

May 27, 2014

Ms. Lois Greisman  
Associate Director, Division of Marketing Practices  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

**Re: Kia aftermarket oil filter ban violates Magnuson Moss Warranty Act**

Dear Ms. Greisman:

Almost exactly two years ago, our organizations submitted a complaint (see attached) to the FTC regarding a technical service bulletin from Kia that authorizes dealers to deny warranty coverage simply based on the use of an aftermarket filter without any determination that the filter actually caused the problem with the vehicle. The letter pointed out the fact that this practice is clearly a violation of the Magnuson Moss Warranty Act (MMWA). Specifically, the letter stated:

*The MMWA manufacturer's burden of proof is not that it need merely show an aftermarket part "relates" to damage, but that it "caused" any alleged damage. As the FTC states in its consumer alert: "The Magnuson-Moss Warranty Act makes it illegal for companies to void your warranty or deny coverage under the warranty simply because you used an aftermarket or recycled part." The alert goes on to say that if there is a problem with use of an aftermarket part or how it was installed, the manufacturer or dealer may deny a warranty claim. However, the manufacturer must first "show that the aftermarket or recycled part caused the need for repairs before denying warranty coverage." Kia's directives circumvent this process entirely: the mere presence of an aftermarket oil filter automatically voids warranty coverage for the oil change parts and services as well as any damage Kia says "relates" to oil filter function.*

Despite our complaint, the FTC has yet to do anything to enforce the MMWA requirements with Kia. Now, Consumer Reports (CR) is further promoting the Kia technical bulletin in an article (see attached) that has been seen on the Yahoo's front page as well as other locations. If there was any doubt about how the technical bulletin is being interpreted by consumers, one only needs to read the recommendations from CR for motorists with Kia vehicles under warranty:

1. When dropping your car off for service, make sure you don't authorize the dealer to perform repairs without speaking with you first. This way you won't get a surprise bill for an oil and filter change.
2. If your Kia is still under the powertrain warranty, considering taking it to the dealer for oil changes. Yes, it probably costs more than the quick-lube store, but you'll avoid any potential problems with oil- and filter-related warranty claims.

3. Consider buying Kia-approved oil filters and either using them when you do your own oil changes, or have your mechanic or quick-lube store use the Kia filter and not their own.

Note that CR is specifically recommending that car owners either go back to the authorized dealer or use a Kia oil filter in direct contravention of the consumer options codified in MMWA. To arrive at that recommendation, the report perpetuates Kia's sleight of hand regarding the manufacturer's burden of proof. In Kia's world, and now CR's as well, it is the *consumer* who must prove that an aftermarket filter didn't cause engine damage, which is exceptionally handy for Kia given their failure to establish a technical basis for their proprietary filter mandate.

The main loser of course is the consumer who, as the CR article states, must now pay more for an oil change. While CR clearly should have done more to research this issue before publishing the article, the fact remains that the FTC failed to undertake its responsibilities under the law and take action to halt Kia's anticompetitive and anti-consumer actions. The absence of action by the Commission is now cascading, as evidenced by the CR posting, into further misinformation to consumers and subsequently more harm to Kia owners and to those who service and supply parts for Kia vehicles.

Therefore, once again, we are calling on the FTC to immediately take action to have Kia withdraw the technical bulletin in question and to issue a new bulletin clarifying that car owners are permitted to use non-OE filters without jeopardizing the warranty coverage of their vehicles.

Thank you for your attention and please provide us with a response as soon as possible. The issuance of the Consumer Reports article is causing extensive damage to our industry and immediate action by the Commissions is needed to stop this practice.

Sincerely,



Meredith Robertson  
Executive Director  
Automotive Oil Change Association



Aaron M. Lowe  
Vice President, Government Affairs  
Auto Care Association (formally the Automotive Aftermarket Industry Association)



Roy Littlefield  
Executive Vice President  
Tire Industry Association &  
Service Station Dealers of America