



June 9, 2023

Via Email: [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us)

Mr. George D. Bedwick  
Chairman, Independent Regulatory Review Commission  
333 Market Street  
14<sup>th</sup> Floor  
Harrisburg, PA 17101

Re: IRRC #3373, Proposed Rulemaking from the Office of Attorney General to amend 37 Pa. Code Chapter 301 (relating to Automotive Industry Trade Practices)

Dear Chairman Bedwick,

This letter is submitted on behalf of Vroom Automotive, LLC (“Vroom”), an independent used vehicle dealer licensed in Texas, Florida, Arizona, California and Ohio. Vroom is an ecommerce platform that enables consumers nationwide to buy and sell used vehicles with transparent pricing, competitive financing, and at-home pickup and delivery. Vroom does not hold a dealer license in or have any physical locations in the Commonwealth; it sells vehicles to Pennsylvania consumers as an out-of-state dealer. Vroom is licensed by the Pennsylvania Department of Banking and Securities as an installment seller and may in the future offer vehicle financing to Pennsylvania customers.

Vroom has thousands of vehicles in its nationwide inventory, which are available to Pennsylvania consumers through Vroom’s ecommerce platform. Prior to being listed for sale, all Vroom vehicles undergo an extensive inspection and reconditioning process that must meet specific mechanical, electrical, and cosmetic standards. That inspection and reconditioning process is carried out by Vroom or by third parties at automotive reconditioning and storage facilities located all over the country. Pennsylvania residents who choose to purchase from Vroom’s out-of-state dealership receive home-delivery of their vehicle and have 7 days or 250 miles to drive the vehicle, with the ability to return it for any reason under Vroom’s Return Program.

We are grateful for the opportunity to comment on the Proposed Rulemaking to amend 37 Pa. Code Chapter 301 relating to Automotive Industry Trade Practices (the “Proposed Rulemaking”). The Proposed Rulemaking, as drafted, contains several areas of ambiguity that could apply broadly to the out-of-state vehicle inventory of any dealer from which a Pennsylvania resident chooses to purchase a vehicle. The area of greatest concern to Vroom is subsection 5.1(i) of §301.2, which prohibits advertising a motor vehicle for sale unless a “certified inspection mechanic” has inspected the vehicle “in accordance with 67 Pa. Code Chapter 175,” and such inspection must take place within 30 days of the vehicle coming into the dealer’s inventory.

Chapter 175 of Title 67 of the Pa. Code, which is incorporated by reference in the Proposed Rulemaking, defines a “certified inspection mechanic” as follows: “A person who holds

a valid certification card issued by the Bureau [of Motor Vehicles of the Department of Transportation of the Commonwealth] certifying that the person is qualified, has passed all requirements to inspect specific vehicles and holds a valid driver's license for the correct class of vehicle." Accordingly, the Proposed Rulemaking could be interpreted as requiring any dealer (including out-of-state dealers) to engage PA-certified inspection mechanics even for vehicle inventory located outside of the Commonwealth and to carry out such inspections within 30 days of bringing the vehicle into their inventory, before knowing whether the ultimate purchaser will be a Pennsylvania resident.

We appreciate the Commonwealth's desire to protect Pennsylvania consumers regarding the inspection and condition of used motor vehicles. Nevertheless, compliance with the Proposed Rulemaking would be unduly burdensome, impractical and costly for Vroom and for any dealer whose out-of-state vehicle inventory is visible online to Pennsylvania residents or whose advertising otherwise reaches Pennsylvania residents, such as national advertising by multi-state dealers and regional advertising by border-state dealers. Vroom is confident that our thorough inspection and reconditioning process satisfies the substantive requirements of Pennsylvania's Transportation Code with respect to vehicle inspections; however, the mechanics employed at the Vroom reconditioning centers around the country are not certified in Pennsylvania. As a result, Vroom would not be able to satisfy the language of the Proposed Rulemaking as currently drafted.

Moreover, the manner in which the Proposed Rulemaking expands the scope of the deceptive trade practices regulations would result in increased exposure for out-of-state dealers to enforcement actions and private lawsuits for acts or omissions occurring entirely outside of the Commonwealth. This result could constitute discrimination against out-of-state businesses engaged exclusively in interstate commerce, in contravention of the Commerce Clause of the U.S. Constitution.

In light of the foregoing concerns, we recommend that the Proposed Rulemaking be modified to apply the certified inspection mechanic requirements only to vehicles that are located in the Commonwealth at the time of advertising and that are offered for sale by Pennsylvania dealers. Alternatively, the Proposed Rulemaking could be revised to clarify that out-of-state dealers must comply with the inspection requirements of the dealer's state prior to completing the sale of a used vehicle to a Pennsylvania resident.

Thank you for your attention to our comments as you consider the Proposed Rulemaking. We are happy to provide additional information if that would be helpful to the IRRC.

Respectfully,



Anna-Lisa Corrales  
Chief Compliance Officer  
Vroom Automotive, LLC