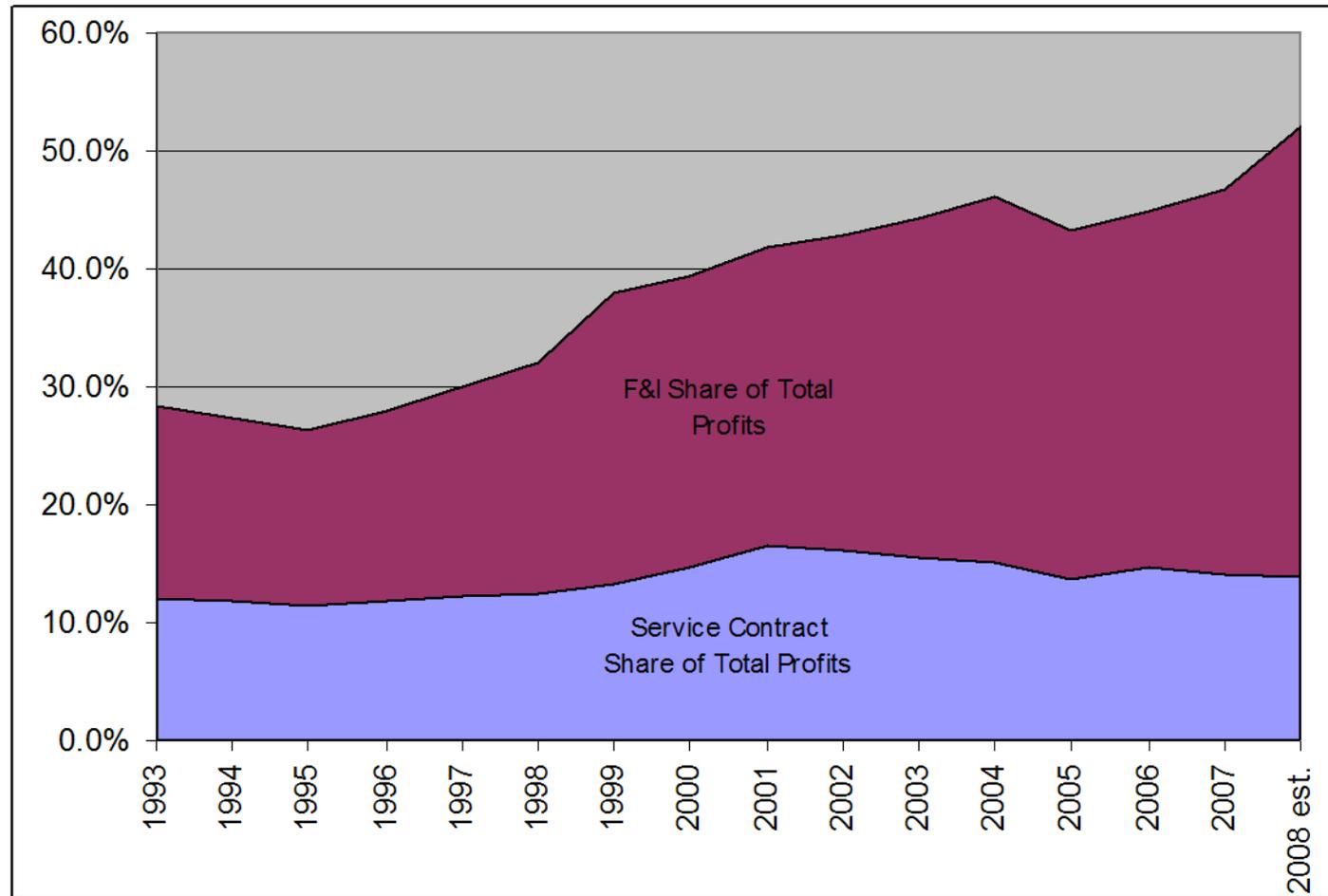




Auto Lending Abuses: Where Do We Go From Here?

