**MEMO**

**TO:** **NIADA Board Members**

**FROM:** **Brett Scott, Vice President, Government Affairs**

**SUBJECT:** **Government Affairs Report**

January fizzled and February began with continued gridlock in both houses. The President held his annual State of the Union address which as expected, didn’t fair well with some in the audience. In a surprising move, President Biden specifically addressed the Federal Trade Commission’s focus on non-competes by using the example of “a cashier at a burger place can’t walk across town and take the same job at another burger place and make a few bucks more” which didn’t seem to resonate across the audience. For background, the White House put out an executive order addressing non-competes as it relates to the medical field- a cashier and medical professionals don’t fall in the same category in my opinion but that’s why Baskin-Robins offers 31 different flavors of ice cream. In addition, the President spoke about “junk fees”, more oversight in the aviation industry and a whole bunch of other stuff that either got loud vocal support or the complete opposite. As the newsrooms were still focusing on the President’s speech, House Republicans hit the ground running and began to have tunnel vision towards oversight on Hunter Biden, Big-Tech, Infrastructure spending (IIJA), and many other issues that they were chomping at the bit to begin once they took the majority- continue to see this trend over the next two years and leading into the ’24 presidential run. Lastly, NIADA was busy over the past month with much focus on regulatory agencies but also legislative initiatives that have been in the works for many months. March looks like its going to be a busy one for the association as we continue to build coalitions with other outside stakeholders to address constant threats to our members. More details are below.

**AAMVA NMVTIS Stakeholder Webinar**

No current actions as of this report.

Past Summary: On November 9, NIADA participated in the American Association of Motor Vehicle Administrators’ (AAMVA) National Motor Vehicle Title Information System (NMVTIS) Stakeholder Webinar. The webinar reviewed a number of items including an operator update, FY2022 highlights, plans for FY2023, program updates, law enforcement updates, a NMVTIS IT update, and a Department of Justice (DOJ) law enforcement update.

The operator update included a FY2024 state user fee notification issued to new states and the AAMVA Board establishing the NMVTIS Ad Hoc Committee to determine if there are factors to support the need for a formal governance structure and report findings and/or recommendations to AAMVA Board at 2023 meeting. Some FY2022 highlights include the support of North Dakota system modernization rewrite, support of five states with data synchronization activities to add/modify/ delete missing or outdated data, onboarding of two new Approved NMVTIS Consumer Access Providers, and continued support of law enforcement use of the Law Enforcement Access Tool (LEAT). For FY2023, plans include support two states developing NMVTIS solutions, support data integrity tools (conduct up to 12 state data synchronization initiatives), conduct pilot with states on use of NMVTIS for non-titling purposes, provide support to existing 17 Approved NMVTIS Data Providers, support development with two new providers and one existing provider, and continue NMVTIS stakeholder engagement efforts with two webinars.

Program updates included 50 states participating including Washington DC, one state still in development (Hawaii), a lot of activity and development work happening, seventeen approved providers to sell NMVTIS data, 12 serve individual and commercial consumers, and five serve commercial consumers only. The DOJ law enforcement update included data on 9044 users for LEAT with users continuing to increase, number of searches on LEAT has doubled, over 215,000 VIN searches, bulk searches possible, and the review of updating software program, partial VIN search, and engaging with FBI on their resources.

More to come on this initiative as we continue to engage with AAMVA and stakeholders supporting this issue.

**Right to Repair**

Current: Congressman Neal Dunn, M.D. (Florida-02) introduced “the *REPAIR Act”* (H.R. 906), a bill that would ensure access to the important repair and diagnostic data needed for auto repairs. Christina Perez has continued to work closely with his office on this important legislation and will continue to meet with other offices to garner as much support as needed. In addition to hill engagement, NIADA is in communication with other supportive associations addressing this need as well. More to come as things progress.

Past Summary: NIADA continues to engage committee staff on this important issue and have had multiple meetings with new members bringing this to their attention. From these meetings, we continue to build out a coalition of outside stakeholders which broadens our outreach and strengthens the associations voice.

Past Summary: NIADA has begun engaging with the Hill and coalition partners on the right to repair issue to set it up for success in the 118th Congress. NIADA met with the Auto Care Association to join their coalition, of which SEMA is a member, to see on how to best engage on this issue.

