

TEXAS DEPARTMENT OF MOTOR VEHICLES
MOTOR VEHICLE INDUSTRY REGULATION ADVISORY COMMITTEE
(MVIRAC)
MEETING

OPEN MEETING VIA TELEPHONE CONFERENCE CALL

PUBLIC PHYSICAL LOCATION
Texas Department of Motor Vehicles
4000 Jackson Avenue
Building 1
Lone Star Room
Austin, Texas 78731

Wednesday,
March 9, 2022
9:01 a.m.

COMMITTEE MEMBERS:

David Blassingame, Presiding Officer
Scott Stark, First Vice Chair
Trey Sralla, Second Vice Chair
Michael Bradburn
Mark Brown (absent)
Christopher Donnelly
Laird Doran
Rita Edwards (absent)
Phil Elam
Buddy Ferguson (absent)
Julio Gonzalez (absent)
Joshua Greenlaw (absent)
Russell Hayter
Jeff Martin
William Murphy
Steve Prather
Franklin Sims (absent)
Kalien Thomas
Jimmy Vitela (absent)
Greg Zak

ON THE RECORD REPORTING
(512) 450-0342

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P R O C E E D I N G

1
2 MR. BLASSINGAME: Good morning. My name is
3 David Blassingame, and I'm pleased to open the fourth
4 meeting of the Motor Vehicle Industry Regulation Advisory
5 Committee. For ease of reference, I will refer to this
6 advisory committee as MVIRAC, which is the acronym for
7 this committee.

8 It is 9:00 a.m., and I am now calling the
9 MVIRAC meeting for March 9, 2022 to order. I want to note
10 for the record that the public notice of this meeting
11 contains all the items on this agenda and was filed with
12 the Office of Secretary of State on March 1, 2022.

13 This meeting is held by telephone conference
14 call in accordance with the Texas Government Code Chapter
15 551.125. Members of the public may physically attend this
16 meeting in person at 4000 Jackson Avenue, Building 1, Lone
17 Star Room, Austin, Texas 78731, or attend this meeting by
18 calling the toll-free telephone number which is both
19 posted on our agenda which was filed with the Office of
20 Secretary of State on March 1, 2022. We have some members
21 in person, with the vast majority of advisory committee
22 members, including myself, participating remotely via
23 telephone conference call.

24 At this time will all attendees please mute
25 your phone for the entire duration of this meeting. I am

1 asking our meeting host to make sure all participants'
2 phones are muted except for advisory committee members and
3 those who are presenting. Callers will be removed for any
4 disruption, including background noise.

5 I would like to remind all participants that
6 this is a telephone conference call meeting. Because this
7 meeting is being held by telephone conference call, there
8 are a few things that will assist in making the meeting
9 run smoother and assist the court reporter in getting an
10 accurate record: Please identify yourself before
11 speaking; speak clearly; remember that there may be a
12 slight delay due to the telephone conference call meeting,
13 so wait a little longer than usual before responding to
14 participants; do not speak over others; and please ask the
15 presiding officer to proceed and be sure to get recognized
16 before speaking.

17 For advisory committee members participating by
18 phone only, please use the instructions provided to raise
19 your hand. Once unmuted by the meeting host, your line
20 will remain unmuted for the duration of the meeting.

21 Please be mindful of any background noises. To
22 limit background noise, please keep your line muted on
23 your end until you're ready to speak. When ready to
24 speak, unmute your line, state your name for the record,
25 then ask for the floor and wait to be recognized before

1 speaking.

2 I would like to also thank our court reporter
3 who is transcribing this meeting. To be sure we have an
4 accurate recording of this meeting, it is very important
5 that advisory committee members and anyone presenting
6 today identify themselves before speaking and speak
7 clearly and slowly.

8 If you wish to address the advisory committee
9 or speak on an agenda item during today's meeting, please
10 complete the speaker's form at the registration table
11 prior to the agenda items being taken up by the advisory
12 committee or send an email to GCO_General@TxDMV.gov. ;
13 that's GCO_General@TxDMV.gov.

14 Please identify in your email the specific item
15 you're interested in commenting on, your name and address,
16 and whether you are representing anyone or speaking for
17 yourself.

18 If your comment does not pertain to a specific
19 agenda item, we will take your comment during the general
20 public portion of this meeting. Comments should be
21 pertinent to the issues stated in your speaker's form or
22 on your email. When addressing the advisory committee,
23 please state your name and affiliation for the record.

24 Before we begin today, I'd like to remind all
25 presenters and those in attendance of the rules of conduct

1 of our advisory committee meetings. In department rules
2 under 43 TAC Section 206.22, the presiding officer is
3 given the authority to supervise the conduct of the
4 meetings.

5 This includes the authority to determine when a
6 speaker is being disruptive of the meeting or is otherwise
7 violating the timing or presentation rules I just
8 discussed. Disruptive speakers will be muted, given a
9 warning about disruptive behavior, then removed from the
10 meeting for any continued disruption.

11 Advisory council members, please let us know
12 immediately if you are no longer able to participate for
13 any reason. If your phone call drops and you were
14 disconnected, TxDMV staff will interrupt the meeting to
15 let us know how to get you back on the line before we
16 proceed with the agenda.

17 I'd like to have a roll call of the committee
18 members, so please respond verbally when I call your name;
19 please indicate you are present.

20 Member Bradburn?

21 MR. BRADBURN: Present.

22 MR. BLASSINGAME: Member Brown? Member Brown?

23 (No response.)

24 MR. BLASSINGAME: Member Donnelly?

25 MR. DONNELLY: Present.

1 MR. BLASSINGAME: Member Doran?
2 MR. DORAN: Present.
3 MR. BLASSINGAME: Member Edwards? Member
4 Edwards?
5 (No response.)
6 MR. BLASSINGAME: Member Elam?
7 MR. ELAM: Present.
8 MR. BLASSINGAME: Member Ferguson?
9 MR. FERGUSON: Present.
10 MR. BLASSINGAME: Member Gonzalez? Member
11 Gonzalez?
12 (No response.)
13 MR. BLASSINGAME: Member Greenlaw? Member
14 Greenlaw?
15 (No response.)
16 MR. BLASSINGAME: Member Hayter?
17 MR. HAYTER: Here.
18 MR. BLASSINGAME: Member Martin? Member
19 Martin?
20 (No response.)
21 MR. BLASSINGAME: Member Murphy? Member
22 Murphy?
23 (No response.)
24 MR. BLASSINGAME: Member Prather?
25 MR. PRATHER: Present.

1 MR. BLASSINGAME: Member Sims? Member Sims?

2 (No response.)

3 MR. BLASSINGAME: Member Sralla?

4 MR. SRALLA: Here.

5 MR. BLASSINGAME: Member Stark?

6 MR. STARK: Present.

7 MR. BLASSINGAME: Member Sullivan? Member

8 Sullivan?

9 (No response.)

10 MR. BLASSINGAME: Member Thomas?

11 MS. THOMAS: Present.

12 MR. BLASSINGAME: Member Vitela? Member

13 Vitela?

14 (No response.)

15 MR. BLASSINGAME: Member Zak?

16 MR. ZAK: Present.

17 MR. BLASSINGAME: And I am present also, David

18 Blassingame, so we do have a quorum.

19 The purpose of this committee is to assist the
20 department in obtaining feedback regarding important
21 legislation. Advisory committees such as MVIRAC provide
22 valuable input for the department in their advising
23 capacity concerning the issues related to regulation of
24 the motor vehicle industry.

25 I will now move on to agenda 2.A. Pre-licensing

1 process for motor vehicle dealers related to application
2 process, including location verification, and I will turn
3 the meeting over to Monique Johnston, director of the
4 Motor Vehicle Division, who will present agenda items from
5 2.A.i.

6 MS. JOHNSTON: Good morning, Presiding Officer
7 Blassingame and members. I am Monique Johnston, director
8 of the Motor Vehicle Division. Thank you again for your
9 participation in our fourth MVIRAC meeting.

10 During the February 10, 2022 meeting, the Texas
11 Department of Motor Vehicle Board voted to initiate
12 rulemaking for enhancements to the pre-licensing process.

13 Proposed enhancements would be aimed at strengthening
14 fraud deterrence while also ensuring that legitimate
15 applicants can meet licensure requirements without
16 unnecessary burden or cost.

17 Documents related to agenda item 2.A start on
18 page 5 of your materials and provide an overview of the
19 pre-licensing review process for an independent general
20 distinguishing number, or GDN, as I'll refer to it
21 throughout this presentation. It also includes some
22 potential enhancements that could help deter individuals
23 attempting to obtain a license fraudulently.

24 MVD's 18-member licensing staff typically
25 processes over 18,500 license applications per year on

1 average, 20 percent of which are applicants for a new
2 general distinguishing number, or GDN.

3 Starting on page 6 of your materials, you can
4 find a detailed overview of the pre-licensing process for
5 a GDN application, and starting on page 8 you can find
6 three-year historical application data.

7 The pre-licensing process starts with an
8 application being submitted through the eLICENSING system
9 and assigned to a licensing specialist for processing,
10 typically within one or two business days from the date of
11 submission.

12 The licensing specialist reviews the file in
13 detail and completes various identity affiliation and
14 location checks to identify possible issues. These checks
15 include but are not limited to reviewing for other active
16 applications, previously withdrawn applications, and
17 previous MVD licenses. They also review for license
18 conflicts related to location, including other dealers
19 present at the same location or concerns with the location
20 itself.

21 They verify the name and date of birth for each
22 applicant, owner, or manager listed on the application and
23 run a DPS criminal history report on those individuals.
24 They check each person listed on the application for
25 possible affiliation with any other individual, business

1 entity or license that may have been deemed unfit to hold
2 a license.

3 They review the proposed business location via
4 Google Maps, and then they review for current or previous
5 disciplinary history or concerns. A criminal history
6 background check for all owners, managers, directors,
7 officers, members, or partners listed in the application
8 is done using the person's name and date of birth.

9 Once all these checks are completed, the
10 licensing specialist will conduct a detailed analysis of
11 the application information, including the applicant's
12 responses to any questions at all, and they will also
13 review all the attachments that were received.

14 This will include but isn't limited to
15 reviewing the business name and assumed names through the
16 appropriate county or secretary of state, reviewing the
17 ownership breakdown of the business and confirming that
18 the correct business type is listed, reviewing required
19 attachments provided by the applicant, which includes
20 photos of the exterior and interior of the business,
21 ownership release documentation, applicant photo
22 identification, assumed name, or d/b/a certificate and the
23 surety bond.

24 If additional documentation or clarification is
25 needed, the licensing specialist sends a deficiency letter

1 to the applicant. If the applicant's criminal history
2 could be grounds for denial or revocation, the file will
3 then be referred to the division's background specialist
4 for further review and subsequently to the division
5 director or the division's Licensing Committee for a
6 licensing determination.

7 If the application is complete and no other
8 information is required, the licensing specialist will
9 then approve the application, create the license and send
10 the license to the applicant electronically.

11 The Transportation and Occupations Code also
12 require an applicant for a GDN license to demonstrate its
13 proposed physical location as an established and permanent
14 place of business.

15 Currently these requirements include but are
16 not limited to: an office that must be in a building with
17 connecting exterior walls; it may not be located in a
18 residence or hotel or motel; it must include a desk, two
19 chairs, internet access, and a working telephone number;
20 they must comply with all applicable zoning ordinances and
21 deed restrictions; they must be open at least four days
22 per week for at least four executive hours per day.

23 An owner or bona fide employee shall be at the
24 location during those posted hours; hours must be posted
25 at main entrance; and they must have a permanently mounted

1 sign, and the letters on the sign must be at least six
2 inches in height; they also must have a display area with
3 room for at least five vehicles reserved exclusively for
4 the dealer's business.

5 If there are concerns with the location, MVD
6 may request that the Enforcement Division conduct a site
7 visit to verify the location prior to issuing a license.
8 Site visit referral data can be found on page 10 of your
9 materials.

10 Since 2021, MVD has implemented several
11 enhancements to improve the pre-licensing procedures for
12 independent GDN applicants. These actions are included in
13 the chart on page 11 of your materials.

14 Some of the enhancements include: verifying
15 the property owner in the county appraisal district
16 records matches the property owner listed on the property
17 deed or lease; requiring a notarized statement from the
18 property owner listed in the CAD record if that person is
19 not a party included on the lease; requesting applicants
20 verify, providing documentation if applicable, that the
21 proposed business location meets all applicable state laws
22 and municipal ordinances; requiring the applicant to
23 affirm whether other businesses are operating at the same
24 location; flagging associated accounts and specific
25 addresses for review on license renewal based on Licensing

1 Committee determinations or Enforcement concerns;
2 requiring a premise affidavit and additional premise
3 photos for new applicants and those who are relocating;
4 requiring a premise affidavit when a license is being
5 renewed if relevant complaint history shows concerns with
6 the location.

7 As for future enhancements, MVD has also
8 identified some other options to further improve
9 pre-licensing procedures for independent GDN applicants.
10 These actions are aimed at strengthening fraud deterrence
11 while also ensuring our legitimate dealers can meet
12 licensure requirements without unnecessary burden. These
13 potential recommendations are included in the chart on
14 page 11 of your materials.

15 They include but are not limited to: requiring
16 that the eTAG contact or administrator that is listed on
17 the application be the owner or manager and not just
18 another individual; they perform criminal background
19 checks listed on all persons on the application, not just
20 the owners, presidents, or managing partners; requiring
21 identification for all owners, managers or other
22 authorized representatives and not for just one of the
23 persons listed on the application; requiring additional
24 proof of identification such as more than one form of
25 identification, a notarized photo affidavit to be

1 submitted with the application, or a photo of the
2 applicant holding their identification.

3 Another option is to strengthen premise
4 requirements to lessen an applicant's ability to set up a
5 fraudulent location for the sole purpose of meeting
6 initial licensing requirements and then to only later
7 abandon that location.

8 Chair, this is the end of my presentation, and
9 I'm available to answer any questions. Thank you.

10 MR. BRADBURN: Member Bradburn. I have a
11 question.

12 MR. BLASSINGAME: Okay, Member Bradburn, you
13 have the floor.

14 MR. BRADBURN: I know we talked about criminal
15 histories in the last presentation, so I don't want to
16 beat a dead horse, but with your enhancements are you
17 running actual criminal histories for out-of-state
18 applicants?

19 MS. JOHNSTON: Officer Blassingame, this is
20 Monique Johnston. May I have the floor, please?

21 MR. BLASSINGAME: Monique Johnston, you may
22 have the floor.

23 MS. JOHNSTON: Thank you.

24 Member Bradburn, yes, we are running criminal
25 histories. We right now have access to LexisNexis to run

1 criminal history for those that are located out of state.

2 MR. BRADBURN: So you're still not running an
3 actual FBI criminal history, just using a credit based
4 system.

5 MS. JOHNSTON: Yes. We are not set up to run
6 FBI or fingerprint at this time. Those rules are
7 currently in the process of being drafted that would allow
8 us to actually access the FBI database.

9 MR. BRADBURN: Thank you, ma'am. No further
10 questions.

11 MS. JOHNSTON: Thank you.

12 MR. BLASSINGAME: Thank you.

13 Are there any other questions for TxDMV staff?

14 MR. SRALLA: Member Sralla. May I have the
15 floor?

16 MR. BLASSINGAME: Member Sralla, you have the
17 floor.

18 MR. SRALLA: Could there also be another
19 possible enhancement to add a Google Maps location,
20 because most people are going to want to get a Google
21 business anyhow and have that possibly as something where
22 you could from the office look and verify that?

23 MR. BLASSINGAME: Director Johnston?

24 MS. JOHNSTON: Yes. Monique Johnston. May I
25 have the floor, please?

1 MR. BLASSINGAME: Yes, ma'am.

2 MS. JOHNSTON: Thank you.

3 Yes, we do do a Google Maps search and check,
4 but are you talking about actually requiring them to have
5 a Google location, Member Sralla?

6 MR. SRALLA: Well, that may be something to
7 look into for an enhancement. I mean, anybody who is
8 going to be in the motor vehicle business is going to want
9 that, I would think, and so it would just be a further
10 double-check without having to go out for a site visit if
11 you could see it. Because you know, somebody can take
12 pictures, they can take pictures of anything and say,
13 yeah, this is my store. Well, there's no guarantee that
14 that's it. But if you have a Google location that's
15 verified, it could be an easier way to match up with the
16 information they're providing.

