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## FTC proposal would crack down on car dealers' websites, F&I offices

The agency is also considering new rules on dealerships' advertising related to the cost of the vehicle itself.

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JOHN HUETTER



The [Federal Trade Commission proposed](#) banning [finance and insurance coverage](#) and physical vehicle add-ons "that provide no benefit" and requiring expanded disclosure and consent on such optional products – including a list of prices online.

The agency also is considering cracking down on dealerships' advertising related to the cost of the vehicle itself.

[The commission's June 27 notice of proposed regulations](#) was approved by a 4-1 vote with Commissioner Christine Wilson dissenting. An accompanying news release repeatedly depicted physical additions and F&I products as "junk fees," though the four commissioners supporting regulations acknowledged in a separate statement, "Not all add-ons provide no value."

[FTC Chair Lina Khan and Commissioners Noah Phillips, Rebecca Slaughter and Alvaro Bedoya said](#) the rule would be their agency's first regulation since the Dodd-Frank Act of 2010. That law continued and expanded the FTC's authority over auto dealerships.

The quartet also noted the proposed rule would let the FTC seek financial redress for customers, something they said had been prohibited by the [Supreme Court's 2021 AMG Capital Management LLC v. FTC decision](#).

The agency will soon open a 60-day window for [public comment on the proposal, No. P204800](#).

"As auto prices surge, the commission is taking comprehensive action to prohibit junk fees, bait-and-switch advertising and other practices that hit consumers' pocketbooks," FTC Bureau of Consumer Protection Director Samuel Levine said in a statement June 27.

"Our proposed rule would save consumers time and money and help ensure a level playing field for honest dealers."

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**Wilson, the dissenting commissioner, felt** "unlawful practices persist" within the auto retail industry but said the proposal courted "unintended but negative consequences." She cited prior regulatory issues such as FTC rule-making which had hurt competition and proved difficult to keep current.

Wilson also noted automotive industry innovation, including "sales models that obviate the need to enter a dealership at all" from Tesla and Carvana.

"The market dynamism flowing from these innovations make it likely that an FTC rule will be incomplete even as it is finalized," she said.

The FTC's proposed regulations include:

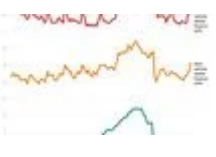


- **Bans on all products without benefit.** Dealerships would no longer be able to sell "nitrogen-filled tire related-products or services that contain no more nitrogen than naturally exists in the air" or coverage duplicating the vehicle's warranty. Guaranteed asset protection ("GAP"), which covers the difference between a loan balance and the vehicle's cash value in the event of a total loss, also would be forbidden "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."
- **Posting a list of all optional add-ons and their prices online.** Any ads would have to offer a website link to that list. If the price of the F&I products vary, dealerships could instead post a range "the typical consumer would pay." Add-ons are defined as anything sold by a dealership not provided by the automaker, including intangible F&I coverage.
- **Bans on misleading pricing advertising.**

- **Disclosure and declination in writing of the "Cash Price without Optional Add-ons."** The customer would have to be told the price of the car, with and without financing, were they to decline all optional additions and F&I coverages. If the customer agrees to pay something different, both they and a dealership manager must sign a document saying so.
- **"Express, Informed Consent" on F&I products and other add-ons.** It would have to be "an affirmative act communicating unambiguous assent" and go beyond "a signed or initialed document, by itself" or "prechecked boxes," the FTC said.

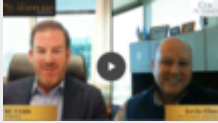
"As discussed above, the length and complexity of motor vehicle transactions has created an environment that is ripe for deceptive or unfair conduct," the FTC's rule-making proposal states. "Consumer complaints suggest that some dealers have added thousands of dollars in unauthorized charges, including for add-ons that consumers had already rejected.

"These issues are exacerbated when pre-printed consumer contracts automatically include charges for optional add-ons, when consumers are rushed through stacks of paperwork, or when they are asked to sign blank documents."

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