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NADA, AIADA and NAMAD Again Press SBA for Help on Flooring

The major national organization representing franchise auto dealers met with the administrator of the Small Business Administration earlier this month to once again ask for help in getting franchised auto dealers easier access to capital and floor plan loans. The request comes even as the SBA has been trying to provide dealers with loans under legislation passed last year where the SBA would guarantee floor plan loans for dealers. That program, however, has had minimal success as the guarantees have been insufficient to mitigate the reduction in credit scores for many dealers who have been set back in the recession.

NADA, NAMAD and AIADA proposed to SBA that it initiate a "Pilot Floor Plan Program," wherein the loan limit for dealers is set at a minimum of \$5 million and parameters to extend loans are clearly set.

They also called on SBA to modify the "Size Standard" lending regulations such that automobile dealers would qualify if they had fewer than 200 employees as opposed to current regulations which turn on gross revenue. Additionally, they asked the SBA to create Americas Recovery Capital (ARC) for automobile dealers to provide "viable small businesses" suffering from immediate financial hardship a \$500 million facility to assist minority owned auto dealers with loans of up to \$1 million with a 100% SBA guarantee. Finally, SBA was asked to create a "direct loan" program for dealers, consisting primarily of loan guarantees and direct loans designed to provide immediate access to working capital.

The dealer organizations and SBA are looking at non-legislative solutions to get the changes made, since invoking congressional action would take more time than many dealers have to get relief.

Toyota Wants Retraction from ABC News For Bogus Reporting on Their Recall

Toyota is demanding that ABC News apologize for and retract a story it aired nationally claiming to demonstrate how a Toyota vehicle could “easily” accelerate unintentionally. The story, reported by Brian Ross, its lead investigative reporter, featured a test conducted by David Gilbert, an Illinois professor who claimed to have found a way to induce unintended acceleration in Toyotas without triggering an error code that would allow technicians to diagnose the fault. The story included video of a surging tachometer in what appeared to be the vehicle Ross was riding in. Subsequently, it was learned the vehicle had actually been raced in neutral while parked in a parking lot and that Gilbert was a paid consultant for plaintiff attorneys suing Toyota.

Toyota also showed that Gilbert’s test could not be replicated under real-world conditions and that Gilbert’s wiring procedure could induce the same faults in many other manufacturers’ vehicles.

In a letter to ABC News, Toyota says Ross “singularly failed in his basic duty as a journalist to disclose material information about Professor Gilbert that would have directly influenced his credibility with the audience and also failed to provide Toyota with an opportunity to examine Gilbert’s test before airing the story.”

ABC News acknowledges in a letter to Toyota that the “faked tachometer” was an “editorial error” but declined to apologize for the story or retract it.

Meanwhile, reporter Ross has filed no more stories on the Toyota recall and is said by ABC News to be on “a long-planned vacation.”

OEMs and UAW Ask Congress To Leave EPA Tailpipe Standards Alone

The major OEMs urged Congress this week to leave in place the authority of the Environmental Protection Agency to set limits on tailpipe emissions.

The request came in the form of a letter from The Alliance of Automobile Manufacturers -- which includes General Motors Co., Ford Motor Co., Chrysler Group LLC, Daimler AG, BMW AG and Volkswagen AG -- to Sen. Lisa Murkowski (R-Ak), who is seeking to overturn the EPA's finding that greenhouse gas emissions are a danger to public health.

Dave McCurdy, the Alliance president, warned that a deal reached last May on future tailpipe emission standards between the White House, automakers and 13 California low-emission vehicle states would "collapse" if the EPA decision is set aside.

Under the arrangement, California and the other states agreed not to set their own tailpipe emissions standards if the federal government imposed national limits starting in the 2012 model year. The car makers also got more flexibility and a more gradual approach to reach a 30 percent reduction in emissions by the 2016 model year.