17 MS. JOHNSTON: Chair Blassingame, may I have
18 the floor, please? This is Monique Johnston.

19 MR. BLASSINGAME: Yes, Director Johnston.

20 MS. JOHNSTON: Thank you for that
21 clarification. Yes, we will take that into consideration.

22 MR. SRALLA: Thank you.

23 MR. DORAN: Presiding Officer Blassingame, this
24 is Member Doran. May I ask a question, or two questions
25 actually?

1 MR. BLASSINGAME: Member Doran, you have the
2 floor.

3 MR. DORAN: Thank you.

4 Two questions I had. The first was is it
5 possible for the department to work with local law
6 enforcement to check these physical locations? In other
7 words, I think we all recognize that the DMV has only so
8 much in the way of manpower and resources, and there's a
9 high volume of these applications.

10 Is it possible to have some type of working
11 arrangement with local law enforcement so that they could
12 perhaps drive by and provide feedback to the department on
13 some of these locations? That's question number one.

14 And then question number two, as it relates to
15 the GDN licenses, is there a particular type of license
16 that might be more problematic, like for example, a
17 wholesale license?

18 It's my understanding that the threshold for
19 the physical location requirements is somewhat lower with
20 a wholesale license holder. I believe, if memory serves,
21 they don't have to have parking spaces at their location.

22 And so I'd be curious if staff could opine on looking at
23 the data if the temp tag problem is attributable to a
24 regular independent used car dealer license holder, or if
25 there are wholesalers that are abusing their licenses, and

1 if that data shows that, perhaps the committee could
2 approach the issue by thinking about both types of license
3 holders in terms of how we discuss potential
4 recommendations.

5 MS. JOHNSTON: Chair Blassingame, this is
6 Monique Johnston. May I have the floor, please?

7 MR. BLASSINGAME: Monique Johnston, please
8 continue.

9 MS. JOHNSTON: Thank you.

10 As for utilizing local law enforcement, we are
11 exploring all options. We do know that the committee
12 previously recommended site visits for all new
13 applications at their past meeting, and we're evaluating
14 resources.

15 Of course, as you know, that would require
16 additional resources for the agency, so we are looking
17 into other options, which potentially could include law
18 enforcement, but we are exploring all options to try to
19 get eyes on a location before a license is issued.

20 And as for the second question regarding the
21 enforcement history relating to temp tags and wholesale or
22 the independent dealers, it's my understanding and what
23 I'm seeing, it's more the independent dealers than the
24 wholesale dealers; however, I will have to defer to
25 Enforcement for that data. I'm not sure if they have it

1 on hand, but they might be able to give you a little more
2 information on that.

3 As for the premise requirements for wholesale
4 dealers, they are less than what is for an independent
5 dealer, so in this proposal for pre-licensing
6 enhancements, we would be looking at the option of looking
7 at all of the premise requirements, those for our
8 independent GDNs as well as our wholesale dealers and
9 seeing if we need to make enhancements on either side.

10 And so it would give us an opportunity to
11 review what the current requirements are and maybe make
12 any suggested changes to those premise requirements for
13 both the independent and the wholesale.

14 MR. DORAN: Thank you.

15 Member Doran with just a follow-up. If it was
16 the prerogative of the advisory group to encourage or
17 recommend to staff some type of working arrangement with
18 local law enforcement, would you need a motion from us or
19 something else, some expression of our recommendation or
20 will here today?

21 MS. JOHNSTON: Monique Johnston.

22 Yes, on 2.A.ii. there is recommendations of the
23 advisory committee to the department regarding pre-
24 licensing process. You can include something under that
25 agenda item. I will refer to our general counsel if that

1 is not correct, but I believe that you could propose that
2 recommendation to the board under that item.

3 MR. DORAN: Thank you.

4 MR. RICHARDS: Officer Blassingame?

5 MR. BLASSINGAME: Yes.

6 MR. RICHARDS: David Richards here. May I have
7 the floor?

8 MR. BLASSINGAME: Yes, sir.

9 MR. RICHARDS: Ms. Johnston is correct; you
10 have that opportunity under item ii to make a
11 recommendation, Member Doran, so you can make it at that
12 time.

13 MR. DORAN: Thank you.

14 MR. BLASSINGAME: And Member Blassingame, while
15 I have you, I believe we have Member Murphy that's caller
16 number 7. I'll ask Tameka Harris if she'll unmute him if
17 he would like to speak. It looks like his hand is up to
18 comment. Thank you.

19 MR. BLASSINGAME: Okay. Ms. Harris, can you
20 unmute that speaker?

21 MS. HARRIS: The speaker is unmuted; however,
22 they cannot tell what number they are. I believe that is
23 Member Murphy.

24 Member Murphy, if you can verify yourself?

25 MR. MARTIN: It may actually be Member Martin.

1 MR. BLASSINGAME: Member Martin, you have the
2 floor.

3 MR. MARTIN: Thank you very much.

4 So Director Johnston, I have a question. With
5 the requirements that you currently have in place for an
6 independent dealer -- and I know this all started based on
7 the fraudulent temporary tags -- how many independent
8 licenses have been denied as well as how many independent
9 licenses have been approved at this point?

10 MS. JOHNSTON: Monique Johnston. May I have
11 the floor?

12 MR. BLASSINGAME: Director Johnston, you have
13 the floor.

14 MS. JOHNSTON: Mr. Martin, are you referring to
15 denying an application based on temporary tags, or are you
16 talking about the Enforcement denial of access?

17 MR. MARTIN: The Enforcement denial of a
18 licensee issue.

19 MS. JOHNSTON: Monique Johnston.

20 We have not denied a license specifically for
21 temp tags, because typically they do not have access to
22 that yet because the license has not been issued.

23 In regards to the Enforcement ability to deny
24 access to the eTAG system since the denial of access rules
25 have been adopted, they have denied access to a total of

1 17 dealers.

2 I don't know if that answers your question.

3 MR. MARTIN: It does. But prior to getting a
4 license, with the premise requirements that you laid out
5 earlier, how many licensees -- how many applicants are
6 denied prior to getting a license?

7 MS. JOHNSTON: Monique Johnston.

8 I do not have that data with me right now.
9 Typically if someone is unable to meet the premise
10 requirements, they typically withdraw their application
11 prior to any denial occurring because they are unable to
12 comply with the premise requirements.

13 MR. MARTIN: Okay. Thank you.

14 MR. DONNELLY: Member Blassingame, Member
15 Donnelly. I have a question.

16 MR. BLASSINGAME: Member Donnelly, you have the
17 floor.

18 MR. DONNELLY: I would like to ask, given the
19 stress on the local law enforcement as well as what we
20 work with DMV, are we considering a private option that
21 the applicant can pay for to verify their location?

22 MR. BLASSINGAME: Director Johnston, I think
23 that's to you.

24 MS. JOHNSTON: Monique Johnston.

25 Yes. That has not been something that has been

1 discussed, but it is something that we can bring up during
2 our discussions for the site visits and for verification
3 of premise requirements.

4 MR. DONNELLY: Something similar to, say, an
5 audit like we deal with on a monthly basis from floor plan
6 companies, stuff like that.

7 MS. JOHNSTON: Monique Johnston.

8 Yes, we'll definitely take that into
9 consideration. Thank you.

10 MR. DONNELLY: Thank you.

11 MR. BRADBURN: Member Bradburn, I have a
12 comment.

13 MR. BLASSINGAME: Member Bradburn, you have the
14 floor.

15 MR. BRADBURN: Thank you.

16 While I agree with Mr. Doran, there are times I
17 contact law enforcement to go across Texas to look at a
18 location, they don't have the staffing. I stand by the
19 DMV should be the ones doing this. We have an opportunity
20 coming. The legislature is going to have a special
21 session. This is going to take money.

22 I think we should be continuing to direct the
23 board to follow our original motion and have the DMV do
24 the premise inspection. Just another area you're going to
25 help DMV as well and the consumers of Texas: Not only are

1 you going to stop the tag dealers, if the DMV goes out
2 there -- I know I did that when I worked at DMV on a
3 premise inspection -- you're meeting a new applicant and
4 you're educating them.

5 We see time and time again small dealers may or
6 may not be selling tags so much. Just yesterday I heard
7 about a small independent dealer where they sold a vehicle
8 with a rolled back odometer, and then they gave a
9 fictitious tag instead of one of their own tags so it
10 could go unchecked.

11 By having DMV doing these pre-licensing
12 inspections and educating dealers, we might be able to
13 prevent some of that as well.

14 Thank you.

15 MR. BLASSINGAME: Thank you.

16 Are there any other questions for TxDMV staff?

17 MR. PRATHER: This is Steve Prather. May I
18 speak?

19 MR. BLASSINGAME: You have the floor, Mr.
20 Prather.

21 MR. PRATHER: Thank you much.

22 Is there a difference in a new application from
23 a new applicant that's never been given a GDN before as
24 compared to a franchised dealer wanting to open a used car
25 remote lot or a public company that has -- like Echo Park

1 that continues to open up? Do y'all have the same
2 approval process for these existing stores as compared to
3 a truly, truly new applicant?

4 MS. JOHNSTON: Monique Johnston.

5 MR. BLASSINGAME: Director Johnston, you have
6 the floor.

7 MS. JOHNSTON: Thank you.

8 So there is a different application process for
9 a brand new GDN application and for, say, a franchised
10 application dealer. All franchised dealers are required
11 to hold a GDN because, of course, most of them do sell
12 used cars, and if they're going to open a new location,
13 they would need to, of course, apply for an application,
14 submit the application for the new location.

15 You know, they're required to submit all the
16 documentation that the application requires; there's no
17 cutting corners. You know, if it's a renewal application
18 for an existing location, of course, we still do do all
19 the checks and balances; however, they're not always
20 required to submit all of the same things over again. We
21 do want to look at the location if they've moved.

22 Franchised locations are typically under
23 construction most of the time when they apply so, you
24 know, those processes are a little longer and there are a
25 lot more obvious verifications in regards to the franchise

1 agreements with a manufacturer.

2 And of course, in their GDN locations, they're
3 usually larger locations than these small independent
4 dealers, and they're very established and easy to verify,
5 but the requirements are still ultimately the same for all
6 GDN locations.

7 MR. PRATHER: Thank you.

8 MR. SRALLA: This is Member Sralla. May I have
9 the floor?

10 MR. BLASSINGAME: Member Sralla, you may have
11 the floor.

12 MR. SRALLA: A question, this is piggybacking
13 on a couple of comments that have been made. If the
14 choice is to try to ensure that DMV is doing site visits,
15 would it be possible to supplement -- I know that
16 resources are always a concern -- that part of the
17 requirement of licensing is that there is a fee that is
18 paid to the DMV that goes directly to supplement the
19 manpower used to make those site visits there? You know,
20 something that's reasonable but just something that would
21 help supplement that rather than just trying to let it all
22 be on the taxpayer, that the person who's trying to obtain
23 the license have some skin in the game as far as getting
24 the site visit done.

25 MR. BLASSINGAME: Director Johnston?

1 MS. JOHNSTON: Yes. So the fees are set in
2 statute, so we need to ask for the ability to charge for a
3 site visit. So if we got approval for that, that is
4 something that could be considered during this next
5 legislative session.

6 Or if the site visits are going to be
7 considered by the legislature earlier than that, if the
8 fee would be passed -- it would be something that would
9 have to be decided by the legislature if the fee was going
10 to be passed on to the applicant or the dealer themself.
11 But that is something to take into consideration, yes.

12 MR. SRALLA: Thank you.

13 MR. ZAK: Member Zak. May I have the floor?

14 MR. BLASSINGAME: Member Zak, you have the
15 floor.

16 MR. ZAK: I guess a couple of questions and one
17 comment.

18 I would agree with the statements made earlier
19 that if we tried to put this on local law enforcement, it
20 may be a challenge in doing that knowing that a lot of law
21 enforcement across the state are really hamstrunged right
22 now with personnel issues, so I don't know that that would
23 be a wise path to go.

24 One question I had or two questions I had for
25 Ms. Johnston. In the past whenever a new license was

1 issued, there was always a site visit by Enforcement
2 usually within a six-month time frame. So I guess my
3 question is, one, is that not the current rule being
4 followed? And the second question would be is it an issue
5 or concern with the number of licenses under one rooftop,
6 is that an issue or a problem?

7 MS. JOHNSTON: Monique Johnston, may I have the
8 floor, please?

9 MR. BLASSINGAME: Director Johnston, you have
10 the floor.

11 MS. JOHNSTON: Thank you.

12 As for the number of licenses, there can be
13 four dealers at a location, so there is already something
14 that restricts the number of dealers at one location for
15 the GDNs, so that's one thing we do ask on the
16 application, if there are any other dealers at the
17 location, and then we do verify by searching the address
18 to see if there's any other licensed dealers at that
19 location.

20 As for the Enforcement site visit at six
21 months, I'm not aware of that. Since I've been here in
22 the past two years, I've not known that's been a standard
23 six-month thing that Enforcement does.

24 I know they do audits but I don't know that
25 there's a specific six-month time frame for that, and

1 hearing from Enforcement, they are not aware of that
2 either. So it might have been something that was done in
3 the very, very long past, I don't know.

4 MR. ZAK: Member Zak.

5 Well, that was what an Enforcement person told
6 me some number of years ago. Obviously it was some time
7 in the past.

8 But back to my question, Ms. Johnston, on the
9 number of licenses per rooftop, is that where we've been
10 having an issue of fraud is it's been too many people
11 trying to camp out on one rooftop and let me just have my
12 dealer's license? If that's the issue, should we maybe
13 limit the number of licenses per rooftop?

14 MS. JOHNSTON: Monique Johnston. May I have
15 the floor?

16 MR. BLASSINGAME: Sorry. You may have the
17 floor, Director Johnston.

18 MS. JOHNSTON: Thank you.

19 The rules do currently limit it to four dealers
20 per location, and this is something that's checked as part
21 of the application process. And if there's concern that
22 there's more dealers potentially at the location that are
23 not documented, we would ask Enforcement to do a site
24 visit, so there is already a limitation there.

25 What I think we're finding is that many

1 dealers, it's very easy for them to set up a location even
2 if they're the only person at that location. The initial
3 premise requirements are minimal, and they might be
4 willing to break a lease, if the lease is valid, in order
5 to obtain the license and set up the location and then
6 again abandon the location in a few months.

7 So that is something that we have seen. It's
8 not necessarily always the number of dealers but it's just
9 the location they secure and then abandon and break a
10 lease maybe a few months later.

11 MR. ZAK: Thank you, Ms. Johnston.

12 MR. ELAM: Member Elam. Can I have a question?

13 MR. BLASSINGAME: Member Elam, you have the
14 floor.

15 MR. ELAM: What is the engagement of the
16 regional service centers when we're checking to verify
17 license requirements? I know in the past I've had some
18 issues with requests that have gone out to the regional
19 service centers and they've actually sent someone to
20 inspect a facility. Is that a common practice? Is that
21 something we can elicit and solicit input from the
22 regional service centers staff that will support the DMV
23 staff here at the state office?

24 MS. JOHNSTON: Monique Johnston. May I have
25 the floor, please?

1 MR. BLASSINGAME: Director Johnston, you have
2 the floor.

3 MS. JOHNSTON: Thank you.

4 I've never heard of us utilizing the regional
5 service centers to go out and inspect a location for
6 licensing purposes. That's not something I'm aware of or
7 that I'm aware that we've done in the past.

8 I'm not sure that they would have the resources
9 available to do this. That would have to be something
10 that we would have to discuss with our Vehicle Titles and
11 Registration Division, but again, I'm not aware that we
12 have done that in the past.

13 MR. ELAM: Elam again for a follow-up.

14 This was a result of a complaint filed about a
15 dealer, and as a result the Enforcement staff sent someone
16 from the regional service center to actually do an onsite
17 inspection.

18 I didn't know if that's a common practice or
19 not. Obviously it may not be, but I will say it was
20 extremely effective, and it was done right away, so the
21 regional staff could take care of that real quickly.

22 MS. JOHNSTON: Monique Johnston. May I have
23 the floor?

24 MR. BLASSINGAME: Monique Johnston, you have
25 the floor.

1 MS. JOHNSTON: Thank you.

2 As I said, I'm not aware of that practice. It
3 might have been that maybe there was an investigator
4 located at one of the regional service centers that went
5 out and did the inspection.

