

RULES OF THE ARKANSAS MOTOR VEHICLE COMMISSION

RULE 3

ADVERTISING

OBJECTIVE:

Rule 3 implements the Legislative intent of the law governing advertising as stated in the Arkansas Motor Vehicle Commission Act. False and misleading advertising will be defined and prohibited in a unified effort to insure truthful and accurate product advertising that will benefit the consumers and businesses of this State affected by legislation. Certain key examples of prohibited advertising will be exhibited, but shall not be construed as an all-inclusive exhibit of prohibited practices. The Commission has been granted the authority to review all advertising pertaining to new and used motor vehicles. The Commission will review each advertisement for misleading and deceptive practices and will govern them accordingly.

(a) Rule 3 establishes standards of practices which set forth certain basic principles in advertising the sale and lease of new and used motor vehicles. These standards apply to advertisements both in the print and electronic media.

(b) The primary responsibility for truthful and non-deceptive advertising rests with the advertising dealer. Advertising dealers must be prepared to substantiate any or all offers made before publication or broadcast, and upon request, present such substantiation.

~~(c)~~ Rule 3 does not apply to: ~~1. (a) A~~ any radio or television broadcasting station; ~~or (b) A~~ any publisher, printer, distributor or owner, of any newspaper or magazine, billboard or other advertising medium, or any owner, operator, agent or employee of any advertising agency or other business engaged in preparing or disseminating advertising for public consumption on behalf, of any other person when the advertising is in good faith and he is without knowledge of its untrue, deceptive or misleading character.

~~(d)~~ It shall be the DEALER'S RESPONSIBILITY to provide a copy of Rule 3 to: ~~(a) A~~ any advertising agent or agency or other business engaged in preparing or disseminating advertisements for the dealer, including outside web page designers or web page design firms; and ~~(b) E~~ each employee assigned to preparing or disseminating advertisements for the dealer.

~~(e)~~ Violation of any Advertising Rule(s) by any licensee shall be considered a *prima facie* violation of A.C.A. § 23-112-402(3) or A.C.A. § 23-112-403(a) (2) (D).

~~(f)~~ The Commission will monitors and evaluates each dealer's advertising advertisement regarding its overall impression and compliance with laws and rules. The advertising sections activities include, but are not limited to:

- ~~1.~~ ~~Review of advertisements in state newspapers.~~
1. Review of advertisements in any medium.
2. Review all advertisement complaints as received.

3. Answer advertisement inquires.
4. Address advertising violations.
5. ~~Prepare correspondence to violators.~~
6. ~~Review of advertisements in any medium.~~

1. DEFINITIONS:

- ~~B.A.~~ “Advertisement and or advertising” means any oral, written, telecommunicated, graphic, pictorial or other statement made concerning motor vehicles by publication, dissemination, solicitation or circulation, in the course ~~of soliciting business~~ of “trade” and “commerce”, including without limitation a statement or representation made in a newspaper, magazine, Internet, or other publication or contained or appearing in or on a notice, sign, poster, display, circular, pamphlet, letter, flyer, price tag, window sticker, banners, billboards, handbills, radio, television, web page, price tag or any other medium.
- ~~C.~~ “Advertising Premium” means ~~an offering, gift, prize, award, giveaway, discounted item, bonus merchandise, service certificate or anything of value, or its equivalent in cash, offered in an advertisement.~~
- ~~D.~~ “Authorized Dealer” means ~~a dealer who holds both a valid franchise agreement, dealer sales and service agreement or contract to sell specified vehicles and a valid Arkansas Motor Vehicle Commission Certificate of License to sell those specified vehicles. The term “authorized dealer” or a similar term shall not be used unless the advertising dealer has met the requirements to sell those vehicles the dealer is advertising as “authorized” to sell.~~
- ~~(4) B.~~ “Bait and switch” means an alluring but insincere offer advertising’s purpose is to switch consumers from buying the advertised motor vehicle, in order to sell or lease a different motor vehicle on terms more advantageous to the advertiser. ~~The primary aim of a bait advertisement is to identify potential prospects interested in buying or leasing motor vehicles of the same general type advertised.~~
- ~~F.C.~~ “Clear and conspicuous” means that the statement, representation, or term being used is of such size, color, contrast, audibility and is presented so as to be readily noticed, and understood, and non-deceptive. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning by the general public.
- ~~G.~~ “Dealer Allowance” means ~~the amount which the dealer receives from the manufacturer as a discount that is awarded based on dealer participation in manufactured sponsored programs which may be passed on to the consumer.~~
- ~~H.D.~~ “Dealer ~~D~~ discount” means an amount of reduction or contribution by the dealer to reduce the selling price of the vehicle from “MSRP”.
- ~~H.E.~~ “Dealership addendum” An equipment list is to be displayed on a window of a motor vehicle when the dealership installs special features, equipment, parts or accessories, or charges for service not already compensated by the manufacturer or distributor for work required to prepare a vehicle for delivery to a buyer.

