impact of five key Sections of the proposed Rule on dealerships. These are:

1. Prohibited Misrepresentations
2. New Consumer Disclosures
3. Add-On Prohibitions and Disclosures
4. Recordkeeping
5. Vehicle Transactions

Taken together, these new duties are expected to create additional monitoring, training, forms, and compliance review responsibilities, as well as a modification of record keeping systems and coordination with outside IT and other vendors. Further, it is expected these proposed Rules will alter the online sales process, require expanded ESIGN capabilities, and possibly necessitate additional technology solutions.

CAR researchers also interviewed a sample of ESIGN contract and IT system developers, as well as regulatory compliance training professionals. The interview and survey approach relied upon the willingness of respondents to give detailed and complete responses. The client’s willingness to actively support the effort and coordinate NADA member responses were essential to the project’s success.

## Overview of Respondents

This survey drew responses from franchised light-duty automobile dealerships across NADA’s membership. CAR relied on NADA to support the research efforts to identify a sufficiently diverse sampling of its members to participate. CAR researchers collected roughly 60 surveys from dealers and conducted nearly fifteen interviews. This paper provides an overview of the principal findings generated from the study and highlights the potential impact of the proposed Rule on U.S. dealers.

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<sup>9</sup> 87 FR 42036.

<sup>10</sup> Using franchised light-duty vehicle dealership survey data, CAR applied FTC methodology of an estimated 46,525 motor vehicle dealers to estimate total dealership compliance costs (2022). The FTC did not distinguish between franchised or independent dealers for purposes of estimating costs, and CAR relied upon FTC dealership count data for comparative purposes.

The survey drew responses from dealers across the United States. The majority of dealers are located in the West (36 percent) and Northeast United States (26 percent).<sup>11</sup> For the full regional breakdown of participants, please see

Figure 1: Regional Distribution of Survey Participants.

Figure 1: Regional Distribution of Survey Participants



Source: CAR Research

In our sample, the median respondent reported total annual median sales of new and used vehicles of 2,536 in 2021. A review of survey responses and industry-wide dealership characteristics finds that the respondents included in this study are larger than typical dealerships. For example, in 2021, the average light-duty vehicle dealership sold 1,777 new and used vehicles (CAR analysis of NADA Data, 2021). Among light-duty vehicle dealers who provided completed replies to our survey, the median 2021 new vehicle sales volume was 1,357. Accordingly, these results must be contextualized against the characteristics of the sample. Table 2 below summarizes the size profile of survey respondents.

Table 2: 2021 Statistics by Dealer Size

<sup>11</sup> The following states fall into the four regions identified above – Midwest: Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Wisconsin; South: Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia; Northeast: Connecticut, Maine, New Jersey, New York, Pennsylvania; and West: Arizona, California, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, Washington, Wyoming.



	Average	Median	Min	Max *
<b>FTE Employees</b>	182	139	37	>15,000
<b>Revenue (thousands)</b>	128,025	109,814	18,500	>12,000,000
<b>New Vehicle Sales</b>	1,658	1,357	170	>100,000
<b>Used Vehicle Sales</b>	1,544	1,179	240	>100,000
<b>Total Vehicle Sales</b>	3,202	2,536	470	>200,000
<b>Franchises/Makes</b>	3	2	1	>22
<b>Locations (Rooftops)</b>	4	1	1	>200

*Source: CAR Research (Over 60 responses) \* Notes: Figures rounded to maintain anonymity of survey respondent (among Top 5 dealers nationwide by revenue in 2021); excluded from averages and median calculations above. Lines are not additive. Each item was calculated independently from the full set of complete responses.*

According to CAR analysis, our survey sample of over 60 franchise dealers combined to account for more than 550 locations (rooftops) in thirty States; all major imports and domestic brands offered for sale in the United States; and cumulative 2021 revenue of over USD 28.2 Billion. Also, our data included responses from two major, publicly traded vehicle franchise dealer groups.

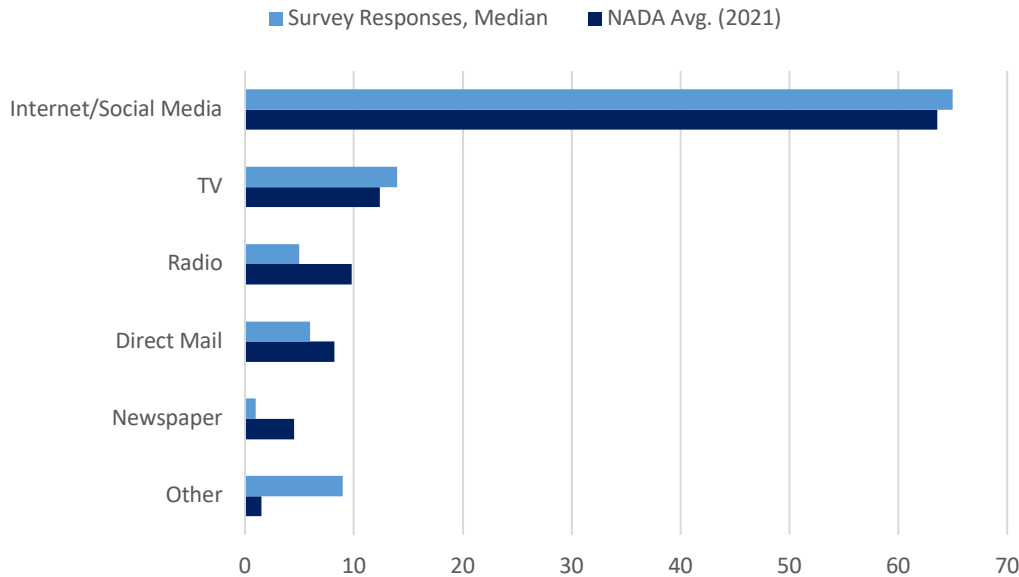
## Dealership Characteristics

If finalized as proposed, the Rule would require changes to almost all existing advertisements, marketing, and communication with prospective customers. Of the dealers that participated in the survey, the median spent on advertising in 2021 was USD 955,408 (as compared to the average estimated advertising expense per dealership of USD 491,038, according to NADA Data 2021).

For the breakdown of average media use by platform please reference

Figure 2 below.

*Figure 2: Estimated Advertising Mix by Media Outlet, 2021*



Source: CAR Research and NADA Data 2021

Nearly 100% of dealers surveyed (median response compared to 98% average) maintain an online presence, which would require substantial changes for compliance.

Importantly, this is higher than the 81% rate assumed by the FTC – also used by the FTC to reduce their estimated cost of compliance for Add-On Lists by the 19% assumed to not have an online presence (Federal Trade Commission, 2022).<sup>12</sup>

At approximately 65% of estimated total advertising expenditures, internet/social media spending would be most impacted by the proposed FTC rulemaking. Other forms of advertising account for the remaining 35% of expenditures, including TV, radio, direct mail, newspaper and other. These channels would also require different duties of care, separate and distinctly different in many cases, to ensure compliance with prohibited misrepresentations and disclosures.

## Collecting Data

All survey and interview responses were aggregated by CAR, and all respondents have been kept anonymous and are unknown to NADA. To complement our survey results and analysis, CAR also performed fifteen targeted interviews with dealer groups, ESIGN and IT developers, as well as regulatory compliance training professionals. Surveys and interviews were performed during the period of August through December 2022, and the results of the data collection and analysis are summarized and discussed below.

## Impact of Prohibited Misrepresentations

If finalized as proposed, the FTC Rule would bar dealers from making certain misrepresentations (or omissions) while selling, leasing, or arranging financing for motor vehicles. Furthermore, each prohibited misrepresentation (or omission) would add potential additional cost to ensure compliance. These prohibitions do not themselves necessarily, in all cases, require additional information or additional duties. To be clear –

<sup>12</sup> Federal Register / Volume 87, Number 133, Table 3.3 – Estimated Compliance Costs for Add-On Lists. FTC assumes 81% of dealers have an online presence, i.e., the remaining 19% do not maintain an online presence for consumers. Correspondingly, FTC reduced estimated incremental costs associated with system implementation (programmer time and hourly expenses) across online and mobile applications by 19%.

dealers already must review their advertisements for compliance with existing regulations. While many of the prohibited misrepresentations in the Trade Rule are similar to current prohibitions, these misrepresentations are broader and even those that are similar to current prohibitions are written very broadly and, therefore, may be interpreted broadly, which could potentially increase the perceived importance and liability risk of selling vehicles. Such a broad interpretation is likely, in turn, to signal to dealers that they may need to revise existing forms, training programs and materials, as well as compliance reviews.

Under the proposed Rule, engaging in these prohibited misrepresentations, whether intentional or not, could result in significant civil monetary penalties, e.g., > USD 50,000 fine per violation (Federal Trade Commission, 2023).

Survey respondents were asked to identify the cumulative hours needed for all upfront costs (e.g., to update training materials) and identify all recurring costs needed on an annual basis (e.g., annual training and compliance review) with respect to prohibited misrepresentations specifically. Importantly, dealers were instructed to estimate **incremental hours and costs – only**, i.e., above and beyond existing compliance activities. Their answers are illustrated below in Table 3.

*Table 3: Estimated Impact of Prohibited Misrepresentations per Dealership*

	Median
Up front, updated training materials – hours	120
Recurring, training – hours	132
Recurring, compliance review – hours	120
Up front cost	\$ 9,600
Annual training cost	\$ 9,600
Annual compliance review cost	\$ 14,780
<i>Number of completed survey responses</i>	40

Excluding other disclosures and record keeping requirements (*see Impact of New Customer Disclosures and Impact of Recordkeeping*), respondents estimated that it would require 120 hours<sup>13</sup> to update existing training materials during the first year, and a combined 252 hours<sup>14</sup> on a recurring basis for ongoing training and compliance review.

Dealers interviewed cited several factors that substantially influenced their cost estimates provided – explaining the wide range of estimates illustrated in Table 2. Such factors included broadly defined misrepresentations under the Rule, if finalized as proposed, as well as still unknown outside training and consulting requirements.

The following quote, in the viewpoint of CAR researchers, captures the general sentiment of many dealers surveyed with respect to the added burden associated with misrepresentations compliance, specifically:

<sup>13</sup> CAR researchers elected to present our dealer survey findings using median values (see Appendix 1 for full data sets including median, and averages, as well minimum-maximum ranges whenever methodologically consistent), to reduce the influence of outlier responses, and to provide the most conservative estimate of costs. When medians are provided, hereafter a footnote will indicate, “Median.”

<sup>14</sup> Median

*“We already train extensively to ensure that we avoid misrepresenting our products and services to customers; however, the heightened risk of litigation would require the extensive use of outside training programs at each location (rooftop), which are not sufficiently available at this time...as well as outside, specialized legal representation and consultants.*

*No one can quote us a cost yet on what could be substantially higher due diligence requirements to protect ourselves against the threat of (potential) litigation, so we think it could be quite costly and generally not well understood (by policymakers).”*

Additional personnel and hiring costs were also identified by dealers but were not taken into consideration include the following, based on qualitative feedback received via surveys, for example:

*“We already proof all our advertisements for accuracy (misrepresentations) to comply with existing regulations...at considerable cost to our dealership group. This is already challenging for us because we have 4 dealerships (rooftops), 8 different brands, and for example can have 200 or more unique truck configurations available for sale at any given time, because our customers demand customization and accessories for performance and utility. Many customers also require unique financing and transaction options for legitimate business and insurance reasons as well. Some such options (add-ons) demanded by consumers are available factory-installed or via automakers’ captive finance firms, and others are not, which already poses significant disclosure challenges for us.*

*However, the bigger problem for us (under the proposed Rule, if finalized as is) would be additional due diligence requirements to ensure compliance to avoid potential litigation. We would need to hire outside compliance experts and attorneys for each rooftop, directly resulting from the added liability exposure, e.g., at USD 200,000 per year. This would be above and beyond the cost estimates for upfront and recurring modifications for training and for compliance review (as provided in CAR survey).”*

## Impact of New Consumer Disclosures

In addition to the new prohibition on omissions or misrepresentations, the proposed Rule requires new and specific pricing, trade-in, discount, rebate, and related disclosures in all dealer advertising and/or communications with consumers. The proposed Rule would require that such disclosures be made in a clear and conspicuous manner, without providing clear guidance on the form such disclosures must take. For example, the proposed Rule would require the disclosure of an “Offering Price” in writing whenever someone inquired about a specific vehicle.

- “Offering Price” of a vehicle means “the full cash price for which a dealer will sell or finance the motor vehicle to any consumer, excluding only required government charges.” The proposed Rule requires a dealer to disclose the “Offering Price” in the following scenarios:
  - General communications – upon receipt of a consumer inquiry about a specific vehicle or price or financing term for any vehicle; further, if any

part of such an inquiry or response is made in writing, the Offering Price must be disclosed in writing as well.

- Ads – when dealers advertise a specific vehicle for sale as well as when any monetary amount or financing term is advertised.

