Volume 110, No. 5 March 18, 2013

Upcoming DealersEdge webinars

The Chicago Automobile Trade Association has established a partnership with DealersEdge to provide high-quality training and informational webinars that offer the content to CATA member dealers at a significantly discounted rate.

The rate for CATA members for the weekly presentations is $149, half what is charged to users who do not subscribe to DealersEdge. Webinars premiere on a near-weekly basis.

Even for dealers who hold an annual membership with DealersEdge, the new relationship with the CATA represents a savings because DealersEdge offers its Webinars to its own members for $198. Regular annual membership fees are $397, and normal webinar fees are $298 for non-DealersEdge members.

Once purchased, DealersEdge webinars and accompanying PDF files can be downloaded and viewed later—and repeatedly. No matter how many people watch at your location, each connection costs a CATA member just $149. A telephone connection is not needed; and the fee includes both PowerPoint slides and audio.

To register for any of the DealersEdge webinars, go to www.cata.info. On the tan bar across the top of the screen, click on Education/Careers and follow the drop-down menu to CATA-DealersEdge webinars.

Coming topics:

Thursday, March 21 at 12 p.m. CST

"What Variable Department Managers Need to Know About the Financial Statement" Better understanding of the financial statement can help guide you to higher gross profit and more bottom line profit.

The goal of every retailing department in the dealer-

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CATA to host training program, job fair for veterans May 13-14

A new CATA initiative, "Operation Troop Train," launches this spring to help military veterans return to the workplace and to connect qualified candidates with local dealers.

The association partnered with the Illinois Department of Employment Security to select interested candidates who will undergo a CATA-provided automotive training curriculum. Immediately after the training, candidates will be able to participate in a job fair at the CATA office.

The training portion for the returning servicemen and women will be all day May 13 and in the morning on May 14; the job fair follows in the afternoon on May 14.

The IDES will select 40 candidates for the automotive training program, and the CATA will open the job fair to new-car dealers.

Interested CATA dealers should contact Jennifer Morand, the CATA's senior public relations and social media manager, to secure a spot or obtain additional details. She is at (630) 424-6084 and jmorand@drivechicago.com.

FTC updates disclosure guides for online, mobile advertising

The Federal Trade Commission has released new guidance for mobile and other online advertisers which explains how to make disclosures clear and conspicuous to avoid deception. The FTC first commented on the matter in 2000.

The updated FTC staff guidance, ".com Disclosures: How to Make Effective Disclosures in Digital Advertising," takes into account the expanding use of smartphones with small screens and the rise of social media marketing. It also contains mock ads that illustrate the

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Form I-9 updated

The U.S. Citizenship and Immigration Services, a division of the U.S. Department of Homeland Security, on March 8 published an updated Form I-9, Employment Eligibility Verification.

Employers who need to make necessary updates to their business processes to allow for use of the new Form I-9 may continue to use other previously accepted revisions (Rev.02/02/09)N and (Rev. 08/07/09)Y until May 7. Thereafter, all employers must use the revised Form I-9 for each new employee hired in the United States.

The revised Form I-9 has several new features, including new fields and a new format to reduce errors. The instructions to the form also more clearly describe the information employees and employers must provide in each section.

By law, U.S. employers must verify the identity and employment authorization for every worker they hire after Nov. 6, 1986, regardless of the employee's immigration status. To comply with the law, employers must complete Form I-9.

Refrigerant contamination found

Motor vehicle A/C refrigerant contamination has become a heightened concern with the recent discovery in the U.S. of R-134a contaminated with R-40. Unlike CFC-12 or R-134a, R-40 can pose a risk to technicians, shops and equipment.

To avoid cross contamination, it is recommended that techs identify the refrigerant in a vehicle before evacuating it into a recycler. Note too that R-134a offered for sale well below its current market price may not be R-134a.

For further information on the R-40 contamination issue, see http://ccar-greenlink.org/2013/02/14/r-40-refrigerant-has-been-found-in-contaminated-r-134a-cylinders-in-the-u-s. For general information on motor vehicle A/C refrigerants, see an NADA publication, "A Dealer Guide to the EPA Mobile Air Conditioning Coolant Recycling Regulation," which is at http://newsmanager.commpartners.com/nadah2/issues/2013-03-07.html#3.

For more on the matter from the Environmental Protection Agency, go to www.epa.gov/ozone/title6/609/index.html. Questions also can be directed to NADA Regulatory Affairs at (703) 821-7040 or regulatoryaffairs@nada.org.

Congratulations!

Ernest Semersky of **The Porsche Exchange** in Highland Park is one of 28 dealers named a 2013 Porsche Premier Dealer of North America.

Webinars

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ship should be to create more gross profit and then more bottom line net profit from that revenue. Speaker Sandi Jerome is a master at financial statement analysis and is well-versed in the misconceptions and information gaps that prevent many variable managers from achieving top-notch performance.

