

Supporting Statement for a Paperwork Reduction Act
Survey of Consumers' Automobile Purchases and Financing at Dealerships
OMB Control No. 3084-NEW

A. JUSTIFICATION

(1) Necessity for Collecting the Information

The study will provide Federal Trade Commission (“FTC” or “Commission”) staff with information about consumer participants’ experiences in the automobile (car, minivan, SUV, and light truck) buying and financing process at dealerships. For many consumers, aside from housing costs, a car purchase is their most expensive financial transaction. Prices now average more than \$34,000 for a new vehicle and \$20,000 for a used vehicle from a dealer, and most consumers seek to finance the purchase of a new or used car.¹ Financing obtained at the dealership, whether it is provided by a third party or directly by the dealer, may provide benefits for many consumers, such as convenience, special manufacturer-sponsored programs, access to a variety of banks and financial entities, or access to credit otherwise unavailable to a buyer. However, financing offered or arranged by dealers can be a complicated, opaque process and potentially involve unfair or deceptive practices. The FTC has broad authority to protect consumers and responsibility for enforcing a variety of consumer protection statutes and regulations for a wide variety of entities including automobile dealerships. These requirements include the FTC Act, which prohibits unfair and deceptive practices, and many other federal statutes and regulations that impact the auto purchase and financing process.² In recent years, the FTC has been particularly active in enforcement and other initiatives related to automobile

¹ As of December 2015, the average price of a new car sold in the U.S. was \$34,428, according to Kelley Blue Book. *See* Kelley Blue Book, Record New-Car Transaction Prices Reported In December 2015, According to Kelley Blue Book (Jan. 5, 2016), *available at* <http://mediaroom.kbb.com/record-new-car-transaction-prices-reported-december-2015>. The average price of a used car is \$20,057. *See* Used Car Prices Hold Up in Strong New-Vehicle Market), J.D. Power (Sept. 8, 2015), *available at* <http://www.jdpower.com/cars/articles/used-cars/used-car-prices-hold-strong-new-vehicle-market>. Used cars available from independent dealers and from “buy here pay here” dealers have been lower in price. For example, in 2014, over 42% of cars were sold at an average sales price of \$5,000 - \$10,000 at independent dealers; the average cost of cars was \$7,150 at “buy here pay here” dealers. *See* 2015 NIADA Used Car Industry Report, at 6 and 16, respectively, *available at* <http://www.niada.com/publications.php>.

² 15 U.S.C. § 45(a). The Commission also has enforcement authority over automobile dealers under various other statutes, including, for example, the Truth in Lending Act, 15 U.S.C. §§ 1601-1666j, and its implementing Regulation Z, 12 CFR Part 226, 12 CFR Part 1026; the Consumer Leasing Act, 15 U.S.C. §§ 1667-1667f, and its implementing Regulation M, 12 CFR Part 213, 12 CFR Part 1013; the Equal Credit Opportunity Act (ECOA), 15 U.S.C. § 1691f, and its implementing Regulation B, 12 CFR Part 202, 12 CFR Part 1002; the Electronic Fund Transfer Act, 15 U.S.C. §§ 1693-1693r, and its implementing Regulation E, 12 CFR Part 205, 12 CFR Part 1005; and the privacy and safeguard provisions of the Gramm-Leach Bliley Act, 15 U.S.C. §§ 6801-6809, and related privacy rule, 16 CFR Part 313, and safeguards rule, 16 CFR Part 314. The FTC is also authorized to prescribe rules under Section 553 of the Administrative Procedures Act, 5 U.S.C. § 553, with respect to unfair or deceptive acts or practices by motor vehicle dealers, pursuant to the Dodd-Frank Act. *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Section 1029, 12 U.S.C. § 5519.

transactions, and since 2011, brought more than 25 cases protecting consumers in this area.³ The FTC has also produced many consumer education and business education materials related to automobile purchasing and financing.⁴

The proposed survey will explore in more detail the experience of actual consumers who recently purchased and financed an automobile from a dealer, including through a review of the consumer's documents from the transaction. The survey is intended to inform the Commission about current consumer protection issues that may exist and could be addressed through FTC action, such as enforcement, rulemaking, or education initiatives. These are core aspects of the FTC's consumer protection mission.

(2) Use of the Information

The FTC plans to conduct a qualitative survey of consumer experiences in recent purchases of automobiles that were financed through automobile dealers. This will involve both a discussion of the consumer's experience with the auto purchase and financing process, and a walk-through of the consumer's documents related to the process. All participation will be voluntary. While the results will not be generalizable to the U.S. population, they will provide useful insights into consumer understanding of the process at the dealership and the consumer's related documents. The FTC has contracted with Shugoll Research, Inc. ("Shugoll"), a consumer research firm with substantial experience conducting consumer surveys, to locate the participants, conduct the survey, and write a brief methodological report and other report as requested by the FTC.

(3) Consideration of the Use of Information Technology to Reduce Burden

The proposed survey will use consumer interviews, including a review of each consumer's documents, to learn about their recent car buying and financing experience at the dealership. Because this is a qualitative survey that will involve the consumer's discussion of their experiences pertinent to the dealership, including a walk-through of his or her documents, the participants need to be physically present for the interviews.

³ See generally <https://www.ftc.gov/news-events/media-resources/consumer-finance/auto-marketplace>.

⁴ See, e.g., Understanding Vehicle Financing (revised January 2014), produced in cooperation with the American Financial Services Education Foundation and the National Automobile Dealers Association, available at <http://www.consumer.ftc.gov/articles/0056-understanding-vehicle-financing>; Lesley Fair, FTC, Operation Ruse Control: 6 tips if cars are up your alley (Mar. 26, 2015), available at <https://www.ftc.gov/news-events/blogs/business-blog/2015/03/operation-ruse-control-6-tips-if-cars-are-your-alley>; Colleen Tressler, FTC, Check out the auto dealer and financing before you sign (Oct. 31, 2014), available at <http://www.consumer.ftc.gov/blog/check-out-auto-dealer-and-financing-you-sign>.