Presentation of Chris Kukla
Working Cars for Working Families:
Real Progress, Real Opportunities
October 29, 2010

Share of Dealership Profits



Source: F&I Magazine (www.fi-magazine.com/Statistics)

Car Lending Abuses

- Dealer markup/kickback:
 - Dealer has discretion to increase the interest above the rate for which the borrower qualifies
 - Dealer pockets part or all of the proceeds from the increased rate.
- Legal at the state level.
- In NC, dealer has no obligation to inform consumer whether markup occurred or the amount of the markup levied.

Prior Research Shows Race Influences Dealer Kickbacks

	Primus	American Honda Finance Corporation	Ford Motor Credit	Nissan Motor Acceptance Corp	General Motors Acceptance Corp
Time Period	Jan 2001 - Feb 2004	Jun 1999 - Mar 2003	Jan 1994 - Apr 2003	Mar 1993 - Sep 2000	Jan 1999 - Apr 2003
Total Sample Size	219,278	383,652	855,989	310,718	1,511,913
% African American in Sample	16.3%	11.6%	11.6%	19.0%	8.5%
Average Amount Financed (African-Americans)	\$17,655	\$19,333	\$19,383	\$16,749	\$20,443
Average Amount Financed (Whites)	\$18,408	\$17,656	\$20,563	\$15,922	\$21,530
% With Markup (African-Americans)	61.8%	43.3%	48.5%	71.8%	53.4%
% With Markup (Whites)	41.1%	22.2%	30.9%	46.7%	28.2%
Relative Odds Ratio % (African-Americans)	232%	268%	210%	289%	292%
Relative Odds Ratio % (Whites)	43%	37%	48%	34%	34%
Average Markup (African-Americans)	\$862	\$557	\$684	\$970	\$656
Average Markup (Whites)	\$475	\$227	\$337	\$462	\$244

Source: Dr. Mark A. Cohen, *Imperfect Competition in Auto Lending* (Dec 2006)