In addition, the dealer would also be required to disclose other information at a required (and artificial) point in the sales process, including:

- Disclosure of “add-on” List: a list of all optional “add-ons” and prices on any website, online service, or mobile application on which vehicles are offered for sale. “Add on” means any product or service not provided to the consumer or installed on the vehicle by the motor vehicle manufacturer and for which the Motor Vehicle Dealer charges a consumer in connection with a vehicle sale, lease, or financing transaction. Accordingly, “add on” refers not only to voluntary protection products offered in the F&I office but to physical items added to the vehicle (such as towing packages, roof racks, floor mats, etc.) as well.
- Disclosure of Total Cost: the total of payments when quoting monthly payment amounts to a prospective buyer or lessee.
- Disclosure of Effect of Lower Monthly Payments: requires dealers, when they compare different monthly payment options with consumers, to inform consumers that a lower monthly payment will increase the total amount the consumer will pay, if true.

Survey respondents, when asked to identify the number of hours needed to comply with up-front costs to update training materials, IT system investment needed, and planning and preparation, anticipated, spending 269 hours<sup>15</sup> to set up policies and procedures within their dealerships.

Also, survey respondents would need 150 hours annually<sup>16</sup> to provide ongoing training, compliance review, and IT spending (to record, retain, report) on the new ruling requirements.

*Table 4: Estimated Impact of Disclosures, by Disclosure*

Summarized by Disclosure		Median
Upfront hours requirement	Add On products Not Required	55
	Add-on List	55
	Effect of Lower Monthly Payments	52
	Offering price	55
	Total cost disclosure	52
	.....Total upfront hours	269
Upfront cost	Add On products Not Required	\$ 3,200
	Add-on List	\$ 4,600
	Effect of Lower Monthly Payments	\$ 3,500
	Offering price	\$ 4,325
	Total cost disclosure	\$ 4,000
	.....Total upfront costs	\$ 19,625
Recurring hours	Add On products Not Required	30
	Add-on List	30

<sup>15</sup> Median

<sup>16</sup> Median

	Effect of Lower Monthly Payments	30
	Offering price	30
	Total cost disclosure	30
	.....Total recurring hours / year	150
Recurring cost	Add On products Not Required	\$ 1,950
	Add-on List	\$ 1,850
	Effect of Lower Monthly Payments	\$ 1,810
	Offering price	\$ 1,850
	Total cost disclosure	\$ 1,780
	.....Total recurring costs / year	\$ 9,240
<i>Number of completed survey responses</i>		<i>40</i>

Additional context in CAR researchers' view must be considered, however, to understand the potential impact on smaller dealers, e.g., 1-2 franchises and 1 location. Furthermore, these smaller dealers via follow-up interviews indicate that many cannot afford to make similar IT investments as large publicly traded dealers, and would be put at a competitive disadvantage if required to do so, at "best case," or potentially "worst case" be forced to divest of their dealerships to dealer groups who can.

Additional personnel and hiring costs were (again) identified by dealers that were not taken into consideration include the following, based on dealers' qualitative survey feedback, for example:

*"The one thing that has not been covered is the additional personnel that will be required to implement these changes (for required new consumer disclosures). My projection of cost only includes the cost of my personnel's time, but additional personnel will be required, which is unquantifiable at this time. My current system of selling will have to be changed to incorporate the changes, and the additional time required to sell vehicles will increase as a result of these changes to be included... (and this will) slow-down getting forms signed and returned (and) will hamper the transaction process for consumers."*

## Impact of Add-On Prohibitions and Disclosures

The proposed prohibitions and disclosures contained in the Trade Rule with respect to add-ons would increase the importance and liability risk of vehicle pricing activities and alter when and how in the course of business they are undertaken. Therefore, dealers were asked to review the prohibitions and disclosures required for compliance as outlined below in Figure 3:

*Figure 3: Add-On Prohibitions and Disclosures*

Sale of Add Ons – Section 463.5 – Rule Summary & Duties of Care

<p>Prohibition of Valueless Add Ons - <a href="#">463.5(a)</a></p>	<p>Prohibit charging for add-on products that provide no benefit to the consumer. Including:</p> <ul style="list-style-type: none"> <li>• nitrogen-filled tire related-products or services that contain no more nitrogen than naturally exists in the air,</li> <li>• products or services that do not provide coverage for the vehicle, the consumer, or the transaction, or are duplicative of warranty coverage for the vehicle, including a GAP Agreement if the consumer’s vehicle or neighborhood is excluded from coverage or the loan-to-value ratio would result in the consumer not benefiting financially from the product or service.</li> </ul>
<p>Add Ons Transactions Forms and Disclosures - <a href="#">463.5(b)</a></p> <p><i>(Note (b)(1)-(b)(3) are broken out below)</i></p>	<p>Prohibits charging for optional add-ons without the consumer’s consent or misrepresenting that an optional add on is instead a required purchase. It would also prohibit dealers from changing pricing information in the financing office.</p> <ul style="list-style-type: none"> <li>• Dealers would need to provide the Vehicle Cash Price Disclosure (§ 463.5(b)(1) or (2)) for every vehicle they <b>offer</b> for sale with any optional add-on.</li> <li>• Dealers would also need to provide the Itemization of Add On Disclosure (463.5(b)(3)) for every vehicle sale that <b>includes</b> an optional add-on.</li> </ul>
<p>Vehicle Cash Price Disclosure: Cash Transactions <a href="#">463.5(b)(1)</a></p> <p><i>(Note: See NADA provided Disclosure Form mockup)</i></p>	<p>Dealers may not charge for optional add-ons unless they disclose up front the cash price at which a consumer may purchase the vehicle without additional add-ons. This must occur before discussing any aspect of financing for a specific vehicle, aside from its Offering Price. The proposed Rule would require that dealers disclose, and offer to close the transaction for, the Cash Price without Optional Add-ons, separately itemizing the Offering Price, any discounts, rebates, or trade-in valuation, and required government charges. If the prospective buyer declines to purchase the vehicle at that price, the dealer must obtain confirmation in writing, with the date and time recorded, signed by the consumer and a manager of the dealership.</p> <ul style="list-style-type: none"> <li>• The dealer must retain this signed form to document that the dealer has provided the required Offering Price disclosure to consumers before including optional add-ons in a sales transaction.</li> </ul> <p>The Cash Price without Optional Add-ons disclosure and declination must be limited to the information required by this Section, and cannot be presented together with any other written materials.</p>
<p>Vehicle Cash Disclosure: Financed Transactions - <a href="#">463.5(b)(2)</a></p> <p><i>(Note: See NADA provided Disclosure Form mockup)</i></p>	<p>Require similar disclosures in the context of financed transactions: dealers would not be permitted to charge for optional add-ons without disclosing, and offering to consummate the transaction for, the Cash Price without Optional Add-ons plus the finance charge, factoring in any cash down payment or trade-in valuation (and separately itemizing the components of the offer).</p> <ul style="list-style-type: none"> <li>• If the consumer declines to finance the transaction for that amount, the dealer, as above, must obtain confirmation of that declination in writing.</li> </ul> <p>The disclosure and declination must be limited to the information required by this Section, and cannot be presented with any other written materials.</p>
<p>Itemization of Add On Disclosure - <a href="#">463.5(b)(3)</a></p> <p><i>(Note: See NADA provided Disclosure Form mockup)</i></p>	<p>Requires a dealer, before charging for any optional add-on, to disclose the cost of the transaction without any optional add-ons (whether the transaction is financed or not), and disclose the charges for the optional add-ons selected by the consumer, separately itemized.</p>

Express Informed Consent - <a href="#">463.5(c)</a>	<p>Prohibits motor vehicle dealers, in connection with the sale, financing, and leasing of vehicles, from charging consumers for any item without their Express, Informed Consent.</p> <ul style="list-style-type: none"> <li>• “Express, Informed Consent” is defined as an affirmative act communicating unambiguous assent to be charged, made after receiving and in close proximity to a Clear and Conspicuous disclosure, in writing, and also orally for in-person transactions, of the following: (1) what the charge is for; and (2) the amount of the charge, including, if the charge is for a product or service, all fees and costs to be charged to the consumer over the period of repayment with and without the product or service.</li> </ul> <p>Documents with a mere signature or initials, or a form presented to a consumer with preprinted checkboxes, would not constitute Express, Informed Consent.</p>
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Dealers were then asked to estimate the incremental time and cost for compliance, with respect to both one-time and recurring costs, for each proposed Rule related to add-on prohibitions and disclosures. Results of which are summarized below in Table 5:

*Table 5: Estimated Impact of Add-On Prohibitions and Disclosures*

Summarized by Rule		Median
Upfront hours	Add-Ons Transactions Forms and Disclosures	30
	Express informed consent	30
	Itemization of Add-On Disclosure	30
	Prohibition of Valueless Add-Ons	30
	Vehicle cash disclosure: financed transactions	30
	Vehicle cash price disclosure: cash transactions	30
	.....Total upfront hours	180
Upfront cost	Add-Ons Transactions Forms and Disclosures	\$ 2,450
	Express informed consent	\$ 2,600
	Itemization of Add-On Disclosure	\$ 2,800
	Prohibition of Valueless Add-Ons	\$ 2,475
	Vehicle cash disclosure: financed transactions	\$ 2,450
	Vehicle cash price disclosure: cash transactions	\$ 2,450
	.....Total upfront cost	\$ 15,225



Recurring hours	Add-Ons Transactions Forms and Disclosures	27
	Express informed consent	28
	Itemization of Add-On Disclosure	28
	Prohibition of Valueless Add-Ons	25
	Vehicle cash disclosure: financed transactions	28
	Vehicle cash price disclosure: cash transactions	28
	.....Total recurring hours	164
Recurring cost	Add-Ons Transactions Forms and Disclosures	\$ 1,810
	Express informed consent	\$ 1,810
	Itemization of Add-On Disclosure	\$ 1,810
	Prohibition of Valueless Add-Ons	\$ 1,810
	Vehicle cash disclosure: financed transactions	\$ 1,900
	Vehicle cash price disclosure: cash transactions	\$ 1,810
	.....Total recurring cost	\$ 10,950

Estimated compliance costs vary widely, a recurring theme amongst dealers surveyed. This dynamic also applies in this case for add-ons prohibitions and disclosures, as well. Dealers interviewed cite ambiguity and broadly defined language under the proposed Rules regarding add-ons for their wide-ranging estimates provided for additional training hours required (both upfront and on a recurring basis, annually) and for compliance reviews. In turn, this impacted their cost estimates provided as well.

As illustrated in Table 4 above, median hours required upfront for training, planning and preparation were estimated at 180. Total upfront costs were estimated at USD 15,225.<sup>17</sup>

Similarly, recurring hourly training and compliance requirements were estimated to be 164 per dealer.<sup>18</sup> They estimated total recurring costs to be USD 10,950.<sup>19</sup>

## Impact of Recordkeeping

The proposed FTC Rule would require dealers to keep records of advertisements and customer transactions for a period of twenty-four months. A small minority of these documents are already being produced in the normal course of business, however, this is expected to greatly expand the recordkeeping obligation (much of which would increase costs for data security and compliance), as well as require coordination with vendors and modification of existing recordkeeping systems to comply with the new law. Dealers were surveyed to estimate the additional cost to comply with the additional duties outlined below in Figure 4:

Figure 4: Recordkeeping duties under proposed FTC Rule

Recordkeeping – Section 463.6
Requires dealers to keep records of all advertisements and customer transactions for a period of <b>24 months</b> , as defined below:
<ul style="list-style-type: none"> <li>• <b>all</b> materially different advertisements, sales scripts, training materials, and marketing materials regarding vehicle price, financing, or leasing terms;</li> <li>• <b>all</b> materially different copies of lists of add-on products and services and all documents describing such products or services that are offered to consumers;</li> <li>• copies of all purchase orders; financing and lease documents signed by the consumer, whether or not final approval is received for a financing or lease transaction;</li> </ul>

<sup>17</sup> Median

<sup>18</sup> Median

<sup>19</sup> Median

- **all** written communications relating to sales, financing, or leasing between the Dealer and any consumer who signs a purchase order or financing or lease contract with the Dealer;
- records demonstrating that Add-ons in consumers' contracts meet the requirements of this Rulemaking, including copies of all service contracts, GAP Agreements and calculations of loan-to-value ratios in contracts including GAP Agreements; and the Cash Price without Optional Add-ons disclosures and declinations required by this rulemaking
- written consumer complaints and consumer inquiries regarding add-ons or individual vehicles; and other records needed to demonstrate compliance with this Rule.

Dealers were then asked to estimate time (hours) and total cost (hours x hourly wage rate), to be incurred to perform the aforementioned duties of care both upfront and on a recurring basis. The results are summarized below in Table 6, including upfront / non-recurring and recurring costs on an annualized basis.