(4) Effort to Identify Duplication

The proposed survey does not duplicate current or previous collections. Neither the FTC – nor others that the FTC has found – have conducted a qualitative survey of the consumers’ experience in purchasing and financing a vehicle at the dealership, including review of their documents. The auto “roundtables” that the FTC conducted in 2011, and related comments that were submitted, addressed various issues at a high level, including those raised by organizations that work in the auto area, such as consumer groups, trade associations, state enforcement agencies, and others. However, these roundtables did not provide an in-depth review of specific consumers’ experiences in the full purchase and financing process at the dealership, nor did they involve a walk-through of the consumers’ documents. In addition, the research cited by the National Automobile Dealers Association in its public comment pertained to generalized statements by consumers. The proposed survey here encompasses a broad-based discussion of the consumers’ individual experiences and information. We know of no other studies that provide the specific information being sought here. The proposed participant screener that the contractor will use, and the topics for the interviews (which include the document walk-through), are being provided to OMB.

(5) Efforts to Minimize Burden on Small Organizations

Not applicable. Only individual consumers are being surveyed.

(6) Consequences of Not Conducting the Collection of Information

If this information is not collected, the Commission may lack important information to address salient consumer issues and to target more effectively future law enforcement, consumer education actions, or other initiatives, as appropriate. The survey scope and burden has been reduced as much as possible without sacrificing the value of the information to be collected.

(7) Circumstances Requiring Collection Inconsistent With Guidelines

The collection of information in the proposed survey is consistent with all applicable guidelines contained in 5 C.F.R. § 1320.5(d)(2). Part B of this Supporting Statement has further detail about survey methodology.

(8) Consultation Outside the Agency

a. Public Comments

As required by section 3506(c)(2) of the Paperwork Reduction Act (“PRA”), 44 U.S.C. §§ 3501-3521, the FTC published a notice seeking public comment on the proposed collections

of information. *See* 81 Fed. Reg. 780 (Jan. 7, 2016). In response to the PRA notice, the Commission received 17 germane comments.⁵ A majority of the commenters supported the need for the FTC’s proposed study and/or recognized the importance of the topics and area to be studied, and suggested what they view as improvements or specific issues for the proposed study. Three comments questioned the need for the survey in view of the FTC’s prior auto activities and/or raised questions about the purpose or objectivity of the survey.

Center for Responsible Lending, National Council of La Raza, Americans for Financial Reform, Consumer Action, Consumers for Auto Reliability and Safety, NAACP, National Association of Consumer Advocates, National Consumer Law Center, National Urban League, Public Citizen, and U.S. PIRG: This joint comment by 11 broad-based national consumer groups applauded the FTC for proposing a survey to explore issues in auto purchasing and financing. They noted the FTC’s roundtables examined issues that persist in auto financing today, on which the interviews will shed additional light and serve to probe for information about consumers’ treatment and experience. They noted that the information should help shape enforcement and regulatory efforts. They suggested that the survey size be increased to 80 consumers with an option for more consumers. They also suggested that Buy Here Pay Here (“BHPH”) dealers be addressed separately, through 10-20 additional interviews exclusively focused on BHPH consumers. Finally, they suggested various survey questions or topics, including but not limited to those involving “yo yo financing scams” and add-on products or services. As noted above, the survey plan has an option for an additional 40 consumers. The FTC believes this size will provide useful information in this qualitative survey, about consumers’ experiences and issues in the auto purchase and financing area. The information gleaned from this survey will help the agency prioritize subsequent initiatives to protect consumers in auto-related transactions, including selecting strategic areas of focus for enforcement, rulemaking, or education. The FTC appreciates the commenters’ suggestions of topics and questions, and believes that the topics it has identified for the survey cover areas that will enable consumers to address broadly their experiences, including those noted in the comment such as occurrences after the contract is signed and add-on products or services.

National Association of Consumer Advocates (“NACA”): This consumer interest group supported a well-executed survey aimed at uncovering important data to assist the FTC in monitoring the marketplace and curbing unfair and deceptive practices in auto sales and lending. The group suggested that the survey should be large enough to provide an accurate representation of the population. It agreed with the FTC approach to obtain experiences from

⁵ The Commission received a total of 23 comments; 17 comments were germane, and are discussed below: a joint comment from the Center for Responsible Lending, the National Council of La Raza, NAACP and eight additional national consumer interest organizations (#633-6); the National Association of Consumer Advocates (#633-5); the National Automobile Dealers Association (#633-4); the National Independent Automobile Dealers Association (#633-7); a joint comment from the American Financial Services Association and the Consumer Bankers Association (#633-1); the Syracuse University College of Law, Office of Clinical Legal Education (#633-2); and 11 individuals. The six non-germane comments are duplicates, “test,” or unrelated submissions. Public comments associated with the matter are available at <https://www.ftc.gov/policy/public-comments/initiative-633>.

different populations and encouraged the FTC to include Native Americans, non-English speakers and military members. The FTC notes that this survey is not intended to be representative of the full population; one of its aims is to help the agency shape strategic priorities, including whether follow-on surveys studying particular segments of the population more in-depth should be among the agency's next priorities. However, the survey will be racially diverse and include participants of both sexes; the survey will strive to be inclusive, and respondents' characteristics will in part depend on consumers who participate in the survey.⁶ Finally, the suggested topics and questions provided by NACA fall within the survey topic areas and may be addressed depending on experiences that participants may have encountered.

National Automobile Dealers Association ("NADA"): NADA raised questions about the purpose, necessity, and methodology of the survey. NADA stated that the Commission already conducted a broad examination of the same questions and developed a record that obviates the need for further examination of this matter, through its roundtable discussions and related comments received through May 2012. It also stated that the FTC does not cite complaint data or data from another source that supports the exercise, that the FTC requested data demonstrating that prevalent abuses exist in the auto industry but received none, and that the FTC overlooks credible quantitative surveys that have been conducted finding a high level of consumer satisfaction, which NADA references in its comment. NADA also provided comments on survey methodology, including asking how the Commission will control for respondent fatigue during the survey;⁷ what questions will be asked of consumers and how the Commission will control for interviewer influence; how the Commission will be aided by anecdotal results; how it will control for limits of location research facilities; how it will control for survey respondent characteristics that may not be representative of the consumer population, and control for different attitudes and experiences over time; and whether it will include key analytical variables with only 40 respondents. It also asks about pre-set review criteria for documentation review, asks how the Commission will determine whether to go beyond the initial 40 consumers, and requests that the Commission make available the full methodological report or other written report, and identify additional stages that the Commission will conduct.

