MAIN ISSUES

UPDATES FOR DIRECTORS—JUNE 2024

FTC Vehicle Shopping Rule (Updated)

The big picture: NADA continues to pursue an aggressive legal and legislative strategy to stop the FTC's Vehicle Shopping Rule from taking effect.

The Latest: On June 3, the Center for Automotive Research (CAR) released an updated study showing that the Vehicle Shopping Rule will:

- Require **at least an additional hour** to complete the vehicle purchasing process (divided between the sales process and the review of financial disclosures and documentation);
- Generate a **net cost to consumers and dealers of $24.1 billion** over 10 years; and
- Impose upon each dealership location average **upfront compliance costs of $31,450**, and an average **recurring annual cost of $39,862**.

In Congress: On June 5, the House Financial Services and General Government (FSGG) appropriations subcommittee passed its funding bill for Fiscal Year 2025, which included an NADA-backed provision to stop the FTC from implementing or enforcing the Vehicle Shopping Rule until Sept. 30, 2025. The full committee markup is scheduled for June 13, and NADA will continue to press legislators to include this provision throughout the congressional appropriations process.

In the Courts: On June 13, NADA's reply brief (in response to the FTC's May opposition brief) is due to the U.S. Court of Appeals for the 5th Circuit. NADA and TADA will continue to show the Court the many, many reasons why FTC's Vehicle Shopping Rule violates federal law and should be set aside permanently, including the fact that the FTC:

- Unlawfully issued this rule without the advance notice required by its own regulations;
- Did not articulate a rational connection between its findings and its decision to impose a far-reaching rule; and
- Unreasonably evaluated the rule's benefits and costs.

Why it matters: The Vehicle Shopping Rule is terrible for consumers and contains draconian penalties for dealers. Complying with it will add massive amounts of time, complexity, paperwork and cost to car buying and car shopping for tens of millions of Americans every year.

Go deeper:

- CAR Report on costs associated with VSR
- NADA, AIADA and NAMAD letter of support for the FY 2025 FSGG appropriations bill
- NADA and TADA's opening brief in the 5th Circuit
- Issue Brief

NHTSA CAFE Rule (New)

What's new: On June 7, NHTSA released its final rule on Corporate Average Fuel Economy (CAFE).

- The final rule will freeze truck and SUV fuel efficiency for model years 2027 and 2028 and increase at 2% for the following years – as opposed to 4% year-over-year increases for trucks and SUVs that were in the proposed rule.
- Passenger car fuel efficiency will increase at 2% every year, as in the proposed rule.
- By MY 2031, the projected total fleet fuel efficiency will be 50.4 MPG, as opposed to the projected 58 MPG by MY 2032 that was in the proposed rule.

The bottom line: The final CAFE rule is generally aligned with the EPA final greenhouse gas rule such that if manufacturers comply with the EPA rule, they will not be subject to fines under CAFE.

Why it matters: NHTSA's rule, combined with EPA's rule, creates a regulatory regime that aggressively pushes vehicle electrification far ahead of consumer demand. Dealers' experience working with consumers every day makes us highly skeptical that consumers will adopt EVs anywhere near the levels required to meet these rules. The charging infrastructure is not ready, the current incentives are not sufficient, and high EV prices will price out millions of consumers, particularly low-income Americans, from the new-car market.

What's next: Congressional Review Act joint resolutions are expected to be introduced in both houses of Congress in June by Rep. Tim Walberg (R-Mich.) and Sen. Ted Cruz (R-Texas) to disapprove of this new CAFE rule. NADA will support these resolutions and any appropriations riders that would disapprove or prevent funding for the NHTSA's final CAFE rule.

Go deeper:

- NHTSA final rule

EPA Emissions Rule (Updated)

The big picture: The EPA's final vehicle emissions rule, which solidifies GHG standards for model years 2027 through 2032, is far too aggressive and far ahead of consumer demand.

What's new: NADA is supporting Congressional Resolutions of Disapproval of the EPA's de facto EV mandate. On May 30, NADA sent a letter of support to Sen. Pete Ricketts (R-Neb.) and Rep. John James (R-Mich.) for their legislation (S.J.Res. 75/H.J.Res. 136) to disapprove the EPA's final emissions rule for light-duty vehicles. This legislation is expected to be voted on by Congress by mid-September.

What's next: America's franchised new car and truck dealers will continue to:

- Promote electrification with billions of dollars in investments in facilities, training and inventory;
- Urge the Administration to track actual EV sales versus projections and make necessary adjustments to its de facto EV mandates to reflect actual consumer demand; and
- Continue to support Congressional Review Act resolutions and appropriations riders that would disapprove or prevent funding for the Administration's final rule.

Why it matters: Our experience working with consumers every day makes us highly skeptical that consumers will adopt EVs anywhere near the levels required. The charging infrastructure is not ready, the current incentives are not sufficient, and high EV prices will price out millions of consumers, particularly low-income Americans, from the new-car market.

Go deeper:

- NADA letter of support for CRA resolutions
- Summary of NADA activity on EPA mandates
- S.J.Res.75 (Sen. Rickets)
- H.J.Res.136 (Rep. James)
- Issue Brief

So-called "Right to Repair" Legislation (Updated)

The big picture: NADA is working diligently to prevent so-called "right to repair" legislation from advancing in Congress, and will vigorously defend dealers should such legislation gain momentum.