Dealer Kickbacks in US and NC

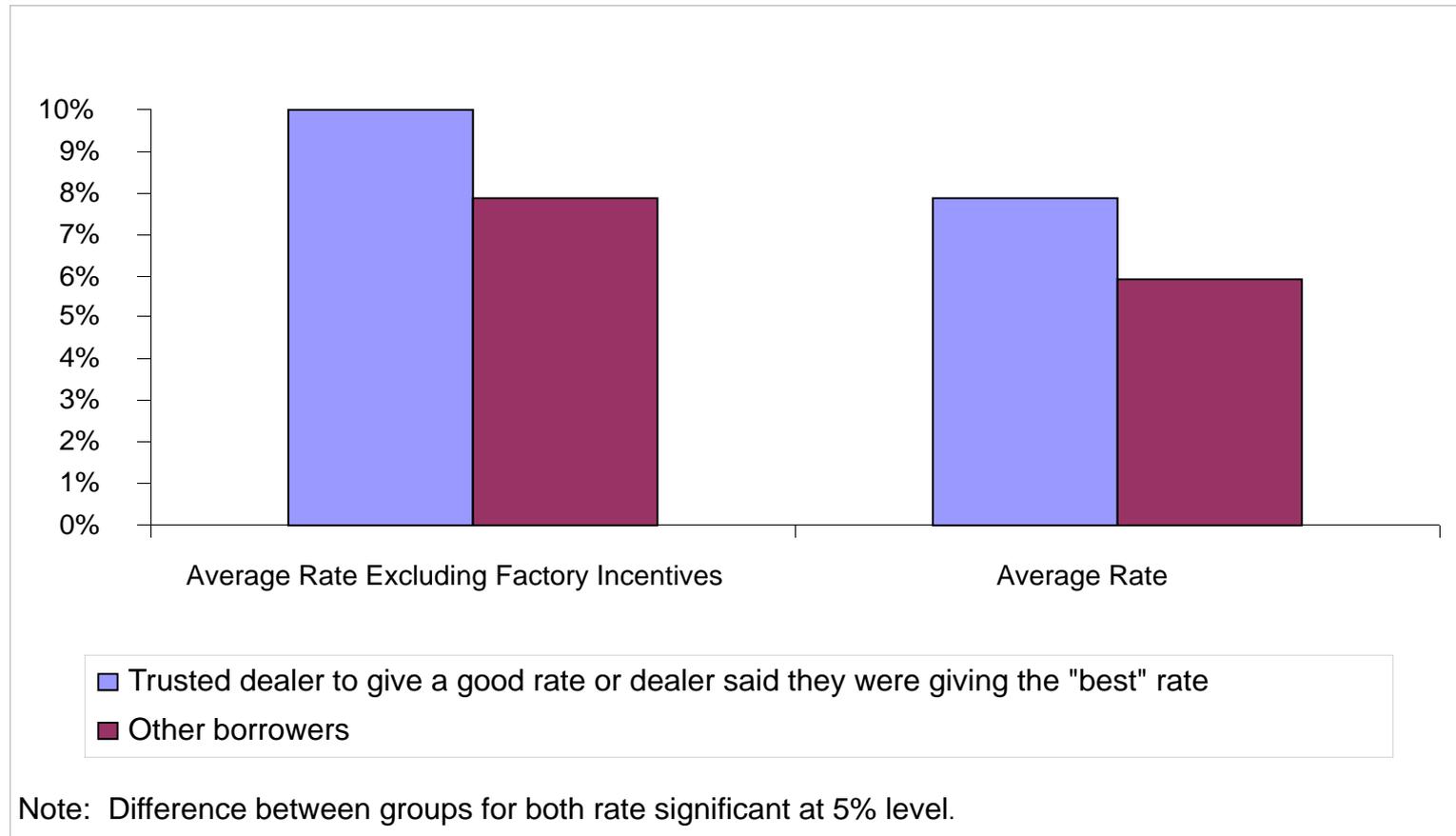
Table 1: 2007 Dealer Reserve Kickback Volume in the U.S and North Carolina

	New Vehicles	Used Vehicles	All Vehicles
US Dealer-Financed Sales	11,450,000	20,814,714	32,264,714
US Kickback Volume (\$ mm)	\$8,739	\$12,125	\$20,864
NC Share of National Dealer-Financed Sales	2.97%	3.34%	3.21%
NC Dealer-Financed Sales	340,065	695,211	1,035,276
NC Kickback Volume (\$ mm)	\$260	\$405	\$665
Average NC Kickback per Sale	\$764	\$583	\$642

Sources:

Consumer Bankers Assoc, *2008 Automotive Finance Study* (dealer reserve data);
and CNW Market Research (new & used car sales by state)

The “Trust Tax”