The FTC's work since 2011 demonstrates, rather than obviates, the need for further examination of consumer protection issues in the auto marketplace. During the 2011 roundtables, with comments through May 2012, participants raised various auto purchase and lease issues.⁸ Since that time, the FTC has brought more than 25 auto dealer cases, many

⁶ Depending on the consumers who participate, it is additionally possible that participants with Native American heritage and those with military backgrounds could be included. However, including non-English speakers in the survey would require translators to be available for many potential languages and dialects, for possible participants in the survey. This could vastly increase costs, and create delays during the survey, particularly if the needed translator was not present. Participation by non-English speakers is beyond the focus of the instant survey.

⁷ NADA's comment misstates that the proposed survey is quantitative. *See* NADA comment at 5. The survey is qualitative.

⁸ The roundtables transcripts and videos from all three forums are available at: <https://www.ftc.gov/news->

focusing on issues that became known in the roundtables, including misrepresentations in auto dealer advertisements about payments and rates; issues related to negative equity; add-ons; and many others.⁹ Despite these public law enforcement actions, there has continued to be illegal conduct in the auto marketplace, often involving the same or similar conduct as the conduct challenged in prior actions.¹⁰ This persistent conduct indicates that additional measures are necessary, including to study consumer experiences and help determine additional ways to protect consumers in auto transactions.

The proposed survey is expected to provide in-depth information about consumer protection issues that could be addressed through FTC initiatives, including enforcement, rulemaking, or education.¹¹ The survey will focus on learning directly from consumers their

events/press-releases/2012/02/ftc-continues-seek-public-input-consumer-issues-motor-vehicle; public comments received in this matter are available at <https://www.ftc.gov/policy/public-comments/initiative-369>.

⁹ As also noted in the prior 60-day Federal Register Notice, more information on FTC cases in the auto area is available at <https://www.ftc.gov/news-events/media-resources/consumer-finance/auto-marketplace>.

¹⁰ For example, in 2012, the Commission settled charges that five dealerships made deceptive claims that they would pay off the remaining balance on consumers' trade-ins, no matter what they owed. According to the FTC's complaints, the dealers actually rolled the remaining balance (negative equity) into the customers' new car financing, or in one instance, required the consumer to pay it out-of-pocket. See *In the Matter of Billion Auto, Inc.*, Docket No. C-4356 (May 1, 2012), available at <https://www.ftc.gov/enforcement/cases-proceedings/112-3209/billion-auto-inc-matter>; *In the Matter of Frank Myers AutoMaxx, LLC*, Docket No. C-4353 (Apr. 19, 2012), available at <https://www.ftc.gov/enforcement/cases-proceedings/112-3206/frank-meyers-automaxx-llc-matter>; *In the Matter of Key Hyundai of Manchester, LLC, and Key Hyundai of Milford, LLC*, Docket Number C-3358 (May 4, 2012), available at <https://www.ftc.gov/enforcement/cases-proceedings/112-3204/key-hyundai-manchester-llc-hyundai-milford-llc-matter>; and *In the Matter of Ramey Motors, Inc.*, Docket No. C-4354 (Apr. 19, 2012), available at <https://www.ftc.gov/enforcement/cases-proceedings/112-3207/ramey-motors-inc-matter>. A few years later, the FTC settled charges that another dealer, among other things, promoted the sale and lease of its vehicles using an ad that claimed consumers could get out of their current loan or lease for \$1, when in fact the dealer rolled the balance of the prior obligation into the new transaction. See *In the Matter of TXVT Limited Partnership*, Docket No. C-4508 (Feb. 12, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3117/txvt-limited-partnership-matter>. In 2013, the FTC settled charges that two auto dealers deceptively advertised the cost or available discounts for their vehicles. See, e.g., *In the Matter of Ganley Ford West, Inc.*, Docket No. C-4428 (Jan. 28, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/1223269/ganley-ford-west-inc-matter>, and *In the Matter of Timonium Chrysler, Inc.*, Docket No. C-4429 (Jan. 28, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/1323014/timonium-chrysler-inc-matter>. About a year later, the FTC settled charges that another dealer, among other things, misrepresented that specific discounts, rebates, incentives or prices were generally available to consumers, when in fact they were not. See *In the Matter of TT of Longwood, Inc.*, C-4431 (July 2, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3047/tt-longwood-inc-matter-cory-fairbanks-mazda>. The FTC has brought multiple other cases addressing deceptive practices by auto dealers. See, e.g., FTC, Press Releases, *FTC Announces Sweep Against 10 Auto Dealers*, Jan. 9, 2014, available at <https://www.ftc.gov/news-events/press-releases/2014/01/ftc-announces-sweep-against-10-auto-dealers>, and *FTC, Multiple Law Enforcement Partners Announce Crackdown on Deception, Fraud in Auto Sales, Financing and Leasing*, Mar. 26, 2015, available at <https://www.ftc.gov/news-events/press-releases/2015/03/ftc-multiple-law-enforcement-partners-announce-crackdown>.

¹¹ With respect to the studies that NADA referenced about generalized "customer satisfaction," the proposed survey neither is a duplicate of such a survey nor is it similarly focused. Instead, the proposed survey pertains to individual consumers' discussion of their experiences with the car purchase and financing process, including a walk-through of

specific experiences through the entire purchase and financing process, and will include a review of their documents, as opposed to hearing about more general experiences from the perspective of the auto industry, consumer advocates, and regulators, as the roundtables did.¹² While the latter stakeholders' perspectives are certainly important, it is also critical to hear from consumers themselves.

As the proposed survey is qualitative, the results will not be interpreted as quantitative measures of prevalence of practices. A qualitative survey facilitates an understanding of the nuances of consumer comprehension and thought-processes in the complex task of vehicle purchasing and financing. The proposed survey focuses expansively on consumers' experiences at the dealership in car purchasing and financing, and the interviewer will avoid suggesting particular problems. There is no indication that respondent fatigue will impede consumers in their ability to describe their own experiences, which they will do on a voluntary basis. Only consumers who purchased a car within the past six months will be involved, which is a recent timeframe. The Commission cannot state for now whether it would go beyond the initial 40 consumers in the survey, which may, in part, be contingent on the time required for that first segment. The FTC has not determined whether it will publish a report on the survey results. Finally, the information obtained by the FTC through the survey could support or be useful in various initiatives for this important area, such as enforcement, rulemaking, or education.