Table 6: Projected impact of recordkeeping requirement

		Median
Upfront cost	IT SYSTEM INVESTMENT COST (Hours x Average Wage)	\$ 2,500
Recurring cost	IT SPENDING ONGOING (Hours x Average Wage)	\$ 3,188
	COMPLIANCE REVIEW (Hours x Average Wage)	\$ 3,200
	....Total recurring cost	\$ 6,388
Number of completed survey responses		40

Sample qualitative dealer survey feedback with respect to the added recordkeeping compliance burden:

*"I am sure we will need third party assistance to securely maintain the vast amounts of data and personal information required to comply. Figure another USD 10,000 per month (USD 120,000 annually)."*

*"Related costs are the monthly fee to store the documents offsite, along with retrieval of those documents and destruction of said documents at the end of the 24-month period. The additional protection we will need to secure the privacy of these files and be in compliance with other FTC regulations = estimated annual cost of USD 11,000 for compliance. Storage fee of USD 1,000 per month or more, with a USD 4.00 retrieval fee and a USD 6.00 destruction fee per square foot of documentation. If we have to keep files on every customer we quote, including internet inquiries, we will have to store another 8,000-10,000 files per year, meaning another USD 2,850 cost per year to retrieve and destroy (alone)."*

*"I can't hire a parking lot attendant for USD 18/hour (referring to FTC cost assumption for IT spending at USD 18.37/hour). My IT person costs USD 150/hour. He meets with me, and my hourly rate is closer to USD 150. My manager's time is USD 100/hour, my salespeople at least USD 50/hr. These (IT compliance) tasks require more than one person."*

## Impact on Vehicle Transactions

The potential additional duties and requirements on dealers are also expected to negatively impact overall interactions with consumers, as well as many aspects of selling, financing, or leasing transactions, if adopted as proposed. The implications include changes to dealer sales processes, such as requiring new consumer disclosure forms (and signatures), new IT systems that facilitate transactions (ESIGN and electronic consumer communications' tracking), as well as enhanced compliance review procedures. Taken together, such changes would likely add time and cost to each transaction.

Dealers were therefore surveyed to estimate the impact – *incremental burden only* – of new compliance duties on a “typical” consumer transaction with respect to time and cost. They were instructed to assume a “hypothetical” transaction for vehicle purchase or lease, including arranged financing (F&I including full consideration for “add-ons”), i.e., from first consumer contact to post-sale and internal compliance review. The results are summarized below in Figure 5:

Figure 5: Projected new duties to be performed to comply with proposed FTC Rules

	#1 Pre-Sale Communication w/ Consumers	#2 Transaction – Vehicle Sale	#3 Transaction – F&I Office	#4 Post-Sale (Compliance Review)
<b>Misrepresentations:</b>	Ensure advertisements contain no misrepresentations	Disclosure reviewed with consumers	Disclosures reviewed with consumers	Enhanced review process
<b>Disclosures:</b> <ul style="list-style-type: none"> <li>• <b>Offering Price Disclosure</b></li> <li>• <b>Add-On List</b></li> <li>• <b>Total Costs Disclosure</b></li> <li>• <b>Effect of Lower monthly payments Disclosure</b></li> <li>• <b>Vehicle Cash Price Disclosures</b></li> <li>• <b>Itemization of Add-On Disclosure</b></li> </ul>	“Offering Price” i.e., “full cash price” for the vehicle must be disclosed in the Dealer’s first response regarding that specific vehicle to the consumer.  Add-On List - on any website, online service, or mobile app that vehicles are offered for sale, list all optional add-ons and the price of each	Disclosures reviewed with customers - Total Cost and Effects on Monthly Payments. Disclosure of add-ons <ul style="list-style-type: none"> <li>• Complete</li> <li>• Review with consumers</li> <li>• Co-signed by dealer and consumers</li> </ul>	Assess whether add-ons should be offered to customer to ensure no “valueless” add-ons are offered.  Disclosures completed (*if applicable); reviewed with consumers; and co-signed for: <ol style="list-style-type: none"> <li>1) Vehicle Cash Price*</li> <li>2) Itemization of Add-On*</li> </ol>	Enhanced reviews to ensure compliance for <ol style="list-style-type: none"> <li>1) Misrepresentations</li> <li>2) Disclosures within Ads, General Communication for “Offering Price” and “Total Cost”</li> <li>3) Completed disclosures</li> </ol> <i>(see NADA provided Disclosure Form mockup)</i>

Tables 7 and 8 provide dealer responses summarized by minutes per transaction stage, from pre-sale consumer interactions to post-sale management oversight and compliance review:

Table 7-8: Estimated Impact of New Duties to Comply with Proposed FTC Rules per “Typical” Transaction

<b>SUMMARIZED BY STAGE OF TRANSACTION</b>	
<b>ADDITIONAL MINUTES</b>	Median
Minutes Added: PRE-SALE	60
Minutes Added: TRANSACTION PROCESS FOR PURCHASES/LEASES	60
Minutes Added: TRANSACTION PROCESS FOR VEHICLE FINANCING - F&I	60
Minutes Added: POST-SALE / COMPLIANCE REVIEW	60
<b>Total Minutes Added Per Transaction</b>	<b>240</b>
<b>ADDITIONAL COST</b>	Median
Added Cost: PRE-SALE	\$ 70
Added Cost: TRANSACTION PROCESS FOR PURCHASES/LEASES	\$ 100
Added Cost: TRANSACTION PROCESS FOR VEHICLE FINANCING - F&I	\$ 116
Added Cost: POST-SALE / COMPLIANCE REVIEW	\$ 100
<b>Total Added Cost Per Transaction</b>	<b>\$ 392</b>

<b>SUMMARIZED BY APPLICABLE RULE</b>	
<b>ADDITIONAL MINUTES</b>	Median
Ensure no misrepresentations	40
Disclosure of total "Offering Price"	40
Disclosure of "Total Costs"	40
Disclosure of Effect of Lower Monthly Payments	40
Add-On Forms and Disclosures	40
Vehicle Cash Disclosure	40
<b>Total Added Minutes Per Transaction</b>	<b>240</b>
<b>ADDITIONAL COST</b>	Median
Ensure no misrepresentations	\$ 84
Disclosure of total "Offering Price"	\$ 63
Disclosure of "Total Costs"	\$ 58
Disclosure of Effect of Lower Monthly Payments	\$ 58
Add-On Forms and Disclosures	\$ 64
Vehicle Cash Disclosure	\$ 65
<b>Total Added Cost Per Transaction</b>	<b>\$ 392</b>

To summarize, dealers surveyed estimate that the combined additional duties, e.g., potentially four new consumer disclosure forms covering misrepresentations, and disclosures for optional vehicle add-ons and service offerings, could add over 60 minutes<sup>20</sup> to each transaction for **both** sales and F&I staff, similarly during pre-sale communications with consumers and post-sale compliance reviews.

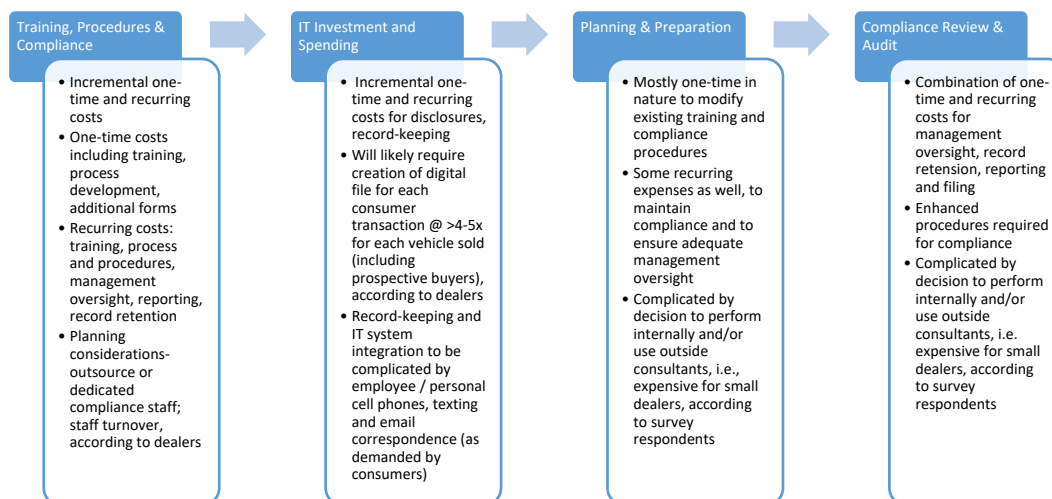
Furthermore, regulatory compliance training professionals interviewed were largely in agreement with the survey findings,<sup>21</sup> estimating that each transactional phase would likely be impacted by sixty minutes or more. They indicated best practices would likely require four or more new consumer disclosure forms and enhance compliance training and procedures as a result.

## Analysis of Costs

Cost estimates for regulatory compliance were derived from between forty and sixty completed surveys (varying by question) of franchised new-car dealerships and from fifteen in-depth interviews with dealerships, affected IT system and ESIGN contract developers, as well as compliance training professionals.

Importantly, respondents were asked to estimate incremental compliance costs, i.e., additional costs **not** related to compliance with pre-existing regulatory framework, such as (but not limited to) the Equal Credit Opportunity, Fair Credit Reporting, Truth in Lending Acts, as well as the Amended Safeguards Rule (effective 9 June 2023) and other considerable, unrelated regulations that impact dealers. These regulations may be issued by the FTC, NHTSA, the OSHA, the USDOT, the FCC, as well as a panoply of State and local government mandates. Respondents identified incremental compliance costs within four main categories – training, compliance review and audit, IT system investment and expenses, as well as planning and preparation – as illustrated in Figure 6.

Figure 6: Cost Categories & Detailed Care of Duty Assumptions to Comply with Proposed FTC Ruling (including Survey Respondent Feedback)



<sup>20</sup> Median

<sup>21</sup> Median

Within these main categories, CAR researchers asked respondents to estimate both one-time and recurring costs for compliance with the proposed FTC Rules. CAR also interviewed IT and E-SIGN (contract) developers, as well as regulatory compliance training professionals. Whereas dealers indicate they have limited visibility, i.e., control over, overall IT infrastructure requirements and compliance training needed.

Therefore, CAR surveyed dealers to determine compliance costs directly related to performing essential duties as outlined under the proposed FTC Rules and duties of care provided by NADA, e.g., mockup disclosure forms (hypothetical for purposes of illustration). Further, CAR asked dealers about recurring costs, i.e., monthly time requirements and average hourly staffing labor rates, to perform vital tasks associated with ongoing compliance, e.g., training, recordkeeping (assuming twenty-four months/destruction, management oversight, filing costs, and reporting), planning and preparation, and compliance reviews / audits.

Overall, respondents provided wide-ranging costs estimates, citing numerous unknowns concerning reporting requirements, IT systems, liability assessments by outside legal counsel, updated training, enhanced compliance and audit procedures, and additional staffing requirements, among other factors. Dealer respondents also indicate that any added costs incurred would be likely passed along to customers given prevailing industry competitive pressures overall.

## Up-Front Costs

Based on survey respondents, median upfront, non-recurring costs per dealer among the survey sample (40 fully completed surveys) were USD 46,950 per location.<sup>22</sup> As summarized below in Table 9, these upfront costs include updated training, IT system investment, as well as planning and preparation.

Table 9: Upfront costs summarized by task

SUMMARIZED BY TASK:		Median
Prohibited misrepresentations	Updated training	\$ 9,600
	....Total Prohibited Misrepresentations	\$ 9,600
Disclosures	Updated Training	\$ 6,600
	IT System Investment	\$ 7,400
	Planning & Preparation	\$ 5,625
	....Total Disclosures	\$ 19,625
Add-on prohibitions & disclosures	Updated Training	\$ 4,550
	IT System Investment	\$ 4,675
	Planning & Preparation	\$ 6,000
	....Total Add-ons Prohibitions & Disclosures	\$ 15,225
Recordkeeping requirements	IT System investment	\$ 2,500
	....Total Recordkeeping	\$ 2,500
	....Total upfront costs	\$ 46,950
<i>Number of completed survey responses</i>		40

## Recurring Costs

Survey respondents were also asked to estimate recurring monthly costs for requisite training, compliance reviews and IT spending, which are summarized on an annual basis in Table 10:

Table 10: Recurring costs summarized by task

SUMMARIZED BY TASK:		Median
Prohibited Misrepresentations	Training cost	\$ 9,600
	Compliance review cost	\$ 14,780
	....Total Prohibited Misrepresentations	\$ 24,380
Disclosures	Training cost	\$ 2,500
	IT Spending	\$ 3,020
	Compliance review cost	\$ 3,720
	....Total Disclosures	\$ 9,240
Add-on Prohibitions & Disclosures	Training cost	\$ 3,040
	IT spending	\$ 3,360
	Compliance review cost	\$ 4,550
	....Total Add-ons Prohibitions & Disclosures	\$ 10,950
Recordkeeping Requirements	IT Spending	\$ 3,188
	Compliance review cost	\$ 3,200
	....Total Recordkeeping	\$ 6,388
....Total Recurring costs		\$ 50,958
Number of completed survey responses		40

Table 11: Recurring costs summarized by dealer location

SUMMARIZED BY DEALER LOCATION:		Median
Training	Total Training Costs	\$ 15,140
	# Locations (Rooftops) per Dealer	1
	Recurring Costs per Location	\$ 15,140
IT Spending	Total IT Spending	\$ 9,568
	# Locations (Rooftops) per Dealer	1
	Recurring Costs per Location	\$ 9,568
Compliance Review	Total Compliance Review Costs	\$ 26,250
	# Locations (Rooftops) per Dealer	1
	Recurring Costs per Location	\$ 26,250
Total	Total Recurring Costs	\$ 50,958
	# Locations (Rooftops) per Dealer	1
	Recurring Costs per Location	\$ 50,958

*Note: estimates for incremental costs directly related to compliance and performing additional duties of care, and excludes additional staffing requirements*

CAR interviews with regulatory compliance professionals (5 interviews), however, suggest that estimating incremental costs for training and enhanced compliance reviews (excluding IT spending) is at present difficult for dealers. Furthermore, they say costs are highly dependent upon numerous factors but most notably the number of dedicated on site compliance staff and trainers – difficult they say at present for small dealers with a single location or less than five rooftops. According to compliance professionals interviewed, a typical dealer group of 10 locations (rooftops) could spend USD 200,000 to 300,000 annually for training and compliance-alone, i.e., USD 20,000 to USD 30,000 per location.