6 I would think that the regional staff would
7 have to be trained by Enforcement in order to perform
8 those inspections, and so I'm not aware of that being a
9 practice or policy as of now or in the past that I've
10 heard of.

11 MS. THOMPSON: Officer Blassingame, this is
12 Corrie Thompson, director of Enforcement. May I have the
13 floor?

14 MR. BLASSINGAME: Director Thompson, you have
15 the floor.

16 MS. THOMPSON: And yes, I just want to echo
17 what Director Johnston just said. I am also not aware of
18 using Vehicle Titles and Registration regional service
19 center staff to conduct site inspections. We do, however,
20 have a number of investigators housed in regional service
21 centers across the state.

22 Thank you.

23 MR. SRALLA: Member Sralla. May I have the
24 floor?

25 MR. BLASSINGAME: Member Sralla, you have the

1 floor.

2 MR. SRALLA: Would it be possible to have --
3 kind of piggybacking on what the last member said, would
4 it be possible to have a couple of different levels of
5 site inspections?

6 And once again, I understand we'd have to look
7 at -- or one of the things you'd want to see about it
8 being paid for, I would think that it would be important
9 to be paid for by the prospective licensee.

10 But where you could have somebody from a
11 regional service center staff that could literally drive
12 by, make sure that there's a sign up and that sort of
13 thing, and then if there's not, then have a larger or a
14 more detailed and thorough site visit if needed.

15 MR. BLASSINGAME: Director Johnston?

16 MS. JOHNSTON: Thank you. Monique Johnston,
17 for the record.

18 That is something we could definitely research
19 and look into. Thank you for the suggestion.

20 MR. SRALLA: Thank you.

21 MR. BLASSINGAME: Are there any other questions
22 for TxDMV staff?

23 MR. ZAK: Member Zak. May I have the floor?

24 MR. BLASSINGAME: Member Zak, you have the
25 floor.

1 MR. ZAK: I would like to just echo on the last
2 member's comment, something that Member Donnelly had
3 mentioned before as well. Would it not be, in order to
4 solve of these potential problems of fraud, make part of
5 the application process for a new licensee that we add
6 some addition dollars in there as part of the cost of the
7 license to have a third-party company go out and just make
8 sure in a 30-day or 90-day time frame to make sure that
9 the new licensee is legit based on all the requirements,
10 and then report back to the DMV, and then from there DMV
11 could then take if there's some problems from the
12 Enforcement standpoint.

13 MR. BLASSINGAME: Director Johnston, comment?

14 MS. JOHNSTON: Monique Johnston, for the
15 record.

16 Yes, as previously discussed, we would have to
17 look at what our ability would be to charge a fee to the
18 applicant, and of course, if that was something that we
19 did ask to be put in statute or rule, it would have to be
20 approved by either the legislature or the Governor's
21 Office. But that is some consideration that we said we
22 would consider and research to pass the cost on to the
23 applicant.

24 MR. ZAK: Thank you.

25 MR. BLASSINGAME: Are there any other questions

1 for TxDMV staff?

2 MR. DONNELLY: Member Blassingame, this is
3 Member Donnelly. I have a question.

4 MR. BLASSINGAME: Member Donnelly, you have the
5 floor.

6 MR. DONNELLY: The question is for Monique
7 Johnston.

8 Is it possible that, rather than going through
9 the authorization for the Department of Motor Vehicles, to
10 see that can just be a requirement that the applicant pay
11 a firm directly? Would that shorten the process?

12 MS. JOHNSTON: Monique Johnston. May I have
13 the floor?

14 MR. BLASSINGAME: Director Johnston, you have
15 the floor.

16 MS. JOHNSTON: Thank you very much.

17 That is, again, something that we would have to
18 incorporate into our rules if we were to use a third
19 party, what that fee would be and state what would be
20 charged to the consumer, so that is something we would
21 have to research and we would also have to research what
22 third-party vendors there were available to provide such a
23 service.

24 MR. DONNELLY: Follow-up. Does it shorten the
25 process, though, if the applicant pays the third party

1 directly rather than paying it as part of the application
2 fee so we don't have to go through a lengthy process of
3 approving additional charges?

4 MS. JOHNSTON: I would have to defer to our
5 general counsel, but it would still be something that we
6 would be required -- again, this is Monique Johnston, for
7 the record. It would still be something that would be
8 required. If we were going to require the applicant to
9 get a third-party site visit, it would be something that
10 we would have to incorporate into the rule.

11 As for speeding up the process, if it was
12 something that was considered and approved by the board,
13 it would be part of something they would be required to
14 do, and we would have to contract with a company, so it
15 would be required.

16 They couldn't just pick any third party, it
17 would have to be someone we'd have to contract with, and
18 they'd have to do it prior, most likely, to submitting
19 their application and then provide proof of a report or
20 something like that.

21 But again, we would have to go through the
22 vendor process and the contract process, being that we are
23 a state agency.

24 MR. DONNELLY: Thank you.

25 MR. SRALLA: Member Sralla. May I have the

1 floor?

2 MR. BLASSINGAME: Member Sralla, you have the
3 floor.

4 MR. SRALLA: Along those lines, I know that
5 there's probably a lot of other state agencies that you
6 could look at for kind of guidance on that, but I'm
7 familiar with the elevator industry, and that's what
8 happens in the elevator industry.

9 People that have elevators are required to have
10 inspections, and what they have to do is they have to
11 contract through a licensed inspector for the State of
12 Texas but it's not a Texas employee; it's an independent
13 contractor.

14 So just a thought, if you decide to kind of go
15 down that road, that would be a place to at least kind of
16 look and see how they figure their licensing and how they
17 contract and what all the rules and regulations are for
18 that inspector, but that inspector is paid 100 percent
19 directly by the person who has the elevator, or in this
20 case, a person who's trying to get a license. Just a
21 thought.

22 MR. BLASSINGAME: Director Johnston, any
23 comment?

24 MS. JOHNSTON: Monique Johnston, for the
25 record.

1 No comment, but thank you for that information.
2 We'll take that into consideration.

3 MR. BLASSINGAME: Are there any other questions
4 for TxDMV staff?

5 MR. BRADBURN: Member Blassingame, would this
6 be time to make a motion?

7 MR. RICHARDS: Officer Blassingame, David
8 Richards.

9 MR. BLASSINGAME: David Richards, go ahead.

10 MR. RICHARDS: May I have the floor?

11 MR. BLASSINGAME: You may have the floor.

12 MR. RICHARDS: The recommendation and any
13 motions will come in the next item A.ii. We're still in
14 the presentation by Director Johnston. So I would ask if
15 there are any more comments or questions, suggestions from
16 the members under this particular agenda item.

17 And also, just wanted to note that we have a
18 public commenter, David Kohler, who had signed up. I
19 don't know if he's on the call. He needs to raise his
20 hand if he called in.

21 Otherwise, let's finish with this one first,
22 and then when you call 2.A.ii, Officer Blassingame, we can
23 take recommendations via motions at that time.

24 MR. BLASSINGAME: Thank you.

25 Are there any other questions for TxDMV staff?

1 MR. DORAN: Presiding Officer Blassingame, this
2 is Member Doran again.

3 Not a question but I guess just a
4 recommendation to staff that leading into the board
5 meeting they have the opportunity to gather up and review
6 the data on whether the problem group is wholesale dealers
7 versus independent dealers so that as the board thinks
8 about crafting or adopting rules that staff comes up with
9 that they're taking the different license types into
10 account. I think that's a fair recommendation to staff to
11 have that data prior to the board meeting.

12 Thank you.

13 MR. BLASSINGAME: Thank you.

14 Are there any other questions for TxDMV staff?

15 (No response.)

16 MR. BLASSINGAME: Just as a reminder, if you
17 want to comment or ask questions, please unmute yourself
18 and ask for the floor and then wait to be recognized
19 before speaking.

20 David, the public commenter, was he on the
21 call?

22 MR. RICHARDS: Officer Blassingame, David
23 Richards, for the record. May I have the floor?

24 MR. BLASSINGAME: Yes, sir.

25 MR. RICHARDS: I am not aware -- staff has not

1 made me aware that he is on the call. I think he's having
2 trouble getting on the call. Oh, I take that back.
3 Someone just told me call-in user 26.

4 Mr. Kohler, if that's you, please raise your
5 hand?

6 We're asking our IT Department if they can
7 check and make sure it's David Kohler, so if you'd hold on
8 just a minute or two, we'll determine if it's Mr. Kohler
9 and then let him comment.

10 MR. WARDEN: David, he's unmuted.

11 MR. RICHARDS: David Kohler, would you like to
12 make a comment?

13 MR. KOHLER: Yes. Thank you, Chairman
14 Blassingame and board members, for your continued efforts
15 in trying to combat this problem.

16 Just a few comments if I could, please. When
17 an applicant applies for a GDN license, that should be the
18 responsibility of the DMV to go out there and do the site
19 visit, not law enforcement. If there's a consideration of
20 a third-party contract, like one of the other board
21 members said, that's a decision for that.

22 But I also want to also say don't rely on
23 Google Maps, because that may not always be 100 percent
24 accurate. An in-person site visit needs to be conducted
25 to verify the identity of the person at the licensed

1 premise, to also verify if it cross-matches the person who
2 applied for the GDN application.

3 It's also important to do that because there
4 have been -- at least I know of one GDN application that
5 their address license was a carwash, so if you don't
6 verify that in person, you're not really succeeding in
7 anything trying to verify who's applying for a GDN.

8 And I'm open for any questions, and I
9 appreciate your time.

10 MR. SRALLA: Member Sralla. May I have the
11 floor?

12 MR. BLASSINGAME: Member Sralla, you have the
13 floor.

14 MR. SRALLA: And I agree with you on the Google
15 Maps not being the be-all/end-all, but my comment was that
16 it's possible that it could be, I guess, a tertiary or
17 beginning look to see if that's something that they have.

18 You know, obviously there's going to be some of
19 these smaller places that a site visit may be required,
20 but if you have like a Huffines or somebody building a
21 massive car dealership or something somewhere, it probably
22 would not require you to necessarily have the same type of
23 site visit.

24 MR. BLASSINGAME: Are there any other comments?

25 MR. BRADBURN: Member Blassingame, Member

1 Bradburn with a comment.

2 MR. BLASSINGAME: You have the floor.

3 MR. BRADBURN: I wanted to piggyback on what
4 Member Sralla said. In this long term criminal
5 investigation site visits are needed. Everybody is using
6 Google Maps or something similar to that, but when you
7 look at the actual package, you're going to see
8 photoshopped offices that aren't actually there, signs,
9 whether they go pay another dealer \$100 to put them up,
10 they show up on the day of or they photoshop them, and
11 fictitious IDs.

12 So without somebody going in person, whether it
13 be DMV -- or the third party suggestion was great -- we're
14 not going to get to those other steps.

15 And that's all.

16 MR. BLASSINGAME: Thank you.

17 Are there any other comments?

18 MR. RICHARDS: Officer Blassingame, David
19 Richards, for the record.

20 MR. BLASSINGAME: Mr. Richards, you have the
21 floor.

22 MR. RICHARDS: Staff has told me we have no one
23 else that's commenting from the public on this particular
24 agenda item, so you're free to move to 2.A.ii, which is
25 recommendations of the advisory committee, at this time.

1 Thank you.

2 MR. BLASSINGAME: Thank you, Mr. Richards.

3 So members, I now move on to agenda item
4 2.A.ii., Recommendations from the advisory committee to
5 the department regarding pre-licensing process for motor
6 vehicle dealers related to applicant verification process,
7 including location verification.

8 Are there any public comments for this agenda
9 item?

10 MR. RICHARDS: Officer Blassingame, David
11 Richards.

12 At this time we intended to receive
13 recommendations. I don't have any public commenters for
14 2.A.ii. So at this time it would be appropriate for any
15 members of the MVIRAC advisory committee to present
16 recommendations for a vote, if there are any.

17 So I'll leave it to the membership to make any
18 motions that they see fit.

19 MR. BRADBURN: Member Bradburn. I'd like to
20 make a motion.

21 MR. BLASSINGAME: Member Bradburn, you have the
22 floor.

23 MR. BRADBURN: Thank you, sir.

24 I would like to make a motion for DMV staff to
25 identify a dollar amount to cover the cost of an actual

1 site visit either from a DMV staff member of a third-
2 party private entity. This cost should cover all staff
3 and vehicle use. This could be used in the legislative
4 session for a statute change and to obtain additional
5 funding, if needed.

6 MR. DONNELLY: Member Blassingame?

7 MR. BLASSINGAME: Member Warden?

8 MR. DONNELLY: Donnelly.

9 MR. BLASSINGAME: Sorry. Mr. Donnelly, you
10 have the floor.

11 MR. DONNELLY: Second, if you're looking for a
12 second.

13 MR. BLASSINGAME: Yes, I am.

14 We have a motion and a second to the motion. I
15 will call the vote, and if you support the motion say so
16 by saying aye, if you do not, nay.

17 Member Bradburn, it's your motion.

18 MR. BRADBURN: Aye.

19 MR. BLASSINGAME: Member Brown?

20 (No response.)

21 MR. BLASSINGAME: Member Donnelly?

22 MR. DONNELLY: Aye.

23 MR. BLASSINGAME: Member Doran?

24 MR. DORAN: Aye.

25 MR. BLASSINGAME: Member Edwards?

1 (No response.)

2 MR. BLASSINGAME: Member Elam?

3 MR. ELAM: Aye.

4 MR. BLASSINGAME: Member Ferguson?

5 MR. FERGUSON: Aye.

6 MR. BLASSINGAME: Member Gonzalez?

7 (No response.)

8 MR. BLASSINGAME: Member Greenlaw?

9 (No response.)

10 MR. BLASSINGAME: Member Hayter?

11 MR. HAYTER: Aye.

12 MR. BLASSINGAME: Member Martin?

13 MR. MARTIN: So I don't know if this is an
14 opportunity to ask for an amendment to that motion,
15 because I didn't hear that we had an opportunity to
16 discuss the motion.

17 MR. RICHARDS: Counsel Richards, what do you
18 say?

19 MR. BLASSINGAME: Officer Blassingame, if the
20 person making the motion, Corporal Bradburn, would like to
21 amend, we can do that at this time, or at least hear the
22 amendment.

23 MR. BRADBURN: Member Bradburn. That's very
24 reasonable, we'd like to hear it.

25 MR. MARTIN: Member Martin.

1 MR. BLASSINGAME: You're up, Mr. Martin.

2 MR. MARTIN: So maybe this is more of a
3 discussion, but I wonder if we might want to add assessing
4 the amount of time it would take to conduct the site visit
5 as well.

6 MR. BLASSINGAME: Member Martin, for
7 clarification, are you talking about the time it takes to
8 make the visit after the application is received, or are
9 you talking about a limit?

10 MR. MARTIN: Correct -- well, no, the length of
11 time it would take to do the application process in its
12 totality.

13 MR. BLASSINGAME: Including the visit.

14 MR. MARTIN: Correct.

15 MR. RICHARDS: Officer Blassingame, David
16 Richards, for the record.

17 MR. BLASSINGAME: David Richards, go ahead, you
18 have the floor.

19 MR. RICHARDS: I would recommend, members, that
20 we take a separate vote. If Mr. Martin wants to make that
21 in a separate recommendation via motion, let's do that.
22 Let's stick to the dollar amount of Member Bradbury's
23 motion thus far, we can continue the vote.

24 And then, Member Martin, if you want to come
25 back after that when the chair asks for any other motions,

1 please make your motion at that time.

2 MR. MARTIN: Okay. Yes.

3 MR. BLASSINGAME: Member Murphy, we have a
4 motion on the floor. Member Murphy?

5 (No response.)

6 MR. BLASSINGAME: Member Prather?

7 MR. PRATHER: Aye.

8 MR. BLASSINGAME: Member Sims?

9 (No response.)

10 MR. BLASSINGAME: Member Sralla?

11 MR. SRALLA: Aye.

12 MR. BLASSINGAME: Member Stark?

13 MR. STARK: Aye.

14 MR. BLASSINGAME: Member Sullivan?

15 (No response.)

16 MR. BLASSINGAME: Member Thomas?

17 MS. THOMAS: Aye.

18 MR. BLASSINGAME: Member Vitela?

19 (No response.)

