

Don't Be Misleading

By ADR Staff

State and Federal Agencies Are Concerned About Misleading and Deceptive Advertising

Dealers should expect increased scrutiny of their advertising material and marketing campaigns by the Used Motor Vehicle and Parts Commission (UMV&PC). At the September 10, 2013, monthly meeting, commissioners voiced concerns regarding misleading and deceptive claims made in particular marketing pieces. Commissioners noted that misleading and deceptive advertising by dealers harms not only consumers, but other dealers and the industry as a whole.

In accordance with commissioners' concerns, it is anticipated that Commission staff will place additional emphasis on monitoring and investigating possible violations associated with misleading or deceptive marketing. All media are subject to oversight. **Online marketing venues such as Craigslist and social media sites are specifically included. Commission staff continually monitor those type sites and are particularly alert for dealer 'by owner' postings.**

Separately, the Federal Trade Commission (FTC) recently announced agreements with two franchise dealerships to settle false advertising charges. The proposed orders settling the FTC's charges place constraints on the dealerships' advertising efforts and remain in effect for the next 20 years.

In the first complaint, the FTC had charged that Timonium Chrysler, Inc. of Cockeysville, Md., had violated the FTC Act by advertising discounts and prices that were not available to a typical consumer. The dealership's website indicated specific "dealer discounts" and "internet prices," but allegedly failed to disclose adequately that consumers would need to qualify for a series of smaller rebates not generally available to them. The complaint further alleges that, in many instances, even if a consumer qualified for all the rebates, the cost of the vehicle was still greater than the advertised price.

In the second complaint, Ganley Ford West, Inc., in Cleveland, also was charged with misrepresenting that vehicles were available at a specific dealer discount, when in fact the discounts only applied to specific, and more expensive, models of the advertised vehicles. Ganley Ford West advertised its discounted vehicles on its website and in local newspapers. It allegedly failed to disclose that its advertised discounts generally only applied to more expensive versions of the vehicles advertised.

It is ultimately the dealership's responsibility to ensure their advertising complies with the law. Do not rely on the agency preparing the ad to ensure compliance. Both in spirit and in fact, your advertising should be truthful and non-deceptive; you should have evidence to back up any claims; and your advertisements should not be unfair. When preparing your advertising material for correctness, look at the ad from the point of view of the "reasonable consumer" – the typical person looking at the ad. Rather than focusing on certain words, look at the ad in context – words, phrases, and pictures – to determine what it conveys to consumers.

Additional information regarding advertising guidelines is available on the "Compliance" page of the OIADA website at www.e-oiada.com.