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Advertised price must include all costs, remind BBB ad monitors

By Patricia Kelly
Better Business Bureau

Dealers are having challenges during current economic conditions meeting business goals and maintaining profits. The BBB has seen many new and creative ways to advertise to consumers who may be more reluctant to purchase automobiles during these times.

Most of these advertisements are straightforward and not deceptive. However, we also see some problems from time to time and have discussed these issues with the dealers and their advertising agencies. We have also sent letters of violation to correct the problems.

One issue the BBB has encountered involves Rule 475.310, which states that the advertised price of a motor vehicle must include all costs to the purchaser which are necessary or usual prior to delivery including delivery charges, dealer preparation and any other charges of any nature. However, taxes, license, title and a documentary service fee may be deducted from the advertised price as long as the advertisement clearly discloses that these fees are excluded from the advertised price.

The BBB has become aware of advertisements in which different fees or costs to consumers are being deducted from the advertised prices of automobiles. These other amounts used to reduce the amount of the advertised price include specific down payment amounts, specific trade in amounts, freight charges and simply "other fees."

We want to remind dealers and their advertising agencies that the only amounts that legally can be deducted from the advertised price are taxes, a license fee, a title fee and a documentary service fee. Any other amounts are illegal attempts to lower the advertised prices of automo-

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FTC offers free Red Flags compliance help

For the few—right?—dealers who have not met the Red Flags Rule's May 1 compliance deadline, the Federal Trade Commission has produced a how-to guide accessible on the commission's Web site, www.ftc.gov/redflagsrule.

The FTC, which will enforce the rule, prepared the free guide, "Fighting Fraud with the Red Flags Rule."

The Red Flags Rule requires auto dealers and other businesses involved in finance and insurance to develop and follow a written program to prevent customers from being victimized by identity theft. Examples of possible red flags include a credit report with a fraud alert, a notice of a freeze on a credit file, or an ID that appears to have been altered.

"If you work with a lot of credit applications, you may have seen multiple applications with the same or similar address," said Michael Benoit, a dealer attorney who wrote a guide on complying with the rule.

"It may mean the dealership is doing a good job selling to the whole family. "Or," he said, "it might be that particular address is appealing to an identity thief."

State bill to protect dealers 2/3 way home

A state bill to protect dealers if a manufacturer eliminates a line make passed the Illinois Senate April 2 and has had a first reading in the House.

If Senate Bill 1417 passes two more House readings, it would be sent to Gov. Pat Quinn.

Under the legislation, dealers would have added protection against what constitutes good cause for a manufacturer to cancel or fail to renew a franchise or selling agreement.

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Univision Radio Chicago on-air campaign supports local dealers

Univision Radio stations in Chicago are airing a campaign of announcements that encourage Hispanic consumers to consider buying a car.

All four Univision Radio stations — WOJO-FM 105.1 (*La Que Buena*); WPPN-FM 106.7 (*Mi Musica*); WVIV-FM 93.5/103.1 (*Recuerdo,*); and WRTO-AM 1200 (*La Tremenda*) — are participating in the public awareness campaign.

The campaign intends to dispel some of the overly negative news being reported about the economic conditions facing consumers. The message was developed by radio station management with the cooperation of the Chicago Automobile Trade Association.

It highlights the facts that there are many opportunities to obtain credit to purchase a car and that, with plenty of incentives, now is a great time for those in the market for new or used automobiles.

Univision Radio station manager Doug Levy said: "We have many car dealer clients on the air right now who are able to finance customers and get them into cars with really great deals. I think there is a lot of negative news out there that has people under the false impression that they can't get financed, which is just not the case."

The awareness campaign is airing on all four stations in heavy rotation, to help usher some Hispanic car buyers into the market.

John Phelan, chairman of the Chicago Automobile Trade Association, said: "We'd like to thank the Univision radio group for its positive and accurate message.

"With widespread industry incentives and special financing that's available across almost all brands and lines, the CATA's franchised new-car dealers stand ready to help transform lookers into owners."

Marketplace

Administrative/Clerical Experienced, proficient in accounting tasks including payables, receivables, petty cash. Also qualified in many customer service aspects, administrative assistant duties, automotive inventory purchasing. Highly skilled in all areas of license/title. Quick, eager learner acclimated to fast-paced settings. Faith Ficarra, 847-642-6590.

Parts Manager 23 years dealership experience, 12 years as manager. Solid background in all areas of Chrysler parts department operations including inventory control, customer service, staff supervision and training. Able to coordinate with other departments. Star Parts, Snap-On, UCS and ADP. Rob Davis, 224-522-6956.

SB 1417

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Among other things, SB1417 would strike language currently in the state's Motor Vehicle Franchise Act which states "Good cause shall exist to cancel, terminate or fail to offer a renewal or replacement franchise or selling agreement to all franchisees of a line make if the manufacturer permanently discontinues the manufacture or assembly of motor vehicles of such line make."

