



National Automobile Dealers
Association
Industry Relations
8400 Westpark Drive

TO: All General Motors Dealers
FROM: NADA Industry Relations
DATE: June 8, 2009
RE: NADA Meets With GM Executives

As a follow-up to the June 3rd Senate hearing, NADA's leadership, led by Chairman John McEleney, Vice Chairman Ed Tonkin, and GM IR Franchise Chairman Mike Martin, requested a meeting with GM executives, including North American President Troy Clarke and Sales and Marketing Vice President Mark LaNeve. The meeting was held at NADA Headquarters in McLean on Friday, June 5th. Duane Paddock, GM National Dealer Council Chairman, also participated. The purpose of the meeting was to relay the serious concerns dealers have with both the Wind-Down and Participation Agreements, especially the onerous provisions of the Participation Agreement, and the negative impact those would have on dealers going forward.

NADA is pleased to advise that GM has determined to make several important changes as a result of the meeting. The following summarizes the key issues addressed.

Wind-Down Agreement

In the meeting, NADA representatives first discussed the Wind-Down Agreement provisions and asked for several improvements to help the dealers who would, under GM's proposal, no longer have a GM franchise after October 31, 2010. While NADA reiterated its stance that eliminating dealers does not improve GM's viability because dealers are not a significant cost to manufacturers, the focus of the discussion was on specific items to improve this process.

GM has determined to clarify several points concerning the wind-down terms. GM said dealers who were sent a Wind-Down Agreement will receive a letter later in the week addressing:

- their right to purchase vehicles at GM's auctions, even beyond the end of the wind-down period;
- their right to buy vehicles from a "warehouse" account;
- the ability to obtain new vehicles by dealer trade;
- GM's determination not to enforce Channel Agreements regarding site control; and access to the RIMS parts system, in some cases previously not available.

In addition, GM will consider revising terms to allow a dealer to wind-down his GM franchise prior to December 31, 2009 and other issues.

Participation Agreement

As with the Wind-Down Agreement, NADA opened discussion of the Participation Agreement by emphatically stating its position that the current Sales and Service Agreements for the dealers going forward should be assumed without any modifications. GM, however, declined to do so. As a result, the discussion on the Participation Agreements concentrated on removing certain provisions and improving the provisions most important to dealers. NADA also asked GM to clarify its intent with regard to a number of other provisions.

GM has advised NADA that it will send a clarification letter to all GM dealers who received a Participation Agreement. NADA has reviewed a copy of the letter and while NADA does not endorse the GM Participation Agreement, as modified, we commend GM for meeting with us and the National Dealer Council to improve the document.

The points listed below summarize the key elements that GM's clarification letter will contain. Significantly, the terms of the clarification letter, upon execution, will formally be incorporated into the Participation Agreement itself.

1. The clarification letter makes clear that the sales performance requirements of paragraph 2 of the Participation Agreement are designed to take into account the ability of continuing dealers to sell a greater number of cars because of a reduced dealer body. The letter notes that in the first quarter of 2010, GM will hold a Reinvention Business Plan meeting with each continuing dealer where "appropriate" sales targets will be agreed upon. Those increased sales expectations will be implemented in the second half of 2010 or in the 2011 calendar year, based upon overall market factors.
2. GM has provided a similar clarification with respect to the increased inventory requirements of paragraph 3 of the Participation Agreement. The clarification letter notes that GM will expect inventories to match the updated sales expectations based upon the plans adopted at the Reinvention Business Plan meeting.
3. The clarification letter actually amends the exclusivity language of paragraph 4 of the Participation Agreement. The amendment does the following:
 - It clarifies that all dealers will be expected to have an exclusive GM showroom by December 31, 2009.
 - In some markets, GM will expect totally exclusive GM facilities, while in other markets there may be dual use of facilities other than the showroom allowed.
 - GM will meet with dealers to develop a plan as to whether a dealer is to have exclusive facilities or facilities where there may be shared elements.
 - The letter expresses the willingness with GM to work with dealers reasonably with respect to exclusivity decisions if a dealer cannot meet the date or dates established for exclusivity.
4. The clarification letter amends section 5(a) of the Participation Agreement by noting that the dealer's waiver of protest is not designed to allow GM to add new dealers into an

existing dealer's area of responsibility. GM intends only to realign current points, not add dealers to a market.

5. GM has agreed to eliminate paragraph 8 of the Participation Agreement. This paragraph provided special rights for GM in case of an alleged breach by a dealer. Most problematic, it required a waiver of the dealer's rights under state law. Those special GM rights will be eliminated. Any remedy for GM will be determined by the dealer agreement construed according to state law.
6. Because of the change, GM is extending the time for returning a Participation Agreement over the coming weekend. Rather than noting that the Participation Agreement with this letter of clarification and amendment be received by June 12, the clarification letter provides that it must be received by June 15.
7. The Participation Agreement provides that Michigan law applies. The clarification letter will use the language from the Dealer Agreement that Michigan law applies except where the dealer's state law would make that inapplicable in which case the dealer's state law could apply.

To conclude, NADA is not in a position to endorse the modified Participation Agreement, but we believe the revised document addresses the most serious of dealer concerns.