American Financial Services Association and Consumer Bankers Association: These groups supported the general professionalism of the FTC's work and its research staff. However, they expressed concern about possible bias, based on references about potentially "unfair or deceptive practices" in the January 7, 2016 Notice, and they noted that the FTC previously had three roundtables and "did not find any problems with the selling, financing, or leasing of motor vehicles."¹³ The comment also expressed a preference for separating research from enforcement and for removing all identifying information about dealers and financiers from the survey. The comment stated that the survey size is too small, making an analysis for statistical trends impossible; inquired about the questions to be asked; expressed the need to avoid interviewer steering of respondents; and encouraged the survey to focus on third party financing at a bank or credit union. Finally, it provided various questions, including about: the reason for the project, additional phases of the project, issues for consideration, the purpose of the documents, the reason for diversity in the respondents, and how results of the project will be distributed.

the consumer's related documents. This information to be gathered by the survey is also not necessarily something that is covered by complaints filed with the FTC – which last year numbered 93,917, making it our eighth most complained about category – because it encompasses a broader consideration of the purchase and financing process and consumers' experiences. See, e.g., FTC, *Consumer Sentinel Network Data Book for January - December, 2015* (Feb. 2016) at 6, available at <https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-january-december-2015/160229csn-2015databook.pdf>.

¹² Staff also has now provided additional information regarding the topics to be discussed, as described above.

¹³ AFSA-CBA Comment at 1.

The FTC is charged with enforcement of numerous statutes, as noted in the January 7, 2016 Notice, including protecting consumers against unfair or deceptive conduct, in violation of Section 5 of the FTC Act; this focus was also noted in the FTC’s announcements regarding its auto roundtables.¹⁴ The FTC has brought more than 25 enforcement actions, which specifically address such alleged conduct, as well as other alleged violations of federal laws and regulations related to automobile sales and financing. It is erroneous to state that the FTC has found no problems in this area; indeed, it has found many diverse problems affecting consumers at auto dealerships, and has been bringing enforcement actions repeatedly since that time to address them, as described in the prior Notice and as available at its website at <https://www.ftc.gov>.¹⁵

The purpose of the survey is to explore broadly consumers’ experiences in the purchase and financing process of their automobiles; as indicated, no decision has been made about what initiatives would be appropriate as an outgrowth of the process because the survey itself has not occurred. As noted above, the survey is qualitative; therefore, its size or structure is not designed to be representative of the population. Steering of respondents will be avoided; the survey is broadly explorative of the auto buying and financing process and consumers’ experiences at the dealership. Additional information about survey topics, including about the review of consumers’ documents, appears above. The survey focuses on entities and activities over which the agency has jurisdiction, namely auto dealerships and their financing practices – not third party financing from banks (or federal credit unions) over which the FTC does not have jurisdiction.¹⁶ The survey will be racially diverse and include participants from both sexes – as these various consumers may offer information about differing experiences at dealerships where consumers have purchased and financed vehicles.¹⁷ The results of the study will be used to

¹⁴ See, e.g., FTC, Press Release, Third FTC Roundtable to Cover Motor Vehicle Leasing Issues, Review Sales, Financing and Leasing Issues from All of the Roundtables, and Discuss Possible Next Steps (Oct. 25, 2011) (“Dealer-arranged financing can be a complicated, opaque process and could potentially involve unfair or deceptive practices.”), available at <https://www.ftc.gov/news-events/press-releases/2011/10/third-ftc-roundtable-cover-motor-vehicle-leasing-issues-review>; see also FTC, Public Roundtables: Protecting Consumers in the Sale and Leasing of Motor Vehicles, 76 Fed. Reg. 14014 (Mar. 15, 2011), available at <https://www.gpo.gov/fdsys/pkg/FR-2011-03-15/pdf/2011-5873.pdf>.

¹⁵ Indeed, these cases include two civil penalty matters filed in federal court against auto dealers that were previously charged by the FTC with violating Section 5 of the FTC Act by engaging in deceptive practices, among other things, and who – after entering into administrative orders with the Commission – were charged with violating those orders, again engaging in deceptive practices. See FTC, Press Releases, *FTC Takes Action Against Two Auto Dealership Chains For Violating 2012 Orders Prohibiting Deceptive Advertising of Vehicle Costs*, Dec. 12, 2014, available at <https://www.ftc.gov/news-events/press-releases/2014/12/ftc-takes-action-against-two-auto-dealership-chains-violating>, and *FTC Action: Auto Dealership Will Pay \$80,000 Penalty for Violating 2012 order Prohibiting Deceptive Advertising of Vehicle Costs*, Sept. 18, 2015, available at <https://www.ftc.gov/news-events/press-releases/2015/09/ftc-action-auto-dealership-will-pay-80000-penalty-violating-2012>. The dealers paid \$360,000 (Billion) and \$80,000 (Ramey). See *id.*

¹⁶ See, e.g., 15 U.S.C. 45(a).

¹⁷ The Commission generally does not expect to redact information from consumers’ documents about the names and locations of dealerships. However, to the extent that individual consumers’ or dealers’ information such as

inform and provide insights to the FTC regarding consumer understanding of the automobile purchasing and financing process at the dealership. The FTC has not determined whether it will publish a report on this matter.

National Independent Dealers Association (“NIADA”): This organization stated that the survey’s results will not be generalizable to the U.S. population, and thus it does not believe its costs are warranted. The comment stated that the survey was duplicative of the prior FTC roundtables. As noted above, the survey will be qualitative, and is not duplicative of prior roundtables because it focuses on consumers’ individual experiences and the process of purchasing and financing automobiles at dealerships, including through a review of their documents. Thus, the survey will provide new information in this area, which involves a significant and costly financial transaction for most consumers. The FTC believes the information will be useful to the Commission, as it continues striving to address issues in the important area of auto purchases and financing at dealerships.