## Cost Analysis: Net Present Value

In the preceding analysis of upfront and recurring costs, CAR attempted to estimate and summarize costs of each provision of the Proposed Rule on a per dealer basis. These results, however, must be also multiplied by the number of total dealer locations to be comparable to the Federal Trade Commission Notice of Proposed Rulemaking, estimated at 46,525 dealers overall (Federal Trade Commission, 2022). Furthermore, total costs must also be extrapolated over a 10-year assessment period and discounted to the present value, as summarized below in Table 12.

Table 12: Present value of total compliance costs for dealers, year 1 – year 10

Costs - Dealers <sup>23</sup>	Year 1	Years 1 – 10
Upfront per dealer	\$46,950	\$46,950
Recurring per dealer	\$50,958	\$509,580
Total per Dealer	\$97,908	\$556,530
Number of dealers	46,525	
<b>Present value</b>		
Total Cost	3% discount rate	\$22,344,310,535
	7% discount rate	\$18,693,101,691

<sup>23</sup> Median



In addition to calculating the dealer compliance costs introduced by the proposed rule, CAR utilized the information from the dealer surveys and interviews to calculate the benefits or costs the proposed rule would deliver to consumers in the form of decreased or increased transaction times. In this latter analysis, CAR estimated that, if the rule were implemented as proposed, an additional 2 hours would be required to successfully complete a typical transaction, i.e., 1 hour during the sales process, and 1 hour to review additional F&I disclosures and supplemental documentation.<sup>25</sup> Then, utilizing the rubric by which the FTC calculated the dollar value of the proposed rule's impact, CAR estimated that the median costs to consumers would be \$44.40 per vehicle transaction<sup>26</sup> which, when multiplied by the 62,107,000 annual vehicle sales figure used by the FTC to develop its cost estimate, equals USD 2,757,550,800 per year (or USD 27,575,508,000 over ten years), as illustrated below in Table 13.<sup>27</sup>

Costs - Consumers <sup>24</sup>		
Consumers – added time		~2 hours per transaction
Hourly \$-rate @ ~\$22.20		\$44.40
Annual vehicle sales		62,107,000
	Year 1	Years 1 – 10
Total value of consumers time	\$2,757,550,800	\$27,575,508,000
Present value		
Total Cost	3% discount rate	\$23,522,467,657
	7% discount rate	\$19,367,882,897

Table 13: Present value for consumers (value of incremental time spent per transaction), year 1 – year 10

<sup>24</sup> Median

<sup>25</sup> The estimated consumer costs do not include time value associated with Pre-Sale dealer communications, estimated to be an incremental 1 hour per typical transaction for dealers.

<sup>26</sup> The estimated per vehicle transaction costs represent the value of a consumer's nonwork time of approximately \$22.20 per hour (the figure relied upon by the FTC from the Bureau of Labor Statistics), multiplied by the 2 additional hours that each transaction is projected to require.

<sup>27</sup> It is essential to note that CAR is relying on the FTC's estimate of the number of vehicle transactions that would be affected by the proposed rule, if finalized, which is based on the Department of Transportation's (DOT) calculation of 62,107,000 vehicle sales transactions occurring in 2019 (See FTC Table 2.1—Estimated Benefits of Time Savings for Completed Transactions (87 FR 42037)). However, it is apparent from data from S&P Global, Wards Intelligence, and NADA that the DOT figure includes both (1) fleet (commercial) sales and (2) sales between private parties (i.e., transactions not involving motor vehicle dealers).

Year	New Vehicle Sales			Used Vehicle Sales		Total New & Used Sales to Consumers
	Total New Vehicle Sales	to Fleets	to Consumers	by Franchise Dealers	by Independent Dealers	
2018	17,215,163	3,107,543	14,107,620	14,439,289	13,870,305	42,417,215
2019	17,108,156	3,307,415	13,800,741	14,937,110	13,982,455	42,720,306
2020	14,463,935	2,027,847	12,436,088	13,681,786	13,195,399	39,313,272
2021	14,926,933	1,943,129	12,983,804	14,714,858	14,208,095	41,906,758

Sources: S&P Global; Wards Intelligence; NADA estimates

When eliminating these transactions, which are unrelated to the proposed rule, data from these sources reveal that the number of transactions by franchised and independent dealers with consumers in 2019 was actually 42,720,306, as illustrated above. Nonetheless, because CAR is attempting to produce a cost/benefit estimate that can be compared directly to the FTC's

For comparative purposes, CAR also summarized the estimated costs as the net present value over a 10-year time frame in Table 14, to be consistent with FTC rule review policy and with FTC preliminary regulatory analysis (Federal Trade Commission, 2022)<sup>28</sup>.

Table 14: Present value of net costs, year 1 – year 10

	Present value <sup>29</sup>
Total Dealers:	
3% discount rate	\$22,344,310,535
7% discount rate	\$18,693,101,691
Total Consumers:	
3% discount rate	\$23,522,467,657
7% discount rate	\$19,367,882,897
Total Costs, Net	
3% discount rate	\$45,866,778,192
7% discount rate	\$38,060,984,588

**Thus, while the FTC estimates the proposed rule will generate USD 29.7 billion in net consumer benefit over a ten-year period<sup>30</sup>, CAR’s analysis reveals that the proposed rule would actually cost consumers USD 38.1 billion over those same ten years.**

cost/benefit estimate, CAR is utilizing the FTC’s cost estimate rubric, including its reliance on the overstated number of individual sales transactions.

<sup>28</sup> It is essential to note that CAR is relying on the FTC’s estimate of the number of vehicle transactions that would be affected by the proposed rule, if finalized, which is, in turn, based on the Department of Transportation’s (DOT) calculation of 62,107,000 vehicle sales transactions occurring in 2019 (87 FR 42037). However, it is apparent from data from S&P Global, Wards Intelligence, and NADA that the DOT figure includes both (1) fleet (commercial) sales and (2) sales between private parties (i.e., transactions not involving motor vehicle dealers).

Year	New Vehicle Sales			Used Vehicle Sales		Total New & Used Sales to Consumers
	Total New Vehicle Sales	to Fleets	to Consumers	by Franchise Dealers	by Independent Dealers	
2018	17,215,163	3,107,543	14,107,620	14,439,289	13,870,305	42,417,215
2019	17,108,156	3,307,415	13,800,741	14,937,110	13,982,455	42,720,306
2020	14,463,935	2,027,847	12,436,088	13,681,786	13,195,399	39,313,272
2021	14,926,933	1,943,129	12,983,804	14,714,858	14,208,095	41,906,758

Sources: S&P Global; Wards Intelligence; NADA estimates

When eliminating these transactions, which are unrelated to the proposed rule, data from these sources reveal that the number of transactions by franchised and independent dealers with consumers in 2019 was actually 42,720,306, as illustrated above. Nonetheless, because CAR is attempting to produce a cost estimate that can be compared directly to the FTC’s cost estimate, CAR is utilizing the FTC’s full cost estimate rubric, including its reliance on the overstated number of individual sales transactions.

<sup>29</sup> Median

<sup>30</sup> See FTC Table 1.1 – Present Value of Net Benefits, 2022-2032 (87 FR 40236)

## Competitive Impact of Proposed Rule on Dealers

According to dealers interviewed, however, estimating incremental costs do not tell the entire story. They report significant potential litigation exposure – at over USD 50,000 per incident as outlined in the proposed FTC ruling (Federal Trade Commission, 2023) – which in their words is, “problematic in light of sufficiently vague guidelines in real world situations.” Therefore, many dealers’ cost estimates include specialized legal representation on a retainer basis in the event of potential litigation or regulatory enforcement actions under the proposed new Rules.

Other important qualitative dealer feedback includes the following:

*“The unintended consequence of this all is that smaller dealers, such as ours (4 rooftops) will be put at a significant competitive disadvantage versus larger dealers – particularly compared to large, publicly traded dealer groups who can spread the compliance costs over much larger sales volumes. We would have to incur significant costs for hiring dedicated (new) compliance personnel and for outside consultants and attorneys. Ultimately, consumers in general will pay more and (will) spend more time at dealerships as a result.”*

*“It would likely take us six months to a year, or perhaps longer in some cases, depending on the ultimate Rulemaking, to train, to adjust our back-office and front-office procedures – which we believe are already best-in-class – because many of the requisite IT systems are inadequate and training programs aren’t available. None of this appears to have been contemplated by the FTC at this time.”*

## Business Changes

Compliance with the FTC’s Proposed Rulemaking could potentially also have unintended consequences for consumers, according to dealers surveyed.

See Figures 7 and 8 for dealer additional responses to the proposed ruling:

*Figure 7: Dealer Survey Results – “If FTC imposed this Rule, what impact would this have on your pre-sale communication with consumers, e.g., texts, emails, phone calls, would you provide more details, stay the same, or reduce details provided?”*

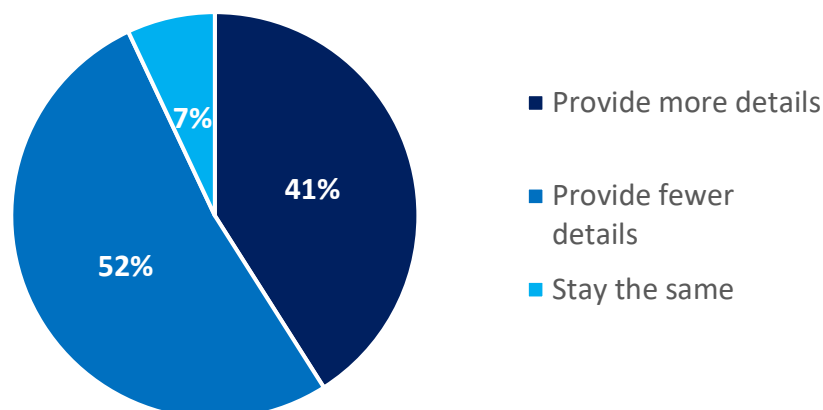
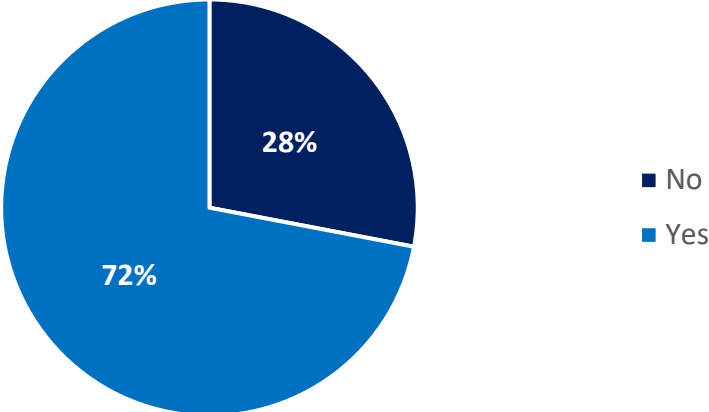


Figure 8: Dealer Survey Results – “If FTC imposed this Rule, would you require consumers to contact your dealership for pricing information, specifically in lieu of providing in advertising or consumer communications?”



## Appendix 1: Tables including Averages and Median Values

Table 2: 2021 Statistics by Dealer Size

	Average	Median	Min	Max *
<b>FTE Employees</b>	182	139	37	>15,000
<b>Revenue (thousands)</b>	128,025	109,814	18,500	>12,000,000
<b>New Vehicle Sales</b>	1,658	1,357	170	>100,000
<b>Used Vehicle Sales</b>	1,544	1,179	240	>100,000
<b>Total Vehicle Sales</b>	3,202	2,536	470	>200,000
<b>Franchises/Makes</b>	3	2	1	>22
<b>Locations (Rooftops)</b>	4	1	1	>200

Source: CAR Research (Over 60 responses) \* Notes: Figures rounded to maintain anonymity of survey respondent (among Top 5 dealers nationwide by revenue in 2021); excluded from averages and median calculations above. Lines are not additive. Each item was calculated independently from the full set of complete responses.

