

Don't Let a Factory Performance Letter Go Unanswered

by : Rich Sox

I can see from recent communication with our dealer clients that it is time for a tune-up. Maybe it's the focus on trying to stay in the black, or in the case of the lucky few, the focus on how to spend all your profits, but whatever the reason, dealers seem to have been ignoring performance letters from the factory. This applies across the board from Mazda dealers to Toyota dealers and all dealers in between. The manufacturers do not reserve these letters for only dealers who are losing money – many very profitable dealers are sent a letter or report of their supposedly deficient sales and/or service performance. If the letter or report (depending on the manufacturer) reflects any deficiency in performance, don't let it go unanswered.

Alleged sales and/or service deficiencies are no longer *only* a potential violation of your dealer agreement leading to termination, but now have a very real impact on what incentives a dealer will be eligible for from the manufacturer. For many dealers, these incentives make the difference between being marginally profitable and suffering serious financial loss.

As we have preached repeatedly in this column, it is imperative that dealers not let the manufacturer create the paper trail on performance. Verbalizing your response is not sufficient. I can assure you that every single manufacturer performance letter and report ends up in your dealer file. I can also assure you that any telephone conversation or in-person meeting you have with your factory representative will be documented in the light most favorable to the manufacturer. All those very valid points you raised concerning why your performance appears to be deficient, but in fact, is not, will be mysteriously missing from the manufacturer's contact report. It is up to you to document those points in a letter to your region, zone or business center representative.

Worrying that the manufacturer will not appreciate you pushing back or will perceive you as a troublemaker is exactly what the manufacturer wants you to think. Don't buy it, and don't worry about how the manufacturer will view your response. You are the one that has invested millions of dollars and given your very life to the dealership – not the manufacturer. When push comes to shove, you are the only one that will stand up to protect that investment. Many dealers over the years have stood up to the factory and continue to be successful dealers today. If anything, confronting the alleged performance deficiencies results in the manufacturer respecting you more than before.

Your factory representative may tell you that the letter or report is just routine and not to worry. Don't buy that either. That same representative will have memory lapse when he or she has to explain why you are not eligible for some incentive or why the factory is placing you on a cure period to resolve the performance deficiency, which, if not met, could result in termination or forced sale of your franchise. We have seen it over and over again.

Okay, now that the pep talk is out of the way, let's look at what your response to a negative sales performance letter or report should include. The main goal for the response is to put the proverbial ball back in the manufacturer's court. To do this, a dealer must first ask the manufacturer to explain in *detail* how it calculates the measure being used to gauge the dealer's sales performance.

Most manufacturers use some iteration of an average of the dealer's performance against all other dealers in the nation, region or state. Within this measurement, the manufacturers break out into subsets, which include those that measure trucks and cars separately, those that assign a percentage of responsibility within a multi-dealer market and those that compare the dealer on an individual basis against the average. The remaining few manufacturers use a monthly and/or annual volume objective, which must be met. In all cases, it is important to understand how you are being measured so that

aspects of the measurement can be challenged if appropriate.

One item that is common to all manufacturers is the use of a territory upon which your performance is gauged. The manufacturer draws your territory by assigning United States' census tracts to your territory. Your vehicle registrations within this area are calculated and then applied to the performance formula. It is critical to ask your manufacturer what census tracts have been assigned to your area of responsibility.

Once you have the sales measurement and assigned territory information in detail, it is time to identify anomalies in the sales performance measurement. These anomalies can be in the formula or assigned territory themselves or in your dealerships specific situation, or both.

One of the most common anomalies we see is where your market does not mirror the rest of the area (nation, region or state) you are being measured against. As an example, being an import dealer in our neck of the woods in North Florida is nothing like being an import dealer in the rest of the state of Florida. Folks in North Florida still like their Ford, Chevy and Dodge pickup trucks. You don't see too many residents of Orlando, Tampa or Miami driving pickup trucks. In this case, the import dealer would want to put the manufacturer on notice of the unique aspects of his or her market as compared to the overall area (nation, region or state) being used as the base measurement and request an adjustment in the sales performance measurement.

Another common anomaly in the application of a sales performance formula is that the percentage of the market for which you are responsible is unfairly large. This situation occurs when the manufacturer has assigned a percentage of a metro area to each same line-make dealer in the area. Unfortunately, in more cases than you would expect, each dealer does not receive an equivalent percentage. We have seen percentage assignments of say 45 percent, 35 percent and 20 percent in a market with three dealers serving comparable areas of the same metropolitan market. Guess how the performance looks for the dealer with 45 percent responsibility for registrations in the metro market? Not good.

With regard to the territory assignment, we have seen on more than one occasion where a census tract has been assigned to a dealer that is across a river with no bridge for miles up or down the river. How can the manufacturer believe that the dealer should be responsible for penetrating that census tract? The answer simply is that a computer does these assignments. The computer assigned census tracts by *air* mile distance. The closest dealer by air miles to the geographical center of that census tract gets it. Even without a natural barrier, we have seen over and over again that road systems and traffic patterns defy the assignment of a census tract to a particular dealer. Even though the census tract may be closer by air miles, when someone gets in a car to drive to the closest dealership it may be faster for them to drive to a neighboring dealer than the dealer assigned that tract. The dealer must identify any tracts which he or she doesn't believe should fairly be assigned to them and request their removal from the areas of responsibility.

Separate and apart from errors in the manufacturer's sales performance formula, in many cases there is an anomaly in the market or dealership itself that can explain what otherwise appears to be deficient performance. When we dig into the facts, we find that things like major road construction in front of a dealership for a lengthy period of time, a shift in population away from the dealership, a shift up or down in average household income, an unfair manufacturer incentive program and the presence of another manufacturer's automobile plant or supplier office can all drastically impact your sales performance.

Whatever the anomaly or circumstances that helps explain why you should not be held to the manufacturer's sales formula must be detailed in a letter to the manufacturer. The manufacturer may not

be willing to make any adjustment in its sales formula to accommodate your concerns or to make you eligible for certain sales incentives, but you are nonetheless creating a paper trail that will make them think twice about pushing beyond merely sending the form deficiency letters and will give your lawyer the ammunition needed in any future litigation over lost sales incentive monies.

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