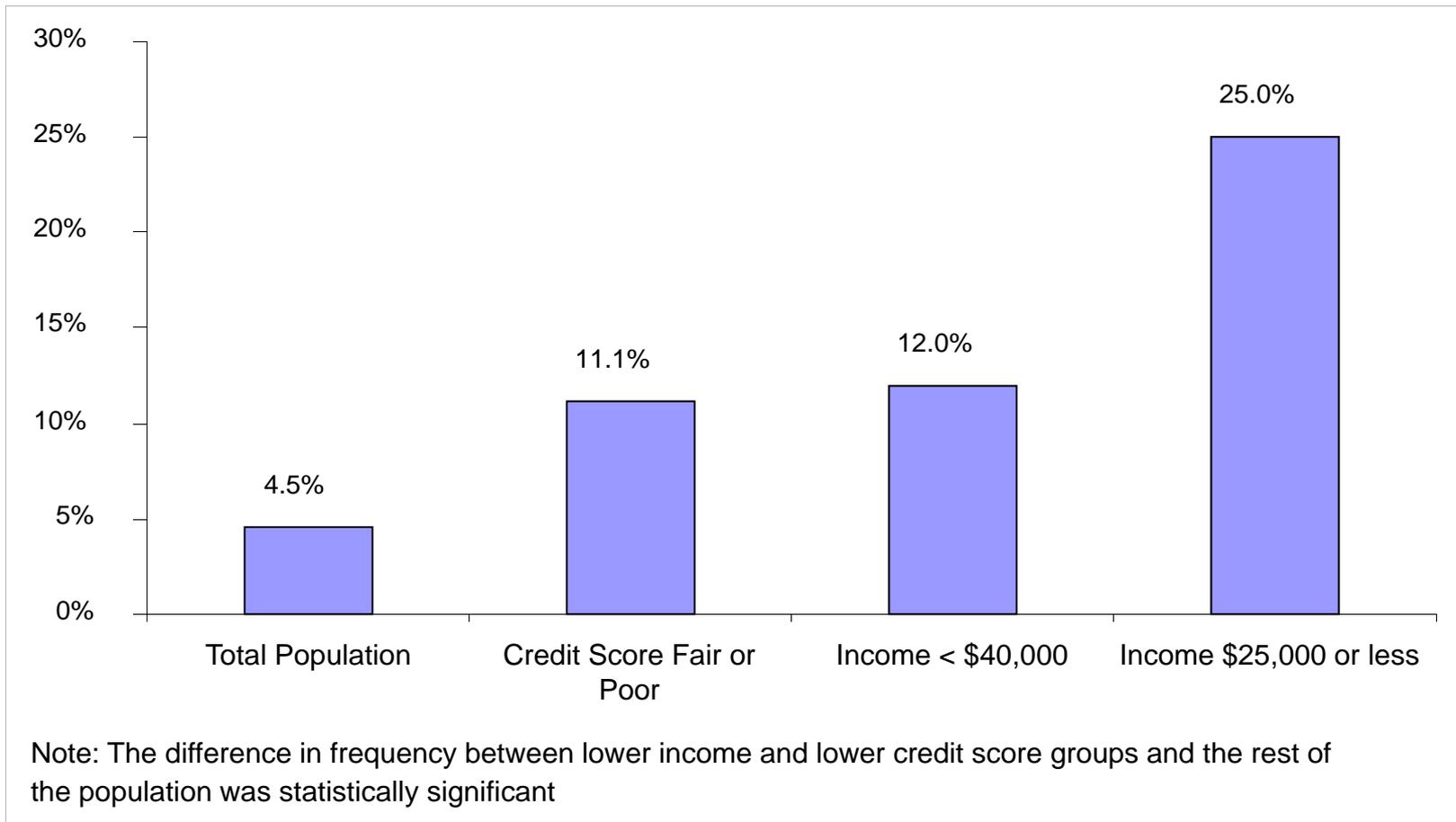


Source: CRL-sponsored survey through Macro International’s CARAVAN phone interviews

Car Lending Abuses

- Yo-yo Scams:
 - Dealer entices consumer to sign conditional sales agreement,
 - Consumer is brought back to the dealer with the car,
 - Consumer is told that interest rate will be much higher than previously thought,
 - When consumer tries to back out of deal, told that trade-in has been sold and/or down payment is non-refundable.
 - Consumer who does not return the car threatened with repossession and/or criminal charges (theft).

Prevalence of Yo-Yo Scams (on average rates 5 percentage points higher)



Source: CRL-sponsored CARAVAN phone survey

Car Lending Abuses

- Loan Packing:
- Finance and insurance office of car dealers sell a vast number of products:
 - Extended warranties, vehicle service contracts, GAP protection, wheel and tire protection, security/anti-theft devices, credit insurance, rustproofing, paint protection, roadside assistance....
- Products usually expressed as change to monthly payment, true cost hidden.
- Profit margins extraordinarily high.