Table 3: Estimated Impact of Prohibited Misrepresentations per Dealership

	Average	Median
Up front, updated training materials – hours	352	120
Recurring, training – hours	458	132
Recurring, compliance review – hours	355	120
Up front cost	\$ 59,654	\$ 9,600
Annual training cost	\$ 58,811	\$ 9,600
Annual compliance review cost	\$ 37,229	\$ 14,780
<i>Number of completed survey responses</i>	40	40

Table 4: Estimated Impact of Disclosures, by Disclosure

Summarized by Disclosure		Average	Median
Upfront hours requirement	Add On products Not Required	210	55
	Add-on List	289	55
	Effect of Lower Monthly Payments	374	52
	Offering price	302	55
	Total cost disclosure	381	52
	.....Total upfront hours	1,556	269
Upfront cost	Add On products Not Required	\$ 266,109	\$ 3,200
	Add-on List	\$ 235,222	\$ 4,600

	Effect of Lower Monthly Payments	\$ 864,880	\$ 3,500
	Offering price	\$ 266,893	\$ 4,325
	Total cost disclosure	\$ 865,681	\$ 4,000
	.....Total upfront costs	\$ 2,498,784	\$ 19,625
Recurring hours	Add On products Not Required	58	30
	Add-on List	65	30
	Effect of Lower Monthly Payments	55	30
	Offering price	65	30
	Total cost disclosure	56	30
	.....Total recurring hours / year	300	150
Recurring cost	Add On products Not Required	\$ 5,137	\$ 1,950
	Add-on List	\$ 5,452	\$ 1,850
	Effect of Lower Monthly Payments	\$ 5,045	\$ 1,810
	Offering price	\$ 5,606	\$ 1,850
	Total cost disclosure	\$ 5,041	\$ 1,780
	.....Total recurring costs / year	\$ 26,281	\$ 9,240
<i>Number of completed survey responses</i>		40	40

Table 5: Estimated Impact of Add-On Prohibitions and Disclosures

Summarized by Rule		Average	Median
Upfront hours	Add-Ons Transactions Forms and Disclosures	104	30
	Express informed consent	104	30
	Itemization of Add-On Disclosure	103	30
	Prohibition of Valueless Add-Ons	102	30
	Vehicle cash disclosure: financed transactions	104	30
	Vehicle cash price disclosure: cash transactions	104	30
	.....Total upfront hours	621	180
Upfront cost	Add-Ons Transactions Forms and Disclosures	\$ 10,827	\$ 2,450
	Express informed consent	\$ 10,979	\$ 2,600
	Itemization of Add-On Disclosure	\$ 10,822	\$ 2,800
	Prohibition of Valueless Add-Ons	\$ 10,816	\$ 2,475
	Vehicle cash disclosure: financed transactions	\$ 10,808	\$ 2,450
	Vehicle cash price disclosure: cash transactions	\$ 10,825	\$ 2,450
	.....Total upfront cost	\$ 65,076	\$ 15,225
Recurring hours	Add-Ons Transactions Forms and Disclosures	59	27
	Express informed consent	59	28
	Itemization of Add-On Disclosure	59	28
	Prohibition of Valueless Add-Ons	59	25
	Vehicle cash disclosure: financed transactions	60	28
	Vehicle cash price disclosure: cash transactions	59	28
	.....Total recurring hours	355	164
Recurring cost	Add-Ons Transactions Forms and Disclosures	\$ 4,790	\$ 1,810
	Express informed consent	\$ 4,791	\$ 1,810
	Itemization of Add-On Disclosure	\$ 4,862	\$ 1,810
	Prohibition of Valueless Add-Ons	\$ 4,774	\$ 1,810
	Vehicle cash disclosure: financed transactions	\$ 4,883	\$ 1,900
	Vehicle cash price disclosure: cash transactions	\$ 4,801	\$ 1,810
	.....Total recurring cost	\$ 28,901	\$ 10,950

Table 6: Projected impact of recordkeeping requirement

		Average	Median
Upfront cost	IT SYSTEM INVESTMENT COST (Hours x Average Wage)	\$ 31,925	\$ 2,500
Recurring cost	IT SPENDING ONGOING (Hours x Average Wage)	\$ 23,491	\$ 3,188
	COMPLIANCE REVIEW (Hours x Average Wage)	\$ 20,476	\$ 3,200
	....Total recurring cost	\$ 43,968	\$ 6,388
Number of completed survey responses		40	40

Table 7-8: Estimated Impact of New Duties to Comply with Proposed FTC Rules per "Typical" Transaction

SUMMARIZED BY STAGE OF TRANSACTION		
ADDITIONAL MINUTES	Average	Median
Minutes Added: PRE-SALE	96	60
Minutes Added: TRANSACTION PROCESS FOR PURCHASES/LEASES	91	60
Minutes Added: TRANSACTION PROCESS FOR VEHICLE FINANCING - F&I	96	60
Minutes Added: POST-SALE / COMPLIANCE REVIEW	76	60
<b>Total Minutes Added Per Transaction</b>	<b>359</b>	<b>240</b>
ADDITIONAL COST	Average	Median
Added Cost: PRE-SALE	\$ 781	\$ 70
Added Cost: TRANSACTION PROCESS FOR PURCHASES/LEASES	\$ 695	\$ 100
Added Cost: TRANSACTION PROCESS FOR VEHICLE FINANCING - F&I	\$ 812	\$ 116
Added Cost: POST-SALE / COMPLIANCE REVIEW	\$ 1,671	\$ 100
<b>Total Added Cost Per Transaction</b>	<b>\$ 3,959</b>	<b>\$ 392</b>

SUMMARIZED BY APPLICABLE RULE		
ADDITIONAL MINUTES	Average	Median
Ensure no misrepresentations	76	40
Disclosure of total "Offering Price"	55	40
Disclosure of "Total Costs"	55	40
Disclosure of Effect of Lower Monthly Payments	57	40
Add-On Forms and Disclosures	58	40
Vehicle Cash Disclosure	58	40
<b>Total Added Minutes Per Transaction</b>	<b>359</b>	<b>240</b>
ADDITIONAL COST	Average	Median
Ensure no misrepresentations	\$ 664	\$ 84
Disclosure of total "Offering Price"	\$ 680	\$ 63
Disclosure of "Total Costs"	\$ 614	\$ 58
Disclosure of Effect of Lower Monthly Payments	\$ 704	\$ 58
Add-On Forms and Disclosures	\$ 608	\$ 64
Vehicle Cash Disclosure	\$ 690	\$ 65
<b>Total Added Cost Per Transaction</b>	<b>\$ 3,959</b>	<b>\$ 392</b>

Table 9: Upfront costs summarized by task

SUMMARIZED BY TASK:		Average	Median
Prohibited misrepresentations	Updated training	\$ 59,654	\$ 9,600
	....Total Prohibited Misrepresentations	\$ 59,654	\$ 9,600
Disclosures	Updated Training	\$ 172,261	\$ 6,600
	IT System Investment	\$ 569,309	\$ 7,400
	Planning & Preparation	\$ 1,757,214	\$ 5,625
	....Total Disclosures	\$ 2,498,784	\$ 19,625
Add-on prohibitions & disclosures	Updated Training	\$ 12,307	\$ 4,550
	IT System Investment	\$ 30,171	\$ 4,675
	Planning & Preparation	\$ 22,598	\$ 6,000
	....Total Add-ons Prohibitions & Disclosures	\$ 65,076	\$ 15,225
Recordkeeping requirements	IT system investment	\$ 31,925	\$ 2,500
	....Total Recordkeeping	\$ 31,925	\$ 2,500
	....Total upfront costs	\$ 2,655,439	\$ 46,950
Number of completed survey responses		40	40

Table 10: Recurring costs summarized by task

SUMMARIZED BY TASK:		Average	Median
Prohibited Misrepresentations	Training cost	\$ 58,811	\$ 9,600
	Compliance review cost	\$ 37,229	\$ 14,780
	....Total Prohibited Misrepresentations	\$ 96,040	\$ 24,380
Disclosures	Training cost	\$ 10,066	\$ 2,500
	IT Spending	\$ 8,536	\$ 3,020
	Compliance review cost	\$ 7,679	\$ 3,720
	....Total Disclosures	\$ 26,281	\$ 9,240
Add-on Prohibitions & Disclosures	Training cost	\$ 12,329	\$ 3,040
	IT spending	\$ 7,270	\$ 3,360
	Compliance review cost	\$ 9,301	\$ 4,550
	....Total Add-ons Prohibitions & Disclosures	\$ 28,900	\$ 10,950
Recordkeeping Requirements	IT Spending	\$ 23,491	\$ 3,188
	Compliance review cost	\$ 20,476	\$ 3,200
	....Total Recordkeeping	\$ 43,967	\$ 6,388
	....Total Recurring costs	\$ 195,188	\$ 50,958
Number of completed survey responses		40	40

Table 11: Recurring costs summarized by dealer location



SUMMARIZED BY DEALER LOCATION:		Average	Median
Training	Total Training Costs	\$ 81,206	\$ 15,140
	# Locations (Rooftops) per Dealer	4	1
	Recurring Costs per Location	\$ 20,302	\$ 15,140
IT Spending	Total IT Spending	\$ 39,297	\$ 9,568
	# Locations (Rooftops) per Dealer	4	1
	Recurring Costs per Location	\$ 9,824	\$ 9,568
Compliance Review	Total Compliance Review Costs	\$ 74,685	\$ 26,250
	# Locations (Rooftops) per Dealer	4	1
	Recurring Costs per Location	\$ 18,671	\$ 26,250
Total	Total Recurring Costs	\$ 195,188	\$ 50,958
	# Locations (Rooftops) per Dealer	4	1
	Recurring Costs per Location	\$ 48,797	\$ 50,958

*Note: estimates for incremental costs directly related to compliance and performing additional duties of care, and excludes additional staffing requirements*

## Appendix 2: Survey Instrument



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RESEARCH

### NADA Dealership Survey on Proposed Federal Trade Commission Rulemaking

**This survey seeks responses from your dealership’s owner, general manager, or F&I manager.** The Federal Trade Commission (FTC) has proposed a Rule that includes a number of specifically prohibited misrepresentations as well as a series of new consumer disclosure requirements for motor vehicle dealers, along with a significantly expanded document retention obligation. Taken together, these new duties are expected to create additional monitoring, training, forms, and compliance review responsibilities as well as a modification of record keeping systems and coordination with outside IT and other vendors. Further, it is expected these proposed Rules will alter online the sales process, require ESIGN capabilities, and possibly necessitate additional technology solutions.

If finalized as proposed, the Rule would also expand the liability exposure for dealers related to advertising and vehicle sales; in particular, it would expose dealers to potentially large monetary fines (e.g., over USD 50,000 per violation) from the FTC that are not available today.

#### Prohibited Advertising Misrepresentations:

Generally, the various prohibited misrepresentations bar dealers from making certain statements while selling, leasing, or arranging financing for motor vehicles. These are generally consistent with the existing prohibitions under previous federal advertising enforcement actions brought by the FTC under Section 5 of the FTC Act (*see attached Appendix V*) and may not themselves give rise to additional duties of care. However, these misrepresentations are written broadly and, therefore, may be interpreted broadly which is expected to increase the liability risk of selling vehicles overall. This would in turn increase the importance of robust (additional) training and compliance reviews.

#### Disclosure Requirements:

In addition to the new misrepresentation prohibitions, the proposed Rule requires new and specific pricing, trade-in, discount, rebate, and related disclosures in all dealer advertising and/or communications with consumers (*see attached Appendix V*). The proposed Rule would require that such disclosures be made in a clear and conspicuous manner, without providing clear guidance on the form such disclosures must take. For example, the proposed Rule would require the disclosure of an “Offering Price” in writing, whenever someone inquired about a specific vehicle.

1. “Offering Price” of a vehicle means “the full cash price for which a dealer will sell or finance the motor vehicle to any consumer, excluding only required government charges.” The proposed Rule requires a dealer to disclose the “Offering Price” in the following scenarios:
  - a. General communications - upon receipt of a consumer inquiry about a specific vehicle or price or financing term for any vehicle; further, if any part of such an inquiry or response is made in writing, the Offering Price must be disclosed in writing as well.

- b. Ads - when dealers advertise a specific vehicle for sale as well as when any monetary amount or financing term is advertised.

In addition, the dealer would also be required to disclose other information at a required (and artificial) point in the sales process, including:

2. Disclosure of “add-on” List: a list of all optional “add-ons” and prices on any website, online service, or mobile application on which vehicles are offered for sale. “Add on” means any product or service not provided to the consumer or installed on the vehicle by the motor vehicle manufacturer and for which the Motor Vehicle Dealer charges a consumer in connection with a vehicle sale, lease, or financing transaction. Accordingly, “add on” refers not only to voluntary protection products offered in the F&I office but to physical items added to the vehicle (such as towing packages, roof racks, floor mats, etc.) as well.
3. Disclosure of Total Cost: the total of payments when quoting monthly payment amounts to a prospective buyer or lessee.
4. Disclosure of Effect of Lower Monthly Payments: requires dealers, when they compare different monthly payment options with consumers, to inform consumers that a lower monthly payment will increase the total amount the consumer will pay, if true.

#### Prohibited Sale of “Add-Ons”:

The proposed Rule also prohibits charging for what they term “add-on” products (including both voluntary protection products “VPPs” and other additions to the vehicle) that provide no benefit to the consumer (without any explanation of how that is determined) and would prohibit charging consumers for add-ons without express, informed consent. To determine whether an add-on product would provide a benefit to a customer, dealerships must consider several factors that may vary based on the product offered. For example:

- GAP Waiver – Dealerships must determine the loan-to-value ratio before a GAP waiver may be offered to ensure that the LTV is high enough to warrant the product.
- Bi-Weekly Payment Plans – Dealerships must review the term of the contract to determine whether it provides value to a customer.
- Service Contracts – Dealerships must review the make, model, year, and mileage of vehicles to determine if a service contract provides coverage to a customer.

