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## **Compliance Corner: Give the Customer a Copy**

*by Gil Van Over*

Two rules promulgated by the Federal Trade Commission (FTC), the Used Car Rule and the Privacy Rule, have a very basic requirement that some dealers fail to comply with on a regular basis—giving the customer a copy of the Buyer's Guide and Privacy Notice. Potential fine? \$11,000 per occurrence. Let's look at the common failure points.

Used Car Rule Talk with any Used Car Manager and he can tell you exactly what information has to be on the Buyer's Guide prominently displayed on the vehicle before offering the vehicle for sale. This information includes "As/Is" or "Warranty." If a warranty remains, you must list the parts covered, the duration of the coverage, the percentage of parts and labor that you will cover on the front. On the back, you must list your dealership's name, address and contact person. Finally, at the bottom on the back of most Buyer's Guides is a place for the customer to sign, directly beneath a statement that says the customer acknowledges receipt of a copy of the Buyer's Guide. Keep in mind that the customer's signature is optional under the Used Car Rule, but if your form asks for a signature, you should get one. Some dealers make a photocopy of the front of the Buyer's Guide and have the customer sign on the front. Some dealers use a two-ply form and keep both copies of the form in the file. Still other dealers keep a signed copy of the Buyer's Guide that was affixed to the vehicle. All wrong answers. Your obligation is to give the customer a copy. The solution: Photocopy the Buyer's Guide that was affixed to the vehicle and give the customer the original. If this is your process and you can testify to it, you have completed your obligation.

Privacy Rule The Gramm-Leach-Bliley Act passed Congress in 1999 as a way to help stem the increase in identity theft. The first part of the act resulted in the Privacy Rule, effective May 2001, which requires financial institutions (read dealers) to provide notices of the institution's privacy and safeguards policy. There is no requirement in the Privacy Rule for the customer to sign the Privacy Notice. Think about it: you annually receive a copy of your credit card holder's privacy notice in your statement and do not have to sign for it. Dealers want to get the customer to sign the notice in file as proof that the dealer complied with the rule. Unfortunately, most dealers started with a two-ply Privacy Notice. Then as supplies run low, an enterprising Sales Manager who doesn't fully understand the rule orders someone to burn 100 copies on the copy machine. Then as the supply runs low again, the same Sales Manager orders a copy of the copy. After 10 or so iterations, the characters on the paper are more suited to original Haiku than to the safe harbor language contained in the original Privacy Notice. The solution: Order a supply of two-ply Privacy Notices. Have the customer sign the notice whenever you obtain non-public personal information on a citizen. Give the customer the original, keep a copy in the file. Job done. Gil Van Over is president of gvo3 & Associates, a firm that helps dealers develop legal defense strategies. Most recently, the firm announced an F&I compliance audit service offered in conjunction with AFIP.

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