If a line make is terminated, the legislation also requires manufacturers to buy back new vehicles, parts and equipment from franchised dealers.

Senate Bill 1417 also would provide an itemized list of what is considered reasonable compensation to a dealer for the value of the franchise and business premises, as well as a payment scheme for such compensation.

And, the bill would allow a dealer to sell multiple brands at a single locations; and it would winnow the audit period for dealer incentives and reimbursement claims, from 18 months to 12 months, to coincide with the audit period for warranty claims.

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biles as compared to the prices being offered by competing dealers.

The goal of the BBB/CATA advertising review program is to level the playing field in fairness to all dealers so that they can fairly compete. The tough economic times now make that goal even more important.

The BBB wants to ensure that all dealers are adhering to truthful and honest principles in the advertisement of automobiles. With that goal in mind the BBB reminds all dealers to carefully examine their advertisements to ensure that only the amounts set out in Rule 475.310 are deducted from the advertised prices.

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Review past editions dating to 1998 or search by subject at http://cata.drivechicago.com.

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NADA working hard to stabilize auto industry

By Ray Scarpelli Sr.
Metro Chicago NADA Director

The NADA, along with the American International Auto Dealers Association and the National Association of Minority Auto Dealers, cosigned a March 2 letter to President Barack Obama, urging him to "immediately revitalize the asset-backed securities market for wholesale and retail auto loans and expand the Small Business Administration loan guaranty program to provide floor-planning and working capital for auto dealers."

The trade associations, which represent 20,000 U.S. franchised auto dealerships, said an unprecedented drop in consumer confidence, credit market chaos and a steep drop in lending have created an unsustainable business climate for thousands of the nation's new-car dealers and their employees.

"Without floor-plan financing, an auto dealership will close within a matter of days, triggering additional unemployment and further erosion of the local tax base," the dealer groups stated.

They asked the Obama administration to work with the Fed and the Treasury Department to refine the Term Asset-Backed Securities Loan Facility (TALF) and undertake any other options necessary to restore retail and floor-plan lending.

Over the past year, about 1,000 dealerships have closed, forcing more than 50,000 Americans out of work. And thousands of employee layoffs have occurred at the dealerships that are still operating.

"Absent access to sufficient credit on reasonable terms, [dealerships] will sputter and die," the dealer groups wrote. "Dealers need retail credit to facilitate auto sales, because 94 percent of all vehicle purchases are financed.

"Dealers need working capital loans to meet current cash-flow requirements, such as payroll. Finally, dealers need floor-plan financing, which is the specialized credit that enables dealers to buy their wholesale inventory of vehicles from the automakers."

The average floor-plan loan is about $4.9 million, and dealers nationwide collectively are at risk for nearly $100 billion in inventory financing.

Separately, the NADA and the NAMAD met March 6 with the president's auto task force at the U.S. Department of the Treasury on how to stabilize the auto industry.

"It's important for the president's auto task force to understand that the No. 1 issue facing dealers is the dire need for vehicle inventory financing," said NADA Chairman John McEleney, a multi-franchise dealer in Iowa.

In meetings with the Federal Reserve Bank of New York, NADA reps discussed TALF, which recently opened to revitalize the market for several types of securities. Because asset-backed securities (ABS) must be AAA-rated to be included and the ABS of many floor-plan finance sources have been downgraded, auto floor-plan loans haven't been included.

The NADA highlighted the several layers of protection against a default that would threaten funds provided by the New York Fed for floor-plan ABS, including dealers' ability to repay their floor-plan loans and the strength of the new-vehicle collateral that backs those loans.

For more on the status of the NADA's advocacy efforts, please contact Andy Koblenz or Paul Metrey in the NADA Legal and Regulatory office at 703-821-7040.

In other legislative and regulatory news . . .

• President Barack Obama and Treasury Secretary Timothy Geithner recently announced several measures to jump-start credit flows for **Small Business Administration 7(a) loan applicants**, and reviewed small-business tax incentives found in the American Recovery and Reinvestment Act (ARRA). Dealers eligible and interested in SBA 7(a) guaranteed loans are urged to contact one or more lender. Visit www.magnetmail.net/images/clients/NADA/attach/sbafactsheet.pdf for more information.

• NADA Chairman John McEleney recently told the Environmental Protection Agency that complying with state-based **fuel economy regulations** would cause additional hardship on the nation's declining number of new-car dealers and provide little environmental benefit. McEleney's comments came in testimony at a public hearing held by the EPA as it reconsiders the request of the California Air Resources Board (CARB) and more than a dozen states to establish their own fuel economy and greenhouse gas programs.

McEleney described the California approach as "inherently flawed," adding that a patchwork of state fuel economy regulations would ultimately pass much of the burden of compliance to dealers. He predicted the California approach would force automakers to ration certain popular large models, which would ultimately lead manufacturers to pressure dealers to accept vehicles their customers may not want to buy.