Thursday, March 28 at 12 p.m. CST

"Top 10 Employment Law Issues Facing Car Dealers in 2013" A presentation to help you unwind some of that red tape! What every dealer and manager needs to know about Employment Law to avoid costly and time-consuming errors.

What's new in the area of employment law and the laws' effect on car dealers? Quite a bit, actually:

- employee privacy
- ADA and ADAAA issues
- employee privacy rights
- ERISA-related matters
- social media in the workplace
- right-to-work laws
- NLRB and EEOC activity
- background checks, and much more.

Join DealersEdge and Employment Law expert Charlie Feuss of Kilpatrick, Townsend & Stockton LLP for a round-up of recent labor and employment law updates for you and your management team.

For sale

Used Hunter slip machine, a combination brake force tester and wheel alignment checker. Brief video available showing machine in use. $12,000 plus shipping costs. Peter Donnelly, (630) 615-5766. Also, assorted office furniture at www.billjacobs.com/furniture.

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Review past editions dating to 1998 or search by subject at www.cata.info.

David E. Sloan President, Publisher
Erik K. Higgins Editor, Director of Dealer Affairs

Dealer-assisted financing targeted by consumer protection agency?

By Mark Scarpelli
Chicago Metro NADA Director

Several media outlets have reported that the Consumer Financial Protection Bureau is considering enforcement action against several large commercial banks for compensating dealers in a manner that allegedly may have resulted in violations of the Equal Credit Opportunity Act. The law was enacted in 1974 to bar discrimination in lending. The actions focus on whether consumers from certain demographic groups pay more dealer participation than similarly situated consumers from other demographic groups.

The rumored allegations do not involve intentional discrimination in auto finance, but instead are based on unintentional and unproven conduct under the disputed "disparate impact" theory of liability. This theory is based on an after-the-fact statistical analysis of whether one group paid more for credit than another group.

It is essential that this analysis be conducted in a statistically reliable manner. Otherwise, it can produce flawed findings that could serve as a springboard for disrupting the "optional" dealer-assisted financing system, which has served consumers at all credit tiers extremely well.

Dealers provide a valuable service that increases access to and reduces the cost of financing to car buyers. A dealership's ability to discount the interest rate it offers to consumers — which is made possible by the customer's ability to negotiate rates at the dealership — would be eliminated if CFPB action leads to an arbitrary flat fee compensation system.

Removing the dealer's ability to "meet-or-beat" the best interest rate available to a customer from competing finance sources would significantly weaken rate competition and result in more expensive financing for consumers.

The NADA is committed to ensuring that all categories of consumers are protected and treated fairly. As the NADA demonstrated during the Federal Trade Commission roundtable sessions last year, dealer-assisted financing provides overwhelming consumer benefits in the marketplace today, including access to affordable credit for millions of Americans who do not have traditional relationships with banks.

In other NADA news ...

• A bipartisan bill introduced in Congress seeks to **repeal obsolete paperwork** required at auto dealerships.

House Resolution 724 would eliminate a mandate that requires dealers to certify if a new vehicle has an emissions system. Under the Clean Air Act, dealers are required to present written confirmation to the buyer that a visual inspection has been completed of a new vehicle's emissions system.

The bill, introduced by Reps. Bob Latta (R-Ohio) and Gary Peters (D-Mich.), eliminates the obsolete and unnecessary requirement. "There are already enough documents for car and truck buyers to read at the sale of a new vehicle. Eliminating this redundant form makes sense," said NADA Chairman David Westcott.

• **Industry and regulatory issues** top the list of dealer concerns.

Despite the industry and regulatory challenges of the moment and an uncertain future, Chairman Westcott said he remains confident about the future of auto retailing. He said one of the biggest challenges facing dealers is their relationship with manufacturers. "The issues posed by stair-step incentive programs and by mandatory facility upgrades are just two of the most recent examples of manufacturers intruding into dealers' businesses," Westcott said in remarks at the NADA Convention and Expo last month.

Westcott, a Buick, GMC and Suzuki dealer in Burlington, N.C., said the development of stair-step incentives are an understandable response to the need for higher sales by the manufacturer, but he said many stair-step incentive programs "raise fundamental questions of fairness."

• The NADA has launched a new Energy Ally Program to help dealerships **reduce energy use**.

The NADA and the Environmental Protection Agency have partnered to help new-car dealers reduce their energy consumption through the Energy Star program. As part of this effort, the agencies are encouraging dealerships to complete a brief survey that will give the EPA a benchmark to better compare the energy usage of dealerships across the country and allow certification of those dealerships which perform well. Dealers who participate in the survey and reduce their power usage will be recognized by Energy Star for their efforts to reduce the dealership's impact on the environment.