20 MR. BLASSINGAME: Member Zak?

21 MR. ZAK: Aye.

22 MR. BLASSINGAME: And I do support the issue,
23 so it is carried by 14 votes for, none against.

24 Are there any other members that may have a
25 motion for this section? Member Martin?

1 MR. SRALLA: This is Member Sralla. May I have
2 the floor?

3 MR. BLASSINGAME: Yes, sir, Member Sralla, you
4 have the floor.

5 MR. SRALLA: Would this be an appropriate time
6 to make a motion -- I know that they talked about the
7 dollar amount, but in that motion were we going to study
8 the dollar amount for a third party and for a state staff
9 member? Because if that's the case, they're going to have
10 to come up with kind of a plan of who a third party would
11 be and how to implement that.

12 MR. BLASSINGAME: David Richards, do you have
13 any comment?

14 MR. RICHARDS: Officer Blassingame, that was my
15 understanding it was for the staff to go back and to look
16 what the dollar amount would be for DMV to perform the
17 site visit or a third party, and we will definitely do
18 that, so we consider that part of the motion, and we'll
19 definitely go forward and bring that back to the MVIRAC at
20 a future meeting.

21 MR. SRALLA: I'm good. Thank you.

22 MR. RICHARDS: Thank you.

23 MR. BLASSINGAME: Thank you.

24 Any other comments? Any other motions?

25 MR. RICHARDS: Officer Blassingame, David

1 Richards, again for the record.

2 MR. BLASSINGAME: Yes, sir.

3 MR. RICHARDS: Let me ask IT staff. Member
4 Martin wanted to make a motion. Is he muted right now?
5 Do we need to unmute Jeff Martin?

6 MR. WARDEN: Jeff Martin is not muted.

7 MR. RICHARDS: Mr. Martin, would you like to
8 make your motion at this time?

9 MR. MARTIN: Yes. Member Martin. Can I have
10 the floor?

11 MR. BLASSINGAME: Member Martin, you have the
12 floor.

13 MR. MARTIN: I would make a motion that we also
14 ask DMV staff to assess the amount of time it would take
15 to issue an independent dealer's license, including a site
16 visit.

17 MR. BLASSINGAME: We have a motion on the floor
18 for the DMV staff to set up a time frame and set up a
19 physical visit before the license is issued. Is that
20 correct, Member Martin?

21 MR. MARTIN: That's correct.

22 MR. BLASSINGAME: We have a motion on the
23 floor. Do we have a second?

24 MR. ZAK: Member Zak. I second that motion.

25 MR. BLASSINGAME: Okay. We have a second.

1 MR. RICHARDS: Officer Blassingame, David
2 Richards, please.

3 MR. BLASSINGAME: Yes, sir.

4 MR. RICHARDS: Could you ask if there's any
5 further discussion before you take the vote, please.
6 Thank you.

7 MR. BLASSINGAME: Certainly.

8 Is there any further discussion on this motion
9 before I take the vote?

10 MR. PRATHER: This is Steve Prather. May I
11 speak?

12 MR. BLASSINGAME: Member Prather, you have the
13 floor.

14 MR. PRATHER: Thank you.

15 I don't know how the department could come up
16 with a time that they'd pretty much guarantee somebody
17 would get a license. There's a lot of extenuating
18 circumstances that would either make them give us a number
19 way out in the future or make it impossible for them to
20 meet the deal. That might be worth the department
21 discussing a minute.

22 MR. BLASSINGAME: Are there any comments from
23 staff or from the members after Mr. Prather's comment?

24 MS. THOMPSON: Officer Blassingame, this is
25 Corrie Thompson, director of the Enforcement Division.

1 May I have the floor?

2 MR. BLASSINGAME: Director Thompson, you have
3 the floor.

4 MS. THOMPSON: I did just want to say that Mr.
5 Prather is correct: The amount of time is going to vary
6 widely depending on, you know, how many people we have
7 available to do the site inspections.

8 Note that we do have a current staff that has
9 approximately 8,000 cases that we're working annually.
10 You know, at the board meeting we made comment about
11 additional staff that would be needed in order to do site
12 visits for all new applications or renewal applications,
13 and that would be something that we would have to take
14 into legislative session as an appropriations request for
15 additional FTEs for the department.

16 With regard to the time that it would take,
17 there is the application side of it and the review by the
18 Motor Vehicle Division staff, and then there's currently
19 the time that it takes an actual Enforcement investigator
20 to go out and conduct that inspection if requested by the
21 Motor Vehicle Division, and as Mr. Prather said, that time
22 can vary widely.

23 We can have somebody that has a proposed
24 business location in the Dallas Metro area, where I have
25 investigators readily available who can go out potentially

1 same day and conduct those visits, and then we might have
2 somebody out in Amarillo or Odessa, where we're going to
3 have to plan and send an investigator to travel out there
4 to conduct that visit.

5 So there's a bunch of different factors that
6 would come into play with regard to that timeline for
7 completion.

8 MR. DONNELLY: Member Blassingame, Member
9 Donnelly. I have a question for Member Martin.

10 MR. BLASSINGAME: Member Donnelly, you have the
11 floor.

12 MR. DONNELLY: Jeff, just a question, I want to
13 clarify your motion. You want an assessment of the time,
14 not a commitment. Is that correct? Or are you asking for
15 a commitment?

16 MR. MARTIN: You're correct, Member Donnelly.
17 I'm looking for an assessment. I agree with everything
18 that Director Thompson said. I think there can be a
19 significant difference in the amount of time that it
20 takes, and I think that's something that the department
21 and the stakeholders need to be having a discussion about
22 that.

23 MR. DONNELLY: Member Donnelly.

24 As an applicant -- and I was an applicant not
25 too long ago -- it's something I'd want to know. Thank

1 you.

2 MR. BLASSINGAME: So we have a motion on the
3 floor by Member Martin. Do I get a second on the motion?

4 MR. DORAN: Member Doran. I'll second the
5 motion.

6 MR. BLASSINGAME: We have a second on the
7 motion.

8 Member Bradburn, yay or nay?

9 MR. BRADBURN: Aye.

10 MR. BLASSINGAME: Member Brown?

11 (No response.)

12 MR. BLASSINGAME: Member Donnelly?

13 MR. DONNELLY: Aye.

14 MR. BLASSINGAME: Member Doran?

15 MR. DORAN: Aye.

16 MR. BLASSINGAME: Member Edwards?

17 (No response.)

18 MR. BLASSINGAME: Member Elam?

19 MR. ELAM: Aye.

20 MR. BLASSINGAME: Member Ferguson?

21 MR. FERGUSON: Aye.

22 MR. BLASSINGAME: Member Gonzalez?

23 (No response.)

24 MR. BLASSINGAME: Member Greenlaw?

25 (No response.)

1 MR. BLASSINGAME: Member Hayter?
2 MR. HAYTER: Aye.
3 MR. BLASSINGAME: Member Martin, it's your
4 motion.
5 MR. MARTIN: Aye.
6 MR. BLASSINGAME: Member Murphy?
7 (No response.)
8 MR. BLASSINGAME: Member Prather?
9 MR. PRATHER: Aye.
10 MR. BLASSINGAME: Member Sims?
11 (No response.)
12 MR. BLASSINGAME: Member Sralla?
13 MR. SRALLA: Aye.
14 MR. BLASSINGAME: Member Stark?
15 MR. STARK: Aye.
16 MR. BLASSINGAME: Member Sullivan?
17 (No response.)
18 MR. BLASSINGAME: Member Thomas?
19 MS. THOMAS: Aye.
20 MR. BLASSINGAME: Member Vitela?
21 (No response.)
22 MR. BLASSINGAME: Member Zak?
23 MR. ZAK: Aye.
24 MR. BLASSINGAME: And I vote aye as well, so
25 that would pass 14-0.

1 Are there any other motions on the floor?

2 MR. DORAN: Presiding Officer Blassingame, this
3 is Member Doran. I actually had a question for staff,
4 which may or may not lead to a motion.

5 MR. BLASSINGAME: Member Doran, you have the
6 floor.

7 MR. DORAN: Thank you.

8 My question for staff is that in thinking about
9 preparing for the DMV Board meeting, would it be possible
10 for staff to take a look at what other states are doing,
11 including looking at if other states have their agencies
12 or have third parties conducting site visits, finding out
13 whether other states -- how much that costs in other
14 states as a benchmark comparison, and then also figuring
15 out how are those other states paying for or building that
16 cost into their licensing process, what's the funding
17 need.

18 I think staff should anticipate that questions
19 from the board members may go into those areas, and I
20 think that would be a helpful survey to take in terms of
21 having that information in preparation for the board
22 meeting.

23 MR. BLASSINGAME: Director Johnston?

24 MS. JOHNSTON: Yes. Monique Johnston, for the
25 record.

1 Thank you, yes, for that comment. We have
2 already started doing research on what other states do and
3 what other states require in regards to their licensing
4 process, and we have started collecting that information.

5 Thank you.

6 MR. DORAN: Thank you.

7 MR. BLASSINGAME: Are there any more motions
8 for the floor?

9 (No response.)

10 MR. BLASSINGAME: I will now move on to agenda
11 item 2.B. General Motors Company's petition for rulemaking
12 to amend Title 43 of the Texas Administrative Code Chapter
13 215, Subchapter H, Advertising, Section 215.245(e). And I
14 will be turning the meeting over to Corrie Thompson,
15 director of Enforcement for the Texas DMV.

16 Corrie.

17 MS. THOMPSON: Yes. Officer Blassingame,
18 Corrie Thompson, director of the Enforcement Division.
19 Good morning, everyone.

20 What we have before you is a petition for
21 rulemaking, as Officer Blassingame just stated. Under the
22 Government Code, Chapter 2001, the department can receive
23 petitions for rulemaking, and within 60 days after the
24 date of submission of that petition for rulemaking, the
25 department has to either deny that petition in writing and

1 we have to give the reasons that we're denying the
2 petition, or we have to actually initiate the rulemaking
3 process pursuant to the Government Code provision that
4 allows this.

5 And so we are bringing this before you as a
6 briefing and discussion item, and a couple of points of
7 clarification that I want to make before we get into this:

8 We are in Texas Administrative Code, Chapter
9 215, Subchapter H, which is specific to the advertising
10 rules, and I want to distinguish that so that everybody
11 has the understanding that this does not change the
12 general requirements that a dealer has pursuant to Texas
13 Transportation Code 501.0234(f) that says that within a
14 certain time period provided by law the dealer is required
15 to register the vehicle in the name of the consumer who
16 purchased it.

17 That date timeline is specified in Texas
18 Administrative Code, Chapter 215, Subchapter E, relating
19 to general distinguishing numbers, and that's where we get
20 the 20 working days from the date of the sale or the 45
21 days if it was a cash or dealer-financed sale that the
22 dealer has the duty to register the vehicle in that
23 consumer's name.

24 Those provisions remain, nothing would be
25 touched or changed if this amendment to the advertising

1 rule section were to go forward, and so I wanted to be
2 clear about that going forward.

3 So looking at Rule 215.245 in its current
4 state, there are two basic sections. There's a section at
5 the beginning that relates to new motor vehicles, and
6 currently the rule states that a new motor vehicle may be
7 advertised by a dealer if it is not currently in the
8 possession of that dealership, and so the ad has to
9 clearly and conspicuously disclose that, and it's got to
10 say, hey, we don't have possession of this vehicle, but we
11 could obtain it from the manufacturer, the distributor, or
12 some other source.

13 And so in comparison, the used motor vehicle
14 side of that advertising rule currently says that the used
15 motor vehicle may only be advertised if it is in the
16 possession of the dealer when the ad is placed and that a
17 title certificate to that used motor vehicle is assigned
18 to the dealer, so it's got to be in the dealer's
19 inventory, and they have to have physical possession of
20 the vehicle before they can place that advertisement.

21 What this petition for rulemaking from GM is
22 doing -- or is proposing, rather, is amending that used
23 motor vehicle provision and the language that's proposed
24 is in your packet that was put out, along with the agenda
25 that you should have had an opportunity to review, but I

1 will restate it for you here.

2 It would allow the used motor vehicle, when not
3 in the possession of the dealer, be allowed to be
4 advertised, and again, just as with the new vehicle
5 advertisement, the ad must clearly and conspicuously
6 disclose that fact.

7 And if you're going to advertise a price of the
8 vehicle as well, then you would have to give the VIN for
9 that vehicle also so that consumers knew that that price
10 only pertained to that specific VIN.

11 And then there's some additional language
12 proposed that says that the dealer could also include in
13 the advertisement a statement stating that the vehicle may
14 be subject to prior sale and to contact the dealer for
15 availability and final pricing.

16 And so I hope you've had the opportunity to
17 read the actual petition and the reasoning proposed for
18 suggesting this change be made to the rules.

19 There's a lot of statements relating to the
20 explosion of the used motor vehicle market right now and
21 dealers needing to be able to advertise vehicles that are
22 used more readily because of shortage of new vehicles and
23 other reasons, also being able to keep a fresher
24 inventory, things of that nature are stated by GM in this
25 petition.

1 But what we've brought before you is the
2 proposal for the change to the language so that the
3 membership can discuss and provide the department any
4 feedback or concerns that y'all see with the proposed
5 change to the rule so that we can take that into
6 consideration of whether we're going to deny the petition
7 or initiate the rulemaking.

8 MR. BLASSINGAME: Members, do you have any
9 questions for Director Thompson?

10 MR. DORAN: Yes. Presiding Officer
11 Blassingame, this is Member Doran.

12 MR. BLASSINGAME: Member Doran, you have the
13 floor.

14 MR. DORAN: So Corrie, a question I had in
15 looking at the proposed language, it seems to limit -- in
16 terms of the ability to advertise a used vehicle, I think
17 it's saying that it could be obtained from the
18 manufacturer, distributor or affiliated financial
19 institution or a licensed motor vehicle auction within a
20 reasonable period of time, but the limitation on
21 advertising a new vehicle is broader.

22 At the end of the first sentence of, I believe
23 it's (b) currently, it says that it could be obtained from
24 the manufacturer, distributor, or some other source.

25 MS. THOMPSON: Some other source.

1 MR. DORAN: Yeah. So the concern I have here,
2 I want to make sure that we're not inadvertently harming
3 somebody like CarMax or Carvana that pools their
4 inventory, or even a dealer group here.

5 I mean, you can choose any number of them,
6 maybe it's Gillman or Cavender, who have multiple
7 dealership locations, and I don't know, if today they are
8 advertising -- let's say they had Toyota Certified Used
9 Vehicles, and the prospective buyer comes on to the site
10 and puts in an inquiry for a 2020 Camry and maybe they are
11 then presented with some options, right, and it shows
12 that, okay, the Cavender store nearest to you has a black
13 Toyota Camry, but there's a Cavender Toyota store, you
14 know, 50 miles down the road that has a blue one.

15 And as long as the site is disclosing that to
16 the consumer and putting them on notice that the vehicle
17 is not physically at one lot but is at the other, I want
18 to make sure that that type of advertising isn't
19 inadvertently prohibited through the language that we're
20 seeing here as the proposed draft.

21 So could you maybe comment on that and give
22 your perspective?

23 MS. THOMPSON: Sure. Officer Blassingame,
24 Corrie Thompson, director of Enforcement. May I have the
25 floor?

1 MR. BLASSINGAME: Director, you have the floor.

2 MS. THOMPSON: Yes, Member Doran, and so I
3 understand your concern, and my question to you would be
4 if the language proposed in the amendment to section 3
5 were to mimic the language from the new motor vehicle
6 section, do you believe that that eliminates the concern
7 about maybe taking out some of the dealerships that you
8 mentioned, the CarMaxes and the Carvanas of the world,
9 maybe those that are using dealer pooling from various
10 locations.

11 If it were to say "a manufacturer, distributor,
12 or some other source" instead of limiting it to the
13 "manufacturer, distributor or manufacturer or distributor
14 affiliated financial institution or licensed motor vehicle
15 auction". If we changed the last part to mimic the new
16 car version of the existing rule, does that eliminate your
17 concern?

18 MR. DORAN: This is Member Doran. Yes, that
19 would eliminate my concern entirely, I believe.

20 MS. THOMPSON: Thank you.

21 MR. DORAN: Thank you.

22 MR. DONNELLY: Member Blassingame, this is
23 Member Donnelly.

24 MR. BLASSINGAME: Member Donnelly, you have the
25 floor.

1 MR. DONNELLY: Question for Corrie Thompson --
2 actually a couple of them, and I apologize. But in
3 reading this are we challenging the rule that you have to
4 have possession of the title to sell the car? We're
5 talking about advertising, and I get that, but if somebody
6 comes in and wants to buy the car, is the advertiser
7 precluded from selling it until they actually have the
8 title?

