



United States of America
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

Office of Commissioner
Rohit Chopra

To: April Tabor

From: Maria Bazan

Date: September 15, 2020

Re: Safeguards Rule NPRM: Comments to be placed on the public record

On August 26, 2020, Commissioner Chopra, Erie Meyer, and I met via videoconference with representatives from the National Automobile Dealers Association (NADA) to discuss the Federal Trade Commission's Notice of Proposed Rulemaking regarding the Safeguards Rule.

During the meeting, Commissioner Chopra asked the NADA's representatives what constraints dealers face when implementing the information security and risk assessment measures required by the Safeguards Rule. They noted that choosing a service provider that both complies with the rule and is a good fit for their business can be a difficult task, because dealerships typically do not have much visibility into how these vendors operate and they are not able to easily oversee the dominant Dealer Management System (DMS) providers.

They also informed us that auto dealers are often limited in their ability to choose the service providers they use to store consumers' private information or the third parties they hire to audit their security protocols. In the case of franchise dealerships, it is common for car manufacturers to include terms requiring that dealers use specific vendors within their contracts. As a result, franchisees have a limited ability to switch service providers in the event of a data breach and, by extension, may not have the option to choose a more secure provider even if they did have visibility into their data protection measures.

Switching to a new vendor in order to comply with new minimum requirements of the rule could also be burdensome for independent dealerships given the costs of implementation. This is especially true for smaller, rural auto dealers who may not necessarily have the financial means to keep up with new technology. The NADA noted that approximately 37% of the NADA's 16,000 members sell less than 300 cars per year and many of their rural members have fewer than 15 employees. For a business of this size, options for affordable service providers may be more limited and the process of migrating their data to a new vendor might take a toll on the dealership's operating budget. The NADA suggested that a potential solution to this issue could be to implement a tiered system for enforcing the rule that takes into consideration the size of the business and the constraints they face when choosing a service provider.