~~J. (1) “Demonstrator” shall be understood to refer to a motor vehicle which has never been sold to an ultimate purchaser. This term describes motor vehicles used by new motor vehicle dealers or their salespersons for demonstrating performance ability, but not motor vehicles purchased by such dealers or salespersons and used as their personal motor vehicles. Demonstrators may be advertised for sale as such only by an authorized dealer in the same line-make of motor vehicles.~~

~~(2) “Demonstrator,” “Executive,” and “Official” motor vehicles shall be clearly and prominently identified as such in immediate location to the year, make and model offered in the advertisement.~~

~~(3) “Executive” and “Official” motor vehicles, when so advertised, must have been used exclusively by executives of the parent motor vehicle manufacturer’s personnel or by an executive of an authorized dealer in the same line-make of motor vehicle. These motor vehicles, so advertised, must not have been sold to a member of the public prior to the appearance of the advertisement.~~

~~(4) “Factory Executive/Official Vehicle” means a new motor vehicle with an original Manufacturer’s Statement of Origin that has been used exclusively by an executive or official of the new car dealer’s franchising manufacturer, distributor, or their subsidiaries.~~

~~(5) “Dealer Rental or Loaner Vehicle” means a new or used motor vehicle which has been used for rental or loaner purposes.~~

~~K. F.~~ “Disclaimer” means those words or phrases used to provide a clear understanding of an advertised statement, but not used to contradict or change the meaning of the statement.

~~L. G.~~ “Disclosure” means required information that is clear, conspicuous, and accurate, ~~and~~ shall be in the immediate proximity of the year, make and model offered in the advertisement or stated at a clear and concise level in broadcast mediums.

~~M. H.~~ “Documentary Dealer Service and Handling Fees” means a fee that a dealer may charge ~~for services rendered to, for, or on behalf of a purchaser in preparing, handling, and processing documents relating to, and closing, a retail transaction involving a new or used motor vehicle. in connection with the sale or lease of a new or used motor vehicle for handling, processing, and storage of documents and other administrative and clerical services.~~

~~N.~~ “Free” means without charge or cost, monetary or otherwise, to the recipient.

~~O.~~ “Identification” means

~~(1) When any price of a vehicle is advertised, the following must be disclosed:~~

~~(a) Model year.~~

~~(b) Make and model number.~~

~~(c) Trade, brand or style name.~~

~~(d) Vehicle must be identified as a new, used, demonstrator, leased, rented or a factory, off-lease, loaner, executive/official, or a factory program vehicle.~~

- ~~P. I.~~ “~~Incentive/Dealer Discount~~” means anything of value offered as an inducement directly or indirectly towards the purchase of a vehicle, including but not limited to, discounts, savings claims, and other dealer programs, but not including factory rebates.
- ~~Q.~~ “~~Internet~~” means ~~a system that connects computers or computer networks; the international network of computer systems commonly known as the “internet”.~~
- ~~R.~~ “~~Internet Service Provider~~” means ~~any information service, system, or access software provider that enables computer access by multiple users to a computer server, specifically including a service or system that provides access to the internet.~~
- J. “Limited rebate” means rebates not available to all consumers and is defined as any payment of money to a consumer, or any payment to a dealer or third party on behalf of a consumer, and that is confined, or restricted, to a certain class of consumers, including, but not limited to, on the basis of the consumer’s status, sponsorship, affiliation, or association
- ~~S. K.~~ “~~Line M make~~” means a group or series of motor vehicles that have the same brand identification or brand name, based upon the manufacturer’s trademark, trade name or logo.
- ~~L.~~ “List” or “Sticker” price when used in a new motor vehicle advertisement refers only to the Manufacturer’s Suggested Retail Price (Monroney Sticker or “MSRP”)
- ~~F. M.~~ “~~Manufacturer E label~~” means the label required by the Federal Automobile Information Disclosure Act, 15 U.S.C. Sections 1231-1233 (normally referred to as Monroney Label), to be affixed by the manufacturer to the windshield or side window of each new automobile delivered to a dealer.
- ~~U. N.~~ “MSRP,” or “Manufacturer Suggested Retail Price,” means the “list price” shown on the window sticker or “Monroney Label” and is the manufacturer’s baseline price for that vehicle. “Dealership Addendums” or “temporary factory value packages” are not a part of “MSRP”.
- ~~V.~~ “~~Off-Lease~~” means ~~vehicles that have been returned to or “turned into” the dealer, manufacturer or financial institution, or purchased at auction and offered for sale to the consumer.~~
- ~~W.~~ “~~On-Line Service Provider~~” means ~~any internet presence, which provides any service to business and/or consumers such as, but not limited to; online auctions, search engines, advertisements and Car Fax.~~
- ~~X.~~ “~~Photographs and Illustrations~~” means ~~in any advertising, accurate photographs or illustrations used when describing specific vehicles.~~
- ~~Y.~~ “~~Print Size~~” in any advertisement, means ~~any type of font which is clearly and conspicuously visible and printed in not less than 8-point type, or printed in 6-point upper case type print and is deemed to be legible to the average reader.~~
- ~~Z.~~ “~~Program~~” means ~~a vehicle that is purchased at a manufacturer’s closed auction or sold by or directly from the manufacturer or distributor which is a current or previous year model that has been previously tagged and/or titled, and returned to the manufacturer for disposal.~~

~~AA-O.~~ “Rebate” means the payment of money from the manufacturer to a consumer, or payment to a dealer or third party on behalf of a consumer on the condition that the consumer purchases or leases a new motor vehicle.