California bases compliance on what vehicles are delivered to a dealership and not what consumers actually demand or ultimately purchase. Since 2005, CARB has sought a waiver from the EPA that would permit California, 13 other states and the District of Columbia to regulate vehicle fuel economy. Such a waiver was denied by

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the EPA last year.

McEleney noted that there has been almost no national analysis or scrutiny on how CARB's rule would actually work in practice, or why such regulation is even necessary since Congress increased the national fuel economy standard by at least 40 percent in 2007.

• The American Recovery and Reinvestment Act of 2009 (ARRA) provides temporary, taxpayer-funded **premium relief** for people otherwise eligible to elect to continue an employer's health plan coverage under the Consolidated Budget Reconciliation Act of 1985—known as COBRA. As of Feb. 17, the ARRA creates a temporary program of premium relief for Assistance Eligible Individuals (AEIs)—those who become COBRA eligible between Sept. 1, 2008, and Dec. 31, 2009.

AEIs who elect continuation coverage may receive a 65 percent plan continuation premium discount. In other words, where employers normally require such individuals to pay 100 percent of COBRA plan premiums, AEIs may be required to pay only 35 percent under this temporary program. The Department of Labor issued a new model notice form March 19. The NADA suggests that dealers use that form to issue the new required notice to AEIs. For more, visit http://newsmanager.commpartners.com/nadah2/downloads/TemporaryCOBRAPremiumRelief2.doc.

• The Department of Justice has issued final rules to help deter **auto fraud** by connecting motor vehicle agencies in states throughout the country and requiring more insurance companies to disclose **totaled vehicles**. The NADA strongly supports the National Motor Vehicle Title Information System (NMVTIS) rule, which will improve the ability of dealers and consumers to track potentially dangerous salvage vehicles.

The NADA is seeking enhancements to the rule so the used-car resale market can access this information. The NADA is also seeking to modernize the rule, which was based on a 17-year-old law.

The NMVTIS rule is significant because it closes several loopholes. For example, insurers would have to report not only vehicles found to be a total loss under the laws of the applicable state, but also vehicles designated as totaled by its own policies.

While insurance companies collect data on severely damaged vehicles for their shared private databases, they have not been required to disclose the vehicle identification numbers of all totaled vehicles, permanently "red flagging" these vehicles for the public.

"Insurance companies have resisted reporting the VINs of all their totaled vehicles to the public for years," said Ivette Rivera of the NADA.

Connecting the state motor vehicle agencies under NMVTIS will help carry forward salvage information from other states and provide more transparency in the used-car market. Since state vehicle salvage disclosure laws are inconsistent and incomplete, unscrupulous sellers can wash titles and hide a salvage history by acquiring titles outside the state.

The MVTIS will aid dealers and consumers by verifying title histories and combating fraud. The NADA is still concerned that 14 states are not yet participating in NMVTIS, and that California will not allow NMVTIS to release its data to consumers. This creates a large gap in information that can be exploited by criminals.

"Unfortunately many states are reluctant to provide their total-loss information to the NMVTIS database, which is why legislation is still needed," Rivera said.

Recent legislation would require insurance companies to disclose the VINs of totaled cars to vehicle history providers before the vehicle gets back into the marketplace.

Cambridge deflects unemployment claims

One hundred fifty-six CATA dealer members reported a combined 1,164 unemployment claims during the first quarter of 2009 to Cambridge Integrated Services Group, Inc., which formerly operated as the Martin Boyer Co. The company's efforts saved those dealers a total of $1.64 million in benefits by contesting the claims.

Cambridge monitors any unemployment claims against its clients and contests all unwarranted claims and charges. The company counts about 230 CATA dealers among its clients.

Claims that can be protested and subsequently denied help minimize an employer's unemployment tax rate. The rate can vary between 0.6 percent and 6.8 percent of each employee's first $12,300 in earnings. The 2009 average unemployment tax rate among Illinois employers is 3.1 percent, or about $381 annually per employee.

"These numbers were based on experience prior to July 2008. With the downturn in the economy, unemployment at record highs (9.1 percent in Illinois) and a drain on the Illinois Department of Employment Security trust fund, we can expect markedly higher tax rates for 2010 and probably for a couple of years after that," said Paul Schardt, a Cambridge senior vice president.

For new enrollees, Cambridge client fees amount to $2.20 per employee, per fiscal quarter. For the fee, Cambridge monitors all unemployment claims; files any appeals; prepares employer witnesses for hearings, as necessary; represents the client at any hearings; verifies the benefit charge statements; and confirms the client's unemployment tax rate.

The former Martin Boyer Co. has represented CATA members since 1978. To discuss retaining the company, call Schardt at 312-381-8241.