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Attorney General Advisory on Automobile Advertising, Pricing and Lease Buyouts

The Office of the Attorney General (“AGO”) issues this Advisory to alert consumers and automobile dealerships about their respective rights and obligations relating to automobile advertising, pricing, and lease buyouts. This advisory relates to the AGO’s enforcement of the Massachusetts Consumer Protection Act, G. L. c. 93A, § 2, and the regulations promulgated thereunder in 940 Code Mass. Regs. 3.00 *et. seq.* and 940 Code Mass. Regs. 5.00 *et. seq.*

In issuing this Advisory, the AGO is placing all automobile dealerships in the Commonwealth on notice that these practices violate the law and must cease immediately.

Current Market Conditions:

Purchasing a car is one of the most expensive transactions for consumers, and for many having a car is a necessity. The COVID-19 pandemic and related shutdowns have significantly impacted both the new and used car markets. The fear of COVID transmission has led to a decrease in the use of public transportation and an increase in the demand for used cars. At the same time, there is a global shortage of the semiconductor chips used in automobiles due to COVID. COVID outbreaks in factories are slowing, and in some cases halting, vehicle production. As a result, manufacturers have significantly cut production of new vehicles. The automobile market may feel the impact of these conditions for years to come.

Due to these conditions, the prices on new and used cars have increased significantly—an estimated average increase of 17 percent for new cars and 21 percent for used cars, nationally. This rapid increase in pricing, coupled with the greater demand for cars in the Commonwealth, creates the potential for widespread violations of the Commonwealth’s automobile advertising and pricing regulations as well as dealership breaches of consumer automobile lease contracts. Dealerships are refusing to sell vehicles at their advertised prices, demanding additional fees and costs for “market adjustments” and refusing to honor the buyout terms of lease agreements with consumers so that leased vehicles can be turned over and sold at a higher price. This type of conduct often targets members of historically marginalized populations and vulnerable consumers.

The Laws and Regulations:

In light of these concerns, the Attorney General’s Office reminds automobile dealerships of their legal obligations and consumers of their rights in automobile sales transactions.

These include, without limitation:

- Automobile dealers must clearly and conspicuously disclose all included and excluded charges in any advertised price of a vehicle as well as the expiration date of any advertised price, and it is unfair or deceptive to refuse to sell a vehicle for the price advertised. 940 Code Mass. Regs. 5.02(3)-(4), (6), & (8); 940 Code Mass. Regs. 3.02(3).
- It is unfair or deceptive for automobile dealers to make misrepresentations, including misrepresentations about the value of a vehicle by, among other things, posting or advertising inaccurate prices or prices they will not honor. 940 Code Mass. Regs. 3.02(2); 940 Code Mass. Regs. 3.04; 940 Code Mass. Regs. 3.05; 940 Code Mass. Regs. 5.02(9).
- Automobile dealerships have a contractual obligation to honor the terms of any contract with a consumer regarding the lease of a vehicle, including a consumer's right to purchase the vehicle under the contract, and failure to do so may constitute an unfair or deceptive act or practice. G. L. c. 93A, § 2, *Anthony's Pier Four, Inc. v. HBC Associates*, 411 Mass. 451, 474 (1991) ("We have said that conduct 'in disregard of known contractual arrangements' and intended to secure benefits for the breaching party constitutes an unfair act or practice for c. 93A purposes."), citing *Wang Laboratories, Inc. v. Business Incentives, Inc.*, 398 Mass. 854, 857 (1986).
- Automobile dealerships must comply with existing statutes, rules, regulations, and laws, meant for the protection of the public's health, safety or welfare that is intended to provide protection to consumers. 940 CMR 3.16(3).
- Automobile dealerships are public accommodations and may not discriminate against consumers based on their race, color, religious creed, national origin, sex, gender identity, sexual orientation, physical or mental disability, or ancestry. G. L. c. 272, §§ 92A & 98.

For Assistance:

Consumers who believe that an automobile dealership has violated the law regarding automobile advertising, pricing, and lease buyout provisions should file a complaint with the Attorney General's Consumer Advocacy and Response Division at <https://www.mass.gov/how-to/file-a-consumer-complaint> or call the Consumer Hotline at 617-727-8400.