



The NATIONAL Perspective



Communications

November 2018

"Serving Arkansas's franchised new car and truck dealers since 1932"

NADA DIRECTOR'S COLUMN

NADA Foundation Responds After Devastating National Disasters

The NADA Foundation was mobilized and ready to help our fellow dealership families in the wake of massive Hurricane Florence. The hurricane ripped through the Carolinas with winds topping 73 mph and covering more than 15,000 miles—larger than the states of Massachusetts, Connecticut and Rhode Island combined. Families affected need the strength of us and our dealer associations to aid in the long and painstaking process of rebuilding.

This year alone, the Foundation's Emergency Relief Fund has helped dealership families impacted by hurricanes Florence and Michael, California wildfires, Texas floods and more. These employees have received funds to help them get back to their day-to-day lives before insurance money arrives, and sometimes before ATMs are up and running. Often, they use ERF grants to buy food, diapers, clothes to return to school and work – the basics we may take for granted.

Established in 1992, the Emergency Relief Fund has distributed more than \$7 million to 10,500 dealership employees in need. Thousands of dealership employees and their families have suffered devastating losses from natural disasters this year. The need for financial assistance can be great. **You can help dealership employees across the country by making a tax-deductible contribution to the Emergency Relief Fund today.**

Donate online at www.nada.org/Foundation/EmergencyRelief/ or send a check, made payable to "NADA Foundation Emergency Relief Fund," to:

NADA Foundation
8484 Westpark Drive, Suite 500
Tysons, VA 22102

Auto Press Must Keep Digging on 'Mobility'

Article provided by Wes Lutz, NADA Chairman

Last month, I had the privilege of addressing the Automotive Press Association in Detroit. I told the leading journalists covering our industry that they have an important job to do: challenge every assertion they come across, especially as it relates to personal vehicle ownership, ride-hailing services, autonomous vehicles, and even electric vehicles. Because as dealers know directly from our own customers, personal vehicle ownership is not going away. *Ever.*

The past few years have been truly eye-opening for the global auto industry, as electric vehicles are now main-

stream, vehicles with semi-autonomous features are currently on the road, and ride-hailing services are more popular than ever. But let's not lose sight of the picture—the *accurate* picture—of how these entities will truly shape our landscape. I shared some critical facts with the press in hopes that it captures a more complete narrative for the retail auto industry. One of these facts is based on a AAA Foundation for Traffic Safety study, which found that the cost of relying on ride-hailing services as a primary mode of transportation—in 20 of the biggest metro areas in the U.S.—was at minimum *more than twice as much* as the cost of owning a personal vehicle. This is at odds with what Silicon Valley, mobility think tanks and Wall Street venture capitalists have been purporting. However, after looking at a quarter of a million economy-level, single-rider ride-hailing trips in these urban areas (the bulk of the trips that are being taken by real people), AAA found that the average cost of relying on these services as a primary mode of transportation was \$20,118.

In comparison, the average annual cost to own and operate a new vehicle in these same urban areas—the only setting in which using ride-hailing services are a practical full-time transportation option—was \$10,049. And that includes the cost of parking. I urged the men and women of the press to take note of these enlightening stats, because they disprove one of the central pillars of the argument that people are going to stop buying cars. The truth is, it's not cheaper to use ride-hailing services. And furthermore, dealers understand a cardinal truth about vehicle ownership: people equate it to *personal freedom*. The American car-buying public enjoy having the ability to go where they want, when they want. They value the freedom, flexibility, convenience and control that only owning their own car or truck can provide.

Another assertion I asked the press to challenge is that self-driving vehicles are immeasurably safer than humans behind the wheel. We don't know if this is true, because there just isn't enough data to prove it one way or the other. But we do have this data: there were 37,000 fatalities on the roads last year, and 94 percent of those fatal accidents were the result of human error. But Americans drove more than *3.2 trillion miles*. So even with fatalities considered, those are not bad safety odds when humans are behind the wheel. Humans are phenomenal drivers.

Despite how our industry issues change and challenges arise, the reporting on our industry should be rooted in reality and facts. And the fact is that people will continue to purchase cars, and auto dealers will continue to serve the car-buying public for the next century to come.

Lutz is president of Extreme Dodge-Chrysler-Jeep-Ram in Jackson, Michigan.