~~CC.~~ “Used” means a vehicle that has been “previously owned” or “pre-owned” and the title to which has been transferred to an “ultimate purchaser” or a used vehicle dealer. A used vehicle shall not be advertised in any manner that creates the impression that it is new. Terms such as Program Vehicle, Special Purchase, Factory Repurchase or other similar terms are not sufficient to designate a vehicle as used. A used vehicle shall be identified as either “used,” or “previously owned” or “pre-owned.”

~~DD.~~ Used and Program motor vehicles shall not be advertised so as to create the impression they are new.

2. **GENERAL ADVERTISING GUIDELINES FOR SALE OR LEASE OF NEW AND USED MOTOR VEHICLES:**

A. General Advertising Guidelines.

A. (1) The advertised price of a motor vehicle must be the full cash price for which the dealer will sell or lease the vehicle to any consumer and shall exclude only the following charges:

- ~~(1)~~ (a) State, county, local and other applicable taxes,
- ~~(2)~~ (b) License fees, and
- ~~(3)~~ (c) Title fees.

Charges including but not limited to dealer service and handling fees, freight and transportation fees, and preparation fees must be included in the advertised price.

~~(2)~~ The price of a new motor vehicle, when advertised by a dealer, must be the price that is available to every consumer. Rebates or incentives that are available to all consumers without qualification can be deducted from the price. Limited Rebates or incentives that are only available to select or qualifying consumers shall not be deducted from the advertised price.

~~(B)(3)~~ Additionally A a qualification may not be used when advertising the sales price of a vehicle such as “with trade,” “with acceptable trade” or “with down payment.”

~~(9)(4)~~ Dealers must clearly and prominently identify themselves by their dealership name or their DBA name in any and all advertisements. The dealership name is the name under which that dealer is licensed with the Arkansas Motor Vehicle Commission, or the DBA names listed on file with the Commission. Using names other than those on file with the Commission, or not using a name in advertising, is prohibited in all mediums utilized.

A. ~~(5)~~ Specific motor vehicles, new or used, or line-make of vehicles advertised for sale or lease shall be in the possession of the dealer as advertised at the address given at the time the advertisement is placed. However, if the time between the placement and the broadcast of the advertisement to the public is excessive, the dealer must have a similar line-make new motor vehicle or an equivalent used motor vehicle to the specific motor vehicle advertised. The

vehicles shall be in condition to be demonstrated, and shall be willingly shown and sold or leased at the advertised prices and upon the terms advertised.

- ~~C.~~ ~~No advertisement shall offer to defer the first payment on credit sales beyond forty-five (45) days, unless such advertisement states with equal prominence the method and/or terms of extending the first payment.~~
- ~~(7)~~ ~~It is an unfair or deceptive act to, in any advertising, use any print in type size so small as to be illegible. In print advertisements, not less than 8-point type or 6-point uppercase type print is deemed to be legible to the average reader.~~
- ~~(10)~~ ~~It is an unfair or deceptive act in any advertising to include discounts in the advertised price that are not available to everyone without printing disclosures in the ad.~~
- ~~D:~~~~(6)~~ ~~Specific claims or discount offers shall not only be used in connection with any motor vehicle other than new or a demonstrator vehicles.~~
- (7) Specific claims or discount offers must only be used to show the difference between the dealer's own current selling price and the bona fide Manufacturer's Suggested Retail Price. Said price The dealer shall include dealer add-ons identified in the dealership addendum when advertising the current selling price.
- ~~C.~~ (8) If a price an advertisement discloses a rebate, cash back, discount savings claim or other incentive, the full price of the vehicle (MSRP) must be conspicuously disclosed or stated in the ad as well as the price of the vehicle after deducting the incentive. Rebates cannot be combined as one.
- ~~D:~~ Full explanation must be given, for example, "Save or discount \$ _____ from Manufacturer's Retail/List Price." Said price shall include dealer add-ons, if any, which shall be specifically identified.

A. B. Licensees shall not use unfair False or misleading advertising.

- (1) Licensee shall not use false or misleading advertising.
- (2) All advertising shall be in plain language, with disclosures of material facts that are clear and conspicuous and non-deceptive. By way of example and not limitation, the following are in violation of this rule:
 - (a) Direct statements or reasonable inferences that have the tendency to mislead consumer;
 - (b) Advertising whose overall impression has the tendency to mislead consumers;
 - (c) Disclaimers or disclosures that contradict, confuse or unreasonably limit or significantly alter a principal message of an advertisement;
 - (d) The failure to make clear and conspicuous disclosures of limitations, disclaimers, qualifications, conditions, exclusions or restrictions;
 - (e) Statements susceptible to both a misleading and a truthful interpretation; and
 - (f) Deceptive statements, even though the true facts are subsequently made know to the consumer.

