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Merlot and Used Car Buyers Guides

by By Gil Van Over

Used Car Buyers Guides are similar to fine wines. They have been around for a while, everybody knows they exist, yet few understand them. Each has a number of ingredients and is complex in their simplicity. I still don't fully understand fine wines, but I do have a grasp on Buyers Guides. Now, so can you.

The Buyers Guide is required under the Federal Trade Commission's Used Car Rule. This rule has been around since the 1980's and is designed to provide a consumer with information about any warranty on the used vehicle he is purchasing.

The potential fine for failure to comply with the rule, as with other FTC rules, is \$11,000 per occurrence. Rumor has it that the regulators are roaming around Texas checking for compliance.

The critical elements required by the rule that can catch dealers in non-compliance include:

- Failure to conspicuously post a guide on a vehicle before it is offered for sale
 - Failure to conspicuously post a Spanish translation guide if the deal is negotiated in Spanish
 - Failure to properly disclose a warranty
 - Using short hand prohibited by the rule, such as "Balance of Factory Warranty" or "Power-train"
 - Inability to prove that the consumer received a copy

No Posting

Issue: Many dealers are now using vendors to post Buyers Guides on the inventory. These vendors usually visit the dealership twice a week. Vehicles taken in trade or received from the auction on days the vendor is not at the dealership sometimes end up on the front line without a Buyers Guide.

Solution: Require that "As-Is" or "Implied Warranties" Buyers Guides are posted on every used car taken into inventory on days when the vendor is not there. Require the Used Car Manager to walk the lot every morning to make sure every used vehicle offered for sale has a Buyers Guide posted.

Se Habla Espanol

Issue: If you run commercials on Telemundo, have ten-foot letters on your showroom glass shouting “Se Habla Espanol”, or can periodically hear the operator’s overhead page say “Spanish speaking salesman, line two.”, you negotiate some deals in Spanish. Best practices dictate that you have a Spanish translation Buyers Guide on every used vehicle.

Solution: Some vendors have bi-lingual Buyers Guides that provide the required information in English and Spanish. If not, use a mirror-hanging Spanish guide. Also, make sure any warranty information you disclose is in English and Spanish.

Inadequate or non-existent disclosure

Issue: Some dealers are now providing a 90-day, 3000-mile warranty with some used vehicles. Most dealers are selling factory certified cars and trucks. Documentation is given to the consumer and sales people tout these warranties and certifications when selling the vehicle. Then, someone hands the customer a Buyers Guide that says the vehicle is being sold “As-Is”.

Solution: If you are providing a limited warranty, it must be disclosed on the Buyers Guide. You must check the limited warranty box, indicate the percentage of parts and labor that is covered by the limited warranty, disclose all of the components that are covered by the limited warranty and show the duration as 90 days or 3000 miles. In addition, stating that a vehicle is a “Certified Pre-Owned” or “CPO” is not providing warranty information and should not be disclosed on the Buyers Guide.

Using shorthand

Issue: The Used Car Rule specifically states that using terms such as “Balance of Factory Warranty” and “Power train” are verboten.

Solution: If you wish to disclose that the balance of factory warranty still applies to a vehicle, you must use the phrase "MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle. Consult the manufacturer's warranty booklet for details as to warranty coverage, service location, etc.". Similarly, you cannot state that the power train is covered. Instead, you must list each component of the power train.

The consumer must get a copy

Issue: Some dealers simply fail to give the consumer a copy of the Buyers Guide, which is a dealer’s ultimate responsibility under the rule. Examples that damage a dealer’s ability to state that the consumer receives a copy include:

- A photocopied form with original ink signature. Tell a regulator with a straight face that the sales

person got up from her desk and made a copy for the consumer.

- A two-ply form and both plies are in the file. However, the consumer did sign the form right above the sentence that stated he acknowledges receiving a copy.
- Missing forms in half of the used car folders while the other deal jackets have some sort of the form.
- The original Buyers Guide from vehicle is in the deal jacket.

Solution: First, understand that a consumer's signature on a Buyers Guide is optional. However, if the form has a signature line, it becomes required. A dealer should contact his vendor and tell the vendor you want the Buyers Guide without a signature line. Then amend your process. Require that the original Buyers Guide from the vehicle is photocopied (front and back) when the car is sold. Put the photocopy in the file. Give the customer the original. This dramatically simplifies the process of ensuring that the consumer is given a properly disclosed Buyers Guide.

Now, let's learn a little more about fine wines...

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