Syracuse University School of Law Legal Clinic: This comment provided information regarding problems affecting consumers in the auto financing area, and suggested that regulation in this area would protect consumers. It stated that dealers use high-pressure tactics to force people into vehicles they cannot afford, that some vehicles involve warranties and other costly additional items, and that dealers routinely falsify documents to finance the deals. The comment provided several examples of consumers who have experienced specific problems with auto dealerships. The FTC appreciates this information, as it is helpful to know about issues in the marketplace given that we are focused on protecting consumers in this area.

Eleven Additional Individuals:¹⁸ Each of these comments raised specific problems that the individuals or consumers, or others for whom they provided the FTC information, had encountered with auto dealerships.¹⁹ They described a variety of problems that the consumers experienced, including but not limited to: changing offers at the dealership for financing after the consumer had responded to a specific ad; dealers that sold cars on terms beyond the consumers’ circumstances or ability to pay; dealerships that convinced the consumer to accept dealer-financing that was later declined to be finalized; misrepresentations by dealers to sell vehicles; dealer financing of “back-end products” like warranties, GAP policies and wheel

account numbers, Social Security numbers, or Taxpayer ID numbers are contained on these documents, such information will be redacted from information provided to the FTC. The survey will utilize rigorous protections for privacy and security of consumer information.

¹⁸ These comments are: Wilson #633-00017; Prohaska #633-00012; Burton #633-00010; Mandola #633-00008; Dawson #633-00009; Leech #633-00005; Aragon #633-00006; Johnson #633-00007; Sloan #633-00004; and Sutton #633-00002, available at <https://www.ftc.gov/policy/public-comments/initiative-633>.

¹⁹ For example, one mother commented regarding the experience of her son who has learning disabilities, in connection with an auto dealership where he went to claim a “scratch-off prize” that he thought he had won in response to a flyer that he received in the mail. See Sloan #633-00004, available at <https://www.ftc.gov/policy/public-comments/initiative-633>.

protection; and problems in used car sales and trade-ins. The FTC appreciates this information regarding specific issues consumers face in the auto buying marketplace because we are focused on protecting consumers in this area.

b. Consultation Outside the Agency

In addition to soliciting comments on the proposed survey, FTC staff has consulted with the FTC contractor for this project, Shugoll, and with the FTC's survey consultant, Manoj Hastak, Ph.D., Associate Professor of Marketing at American University's Kogod College of Business Administration in Washington, DC.

Pursuant to OMB regulations, 5 C.F.R. § 1320.10(a) that implement the PRA, the FTC is again seeking public comment contemporaneously with this submission.

(9) Payments and Gifts to Respondents

Shugoll will provide gratuities to participants and to pretest and regular survey backup consumers (backups) who are possible replacements for no-show participants in the survey. The gratuities will be in the form of cash gift cards for \$125 each for the regular pretest and regular segment consumers; cash gift cards will also be provided to the pretest and regular segment backups. Shugoll will also pay parking fees for the participants and backups who will come to Shugoll's facility in Bethesda, MD or Alexandria, VA, where the survey will occur.

(10) & (11) Assurances of Confidentiality/Matters of a Sensitive Nature

All of the consumer participants' personal information will be redacted in information provided to the FTC and will be anonymous as to the FTC. Responses provided at the survey interview and in the document walk-through will not include any consumer identifying information when reported to the FTC, and the FTC will not receive information about the identity of individual respondents.

More specifically, Shugoll will set up two secure databases for maintaining information about potential and selected survey participants. The firm will assign each consumer a random identification number ("random ID number"), and that information along with the consumer's identifying information will be maintained by the contractor in one database. The FTC will only have access to a second database that will include the random ID number with anonymized information about the consumers and redacted information regarding the consumers' purchase and finance documents. Thus, only redacted copies of consumer purchase and finance documents will be maintained in the survey. The survey will utilize rigorous protections for privacy and security of consumer information.²⁰

²⁰ Shugoll has extensive anti-virus, anti-malware, anti-spyware, and anti-spam security controls in place to

(12) Estimated Annual Hours Burden

In its January 7, 2016 Notice,²¹ the FTC provided PRA burden estimates for the proposed research. Staff believes that these estimates generally remain applicable and appropriate for the survey; however, as noted below, staff has adjusted certain aspects of the estimates after consultation with the contractor for the study.

- A. Estimated number of respondents: 170
- B. Burden Hours: 367 hours²²
- C. Labor Costs: Negligible

More specifically, staff estimates that the contractor's preliminary review of consumers to select for the survey would involve no more than 170 consumers (at most twice the maximum number of consumers — 85 — that would be involved in the survey).²³

The estimated hours are a total of the time for preliminary review, the pretest, the interviews, and obtaining credit scores. The preliminary review will include topics such as whether the consumer has recently purchased a car and has participated in a survey in the past year, as well as the consumer's self-identified race and origin. This review, done by phone, could require no more than 12 minutes per consumer, for 34 hours (170 respondents x 12 minutes).²⁴ Staff also estimates that at most, each of the 170 consumers would take approximately 30 minutes to locate or ascertain whether they have their documentation and their credit score for the survey, for 85 hours. Thus, the preliminary review total would be 119 hours.

Staff will pretest the questionnaire and interview materials with approximately five respondents to ensure that questions are easily understood. Based on further FTC staff discussions with the contractor, the survey will involve three additional backup consumers to be available in the event that any of the five scheduled respondents do not show up for the pretest.

substantially protect its records from outside infiltration. Shugoll uses a segmented network and high performance firewalls, password protections, and encryption software for transport of information to and from backup of its network.

²¹ 81 Fed. Reg. 780.

²² This is a total increase of 16 hours from the prior estimate.

²³ As described below, the contractor also would have 19 additional consumers (backups) on site as possible replacements for pretest and regular survey consumers who do not show-up for the interview. These consumers would add certain costs for time related to various aspects of the survey as indicated in the text, but they would not add to the total number of consumers participating in the survey interviews. Also, the 170 consumers include the additional maximum 19 pretest and regular survey backups.

²⁴ The FTC has reduced its estimate of needed preliminary review time from 15 minutes to 12 minutes (a 3-minute reduction for each consumer), based on the contractor's current estimate.