- (g) ~~(e) It is an unfair or deceptive act to use, in~~ Using in any ~~advertising advertisement,~~ advertising advertisement, ~~one or more~~ footnotes, ~~or~~ asterisks, or various superscripted symbols which, ~~alone or in combination,~~ confuse, contradict, materially modify or unreasonably limit the material terms of an advertisement.
- ~~(2)~~(3) No advertising advertisement containing an offer to sell or lease a motor vehicle shall be published when the offer is not a bona fide attempt to sell or lease that specific advertised motor vehicle. ~~(5)~~ Certain acts or practices that will be considered in determining if an advertisement is not a bona fide offer to sell or lease the advertised motor vehicle include:
- (a) The refusal to show, demonstrate, sell or lease the motor vehicle offered in accordance with the terms of the offer.
 - (b) The failure to have available at all outlets listed or stated in the advertisement, the number of motor vehicles advertised to meet reasonably anticipated demands, unless the advertisement clearly and adequately discloses that a supply is limited, and/or the merchandise is available only at designated outlets and any other applicable restrictions, to which the advertised vehicle may be subject.
 - ~~(c) Failure to make delivery on the advertised motor vehicle within a reasonable time or to make a refund.~~
 - ~~(d) Disparagement by acts or words of the advertised motor vehicle, or disparagement of the guarantee, credit terms, availability of service, repairs, or in any other respect, in connection with it.~~
 - ~~(e) The delivery of the advertised motor vehicle which is defective, unusable or impractical for the purpose represented or implied in the advertisement.~~
- ~~(3)~~ (4) No statement, illustration or picture shall be used in any advertisement which ~~creates a false impression of the current make, value, model or color of the motor vehicle offered, or which may otherwise misrepresent the motor vehicle in such a manner that upon disclosure of the true facts, the purchaser may be switched from the advertised motor vehicle to another.~~ ~~(8)~~ It is ~~an unfair or deceptive act~~ false and misleading to use, in any advertising, inaccurate photographs or illustrations when describing specific automobiles. A diligent attempt in the use of a picture/photograph that is similar to the advertised vehicle should always be conducted. If a vehicle description or photograph is inaccurate, the dealer must prove to the Commission, that a more acceptable photograph or description was unavailable.
- ~~(4)~~ Even though the true facts are subsequently made known to the buyer or prospective buyer, the law is violated by the licensee if the first contact or interview is secured by deception.
- J: (5) It shall be false and misleading to advertise or represent the documentary dealer service and handling fee charge as a required governmental fee.

B. C. Bait and Switch Advertising.

- (1) Licensees shall not use bait and switch advertising.
- (2) No act or practice shall be engaged in by an advertiser to discourage the purchase of the advertised motor vehicle if such act or practice is part of a bait and switch scheme to sell or lease other motor vehicles.

~~(3) An example of an act or practice which will be considered in determining if the initial sale or lease was in good faith, and not a plan to sell or lease other unadvertised motor vehicles is:~~

~~(a) Accepting a deposit for the advertised motor vehicle then switching the purchaser to a higher priced motor vehicle.~~

~~(4) (3) Sales or leases resulting from an advertisement for a motor vehicle do not by themselves rule out the existence of a bait and switch scheme.~~

~~(5) (4) To prevent Bait and Switch Advertising from occurring, the vehicle(s) advertised must be:~~

~~(a) At the advertised location as defined in Section 2, paragraph A(5);~~

~~(b) In condition to be shown;~~

~~(c) Willingly shown to the consumer;~~

~~(d) Willingly shown under the same terms as advertised, and~~

~~(e) Sold at the same terms as advertised, unless the consumer was unharmed in the transaction.~~

D. Minimum Advertising Requirements.

The following are minimum requirements needed to meet the clear and conspicuous standard and conspicuous standard as described in Section 2(B)(2):

(1) In all printed media; ~~written, typed and/or graphic advertisements; where terms, conditions or disclaimers are used, they shall be clearly and conspicuously visible and printed in~~

~~(a) Not less than 8-point type print or printed in 6-point upper case type print.~~

~~When billboards, portable signs, posters, etc., are used, all terms, conditions or disclaimers~~

~~(b) shall be displayed and phrased in a manner which is clear and conspicuous.~~

(2) In a broadcast commercial:

~~(1) A minimum 12 point type for all disclaimers.~~

~~(a) In radio or broadcast advertisements, where ϵ Terms, conditions or disclaimers disclosures are used, they shall be both shall be clearly and conspicuously displayed or announced, or both, during the advertisement.; They shall both be explained clearly and at an understandable speed and volume level or both.~~