Industry Data on Add-on Penetration

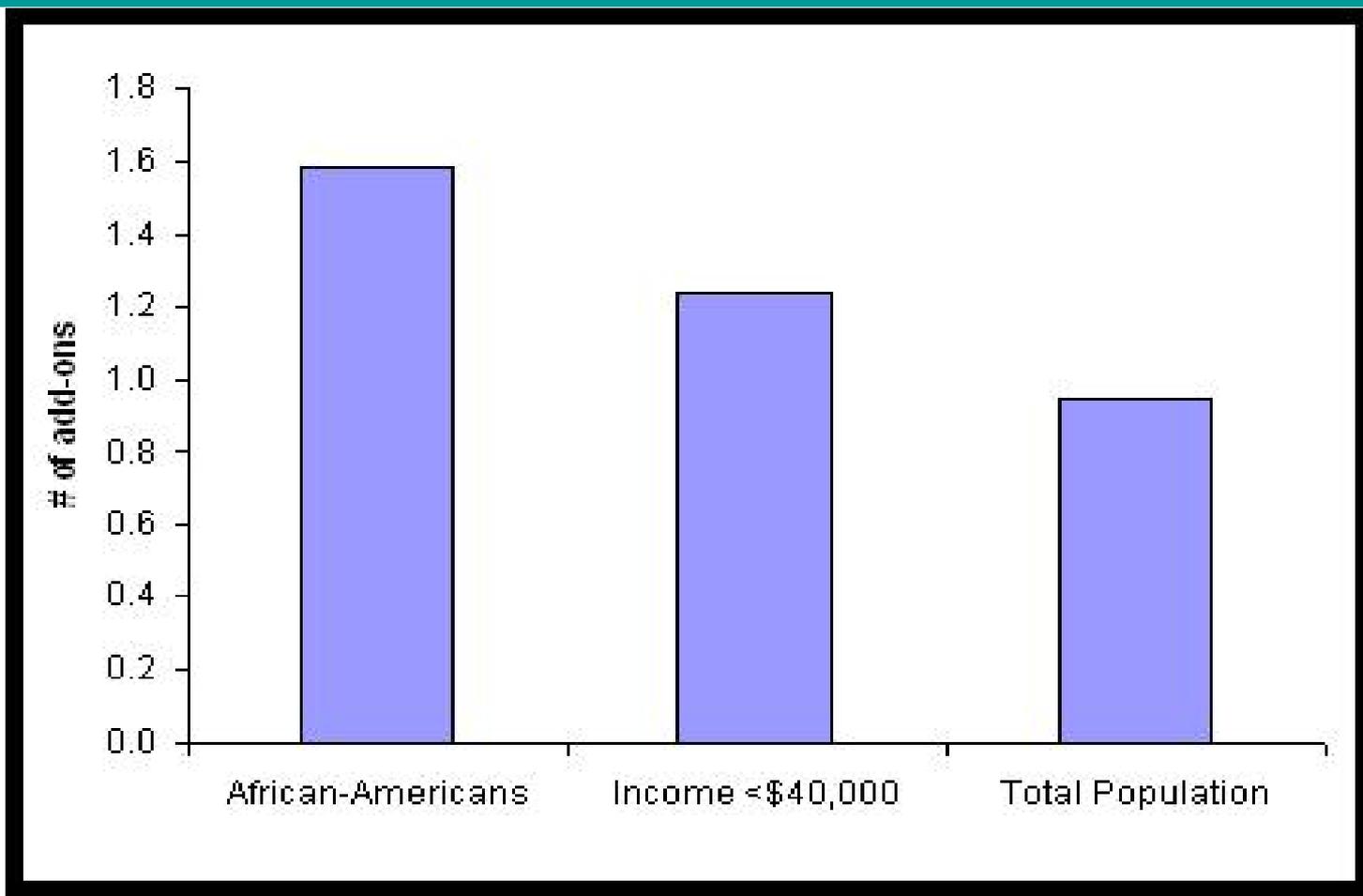
NEW VEHICLES				
F&I Add-On Product	Market Penetration	Cost Per Vehicle Per Month	Average Loan Term (months)	Cost Per Vehicle
GAP Protection	16%	\$5	62.0	\$315
Vehicle Service Contracts	26%	\$13	62.0	\$795
Theft Deterrent/Window Etching	15%	\$4	62.0	\$225
Credit Life and Disability Insurance	3%	\$8	62.0	\$496

