



WHAT'S THIS?

Auto Informer is a newsletter disseminated by the Governor's Office of Consumer Protection (OCP) directed to automobile dealers and advertisers. This newsletter is intended to raise awareness regarding Georgia's advertising laws and regulations, particularly Georgia's Fair Business Practices Act (FBPA), which is explained more below, and this agency's *Auto Advertising and Sales Practices Enforcement Policies (AAEP)*. To this end, you will find discussions of common advertising issues, additional explanation of the AAEP, and information regarding services we offer.

What's the Deal with Dealer Fees?

As many of you know, earlier this year a local media outlet highlighted one of this agency's longstanding automobile advertising policies: our requirement that all advertised vehicle prices include all fees, other than the title ad valorem tax, tag and title fees. Fox 5 Atlanta conducted numerous undercover visits to Atlanta area dealers in order to investigate dealer compliance with this policy. All of the dealers visited during these undercover shops were adding fees to advertised prices. Once notified of this, OCP conducted its own investigations and assessed monetary penalties against all of the dealers. Following this news story, OCP received many complaints from consumers alleging dealers were flagrantly violating this policy. We also received complaints from dealers themselves who were concerned about establishing a level competitive playing

field. In response, OCP conducted investigations of multiple dealers, both franchise and independents, throughout the summer. Many of these dealers were fined and required to return dealer fees to consumers. Despite these actions, and this agency's repeated attempts to put dealers on notice of this advertising requirement, we continue to receive complaints from both consumers and other dealers on this issue. Given this agency's participation in advertising compliance seminars, creation of newsletters and emails on the topic, and willingness to provide courtesy ad review, a dealer's claim of ignorance or confusion regarding this matter will not mitigate OCP's actions for noncompliance. If we discover you are violating this advertising requirement, we will take action against your dealership.

What's the Rule? OCP's Pricing Policy

Non-government fees, or any charges that are not required to be collected and then given to the government, must be included in advertised prices.

Any other amounts of money you collect as part of the sale or lease transaction must be included in the advertised price. Examples of fees and/or charges that must be added to the price of the vehicle include all administrative, "doc," and dealer fees, and electronic titling service charges.

Disclosures and Pricing – Can I make the following statements about my car prices and still comply with this advertising requirement?

- **“\$10,000 plus title ad valorem tax, title, tag and doc fee”**
 - No. OCP policies require that all non-government fees be included within the advertised price. Telling the consumer that the fees are excluded does not comply with our requirements.
- **“\$10,000 plus \$500 dealer fee”**
 - No. Even if you disclose the exact amount excluded, this statement still violates our policies.
- **\$10,000 plus tax, tag and title and including dealer fee”**
 - Yes. While OCP does not require dealers to indicate the fees or charges that are included in the price, you are free to do so. The statement “includes dealer fee” is acceptable.

Still Have Questions? You already know our advertising policy applies to advertised prices. Still have questions about what we consider a “price” or an “advertisement”?

Advertisements: Newspaper or other print ads, billboards, television or radio spots are all considered advertisements. We also consider signs or posters on the vehicles themselves (outside of the Monroney sticker) to be advertised prices.

Remember, if a consumer is required to present a particular ad in order to receive an advertised price than the ad must clearly and conspicuously state that fact. Fine print disclosures at the bottom of an advertisement are not sufficient. Absent such a requirement, the consumer must receive the advertised price.

New Vehicle Pricing: Our advertising policy applies to both new and used vehicles. That said, because dealers have no control over manufacturer’s suggested retail prices and Federal law requires that these prices be placed on new vehicles via the Monroney sticker, OCP does not consider a statement of the MSRP to be an advertised price.

Consider the following examples related to MSRP and Pricing:

- **“MSRP = \$33,000”**
This lone statement, whether listed in an ad, website or Monroney sticker, is not considered an advertised price.
- **“Price = \$33,000”**
This statement is an advertised price, even if the MSRP for this vehicle is \$33,000. Because the dealer has indicated this is the price at which it is offering the vehicle, this is considered an advertised price.
- **MSRP = \$33,000
Discount = \$4,000
Price = \$29,000**
Although this references the MSRP, the dealer has indicated that the vehicle will be sold at a discounted price. The price of \$29,000 is an advertised price.

Electronic Titling Fees

Although dealer or “doc fees” are the fees we most often see wrongly excluded from advertised prices, it appears dealers have routinely excluded electronic title fees as well. This is a violation of OCP policy. Because you are not required to use an electronic title service, OCP prohibits you from treating the fees associated with this service as government charges. Because only government fees may be excluded from advertised prices, any electronic title service fees you charge must be included in the advertised price.

In addition to ensuring this fee is added to the vehicle’s advertised price, OCP cautions dealers to think carefully about how this fee is labeled. OCP has noted many dealers collect various amounts of money for this electronic service and have labeled these fees in ways

that inaccurately suggest it is a government fee. For instance, we have seen these charges designated as “DMV fees,” “DDS fees,” and “title” fees. These designations all suggest the government, as is the case for taxes and tag fees, is requiring you to collect the fee. That is not the case. By way of example, if you are charging \$25 for this service and the title fee is \$18, it is *not* permissible to add these amounts together and charge \$43 for a “title” fee. In this instance, you should either separately refer to a \$25 service fee or include this amount in your dealer fee. Regardless of how you designate this amount on your buyer’s order or retail installment contract, this fee must be included in the advertised price.

Can You Give Me a Complete Example?

To illustrate how these types of non-government fees should be treated, consider the following: You have a new vehicle with a MSRP of \$33,000 that will be discounted \$4,000. You want to list this vehicle in your website inventory. You charge a \$500 administrative fee and \$25 for the electronic titling service you offer through a third party vendor. The price you list on your website must be \$29,525. The title ad valorem tax, a tag fee, (depending on what service you are performing for your customer) and the title fee of \$18 may added to this price at the time of sale.

WHAT CAN WE DO FOR YOU?

AD REVIEW:

OCP offers a complimentary review service to help advertisers and dealers identify those areas that might violate the FBPA, the AAEP or related rules or laws. We cannot approve any advertisements. For direct mail ads, please allow 3 full business days (excluding weekends) for a review and response. Other general advertisements will be reviewed within 2 full business days.

WHO TO CONTACT:

Victor Hudson is our primary compliance investigator and all advertisements or any advertising related questions should be submitted directly to him at victor.hudson@ocp.ga.gov.

Lauren Villnow is a staff attorney and works closely with Victor in monitoring auto-related issues. Questions or concerns may be emailed directly to Lauren at lauren.villnow@ocp.ga.gov. To unsubscribe from this newsletter, please send an email to Lauren with “unsubscribe” in the subject line.

WHAT DOES OCP DO?

OCP enforces the 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.

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.