Nunnally Elected AADA Chairman of the Board

Gan Nunnally, George Nunnally Chevrolet, Bentonville, has recently been elected Chairman of the Board of the Arkansas Automobile Dealers Association. Other officers elected were: Brian Holt, Holt Auto Company, Crossett, Chairman-Elect; Hunter Bale, Bale Chevrolet, Little Rock, Treasurer; John Magie, Magie Ford-Lincoln, Morrilton, Regional Vice-Chairman-Region II; and Joe Schluterman, Paris Ford, Paris, Regional Vice-Chairman-Region IV.



Also elected were the following association directors: Jimmy Arnold, Arnold-Baker Chevrolet, Magnolia; Chris Byrd, Southwest Auto Group, Arkadelphia; Jay Dooley, DeQueen Auto Group, DeQueen; Dee Everett, Everett Chevrolet, Benton; Lannie Lancaster, Holly Chevrolet, Marion; and David Welch, Welch Motor Company, Pine Bluff.

Frank Hug Selected Dealer of the Year

Frank Hug of Hug Chevrolet Buick GMC in Charleston has been selected as the 2019 Dealer of the Year, and the Arkansas nominee for the national Time Dealer of the Year.



Frank A. Hug Jr. grew up in the automobile business as a 3rd generation dealer. Like his grandfather and father, Frank entered the business with experience as a mechanic. As the automobile changed, this mechanical background made it easy for each generation of Hug to relate to their customers. Relatability and taking care of their customers is at the heart of the dealership's successful 81-year history.

Frank's strong commitment to community is also demonstrated by his active civic involvement. This year the dealership was recognized with the Arkansas Community Foundation Smart Corporate Giving Award for their work with establishing the Maggie House. Maggie House provides residential care to abused and neglected children that are in the custody of the state through no fault of their own. This facility filled a huge need in Charleston and the surrounding area.

For 33 years Frank has worked at nearly every position in the dealership, and he has worked tirelessly to en-

sure that Hug Chevrolet Buick GMC remains successful. And, he has done all this in the same building that he grew up in and learned first-hand what a small town, family-owned dealership experience means to its customers.

Join me in congratulating Frank on this honor.

Court Sides With California Chevy Dealer

General Motors may have to reconsider the way it measures and enforces dealership sales effectiveness in the nation's largest vehicle market after a ruling that the company's system violates a state law. Recently California's New Motor Vehicle Board ruled against GM's use of a benchmark called the retail sales index (RSI) as grounds to terminate the franchise agreement of Folsom Chevrolet in Sacramento.



The decision capped a long-running battle between Folsom and GM, which had concluded that Folsom failed to meet sales expectations and sought to revoke its franchise in late 2016. Attorneys representing Folsom Chevrolet argued that GM's reliance on RSI was a violation because it failed to account for various market conditions, including brand preference, geography and demographics. The decision follows a similar case in New York involving Beck Chevrolet.

Interestingly and unique to this case, the dealer was also able to successfully argue that GM shouldn't ignore fleet sales when considering the overall effectiveness of a dealership for purposes of termination. Folsom Chevrolet is a Business Elite dealer so fleet sales are a big part of its business and definitely affected its RSI. While the dealer was in a cure period to increase its RSI, GM actually continued to push fleet business to them. The dealer was able to point out the inconsistency with GM's measurement and message to the dealer.

Presumably GM will appeal the decision of the Board, but in the meantime it's another loss for GM on the RSI formula it continues to use.

2019 NADASHOW | SAN FRANCISCO EDUCATION & EVENTS January 24-27 EXPO January 25-27

NADA Show 2019 -- the auto industry event of the year -- returns to the renovated Moscone Center in San Francisco from Jan. 24-27. The four-day show includes keynote speakers, workshops, franchise meetings, networking opportunities and Expo. **New for 2019: The NADA Professional Series exclusively**

Chairman
Gan Nunnally
Bentonville

Vice Chairman
Brian Holt
Crossett

Treasurer
Hunter Bale
Little Rock

NADA Director
Jack Caldwell
Conway

NADA PAC Chairman
Danny Ford
Rector

President
Greg Kirkpatrick
North Little Rock

Mailing Address
P.O. Box 9150
North Little Rock, AR 72119

Phone/Fax/Email
Ph: 501.372.2596 - Fax: 501.372.4389
frontdesk@arkautodealers.com

Street Address
425 West Broadway, Suite J
North Little Rock, AR 72114

for dealership managers in sales, office, parts and service will be offered among the workshop sessions. Attendee registration and hotel selection opened July 23.

