

Self-Regulation or Governmental Oversight?

by : *Gil Van Over*

Micromanagement, as a management philosophy, has its proponents and opponents. The college football Coach of the Year award typically goes to a micro-managing individual, yet many employees change jobs because the boss “was always breathing down my neck.”

Likewise, the brainiacs are constantly debating about differing economic systems. The fair market advocates say let the economy regulate itself. The opposition feels the government should regulate every detail of every transaction.

While I don't profess to be a brainiac, many dealers that I chat with seem to be free market proponents. Regulations are viewed as obstacles to selling vehicles and making a fair profit.

Imagine

John Lennon asked us to imagine many things. I ask you to imagine how you would run your business if the regulators adapted a Consumer Bill of Rights that included:

- Elimination of spot delivery practices
- A \$50 flat fee for selling the RISC, or publicly posted buy rates
- Dealer document preparation fees capped at \$50 (big deal, say Texas dealers)
- A 5 percent fee cap on all aftermarket items
- A \$500 fee per transaction to create a new government agency to enforce the Bill of Rights
- Right of rescission until the deal is funded
- Open access of deal jackets to consumers
- Elimination of mandatory arbitration provisions
- Statutory penalties of \$25,000 per incident

Many of these items have been proposed or are implemented in various states, just not together as a single statute.

Ludicrous, you say?

Before you cry out, “This is ludicrous!” remember what the California dealers had to lobby against to create a California Car Buyer's Bill of Rights that is at least somewhat manageable.

Talk to your brethren in North Carolina about proposed legislation that would mandate buy and sell rate disclosures and provide a rescission option. Visit with Texas dealers whose document preparation fees are capped at \$50. Review the updated Soldiers and Sailors Relief Act that caps aftermarket profits. Speak with someone who neglected to file an 8300 with FinCEN and has been fined \$25,000.

Transparency

If you believe that, as a dealer, you have the right to earn a fair profit and believe in a fair market economic system you have to self-regulate your business. A transparent sales and F&I process each day will keep the regulators away. Here are some process transparency tips:

Desking system

Implement a computerized desking system that discloses sales price, trade allowance, trade payoff, cash down and rebate. If you disclose payments in the sales process, include the other two variables used to calculate the payment, namely term and APR.

Web-based menu

Require the use of a web-based electronic menu on every deal. The sales transaction must be disclosed at the top of the menu, including base payment, term and APR. Every available product must be offered on every deal. Each product's pricing must be disclosed. The final payment for each group of products must be shown.

Four times rule

Disclose the pricing for the vehicle and all aftermarket products on at least four documents (unless state laws forbid it): menu, buyer's order, retail or lease agreement and product enrollment forms. I realize this is a belt and suspenders approach, but you are better off keeping your pants on.

I've seen it happen too often. If you can't regulate yourself, the government or others on the dark side will feel compelled to regulate you.

Gil Van Over is the president of gvo3 & Associates, a nationally recognized dealer compliance consulting firm. He assists dealers with F&I and sales compliance.