

CAR DEALER

Profit Making Secrets for the Competitive Dealer **INSIDER**

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Spring sales show more gains for import makes

Both GM and Ford reported sales dropped in May as more vehicle buyers opted for import models.

GM's car sales dropped 1.6 percent compared to a year earlier, and its truck sales fell 7.8 percent from May 2004. To date, GM's sales are down about 5 percent compared to a year ago.

Meanwhile, Ford saw solid performance from its Mustang sales, which are up 47 percent from a year ago. That tally contributed to a 4.3-percent increase in car sales for Ford, Lincoln and Mercury divisions. But a 6.4-percent decline in truck sales translates to overall sales at Ford lagging about 4 percent so far this year.

Asian automakers have fared better as Nissan saw a 15.5-percent increase in sales in May, fueled in large part by a 15-percent increase in demand for its trucks and SUVs. Toyota saw a 7.8-percent increase in sales in May, contributing to a nearly 12-percent increase in sales for the first five months of this year. Honda, meanwhile, saw a 7.5-percent decline in its overall sales, though its Ridgeline pickup tallied a 14 percent increase in May.

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Dealers ramp up F&I compliance checks with third-party review service

Digital video reviews seen as time-savers and training tools

In the early days of video-taped F&I transactions, Mirt Ramey spent several hours a day reviewing tapes from F&I managers at Texas-based Red McCombs Enterprises, fast-forwarding to find relevant sections that revealed whether the manager made the proper disclosures and presentations with customers.

The past few years have brought the advent of digital video recording, which in turn reduced the amount of time Ramey, who works as an operations consultant for the dealer group, needed to audit F&I transactions. But even with the increased efficiency, Ramey has found it's difficult to review even 5 percent of the transactions that flow from nearly two dozen F&I managers at McCombs' stores. "I just don't have the time," she says.

This month, Ramey is rolling out an F&I Witness service offered by IAS, a Leander, Texas, company that has offered dealers video recording and automated menu presentation tools. The service offers dealers the opportunity to use IAS personnel to review digital recordings of F&I transactions, using a scorecard IAS develops in conjunction with participating dealers.

For example, if a store wants to ensure that each F&I manager conducts all the identity verification steps with customers within three minutes of meeting customers, IAS reviewers can check for compliance, says Matt Nowicki, director of IT for IAS. Other items dealers have asked IAS to incorporate into F&I Witness reviews: Did the F&I manager go over factory CSI surveys? Did F&I managers properly present each product? Was a sales manager present at the time the customer entered the F&I office?

Nowicki says dealers can modify the reviews to match their own processes, using yes/no or qualitative ratings for answers. IAS will offer the F&I Witness program to its SmartEye users, which number about 750 dealers. Cost: \$50 per month for

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Analysts believe higher gas prices are partly to blame for the shift toward import trucks and SUVs among consumers. In press reports, GM execs dismissed that assertion as only a contributing factor to the dropoff in demand.

GM also rolled out a new incentive to drive sales, offering its employee discounts to all customers.

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reviews of five transactions from an individual F&I manager; additional reviews would cost an additional \$8 apiece.

Ramey says the F&I Witness program will also help with sales training. She can use videos to help showcase the proper use of menus and how to overcome objections in training for new F&I managers and retraining of seasoned pros.

Some related F&I compliance pointers:

- **Have your F&I managers ask for verbal and written confirmation of customer incomes.** “We put it on the customer to tell us the truth,” Ramey says. The approach has helped in cases where a customer inflated his or her income, which then triggered a repossession and charge-back from lenders. She’s successfully used that evidence to negotiate charge-back amounts with lenders. (The falsifying of customer incomes was a central allegation in recent state investigations involving two Denver stores, *(CDI, 5/23/05.)*)
- **Make sure your F&I managers print out take-home copies of contracts prior to obtaining customer signatures.** The federal Truth in Lending Act requires giving copies of completed but unsigned contracts to customers as a precursor to inking a deal. Some F&I compliance pros note dealers sometimes still miss this requirement—an issue some believe may be an even greater risk given the rise of e-contracting in stores. Ramey notes her F&I managers typically print two copies of the contracts and the store’s e-contracting system from DealerTrack requires the printouts before enabling an F&I manager to complete a deal. The system also requires a signature to affirm the customer received the contract to thwart any future claims against the store over a TILA violation.
- **Tie F&I certification into longevity.** Like many stores, McCombs wants its F&I managers to view certification, offered by the Association of Finance and Insurance Professionals, as a must-have element of continuing education to perform their jobs. The dealer group has not yet made certification a requirement, but it offered this incentive for those who seek it: The store will reimburse the cost of obtaining certification within a year for F&I managers and other employees who have worked for McCombs for five or more years. Employees with less seniority get reimbursed within two years of obtaining certification. Ramey says the program’s meant to prevent F&I managers from obtaining certification and moving on to work at another store.

Judge finds Lincoln Premier dealer bonus program violates state law

Decision says bonus incentives create illegal two-tier pricing between dealers

An administrative law judge in Texas has ruled that the Lincoln Premier Experience bonus program effectively create two-tier pricing for dealers and thereby violates the state's motor vehicle code.

