



## Are You In Compliance? The FTC Wants To See Your Buyers Guide

By Robert C. Byerts, Esq.

It's that time of year again. The sun is shining bright, the snow is gone, and customers are shopping for used cars. All of which means, its regulatory audit time. Have you seen Federal Trade Commission (FTC) auditors on your lot? The FTC is rumored to be conducting field investigations at dealerships across the country to check compliance with the Used Car Rule (Buyer's Guide/Window Sticker Requirements).

Franchised dealers who sell used vehicles must comply with the FTC's Used Car Rule. The used car rule applies in all states (except Maine and Wisconsin which are exempt because they have similar regulations that require dealers to post disclosures on used vehicles).

Dealers must display a Buyers Guide before they "offer" a used vehicle for sale. A vehicle is offered for sale when it is displayed for sale or available for a customer to inspect it for the purpose of buying it, even if the car is not ready for delivery. Dealers should display a "NOT FOR SALE" sign on vehicles not available for purchase.

THE BUYERS GUIDE is a disclosure document that gives consumers important purchasing and warranty information, including:

- \* whether the vehicle is being sold "as is" or with a warranty;
- \* what percentage of the repair costs a dealer will pay under warranty;
- \* a reminder that oral promises are difficult to enforce;
- \* a reminder to get all promises in writing;
- \* a suggestion to keep the Buyers Guide for reference after the sale;
- \* the major mechanical and electrical systems on the car as well as some of the major problems that consumers should look out for;
- \* a suggestion to ask to have the car inspected by an independent mechanic before they buy.

If a used car transaction is conducted in Spanish, a Spanish language Buyers Guide must be posted on the vehicle before it can be displayed or offered for sale.

The Buyers Guide must be posted PROMINENTLY and CONSPICUOUSLY on, or in, a vehicle when a car is available for sale. This means it must be in plain view, with both sides visible. You can hang the Guide from the rear-view mirror inside the car or from the side-view mirror outside the car. It can also be placed under a windshield wiper. A guide also can be attached to a side window. A guide cannot be placed under a seat or in the glove compartment, because it is not in plain sight. The Guide can be removed for a test drive, but must be replaced as soon as the test drive is over.

You must give the buyer the original copy of the vehicle's Buyers Guide at the close of the sale. The guide must reflect all final changes. The buyer must sign that they have received a copy of the Buyers Guide with all changes reflected. In case of an audit, the dealership must be able to prove the guide was provided to each used car purchaser. To protect the dealership make sure that a Buyers Guide is in every used car deal jacket.

Dealers should ensure their staff walks their lots and inspects ALL used cars to ensure 100% compliance with the Used Car Rule. Don't be a victim this regulatory inspection season. Dealers who violate the Used Car Rule may be subject to penalties of up to \$11,000 per violation.

If you have any questions, a guide to the rule for dealers can be accessed at the FTC's website at:  
[www.ftc.gov/bcp/conline/pubs/buspubs/usedcarc.shtml](http://www.ftc.gov/bcp/conline/pubs/buspubs/usedcarc.shtml)

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