In other news ...

• The Federal Trade Commission is warning small businesses not to open **email falsely claiming to be from the FTC**.

The message that pretends to be from the FTC contains "NOTIFICATION OF CONSUMER COMPLAINT" in the subject line. The email falsely states that a complaint has been filed against the recipient's company and contains a link to consumer complaints, a link to contact the FTC and an FTC telephone number.

Clicking on any links or opening an attachment might install a virus or other spyware.

Auto buyers trading in loyalty for lure of new models: J.D. Power

Customers like Kelleigh Sheehy of Marietta, Ga., who recently traded the keys of her Volkswagen Jetta for a 2013 Buick Encore, are helping to boost the rate at which some automakers gain new customers.

It is known as conquesting — when automakers steal buyers from other brands — and it's rising for some brands, especially certain models.

One brand that's gaining new buyers is Buick, which says its conquest rate has grown from 28 percent in 2007 to 43 percent in 2012, and continues to grow. Buick credits its growth to vehicles such as the Verano sedan and the all-new Encore crossover, which just hit showrooms. Sheehy is representative of those new buyers.

"I buy more according to what meets my needs," Sheehy said in a telephone interview, adding she also looked at the Toyota RAV4. "So if I have to change brands, I'll do so."

Car shoppers today are more willing to make a change in brands, now that there have been widespread improvements in quality, analysts say.

J.D. Power and Associates tracks loyalty and conquest rates for automakers using vehicle trade-in data: those who trade in a brand from a different automaker or have no trade-in at all. Deirdre Borrego of J.D. Power said high conquest rates could continue in 2013 with product launches and the many choices auto shoppers will have.

"Everyone is continuing to try to grow their share of retail," Borrego said in an interview last month at the National Automobile Dealers Association Convention and Expo in Orlando.

"Vehicle quality has improved significantly across the board, so that's another thing. … People in some instances are more open to migrating to a brand they may have not considered before because quality has improved, and as new models have launched, portfolios have expanded."

One reason for migration among buyers is the shortage of lease customers coming back to the market. Many automakers stopped leasing during the recession, and others cut back. That also cut the numbers of buyers coming back to trade-in leased vehicles for new ones, Borrego said.

She also pointed to the inventory shortages at Toyota and Honda in 2011 that pushed buyers to other brands.

The opposite of conquests are loyalists — those who don't change brands. And they are just as critical, or even more so, to a company's success, analysts say. The loss of loyalists — and ultimately market share — hurts automakers' bottom lines, said Scott Waldron, president of Experian Automotive.

Experian found that Toyota Motor Corp.'s corporate loyalty rate of 46.9 percent in third-quarter 2012 rose from 41.6 percent during the same period in 2011. And with that gain of car owners remaining loyal to that manufacturer, Toyota saw a surge of 33,677 new-car registrations in third-quarter 2012. Using a $30,000 price per vehicle as a basis, Toyota's loyalty increase impact on sales was worth nearly $1 billion, Waldron said.

The automotive data provider also found that Honda Motor Co., Volkswagen AG, Mercedes-Benz USA, Subaru of America and Chrysler Group LLC also had gains in loyalty over the period, and saw positive upticks in new vehicle registrations.

Conversely, some automakers saw corporate loyalty rates fall during the same period: Ford Motor Co., General Motors Co., BMW of North America, Hyundai Motor America and Nissan Motor Co., all had defections in corporate loyalty during the third quarter, which translated into lost revenue, Waldron said.

"These companies and what they do with loyalty really do matter, and it adds up," Waldron said during a news conference at the Orlando convention.

GM's Cadillac brand is seeing growth with conquests: More than 75 percent of customers buying the new ATS sports sedan so far this year are newcomers to the Cadillac brand — and nearly 60 percent are new to GM, the automaker said. GM said it mostly is seeing customers trade in the BMW 3-Series and Lincoln MKZ for an ATS.

GM's Kurt McNeil, vice president of U.S. sales operations, said GM will continue to go after new business, particularly along the coasts and with a better retail experience at dealerships.

FTC

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updated principles. Like the original, the updated guidance emphasizes that consumer protection laws apply equally to marketers across all mediums, whether delivered on a desktop computer, a mobile device, or more traditional media such as television, radio or print.

There is no litmus test for determining whether a disclosure is clear and conspicuous, and in some instances, there may be more than one method that seems reasonable. In such cases, the best practice would be to select the method more likely to effectively communicate the information in question.

When a space-constrained ad requires a disclosure, incorporate the disclosure into the ad whenever possible. When it is not possible to make a disclosure in a space-constrained ad, it may, under some circumstances, be acceptable to make the disclosure clearly and conspicuously on the page to which the ad links.

The 53-page publication includes examples of ads with adequate and inadequate disclosure.