April 11, 2023

Honorable Thomas J. Umberg
Chair, Senate Judiciary Committee
1021 O Street, Room 3240
Sacramento, CA 95814

Re: SB 680 (Skinner) - CO-SPONSORS
As Introduced

Dear Senator Umberg:

The Consumers for Auto Reliability and Safety (CARS) and the Consumer Federation of California (CFC) are proud to co-sponsor SB 680 authored by Senator Skinner, this is pro-consumer and pro-environment legislation that will help make electric vehicles (EVs) significantly more affordable by prohibiting auto dealers from charging over the Manufacturer's Suggested Retail Price (MSRP) for EVs.

SB 680 is part of a multi-bill package sponsored by CFC and a wide range of consumer and small business organizations to crack down on so-called "junk fees." Some 85% of Americans have had direct experience in one form or another with junk fees. These fees are deceptive, excessive, imposed without adding anything of value, infuriating, and unnecessary. That's why President Biden and some leading Republicans agree that combating junk fees is important.

As consumers seek to switch over to electric powered vehicles, helping to address climate change, save money at the fuel pump, and meet the California EV mandate by 2035, some dealers are charging $30,000-$40,000 or more above the Manufacturer's Suggested Retail Price (MSRP) for EVs, which are already significantly more expensive than comparable combustion-engine vehicles. Forcing consumers to pay outrageous additional markups without any features being added is pernicious and perhaps the ultimate junk fee.

The number one barrier to more widespread adoption of EVs is affordability, and auto dealers' imposing excessive markups is thwarting consumers' ability to meet California's EV mandate. In January 2022 more than 80% of US car buyers paid above MSRP, compared to 0.3% for the same month in 2020.[1] Car dealers' markups are substantially higher, on average, for EVs than for combustion vehicles.

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[1] Jacob Boggs & Aaron Gregg, "GM and Ford threaten to withhold popular cars as dealerships raise prices," (February 12, 2022), *The Washington Post*.

According to Edmunds data, the average transaction price for a new EV climbed to $60,054 in February [2022]. That compared with an average transaction price for all vehicles of $45,596. Furthermore, EV buyers were paying an average of $1,820 over sticker, compared with a $680 average markup for all vehicles." [2]

Excessive dealer markups also defeat the purpose of programs offered by the State of California by allowing dealers to "swallow" rebates and other incentives offered to consumers. For example: "Quentin Nelms, 43, a low-voltage technician for the Tulare school district in the San Joaquin Valley, qualified for the $5,000 CVAP grant in January, before the program closed. But when he began shopping, Nelms found that the prices of EVs at dealerships that participated in the grant program were marked up by as much as $12,000." [3]

Prohibiting franchised new car dealers from charging markups above the MSRP for EVs is also justified for the following reasons:

- California, the nation, and the world face an imminent, existential climate crisis. Accelerating adoption of EVs in the nation's largest auto market by making them more affordable is crucial for meeting sustainability goals necessary to help stave off the worst consequences of climate change.

- California has enacted franchise laws that favor auto dealers, granting dealers de facto monopolies and shielding them from competing with other automotive businesses such as auto manufacturers (except in rare and narrowly limited circumstances), or other retailers, such as Costco. In addition, state franchise laws also shield auto dealers from competition with each other, carving up the state into marketing territories dominated by specific dealerships.[4]

- Many franchised dealerships located in California are owned by multi-billion dollar mega-chains that are publicly traded on Wall Street with headquarters based in other states. For example, AutoNation, a Fortune 500 company worth an estimated $5.92 billion,[5] is based in Florida and owns 39 dealerships in California.[6] Lithia, based in Oregon, owns 50 California dealerships.[7] This conglomeration further exacerbates franchised dealers' ability to exercise market power in hiking up the price of EVs by charging exorbitant markups.

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[2] *Washington Post,* citing auto market research firm *Edmunds*, "Car dealers are raising prices. Automakers are pushing back. Consumers are stuck in between," Feb 12, 2022, Jacob Bogage and Aaron Gregg.

[3] *The Guardian,* citing the Federal Bureau of Transportation, "California wants everyone to drive EVs. How will low-income people afford them?" Oct 13, 2022, Gabriela Aoun.

[4] "The Simplest Way to Sell More Electric Cars in America: Decades-old laws that protect car dealers are keeping the U.S. stuck in the gas-powered past," *The Atlantic,* January 21, 2022.

[5] Macrotrends. Valuation current on April 7, 2023. Posted at: https://www.macrotrends.net/stocks/charts/AN/autonation/net-worth#:~:text=Interactive%20chart%20of%20historical%20net,24%2C%202023%20is%20%246.65B.

[6] ScrapeHero. March 13, 2023. Posted at: https://www.scrapehero.com/location-reports/AutoNation-USA/

[7] ScrapeHero. March 13, 2023. Posted at: https://www.scrapehero.com/location-reports/Lithia%20Motors-USA/#:~:text=There%20are%20305%20Lithia%20Motors,Motors%20dealerships%20in%20the%20US.

In addition, dealers will still have substantial financial incentives to sell EVs that will not change under SB 680. Among them:

- The MSRP typically includes a profit for the selling dealership

- Auto dealers make hefty profits at the back end of the deal from assigning retail installment contracts to lenders who vie for their business by offering generous incentives that cost consumers billions of dollars in extra hidden financing fees

- Auto dealers also make enormous profits from the sales of add-ons such as extended service contracts, “theft etch” or anti-theft devices, “GAP” waivers, lifetime oil changes, fancy wheels, pinstriping, clear coat, fabric protection, and other lucrative “soft” and “hard” add-ons.

The California Consumers Legal Remedies Act (“CLRA”), passed in 1970, is designed to protect Californians from unfair and deceptive business practices, such as false advertising. As gas prices soar, and zero emission vehicle demand rises, California can help ensure that ZEVS are affordable by categorizing dealer mark-ups above the MSRP as an unfair business practice under the Consumer Legal Remedies Act. SB 680 will give consumers all remedies available under CA’s existing Consumer Legal Remedies Act, which is enforceable by harmed consumers and their private legal counsel, as well as by public law enforcement agencies.

SB 680 is first-in-the-nation legislation that will help address the crisis we all face in mitigating climate change by accelerating the replacement of California’s aging fossil-fuel fleet with newer, safer, more fuel-efficient EVs. We respectfully ask for your support and aye vote on SB 680. Thank you for your consideration of this request.

Sincerely,

Rosemary Shahan

Rosemary Shahan, President
Consumers for Auto Reliability and Safety (Co-sponsor)

Rob Herrell

Robert Herrell, Executive Director
Consumer Federation of California (Co-sponsor)

CC: Members and Staff, Senate Judiciary Committee
Senator Skinner