As it stands, the current legislation introduced by Congressman Bobby Rush (D-IL-1) will go nowhere during the Lame Duck, but there is a commitment by a number of members to cosponsor the legislation when it is introduced next Congress. From the looks of it, Congressman Brendon Boyle (D-PA-2) will introduce this legislation next Congress. This legislation will require a different strategy with a Republican controlled House of Representatives, and NIADA is meeting with House Energy and Commerce staff in December to see how we can acquire Republican support for the legislation.

**FTC Issues:**

Current: NIADA partnered with the US Chamber as well as well over 100 other companies and associations to sign onto a letter opposing the Commissions interest in banning non-competes. The US Chamber sent this letter to all Members of Congress, calling for full withdraw of the proposed rule. More to come as things progress.

Past Summary: The Federal Trade Commission (FTC) proposed a new rule that would ban employers from imposing non-competes on their workers, a widespread and often exploitative practice that suppresses wages, hampers innovation, and blocks entrepreneurs from starting new businesses. By stopping this practice, the agency estimates that the new proposed rule could increase wages by nearly $300 billion per year and expand career opportunities for about 30 million Americans.

The FTC is seeking public comment on the proposed rule, which is based on a preliminary finding that non-competes constitute an unfair method of competition and therefore violate Section 5 of the Federal Trade Commission Act.

NIADA is in conversations on potentially engaging on a coalition letter with the Small Business Legislative Council (SBLC) or with the US Chamber. More to come as the comment period comes closer and more conversations are to happen.

Past Summary: NIADA partnered with other outside stakeholders and produced a “call to action” on the FTC’s recent auto marketing proposed rule. As a result, Congressman Kelly Armstrong (R-ND-AL) sent a letter to Federal Trade Commission (FTC) Chair Lina Khan requesting that the FTC withdraw its proposed auto marketing rule and instead issue an Advanced Notice of Proposed Rulemaking (ANPRM). This bipartisan, bicameral letter was signed by 41 House members and six Senators.

The FTC’s proposed auto marketing rule would overwhelm car buyers and small businesses with additional paperwork and needlessly lengthen the sales process. The rule was proposed without credible data-driven analysis or the necessary time for public comment, as the FTC allowed only 60 days for the public to review this rule, despite its widespread impact on consumers and small businesses. The agency also denied a routine request to extend the public comment period.  (Note: The FTC’s proposed “vehicle shopping” rule is unrelated to the FTC’s recently delayed “Safeguards” rule.)

More to come as this particular issue gains more bi-partisan support and we look to engage with multiple committees to address this issue.

Past Summary: NIADA and other leading industry associations submitted comments outlining concerns this proposed rule would have on the auto industry. In addition, there currently is a letter circling through Congress asking the FTC to extend the comment period for this proposed rule.

Past Summary: Extension was denied by the Federal Trade Commission (FTC), and NIADA plans to submit comments by the original deadline of September 12th.

Past Summary: NIADA in coordination with NADA, AFSA, GAPA, AIADA, and other industry stakeholders submitted comments requesting an extension on the comment period from 60 to 120 days. NIADA’s letter outlined the large amount of data and leg work needed to address all of the requests in the proposed rule. More details to come as the FTC reviews all comments submitted. comment period.

Past Summary: The FTC issued a proposed rule to ban junk fees and bait-and-switch advertising tactics that can plague consumers throughout the car-buying experience. As auto prices surge, the Commission is seeking to eliminate the tricks and traps that make it hard or impossible to comparison shop or leave consumers saddled with thousands of dollars in unwanted junk charges. The proposed rule would protect consumers and honest dealers by making the car-buying process clearer and more competitive. It would also allow the Commission to recover money when consumers are misled or charged without their consent.

The notice includes questions for public comment to inform the Commission’s decision-making on the proposal. These include questions about provisions in the proposed rule and whether other provisions should or should not be included in the rule, as well as questions related to the costs and benefits to consumers and auto dealers of the proposed rule. In addition, the notice includes a preliminary regulatory analysis estimating that the net economic benefit of the rule would be more than $29 billion over ten years. After the Commission reviews the comments received, it will decide whether to proceed with issuance of a final rule. NIADA will be submitting comments to this proposed rule and will keep members aware of the progress.

**CFPB Issues**

Current: NIADA is still having conversations with other stakeholders on addressing if submitting comments as a group or on an individual basis would be the best path forward to covering this particular issue.

Past Summary: The CFPB published a proposed rule focusing on any non-banks. More specifically, this proposed rule would establish and maintain a registry that would collect information about certain public agency and court orders and facilitate the Bureau's supervision of certain companies.

