



## California New Car Dealers Association

---

February 23, 2009

The Honorable Timothy F. Geithner  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

***Re: Crisis In Dealer Floorplan Lending Will Exacerbate Job Loss***

Dear Secretary Geithner:

The California New Car Dealers Association is a statewide trade association that represents the interests of over 1,400 franchised new car and truck dealers. We are writing today to alert you to a massive economic hardship that is being inflicted on a significant number of our dealer members and their employees by some vehicle inventory lenders (“floorplan lenders”). Without immediate federal intervention, thousands of dealers nationwide will suffer a similar fate.

The confluence of economic events that has thrust the nation and world into recession has staggered California’s economy. Rising unemployment, falling housing values, record foreclosures, excessive consumer debt, fluctuating gasoline prices and turbulent credit markets have had a dramatic impact on new car sales. California new car dealers sold 433,570 fewer cars and trucks in 2008 than the year before (a 23% decline vs. 18% nationwide). 137 of our dealer members were forced to close their doors in 2008, resulting in thousands of dealership job losses. Thousands of other Californians who made a living off those dealerships as service providers, suppliers and advertisers have also been left jobless. A disproportionate number of those closed dealerships represented domestic lines (47 GM dealerships, 32 Chrysler dealerships, and 29 Ford dealerships). ***Draconian action by floorplan lenders was the reason most often cited by those dealerships for their closure.***

Since the first of this year, 23 additional California new car dealerships have closed their doors and a recent survey of our members indicates that 131 more dealerships are concerned that they will be forced to close in the next six months unless they obtain immediate floorplan financing relief. In fact, 54 dealerships that responded to our survey report that they have recently received a floorplan termination notice and none of them have been able to obtain a replacement floorplan line of credit.

Most of our dealer members were stranded with a glut of 2007 and 2008 model year vehicles when gasoline prices spiked early last summer and the consumer spending spigot suddenly turned off. Many dealers still have a vehicle inventory supply that does not match today's projected sales rate (we expect an additional 15% drop in new vehicle sales for 2009) and are struggling to "right-size" their inventory. Shedding aging vehicle inventory in the middle of a severe rescission takes time, perseverance and most of all -- sustainable working capital. Unfortunately, many dealers have been forced to exhaust precious working capital in order to satisfy unprecedented demands by their floorplan lenders for "curtailment payments".

Although the specific terms of floorplan lending agreements vary widely, the mechanics of those agreements are similar. A floorplan lender typically loans a dealer funds (subject to a specified credit limit) to acquire new and used vehicle inventory. In return, a floorplan lender obtains a security interest in the vehicle inventory to collateralize the loan and receives monthly interest payments from a dealer for funds advanced until the principal is repaid. Until recently, it had been the long-standing custom and practice in the industry for floorplan lenders not to require a dealer to repay any amount of the principal advanced for the acquisition of a floored vehicle until a specified time period after that vehicle was retailed by the dealer (usually 72 hours). This practice permitted a dealer to use proceeds from the sale of a floored vehicle to pay-off the principal balance. Thus, as long as a dealer faithfully paid its monthly flooring interest and remitted the principal balance due after the sale of a floored vehicle, the dealer was not in default. Conversely, if a dealer failed to pay monthly flooring interest on its entire floorplan line of credit or sold a floored vehicle without promptly remitting the principal amount owing on that vehicle (known as selling a vehicle "out-of-trust"), the dealer was in default.

Within the past six months, several floorplan lenders (most notably GMAC Financial Services and Chrysler Financial) have deviated from the long-standing industry custom and practice that permitted a dealer not to repay any portion of the principal amount owing on a floored vehicle until *after* the vehicle is sold. Instead, those lenders have implemented harsh new policies that require many dealers to reduce or "curtail" principal balances *prior* to the sale of a floored vehicle. For example, GMAC now requires many of its dealers to pay *monthly* minimum principal reduction payments of: 10% of the original balance on all new 2007 model year vehicles; 10% of the original balance on all new 2008 model year vehicles invoiced prior to September 1, 2007; and, 5% of the original balance on all new 2008 model year vehicles in inventory for more than 180 days. In addition, GMAC is now requiring many of its dealers to pay similar minimum principal reduction payments on all used vehicles they floor and requiring a total pay-off on any used vehicle floored for more than 180 days.

The introduction of these monthly floorplan curtailment payment requirements (albeit permitted under the terms of some floorplan agreements) is analogous to a mortgage lender that forces a homeowner to make additional monthly principal payments at a time when the homeowner is struggling to meet his or her regular payments. Like accelerated mortgage foreclosures that further depress the housing market and fuel an expansion of the recession, when a new car dealership is forced to close due to unreasonable curtailment demands and its vehicle inventory is liquidated at a distressed auction sale, the value of all other vehicle inventory is

The Honorable Timothy F. Geithner

February 23, 2009

Page 3

undercut and the downward economic spiral worsens. Depending on the size and age of a dealer's inventory, monthly curtailment payments can be tens of thousands of dollars – money that the dealer could otherwise use as working capital to sustain its operations and maintain its workforce until the credit markets unfreeze and the recession subsides.

Each new car dealership that is forced to close its doors because of actions taken by its floorplan lender translates to: job loss; a reduction of the tax base; diminished inter-brand and intra-brand competition; fewer local service bays for warranty, recall and other repairs; consumer inconvenience; and, community blight. A growing number of our members are concerned that taxpayer funds already made available to some floorplan lenders under the Troubled Asset Relief Program (TARP) and credit that will soon be available to some of those same lenders in connection with the Term Asset-backed Securities Loan Facility (TALF) – are not, and will not, be used by those lenders to help dealers and the communities they serve sustain themselves until the recession passes.

We appreciate all of the efforts the Treasury Department has already taken to reopen our frozen credit markets, and we encourage you to continue those efforts to ensure that the mechanisms already established (especially the TALF) are sufficiently flexible to succeed in injecting needed liquidity into all parts of the auto floorplan sector. However, as you do so, ***it is imperative that floorplan lenders that benefit from the use of taxpayer money funneled through TARP, the TALF and other federal relief programs, should be required, as a condition of participation, to immediately discontinue onerous floorplan curtailment policies.***

Should you or your staff have any questions or comments, please do not hesitate to give me a call.

Sincerely,



Peter K. Welch  
President

cc: Members of the California Congressional Delegation