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Fully Loaded: Oklahoma's Car Dealer Licensing Cartel - Summary*

There may not be a clearer example of naked protectionism in the laws of Oklahoma than the protection afforded to car dealers. The Oklahoma Motor Vehicle Commission (OMVC) regulates new car dealers, distributors, and manufacturers. The current regulatory scheme includes a number of onerous and anticompetitive provisions that favor dealers at the expense of consumers. There is little to justify any car dealer licensing scheme, much less one as burdensome as Oklahoma's.

It is illegal to be a broker of new cars - a second offense is a felony.

- This protects dealers from consumers who would hire a professional negotiator to bargain with the professional negotiators the dealer uses.

Carmakers are required to use an intermediary dealer to sell their cars to consumers.

- Even a new car manufacturer with no current franchisees could not choose to sell new vehicles directly to consumers.
- Factory-owned dealers that existed prior to 2000 are grandfathered in. Why would a factory-owned dealer that has been in business for 20 years be any less dangerous to the public than one that opened last week?
 - Since the law is about creating a special class of middlemen and it is the dealers who benefit from reduced competition, they were willing to accept a compromise wherein the existing factory-owned dealers can stay, so long as they are not allowed spread.

Manufacturers can only get rid of a dealer if they can demonstrate "good cause" to the OMVC, a body composed mostly of dealers.

- This applies not only to terminating a dealer in the middle of an agreed contract, but also if a manufacturer does not wish to renew the contract after the agreed time period has ended.
- This good cause protection extends to a franchisee's heirs, and to any potential buyer.

- Once a dealer receives his franchise, manufacturers are at that dealer's mercy in determining who is fit to continue the dealership.

Dealers benefit from exclusive territories.

- A new dealership can only be opened in the territory of another dealer if the existing dealer does not object, or if the OMVC (a body composed mostly of car dealers) finds there is good cause to establish another dealership in the same territory.

One stated purpose of the law is to "prevent bankrupting of motor vehicle dealers, who might otherwise be caused to fail because of such unfair practices."

- The law goes on to instruct the courts that "All provisions in this chapter shall be liberally interpreted... to protect the investments of its citizens in motor vehicles and dealerships and to protect the transportation system of the state and shall further be interpreted to affect existing as well as future franchise agreements."
- The new-car-dealer law's anticompetitive, protectionist purpose is evident from its structure, which is of, by, and for dealers. Oklahoma's consumers and out-of-state manufacturers, on the other hand, are left to be preyed upon.

Policy Recommendations

The state-sponsored car dealer cartel should be ended. Car dealers should not be protected from honest competition. This requires repealing the laws that mandate third-party-owned dealerships. It requires eliminating special "good cause" protections and exclusive geographic territories for dealers, opening each region to genuine competition. It requires repealing the predatory anti-brokering law that prevents consumers from engaging an advocate to negotiate in their place. And it requires eliminating dealer licensing.