9 MS. THOMPSON: So excellent question. So that
10 is why I started the conversation off by saying that that
11 does not absolve the dealer of the requirements of
12 501.0234 or 215.144.

13 So there are certain limited instances, of
14 course, when the vehicle can be sold without having title,
15 such as with secured power of attorney. Those
16 requirements do not change.

17 MR. DONNELLY: Member Donnelly, follow-up. The
18 letter from General Motors specifically requests that they
19 advertise the vehicle for sale with an expectation they
20 can obtain the title in a reasonable amount of time, which
21 I saw that and said it sounds like they would like to have
22 the ability to execute a sale without a used vehicle
23 title.

24 New car dealers, I understand, that's a
25 different scenario. Is it challenging that rule, though,

1 and is that something that's up for discussion as well?

2 MS. THOMPSON: Corrie Thompson, director of the
3 Enforcement Division.

4 MR. BLASSINGAME: You have the floor.

5 MS. THOMPSON: It's absolutely up for
6 discussion with membership; that's why we brought it here
7 today. But because this proposed change is within the
8 advertising section, it only pertains to the advertisement
9 of the vehicle.

10 MR. DONNELLY: Can I ask finally -- I shouldn't
11 say finally, sorry.

12 MR. BLASSINGAME: Member Donnelly, you have the
13 floor.

14 MR. DONNELLY: Sorry. Member Donnelly.

15 Does DMV have a position on this currently that
16 you're willing to share?

17 MS. THOMPSON: Corrie Thompson, director of the
18 Enforcement Division. Officer Blassingame, may I have the
19 floor?

20 MR. BLASSINGAME: Director Thompson, you have
21 the floor.

22 MS. THOMPSON: The department does not
23 currently have a position. We brought the proposed
24 language to the membership today so that we could get
25 feedback from industry about the proposed language.

1 MR. DONNELLY: Thank you.

2 MR. BLASSINGAME: Member Donnelly, does that
3 answer your question?

4 MR. DONNELLY: Yes. Thank you.

5 MR. SRALLA: Member Sralla. May I have the
6 floor?

7 MR. BLASSINGAME: Member Sralla, you have the
8 floor.

9 MR. SRALLA: On this term the word "reasonable"
10 is used. The question or one of the downsides to this I
11 see is the word "reasonable" that's left open to
12 interpretation, and I think that you could have somebody
13 taking advantage of this advertising where they could say,
14 well, we can get it in a reasonable amount of time.

15 Well, the consumer may not understand
16 "reasonable." I think if we're going to allow this, we're
17 going to have to -- my suggestion would be to narrow the
18 language down to where it would be much more specific than
19 "reasonable."

20 MR. BLASSINGAME: Director Thompson, comment?

21 MS. THOMPSON: Yes. Thank you, Member Sralla.

22 We will take that into consideration as well. Did you
23 have any proposed language, or is there any further
24 discussion on some suggested language surrounding Member
25 Uralla's comment that would be more definitive than the

1 "reasonable period of time" proposed?

2 MR. DONNELLY: Member Blassingame, Member
3 Donnelly.

4 MR. BLASSINGAME: Member Donnelly, you have the
5 floor.

6 MR. DONNELLY: It might be outside the scope of
7 this, but something that's just near and dear to me is
8 that we could actually probably kill two birds with one
9 stone if they can require that the sale of a vehicle under
10 any circumstance requires the title, including being at an
11 auction, so that we no longer have cars that are being
12 bought without a title anywhere. Suggestion.

13 MR. BLASSINGAME: Director Thompson?

14 MS. THOMPSON: Again, Corrie Thompson, director
15 of the Enforcement Division.

16 Again, this particular amendment pertains only
17 to the advertising section of the rules. The dealer still
18 has the existing duties to hang on to the vehicle until
19 they have title.

20 So I will say it's readily available in the
21 Enforcement Division annual reports that failure to timely
22 transfer title is the number-one violation that the
23 Enforcement Division sees on an annual basis, and that's
24 recurring over the last nine years that I've been with the
25 department.

1 And dealers find themselves in that situation
2 because they do sell the vehicle without having title,
3 which is against current provisions, and again, that's not
4 something that is a requirement that would change as a
5 result of this proposal here.

6 MR. DORAN: Presiding Officer Blassingame, this
7 is Member Doran. Can I ask a question?

8 MR. BLASSINGAME: Member Doran, you have the
9 floor.

10 MR. DORAN: So I don't want to go against my
11 colleague who didn't like the reasonableness terminology,
12 but some perspective I'd like to share is that we hear
13 from our Toyota dealerships, particularly some of the
14 stores here in Austin, they're taking on trade vehicles
15 that are from California residents that are relocating to
16 Texas, and it is taking a painfully long amount of time
17 for the State of California to complete -- you know, to
18 provide all the paperwork necessary for the dealer to be
19 able to take that vehicle in on trade and then resell it.

20 So in some cases a reasonable period of time
21 could end up being six weeks, and I think the dealer
22 should have the ability to be able to advertise that
23 vehicle, but to some of the concerns that were mentioned
24 here, I just think the consumer needs to understand the
25 dealer should advise the consumer that it could be a while

1 before the consumer can actually purchase the vehicle.

2 But if a Toyota store has taken a California
3 Tesla in on trade, I do think that store should be able to
4 advertise that vehicle as being available but
5 understanding and conveying to the consumer that it may be
6 some time before they could actually consummate the
7 purchase of the vehicle, if that makes sense.

8 MR. BLASSINGAME: Director Thompson, comment?

9 MS. THOMPSON: No comment.

10 MR. HAYTER: Chairman Blassingame, I'd like to
11 ask a question. This is Russell Hayter.

12 MR. BLASSINGAME: Member Hayter, you have the
13 floor.

14 MR. HAYTER: Do we have anyone from GM present
15 who can actually give us a specific case that they're
16 trying to fix here? I think a lot of what we're doing is
17 speculating based on what they've written, but I'm not
18 real clear exactly what they're trying to fix.

19 MR. RICHARDS: Officer Blassingame, David
20 Richards, for the record.

21 MR. BLASSINGAME: Mr. Richards.

22 MR. RICHARDS: Yes, Member Hayter, we do, but
23 let's, if we could, get through our membership with any
24 questions, and we do have Mr. Jeffrey Perry, who is with
25 General Motors, that asked to comment on this item.

1 So I would ask if we could get through our
2 membership with any questions or suggestions or comments
3 first, then we'll go to Mr. Perry. Thank you.

4 MR. BLASSINGAME: Are there any other questions
5 for TxDMV staff?

6 MR. PRATHER: This is Steve Prather. May I
7 speak?

8 MR. BLASSINGAME: Member Prather, you have the
9 floor.

10 MR. PRATHER: Thank you very much.

11 I can understand where General Motors is coming
12 from, trying to sell their off-lease cars for a higher
13 price. Then can take those cars and put them up on what
14 they used to call a smart auction or they can go put them
15 at the auction house itself and sell them to dealers and
16 then dealers will be selling their own cars.

17 The way I read this deal, if I'm a General
18 Motors dealer, I have access to whatever cars they have.
19 Well, they've got 3,000 or whatever General Motors dealers
20 in the country, or all 3,000 of these dealers going to be
21 advertising that exact car? And if I'm a customer buying
22 a car and I want to go down to the dealership to see the
23 car, I can't see that car.

24 Now, someone could make a point that says,
25 well, they might advertise a new car they don't have in

1 stock, and maybe, you know, once they load it on the
2 truck, it belongs to the dealer even if it's in transit.
3 And that car, it might not be there today but it will be
4 there in three or four or five or ten days, or whenever.

5 This used car, they're advertising on a if-
6 come-maybe that they can even acquire that car, because
7 them and maybe 200 or 2,000 other dealers have a shot at
8 selling that car.

9 Now, from the General Motors standpoint, I can
10 understand it, because they'll set the price up higher
11 than they could get at an auction, and if a dealer can
12 sell it, fine, and if he can't, well, no sweat off of him.

13 But General Motors ends up getting more for
14 their off-lease cars, and they'll probably take offense to
15 what I said, but I believe it to be true. But the poor
16 customer out here is chasing up and down the street,
17 trying to find a car that that dealer may not even have
18 access to because everybody and his brother is trying to
19 sell it, and I just think that's a bad idea for a
20 customer, terrible idea.

21 And based on what they said about you have to
22 have title to the car, there's no commitment whatsoever to
23 get that car. Now, as a new car dealer, I can order a
24 vehicle, just like the other guy down the street can order
25 a vehicle, and those vehicles are exactly the same.

1 But in the used car world, every one of these
2 used cars are different, there's no used car that has
3 exactly 50,000 miles, that has one dent in the right door,
4 and has got tire wear at X percent of the original tire.
5 There's no two cars alike, so it's not the same as
6 advertising a new car.

7 And anybody wants to make the point that
8 advertising a used car that nobody has even seen, you just
9 got some pictures of, that I can duplicate that car if
10 that one sells, I can't.

11 So that's my thinking. I think it's a horrible
12 idea.

13 MR. BLASSINGAME: Director Thompson?

14 MS. THOMPSON: Yes. Thank you for your
15 comment, Member Prather.

16 MR. SRALLA: Member Sralla. May I speak?

17 MR. BLASSINGAME: You have the floor.

18 MR. SRALLA: And I understand the concern with
19 the other member about getting California cars and all
20 that sort of thing, and everybody who's in business runs
21 into that occasionally, where you get the eTITLES and it
22 takes longer than you would expect than it used back in
23 the old days and things like that.

24 But I still think for the protection of the
25 consumer and for the protection of the legitimacy of our

1 business, we need to be careful using words like
2 "reasonable" and "open-ended" and things like that,
3 because the fact of the matter is not everybody in our
4 industry is as forthright as some of us are, and we need
5 to make sure that somebody is not taking advantage of a
6 situation by loosening up advertising laws.

7 MR. STARK: Officer Blassingame, Member Stark.
8 May I speak?

9 MR. BLASSINGAME: Member Stark, you have the
10 floor.

11 MR. STARK: I'd just like to reiterate Member
12 Prather and Member Sralla.

13 So acquiring a new car is a pretty
14 straightforward linear process. It's an MCO, it's an MSO.

15 Once that car is allocated, unless, of course, it's
16 unfortunate enough to end up at the bottom of the ocean
17 like some Bentleys and Volkswagens recently, that car is
18 going to show up, and you have the opportunity to secure
19 title or create that title.

20 Used cars is not so clean, there are a lot of
21 things that can take place, and the idea of advertising a
22 car that I may have to outbid somebody to get, that may
23 have a lien against it, that may be an off-lease car, I
24 think that you're going to create the possibility for a
25 tremendous amount of confusion for a consumer.

1 The process is confusing enough in and of
2 itself, and I would just have to echo that I think that
3 trying to make advertising a new car and a used car
4 parallel is probably a mistake when it comes to the retail
5 consumer.

6 MR. ZAK: Member Zak. May I have the floor?

7 MR. BLASSINGAME: Member Zak, you have the
8 floor.

9 MR. ZAK: I would like to echo Member Prather's
10 comments earlier. It gives me great concern of making
11 this proposed change that GM would like to make. You
12 know, as it is, in my history I have bought a number of
13 cars over the years through the auction, and there's been
14 many a times that I'm still waiting to get titles 30, 60,
15 90 days out, and I'm having to return cars to the auction
16 because they cannot give me a title.

17 And I know that's not the main focus of this
18 proposal by GM, but with the same comment that Member
19 Prather was making, based on this proposed change, I could
20 go out to find a car on the auction through Mannheim's
21 portal OVE, take a car out there, paste it to my website
22 and advertise that car for sale even though I don't have
23 that vehicle in possession nor do I have the title, but
24 based on this proposal, that's what I could do, and that,
25 to me, would be deceptive to the consumer.

1 So I think by some of what GM is proposing it
2 really opens Pandora's box to lots of potential issues
3 that would come later for DMV for the Enforcement side as
4 far as what dealers would be doing, potentially causing
5 lots of problems, not to mention the confusion that you
6 put in the consumer's mind whenever they come to the
7 dealership to buy a car and the dealership has to tell
8 them: Oh, we don't have that car, we're going to go buy
9 that car, we found that car out there.

10 So you know, I'm not in favor of their
11 proposal. Thank you.

12 MR. BLASSINGAME: Thank you, Member Zak.

13 Director Thompson, any comment?

14 MS. THOMPSON: Corrie Thompson, director of the
15 Enforcement Division.

16 Officer Blassingame, I just want to thank the
17 members for the comments and the discussion. This
18 information is very helpful in allowing the department to
19 make a determination on the petition. We appreciate it.

20 MR. FERGUSON: Officer Blassingame, Member
21 Ferguson. May I have the floor?

22 MR. BLASSINGAME: Member Ferguson, you have the
23 floor.

24 MR. FERGUSON: Thank you.

25 I don't mean to agree or disagree with the

1 concerns that have been expressed regarding consumer
2 confusion. I understand those points. I would just like
3 to make the point that currently there are dealerships in
4 the state that if you go on to their website and you look
5 at their used car inventory, they do have vehicles that
6 are not at that location listed under that location's
7 website. In other words, they may own them, they being
8 the parent company, but each individual dealership is a
9 separate entity.

10 And so if I go to look at a dealership let's
11 say in Houston at their website, it may indicate a vehicle
12 that's actually in Dallas; it's owned by an affiliated
13 company but it's not the same company.

14 So we, to some extent, already have this issue
15 going on with dealership families, mega-dealerships,
16 whatever you want to say, public and private. This
17 already exists in the marketplace.

18 So if we're not going to allow it because of
19 that, then we need to fix the other. If we're going to
20 fix the other while we do this, that's fine too, but it
21 seems like an uneven playing field right now.

22 Thank you.

23 MR. BLASSINGAME: Thank you, Member Ferguson.

24 MR. BRADBURN: Member Bradburn, may I have the
25 floor?

1 MR. BLASSINGAME: Member Bradburn, you have the
2 floor.

3 MR. BRADBURN: Thank you, sir.

4 What Mr. Doran said actually sounded pretty
5 reasonable to me. I wanted to comment on that. The only
6 issue that Corrie mentioned as the failure to transfer
7 titles.

8 Advertising the car is fine. Consumers in
9 Texas want cars, you can't find cars right now, but it
10 goes back to the tag discussion. When they sell the cars
11 too early, then they can't transfer the title, which is
12 all violations, then they're issuing a second tag.

13 As one dealer Mr. Doran mentioned -- I won't
14 mention by name -- they're now issuing Arizona tags to
15 bypass the Texas system. So we just have to be careful
16 that we don't create another problem with tags with this
17 process.

18 MR. BLASSINGAME: Thank you, Member Bradburn.

19 MR. DONNELLY: Member Blassingame, Member
20 Donnelly.

21 MR. BLASSINGAME: Member Donnelly, you have the
22 floor.

23 MR. DONNELLY: I guess maybe a point of
24 clarification. It looks like they're asking to add
25 verbiage to the very end of 215.245(e) too, and it

1 specifically spells out: advertise a vehicle they can
2 obtain the title from a manufacturer, a distributor, an
3 affiliated financial institution, and a motor vehicle
4 auction.

5 It's been my experience -- or my assumption
6 that a manufacturer pretty much has title or something
7 equivalent, same with a distributor. My experience is
8 affiliated financial institutions typically have titles as
9 well, so I feel like they're really just talking about the
10 motor vehicle auction.

11 And while I'm not against this because I don't
12 have enough information to be against this, I think that
13 the solution possibly comes from the fact that if the
14 auctions cannot sell a vehicle without a title, then we
15 would have a scenario where there would be a reasonable
16 time they can expect the title to show up, I don't know
17 that I'd have a problem with it.

18 Is it possible that we could discuss having a
19 requirement that all vehicles have to be sold with a title
20 instead of just retail?

21 MR. BLASSINGAME: Thank you, Member Donnelly.

22 Director Thompson, comment?

23 MS. THOMPSON: Yes. I appreciate the comment.

24 That is something that the department can take into
25 consideration if we're looking at the consideration

1 outside of retail as well when it comes to having the
2 title.