#### New “Add-On” Disclosures:

Before offering and selling an “add-on,” dealers would also need new, additional disclosure forms (with required customer signatures). *See attached Disclosure Mock Ups in Appendix I-IV.*

Vehicle Cash Price Disclosure - Dealers may not charge for optional “add-ons” unless they disclose **up front** the cash price at which a consumer may purchase the vehicle without additional “add-ons”. This must occur before discussing any aspect of financing for a specific vehicle, aside from its Offering Price. Dealers would need to provide the Vehicle Cash Price Disclosure for every vehicle they offer for sale with every optional add-on. The proposed Rule would require that dealers disclose, and offer to close the transaction for, the Cash Price without Optional “add-ons”, separately itemizing the Offering Price, any discounts, rebates, or trade-in valuation, and required government charges.

Itemization of Add-On Disclosure – Once a customer has declined (and signed the form so declining) to purchase a vehicle for the cash price using the Vehicle Cash Price Disclosure, a dealer then must disclose the cost of the transaction without any optional add-ons and disclose

the charges for the optional add-ons selected by the consumer, separately itemized. These disclosures could increase the time of a motor vehicle transaction.

As a result of all of the foregoing, the requisite disclosures are expected to: (a) add several new required written forms and customer signatures to the sales process; (b) increase the liability risk related to any vehicle price advertising, and (c) intrinsically and materially alter the transaction process, which could potentially increase the time of a motor vehicle transaction, inhibit online sales, limit price disclosures, and increase customer confusion and frustration.

#### Survey Methodology and Approach:

NADA has contracted with the Center for Automotive Research (CAR) to survey dealers to understand how the FTC’s Rule may affect the costs of installing the requisite business and sales processes, reporting practices, document retention, and oversight policies to ensure regulatory compliance.

Your individual survey results will be confidential; only the five-member research team at CAR will be able to link your responses to your dealership and the identity of your dealership, and your participation in this survey, will not be shared with any other third party. CAR will provide a summary report to NADA, and NADA may provide CAR’s aggregate cost estimates and survey analysis as evidence in the Rulemaking process, but CAR will not disclose to NADA the information that a specific dealership provides and NADA will not disclose even the identity of your dealership. If you have any questions about the survey, the confidentiality of your data, or other concerns, please contact the survey leads below:

#### Survey Leads:

<b>BERNARD SWIECKI, DIRECTOR RESEARCH</b>	<a href="mailto:bswiecki@cargroup.org">bswiecki@cargroup.org</a>
<b>EDGAR FALER, SENIOR INDUSTRY ANALYST</b>	<a href="mailto:efaler@cargroup.org">efaler@cargroup.org</a>

#### Survey Coordinator:

<b>JANE MICHALEK, RESEARCH MANAGER</b>	<a href="mailto:jmichalek@cargroup.org">jmichalek@cargroup.org</a>
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#### Additional Survey Instructions:

***Important – Please print Dealers Duty “Tear Sheet” to complete survey questions when prompted. This survey aide contains key terms that are essential for you to understand before answering several questions.***

#### Survey Respondent (Contact Information):

Please provide your contact information below for CAR internal purposes-only (*note: strictly confidential and not be shared with anyone outside of the CAR research team*), in the event that follow-up is required for clarification, or to obtain additional survey details if necessary.

- (1) Respondent Name(s): \_\_\_\_\_
- (2) Respondent Email(s): \_\_\_\_\_
- (3) Respondent Phone(s): \_\_\_\_\_

**Section 1—Dealership Profile:** This information helps us ensure the research broadly represents the NADA membership.

<i>Company Profile</i>	<i>Response</i>
<b>(4) Dealership Name</b>	
<b>(5) City</b>	
<b>(6) State</b>	
<b>(7) Full-Time Equivalent (FTE) Employees</b>	_____ (2021 FTEs)
<b>(8-10) Annual Gross Revenue (2019, 2020 &amp; 2021) (\$)</b>	_____ (2019 \$)
	_____ (2020 \$)
	_____ (2021 \$)
<b>(11-13) Number of New Vehicles Sold (2019, 2020 &amp; 2021)</b>	_____ (2019 number)
	_____ (2020 number)
	_____ (2021 number)
<b>(14-16) Number of Used Vehicles Sold (2019, 2020 &amp; 2021)</b>	_____ (2019 number)
	_____ (2020 number)
	_____ (2021 number)
<b>(17) Number of Franchises/Makes at this Location (2021)</b>	_____ (number)
<b>(18) Other Rooftops/Franchises Owned?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>(19) If Other Rooftops/Franchises, how many (2021)?</b>	_____ (number)
<b>(20) Part of a Dealership Holding Group or Network?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>(21a) If Part of a Dealer Holding Group or Network, annual Gross Revenue (2021) (\$)</b>	_____ (2021 \$)

<b>(21b) If Part of a Dealer Holding Group or Network, how many total Rooftops (2021)?</b>	_____ (number)
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**Section 2—Dealership Characteristics:** The proposed Rule would require changes to almost all existing advertisements, marketing, and communications with prospective customers. This information will help us understand how dealers could be affected.

<b>Dealership Characteristics</b>	<b>Response</b>																					
<b>(22) Total dealership advertising expenditure, e.g., newspaper, radio, TV, direct mail, internet/social media, other?</b>	_____ (2021 \$)																					
<b>(23) Advertising by media used (%-total, estimated)</b>	<table border="1"> <thead> <tr> <th>Media Category:</th> <th>NADA Data Avg*</th> <th>Question</th> </tr> </thead> <tbody> <tr> <td>Newspaper</td> <td>4.5%</td> <td>_____%</td> </tr> <tr> <td>Radio</td> <td>9.8%</td> <td>_____%</td> </tr> <tr> <td>TV</td> <td>12.4%</td> <td>_____%</td> </tr> <tr> <td>Direct Mail</td> <td>8.2%</td> <td>_____%</td> </tr> <tr> <td>Internet/Social Media</td> <td>63.6%</td> <td>_____%</td> </tr> <tr> <td>Other</td> <td>1.5%</td> <td>_____%</td> </tr> </tbody> </table> <p>* NADA Data 2021 average provide for reference</p>	Media Category:	NADA Data Avg*	Question	Newspaper	4.5%	_____%	Radio	9.8%	_____%	TV	12.4%	_____%	Direct Mail	8.2%	_____%	Internet/Social Media	63.6%	_____%	Other	1.5%	_____%
Media Category:	NADA Data Avg*	Question																				
Newspaper	4.5%	_____%																				
Radio	9.8%	_____%																				
TV	12.4%	_____%																				
Direct Mail	8.2%	_____%																				
Internet/Social Media	63.6%	_____%																				
Other	1.5%	_____%																				
<b>(24) Information Systems / IT Spending?</b>	_____ (2021 \$)																					
<b>(25) Does your dealership maintain an online presence, e.g., update your own dedicated website for consumers?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No																					

This information will help us understand dealers' costs for calculating regulatory compliance.

**Dealership – Average Hourly Labor Rates (2021)**

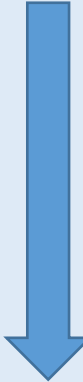
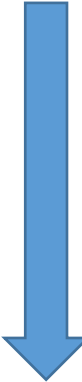
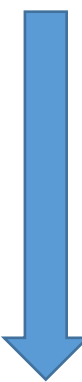
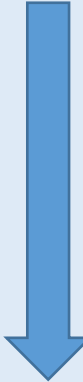
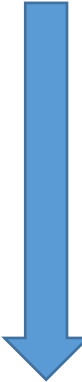
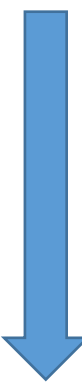
<b>(26) Sales Staff</b>	\$/hour
<b>(27) F&amp;I</b>	\$/hour
<b>(28) Management</b>	\$/hour
<b>(29) Clerical and Admin Staff</b>	\$/hour
<b>(30) Compliance &amp; Review Officer, if different than Management</b>	\$/hour

**Section 3—Identifying impact of Prohibited Misrepresentations:** This is a list of potential ADDITIONAL costs expected to be incurred on dealerships to implement and comply with the proposed Rule if adopted. The CAR research team would like the respondents to expand and elaborate on these costs to ensure completeness.

In the chart below, each prohibited misrepresentation has a potential additional cost to ensure compliance. These prohibitions are consistent with the existing prohibitions under Section 5 of the FTC Act, and do not themselves require additional information or additional duties. However, this would increase the importance and liability risk of sell vehicles which may signal to dealers that they may need revised forms and robust training and compliance reviews. Under the proposed Rule, engaging in these prohibited misrepresentations, whether intentional or not, could result in significant civil monetary penalties. Please interpret these prohibited misrepresentations broadly, as they are written, while considering the types of conversations and scenarios (e.g., online, in person, text) employees may engage with customers.

For each corresponding box, provide the *total cumulative hours of work anticipated AND the average hourly cost of staff or vendor/third party performing this task*. Please respond with the hours or costs (paid to contractors or outside services) that are directly related to complying with duties imposed by the proposed Rule over and above current time and costs.

Estimated Costs of Compliance (*Incremental-only*):

		Up-Front Costs (One- Time)	Recurring Costs (Per Year)	
<p><b>Misrepresentations (including Citations)</b> Under the proposed Rule, engaging in these prohibited misrepresentations, whether intentional or not, could result in significant civil monetary penalties (e.g. &gt; \$50,000 fine per violation). Please interpret the below broadly.</p>		<b>Updating Training Materials</b>	<b>Annual Training (Ongoing)</b>	<b>Annual Compliance Review (Internal &amp; External)</b>
<p><u>Instructions:</u></p> <p><i>Important - Please refer to Dealers Duty "Tear Sheet" provided to answer the questions below. This document includes a comprehensive list (and details) of the 16 Misrepresentations prohibited, as provided below</i></p>				
463.3(a) Purchasing, Financing, or Leasing				
463.3(b) "add-on" Product or Service				
463.3(d) Rebates or Discounts				
463.3(e) and (f) Availability of Advertised Price:				
		<b>Upfront Costs</b>	<b>Recurring Costs (Per Year)</b>	
<p><i>Estimated Costs of Compliance: Misrepresentations</i></p> <p><i>(Continued from Survey Page #6)</i></p>		<b>Updated Training Materials (One-Time)</b>	<b>Annual Training (Ongoing)</b>	<b>Annual Compliance Review (Internal &amp; External)</b>

<p>31 - 33</p>	<p><b>Questions:</b>  Please estimate <u>cumulative</u> – incremental – hours and \$ Avg/hr costs required for each section listed above, if robust training and compliance reviews are required for regulatory compliance:</p>	<p>Cumulative Hours  _____</p> <p>\$ Avg/Hr  _____</p>	<p>Cumulative Hours  _____</p> <p>\$ Avg/Hr  _____</p>	<p>Cumulative Hours  _____</p> <p>\$ Avg/Hr  _____</p>
<p><b>(34a)</b> Understanding the above misrepresentations, and the associated liability risks and fines, is your dealership likely to incorporate more forms and disclosures into the advertising and sales process?</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p><b>(34b)</b> If Yes (Q34a), Please estimate all total one-time costs to develop these requisite forms and disclosures (<i>per Question #33</i>) into your advertising and sales process?</p>		<p>\$ Total (Non-recurring) _____</p>		
<p><b>(34c)</b> If Yes (Q34a), were these costs also included within your prior cumulative hours and \$ Avg/hr cost estimate previously provided?</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>		

**Response**

<p><b>(35)</b> Are there any other <u>up-front costs</u> to comply with the proposed FTC Rule regarding misrepresentations that are not explicitly identified above?  If yes, please provide additional detail, including related costs (to identify them and classify them correctly).  <i>Example of costs may include: development of new forms or disclosures, engaging DMS and forms providers to make changes to IT systems, working with website and mobile application developers to make changes to website related to vehicle availability, advertising and online sales, etc.</i></p>	
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**Section 4—Identifying impact of New Consumer Disclosures:** This is a list of potential expected costs that are INCREMENTAL to those for existing policies and procedures. The CAR research team would like the respondents to expand and elaborate on these costs to ensure completeness. Please provide *your estimate at this time on a best-efforts basis* based upon

The expected costs are separated into two sections:




- 4(a) Up-front / One-time, i.e., non-recurring costs; and



- 4(b) Annual Expenses, i.e., recurring costs.