Staff estimates that each interview (including the documentation review) will take approximately 90 minutes, and 60 minutes travel time to and from the survey. Allowing for an extra ten minutes for questions unique to the pretest, the pretest will total approximately 19 hours (5 respondents x 160 minutes each for the pretest, plus 3 backups x 60 minutes travel time per backup, plus 2 (of the 3) backups x 100 minutes of maximum wait time per backup).²⁵

Once the pretest is completed, the initial 40 interviews, including travel, will cumulatively total an estimated 108 hours: 60 hours for the interviews (i.e., 40 interviews at 90 minutes each) plus 40 hours travel time to and from the interview facility for the 40 participants, cumulatively, plus eight additional hours, cumulatively, for eight additional participants' travel time to and from the interview facility as potential replacements for possible no-show participants.²⁶ If an additional 40 consumers are interviewed,²⁷ that will require an additional 108 hours, for the same reasons as above. Thus, for the interviews of 80 consumers, including travel time for 16 backup consumers, staff estimates that 216 hours will be required (80 respondents x 150 minutes each plus 16 backup consumers x 60 minutes each).²⁸

Staff further estimates that approximately 75%, or 78, of the 85 survey participants and 19 backups who are potential participants (three pretest backups and 16 interview backups), for both pretest and interviews, do not already have their credit score and thus will procure it through the services that provide this information. Staff estimates that ten minutes per consumer will be required for this purpose, for a total of 13 hours (78 respondents x 10 minutes each).²⁹

Thus, the FTC's survey will require 367 hours (119 hours for preliminary review + 19

²⁵ After consultation with the contractor, the FTC has slightly increased its estimates of pretest time to account for the backups in the pretest, who are replacements for possible no-show consumers in the pretest. As noted above, three backups will experience travel time to and from the survey, of 60 minutes each, for a total of 180 additional minutes or three hours. Also, two of the backups would be available on site for approximately 200 minutes (each backup would be available to replace two consumers), and one of the backups would be available on site for approximately 100 minutes (to replace one consumer). Thus, the backups might experience replacement time for no-show consumers, which would not add participation time to the survey. However, if fewer consumers are no-shows, it is possible that a maximum of 100 minutes in participation time would apply for each of the two backups - a total of 200 minutes - while they wait to learn if they are needed for the next pretest segment after the initial pretest segment. As noted, the other time for the backups - 100 minutes for each of the two backups, and 100 minutes for one backup - would be as replacement for scheduled pretests or, if the backups are not needed, they would be released promptly at the beginning of the sessions; neither would add participation time.

²⁶ As noted, the survey will involve consumers from the greater Washington, D.C. metropolitan area.

²⁷ The survey plan has an option for an additional 40 consumers, for a maximum of 80 consumers.

²⁸ The FTC has slightly increased its estimates of time for the regular interviews, to account for the possibility that backup consumers may be needed as replacements for no-show consumers. These eight additional consumers will experience travel time of 60 minutes each. They will not generate additional participation time: if they participate, they will replace the no-show participants; if not needed, they will be released promptly.

²⁹ The FTC has slightly increased its estimates for consumers to obtain credit scores, to account for the possibility that backups may participate and may not already have their credit scores.

hours for pretest + 216 hours for interviews + 13 hours for obtaining credit scores). The monetary cost per respondent should be negligible. The consumers who participate will already have or will obtain their credit score and provide documentation of that information to Shugoll.³⁰ Costs to obtain their credit score should be nil or negligible. Increasingly, websites offer free credit scores; additionally, credit score information often is available to consumers through credit sources they already have access to, such as credit card or other credit statements, in some cases.

(13) Estimated Annual Cost Burden

The cost per respondent should be negligible. Participation is voluntary, and will not require any labor expenditures by respondents. There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

(14) Estimated Cost to the Federal Government

The total cost to the Federal government for the information collection will be approximately \$236,454 maximum (if all 85 interviews are conducted and both a methodological and final written report are provided by the contractor). More specifically, staff projects it will cost \$118,050 to pay Shugoll to consult with the FTC regarding the qualitative survey and development of survey materials; locate the participants; conduct the preliminary review, pretest, and regular surveys (including a maximum of 85 interviews), and provide a brief written methodological report. It will cost an additional \$8,500, for a total of \$126,550 to pay Shugoll, if the FTC also requests a written summary report. The cost of FTC staff time is estimated to be approximately \$109,904.³¹ This is necessarily an estimate because several factors in this calculation may vary, including the amount of staff involved and the actual time required.

(15) Program Changes or Adjustments

Not applicable. This is a proposed new study.

(16) Plans for Tabulation and Publication

The results of the study will be used to inform and provide insights to the FTC regarding

³⁰ After consultation with the contractor, the FTC now plans to have consumers who do not already have their credit score obtain it before their interview with the contractor; the contractor will advise consumers of this approach during screening for the survey, which is voluntary. Consumers who do not have, or do not wish to obtain, their credit score will not participate in the survey. This approach will limit provision of unnecessary personal information to the contractor, and will facilitate the survey process, by avoiding delaying the pretest and/or regular interviews for the consumer to obtain his or her credit score information if the consumer does not have it.

³¹ This estimate is based on staff time for two attorneys (at 20% of time for each), and two economists (with 10% of time for each), including salary, benefits and additional office-related amounts.

consumer understanding of the automobile purchasing and financing process at the dealership. The FTC has not determined whether it will publish a report on the matter. The collection of information will begin after the completed OMB review process. The projected duration of the information collection is approximately three months, including the contractor's provision of a brief methodological report and any other report if requested by the FTC.

(17) Display of Expiration Date for OMB Approval

Not applicable.

(18) Exceptions to Certification

Not applicable.