USED VEHICLES				
F&I Add-On Product	Market Penetration	Cost Per Vehicle Per Month	Average Loan Term (months)	Cost Per Vehicle
GAP Protection	23%	\$7	60.7	\$438
Vehicle Service Contracts	30%	\$13	60.7	\$795
Theft Deterrent/Window Etching	18%	\$4	60.7	\$269
Credit Life and Disability Insurance	5%	\$8	60.7	\$486

Source: F&I Magazine (www.fi-magazine.com/Statistics)

Who Gets Add-ons

(sometimes sold as mandatory or without customer knowledge)

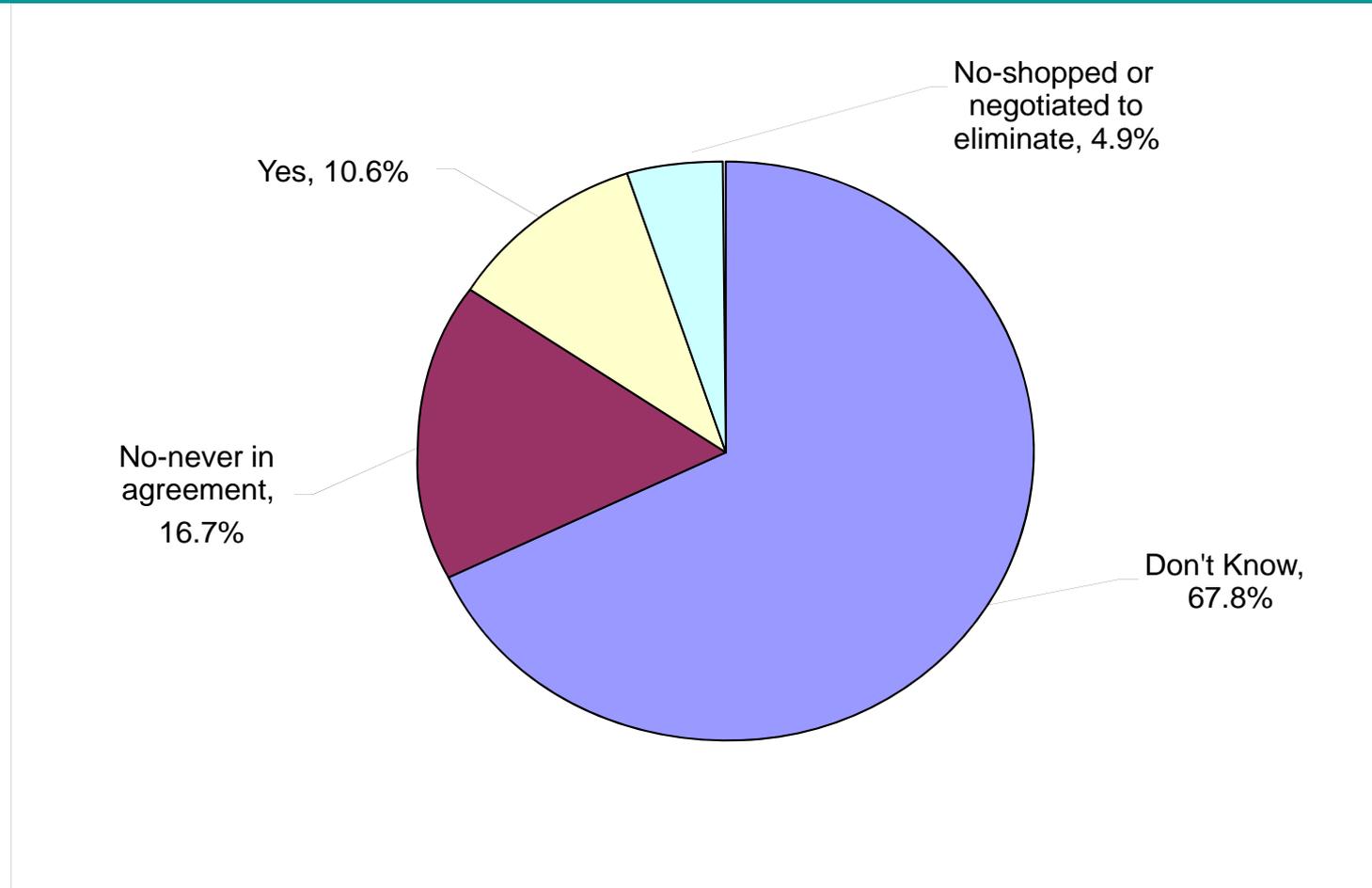


Source: CRL-sponsored CARAVAN phone survey

Car Lending Abuses

- Mandatory Arbitration
- Rolling negative equity into new loan.
- Failure to pay off lien on trade in.
- Powerbooking – using monthly payment target to set price of car and/or number of add-ons.
- Claims that ancillary products are lender requirement.

Most Consumers Unaware of Mandatory Arbitration



Source: CRL-sponsored CARAVAN phone survey

Impact of Financial Reform Law

- Bureau of Consumer Financial Protection created.
- BCFP will receive consumer protection functions from all regulators July 11, 2011.
- Can write rules for “providers of consumer financial products and services” with limited exemptions.
- Will have enforcement and supervision authority for larger lenders.

Impact of Financial Reform Law

- BCFP has rulemaking authority under consumer financial laws and to prevent unfair, deceptive or abusive acts.
- Car dealers that primarily engage in the sale or lease of vehicles to consumers AND service of vehicles AND routinely assign finance contracts to unaffiliated third parties are exempt.
- Takes most franchise dealers out (those with service departments), leaves independents w/o service department and Buy Here-Pay Here lots in.

