

Dealer Advertising in a Nutshell

General Advertising Rules

- Clearly and conspicuously disclose all material limitations to be readily read and understood.
 - ❖ Do not run ads that promise something you do not plan to actually deliver. Ads that mislead a substantial number of consumers are illegal.
- Offer only vehicles available for delivery;
- Conspicuously disclose the negotiable dealer documentary fee and the amount of the fee with words such as “a documentary service fee in the amount of \$xx may be added to the sale price or capitalized cost of the vehicle.”;
- Disclose the expiration of ad or sale;
- Use photos of the exact vehicle (if used) or a vehicle substantially similar to the class of vehicles offered (if new);
- Disclose number of specific vehicles available at specific price (i.e. “3 at”);
- Disclose number of vehicles available next to specific advertised vehicle;
- Disclose *complete* VIN number for specifically advertised vehicles; or state “vehicle identification numbers available on request” and comply with all VIN posting requirements;
- Disclose only manufacturer rebates that the consumer can immediately receive or apply to purchase (no delayed “rebates” from third parties or dealer rebates of any kind). Rebates that are not generally available to the public or do not reduce the sales price of the car, should not be advertised separately and not used to create an unattainable “sales price.”
- Advertise vehicles manufactured less than two-years from the date of the ad as “used,” “demo,” “lease return” or “rental return”;
- Use only terms commonly known by the public. Do not use auto or lending industry terms;
- Disclose all terms in large enough type and in color contrast to be easily read and understood;
- Advertise disclosures in at least 10 pt or larger. Disclosures cannot be used to contradict material terms in large print.
- If you make a claim such as “lowest price,” “guaranteed trade-in amounts,” “any price quote will be beaten,” “push, pull or drag” or “any deal accepted,” you must be able to substantiate the claim from your records at the time the claim is made.

Advertising Price and Finance Disclosures:

- An advertised price should include all equipment on the vehicle at the time of the ad and sold at the advertised price regardless of trade in value or whether the customer is aware of the ad price.
- Advertise new vehicles using MSRP. Do not use “cost,” “wholesale,” or “reference” pricing.
- If you use an industry pricing guide to advertise used car prices, identify the pricing guide (Kelly Blue Book/NADA) in the ad. Such reference pricing must be properly adjusted for date, mileage, equipment and vehicle condition. Your competitors should agree that the reference price fairly represents the book price—if they wouldn’t—then don’t use it.
- Do not advertise at, above or below “invoice” or “at cost” pricing unless you put the actual price you are referring to in the ad and calculate “cost” or “invoice” as the actual cost to the dealer to obtain the vehicle

(which may include paid shipping) *minus* holdbacks, manufacturer to dealer incentives, optional advertising fees, dealer overhead, document fees, and other similar items. You can not use customer rebates to get down to “invoice.”

- Advertise reductions or savings in price only when the dealer’s records demonstrate that the vehicle was offered or advertised for sale at the former price for a substantial period of time *and* the dealer made substantial sales at that price. Savings and discount claims must be substantiated. It is misleading to claim a savings when no higher price existed.
- If the ad lists any of the following:
 - A down payment (i.e. “10% down,” “90% financing,” “trade-in with \$1,000 appraisal value required,” “drive it home for \$199”);
 - A payment of any amount (i.e. “\$269 per month,” “pay \$23.44 per \$1,000 borrowed,” “monthly payments less than”);
 - The number of payments or the period of repayment (i.e. “up to 4 years to pay,” “48 months to pay”);
 - The amount of any financing charge, no financing charge, or no credit charge (7%, “financing costs less than \$300 per year,” “less than \$1,200 interest,” “\$2 a month carrying charge”).

Then ad must clearly and conspicuously state (1) the cash price or amount of the loan; (2) the amount, percentage of any down payment or no down payment; (3) the annual percentage rate; (4) the amount and frequency of payments needed to repay; (5) the deferred payment price; (6) the specific model or vehicle to which it applies; and (7) any other conditions material to the offer.

- If advertising a lease payment or down payment, the ad must clearly and conspicuously state (a) the transaction advertised is a lease; (b) the total amount due prior to or at consummation/delivery; (c) the number, amount, and due dates or period of scheduled payments under the lease; (d) a statement of whether or not a security deposit is required; and (e) a disclosure of the lessee's liability at the end of an open-end lease.

Prize and Promotion Ads:

- Simulated checks/coupons must include “this is not a negotiable instrument,” “no cash value,” and bear the phrase “THIS IS NOT A CHECK” diagonally across the check in a typeface at least as large as the predominant typeface on the check.
- Simulated checks may constitute dealer rebates or be otherwise deceptive. Consult your attorney before using these types of marketing devices. The consumer must get actual value for what is represented—not an illusory discount.
- If offering a prize in a mailed advertisement, you must list (a) the name and address of the promotion’s sponsor; (b) the *verifiable* retail value of each prize (or giveaway) offered in immediate proximity of the prize listed; (c) the odds of being awarded any prize in immediate proximity of the prize and in typeface at least as large as the typeface in the standard text of the offer; (d) in equal type-size or larger, any conditions to receive the prize, including whether a participant needs to attend a presentation or spend *any* money to claim the prize; (e) clearly disclose all material limitations of an offer; (f) include statements “no purchase necessary” and “a purchase will not increase your odds of winning” in a clear and conspicuous manner; and (g) create official rules and reference such rules.
- Do not advertise “free merchandise.” In a car deal anything over \$25 (*de minimis*) is not likely “free.”
- Do not create a false sense of urgency or distress such as “liquidation,” “public notice,” or auction unless you can substantiate it.
- Do not use words or type that imply the offer originates from a government agency, utility, insurance company, credit reporting agency, bill collecting company, or law firm.