In an opinion issued last month, Judge Lea Anne Burnett ruled that because the bonus payments are tied to wholesale prices, they "cross a line from being merely incentives to becoming subsidies. To the extent that the LPE bonus payments constitute wholesale subsidies to the price of Lincoln vehicles, the payments discriminate unreasonably between certified and uncertified dealers," Burnett's opinion states.

In addition, Burnett found that the Premier program creates an unreasonable standard for sales and service performance by requiring certified dealers to participate in the factory's dealer advertising associations.

Burnett's decision recommends that the state motor vehicle board require that Lincoln cease making the incentive payments and requiring dealers to participate in the ad groups. Lincoln has until August to respond to the judge's decision, after which the board will take it up (see sidebar, this page).

But here's a key wrinkle: Lincoln has already stopped making the incentive payments based on vehicle list prices. Last March, Lincoln joined the Ford division in eliminating the financially based bonus components of their respective Premier and Blue Oval dealer programs. The change followed legal cases and dealer outcry over the program requirements and the disparate impact it created between dealers who participate in the programs and those who don't.

Currently, all Ford and Lincoln dealers can earn flat fee bonuses on the vehicles they sell, provided they meet sales quotas based on prior performance. Lincoln and Ford dealers say the bonus money amounts to about half of what they earned under the certification programs. Dealers who retain their Blue Oval or Premier certifications are eligible for factory awards and employee incentives.

So what's the practical impact of the case? "I'm not sure it's an issue," says dealer Jerry Reynolds, who owns a Lincoln store in Dallas. He notes that most Lincoln dealers liked the Premier program

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New law abolishes Texas board

There's some concern in the Lone Star State that a new law will make it easier for politics to taint decisions about disputes dealers have with factories and customers.

The new law abolishes the nine-member motor vehicle board, which regulates dealers and hears disputes on disagreements between dealers and factories. Instead, an executive director, who will be appointed by the governor, will make those decisions.

"You can't control nine people, but you can control one," says a Texas dealer attorney who fears the change will erase the democratic composition of the board and expose it to political considerations.

Dealers say they are unaware of the change — largely because it wasn't debated in the legislature and dealers are more worried about proposed business taxes the legislature is considering to resolve budget deficits.

Proponents for the change say it will make the motor vehicle board function like other regulatory boards in state government. Those boards also have a single executive director, rather than a panel of business professionals, that make decisions.

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because the incentive monies often spelled the difference between a profit and loss for their stores.

A Lincoln spokesman says the judge's ruling will have little effect, given the change the company made in March to the incentive program. In the case, Lincoln had contended that because virtually all dealers participated in the Premier program, its incentive program was not discriminatory or unfair.

Austin, Texas dealer attorney David Coffey says the judge's decision can be helpful to dealers because it gives the motor vehicle board the opportunity to formally establish a baseline of the types of the requirements and incentives factories can legally insert into dealer performance programs. In the past, the board has settled disputes between dealers over incentive programs from Ford, Volvo and Volkswagen.

This case marks the first time an incentive program has formally gone before the board. The case resulted from an inquiry into the legality of the bonus programs the Texas Automobile Dealers Association filed in 2000.

EEOC files discrimination lawsuit against AutoNation store

Case alleges manager refused promotion due to an accent

The Equal Employment Opportunity Commission in Phoenix has filed a lawsuit seeking \$300,000 in compensatory and punitive damages for allegedly refusing a promotion to an employee because of his accent.

The suit claims that a manager at Brown and Brown Chevrolet refused to give a promotion to Omagbitse Jagha, a sales associate who sought a position as F&I manager.

EEOC attorney Lucila Rosas says the agency received a complaint from Jagha, a Nigerian, after a manager told him he'd be ineligible for a promotion until he took a speech class to clear up his accent. Jagha left the store in 2002 and filed a complaint. The EEOC filed the lawsuit after completing an investigation and seeking a settlement with AutoNation.

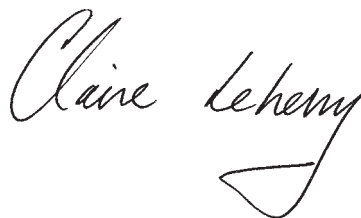
Just because someone has an accent doesn't mean you can discriminate, Rosas says. The federal Civil Rights Act's Title VII bars discrimination based on race, color, gender and national origin.

Marc Cannon, spokesman for AutoNation, says the company will "vigorously defend" itself against the charges.

The case raises two key questions for dealers:

1. Can you require someone to speak clear English for a position? You could if there's a business necessity for it, Rosas says. But you can't use the requirement to hide your bias, she adds. The key point is whether the individual can be easily understood by customers.

2. Does a store run a reverse-discrimination risk by requiring specific language skills for a position? The EEOC allows businesses to set skill requirements, such as speaking Spanish, if they meet a business need. For example, if you wanted a bi-lingual sales associate to serve Hispanic customers you could make that a requirement. But your managers should not refuse the job to someone who is otherwise qualified because the individual doesn't look Hispanic.



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