3 Thank you for the comment.

4 MR. DONNELLY: Thank you.

5 MR. BLASSINGAME: Members, do any of you have
6 any questions for TxDMV staff that have not been answered
7 yet?

8 MR. PRATHER: This is Steve Prather.

9 MR. BLASSINGAME: Member Prather, you have the
10 floor.

11 MR. PRATHER: Some of y'all may remember there
12 was a time back in, I guess it was the '90s, that General
13 Motors came up with an idea that they were going to open
14 up a used car dealership. The first one was going to be
15 in North Houston, and General Motors was going to be the
16 dealer themselves.

17 The State of Texas does not allow a
18 manufacturer or distributor to own or operate a new or
19 used vehicle franchise in the State of Texas. I think
20 that that's a great thing that the State of Texas
21 prohibits, because if you let the manufacturers start
22 owning dealerships, it will be like Apple phones: there's
23 a set price and that's it.

24 And I was a car dealer for many, many years,
25 and all us goofy car dealers get out there and cut each

1 other's throats on the price, which benefits the customers
2 of Texas, because everybody is trying to cut the other
3 guy's price.

4 But you let the manufacturers get into this
5 business, there will be a set price and there won't be any
6 negotiations, which will hurt the consumer.

7 But General Motors, many years ago back in the
8 '90s, tried to start up a deal that they were going to
9 take some of their off-lease cars and the like and they
10 were going to sell them -- the auction would have the cars
11 sitting at the auction and you go to a location, they had
12 no cars, and you go in there and get on the computer with
13 one of their little agents and you pick put the car you
14 want, and in two days or whatever they'd have that car
15 delivered to that location and they would sell it.

16 Well, General Motors tried to get licensed for
17 that, and they ran into all kinds of snags with the State
18 of Texas, and they ended up getting George DeMontrond, a
19 Buick dealer in Houston, to take over and run it, and it
20 didn't last any time. They didn't have the cars on the
21 lot; they were over at the auction.

22 And you know, people buy a lot of cars, they
23 look online and try to find cars. You see very little
24 newspaper advertisement anymore, and they look online for
25 cars, but when they show up, those that want to show up --

1 and many still do at the dealership, they don't want
2 somebody delivering a car to their house -- those cars
3 aren't there, they become disappointed real fast.

4 And General Motors tried this in a roundabout
5 way 25 years ago. I just think it's a bad idea. I think
6 it's bad for the consumer. And if you've got multiple
7 people advertising the same car, which could very well
8 happen, they're advertising it on a hope and a prayer that
9 they can even get that car. They don't have any direct
10 access to it.

11 Now, one of our members -- I think it was Mr.
12 Ferguson -- said that some dealers, like Gillman might
13 have multiple locations or Fred Haas might have several,
14 or Freeman Company could have a bunch.

15 Well, that company, whether it's an affiliated
16 company or not, that company owns and has direct access to
17 those cars. But the way I read this proposal, nobody has
18 access to the car until somebody pulls the trigger and
19 says I'll buy it, and they're not going to pull the
20 trigger and say I'll buy it until they have a customer.

21 I just think it's a horrible idea, so that's my
22 opinion. Thank you.

23 MR. BLASSINGAME: Thank you, Member Prather.

24 Are there any other questions or comments for
25 DMV staff?

1 MR. DORAN: This is Member Doran. I had a
2 question for staff.

3 MR. BLASSINGAME: Go ahead. Mr. Doran, you've
4 got the floor.

5 MR. DORAN: Sure. Will the GM representative
6 be able to answer questions from the members here on this
7 committee?

8 MR. RICHARDS: Officer Blassingame, David
9 Richards, for the record. May I speak?

10 MR. BLASSINGAME: Yes, sir.

11 MR. RICHARDS: Mr. Perry, once he makes his
12 comments, may answer some of the questions that have
13 been -- he's been on the call, my understanding, since it
14 started, so I'm sure we would ask him to address those in
15 his presentation, may in fact do that.

16 He has the ability -- or the members have the
17 ability, rather, to ask questions of him if his
18 presentation doesn't touch on something.

19 Thank you.

20 MR. DORAN: Great. Thank you.

21 MR. BLASSINGAME: Thank you, Mr. Richards.

22 Members, do you have any other questions for
23 TxDMV staff?

24 (No response.)

25 MR. BLASSINGAME: All right. David, you've

1 mentioned that we have a speaker present. I don't know if
2 he's present in the Austin office or if he's on the phone.

3 Mr. Perry, it would be nice to hear from you.
4 If you're physically present in the Lone Star Room, please
5 proceed to the table to speak. Otherwise, raise your hand
6 using the instructions provided and be mindful about
7 limiting any background noise. Also, please state your
8 name for the record and if you are representing anyone.

9 MR. WARDEN: Mr. Perry, you are unmuted and
10 good to go.

11 MR. PERRY: Thank you, Chair Blassingame. My
12 name is Jeff Perry. I represent General Motors. Thank
13 you all for taking the time to review our petition today
14 and the opportunity to speak to that petition and to
15 answer any questions.

16 I know that you have all read through the
17 petition, and I can maybe go through a couple quick points
18 to summarize it quickly, and I did take some notes here on
19 some of the questions that have been raised along the way,
20 so I'll try to address those as well in my comments here,
21 and then open myself up to any questions beyond that.

22 So as indicated, the petition is primarily
23 aimed at updating Texas vehicle advertising regulations
24 and just the advertising regulations, not titling, to
25 account for and reflect the modernized internet-based

1 consumer shopping preferences that the industry is moving
2 towards.

3 We also want to allow for a more robust online
4 marketplace that consumers are demanding with much greater
5 selection and transparency and to allow for a shopping
6 experience with less pressure.

7 The petition also provides for that better
8 customer experience. Financing, accessories can all still
9 be arranged while the vehicle is in transit but through
10 the dealer, and it's more efficient for the dealerships,
11 allowing them to smooth out their workflows, providing a
12 more convenient and less stressful experience for their
13 customer and allowing the dealer higher cash flow.

14 The dealers can sell deeper into the vehicle
15 supply pipelines, allowing them to turn their inventory
16 faster, avoid floor plan costs, and ultimately both the
17 customer and the dealer will experience a fresher
18 inventory of vehicles, decreasing the chance for lot
19 damage and further maintenance necessary to maintain
20 vehicles on the lot while they're awaiting sale.

21 These changes also align the Texas used vehicle
22 advertising regulations consistent with vehicle
23 advertising regulations that are already in place in the
24 State of Texas and makes Texas's vehicle advertising
25 regulation more consistent with similar regulations that

1 exist in nearly every other state.

2 A couple of the points that were brought up
3 here: Early on there was a comment relative -- and I
4 believe it was Member Doran that commented about the "some
5 other source" language that exists for new vehicles and
6 the difference as that relates to used vehicles.

7 We don't have any objection to the broader term
8 "some other source." I think our intention of limiting it
9 to the manufacturer, affiliated finance companies, and the
10 auction was, as was recently stated a few seconds ago,
11 relative of just some assurance that the title to the
12 vehicle is going to be readily available.

13 I will point out there was some comments made,
14 twice in fact, that the language that we're proposing
15 references that the title to the vehicle be available in a
16 reasonable amount of time, and our proposal does not in
17 any way, shape, or form intend to change your titling
18 requirements, and our language actually does not say that
19 the title has to be available in a reasonable amount of
20 time. It says that the vehicle has to be available in a
21 reasonable amount of time from one of those sources.

22 I do understand some of the other comments as
23 far as maybe there are other sources that would have these
24 vehicles. Perhaps it's a dealer that has it at another
25 one of the same dealer's locations. That may not be

1 covered by those terms; we're open to revising that to
2 include a vehicle available from another licensed dealer
3 location under the same requirements. I think that sort
4 of an expansion would be fine and make perfect sense here.

5 And I think as far as the term "reasonable," we
6 included that for a couple of reasons. Number one, that
7 seems to be the standardized terminology throughout the
8 country when it comes to this type of provision.

9 Many, many states are using that the vehicle
10 has to be available in a reasonable period of time.
11 Additionally, we felt that adding that term here for the
12 used vehicle provision was actually more limiting than the
13 current new vehicle provision that doesn't require the
14 vehicle be available within a reasonable period of time;
15 it just requires that the vehicle be available. So we
16 were reading this insertion of "reasonable" as being more
17 limiting, and again, more consistent with the rest of the
18 country.

19 There were a few comments made -- and I guess
20 I'll start with the comment that GM is looking to create
21 and get into this business of used vehicle sales. There's
22 absolutely nothing in this petition that would suggest
23 that GM is trying to get into business for itself on used
24 vehicle sales.

25 There's nothing in this petition that would

1 change anything under the existing new motor vehicle
2 dealer franchise laws that currently prohibit us from
3 owning or operating a dealership, and we weren't even
4 entertaining that conversation.

5 We've had extensive discussions with the Texas
6 Auto Dealers Association on this petition and the
7 reasoning behind it. Those conversations have gone well.

8 Ms. Phillips is not here today that I can tell, but I
9 don't think that she would be opposed to me saying they
10 were supportive of our efforts here. I did include that
11 as part of my statement in the overall petition, and she
12 has been copied on that petition; she's aware of my
13 statement there.

14 But we are not in any way, shape, or form
15 attempting to get ourselves into business. This is
16 intended to help motor vehicle dealers remain competitive
17 in a rapidly changing marketplace where numerous other
18 types of car dealerships are popping up, seemingly
19 overnight, that don't even have physical locations in your
20 state who are doing far more than this in terms of
21 advertising vehicles they don't own and aren't subject to
22 any sort of requirement that the vehicle can be obtained.

23 And they're shipping these vehicles all over the country;
24 they're obtaining them from all over the country.

25 This is merely allowing the dealers in the

1 state of Texas a little bit more opportunity to survive on
2 the used vehicles that they have, especially in an economy
3 and industry right now where we are experiencing extreme
4 shortfalls in production of new vehicles.

5 And I think this will help them remain more
6 competitive in that marketplace without in any way
7 touching the consumer protections that are out there
8 already for consumers, who do in fact want this type of
9 shopping experience.

10 So we don't set the price that these vehicles
11 would be advertised for. The dealers set their own price.

12 There's no outbidding, because there's no bidding for
13 these vehicles on the websites at all.

14 When a vehicle shows up as part of the dealer's
15 advertisement -- so we are currently running a program or
16 just launched a program called CarBravo with our dealers
17 that will allow the dealers the ability to access all of
18 the GM financial vehicles that come off-lease, which is
19 actually technically no different than they do today, and
20 the dealers would then be able to show those vehicles in
21 their inventory.

22 The language in the petition would still
23 require the dealer to indicate that the vehicle is not
24 presently available on the dealer's lot, so there's no
25 confusion or surprise to the customer there, and that is

1 consistent with -- and I'll use the example of Carvana
2 today, how they do it.

3 The customer then might show interest in that
4 vehicle, then selects the vehicle from the website and
5 says I'm interested and I want to talk to this particular
6 dealer about that vehicle.

7 At that point in time that vehicle is removed
8 from the inventory of any other dealer that is also
9 listing that vehicle. So there's no outbidding, there's
10 no chasing vehicles.

11 The vehicle is pulled off the internet for the
12 time-being while the dealer and the consumer negotiate a
13 non-final price. If they come to terms on a non-final
14 price, the vehicle is then shipped to the dealer where all
15 parties get to review the vehicle for its condition, and
16 then finalize their deal and at that point in time the
17 vehicle title is transferred.

18 So again, this is being done for the dealers,
19 not for the manufacturers. We feel like with the change
20 in the internet and a lot of the new marketplace
21 initiatives that are popping up from multiple independent
22 used car website that don't see to fall under any
23 regulations, that this is going to help dealers remain
24 competitive with consumers in the post-COVID marketplace.

25 I think I've touched on all of the points that

1 were made, but I am more than happy to try to answer any
2 other questions.

3 MR. DORAN: Presiding Officer Blassingame, this
4 is Member Doran. May I ask Mr. Perry a question?

5 MR. BLASSINGAME: Member Doran, you have the
6 floor.

7 MR. DORAN: Thank you.

8 Jeff, I'm sure you're aware, you know, Texas is
9 the second-largest car market in the country, and motor
10 vehicle sales tax is the second largest tax revenue source
11 in the state. I presume you're doing a similar initiative
12 in some other states in terms of looking at their
13 advertising laws and making adjustments where necessary.

14 Can you comment on what will happen to your GM
15 dealers in Texas if you don't get this change made? Will
16 they be missing out on sales, and by consequence, will the
17 State of Texas be missing out on some used car sales?
18 Will those vehicles ultimately end up being sold by
19 dealers in Louisiana, Oklahoma and other states?

20 MR. PERRY: Chair Blassingame, Jeff Perry with
21 General Motors to respond?

22 MR. BLASSINGAME: Mr. Perry, you have the
23 floor.

24 MR. PERRY: Thank you.

25 Member Doran, I would say the short answer is

1 yes. I think our GM dealers in the state of Texas would
2 end up missing out, to a degree, on the availability of
3 the off-lease vehicles, because the CarBravo platform is
4 how we are going to allow the dealers access to those
5 off-lease vehicles nationwide, and that program is being
6 launched nationwide.

7 All dealers that are on the CarBravo platform
8 will have the access to those vehicles under the same
9 conditions, and in fact, Mississippi and Arkansas just
10 last year revised their advertising regulations to permit
11 this type of advertising -- and again, we're just talking
12 about advertising here, no changes to titling -- and
13 Louisiana is preparing a consideration of the same.

14 I would say, as I mentioned before, the
15 majority of the country already allows this, and in the
16 past year I've had to approach six states, including
17 Texas, for revisions to modernize their statutes, and so
18 far, every state that I've approached on that has made the
19 changes or is working towards the changes to make their
20 new vehicle and used vehicle language consistent.

21 MR. DORAN: Thank you.

22 MR. BLASSINGAME: Thank you, Mr. Perry.

23 Are there any other questions for Mr. Perry?

24 MR. PRATHER: This is Steve Prather. May I
25 speak?

1 MR. PERRY: Member Prather, you have the floor.

2 MR. PRATHER: Thank you very much.

3 You mentioned that you talked to Karen Phillips
4 and she supports this? I called her yesterday -- she's
5 not on the call today; she's on her way to Las Vegas for
6 the NADA Convention, annual NADA convention -- and I asked
7 her: Do you support all this?

8 And she said, I truly believe the car ought to
9 be at the dealership when it's advertised; I don't believe
10 you ought to advertise a car you don't have. That's what
11 she told me yesterday.

12 I don't know what your and her conversation
13 was, but I've known Karen for years and years, and I
14 called her to ask her her thinking on that, and that's
15 what she told me as recent as yesterday.

16 Now, I kind of find it troubling that a hundred
17 or a thousand dealers can advertise the same car. I think
18 that's confusing to the general public. As a consumer, I
19 think it's confusing. And every one of them will
20 advertise it for a different price, and you know that
21 because you don't set the price. I just think it's a bad
22 idea.

23 Now, you talk about Carvana, well, Carvana
24 doesn't advertise them at different prices. Carvana is
25 one company, and whatever cars they advertise are all

1 advertised at the same price. And most of the companies
2 are no-negotiation, one-price type deals, is my experience
3 from what I read and see about them. I've never bought a
4 car from one of them.

5 But I just find that difficult for a consumer
6 to have, you know, a Silverado pickup 2020 model with
7 58,010 miles on it, advertised by multiple dealers at
8 multiple prices. So that's my thinking on it.

9 Thank you.

10 MR. BLASSINGAME: Thank you, Member Prather.

11 MR. DONNELLY: Chair Blassingame, Member
12 Donnelly.

13 MR. BLASSINGAME: Member Donnelly, go ahead,
14 you have the floor.

15 MR. DONNELLY: Question for Mr. Perry. So just
16 another point of clarification: It sounds like you're
17 looking for the opportunity to present your off-lease
18 vehicles to be sold, and there is a reasonable amount of
19 time, because it's your off-lease vehicles you probably
20 have the titles at that financial institution. Is that
21 correct?

22 MR. PERRY: Chair Blassingame, response please?

23 MR. BLASSINGAME: Mr. Perry, respond.

24 MR. PERRY: Member Donnelly was it?

25 MR. DONNELLY: Yes.

1 MR. PERRY: Yes. That would be an accurate
2 statement, that our off-lease vehicles the title is held
3 with our financial institution, the captive finance
4 company.