The AADA Headquarters hotel will be the Fairmont San Francisco. For more details, visit NADAshow.org.

Amanda Mendenhall - 40 Under 40

Amanda Mendenhall, Service Manager, Harry Robinson Buick-GMC in Fort Smith has been selected as one of Automotive News's 40 Under 40. Her recipe for success includes focusing on speed, quality and building relationships with customers. In the last year, service department profit more than tripled, earning her a listing in Automotive News's seventh annual listing of 40 Under 40 in auto retailing.



Amanda is among the industry's standouts today and AADA congratulates her on this accomplishment.

Board of Directors Meeting Summary September 13, 2018

The AADA Board of Directors met on September 13, 2018, for the annual fall meeting and change of officers. Highlights included an update on AADA's new office space, the announcement of Frank Hug with Hug Chevrolet Buick GMC in Charleston being named as the 2019 Dealer of the Year, and presentations by a number of AADA partners.



Wayne Hamric, Administrator, Office of Motor Vehicles, explained several online options from the Department of Finance and Administration recently offered for public use at mydmv.arkansas.gov. He mentioned Legislation was progressing with possible introduction of bills regarding boat titles as well as other issues. Mr. Hamric then announced the new enhanced Arkansas driver's license and Real ID cards are now available. These enhanced ID's will be mandatory for travel by 2020.

Services Committee Chairman, Roger Smart, introduced Ben Peterson and Ryan Lanier with Federated Insurance to give a brief report. Mr. Peterson and Mr. Lanier's presentation covered resources available to their clients including topics such as distracted driving, driver safety, risk management, and employer liability. Mr. Lanier also announced the Risk Management Academy will be held in November 2018 and May 2019 and is offered free to their clients. Mr. Smart then discussed that AADA was exploring Health Insurance Options for members. An online survey will be sent to AADA members requesting information about current programs being offered by employers. Finally, Mr. Smart reported that KPA Services, an endorsed partner, was terminating the existing relationship with AADA, as well as all Dealer Associations across the country.

Sandy Stroope, Director, Motor Vehicle Commission requested input from the Board regarding the problems

presented by "Off Premise Sales," mainly held by used car dealers who have no manufacturer guidelines.

The meeting concluded with the change of officers' ceremony and you will find a complete listing of current officers and directors enclosed with this newsletter. AADA greatly appreciates all the dealers that serve on the Executive Committee and the Board of Directors.

AADA Building Project Moving Forward

Progress is moving forward on the building that AADA is participating in at 600 Main Street in North Little Rock. Of course with every building project there is a sense of anxious excitement.

As a brief overview of the project, AADA is partnering with the North Little Rock Convention and Visitors Bureau and Taggart Architects on a three-story, 26,405 square foot office building along Main Street in downtown North Little Rock. AADA will own the second floor of this building with offices and a meeting/conference room comprising approximately 4,200 square feet and an additional 2,400 square feet of available lease space. Included in this building project is a 75-space parking lot adjacent to the building which AADA will own a 1/3 interest.

Here are just a few highlights about the building. First, approximately 1,652 square feet of space is a rooftop deck on the south end of the roof that will overlook the Arkansas River and downtown Little Rock. This feature is unlike any available event space in North Little Rock and we expect to utilize as a revenue producing space. Second, the available parking for the building is a huge investment opportunity, and overall should prove very important to the project's value long-term. Third, the conference and meeting room will allow AADA to offer a variety of training services to our members. And finally, the area around this building development is on the front-end of an amazing growth period so the timing for the building project really couldn't be better.

After a long wait, we expect to break ground on the project sometime around the first of the year. This office space will truly be a source of pride for every dealer in Arkansas.

Arkansas Dealers Go to Washington

Arkansas dealers made their presence felt on Capitol Hill on September 26 during the annual NADA Washington conference. Jamie Cobb, Jack Caldwell, Gan Nunnally, Hunter Bale, Dennis Jungmeyer, and Greg Kirkpatrick spent a long day on Capitol Hill, and were very well received in face-to-face meetings with Senator Tom Cotton, Congressman French Hill, Congressman Steve Womack, and Congressman Bruce Westerman. The main issues discussed included tariff's and safety recall. Each member of the delegation was very receptive to the concerns expressed regarding the potential impacts that import tariffs would have on the automobile industry. AADA continues to maintain strong relationships with each member of Congress, and we are incredibly fortunate to have a delegation in Washington that understands and supports our interests.



