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## Department of Justice

October 24, 1995

Dear

Larry Kingery of the Iowa Division of Banking forwarded your letter of June 23, 1995 to me since I am the deputy administrator of the Iowa Consumer Credit Code.

You have stated that

has been asked to consider purchasing retail installment contracts which contain a separately identified charge for maintenance contracts. You state that in these contracts, the dealer agrees to perform certain regularly scheduled maintenance on the vehicle being purchased, such as oil changes, filter replacements, or tire rotations. You state that the contracts do not provide any coverage for mechanical failure of the type typically associated with extended service contracts. You state that a third party will administer the arrangement and will arrange insurance for the dealer to cover the costs of this arrangement that exceed a certain amount.

You state that "it would appear the dealers should be able to finance the cost of such contracts as part of a consumer credit sale under the Iowa Consumer Code by treating them as 'charges for other benefits' under § 537.2501(1)(f) of the Code as long as the charges are reasonable in relation to the benefits." You also state that it appears "acceptable to treat the cost of a maintenance agreement as a service component of the cash price as defined in § 537.1301(8)." I disagree for the reasons outlined below.

Although you referenced Iowa Code § 537.2501(1)(f), I assume you are referring to Iowa Code § 537.2501(1)(h), since this is the "charges for other benefits" section that you have referenced. Iowa Code § 537.2501(1)(h) specifically states that charges for other benefits must be "authorized as permissible additional charges by rule adopted by the administrator." As you acknowledge in your letter, there is presently no rule regarding the financing

of maintenance agreements. Without such a rule, it would not be permissible to assess the charge as a separate additional charge disclosed in addition to the finance charge. Iowa Code § 537.2501 is intended to be a specifically delineated list of those additional charges that may be disclosed in addition to the finance charge. It is not true therefore, that \_\_\_\_\_ can simply make an independent determination that the charge for the maintenance contract meets the requirements of § 537.2501(1)(h) and disclose the charge as a separate additional charge. Instead, any "charges for other benefits" must be authorized by rule adopted by the administrator to ensure that they are "of value to the consumer, are reasonable in relation to the benefits, and are of a type which is not for credit."

I also disagree with your statement that it would be acceptable to treat the cost of a maintenance agreement as a service component of the "cash price" as defined in Iowa Code § 537.1301(8). That section states that "cash price" is the price at which goods and services are "sold by the seller to cash buyers in the ordinary course of business." It goes on to state that cash price "may include the cash price of accessories or services related to the sale, such as delivery, installation, alterations, modifications, and improvements and taxes to the extent imposed on a cash sale...". The maintenance agreement does not appear to be an accessory or service related to the sale or fit under any of the listed categories under Iowa Code § 537.1301(8).

In sum then, I disagree that a vehicle retail installment sale contract may contain a separately identified charge for a maintenance contract as part of the cash price. Such a charge is not listed as a permissible charge that may be assessed in addition to the finance charge under Iowa Code § 537.2501. A charge for a maintenance contract is also not an accessory or service related to the sale so that it would fit under the definition of "cash price" under Iowa Code 537.1301(8).

I hope this letter is responsive to your inquiries. For your information, I have also enclosed an informal advisory letter issued from this office in 1985 that addresses the issue in regard to service contracts. Please note that this letter is neither a ruling of the Iowa Consumer Credit Code Administrator, nor an opinion of the Attorney General.

Sincerely,

KAREN DOLAND  
Deputy Administrator of the  
Iowa Consumer Credit Code