



# AUTO INFORMER

March 18, 2011

Issue 07

The Office of Consumer Protection enforces the Georgia Fair Business Practices Act (FBPA) which prohibits unfair and deceptive acts and practices within the context of consumer transactions. OCP's mission is to protect consumers and businesses from unlawful, deceptive and unfair practices in the marketplace by enforcing the laws we administer and through education.

In carrying out our mission, we are guided by the following core values:

**Integrity.** Individuals making ethical choices which earn and maintain the public trust.

**Public Service.** Passion for what we do; Compassion for those we serve.

**Fairness.** Uncompromising commitment to the even-handed and uniform administration of justice.

**Excellence.** Continually challenging ourselves to maximize our effectiveness and impact.

## Lemon Law News:

OCP's Lemon Law Division reminds Georgia's franchise dealers to comply with all applicable lemon law provisions. These requirements include the following:

### Lemon Law Fees

Make sure you only collect the \$3.00 fee on vehicles covered by the lemon law. If the vehicle is titled as used or is a truck with more than a 12,000 pound gross vehicle weight rating (GVWR), you should not be charging the consumer a lemon law fee.

### Repair Orders

Make sure you indicate on the work order the date and mileage *both* when the vehicle is brought in for repair and when the consumer is notified that the work is completed. *Always* give the consumer a copy of the work order describing what was done or diagnosed for each repair visit.

### Lemon Law Buybacks

If you are selling a vehicle previously bought back by the manufacturer, make sure you give the consumer the *original* form entitled: "Georgia Lemon Law Notice for Reacquired Vehicles" (containing highlighted information in red and yellow). Send a *copy* of the signed form to OCP within 30 days of the sale of the vehicle.

Noncompliance with any of these provisions is a violation of the FBPA, and is subject to a civil penalty of up to \$2,000 per violation.

### Select:

Advertisements may not use "select", "select models" or similar representations unless accompanied by additional disclosures. The disclosures must indicate what vehicles are included or excluded from the offer. The restriction on use of this term reduces the possibility of consumers responding to advertised offers for a vehicle to which the offer does not apply.

### Unexplained Abbreviations:

Unexplained abbreviations, terms or jargon such as "Beacon Score", "WAC", and "TT&T" may not be used because they are not readily understood by the public. The only acceptable unexplained abbreviations are "MSRP," "APR," and abbreviations related to lemon law fees.

### This Quarter's Common Violation:

#### "Price Plus Advertising"

An advertised price must include all fees except those collected on behalf of the government such as tax, tag, title and lemon law fees. Any other type of fee including "doc", dealer, transportation or any other similar charge must be incorporated into the advertised price. For example, a vehicle priced at \$10,000 with a \$500 dealer fee must be advertised as \$10,500.

It is not acceptable to exclude a charge and then provide a disclaimer such as "plus fees". It is permissible, however, to indicate that the advertised price includes all fees except tax, tag, title, and lemon law fees.

## Required Leasing Disclosures

The Truth in Leasing Act and The Consumer Leasing Act require certain disclosures in motor vehicle lease advertisements. These disclosures are required when an advertisement includes one of the following representations: 1) the amount of any payment or 2) a statement of capitalized cost reduction or any other payment that must be made prior to or at delivery. If an advertisement includes either one of these "trigger" terms, the advertisement must also include the following information:

- 1) That the transaction is a lease;
- 2) The total amount due at or prior to delivery;
- 3) The number, amounts and periods of payment;
- 4) The existence and amount of any security deposit;
- 5) If applicable, a statement that an additional charge may be imposed at the end of the lease if the residual value of the vehicle is different than the realized value.

These disclosures must be clear and conspicuous and in immediate proximity to the "trigger" term. Placing the required leasing disclosures at the end of the advertisement when the lease representation is located elsewhere is not sufficient.

## Lifetime Warranties

The use of "lifetime warranties" has become increasingly prevalent in automobile advertising. Such a representation is permissible, however, it must be accompanied by additional disclosures governed by both the FBPA and other laws.