5 MR. DONNELLY: Follow-up question. Our
6 off-lease vehicles, do the titles ever go to auction?

7 MR. PERRY: Chair Blassingame, response?

8 MR. BLASSINGAME: Respond, Mr. Perry.

9 MR. PERRY: Mr. Donnelly, yes, the off-lease
10 vehicles do occasionally go to auction. Under our current
11 process if the dealers who have the opportunity to
12 purchase them first do not buy them, the process is that
13 those vehicles would go to auction, and similarly, the
14 title follows the vehicle from the captive finance
15 company.

16 MR. DONNELLY: I was just kind of wondering why
17 the auction terminology was in there when the financial
18 institution, your off-lease vehicles -- a financial
19 institution, I could see where you could get it, but I'm
20 curious as to why they added the "auction" verbiage in
21 there as well.

22 MR. PERRY: Chair Blassingame, response?

23 MR. BLASSINGAME: Mr. Perry, you have the
24 floor.

25 MR. PERRY: Yes, sir, Mr. Donnelly. The

1 "auction" language was primarily added with the
2 understanding that many dealers in the state of Texas, as
3 well as around the country, obtain numerous vehicles for
4 their used vehicle lots through the auction house, which
5 are not necessarily our off-lease vehicles, and again, we
6 weren't looking to provide any additional limitations on
7 the dealers. We want them to be able to use all of their
8 existing vehicle sources possible to alleviate, I guess,
9 the strain in the marketplace right now in terms of
10 availability.

11 MR. DONNELLY: Thank you, Mr. Perry. Thank you
12 for coming and answering our questions. That's all I
13 have.

14 MR. PERRY: Thank you.

15 MR. BLASSINGAME: Thank you, Member Donnelly.
16 Members, do you have any other questions for
17 Mr. Perry?

18 MR. SRALLA: Member Sralla. May I have the
19 floor?

20 MR. BLASSINGAME: Member Sralla, you have the
21 floor.

22 MR. SRALLA: Mr. Perry, is the recommendation
23 here or I guess the language -- would this be asking for a
24 temporary solution during this "pandemic time" or if this
25 language were to pass this now becomes statute?

1 MR. PERRY: Chair Blassingame, response,
2 please?

3 MR. BLASSINGAME: Yes, go ahead, Mr. Perry.

4 MR. PERRY: Member Sralla, our position on this
5 is the petition is a request for a permanent change to the
6 advertising rules. I don't foresee that Carvana and Vroom
7 plan to go out of business after the COVID crisis ends; I
8 believe they probably plan to expand their business
9 operations.

10 So I think, again, this is something that's
11 intended to help the franchised motor vehicle dealers who
12 have a physical location in the state of Texas a better
13 opportunity to compete more fairly with these
14 organizations that don't have physical locations in your
15 state and are selling vehicles nationwide that customers
16 can't see.

17 MR. SRALLA: May I have the floor again? This
18 is Member Sralla.

19 MR. BLASSINGAME: Member Sralla, you have the
20 floor.

21 MR. SRALLA: And I appreciate the answer there,
22 but I guess my question is then why does the
23 recommendation list COVID-19 as part of the reasoning
24 here?

25 MR. PERRY: Chair Blassingame, response?

1 MR. BLASSINGAME: Mr. Perry, you have the
2 floor.

3 MR. PERRY: Thank you.

4 Member Sralla, I suppose the reason we've
5 included COVID-19 as a reference in the petition is
6 because it was the COVID-19 pandemic experience that
7 brought a lot of this to our attention and brought us to
8 the realization that this has really become the impetus to
9 a rapidly changing marketplace and online shopping
10 experience that customers are now demanding.

11 And throughout the pandemic our dealers were
12 realizing that customers were becoming more and more
13 comfortable with and starting to insist upon the ability
14 to shop online before they head out to make a final
15 purchase anywhere.

16 And companies like, as I said, Carvana, Vroom,
17 and similar, were basically attracting a lot more of that
18 consumer attention than our dealers could because our
19 dealers were limited by the laws in the State of Texas.

20 MR. SRALLA: Thank you for your response.

21 MR. PERRY: Thank you.

22 MR. HAYTER: Chairman Blassingame, can I ask a
23 question? This is Russell Hayter.

24 MR. BLASSINGAME: Member Hayter, you have the
25 floor.

1 MR. HAYTER: Thank you.

2 For the GM representative, would you just kind
3 of go through the proposed scenario here of how you see
4 these transactions occurring and identify the problem that
5 you're trying to fix with this rule change, and just go
6 through it very much in detail and how many steps would
7 this take, what would actually occur, and what protections
8 are in place for the consumer in this situation that
9 you're proposing? Thank you.

10 MR. BLASSINGAME: Mr. Perry, you have the
11 floor.

12 MR. PERRY: Thank you.

13 Mr. Hayter, absolutely. Essentially the
14 problem, as I've indicated, is that today the state of
15 Texas is more or less an outlier among the rest of the
16 United States, because the advertising requirements on a
17 used vehicle for a dealer in the state of Texas are more
18 strict than they are for new vehicles, and the rules for
19 advertising used vehicles are not in alignment with the
20 majority of the rules in the rest of the country, allowing
21 dealers in the rest of the country to do things dealers in
22 Texas cannot.

23 And specifically in the state of Texas we have
24 a situation where the dealers are subject to advertising
25 restrictions on their used cars that are not being applied

1 similarly to online website-based used car shops that have
2 no physical location in the state of Texas.

3 These rules changes are intended to, A,
4 modernize Texas's rules to be consistent with the rest of
5 the country as well as consistent with the State of Texas
6 new vehicle provisions, but also, and probably most
7 importantly, to give dealers in the state of Texas the
8 ability to better compete against the ever-growing list of
9 online used vehicle retailers that are basically coming in
10 and stealing sales and market share on used vehicles
11 because they're not subject to the same restrictions as
12 the dealers in the state of Texas.

13 The changes would simply allow a dealer, as
14 we've written them, to say: The manufacturer has this
15 vehicle available and I, as a dealer in the state of Texas
16 can include those vehicles in my inventory so that my
17 customers that want to shop my used vehicle inventory will
18 see that those are available to me; the listing for that
19 vehicle will have my price on it, and the listing for that
20 vehicle will also indicate the vehicle is not presently at
21 my location, but it can be obtained from the manufacturer,
22 the finance source, or an auction within a reasonable
23 period of time.

24 At that point if the customer then goes
25 shopping off the dealer's website and says, I'm shopping

1 at Dealer Smith and I'm looking at Dealer Smith's used
2 vehicle inventory and I see Dealer Smith has a Chevy
3 Malibu for sale but it's not currently at at the dealer's
4 location, I'm very interested in that vehicle.

5 All the typical specifics would still show up
6 for that vehicle in terms of mileage and options, VIN
7 number, et cetera. If I'm interested in that vehicle, I
8 simply click on it that I'm interested, and that point it
9 removes that vehicle from any other dealer that has
10 elected to show that vehicle in their inventory. So no
11 other customer can now shop that vehicle until I'm done
12 talking to my dealer.

13 At that point the dealer contacts the customer.

14 The dealer would have received a notice upon the customer
15 clicking that saying the customer is interested. The
16 dealer contacts the customer.

17 The customer and the dealer work out a pre-
18 negotiated price, obviously pending arrival and visual
19 walk-around of the vehicle. Once the dealer and the
20 customer have indicated that they have reached the
21 agreement, the vehicle will get shipped to the dealer by
22 the manufacturer, and when it arrives, the dealer and the
23 customer finalize all of their paperwork and agreements.

24 The dealer does a final assessment of the
25 trade-in value, and then once they've signed the

1 paperwork, the customer has purchased the vehicle. Your
2 titling laws as they exist today would still apply.

3 That's actually pretty consistent with the
4 exact same or a very similar process that consumers are
5 going through today with Carvana. The only exception
6 there is when the customer selects the vehicle, what that
7 does at CarBravo is it takes it offline; other customers
8 can't see it. And they finalize their purchase
9 information with Carvana.

10 Carvana then charges the customer a delivery
11 fee to take it to their house, and if the customer doesn't
12 like the vehicle when it gets to their house, the customer
13 does have the right to reject it, but they forgo their
14 delivery fee.

15 MR. BLASSINGAME: Member Hayter, did that
16 answer your question?

17 MR. HAYTER: I'd like to ask a follow-up,
18 please.

19 MR. BLASSINGAME: Yes, sir. You have the floor.

20 MR. HAYTER: What provision do you have that
21 would prohibit a lot of non-located -- when I say non-
22 located, I mean non physically located dealers popping up
23 under this scenario and selling cars that they don't have
24 on their lot because they don't even have a lot?

25 MR. PERRY: Chair Blassingame?

1 MR. BLASSINGAME: Mr. Perry, you have the
2 floor.

3 MR. PERRY: Thank you.

4 Member Hayter, there really is nothing specific
5 in this petition, nor in your current law, that would
6 apply to that situation. That's exactly how Carvana and
7 Vroom are doing business in your state today. That
8 language does not apply to them because they don't have a
9 facility in your state.

10 MR. BLASSINGAME: Member Hayter, did that
11 answer your question?

12 MR. HAYTER: It did answer the question, but I
13 think it may have made some other questions in my mind
14 about how they're doing that and whether they should be
15 brought under the same statute as our licensed dealers,
16 but that's for another time.

17 Thank you, sir, for your answer.

18 MR. PERRY: Thank you.

19 MR. BLASSINGAME: Members, do any of you have a
20 question for Mr. Perry?

21 MR. PRATHER: This is Steve Prather. May I
22 speak a minute?

23 MR. BLASSINGAME: Mr. Prather, go ahead.

24 MR. PRATHER: Thanks much.

25 First, I want to say something to those of you

1 that are not in the car business or don't have personal
2 contacts with people in the car business. Don't feel
3 sorry for the car dealers that I know in Texas -- and I
4 know many of them -- they're making more money than
5 they've ever made in their life and they are some kind of
6 excited about what this COVID problem has created for
7 their financial profits.

8 But my question is to staff. If the
9 Transportation Code says you have to have the car and own
10 the car to be selling the car, does that mean you have to
11 own the car to sell it or you have to own the car to offer
12 it for sale? What's the Transportation Code say?

13 MR. BLASSINGAME: Director Thompson.

14 MR. RICHARDS: Corrie Thompson, director of the
15 Enforcement Division.

16 To answer that question, going back to how I
17 started the discussion of this item when I referenced
18 501.0234 of the Transportation Code, that's the section,
19 Subsection (f), that puts the dealer duty to transfer the
20 title within the time specified by law, and that law is in
21 Texas Administrative Code 215.144, where we get that
22 timeline provision, the 20 days or the 45 days depending
23 on the type of sale that's consummated by the consumer.

24 Those sections relate to the types of
25 violations that I discussed about late title transfers, so

1 that's in a different subchapter of the rules.

2 The rules that we're discussing now under
3 Subchapter H does pertain only to advertising, and these
4 would be different types of violations that the
5 Enforcement Section investigators would go after.

6 So if this rule were to pass and a consumer
7 came and complained that a dealer did not follow this new
8 provision, if it were proposed and passed as is, then we
9 would potentially go after the dealer for an advertising
10 violation which subjects them -- first, advertising rules
11 are different in that we have to offer the dealer a cure
12 on the first instance of a violation, and that's per
13 statute that we have to do that. Say: Hey, you violated
14 this advertising provision, don't do it again, it could
15 subject you to additional sanctions, including penalties
16 or revocation of your license.

17 If we're talking about selling the vehicle
18 without having the title, that's a late title transfer
19 violation separate and apart. You don't get a warning on
20 a first occurrence of that. The department generally
21 sends out a notice of department decision, which includes
22 a penalty sanction to be imposed on the dealer.

23 So still separate violations. This is talking
24 about the ability to simply advertise the vehicle without
25 having possession of it, and again, separate and apart of

1 that duty to not sell the vehicle until you have the
2 title, which would still subject you to a violation if
3 this rule were to pass as proposed.

4 MR. PRATHER: Okay. This is Steve Prather
5 again.

6 So what you're saying is the Transportation
7 Code does not say you can't advertise a car that you don't
8 own today; it just says you can't sell a car that you
9 don't have title or power of attorney or whatever for.
10 Right?

11 MS. THOMPSON: Correct.

12 MR. PRATHER: So it's not against the law today
13 to offer a car for sale you do not own?

14 MS. THOMPSON: So we're talking about what's in
15 the Transportation Code for sales versus what's related in
16 the Transportation Code to advertising.

17 So in statute there are advertising provisions
18 that say advertisements may not be false, deceptive, or
19 misleading. I don't have it pulled up in front of me
20 right now, but I'm pretty sure that that's the specific
21 language. There's also an advertising provision that says
22 the department has to give a dealer an opportunity to cure
23 on the first instance of a violation of an advertising
24 rule.

25 So the sections are chunked out, and when we go

1 into the rule that makes the specific provisions on this,
2 that's where we get the date timelines that you have to
3 transfer the title that you should have when you sell the
4 vehicle.

5 And then the specific existing rule that does
6 exist that says you have to have possession of the vehicle
7 before you can advertise it, if we're talking about a used
8 vehicle, that does currently exist in rule in 215.245.

9 MR. PRATHER: But in the current rule it says
10 you have to have the vehicle in possession, but it does
11 not address whether you have to have the title or the
12 right to own that car immediately.

13 MS. THOMPSON: In the advertising section
14 there's two provisions that have to exist to be able to
15 advertise the used vehicle: possession with the dealer at
16 the time the advertisement is placed, and the title to the
17 used vehicle being assigned to the dealer, and that's at
18 the time of the advertisement. That exists in current
19 rule.

20 MR. PRATHER: Okay. And what this deal would
21 allow is for you to advertise a car that you did not have
22 ownership of. Right?

23 MS. THOMPSON: Correct.

24 MR. PRATHER: Okay. Well, now, the FTC -- I
25 know that's the federal government, not the state -- the

1 FTC guidelines require you to put a FTC Buyers Guide on
2 every used car, and that car has to have a Buyers Guide on
3 it prior to the offering for sale. And I know that's a
4 federal deal and not a state deal, but from what you
5 understand, how does that come into play?

6 MS. THOMPSON: So Buyers Guide violations are
7 also separate violations that the department enforces on
8 dealers as well, so if we see a vehicle that doesn't have
9 a Buyers Guide on it, we cite that separately for
10 violations to -- I would have to look into the provision
11 about the offer for sale in our definitions, if you'll
12 give me a minute to pull it up -- I do believe that an
13 advertisement is an offer for sale in our definition.

14 MR. PRATHER: Okay. Well, then how can you
15 have an FTC Buyers Guide on that car when you offer it for
16 sale when you put an ad in when you don't even have the
17 car?

18 MS. THOMPSON: So that's a separate discussion
19 point that needs to be considered surrounding this
20 proposed amendment.

21 MR. PRATHER: Okay. And that's in reference to
22 what the state says, and then you also have the federal
23 deal that says you have an FTC Buyers Guide on there,
24 which is a federal rule.

25 MS. THOMPSON: Yes, but the department also has

1 a provision in rule that allows us to cite a dealer for a
2 violation for not having a Buyers Guide on a vehicle that
3 is on their lot.

4 So again, that's different instances, so every
5 case is fact-specific. So someone would be getting cited
6 for that violation if a consumer reported to the
7 department that they went to a dealer's lot, they looked
8 at a used vehicle, and it did not display the Buyers Guide
9 on the vehicle at the time is when we would cite that.

10 MR. PRATHER: Okay. And I got one or two other
11 questions, because I don't understand.

12 Vroom has a dealership in Sugar Land, Texas,
13 but they also sell online, and Carvana sells online. Does
14 the State of Texas not govern how they advertise cars in
15 the state of Texas whether they're an out-of-state dealer
16 or not?

17 MS. THOMPSON: So those dealerships are
18 licensed by the State of Texas, so those dealerships have
19 locations in the state of Texas, and when they have
20 locations in the state of Texas they do still have to meet
21 the premises requirements and follow the rules as other
22 licensed dealers do.

23 There is a provision in statute that allows for
24 an exception for off-site sales where a vehicle can be
25 delivered off-site if a person never darkens the doorstep

1 of your dealership. So someone never comes, you can offer
2 the vehicle for sale online and deliver it to them and the
3 person never makes an appearance at your dealership. That
4 is permissible under current statute.