All other costs not identified below and qualitative feedback should be provided after each of section. **Note – the answers provided will not be attributed to you.**

Up Front Costs of Compliance (Incremental-only for Proposed Rules Listed Below):

<i>Section 4(a): Disclosures – Questions</i>		<i>Up-Front Costs (One-Time)</i>		
#	Disclosures (463.4)	Updated Training Materials	IT System Investment	Planning & Preparation
	<p><b><u>Instructions:</u></b></p> <p><b><u>Important – Please refer to Dealers Duty “Tear Sheet” provided to answer the questions below. This document includes a comprehensive list (and additional details) of the 5 new disclosures, as provided below</u></b></p> <p><b><u>Note – It is essential that you read the proposed disclosure Rules in the “Tear Sheet” before answering the below questions. This survey aid provides the Rule provisions, which as proposed would increase the importance and liability risk of vehicle pricing activities and alters when and how in the course of business they are undertaken. There is additional concern that these disclosures will increase the time of a motor vehicle transaction as well.</u></b></p>	<p>FTC assumption, e.g.</p> <p>N/A (No training system development appears to be assumed by the FTC)</p>	<p>FTC assumption, e.g.</p> <p><b>8hrs</b> Programmer to design system for website integration of add-on lists @ <b>\$28.90 hour</b></p>	<p>FTC assumption, e.g.</p> <p><b>5 hrs</b> Finance Manager to compile master list of add-ons @ <b>\$65.54/hour</b></p>
				
36-38	<p><b>Disclosure of Offering Price in Advertisements and In Response to Inquiry - <a href="#">463.4(a)</a></b></p> <p>See “Tear Sheet” – Disclosures Section for Rule text and additional details</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>

<i>Section 4(a): Disclosures – Questions</i>		<i>Up-Front Costs (One-Time)</i>		
#	Disclosures (463.4) – Continued	Updated Training Materials	IT System Investment	Planning & Preparation
39-41	<p><b>Disclosure of Add-on List and Associated Prices - <a href="#">463.4(b)</a></b></p> <p>See “Tear Sheet” – Disclosure Section for Rule text and additional details</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>
42-44	<p><b>Disclosure that Add On products Not Required - <a href="#">463.4(c)</a></b></p> <p>See “Tear Sheet” – Disclosure Section for Rule text and additional details</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>
45-47	<p><b>Disclosure of Total Cost - <a href="#">463.4(d)</a></b></p>	<p>Hours</p> <p>_____</p>	<p>Hours</p> <p>_____</p>	<p>Hours</p> <p>_____</p>

	<i>See "Tear Sheet" – Disclosure Section for Rule text and additional details</i>	\$ Avg/Hr	\$ Avg/Hr	\$ Avg/Hr
48-50	<b>Disclosure of Effect of Lower Monthly Payments - <a href="#">463.4(e)</a></b> <i>See "Tear Sheet" – Disclosure Section for Rule text and additional details</i>	Hours  \$ Avg/Hr	Hours  \$ Avg/Hr	Hours  \$ Avg/Hr

Similarly, please estimate costs on a best-efforts basis **for recurring items** listed below for compliance, on a monthly basis.

Recurring Costs of Compliance (Incremental-only for Proposed Rules Listed Below):

<i>Section 4(b): Disclosures – Questions</i>		<i>Ongoing Expenses, i.e., Recurring Costs (per Month)</i>		
#	Disclosures (463.4)	Training (Ongoing)	Compliance Review (Internal & External)	IT Spending (Record Retention/ Reporting)
<i>FTC proposed Rule-making assumption, e.g. 1hr/yr periodic revisions to add-on list disclosures on websites or other online services @ \$18.37/hr (IT Spending). No assumptions provided, however, for training or for ongoing compliance review.</i>				
51-53	<b>Disclosure of Offering Price in Ads and In Response to Inquiry - <a href="#">463.4(a)</a></b> <i>See "Tear Sheet" – Disclosure Section for Rule text and additional details</i>	Hours  \$ Avg/Hr	Hours  \$ Avg/Hr	Hours  \$ Avg/Hr

<i>Section 4(b): Disclosures – Questions</i>		<i>Ongoing Expenses, i.e., Recurring Costs (per Month)</i>		
#	Disclosures (463.4) – Continued	Training (Ongoing)	Compliance Review (Internal & External)	IT Spending (Record Retention/ Reporting)
54-56	<b>Disclosure of Add-On List and Associated Prices - <a href="#">463.4(b)</a></b> <i>See "Tear Sheet" – Disclosure Section for Rule text and additional details</i>	Hours  \$ Avg/Hr	Hours  \$ Avg/Hr	Hours  \$ Avg/Hr
57-59	<b>Disclosure that Add-Ons Not Required - <a href="#">463.4(c)</a></b> <i>See "Tear Sheet" – Disclosure Section for Rule text and additional details</i>	Hours  \$ Avg/Hr	Hours  \$ Avg/Hr	Hours  \$ Avg/Hr
60-62	<b>Disclosure of Total Cost - <a href="#">463.4(d)</a></b>	Hours	Hours	Hours

	<i>See "Tear Sheet" – Disclosure Section for Rule text and additional details</i>	\$ Avg/Hr	\$ Avg/Hr	\$ Avg/Hr
63-65	<b>Disclosure of Effect of Lower Monthly Payments - <a href="#">463.4(e)</a></b> <i>See "Tear Sheet" – Disclosure Section for Rule text and additional details</i>	Hours	Hours	Hours
		\$ Avg/Hr	\$ Avg/Hr	\$ Avg/Hr

**Response**

<p><b>(66)</b> Are there any other <u>up-front and/or recurring costs</u> that are not explicitly identified above to comply with the proposed FTC Rule regarding misrepresentations? If yes, please provide additional detail, including related costs (to identify them and classify them correctly).</p> <p><i>Example of costs may include: development of new forms or disclosures, engaging DMS and forms providers to make changes to IT systems, working with website and mobile application developers to make changes to website related to advertising and online sales, etc.</i></p>	
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**Section 5—Identifying impact of Add-On Prohibitions and Disclosures:**

This is a list of potential expected recurring or ongoing costs that are INCREMENTAL to those for existing policies and procedures. The CAR research team would like the respondents to expand and elaborate on these costs to ensure completeness.

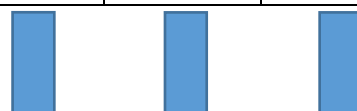
The expected costs are separated into two sections, including:

- 1) up-front / one-time, i.e., non-recurring costs; and
- 2) annual expenses, i.e., recurring costs.

All other costs not identified below, and qualitative feedback should be provided after each of section. **Note – the answers provided will not be attributed to you.**

Up Front Costs of Compliance (Incremental-only for Proposed Rules Listed Below):

<i>Section 5(a): Add Ons – Questions</i>		<i>Up-Front Costs (One-Time)</i>		
#	Sale of Add Ons – Section 463.5	Updated Training Materials	IT System Investment	Planning & Preparation
	<u>Instructions:</u>			



	<p><b>Important – Please refer to Dealers Duty “Tear Sheet” provided to answer the questions below. This document includes a comprehensive list (and additional details) of the 5 new disclosures, as provided below</b></p> <p><b>Note – It is essential that you read the proposed disclosure Rules in the “Tear Sheet” before answering the below questions. This survey aid provides the Rule provisions, which as proposed would increase the importance and liability risk of vehicle pricing activities and alters when and how in the course of business they are undertaken. There is additional concern that these disclosures will increase the time of a motor vehicle transaction as well.</b></p>			
67-69	<p><b>Prohibition of Valueless Add-Ons - <a href="#">463.5(a)</a></b></p> <p>See “Tear Sheet” – Add Ons Section for Rule text and additional details</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>

*Section 5(a): Add Ons – Questions*

*Up-Front Costs (One-Time)*

#	Sale of Add Ons – Section 463.5 (Continued)	Updated Training Materials	IT System Investment	Planning & Preparation
70-72	<p><b>Add-Ons Transactions Forms and Disclosures - <a href="#">463.5(b)</a></b></p> <p>See “Tear Sheet” – Add Ons Section for Rule text and additional details</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>
73-75	<p><b>Vehicle Cash Price Disclosure: Cash Transactions <a href="#">463.5(b)(1)</a></b></p> <p>See “Tear Sheet” – Add Ons Section for Rule text and additional details</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>
76-78	<p><b>Vehicle Cash Disclosure: Financed Transactions - <a href="#">463.5(b)(2)</a></b></p> <p>See “Tear Sheet” – Add Ons Section for Rule text and additional details</p> <p>(Note: See NADA provided Disclosure Form mockup in Survey Appendix I - IV)</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>
79-81	<p><b>Itemization of Add-On Disclosure - <a href="#">463.5(b)(3)</a></b></p> <p>See “Tear Sheet” – Add Ons Section for Rule text and additional details</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>	<p>Hours</p> <p>_____</p> <p>\$ Avg/Hr</p> <p>_____</p>

82-84	<b>Express Informed Consent - <a href="#">463.5(c)</a></b>  <i>See "Tear Sheet" – Add Ons Section for Rule text and additional details</i>	Hours  _____	Hours  _____	Hours  _____
		\$ Avg/Hr  _____	\$ Avg/Hr  _____	\$ Avg/Hr  _____

*Response*

<p><b>(85) Are there any other <u>up-front</u> costs that are not explicitly identified above to comply with the proposed FTC Rule regarding disclosures?</b></p> <p><b>If yes, please provide additional detail, including related costs (to identify them and classify them correctly).</b></p> <p><i>Example of costs may include: development of new forms or disclosures, engaging DMS and forms providers to make changes to IT systems, working with website and mobile application developers to make changes to website related to advertising and online sales, etc.</i></p>	
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Similarly, please estimate costs on a best-efforts basis *for recurring items* listed below for compliance, on a monthly basis.

Recurring Costs of Compliance (Incremental-only): for Proposed Rules Listed Below):

Section 5(b): Add Ons – Questions and Details

*Ongoing Expenses, i.e.,  
Recurring Costs (Per Month)*

#	Sale of Add Ons – Section 463.5	Training (Ongoing)	Compliance Review (Internal & External)	IT Spending (Record Retention/Reporting)
86-88	<b>Prohibition of Valueless Add-Ons - <a href="#">463.5(a)</a></b>  <i>See "Tear Sheet" – Add Ons Section for Rule text and additional details</i>	Hours  _____	Hours  _____	Hours  _____
		\$ Avg/Hr  _____	\$ Avg/Hr  _____	\$ Avg/Hr  _____
89-91	<b>Add Ons Transactions Forms and Disclosures - <a href="#">463.5(b)</a></b>	Hours  _____	Hours  _____	Hours  _____

	<i>See "Tear Sheet" – Add Ons Section for Rule text and additional details</i>	_____	_____	_____
		\$ Avg/Hr	\$ Avg/Hr	\$ Avg/Hr
92-94	<b>Vehicle Cash Price Disclosure: Cash Transactions</b> <b><a href="#">463.5(b)(1)</a></b>	Hours	Hours	Hours
	<i>See "Tear Sheet" – Add Ons Section for Rule text and additional details</i> <i>(Note: See NADA provided Disclosure Form mockup)</i>	_____	_____	_____
		\$ Avg/Hr	\$ Avg/Hr	\$ Avg/Hr

*Ongoing Expenses, i.e.,*

*Recurring Costs (Per Month)*

Section 5(b): Add Ons – Questions and Details

#	Sale of Add Ons – Section 463.5 (Continued)	Training (Ongoing)	Compliance Review (Internal & External)	IT Spending (Record Retention/Reporting)
95-97	<b>Vehicle Cash Disclosure: Financed Transactions -</b> <b><a href="#">463.5(b)(2)</a></b>	Hours	Hours	Hours
	<i>See "Tear Sheet" – Add Ons Section for Rule text and additional details</i> <i>(Note: See NADA provided Disclosure Form mockup)</i>	_____	_____	_____
		\$ Avg/Hr	\$ Avg/Hr	\$ Avg/Hr
98-100	<b>Itemization of Add On Disclosure - <a href="#">463.5(b)(3)</a></b>	Hours	Hours	Hours
	<i>See "Tear Sheet" – Add Ons Section for Rule text and additional details</i> <i>(Note: See NADA provided Disclosure Form mockup)</i>	_____	_____	_____
		\$ Avg/Hr	\$ Avg/Hr	\$ Avg/Hr
101-103	<b>Express Informed Consent - <a href="#">463.5(c)</a></b>	Hours	Hours	Hours
	<i>See "Tear Sheet" – Add Ons Section for Rule text and additional details</i>	_____	_____	_____
		\$ Avg/Hr	\$ Avg/Hr	\$ Avg/Hr

*Response*

<p><b>(104) Are there any other <u>recurring</u> costs that are not explicitly identified above to comply with the proposed FTC Rule regarding disclosures?</b></p> <p><b>If yes, please provide additional detail, including related costs (to identify them and classify them correctly).</b></p>	
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**Section 6—Identifying impact of Recordkeeping:** This is a list of potential ADDITIONAL costs expected to be incurred to implement proposed new duties on dealerships if adopted. The CAR research team would like the respondents to expand and elaborate on these costs to ensure completeness.

Requires dealers to keep records of advertisements and customer transactions for a period of **24 months**. A small minority of these documents are already being produced in the normal course of business, however, this is expected to greatly expand the recordkeeping obligation (much of which would increase costs for data security and compliance), as well as require coordination with vendors and modification of existing recordkeeping systems to comply with the new law. If you already have a recordkeeping system that captures and retains this information, please indicate the current cost of this expense.

Please estimate all costs on a **best-efforts basis** below (no answers will be attributed to you).

