



## **Team VADA Webinar**

# ***Social Media Dos and Don'ts***

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## Why Adopt a Social Media Policy?

- Employee social media posts with prices, payments, or offers are advertising
- MVDB can hold the dealership responsible for social media advertising violations
- A social media policy that is enforced can help protect a dealer's reputation and provide a defense against MVDB penalties and legal actions
- We will cover social media dos and don'ts
- We will provide social media policy examples

## Social Media **ENFORCEMENT**

- The Federal Trade Commission is the federal agency that oversees dealer advertising compliance.
- The most common FTC enforcement actions on laws preventing unfair and deceptive acts and practices against motor vehicle dealers have alleged advertising violations.
- The Virginia Motor Vehicle Dealer Board oversees dealer advertising compliance in Virginia.
- The MVDB has been active in assessing civil penalties against dealers that violate state advertising regulations.
- Social media posts by dealer employees that violate Virginia advertising laws can lead to civil penalties against the dealership.
- Do not overlook the possibility of legal actions for alleged civil liability because of improper advertising.

## Federal Trade Commission

# Federal Advertising Pitfalls

- The FTC has concentrated its authority and increased budget over car dealers under the Dodd Frank Act on advertising compliance.
- Most legal actions against auto dealers in the last decade have involved advertising violations.
  - The Truth in Lending Act and the Consumer Leasing Act require that if a dealer uses a trigger term, it must make the follow-on disclosures
  - “Bait and switch” is the FTC’s hot button. Do not advertise prices, payments, or other offers of limited availability without adequate disclosures. The FTC may consider social media posts of prices, payments, or other offers without critical disclosures and disclaimers as bait and switch advertising **by the dealership**

## Motor Vehicle Dealer Board **State Advertising Pitfalls**

- VA MVDB position on advertised offers is similar to FTC.
- When advertising a price of a vehicle that is eligible for rebates/incentives, that price may be based on incentives and rebates that are available to ALL purchasers.
- The MVDB has been very specific about how prices net of factory incentives and programs of limited availability must be presented. Advertising of prices or payments without appropriate disclosures and disclaimers will violate Virginia law, and the MVDB can take action against the dealership.
- MVDB also enforces TILA and CLA compliance, and failure to make follow-on disclosures after a trigger term can lead to civil penalties.



## Motor Vehicle Dealer Board **More Advertising Pitfalls**

### **Other advertising concerns:**

- If the advertising does not clearly disclose the name of the dealer involved, the advertisement must include the disclosure “VA DLR” to indicate it is dealer advertising.
- In posts to sites such as Craigslist, the use of the “private” section instead of the dealer section has been a hot button for MVDB enforcement.
- If the dealership charges a processing fee, that must be disclosed as required by law, unless included in the advertising price.
- If a post makes an offer based on a sale, a sale end date is required.
- An ad may not use the term “free” , “at no extra cost”, or similar terms.

## Reasons for Social Media Policy

- YOUR EMPLOYEES ARE ON SOCIAL MEDIA.
- An employee who falls victim to one or more pitfalls when posting on social media:
  - can damage the reputation of the dealership
  - can lead to legal actions against the dealership
  - **can lead to Motor Vehicle Dealer Board action assessing civil penalties against the dealership**
- Social media postings by employees are NOT free advertising; they are a potential compliance nightmare.

## MVDB Position on Social Media

- To date, the Motor Vehicle Dealer Board has been imposing civil penalties on dealerships for social media posts by employees that violate advertising laws.
- The MVDB staff is considering an enforcement position to penalize licensed employees involved, but not the dealership, but this will depend on the dealership having a social media policy and enforcing it.
- Adopting and enforcing a social media policy will be important in any attempt by a dealership to protect its name and to defend against legal actions and civil penalties.



## Purposes of a Social Media Policy

- The policy should advise dealership personnel how:
  - to use social media posts to make the public aware of the dealership's products and services
  - to use social media posts to drive consumers to the dealership's web page where compliant advertising can be viewed
  - to make social media posts that do not violate advertising laws
  - to create opportunities to interact with consumers and create appointments

# Social Media Dos and Don'ts

- Dos
  - All postings should follow company policy about dealings with customers. Behavior that the dealership would not allow in face to face or telephone interactions should not be allowed on social media posts.
  - Take the opportunity to speak positively to consumers about the dealership's products and services
  - Use contacts from prospects to initiate follow-ups through the dealership's processes to generate appointments
  - Use social media to congratulate the dealership's customers, but never post photos of or information about specific customers without having the customer sign a release allowing that

# Social Media Dos and Don'ts

- Don'ts
  - Don't mistreat or abuse anyone through social media posts
  - Don't disclose personal information of customers or confidential information of the dealership
  - Don't do blind posts. An employee should always identify who is posting and disclose his or her role at the dealership when talking about dealership matters
  - Don't post about dealership matters after work hours
  - Don't trash competitors, but concentrate on discussing the dealership's products and services

## The Most Important Do

- Train Personnel:
  - that social media postings of prices, payments, or other offers are advertising and can easily violate the advertising laws if compliance pitfalls are not avoided
  - that the goal of social media posts should be dealership awareness
  - that if the poster wishes to make prospects aware of offers, social media posts should drive consumers to the dealership's website where compliant advertisements can be viewed
  - that consumer contacts should be treated as opportunities to generate appointments

## Monitor Compliance

- Make sure that employees are complying with the dealership's social media policy.
- Put someone in charge of reviewing social media platforms the dealership hosts or to which the dealership subscribes to ensure that dealership employees are posting messages appropriately.
- Spot check popular social media platforms to determine any advertising involving the dealership by an employee.
- If there is a violation, take action.



# Form Social Media Policies

- We are providing participants form social media policies.
- Consider them guidelines.
- Meet with affected personnel and your advertising agency.
- Create a social media policy that works for your dealership.
- Consult the dealership's legal adviser.

# QUESTIONS