B. COLLECTION OF INFORMATION

(1) Description of Study Design, Respondent Universe, and Sampling Methodology

The survey will be qualitative, involving consumer interviews and review of consumer documents. It is intended to facilitate an in-depth discussion with the respondents of their experience at the dealership in purchasing and financing an automobile. The survey is not equipped for any statistical sampling methods. The survey will not be representative of the U.S. population, and the Commission will not generalize the results to the U.S. population; however, the Commission believes the survey can provide useful insights into consumer understanding of the process at the dealership. This type of research is a core component of the FTC's mission.

a. Study Design

The survey will involve an initial pretest of five in-person consumer interviews to test the survey questionnaire, followed by in-person interviews of 40 consumers; an additional 40 consumers may be interviewed, if the FTC deems the added interviews helpful. For the initial 40 consumers, the FTC will interview approximately 20 consumers who have "prime" or "above subprime" credit scores and approximately 20 consumers who have "subprime" credit scores to learn about their experiences with purchasing and financing in these two market segments. As aforementioned, the sample group of consumers will be racially diverse and will include participants of both sexes.³²

³² As noted, the FTC survey involves a maximum of 85 in-depth in-person consumer interviews; while it is not representative, it will nonetheless offer the FTC insight into consumers' experiences in the auto purchase and financing process at the dealership.

An in-person consumer survey using in-depth interviews that broadly explore the consumers' experiences in the purchase and financing process at the dealership, that is also representative under these circumstances, would involve an extensive use of resources, and be highly costly and complex to administer. For example, the total purchases of new and used vehicles at dealerships across the nation are substantial in number. In 2015, franchise auto dealerships sold 17.3 million new cars and 11.4 million used cars, or 28.7 million total. See National Automobile Dealers Association, NADA DATA 2015 (2015) at 1, available at <https://www.nada.org/nadadata/>, and Edmunds, 2015 Used Vehicle Market Report (2015) at 1, available at <http://static.ed.edmunds-media.com/unversioned/img/industry-center/analysis/2015-used-market-report.pdf>. It is not clear what percentage of these transactions were consumer sales; whatever that figure, it has been estimated that 80% of franchise auto dealers' consumer sales are financed by the dealer. See, e.g., Jim Henry, "Go Ahead, Get a Prearranged Auto Loan, Dealerships Say They Like A Challenge," *Forbes* (Feb. 28, 2014), available at <http://www.forbes.com/sites/jimhenry/2014/02/28/go-ahead-get-a-prearranged-auto-loan-dealerships-say-they-like-a-challenge/#2305cb9d40e3>. For independent dealers, in 2013, the number of vehicles sold per dealer was 378.6 each, per 37,026 such dealers, for approximately 14 million total. See NIADA, 2014 Used Car Industry Report at 16 (citing CNW Research), available at <http://www.niada.com/>. Again, the percentage of such vehicles sold to consumers is not clear, nor is the percentage of those financed by the dealer. In part, this is because: buy here pay here dealers can be included as a component of independent dealer data; independent dealers may either provide financing themselves or sell vehicles through financing offered by separate entities with whom they either are, or are not, affiliated; and dealers can sell vehicles to buyers who obtain separate third party financing. Thus, while a substantial number of vehicles are sold in the nation by various dealers, the precise number of vehicles sold and financed by dealerships to consumers is not clear. It may be in hundreds of thousands of transactions, and many thousands of such transactions annually may occur in the Washington, D.C. metropolitan area - a sizeable market for auto sales and financing. In sum, the FTC staff believes that the proposed survey will instead provide the FTC with useful insights into the consumers' experiences, and while not representative, will bring increased understanding of

The FTC has contracted with Shugoll Research, Inc., a consumer research firm located in metropolitan Washington, D.C., with substantial experience conducting consumer surveys, to locate the participants, conduct the survey, and write a brief methodological report and any other report as requested by the FTC. Shugoll will select the consumers from a pool of people who previously have indicated that they are willing to participate in surveys, but who have not participated in any in-depth survey interviews in the past year.³³ Shugoll will identify interview participants who have purchased an automobile from a dealer in the greater Washington, D.C. metropolitan area in the previous six months, and used financing that was offered or arranged by the dealer to make the purchase. The interview participant also must have kept the documentation (*e.g.*, credit contract) he or she received as part of the purchase and financing. The consumer's credit score will be used in the survey; if survey participants do not have their credit score, the consumer may obtain it through services that provide this information and provide documentation of the score to Shugoll.³⁴ The interview subjects and their personal identifying information will be anonymized in material received by the FTC, and will be vigorously protected by the survey firm.³⁵

FTC staff, in consultation with Shugoll, will develop the questionnaire and conduct interviews lasting approximately 90 minutes with each consumer.

b. Sampling Frame

After considering the costs and benefits of various data collection methods, FTC staff has concluded that the most efficient way to collect the data needed to meet the research objectives within a feasible budget is to conduct consumer interviews with participants who recently purchased and financed an automobile at the dealership.

The sampling will be racially diverse, include participants of both sexes, and involve consumers who recently purchased and financed an automobile at a dealership. Again, however, the participants are not intended to be representative of the entire U.S. population. To facilitate conducting the qualitative research, which involves in-depth interviews of consumers' recent

such experiences, in a cost-effective manner.

³³ Shugoll will screen 170 consumers to ensure they have more than a sufficient number of consumers for the pretest (five consumers), and both segments of the regular interviews (80 consumers).

³⁴ For privacy purposes, Shugoll will not obtain the credit score for the consumer, but will explain to consumers who do not have their score that various sources are available for promptly obtaining this information, including some that do not charge.

³⁵ As detailed above, Shugoll will set up two secure databases for maintaining information about potential and selected survey participants. The firm will assign each consumer a random identification number ("random ID number"), and that information along with the consumer's identifying information will be maintained by the contractor in one database. The FTC will only have access to a second database that will include the random ID number with anonymized information about the consumers and redacted information regarding the consumers' purchase and finance documents. Thus, only redacted copies of consumer purchase and finance documents will be maintained in the survey. The survey will utilize rigorous protections for privacy and security of consumer information.

experiences, Shugoll will use its facilities in, and select participants from, the metropolitan Washington, D.C. area. The sampling frame for this study encompasses members of the contractor's available interview subjects, which affords hundreds of possible participants. As also discussed in Part A of this Supporting Statement, FTC staff in consultation with its contractor has determined that screening of up to 170 consumers will be used to ensure a maximum of 85 completed interviews – five for the pretest and a maximum of 80 for the regular segments of the interviews.

c. Sampling Methodology

The contractor has determined the size of its screening sample based on several considerations, including the funds available for the study, the cost of different interview sizes, and the possibility of different consumer experiences at the dealership.³⁶