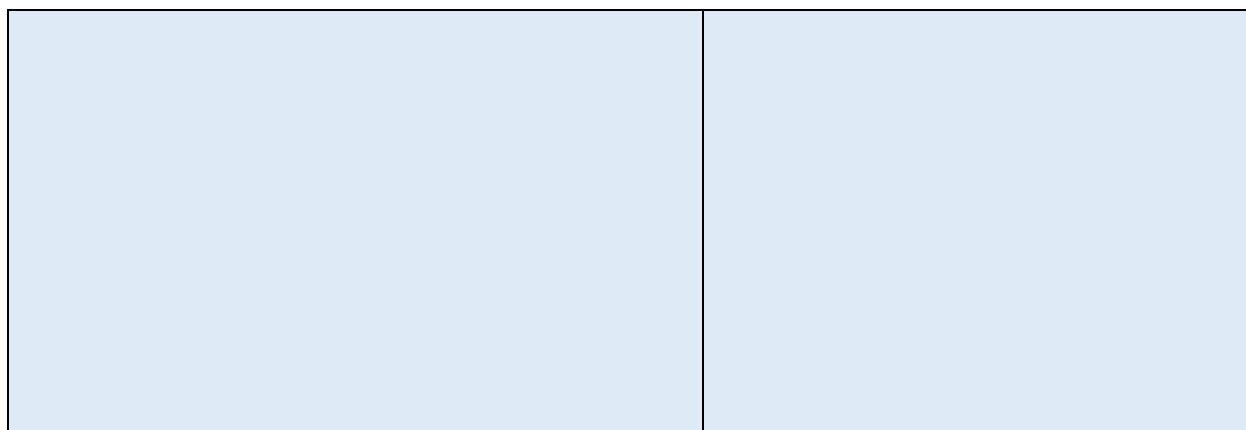
<u>Section 6: Recordkeeping – Questions</u>			Up-Front Costs (One-Time)	Recurring Costs (Per Year)	
#	Recordkeeping – Section 463.6		IT System Investment (Additional to manage volume of records)	IT Spending (Ongoing)	Compliance Review (Internal & External)
	<i>Note: Assume that recordkeeping Rules apply to all consumer interactions including both prospective customers and vehicle purchases, financing, or leasing</i>				
	FTC Rule-making assumption, e.g., <b>one-time</b> 15 hours to modify existing recordkeeping systems = (8hrs programming @ \$28.90/hr) + (5 hours clerical staff @\$18.37/hr) + (1 hour compliance officer @ \$26.83/hr)			FTC Estimates N/A	FTC Estimates N/A
105 - 107	<u>463.6 (a)-(b)</u>	Requires dealers to keep records of all advertisements and customer transactions for a period of <b>24 months</b> , as defined below:	Hours  \$ Avg/Hr	Hours  \$ Avg/Hr	Hours  \$ Avg/Hr

		<p><b>All</b> materially different advertisements, sales scripts, training materials, and marketing materials regarding vehicle price, financing, or leasing terms;  <i>(Continued on Survey Page #17)</i></p> <p><b>all</b> materially different copies of lists of add-on products and services and all documents describing such products or services that are offered to consumers;</p> <p>copies of all purchase orders; financing and lease documents signed by the consumer, whether or not final approval is received for a financing or lease transaction;</p> <p><b>all</b> written communications relating to sales, financing, or leasing between the Dealer and any consumer who signs a purchase order or financing or lease contract with the Dealer;</p> <p>records demonstrating that Add-ons in consumers' contracts meet the requirements of this Rulemaking, including copies of all service contracts, GAP Agreements and calculations of loan-to-value ratios in contracts including GAP Agreements; and the Cash Price without Optional Add-ons disclosures and declinations required by this Rulemaking</p> <p>written consumer complaints and consumer inquiries regarding add-ons or individual vehicles; and other records needed to demonstrate compliance with this Rule.</p>			
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*Response*

<p><b>(108) Are there any other recurring costs that are not explicitly identified above to comply with the proposed FTC Rule regarding disclosures? If yes, please provide additional detail, including related costs (to identify them and classify them correctly).</b></p> <p><i>Example of costs may include: development of new forms or disclosures, engaging DMS and forms providers to make changes to IT systems, working with website and mobile application developers to make changes to website related to advertising and online sales, etc.</i></p>	
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**Section 7—Identifying impact on vehicle transactions:** This is a list of potential ADDITIONAL duties and requirements expected to impact selling, financing, or leasing transactions for dealerships if adopted. This includes changes to dealership sales processes and the underlying IT systems that facilitate vehicle transactions. The CAR research team would like the respondents to expand and elaborate on these costs to ensure completeness.

#### Regulatory Duties - Dealership System Updates and Processes Burden

*This section folds the new duties laid out above into a typical motor vehicle sales transaction to help CAR analyze the time and cost associated with changes to the transaction. To answer these questions, please review the below instructions and assume a hypothetical “typical” consumer transaction for a vehicle purchase or lease, including arranged financing (F&I including full consideration for “add-ons”). Please estimate only the incremental burden (such as, additional minutes of work and the cost of employee time) of the tasks necessary to comply with the proposed FTC ruling. Please also fully consider the potential changes to dealership sales processes and the underlying IT systems that facilitate vehicle transactions.*

***Instructions (109-132):*** First, please review the Table I below and brainstorm how the following new duties will impact your dealership and vehicle sales transactions. Consider the additional time and \$-cost it would take to fulfill these new duties during each phase of consumer engagement for a hypothetical “typical” transaction, i.e., from first consumer contact to post-sale, internal compliance review (all four phases illustrated below):

*Table I: Projected New Duties to be Performed to Comply with Proposed FTC Rules*

	<b>#1 Pre-Sale Communication w/ Consumers</b>	<b>#2 Transaction – Vehicle Sale</b>	<b>#3 Transaction – F&amp;I Office</b>	<b>#4 Post-Sale (Compliance Review)</b>
<b>Misrepresentations (109-112)</b>	Ensure advertisements contain no misrepresentations.	Disclosure reviewed with consumers	Disclosures reviewed with consumers	Enhanced review process
<b>Disclosures (112-132):</b> <ul style="list-style-type: none"> <li>• <b>Offering Price Disclosure</b></li> <li>• <b>Add-On List</b></li> </ul>	“Offering Price” i.e., “full cash price” for the vehicle must be disclosed in the	Disclosures reviewed with customers - Total Cost and Effect of	Assess whether add-ons should be offered to customer to ensure	Enhanced reviews to ensure compliance for 4) Misrepresentations

<ul style="list-style-type: none"> <li>• <b>Total Costs Disclosure</b></li> <li>• <b>Effect of Lower monthly payments Disclosure</b></li> <li>• <b>Vehicle Cash Price Disclosures</b></li> <li>• <b>Itemization of Add-On Disclosure</b></li> </ul>	<p>Dealer's first response regarding that specific vehicle to the consumer.</p> <p>Add-On List - on any website, online service, or mobile app that vehicles are offered for sale, list all optional add-ons and the price of each</p>	<p>Lower Monthly Payments Disclosure add-ons</p> <ul style="list-style-type: none"> <li>• Complete</li> <li>• Review with consumers</li> <li>• Co-signed by dealer and consumers</li> </ul>	<p>no valueless add ons are offered.</p> <p>Disclosures completed (*if applicable); reviewed with consumers; and co-signed for:</p> <p>3) Vehicle Cash Price*</p> <p>4) Itemization of Add-On*</p>	<p>5) Disclosures within Ads, General Communication for "Offering Price" and "Total Cost"</p> <p>6) Completed disclosures</p> <p><i>(see NADA provided Disclosure Form mockup)</i></p>
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***Instructions (109-132) continued: Please provide both hours and cost (\$ per minute) for a typical transaction in the spaces provided below considering the following:***

- 1) *All pre-sale communications with consumers regarding a specific-vehicle must reference total "Offering Price"*
- 2) *All transaction processes for vehicle purchase, lease and financing (Note: F&I broken-out separately below), including all additional procedures, forms and disclosures required for compliance;*
- 3) *All post-sale, management oversight and compliance review:*

		Pre-Sale (including all communication w/ consumers (e.g., texts, phone calls, emails))	Transaction Process for Purchases, or Leasing (excluding F&I)	Transaction Process for Vehicle Financing – F&I (e.g., contracts, disclosure forms, worksheets, internal processes)	Post-Sale (e.g., Management Oversight, Compliance Review)
<b>Misrepresentations</b>	(109-112) Ensure NO prohibited misrepresentations	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour
	<i>See "Tear Sheet" – Misrepresentations Section for Rule text and additional details</i>				
<b>Disclosures: Compliance</b>	(113-116) Disclosure of total "Offering Price"	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour
	(117-120) Disclosure of "Total Costs"	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour
	(121-124) Disclosure of Effect of Lower Monthly Payments	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour
	(125-128) Add-On Forms and Disclosures	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour

	<i>(see NADA provided Disclosure Form mockup)</i>				
	(129-132) Vehicle Cash Disclosure: Financed Transactions <i>(see NADA provided Disclosure Form mockup)</i>	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour	Minutes \$ Avg/Hour

**Section 8—Identifying other business changes:** We would like to know if the proposed Rule would cause you to change your approach to consumer communication, transaction sales processes, and/or regulatory compliance and reviews.

<b>Actions</b>	<b>Responses</b>
<b>(133) If FTC imposed this Rule, what impact would this have on your pre-sale communication with consumers, e.g., texts, emails, phone calls?</b>	<input type="checkbox"/> Provide more details for consumers? <input type="checkbox"/> Stay the same, e.g., substantially no change? <input type="checkbox"/> Reduce the details provided for consumers?
<b>(134) If FTC imposed this Rule, would you require consumers to contact your dealership for pricing information, specifically in lieu of providing in advertising or consumer communication?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>(135) Please also provide any additional feedback that you believe important for consideration regarding compliance with the proposed FTC Rule (feedback will remain confidential):</b>	

DISCLOSURE FORM

## Vehicle Cash Price without Optional Add-ons

**Customer Information**

Name

Address

City  State  Zip

**Vehicle Information**

Make  Model

Year  Color

Odometer Reading  VIN #

	Offering Price		<input style="width: 100%; height: 20px;" type="text" value="\$"/>
	Discounts -		<input style="width: 100%; height: 20px;" type="text" value="\$"/>
	Rebates -		<input style="width: 100%; height: 20px;" type="text" value="\$"/>
	Trade-in Valuation -		<input style="width: 100%; height: 20px;" type="text" value="\$"/>
	Required Government Charges +		<input style="width: 100%; height: 20px;" type="text" value="\$"/>
<b>Vehicle Cash Price without Optional Add-ons</b>			<span style="font-size: 24px;">➔</span> <b>Total</b> <input style="width: 100%; height: 20px;" type="text" value="\$"/>

***The consumer can purchase the vehicle for the Cash Price without Optional Add-ons.***

**Declination**

I hereby decline to purchase the vehicle identified above for the Cash Price without Optional Add-ons.

**Customer**

\_\_\_\_\_  
Print Name \_\_\_\_\_  
Date

\_\_\_\_\_  
Signature \_\_\_\_\_  
Time

**Dealership Manager**

\_\_\_\_\_  
Print Name \_\_\_\_\_  
Date

\_\_\_\_\_  
Signature \_\_\_\_\_  
Time

DISCLOSURE FORM

## Vehicle Cash Price without Optional Add-ons in a Financed Transaction

**Customer Information**

Name

Address

City  State  Zip

**Vehicle Information**

Make  Model

Year  Color

Odometer Reading  VIN #

**Total of Vehicle Cash Price without  
Optional Add-ons Plus Finance Charge**

----->

*Note: This Cash Price without Optional Add-ons Plus Finance Charge factors in any cash down payment and trade-in valuation but excludes optional Add-ons.*

Vehicle Cash Price without Optional Add-ons	<input style="width: 90%; height: 20px; border: 1px solid black;" type="text" value="\$"/>
Finance Charge	<input style="width: 90%; height: 20px; border: 1px solid black;" type="text" value="\$"/>
Down Payment	<input style="width: 90%; height: 20px; border: 1px solid black;" type="text" value="\$"/>
Trade-in Valuation	<input style="width: 90%; height: 20px; border: 1px solid black;" type="text" value="\$"/>

***The consumer can finance the vehicle for the total of the Vehicle Cash Price without Optional Add-ons Plus Finance Charge listed above.***

**Declination**

I hereby decline to purchase the vehicle identified above for the total of the Vehicle Cash Price without Optional Add-ons Plus Finance Charge listed above.

**Customer**

Print Name	Date
Signature	Time

**Dealership Manager**

Print Name	Date
Signature	Time

## DISCLOSURE FORM

## Itemization of Optional Add-ons (Financed transaction)

**Customer Information**

Name

Address

City

State

Zip

**Vehicle Information**

Make

Model

Year

Color

Odometer Reading

VIN #

**A. Vehicle Cash Price without Optional Add-ons  
Plus Finance Charge**



**B. Charges for Optional Add-ons selected by the consumer**

Extended Service Contract +

Service and Maintenance Plan +

Emergency Road Service +

GAP Waiver +

+

+

**Total =**

**C. Sum of amounts A and B, above**



**Note:** This total represents the sum of (i) the Cash Price without Optional Add-ons Plus Finance Charge and (ii) the charges for any optional add-ons selected by the consumer.

## DISCLOSURE FORM

## Itemization of Optional Add-ons (Non-financed transaction)

**Customer Information**

Name

Address

City

State

Zip

**Vehicle Information**

Make

Model

Year

Color

Odometer Reading

VIN #

**A. Vehicle Cash Price without Optional Add-ons** ..... → \$

**B. Charges for Optional Add-ons selected by the consumer**

Extended Service Contract + \$

Service and Maintenance Plan + \$

Emergency Road Service + \$

GAP Waiver + \$

\_\_\_\_\_ + \$

\_\_\_\_\_ + \$

**Total =** \$

**C. Sum of amounts A and B, above** ..... → \$

**Note:** This total represents the sum of (i) the Cash Price without Optional Add-ons and (ii) the charges for any optional Add-ons selected by the consumer.

## Works Cited

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