Impact of Financial Reform Law

- BCFP will have authority over lenders who purchase auto loan contracts from dealers.
- FTC will have rulemaking and enforcement authority over dealers, with regular rulemaking process.
- State AGs and regulators can enforce FTC/CFPB rules.

Impact of Financial Reform Law

- FTC and BFCP will have a hand if car lending reforms happen.
- Dealer markups, yo-yo scams, loan packing, powerbooking, warranty issues, mandatory arbitration all within purview.
- Fight over dealer exemption gave greater exposure to abuses.
- Military also engaged.

North Carolina Legislative Efforts



- 2005
 - Two attempts to change RISA
 - “Loan commitment fee” carve-out
 - Prepayment penalties on car loans
 - Attempt to change other car laws
 - Would have allowed dealers to sell cars with 1000 miles or less as new, even if car sold to someone else!
 - All three initiatives did not pass legislature

- 2009
 - Legislation introduced that would:
 - Ban dealer interest rate markups (dealer reserve)
 - Eliminate yo-yo sales
 - Require the dealer to return trade-in and down payment
 - Allow the buyer to cancel the deal at any time before the financing is signed
 - Require more transparency for add-on F&I products
 - Require dealer to show individual price for all add-ons expressed as total cost, not impact on monthly payment
 - Require dealer to show buyer the total cost of the car with add-ons and without.

Role of the States

- State regulators see abuses on the ground.
- State legislatures have the authority to act as well.
- Need to have coordination between states and federal regulators to share information and complaints.

Contact Information



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