



Consumers for Auto Reliability and Safety

NEWS

For immediate release: June 24, 2014

Contact: Rosemary Shahan, 530-759-9440

Safety Groups Seek Federal Trade Commission Curbs on CarMax Over Sales of Recalled Used Cars, Deceptive Advertising

WASHINGTON, DC. A dozen major national consumer and safety non-profit organizations are urging the Federal Trade Commission to investigate and take enforcement action against CarMax, the nation's largest retailer of used cars, over its sales of recalled used cars. In a petition filed at the FTC on Monday, the groups charge that:

CarMax advertises on its website, on television, in newspapers, and at its dealerships that each of the used vehicles it offers for sale are “CarMax Quality Certified” and has undergone a rigorous, “125+ point inspection.” However, CarMax fails to ensure that safety recalls are performed prior to selling used cars to consumers. As reported by the New York Times, “CarMax, the nation's largest seller of used cars, offers a “Certified Quality Inspection,” **which does not include fixing [safety] recalls.**”¹

“Car dealers shouldn't sell used cars that have a safety recall to consumers, period. Far too many times we have seen the tragic and often fatal consequences when deficient cars are allowed on the road, and it's time for the FTC to do everything it can to put a stop to it,” said U.S. Senator Charles E. Schumer (D-New York).

“CarMax is playing recalled used car roulette with its customers' lives,” said Rosemary Shahan, President of Consumers for Auto Reliability and Safety (CARS), which spearheaded the petition. CARS is a national non-profit auto safety and consumer advocacy organization based in Sacramento, California.

Federal law prohibits auto dealers from selling new cars that are under a safety recall, but there is no similar law to protect used car buyers. CarMax recently played a major role in killing first-in-the-nation legislation² that was pending in California, to prohibit car dealers from selling recalled used cars to consumers unless the safety recall repairs have been performed.

¹ “Recalled Used Cars Roam Roads as Legislation Stalls,” New York Times, front page, May 9, 2014, by Rachel Adams and Christopher Jensen. (Emphasis added.)

² SB 686, authored by state Senator Hannah-Beth Jackson (D-Santa Barbara), sponsored by CARS. Due to opposition by CarMax, the California New Car Dealers Association and other independent auto dealers, SB 686 was defeated by a 3-4 vote, with 7 members refusing to vote (same as voting “no”).

In a letter to California legislators, opposing the bill, CarMax wrote that “Manufacturers safety recalls should be taken seriously by manufacturers, dealers, and consumers.” But CarMax stopped short of saying that it ensures that safety recalls are performed on vehicles they offer for sale. Instead, CarMax said that it “carefully advises its customers to register their vehicles with its manufacturer as soon as they purchase the vehicle so they can be apprised of any *future* recalls.” (Emphasis added.)

CarMax complained in their letter that “Unfortunately, manufacturers do not permit independent auto dealers like CarMax to repair recalls. Further, the manufacturers do not even grant independent auto dealers like CarMax access to their internal databases in order to search a manufacturer’s website...This system is broken.”

Tyler Kidd, Counsel for CarMax, testified on Tuesday, June 17, before a legislative committee in Sacramento, and repeated CarMax’s claim that the safety recall system for handling used cars “is broken.” He called for federal legislation to force auto manufacturers to allow non-franchised car dealerships like CarMax to perform auto safety recall repairs.

Under federal law, auto manufacturers are responsible for performing safety recalls, and work closely with their franchised dealers to oversee the repair process, often including providing specialized training for their dealers’ auto technicians. CarMax can have recalled cars repaired free of charge by authorized franchised car dealers. The fact that CarMax is not permitted to make the repairs itself is no excuse for selling consumers unsafe, recalled cars--particularly when CarMax advertises them as “Quality Certified” and as having passed a rigorous inspection.

In addition, CarMax’s claims it cannot find out about vehicles’ safety recall status ring hollow. According to the National Highway Traffic Safety Administration, it is easy for car dealers to check the safety recall status of used cars. In addition, as CarMax concedes in its letter opposing SB 686, NHTSA issued a final rule that takes full effect this August 14, to require ALL auto manufacturers who produce more than 25,000 vehicles a year to provide free, publicly accessible, VIN-searchable safety recall data on their own Websites, updated at least every 7 days.

RECENT CASE:

On May 19, the CarMax store in Irvine, CA, sold Clarence and Angela Davidson a used 2010 Dodge Ram. The couple had chosen to buy from CarMax because they have a 12-year-old daughter and 5-year-old grandson, and wanted a truck that was safe. But within days, when the Davidsons contacted Chrysler about a feature they wanted, the manufacturer’s customer service representative informed them that their newly purchased truck was under a federal safety recall and had a serious safety defect.

Chrysler recalled the truck in 2013 because it was prone to literally falling apart on the road. Chrysler notified truck owners that “The rear axle pinion nut on your vehicle may loosen...[and] cause the rear axle to seize or cause the driveshaft to separate resulting in a loss of motive power. Either situation could cause a crash without warning.”

When they tried to return the truck, CarMax told them they owned it, and it was up to them to get the safety recall repaired. “I feel like CarMax is saying that our lives aren’t worth

anything, because we're not buying a new car," said Angela Davidson.

The Davidsons took the truck to a Chrysler dealership to have the safety recall repairs performed. A few days later, on May 30, when the Davidsons were riding in the Mojave Desert with their 12-year-old daughter in the back seat of the cab, the truck fell apart and caught on fire. Clarence pulled their daughter out of the back seat just seconds before the entire truck exploded into flames. The fire burned several acres and authorities closed the highway for about 4 hours. The charred remains of the truck have not yet been inspected by an expert, so it's not clear at this time whether the safety recall caused the incident. However, it is clear CarMax sold the Davidsons an unsafe, recalled truck.

CARS warns used car buyers to always check the Vehicle Identification Number of any used car they are considering BEFORE they agree to anything. Consumers can find up-to-date safety recall information on most auto manufacturers' websites, or by calling the manufacturer's toll-free number or a local dealer, and providing the VIN.

Links to documents and videos of hearing:

Consumer groups' petition to FTC:

<http://www.carconsumers.org/pdf/FTCpetitionCarMax.pdf>

Recall notice Chrysler issued regarding the Davidson's Dodge Ram:

<http://carconsumers.org/pdf/DavidsonDodgeRamrecallnotice.pdf>

Videotaped testimony of CarMax's Counsel before the California Assembly Business and Professions Committee:

<https://www.youtube.com/watch?v=Njvig59E7h8>

Video of entire hearing on SB 686 (Jackson):

<https://www.youtube.com/watch?v=ZC9raHVRnII>

CarMax's letter of opposition to SB 686:

<http://carconsumers.org/pdf/CarMaxoppositiontoCASB686-20140602.pdf>