

Dealer

F&I Special Section

by Gil Van Over



What A Roller Coaster Ride

Bourbon Street was quite a carnival. Remind me to tell you the story about the offensive lineman-sized guy wearing a kilt and nothing else.

One thing missing on Bourbon Street during the NADA convention, that you'd normally see at a carnival was, the roller coaster. But alas, the convention floor provided that ride.

Not so long ago, dot-coms flooded the floor before the bubble burst. More recently, there were more menus inside the convention than at the restaurants surrounding the center.

This year, compliance is the buzzword, and I couldn't be more pleased (see my April 2004 article *They Ain't Got Your Back*). I lamented almost a year ago that everyone in our industry that makes a living off a dealer selling a car has a responsibility to the dealer to watch his back on compliance issues. Evidently, everyone listened!

So where's the roller coaster you ask? Just look at the varying degrees of compliance and what others are pitching.

One company talks about e-contracting, e-signature and Truth In Lending. Another firm focuses on compliance with the Gramm-Leach-Bliley Act and its resulting Privacy and Safeguards Rules. Numerous booths touted software that quickly searches the 194 pages of Specially Designated Nationals listed by the Office of Foreign Assets Control. Many of these companies are now also providing identity verification in anticipation of probable requirements arising out of the USA Patriot Act.

It seems all the F&I providers are touting compliant forms and sales training.

Moreover, don't forget all those deceptive trade practices and the myriad of other federal and state laws and regulations. How do you get off the compliance roller coaster and back on the ground?

Here are some of the rules, regulations and requirements I share with dealers in presentations around the country.

The Federal Trade Commission, as the government's consumer protection agency, is responsible for promulgating:

- Consumer Credit Protection Act
- Equal Credit Opportunity Act
- Consumer Leasing Act
- Privacy Rule
- Safeguards Rule
- Truth in Lending Act
- Fair and Accurate Credit Transactions Act
- Used Car Rule
- Credit Practices Act
- Magnuson Moss Warranty Act
- Do Not Call Rule

Additionally, other federal requirements include:

- Sherman Anti-Trust Act
- Credit Application Fraud
- Money Laundering Statutes
- FinCEN Cash Reporting Rule
- Office of Foreign Asset Control

Add to this list the various state statutes focusing on unfair and deceptive trade practices and the plaintiff's attorney's imaginative conspiracy theories and I can fully understand why a dealer's head is spinning as if he had just finished a ride on the Screaming Demon at King's Island.

You may be headed in the right direction. You've had your forms checked, you've instituted an electronic F&I selling menu, your Safeguards program is in place, and you may even be videotaping. You just hooked up with a vendor who can run OFAC checks and help with identity theft. Your F&I provider has developed a compliance training program. Is this enough?

Probably not.

You need a comprehensive approach to ensure compliance with all the rules and regulations that affect your sales and finance departments

At a minimum, you should:

- 1. Understand your responsibilities. The list provided in this article is a good start. NADA has a set of guidelines and implementation recommendation procedures available for its members on many of these topics.
- 2. Conduct a risk assessment. Understand where your dealership is falling short in each of these areas.
- 3. Develop policies and procedures. The best reason I can think of to convince you to document how you want things done is to ask, "How are decisions made in your absence?"
- 4. Train. Train. Train. Once you've established the policies and procedures, train your employees on the expected behaviors.
- 5. Audit for compliance. Set up a three-level audit process. Daily, monthly, quarterly. Your billing clerk should be watching for 10 non-negotiables on every deal. Your office manager should be looking at a 5 percent sampling of deals from every F&I manager on a monthly basis. Finally, a quarterly review by an outside party will provide an independent view.
- 6. Implement corrective action. Once you find shortcomings in your process

through your audit program, immediately put corrective action into place and document the changes.

- 7. Stay abreast. Changes are constantly hitting our industry. For example, were you aware that FACTA requires that credit card numbers on receipts be truncated so that the entire account number is not printed? Stay on top of changes to requirements and evolving litigation theories by subscribing to topical periodicals.

The ride on the roller coaster can be enjoyable. Just look at the long line of people at any ride in any amusement park. And avoid big guys in kilts.

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