TCPA Requires Consent for Prerecorded Telephone Messages

All dealers should be aware of the federal Telephone Consumer Protection Act (TCPA) which regulates the use of automatic telephone dialing systems ("ATDS") and artificial or prerecorded voices ("prerecorded messages") in telephone communications. Generally speaking, the TCPA prohibits using an ATDS or prerecorded message to contact cell phones, and prerecorded telemarketing messages to contact residential phones, unless the recipient has provided and not revoked "consent" to receive the call/text.

Unfortunately dealers across the country are targets for claims of non-compliance with the TCPA. As a general rule, it's important to remember the TCPA was created to protect consumers' privacy by restricting unsolicited text messages and phone calls, and essentially to prevent spam. To be compliant with TCPA regulations dealers must have unambiguous prior express written consent before sending calls via ATDS, and if they are of a telemarketing or promotional nature, must make known that consent is NOT required as a condition of purchasing any goods and service, and unsolicited telemarketing messages (phone and text) must have an automated opt-out option. Here is an example of a disclosure that a dealer could utilize.

I consent to receive autodialed and/or pre-recorded telemarketing calls and/or text messages from or on behalf of [DEALER] at (____)____-____ [recipient's telephone number].

I understand that consent is not a condition of purchase.

Signature_____

EPA Issues Multiple Undeployed Airbag Guidance Memos

The Environmental Protection Agency (EPA) issued a memo recently addressing management of undeployed airbag modules and inflators. Scenarios addressed include:

1. New, never-installed modules and inflators: Parts found in dealership inventory that are not suitable for installation, such as mistaken orders and parts subject to a federal safety recall or OEM campaign. Dealerships should return these parts to the OEM or deploy them onsite for legitimate recovery of the scrap metal, unless the OEM instructs otherwise.
2. Used modules and inflators that can be legitimately reused: Many non-recalled parts recovered by recyclers. Note: NADA generally recommends against the installation of used parts for vehicle repairs.
3. Used modules installed in used vehicles: Parts typically managed by scrap processors processing vehicles.
4. Used modules removed from vehicles that can be safely deployed electronically onsite: Most recalled non-Takata modules. Dealerships should safely deploy these modules onsite consistent with OEM instructions/guidance, if any.
5. Used modules removed from vehicles that cannot be safely deployed onsite: Most recalled Takata modules.

Dealerships should follow applicable OEM instructions for these parts, which may include shipment to the OEM or to a third party.

6. Used inflators that cannot be legitimately reused: Dealerships should not deploy these onsite for scrap metal reclamation and should generally manage them as hazardous waste.

Additionally, the EPA just announced that it will waive some hazardous waste regulations for auto dealers and businesses disposing of airbags, a decision designed to ensure proper disposal of potentially deadly Takata air bag inflators. Dealers will instead send airbag parts to a certified disposal facility that will then handle the airbags under hazardous waste rules, the agency said. As a reminder to all dealers, there is no safe or permissible way to deploy for disposal of a Takata air bag onsite. Go to www.nada.org/regulatoryaffairs for more information.

Temporary Tag Audits

The Office of Motor Vehicles reached out to AADA recently regarding several instances of the misuse of temporary tags. State officials are primarily concerned with whether or not dealers are properly securing the Security Seals and polybags, the failure by dealerships to monitor users and who has access to the SecureETag system, and some general concerns with the distribution of the seals. In an effort to curtail this misuse, the Office of Motor Vehicles is working with law enforcement to conduct audits that will specifically review these areas of concern.

As a reminder, user names and passwords to access the SecureETag system cannot be shared among users and should be carefully safeguarded. Also, each dealership should review its internal process for safe storage, distribution, control and accountability for all Security Seals and Polybags.

If a dealer, manager, sales person, or employee of a dealer is guilty of misuse of temporary tags, or allowing anyone else to misuse a temporary tag, the dealership may be suspended or terminated from the temporary tag program and fined \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third and subsequent offenses.

Please note that the mailing address for Arkansas Registration Services has changed to P.O. Box 9150, North Little Rock, Arkansas, 72119. Thank you for your compliance efforts, and should you have questions, just give us a call at 501-372-2596.

Mark Your Calendar

2019

January 14	92nd Legislative Session Convenes
January 24-27	NADA Convention San Francisco
April 11	AADA Board of Directors Meeting
July—TBA	AADA Convention