~~(b) Shall be at a speed equal to or slower than any other statement, representation or term contained in the advertisement.~~

(3) For broadcast graphics or advertisement(s) in other audio-visual medium the minimum fonts and display time should be:

~~(a) Appear on the screen for duration sufficient to allow a view to have a reasonable opportunity to read and understand the statement, representation or term; and~~

~~(b) The broadcast graphics shall remain on the screen for a minimum display time of:~~

~~(i) Three seconds for the first line of text; and~~

~~(ii) One second for each additional line.~~

E. Required Disclosures.

- (1) Disclosures should only be used in limited circumstances and must meet the following qualifications:
 - (+) (a) ~~All required ad disclosures should~~ **Must** be adjacent to the advertised vehicle ~~being~~ depicted or stated in a clear and conspicuous level in any broadcast medium.
 - (b) Asterisks (*) may ~~not only~~ be used ~~with disclosures located elsewhere in the advertisement to give additional information about a word or phrase.~~
- A. (2) ~~When the cash price, whether for lease or sale, of a motor vehicle is stated in~~ In any advertisement, the motor vehicle shall be clearly identified as to year, make, model, and commonly accepted trade, brand, or style name and the advertisement must clearly define the vehicle as a new, used, demonstrator, leased, rental, factory off-lease, loaner, executive/official or factory program vehicle.
- B. (3) When advertising a new motor vehicle, the use of stock numbers will not preempt the requirements of full disclosure.
- (4) Advertising conditions involving a change in the monthly payments or graduated payments must be of the same size in print advertisements and given the same prominence in all other mediums and shall not be referenced by an asterisk.

3. AVAILABILITY OF VEHICLES.

- ~~B. If a consumer attempts to purchase an advertised vehicle from a licensee and that licensee advises the vehicles are no longer available due to previous sale(s), it is then the duty of the individual licensee, upon request, to show proof of previous sale of the advertised vehicle(s); to a representative of the Commission upon request. Proof shall include the license's sales records of sales or leases of all such advertised motor vehicles.~~
- ~~C. It is an unfair or deceptive act to fail to clearly and conspicuously disclose in an advertisement any limitations, including, but not limited to the availability of a single vehicle or number of vehicles in stock, or period of time during which the offer is in effect, or other applicable restrictions, to which the advertised price may be subject.~~

3. MANUFACTURER ADVERTISING FOR NEW, USED AND/OR LEASED VEHICLES:

- A. Manufacturers must comply with Commission Rule 3 on Advertising.
- B. The suggested retail price of a new motor vehicle when advertised by a ~~licensee who is a manufacturer, or distributor, or factory representative or distributor representative~~ shall include the following:
 - 1. ~~all~~ **All** charges, except destination charges, documentary dealer service and handling fees and/or state or local sales taxes.
 - 2. Such advertising shall **expressly** state that ~~said destination charges, documentary dealer service and handling~~ fees, and/or state or local sales taxes are excluded. ~~Such exclusions are necessary because the destination charges, documentary fees and/or state or local sales taxes cannot be determined~~

~~due to the national or regional scope of the advertisement. When a nationally placed advertisement appears over the name of a local dealer or local dealers or over the name of several dealers in more than one locality, the Commission will regard such advertising as the responsibility of the dealer or dealers named in the advertisement, and the advertisement shall be subject to the requirements of paragraphs "A," "B," "C" and/or "D" above.~~

~~F. C.~~ It shall be unlawful for any manufacturer or distributor, ~~either directly or indirectly,~~ to advertise, publicize or represent to the public by any means or in any medium, any offer to purchasers of motor vehicles sold by the manufacturer or distributor, of a rebate, refund, discount or other financial inducement or incentive, which is either payable to or for the benefit of the purchaser of the motor vehicle, whether such amount is the motor vehicle purchase price or any other cost accruing to the purchaser in connection with the purchase of the motor vehicle, where any portion of such rebate, refund, discount, or other financial incentive or inducement is paid by, financed by, or in any manner contributed to by the dealer selling the motor vehicle, unless such advertising or publicizing discloses clearly and discernibly the following:

~~"The dealer's contribution may affect the final negotiated price of the motor vehicle."~~

~~G.~~ It is unlawful for any dealer, either directly or indirectly, to advertise, publicize or represent to the public by any means or in any medium, any offer to purchasers of motor vehicles sold by the dealer of a rebate, refund, discount or other financial inducement or incentive of the type described in "F"²² above, whether originated by manufacturer, distributor or dealer unless such advertising or publicizing clearly and discernibly discloses the following:

~~"The dealer's contribution may affect the final negotiated price of the motor vehicle."~~

4. **DEALER PRICE ADVERTISING FOR NEW, USED AND/OR LEASED VEHICLES: PROHIBITED STATEMENTS AND ADVERTISING TECHNIQUES:**

The following statements are presumptively false and misleading, and the burden of proving otherwise shall be on the Advertiser/Licensee:

~~A.~~ "Abbreviations" Statements using abbreviations means using or shortened terms for words or initials for groups of words not commonly understood. Trade industry abbreviations which are not commonly understood such as "FTB," "A/R," "TOP," and "POE," "DOC, (depending on credit)" MAY NOT must not be used.. Commonly understood abbreviations, such as "2 DR," "AM/FM," "APR," "WAC," "DEMO," "EXEC," "DOC FEE," may be used. The rules do not contain a list of all the abbreviations one may use, or a list of all the abbreviations one may not use.

