



August 22, 2022

April Tabor  
Acting Secretary of the Commission  
Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Avenue NW, Ste. CC-5610  
Washington, DC 20580

Re: Request for Extension for the Motor Vehicle Dealers Trade Regulation Rule—  
Rulemaking, No. P204800

Dear Secretary Tabor:

This letter is in reference to the Federal Trade Commission's (FTC) notice of proposed rulemaking (NPRM) on Motor Vehicle Dealers Trade Regulation.<sup>1</sup> The Office of Advocacy respectfully requests that the FTC delay the comment period by 120 days.

### **Advocacy Background**

Advocacy was established pursuant to Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA), so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The Regulatory Flexibility Act (RFA),<sup>2</sup> as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),<sup>3</sup> gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, federal agencies are required by the RFA to assess the impact of the proposed rule on small business and to consider less burdensome alternatives.

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.<sup>4</sup> The agency must include a response to these written comments in any explanation or discussion accompanying the final rule's publication in the Federal Register, unless the agency certifies that the public interest is not served by doing so.<sup>5</sup>

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<sup>1</sup> 87 FR 42012, July 13, 2022.

<sup>2</sup> 5 U.S.C. § 601 et seq.

<sup>3</sup> Pub. L. 104-121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C. § 601 et seq.).

<sup>4</sup> Small Business Jobs Act of 2010 (PL 111-240) § 1601.

<sup>5</sup> Id.

Advocacy's comments are consistent with Congressional intent underlying the RFA, that "[w]hen adopting regulations to protect the health, safety, and economic welfare of the nation, federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public."<sup>6</sup>

### **The 60 Day Comment Period Provided in the Proposed Rule is Inadequate**

On July 13, 2022, the FTC published an NPRM in the Federal Register on Motor Vehicle Dealers Trade Regulation. The proposed rule relates to the sale, financing, and leasing of motor vehicles by motor vehicle dealers. The proposed 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.

In the NPRM, the FTC seeks comment on 49 questions. There are general questions about the goal of the proposal and whether there are issues not addressed in the NPRM. There are also questions about disclosures, economic burden, business practices and recordkeeping. Small entities have informed Advocacy that they will need to do extensive research to provide meaningful comments. Since there was not an advanced notice of proposed rulemaking, a request for information or notice of this rulemaking in the regulatory agenda, small entities have not had an opportunity to gather the information or consider the proposals. As such, the Office of Advocacy respectfully requests that the FTC extend the 60-day comment period by 120 days.

If you have any questions regarding this request or if Advocacy can be of any assistance, please do not hesitate to contact me or Jennifer Smith at (202) 205-6943.

Sincerely,

/s/

Major L. Clark, III  
Acting Chief Counsel  
Office of Advocacy  
U.S. Small Business Administration

/s/

Jennifer A. Smith  
Assistant Chief Counsel  
For Economic Regulation & Banking  
Office of Advocacy  
U.S. Small Business Administration

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<sup>6</sup> Id.