The primary issue to be examined in the survey is to learn about the consumer's experiences in purchasing and financing their automobile at the dealership. For the initial 40 consumers, the survey will interview 20 consumers who have "subprime" credit scores, and 20 consumers who have "prime" or "above subprime" credit scores, in order to learn about the consumer's experience with purchasing and financing an automobile in these market segments.³⁷ If consumers do not have their credit score, they may obtain it through services that provide this information, and then provide documentation of the score to Shugoll.³⁸

(2) Description of the Information Collection Procedures

Shugoll will conduct interviews lasting approximately 90 minutes with each consumer. The topic areas are listed below and will broadly enable the consumer to describe their experiences in the auto purchase and financing process at the dealership, including review of

³⁶ Interviews of five consumers for the pretest, and up to 80 consumers for the regular segments of the survey, will provide the FTC with considerable information regarding the consumers' experiences, through the in-depth interviews and review of documents, and still limit resource usage and costs to conduct the survey.

³⁷ For example, Experian categorizes consumers with scores below 601 as subprime. Other scores are above subprime, and categorized as nonprime or prime. *See generally* Experian, State of the Automotive Finance Market, A look at loans and leases in Q1 2016, available at <http://www.experian.com/automotive/automotive-credit-webinar.html>.

Shugoll will obtain at least two Caucasians, two Latinos/Hispanics, and two African Americans, and participants from both sexes, in each of the "subprime" and "above subprime" groups. Other participant selections would be racially and ethnically neutral and depend on consumers who can participate. The contractor also generally will strive to obtain a mix of ages and income levels in participants, without specific representation from any level of either category. The contractor also will strive to include a mix of consumers who purchased and financed a vehicle from franchise, independent, and buy here pay here dealers, without specific representation from any of those groups.

³⁸ To ensure for privacy of consumer information, Shugoll will not obtain the credit score for the consumer but will explain to consumers that do not have their score already that various sources are available for promptly obtaining this information, including some that do not charge.

their documents. Because the consumers' experiences could vary, the following interview topics generally provide areas for discussion:³⁹

- the consumer's experience in shopping for and choosing an automobile;
- the process of agreeing to a price for the automobile;
- the process of trading in the consumer's used automobile, if applicable;
- the consumer's experience in obtaining financing, and discussion of any GPS or tracking device installed in connection with the financing;⁴⁰
- additional products or services the dealer may have offered;
- contracts and post-purchase experience, such as that related to review and signing of paperwork;
- other points raised by the consumer about the process;⁴¹ and
- the consumer's overall perception of the purchase experience.

The interviews will conclude by reviewing the consumer's documentation and exploring the consumer's understanding of that documentation. The walk-through of the consumer's documents will include:⁴²

- the consumer's overall understanding of the documents;
- a review of the available documents;
- a review of the terms of the deal;
- the consumer's views of the documents and terms;
- discussion of any other documents; and
- other points raised by the consumer about the documents.

Participation in the survey will be voluntary. While the results will not be generalizable to the U.S. population, the Commission believes that they can provide useful insights into consumer understanding of the automobile purchasing and financing process at the dealership. This type of research is a core component of the FTC's mission.

The contractor will provide the FTC with results from the consumer pretest and interviews, including a brief methodological report. The contractor will also provide another written report, if requested by the FTC.

³⁹ The FTC staff expects to work with the contractor to address specific questions that will be asked of the consumers, but the purpose is to enable the consumers to broadly address their experiences at the dealership, rather than only limited issues.

⁴⁰ This interview topic now clarifies that discussion of any GPS or tracking devices could be included if part of the consumer's experience.

⁴¹ The interview topics now clarify that the survey will consider other points that the consumer may raise about the process.

⁴² The FTC staff has included the topics for the walk-through of the consumer's documents. The experiences and documents that the consumer may have, related to the purchase and financing of their car, could vary among consumers who participate. However, the topics listed generally would cover such areas.

(3) Methods to Maximize Response Rates/Reliability of Sample Data

As noted above, the survey will be qualitative, with consumer interviews to enable participants to describe their automobile purchase and financing experience at the dealership. The survey is voluntary, and only consumers who wish to participate will be selected for the survey.⁴³ Only consumers who purchased and financed an automobile at a dealership within the past six months will participate in the survey, which will enable them to focus on a recent experience. To help maximize participation in the survey and minimize non-response issues in advance of the interviews, the contractor will:

- Preliminarily screen consumers to ensure that they wish to voluntarily participate and discuss their experiences, purchased and financed an auto at a dealership within the past six months, and have their documents. Consumers will also have or obtain their credit score and provide that information to the contractor before the interview, to ensure that the interview proceeds expeditiously;⁴⁴ and
- Test the draft questionnaire with a pretest of five respondents to ensure that the questionnaire minimizes burden and is clear, and then refine the questionnaire as appropriate.

In addition, Shugoll expects to email participants prior to their scheduled interview, and to have additional consumers available, as noted (backups for the pretest and regular segment interviews) to enhance response and participation by the consumers.

(4) Testing of Procedures or Methods Undertaken

As noted above, staff will pretest the survey materials using five respondents to ensure that all aspects of the survey are easily understood and can generate useful information. The pretest is discussed further throughout Part A above and in Part B.(1). It is incorporated within the collection of information for which staff seeks OMB approval.

(5) Individuals Consulted on the Study

The study is qualitative and does not involve quantitative or statistical aspects. The FTC has consulted with Shugoll, which is experienced in conducting consumer surveys. The FTC has also consulted with Manoj Hastak, Ph.D., a faculty member in the Kogod School of Business at American University and a consumer research consultant with the Bureau of Consumer Protection's Division of Advertising Practices. Dr. Hastak has served as a consultant on survey studies for the FTC on numerous occasions. In addition, the survey design has been reviewed

⁴³ Consumers will be selected from a group that has expressed a willingness to participate in surveys.

⁴⁴ In addition, two other screening criteria apply: (1) consumers and immediate family must not work in advertising, public relations, or market research, nor in the automobile industry or a finance company; and (2) consumers must be able and willing to provide answers that can be clearly understood in English.

internally by various FTC staff, including attorneys in the Division of Financial Practices and economists in the Bureau of Economics.