What's new and what's next: So-called "right to repair" proponents are attemting to advance legislation through the House Energy and Commerce committee this summer despite numerous bipartisan concerns about the legislation.

NADA, alongside ATAEs and Directors, has been engaged in an effort to educate Members of Congress about the true nature of this legislation, which would require OEMs to provide any third party remote, bidirectional access to ***all*** vehicle-generated data "without restrictions or limitations" – including data urelated to the servicing of the vehicle.

Why it matters: The information independent repair shops need to repair vehicles – including service information, tool information and training data – is readily available to independent repair shops.

But so-called right-to-repair legislation has little to do with repairing vehicles; instead, it compels OEMs to provide any aftermarket parts manufacturer with the information necessary to produce or offer their own ***compatible aftermarket*** parts.

Passage of this bill would create significant privacy, cybersecurity, automotive safety and IP concerns.

Go deeper:

- Issue brief

Hyundai (New)

The big picture: In May NADA learned that Hyundai Motor America (HMA) introduced several addenda implicating dealer rights and obligations to the Dealer Sales and Service Agreement (DSSA). The solicitation of these addenda by HMA to dealers bypassed any state-prescribed process for franchise modifications, raising significant concerns about dealer franchise rights.

In response: Following several direct conversations with Hyundai, NADA contacted every Hyundai dealer to make them aware of this concern. NADA also advised all Hyundai dealers that they had no obligation to sign these addenda, and referred every impacted dealer to their legal counsel.

What's new: While not all of the addenda are new, dealers may have recently encountered them due to a triggering event, such as the conclusion of a facility renovation or relocation, when requesting an ownership structure change or in conjunction with other triggering events.

What's next: NADA will continuing monitoring the situation, discussing the issue with HMA, and keeping Hyundai dealers informed as needed.

Hyundai-Amazon (Updated)

The big picture: NADA has been persistently engaged with the Hyundai National Dealer Council, Amazon and Hyundai since the announcement of the Hyundai-Amazon pilot program for vehicle marketing and shopping.

What's new: As of June 1, there has been no release of a master contract between Amazon and Hyundai dealers. NADA continues to check in with the Dealer Council and provide input relevant to their concerns as requested without yet seeing the master contract.

From the start: NADA's immediate engagement prompted Hyundai to quickly clarify to its dealers that while the pilot program would allow marketing and listing of Hyundai vehicles on the Amazon platform, vehicle sales would continue to take place at Hyundai dealerships.

At the request of the Hyundai Dealer Council and Hyundai, NADA's focus has been on assisting the Hyundai Dealer Council in its efforts to address all questions and concerns about this pilot program and larger partnership. NADA is aware that these discussions between the Hyundai Dealer Council working group, Amazon and Hyundai are continuing in good faith.

Why it matters: The poor wording and rollout of the Hyundai-Amazon announcement in November understandably resulted in a wave of inaccurate reporting as well as deep concern across the auto industry (both dealers as well as other automakers) about the program and its potential ramifications for Hyundai dealers as well as dealers of other brands.

Ford

The big picture: NADA continues to communicate dealer concerns with Ford, especially as relates to Model e and the improvement of their working relationship with their U300 dealers, formerly known as Select Dealers. And NADA will continue to request that Ford consider adjusting the Model e program based on current EV market adoption realities.

What's new: In January 2024, Elena Ford visited NADA HQ in Tysons, Va., for a day-long discussion on dealer concerns, dealer training and federal policy actions that impact dealer and OEM operations. The NADA meeting with Ford to discuss the dealer attitude survey results took place in May.

Why it matters: In Late 2022, Ford announced the Model e program aimed at setting new standards for dealers to qualify to sell and service Ford's EV vehicles. This program not only mandated EV-related infrastructure at dealerships, but also obligated dealers to spend money on new software systems, training expenses and in-store technology. Ford's own estimates put this cost at well over $1 million for many dealers.

Also included in the Model e program were mandates to change a dealer's sales process, service process, inventory stocking strategy, job requirements and qualifications.

Since the announcement date, Ford has suffered an endless wave of dealer dissatisfaction based on the cost, complexity and, in some cases, adjudicated illegality of the Model e program.

Sony/Honda, VW/Scout

The big picture: NADA has met with and continues to communicate with leaders of both Honda and VW to express dealer concern that each may be attempting to implement a direct-sales retail model for its new brands.

What's new and what's next: Although neither company has yet to publicly announce its distribution channel for the newly created brands, NADA will continue to proactively discuss this topic with each company and respond accordingly once a public statement is made by either regarding the distribution channel for these brands.

Additionally, NADA had a meeting with VW in early April, and asked for introductions to the U.S. Cupra team to discuss their planned market entry as reported in *Automotive News*.

Why it matters: In late 2022, Volkswagen Group announced the rebirth of the Scout brand, designed to be an all-EV SUV/Truck brand. No distribution method was specified at the time, nor has one been announced or specified since.

In January 2023 at the Consumer Electronics Show (CES), Sony announced a new car brand, built in partnership with Honda. There was no discussion of dealers being allowed to sell these vehicles, but the initial conversation left open the possibility that dealers would be allowed to service them.

Any direct-sales model would, to say the very least, undermine any automaker's relationship with its franchised dealers, all of whom have made significant investments in their current and any future brands.