

July 31, 2007

## **What compliance looks like: Best practices – advertising**

This year's columns have been dedicated to describing this whole thing called compliance. We are now in the process of describing best practices that, if implemented, are designed to help reduce exposure to litigation and regulatory inquiries. Today's topic is advertising.

### **Background**

I recently completed an F&I compliance risk assessment for a client. While there, I took a little five minute stretch break, went to the customer vending area and spotted a soft drink machine. Among the many choices was a non-caffeinated lemony-limy type drink that my doctor ordered. According to the disclosure on the machine, a 20 ounce bottle was offered for 70 cents. Such a deal. In went two quarters and two dimes. Out came a 12 ounce can of non-caffeinated lemony-limy type drink.

I started my recap session off with the joke that the dealer had to immediately cease and desist on the deceptive advertising, then showed the can.

Everyone immediately blamed the vending company, just like we tend to blame the advertising agency when we get hit with charges of deceptive advertising. But guess who ends up taking the hit, even if it is in the court of public opinion?

### **Things to watch out for**

First off, I will say that a dealer should have the advertising message reviewed by a qualified legal mind. While that may sound like an oxymoron, there are some good ones out there.

You can make the attorney's job just a little easier (and hopefully cheaper) if you look at a few things first.

#### *Truth in Lending disclosures*

The Truth in Lending Act (TILA) imposes disclosure requirements on advertising just as it is also a disclosure law for retail contracts.

TILA requires certain disclosures if certain trigger terms are used.

Directly from TILA:

Advertisement of terms: If an advertisement for credit states specific credit terms, it shall state only those terms that actually are or will be arranged or offered by the creditor.

Advertisement of rate of finance charge: If an advertisement states a rate of finance charge, it shall state the rate as an "annual percentage rate," using that term.

Advertisement of terms that require additional disclosures: (1) If any of the following terms is set forth in an advertisement, the advertisement shall meet the requirements of paragraph (2) (below):

- (i) The amount or percentage of any downpayment.
- (ii) The number of payments or period of repayment.
- (iii) The amount of any payment.
- (iv) The amount of any finance charge.

(2) An advertisement stating any of the terms in paragraph (1) (above) shall state the following terms:

- (i) The amount or percentage of the downpayment.
- (ii) The terms of repayment.
- (iii) The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.

There...feel better now?

### *Se Habla Espanol?*

If you advertise that you speak Spanish, you are inferring that you will negotiate in Spanish. If you negotiate deals in Spanish, you are required by federal law (FTC Used Car Rule) to have a Spanish translation Used Car Buyer's Guide conspicuously displayed on the vehicle before offering it for purchase.

You also need to ensure that the Spanish translation of the required language on your purchase documents is provided. This includes your retail installment sales contracts and your Buyer's Order.

### *Multi-state doc fees*

If you have dealerships in neighboring states, for example, Illinois, Indiana and Michigan, you are subject to three different doc fee requirements or restrictions. Make sure your ad agency understands the differences and you are not running ads in the Chicago Sun Times that quotes the Indiana doc fee (which is higher than Illinois') or disclosing the Illinois doc fee in the Northwest Indiana Post-Tribune.

Gil Van Over is the President and founder of gvo3 & Associates, a nationally recognized F&I and Sales compliance consulting firm ([www.gvo3.com](http://www.gvo3.com)).

© 2007 by gvo3 Consulting, LLC. All rights reserved.

Published by [Dealer Communications](#)

Copyright © 2007 Horizon Communications Inc.. All rights reserved.

Information in this newsletter is provided by both proprietary and public sources. Dealer Communications makes no claims as to the accuracy of information provided by third party providers.

Powered by [IMN](#)