5 MR. PRATHER: Okay. Well, I was just kind of
6 confused, because I thought Mr. Perry said Vroom and
7 Carvana and them were doing stuff because they were
8 nationwide dealers and they didn't have to fall under the
9 rules that Texas dealers have to fall under. So that's
10 not a fair statement.

11 MS. THOMPSON: No. We would investigate any
12 advertising complaints received on either of those
13 dealerships.

14 MR. PRATHER: Okay. Well, either he said that
15 or I misunderstood; I don't know which. I thought he said
16 that they didn't come under the same rules.

17 MS. THOMPSON: Okay. And so while we were
18 talking, I pulled up the department definition of an
19 advertisement in 215.244. "Advertisements are oral,
20 written, graphic, or pictorial statements or
21 representations made in the course of soliciting business,
22 including but not limited to statements and
23 representations made in newspapers, magazines, other
24 publications, notices, signs, aired on the radio,
25 broadcast on the internet or television, streamed via an

1 online service, and does not include a direct
2 communication via the person or the person's
3 representative and a prospective purchaser."

4 And so if you are saying that there's a
5 conflict with the definition in Federal Trade Commission
6 provisions, that's something that we could look into.

7 MR. PRATHER: Okay. But it would be a
8 violation to do this General Motors deal if the dealer
9 doesn't have an FTC Buyers Guide on that car when he
10 offered it for sale, as the regulations stand today?

11 MS. THOMPSON: I would have to go and look at
12 that provision; I don't have that before me right now.
13 That's something the department can look into.

14 MR. PRATHER: Okay. Thank you.

15 MR. DONNELLY: Member Blassingame, Member
16 Donnelly. Question for Director Thompson.

17 MR. BLASSINGAME: Member Donnelly, you have the
18 floor.

19 MR. DONNELLY: Ms. Thompson, I'm trying to sort
20 out in my mind, and I want to see if I'm correct on this.

21 GM is a company that has cars that they want to sell to
22 their dealers. Carvana is a dealer that has possession of
23 cars, regardless of whether they have a location here or
24 anywhere in the United States. They are a single company,
25 so they're not really under the same constraints as, say,

1 General Motors, who is trying to sell their cars through
2 their individual dealer network. Is that accurate?

3 MS. THOMPSON: I would have to have you pose a
4 scenario to me so that I could answer the question. We're
5 talking about with regard to advertising?

6 MR. DONNELLY: Yes. So GM Financial has a car
7 that they want to sell, offer for sale, and they want to
8 offer it for sale through Capital, and I don't know,
9 Sterling McCall, if you don't mind. They want all of
10 their dealers to have the opportunity to sell it to one of
11 their customers.

12 So in that case the dealers seem to be at a
13 disadvantage to Carvana because if Carvana has that car,
14 it doesn't matter what location sells it, because Carvana
15 is the dealer and all their locations fall under the
16 umbrella of that dealership, so they theoretically could
17 sell that car at any one of their dealerships -- sorry --
18 advertise the car for sale and actually ship it to any of
19 their dealerships and be compliant with the advertising
20 scenario. The challenge here, I'm hearing, is that GM has
21 the cars and they want their dealer network to be able to
22 sell them.

23 Am I grasping this?

24 MS. THOMPSON: I think I might be a little
25 lost.

1 MR. DONNELLY: You and me both.

2 (General laughter.)

3 MS. THOMPSON: So I apologize. We'll, of
4 course, have a transcript available of the meeting today
5 and so I can go back and try to read that a little bit
6 more in detail to see if that's something the department
7 can look into for you.

8 MR. DONNELLY: Can I spin that over to Mr.
9 Perry, if he's still on the call? Do you mind, Member
10 Blassingame?

11 MR. PERRY: Member Blassingame, this is Jeff
12 Perry. I'd respond?

13 MR. RICHARDS: Mr. Perry, go ahead and respond,
14 please.

15 MR. PERRY: I think it was Member Thompson that
16 asked the question, Thomas.

17 As you presented the situation, I guess, I'm
18 not as certain that Carvana owns all the vehicles that's
19 listed on their website. I have shopped for cars on
20 Carvana's website for my own kids and found that vehicles
21 were popping up on there that were actually at
22 dealerships, not owned by Carvana.

23 MR. BLASSINGAME: Mr. Donnelly?

24 MR. DONNELLY: Mr. Perry, though, is the
25 challenge that GM has cars and they want to be able to

1 offer them for sale through their GM network, whereas
2 Carvana has cars that they've purchased at an auction and
3 because Carvana purchased the cars, all of their locations
4 have the ability to sell them?

5 MR. PERRY: I guess that's what I was intending
6 by my answer, is I'm not so certain that Carvana owns all
7 of the cars that it's listing.

8 MR. DONNELLY: And I caught that. I apologize.
9 This is Member Donnelly.

10 In the event, though, that Carvana buys a car
11 at an auction, under the current advertising rules of the
12 State of Texas, they can advertise that car for sale at
13 Carvana, whereas if GM has a car, the GM dealers are not
14 able to advertise that car because they're two separate
15 entities. Is that accurate?

16 MR. PERRY: That would be correct.

17 MR. DONNELLY: Thank you. I just had to put
18 that to bed. My apologies, y'all.

19 MR. PERRY: Thank you.

20 MR. BLASSINGAME: Thank you, Member Donnelly.
21 Thank you, Mr. Perry.

22 Any other questions for Mr. Perry?

23 (No response.)

24 MR. BLASSINGAME: David, are there any other
25 commenters?

1 MR. DORAN: This is Member Doran. I just had a
2 question for staff, a procedural question.

3 MR. BLASSINGAME: Mr. Doran, you have the
4 floor.

5 MR. DORAN: Thank you.

6 So just a question in terms of where we go from
7 here. I know I had a question early on about whether we
8 could have the language that currently deals with new
9 vehicle advertising be mirrored with respect to used car
10 advertising. I heard staff on that, and then I also heard
11 Mr. Perry on that.

12 My question is from here will we have the
13 formal comment period where we could put in writing our
14 thoughts on that? In other words, Corrie, can you just
15 sort of walk us through where this goes from here?

16 MS. THOMPSON: Corrie Thompson, director of the
17 Enforcement Division. Officer Blassingame, may I have the
18 floor?

19 MR. BLASSINGAME: Director Thompson, you have
20 the floor.

21 MS. THOMPSON: Procedurally, the department is
22 going to go back, take a review of the comments and
23 concerns that were expressed in the meeting today, and if
24 we feel that we need additional input from the advisory
25 committee, then we would, of course, bring this back for

1 consideration, but that would have to be within the 60-day
2 time period in order to respond to the petition, which I
3 believe takes us to probably around April 12 for the 60
4 days. Don't quote me on that; it should be somewhere
5 around that time frame.

6 Otherwise, if the department were to proceed
7 with initiating rulemaking, the item would be placed on a
8 board meeting agenda at some point in the future, and if a
9 proposal was allowed by the board, then, yes, that would
10 be open for a formal comment period for anybody to come in
11 from the public and make comment on the proposal. If we
12 were to deny the petition, obviously we would never arrive
13 at that point.

14 Does that answer your question?

15 MR. DORAN: Yes. Thank you.

16 MR. BLASSINGAME: Are there any other
17 questions?

18 MR. SRALLA: Member Sralla. May I have the
19 floor?

20 MR. BLASSINGAME: Member Sralla, you have the
21 floor.

22 MR. SRALLA: Well, is this question time or is
23 this time for us to make recommendations?

24 MR. RICHARDS: Officer Blassingame, David
25 Richards, for the record.

1 MR. BLASSINGAME: David Richards, you have the
2 floor.

3 MR. RICHARDS: Thank you, sir.

4 Member Sralla, this is only a briefing and
5 discussion item at this time. We've received a lot of
6 very valuable commentary from both GM and the membership,
7 so as Ms. Thompson just mentioned, we'll take this back
8 and review all that, and then we'll proceed accordingly.
9 But we're not taking any recommendations at this time
10 since it's not an action item.

11 Thank you.

12 MR. SRALLA: Thank you, sir.

13 MR. BLASSINGAME: Are there any other public
14 comments?

15 MR. RICHARDS: Officer Blassingame, David
16 Richards, for the record. May I have the floor?

17 MR. BLASSINGAME: Mr. Richards, you may have
18 the floor.

19 MR. RICHARDS: No, sir. Members, we do not
20 have any other public commenters at this time. Thank you.

21 MR. BLASSINGAME: Thank you, Mr. Richards.

22 If none, I will move on to agenda item 3,
23 public comment. Do we have any comments from the public?

24 MR. SRALLA: Member Sralla. May I have the
25 floor?

1 MR. BLASSINGAME: Member Sralla, you may have
2 the floor.

3 MR. SRALLA: Actually, I go back to -- of
4 course, so much time has passed since we got there, but
5 earlier on I believe Director Thompson asked, when I used
6 the word I didn't expect "reasonable" I believe at that
7 time she did mention was there a recommendation on
8 timeline that was other than reasonable. Am I correct
9 about that?

10 MR. BLASSINGAME: Director Thompson.

11 MS. THOMPSON: Corrie Thompson, director of the
12 Enforcement Division.

13 Yes. I asked if members wanted to comment on
14 any additional language that they felt would more
15 accurately describe that situation.

16 MR. SRALLA: Member Sralla. May I have the
17 floor?

18 MR. BLASSINGAME: Member Sralla, you have the
19 floor.

20 MR. SRALLA: Yeah. Okay. Then I guess my
21 comment on that would be instead of the word "reasonable"
22 I would ask that maybe 45 days or something along those
23 lines, because that way at least we know that there's a
24 time frame, and I believe that might give people time.

25 And I understand that you have the eTITLES, I

1 understand people trading for things out of California and
2 that sort of thing, that could be a cause of the problem,
3 but I would think that you would know within a certain
4 amount of time -- I don't know but I'm guessing within a
5 certain amount of time that your petition to get that
6 title has been received and then that way you can
7 advertise it for 45 days. And then also, it gives a
8 guarantee to the customer, to the consumer that this is a
9 reasonable amount of time.

10 MR. BLASSINGAME: Member Sralla, could you
11 state that one more time?

12 MR. SRALLA: My comment would be that instead
13 of using the word "reasonable" -- I'm not saying that I'm
14 in favor of this, but if the department was wanting to
15 move forward with it, instead of the word "reasonable," I
16 would be interested in hearing something along the lines
17 of a 45-day, and so that way the consumer has a direct
18 period of time.

19 And what that would mean is that the dealer
20 could advertise it once they got some confirmation from
21 the State of California, or whomever, wherever the title
22 is, that this title is now on the way and will be
23 available in a certain period of time, and then that way
24 they could start advertising at that time.

25 MR. BLASSINGAME: Director Thompson?

1 MS. THOMPSON: Corrie Thompson, director of the
2 Enforcement Division.

3 I appreciate that additional comment. Thank
4 you.

5 MR. DORAN: This is Member Doran. Permission
6 to speak?

7 MR. BLASSINGAME: Member Doran, you have the
8 floor.

9 MR. DORAN: So to follow up on that last
10 question and comment, though, would that not be keying the
11 dealer up for potential advertising violation if, let's
12 say, they receive an indication from California that it's
13 going to be in a certain period of time and then that DMV
14 office or that county office out in California has to shut
15 down for COVID and they don't inform the dealer, and so
16 now it's gone beyond the 45 days, the consumer says, hey,
17 where's my car, and the dealer has to shrug their
18 shoulders and say, I'm sorry. And then the customer comes
19 down to the DMV and now files a complaint. Right? Is
20 that not what we're potentially keying up here by having a
21 hard fast deadline?

22 MR. SRALLA: Member Sralla. May I have the
23 floor?

24 MR. BLASSINGAME: Member Sralla, you have the
25 floor.

1 MR. SRALLA: It could possibly be an issue like
2 that, but otherwise, what you're doing is you're just
3 allowing it to be an open-ended process for the consumer,
4 which I believe erodes consumer confidence for all of us.

5 MR. DORAN: This is Member Doran again. If I
6 could just respond to that comment.

7 MR. BLASSINGAME: Member Doran, you have the
8 floor.

9 MR. DORAN: I very much respect that input and
10 I understand the concern, but I would just argue that the
11 consumer's expectations today when going in to buy a new
12 vehicle, if they're ordering one, they are oftentimes
13 finding that through various supply disruptions related to
14 chips and other components that the vehicle that they
15 expected on a certain date are getting pushed back
16 sometimes weeks, months, very far back.

17 So I think in this day and age the expectation
18 of the consumer on that timeline, although not indefinite,
19 I agree, has reached a level where some reasonable
20 expectation of possible delays has become customary.

21 Thank you.

22 MR. BLASSINGAME: Thank you, Member Doran.

23 MR. SRALLA: Member Sralla. May I have the
24 floor?

25 MR. BLASSINGAME: Member Sralla, you have the

1 floor.

2 MR. SRALLA: Member Doran, I respect where
3 you're coming from and understand that. The difference
4 here being the difference between new and used. When
5 something is new, it's being manufactured for that
6 customer, that customer has their name on it or at least
7 it's in a queue, whereas now we're talking about a used
8 vehicle that we're really never sure that we can actually
9 ever get a title because things do happen, or titles are
10 unobtainable or it could take years and things like that.

11 So that's two different things, in my opinion.

12 The new, we know for a fact that even there may be a
13 delay, but we know for a fact that that vehicle can be
14 built by that manufacturer. Thank you.

15 MR. BLASSINGAME: Thank you, Member Sralla.

16 Are there any other comments?

17 MR. PRATHER: This is Steve Prather. May I
18 speak?

19 MR. BLASSINGAME: Member Prather, the floor is
20 yours.

21 MR. PRATHER: Thank you.

22 On this proposal for this advertising deal, it
23 says it might be in a reasonable time. Well, the
24 reasonable time might be never, because if I put in that
25 I'm wanting to buy that car and there's 30 other people in

1 Texas advertising that car, well, that is never available
2 to those other dealers. So the word "reasonable time"
3 might mean never available even though I advertise it.

4 MR. DONNELLY: Member Blassingame, Member
5 Donnelly. Question, maybe comment.

6 MR. BLASSINGAME: Member Donnelly, the floor is
7 yours.

8 MR. DONNELLY: I'm under the impression that
9 the vehicle is never going to be sold if the title cannot
10 be transferred, so the customers getting an inconvenience
11 that they didn't get the car they wanted, they might have
12 put a deposit down, but since they're not asking for the
13 ability to sell a car but rather advertise, the reasonable
14 time frame is just a matter of making your customer happy
15 as far as getting him delivery, since there's no real
16 transaction taking place because that would violate the
17 Transportation Code. Am I correct?

18 MR. BLASSINGAME: Director Thompson?

19 MS. THOMPSON: Yes, I would say that's a
20 correct statement, Member Donnelly.

21 MR. DONNELLY: Okay. Thank you.

22 MR. BLASSINGAME: Are there any other comments?

23 MR. RICHARDS: Officer Blassingame, this is
24 David Richards, for the record. May I have the floor?

25 MR. BLASSINGAME: Mr. Richards, you may have

1 the floor.

2 MR. RICHARDS: Members, I just highly encourage
3 you in future meetings to speak up when the chair asks for
4 comments on an agenda item. All this commentary has been
5 made under item 3, public comment, which is not in
6 accordance with Robert's Rules of Orders.

7 So while we value your comments, please make
8 them at the time the agenda item is called and your
9 presiding officer asks for the comments, and I think the
10 meeting will go a lot more smoother if we do that. But we
11 do very much, let me underscore, appreciate your comments
12 on this particular item.

13 There are no public comments at this time,
14 Officer Blassingame.

15 MR. BLASSINGAME: Thank you, thank you very
16 much, David.

17 With that being said, I would move to adjourn.

18 MR. SRALLA: Second.

19 MR. BLASSINGAME: We have a motion and a
20 second. All in favor please say aye.

21 (A chorus of ayes.)

22 MR. BLASSINGAME: It is now 11:38 a.m., and we
23 are adjourned.

24 (Whereupon, at 11:38 a.m., the meeting was
25 adjourned.)

C E R T I F I C A T E

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MEETING OF: TxDMV Motor Vehicle Industry Regulation
Advisory Committee

LOCATION: Austin, Texas

DATE: March 9, 2022

I do hereby certify that the foregoing pages,
numbers 1 through 124, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Nancy H. King before the
Texas Department of Motor Vehicles.

DATE: March 21, 2022

/s/ Nancy H. King
(Transcriber)

On the Record Reporting
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