~~A. B.~~ Statements such as "write your own deal," "name your own price," "pick your monthly payments," "appraise your own motor vehicle," or statements with similar meaning are obviously untrue and shall not be used.

~~H. C.~~ No ~~advertisement or statement~~ statement or advertisement shall be worded to imply that because of large sales volume, a dealer is able to purchase motor vehicles for less than another dealer selling the same line-make of vehicles.

- ~~E. D.~~ No ~~new~~ motor vehicle advertisement shall contain the following statements or terms “cost,” “percent or dollars over or under cost, invoice, or profit,” “profit” or “invoice” “take over payments,” “fleet pricing,” “wholesale,” “x pricing,” “employee pricing”, or terms with similar meaning. However, a dealer may utilize the phrase “employee pricing or terms with similar meaning” only when the event is a manufacturer sponsored campaign that is available to all dealers of that line-make.
- ~~F. E.~~ A used vehicle shall not be advertised in any manner that creates the impression it is new. ~~Not~~ may any pProduct nameplates and/or logos of any franchise line-make shall not be used in an advertisement that is a “used only” vehicle advertisement.
- ~~G.~~ ~~It is an unfair or deceptive act(s) Statements inferring to advertise~~ inaccurate, unsubstantiated, misleading, or untruthful comparisons with competitor’s services, prices, products, quality or business methods.
- ~~H.E.~~ ~~It is an unfair or deceptive act to advertise the~~ The following statements or terms “sale”, “discount”, “savings”, “price cut”, “reduced”, “clearance”, “tent sale”, and other similar terms, without clearly and conspicuously disclosing that such “clearance” or other such terms are limited to certain vehicles and/or specific dates of the sale if it is a limited time offer.
- ~~I. G.~~ ~~It is an unfair or deceptive act to use~~ Using any advertising statements or terms such as “Closing Out Sale”, “Lost Our Lease Sale”, “Forced to Vacate Sale” or similar terms used to imply a court-ordered closure or other forced liquidation of assets, or to induce a belief that upon disposal of the stock of goods on hand, the business will cease and be discontinued at the premises where the sale is conducted, unless such is the case.
- ~~K:~~ ~~The following statements shall not be used in any advertising by a dealer, unless such statements are absolutely true with no qualification:~~
- (1) ~~H.~~ Statements such as “everybody financed”, “no credit rejected”, “we finance anyone”, and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his or her inability to qualify for credit.
- (2) ~~I.~~ Statements such as “all credit applications accepted,” or terms with similar meaning are deemed deceptive and shall not be used.
- ~~J.~~ Statements such as “sales tax paid,” or terms with similar meaning shall not be used, unless it is truly paid by the dealer and not financed or added to the price of the vehicle.
- (7) ~~The term “Repossessed” may only be used to describe vehicles taken back from the purchaser. Advertisers offering repossessed vehicles for sale shall provide written proof of repossessions:~~
- (6) ~~It shall be false or misleading to advertise a vehicle as “repossessed” or any inference made to that effect, unless such vehicle has been repossessed from an immediate former owner. Neither shall a dealer advertise in any manner to infer that a purchaser will be receiving benefits of an existing loan on a vehicle when no such benefit exists. Phrases like “take over payments” are misleading and should not be used.~~

- K. Statements or terms inferring a vehicle has been “repossessed” from an immediate former owner. Neither shall a dealer advertise that a purchaser will be receiving benefits on an existing loan on a vehicle when no such benefit exists.
- L. “Special arrangement” or “relationship” advertisements. Statements such as “big volume buying power,” “manufacturer’s outlet,” “factory authorized outlet,” “factory sale”, “factory approved”, and “factory wholesale outlet”, or terms with similar meaning shall not be used. Any term or statement that gives the consumer the impression the dealer has a special arrangement with the manufacturer or distributor as compared to similarly situated dealers, is misleading and shall not be used
- ~~M. M.~~ “Double Rebates”, “Triple Rebates” or any other amount of rebates that are not truly offered by the manufacturer are prohibited.
- N. The statement “no reasonable offer refused,” shall not be used because, what may be reasonable to the dealership may not be reasonable to the consumer. As a result, the statement is almost impossible to prove.
- O. Terms or phrases that may be unfamiliar to a consumer must be fully defined in the advertisement.
- ~~H. Statements such as “manufacturer’s sales” or “wholesale prices” shall not be utilized in advertising by a new motor vehicle dealer that create the impression that it is being offered for sale by the manufacturer or distributor of the vehicle. Advertisements by dealers shall not contain terms such as “factory sale”, “wholesale prices”, “factory approved”, “factory sponsored”, or any other similar terms that indicates sales are sponsored by anyone other than the dealer, “unless it is a bona fide factory program available to all dealers of that make.”~~
- ~~D. Any rebate, discount, cash back or other incentive which is not available to all consumers shall be explained by stating the limitations of that incentive. Rebates cannot be combined as one.~~
- ~~B. P. When guaranteed trades in allowances are used in advertising the dealer must convey the specific advertising trade in amount to the consumer as part of the transaction. It is an unfair or deceptive act to advertise or offer Statements offering a specific trade-in allowance (i.e., \$2500 minimum trade-in”), or a range of amounts for trade-ins (e.g., “up to \$1,000” or “as much as \$1,000”) including, without limitation, that the trade-in will be valued at a specific amount or guaranteed minimum amount.~~

