

NEW HAMPSHIRE UNION LEADER

Why do we micromanage auto dealer contracts?

By: Charles Arlinghaus – April 10, 2013

Not every problem demands government action. Not every business relationship needs micromanaging intervention by legislators. Yet in this day and age the first course of action for many businesses is to turn to their elected friends for a little help.

A classic example of crony capitalism at work is the Legislature's intervention on behalf of auto dealers in their relationships with manufacturers. Everyone likes auto dealers. They're nice guys, big donors to a variety of civic and political interests, even think tanks on occasion. They tend to be among the largest employers in many political districts and very visible parts of the community.

It's natural that our elected officials want to lend them a helping hand. The auto dealers managed to convince almost the entire state Senate to intervene in the franchise agreements they have with manufacturers. Auto manufacturers insist, as part of the franchise agreements, on many things. The franchisees believe that some of these things just cost money and do not actually sell any more cars.

No one would suggest that McDonald's or Dunkin Donuts can't insist on anything they want in their franchise agreements. It would be great if I could get a hot dog at McDonald's. It is just silly that they won't let their franchisees sell hot dogs. It probably costs them sales. But any suggestion that government intervene in that relationship would be dismissed out of hand.

Cars are different. They're bigger, cost more, and go fast. Apparently that means micromanaging is on the table. The state currently has 34 pages of rules and regulations about car franchise agreements, and the retailers want many more.

Cars really are different from most consumer products. There is no other consumer product that you cannot buy direct from the manufacturer. None. It is in fact illegal - an unfair business practice punishable by law - for Buick to sell you a car directly.

The sales monopoly provided by law to dealers is intended to protect them in two ways. First it shields them and their investment from the Internet competition that is allowed in every other business (think about bookstores and competition from Amazon.com). This is a concern every business has, but no others are allowed to shield themselves from it.

Second, we are giving them leverage in their relationship with the supposedly all-powerful manufacturers. They must be granted exclusive rights or the manufacturers could ruin them. This is also the supposed reason for 34 pages of current state laws that regulate this franchise system and no other.

A recent paper by the economic analysis group of the Department of Justice found

potential savings of as much as \$3,000 per vehicle from the currently prohibited direct-to-consumer sales of vehicles. In recent years, direct sales have been promoted by groups as diverse as the libertarian Cato Institute, the moderate Democratic Progressive Policy Institute, and the liberal Consumer Federation of America.

But to protect auto dealers, and we all like the local guys, we are asked to forgo those potential savings and maintain a dealer sales monopoly. We are also asked to support the current 34-page set of laws that regulate this one set of franchise agreements. Now that's not enough. Apparently the government needs to step in and pick sides yet again.

Now it's not just cars, but lawn mowers. Farm equipment and lawn mowers are being redefined as motor vehicles for the purposes of franchise regulation (I'm not making that up; your lawn mower is now a car). You can't blame the mower guys for wanting to get in on a good deal. The only question is which product will be next.

In addition, we are told horror stories of franchisees forced to use non-local suppliers or do things that cost too much money (the biggest complaint is expensive remodeling too often). I'm sure any franchisee in any business can tell stories of the dumb things that "corporate" makes them do, cost them money, and don't apparently help anyone. But in this case the dealers get to write their complaints into law.

I'm not about to defend any stupid decision that some auto manufacturer makes. But they are a private business and their stupidity is not the government's business. Not every stupid decision demands government action.

It is inconsistent to insist on the government protecting your exclusive franchise monopoly and then complain that the monopoly comes with annoying strings attached.

Rather than micromanaging a private agreement between a business and a franchisee, perhaps the government ought to eliminate the restrictions that make this the only consumer product in America that I can't buy direct from the factory.