The proposed rule would require certain nonbank covered person entities (with exclusions for insured depository institutions, insured credit unions, related persons, states, certain other entities, and natural persons) to register with the Bureau upon becoming subject to a public written order or judgment imposing obligations based on violations of certain consumer protection laws. Those entities would be required to register in a system established by the Bureau, provide basic identifying information about the company and the order (including a copy of the order), and periodically update the registry to ensure its continued accuracy and completeness.

NIADA is working with other associations on an engagement strategy for this issue.

Past Summary: CFPB recently published a blog post and press release in coordination with their New York office targeting subprime auto leader company, Credit Acceptance. NIADA has been in conversations with other associations on if or at all we want to engage on this particular issue.

Past Summary: In September 2021, the CFPB issued a subprime auto lending report. On February 24th, it published an auto lending disclosure blog. On February 28th, it issued an illegal repossession compliance bulletin. On March 16th, the CFPB announced that it will be targeting unfair discrimination in consumer finance. The CFPB will examine for discrimination in all consumer finance markets, including credit, servicing, collections, consumer reporting, payments, remittances, and deposits. CFPB examiners will require supervised companies to show their processes for assessing risks and discriminatory outcomes, including documentation of customer demographics and the impact of products and fees on different demographic groups. The CFPB will look at how companies test and monitor their decision-making processes for unfair discrimination, as well as discrimination under ECOA.

Past Summary: NIADA and CFPB staff held a successful phone call to discuss multiple issues facing the industry. More specifically, NIADA members discussed how dealers have handled the COVID-19 pandemic, increased car prices, and how dealers are helping consumers during these difficult times. CFPB staff were appreciative of the feedback and look to continue having an open dialogue.

**H.R. 621 and S. 154 PART Act**

Current: NIADA continues to engage both House and Senate to further express support for both bills. NIADA will continue to meet with members and their staff to gain more sponsors of both bills.

Past Summary: Following the industry call stated below, Senator Klobuchar (D-MN) with the support of Senator Braun (R-IN) re-introduced the PART Act which quickly garnered bi-partisan support in the Senate. With the Senate covered, Congressman Baird (R-IN-4) also re-introduced his bill which also quickly garnered bi-partisan support- all of this in the new Congress and with additional meetings scheduled are a great starting position to get this legislation across the finish line. More to come as things progress.

Past Summary: NIADA participated in a large stakeholder meeting held at NADA headquarters. Those that attending encompassed Senator Amy Klobuchar (D-MN) staff, Congressman Jim Baird (R-IN-4) staff, NADA, RV Dealer Association, American Car Rental Association, NAAA, and others that all have a dog in the fight. The outcome of the meeting was to address some concerns other associations have and what the next steps would be to get this legislation across the finish line. Next steps are to continue engaging both House & Senate staff and explore any opportunities to attach this bill to a larger package or a stand-alone bill.

Past Summary: On November 15, Senator Klobuchar (D-MN) and Senator Wyden (D-OR) introduced a companion Senate version of the bill. The legislation would ensure that law enforcement can more effectively address these thefts by marking each converter with a traceable identification number and establishing converter theft as a criminal offense. Specifically, the Senate companion would:

* Require new vehicles to have a Vehicle Identification number (VIN) stamped onto the converter to allow law enforcement officers to link stolen parts to the vehicle from which they originate;
* Create a grant program through which entities can stamp VIN numbers onto catalytic converters of existing vehicles;
* Improve record keeping standards for purchasers of used catalytic converters; and
* Establish enforceability of laws around catalytic converter theft by codifying these crimes as a criminal offense.

Past Summary: During the National Policy Conference, there were rumors flying that a Senate companion bill will be introduced in the coming weeks by Senator Klobuchar (D-MN) but nothing has been released as of this writing.

Past Summary: House version- Multiple new Members of Congress have become co-sponsors of this particular bill as NIADA continues to lobby on the importance of this legislation to Members of Congress.

Past Summary: Congressman Jim Baird (R-IN-4) introduced this bill that focuses on the current rise in catalytic converter thefts. NIADA was in close communication with the author’s staff on pushing this out to industry and most recently have taken the lead with NADA on sending a letter to Energy & Commerce Chairman Frank Pallone (D-NJ-6) and Ranking Chairwoman Cathy McMorris Rodgers (R-WA-5) supporting the legislation. NIADA and NADA will continue to have discussions with Congressman Baird’s staff and committee staff to explore multiple options on this important issue.