~~5. CASH PRICE AND CREDIT TERMS ADVERTISING:~~

~~6. PROHIBITED STATEMENTS:~~

- ~~O. “Internet” Compliance on advertising and communication should include the word “e-mails”. When a salesperson e-mails a prospective customer, he or she must adhere to rules in dealing with the public. This should apply to a company’s website as well as business correspondence with the public.~~

7. 5. REQUIRED DISCLOSURES FOR ~~PRINT OR INTERNET~~ CLOSED ENDED CREDIT TERM ADVERTISEMENTS:

(1) The Federal Reserve System and the Federal Trade Commission are two agencies involved with the enforcement of Federal Regulation Z. If an advertisement promoting closed-end credit sale on a motor vehicle purchase contains any of the following terms:

- (a) The amount of the down payment expressed either as a percentage or dollar amount;
- (b) The amount of any payment expressed as a percentage or dollar amount;
- (c) The number of payments;
- (d) The period of repayment; or
- (e) The amount of any finance charge.

(2) Then the following terms must be disclosed:

- (a) Amount or percentage of down payment;
- (b) Terms of repayment; and
- (c) Annual percentage rate, using the term or the abbreviation "APR".

LEASE ADVERTISING REQUIRED DISCLOSURES

(1) The word "Lease" or "Smart Buy" must appear in a prominent position in the advertisement.

(2) Advertising that involves consumer leases falls under Federal Regulation M. If an advertisement promoting consumer lease on motor vehicle contains any of the following terms:

- (a) The amount of any payment; or
- (b) A statement of any capitalized cost reduction or other payment required prior to or at consummation or delivery.

(3) Then the following terms must be disclosed:

- (a) That the advertised transaction is a lease;
- (b) The total amount due prior to or at consummation or delivery;
- (c) The number, amounts and due dates or periods of scheduled payments;
- (d) A statement of whether or not a security deposit is required; and
- (e) A statement that an extra charge may be imposed at the end of the lease term where the lessee's liability, if any, is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

C. OPEN ENDED CREDIT TERMS

Examples of open-end credit are bank and gas company credit cards and stores' revolving charge accounts. In open-end credit, the creditor reasonably expects the customer to make repeated transactions.

The triggering terms for open-ended credit are:

Examples of open-end credit are bank and gas company credit cards and stores' revolving charge accounts. In open-end credit, the creditor reasonably expects the customer to make repeated transactions.

The triggering terms for open-ended credit are:

- (1) Statement of when the finance charge begins to accrue, including any "free ride" period, if any
- (2) Statement of either the periodic rate used to compute the finance charge or the annual percentage rate
- (3) The method of determining the balance on which a finance charge may be imposed
- (4) The method of determining the finance charge, including a description of how any finance charge other than the periodic rate will be determined
- (5) The amount of any charge (other than the finance charge) that may be imposed as part of the plan
- (6) The fact that the creditor will acquire a security interest

The required disclosures are:

- (1) Any minimum, fixed, transaction, activity, or similar charges that could be imposed.
- (2) Any periodic rate that may be applied, expressed as an "annual percentage rate". If the plan provides for a variable periodic rate, that fact must be stated.
- (3) Any membership or participation fee.

CONSUMER CREDIT REQUIRED ADVERTISING DISCLOSURES

~~A. ALL "CREDIT SALES ADVERTISING" SHALL BE COMPRISED OF, AND LIMITED TO:~~

~~(a) Actually available 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.~~

~~(b) 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. If the annual percentage rate may be increased after consummation, the advertisement shall state the fact. The advertisement shall not state any other rate, except that a simple annual rate or periodic rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the annual percentage rate. It is an unfair or deceptive act to advertise a finance rate (APR) without disclosing the following:~~

- ~~a) That such rate is limited to certain models;~~
- ~~b) That the price may be increased by a dealer's contribution to lower the rate;~~
- ~~e) That to take advantage of such reduced rate, a customer must purchase additional options or services;~~
- ~~d) That taking advantage of the rate will increase the final price of the vehicle-~~