These disclosures must clearly indicate the life to which the representation refers. For example, if the warranty lasts only as long as the original owner owns the vehicle, then a statement of that fact must be clearly listed immediately next to the "lifetime warranty" representation. The disclaimer "for as long as you own the vehicle" is sufficient to satisfy this requirement if the warranty cannot be transferred to a successive owner.

Also, the advertisement should disclose, both clearly and conspicuously, the place where consumers, prior to sale, can see the written warranty for complete details of coverage. For example, the advertisement might say "see a copy of the warranty at our dealership."

## FREQUENTLY ASKED QUESTIONS

**Q:** Do the auto policies apply to internet advertising?

**A:** YES.

**Our policies apply to every advertising medium including, but not limited to, direct mailers, newspapers, radio and television broadcasts, and the internet.**

**Q:** Is it permissible for a lease advertisement to indicate that a consumer may begin the lease without a "down payment" or "no money down"?

**A:** NO.

**Because "down" and "down payment" are words associated with a purchase, they should not be used in a lease advertisement. If the consumer must make some payment prior to beginning the lease or taking delivery of the vehicle, than the advertisement must indicate**

Please be aware that a "lifetime warranty" also falls within the scope of the federal Magnuson-Moss Warranty Act (MMWA). Failure to comply with the MMWA is a violation of the FBPA. We encourage you to consult with an attorney regarding which MMWA provisions apply and to determine whether other statutes are applicable and, if so, how to ensure compliance with their requirements.

this as "due at inception", "due at signing" or similar terms. The advertisement may state that nothing is due at the commencement of the lease only if no money is due at delivery other than tax, tag, title, and lemon law fees.

Q: May an advertisement state a discount off MSRP, such as "\$8,000 Off" without including any other information?

A: NO.

While it is permissible to advertise a discounted amount, the advertisement must also include the MSRP and the final sales price. All three prices must be listed immediately next to each other and the final sales price must be the largest representation.

## **Manufacturer's Advertisements**

We have noticed an increase in the number of dealers using national advertisements in the local area. OCP does not review these advertisements for manufacturers. If you intend to disseminate a national advertisement with your dealership's name, then it is your responsibility to ensure that the advertisement complies with Georgia law.

## **Disclosures, Disclaimers & Readability**

Although it may be common practice to place all disclosures at the bottom of an advertisement (particularly for print advertisements), remember that disclosures must be in immediate proximity to the terms they modify. Because of this, it is generally insufficient to provide a list of disclosures at the end of the advertisement.

In addition to proper placement, the disclosure or disclaimer must also be of sufficient font size to be easily readable. Our office considers font size point 10 and larger to be easily readable. Pay particular attention however, to the medium being used. This font size may not be sufficient for a television advertisement or a billboard. It is also important to consider the size of the advertisement as a whole in determining whether OCP's policies are satisfied. Please be cautious of publishers reducing the overall size of an advertisement as this will effect the

readability of the disclosures.

Background and font colors should also be considered as certain color contrasts can render text difficult to read.

## OCP Ad Review



As a courtesy to dealers and marketing companies, our office will review advertisements prior to publication. OCP will not approve any proposed advertisements, however, we will identify those representations we consider problematic.

All advertisements and any advertising related questions should be submitted directly to Lauren Villnow, the Compliance Investigator at OCP. Please contact Lauren at 404-656-4481 or [lauren.villnow@ocp.ga.gov](mailto:lauren.villnow@ocp.ga.gov). Proposed advertisements may also be submitted by fax to 404-463-8212. She will review your ads within 2 business days.

## Suggestions

If you notice any ongoing advertising issues that you would like addressed in future newsletters, please email your suggestions to [lauren.villnow@ocp.ga.gov](mailto:lauren.villnow@ocp.ga.gov). To unsubscribe from this newsletter, please send an email to Lauren with “unsubscribe” in the subject line.

Copies of the Fair Business Practices Act and the *Auto Advertising and Sales Practices Enforcement Policies* can be found on our website at [www.consumer.georgia.gov](http://www.consumer.georgia.gov)