- ~~or options or services purchased;~~
- ~~e) That the offer expires after a limited time period, and~~
- ~~f) Any other conditions, qualifications or limitations which materially affect the availability of such rate.~~

~~(c) 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 (c) (2) of this section:~~

- ~~(i) The amount or percentage of down payment.~~
- ~~(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 (c) (1) of this section shall state the following terms, as applicable:~~

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

~~(d) Catalogs and multiple page advertisements; electronic advertisements:~~

~~(1) If a catalog or other multiple page advertisement, or an advertisement using electronic communication give information in a table or schedule in sufficient detail to permit determination of the disclosures required by paragraph (c)(2) of this section, it shall be considered a single advertisement if:~~

- ~~(i) The table or schedule is clearly and conspicuously set forth; and~~
- ~~(ii) Any statement of terms of the credit terms in paragraph (c) (1) of this section appearing anywhere else in the catalog or advertisement clearly refers to the page or location where the table or schedule begins.~~

~~(2) A catalog or other multiple page advertisement or an advertisement using electronic communication complies with paragraph (c)(2) of this section if the table or schedule of terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly sold higher-priced property or services offered.~~

~~An advertisement which complies with the Federal Truth in Lending Act (15 U.S.C. § 1601 et seq.) and amendments thereto, and any rules issued or which may be issued there under, shall be deemed in compliance with the provisions of this Section.~~

B. LEASE ADVERTISING

- (1) The word “Lease” or “Smart Buy” must appear in a prominent position in the advertisement.
- (2) Advertising that involves consumer leases falls under Federal Regulation M. If an advertisement promoting consumer lease on motor vehicle contains any of the following terms:
 - (c) The amount of any payment; or
 - (d) A statement of any capitalized cost reduction or other payment required prior to or at consummation or delivery.
- (3) Then the following terms must be disclosed:
 - (f) That the advertised transaction is a lease;
 - (g) The total amount due prior to or at consummation or delivery;
 - (h) The number, amounts and due dates or periods of scheduled payments;
 - (i) A statement of whether or not a security deposit is required; and
 - (j) A statement that an extra charge may be imposed at the end of the lease term where the lessee’s liability, if any, is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

C. OPEN ENDED CREDIT TERMS

CONSUMER CREDIT REQUIRED ADVERTISING DISCLOSURES

GENERAL PROVISIONS

~~It shall be unlawful willfully and knowingly;~~

- ~~(1) Give false or inaccurate information or fail to provide information which is required to be disclosed under the provisions of this or any regulation or rule issued there under.~~
- ~~(2) Consistently understate the annual percentage rate, or~~
- ~~(3) Otherwise fail to comply with any requirement imposed under this rule.~~

~~B. LEASE ADVERTISING~~

~~“Consumer Leases”~~

~~Consumer Leases apply only to “consumer leases” defined as contracts meeting each of the following elements:~~

- ~~• The lease is for the use of an automobile;~~
- ~~• The lease has a term of more than four months;~~

- ~~The contractual obligation does not exceed \$25,000.~~

~~A vehicle leased by an individual can be used for business purposes and be covered under these rules, if the lease was originated by the consumer in their name. A vehicle leased by a company, in the companies' name, IS NOT covered by these stated rules.~~

~~How the disclosures must be made:~~

~~Consumer lease disclosures must meet the following general criteria:~~

- ~~Disclosures must reflect the terms of the legal obligations between lessor and lessee.~~
- ~~Disclosures must be legible, whether typed, handwritten, or printed by computer.~~
- ~~Disclosures must be "clear and conspicuous", so that the relationship between terms is reasonably understandable and apparent.~~
- ~~A copy of the disclosures must be given to the lessee at or prior to inception of the lease.~~
- ~~Disclosures must be made on a dated, written statement which identifies the lessor and lessee.~~

~~What must be disclosed:~~

~~This rule also stipulates specific content of the disclosures, and requires that certain information be segregated on the lease contract. The specific content of disclosures required under this rule includes:~~

- ~~Description of property;~~
 - ~~Amount due at lease signing or delivery;~~
 - ~~Payment schedule and total amount of periodic payments;~~
 - ~~Disclosure of other anticipated charges during normal execution of the lease agreement;~~
 - ~~Total of payments;~~
 - ~~Payment calculation;~~
 - ~~Lease term;~~
 - ~~Early termination conditions and penalties;~~
 - ~~Maintenance responsibilities;~~
 - ~~Purchase option;~~
 - ~~Statement referencing "non-segregated" disclosures~~
 - ~~The right of appraisal;~~
 - ~~Liability at the end of the lease term;~~
- ~~Fees and taxes;~~
- ~~Insurance and warranties.~~

~~An advertisement which complies with the Consumer Leasing Act of 1976 (15 U.S.C. § 1601 et seq.), and amendments thereto, and any rules issued or which may be issued there under, shall be deemed in compliance with the provisions of this Section.~~