If Congress overturns EPA's standards setting authority, granted in a 2007 Supreme Court ruling, the agency will not have the authority to impose the tailpipe agreement by April 1, and California and the other Cal-LEV states will be able to go ahead with their own standards, causing "a compliance nightmare across the country," McCurdy said.

He said Congress should not reject the EPA regulation, but instead move to make "a national program permanent for 2017 and beyond."

The United Auto Workers union this week also sent a letter to Congress urging it to allow the EPA emissions standards to take effect.

EPA projects that the proposed standards would reduce emissions by nearly 950 million metric tons and conserve 1.8 billion barrels of oil over the lifetime of the vehicles sold in the next five years. This is the equivalent of taking 58 million cars off the road for an entire year, EPA says.

MD Legislature Refines Law on OEM Incentives to Dealership Staff, Encourages Electric Cars and Sets Limits on Balloon Payments

The Maryland legislature has passed clarifying legislation that will allow all manufacturers to incentivize dealership staff through their dealership. Gov. Martin O'Malley is expected to sign the measure into law shortly. It would clear up some confusion that arose over existing requirements that had hampered incentive payments by some makers. The new regulations make it clear that all such payments to individual dealership personnel will be paid directly to the dealership for disbursement to the individual.

The legislature is also moving forward on a measure to limit "balloon payments" in installment loans on motor vehicles. Sponsored by state Sen. Barry Glassman, balloon payments would be prohibited on a motor vehicle loan where the installment amount exceeds \$30,000.

And in another measure headed for the governor's desk, the Maryland House of Delegates has passed legislation to provide as much as a \$2,000 tax credit to purchasers of all-electric automobiles. It now moves on to the Senate where it is also expected to pass. Governor O'Malley has made encouragement of electric vehicle ownership one of the cornerstones of his environmental efforts this year and has already allocated \$1million in state funds to build EV charging stations in and around the state.

The Maryland legislature will wrap up its session in Mid-April.

VA Governor Lauds Sheehy Automotive on *Trucks for Haiti* Effort

Virginia governor Robert McDonnell has lauded Sheehy Automotive president Vince Sheehy and his brother Paul for their efforts and contributions to the Clinton-Bush *Trucks for Haiti* effort. In a letter to Sheehy, the governor noted that their effort "made a difference in countless ways," to the people of Haiti.

Sheehy, responding to a campaign begun by the National Automobile Dealers Association earlier this year, arranged to provide a car carrier as well as donate a pickup truck when the call went

out for these much needed vehicles to transport food and supplies to the earthquake stricken country. Subsequently, a number of other WANADA members joined in with contributions such that a full truck load was shipped to Florida and then on to Haiti.

According to the Clinton-Bush Foundation, the Haiti Fund has raised over \$14 million from more than 100,000 individuals for relief, recovery, and reconstruction assistance for the country. To date, a total of over 120 trucks have been pledged to Haiti relief efforts, including 30 trucks pledged by Nissan, 20 trucks pledged by Daimler, and 20 trucks pledged by members of the NADA. Of that latter number, six trucks came from WANADA members.

“Your willingness to arrange for transportation for the donated vehicles truly demonstrates your strong philanthropic commitment,” Gov. McDonnell said of the Sheehy organization. WANADA concurs.

Some Precautions on the GM Arbitration Options

Former GM dealers receiving letters from the company offering an option to arbitrate for reinstatement are being cautioned by dealer attorneys to take careful notice of the type of letter they are receiving. The company is sending two types: 1) the letter of intent to reinstate the dealership and 2) the letter of confidentiality to allow the dealer to have discussions with GM about a settlement.

According to the dealer attorney Mike Charapp, dealers who received the *current* letter of intent should know that any settlement they agree to will be implemented through an amendment to the wind down agreement, which is itself under the jurisdiction of the federal bankruptcy court. Consequently, if a dealer does not meet the requirement under the new letter of intent – most especially the capital standard, GM will have the right to not offer the dealer a new dealer agreement effective November 1. Additionally, the dealer will *not* have the right to use state proceedings to challenge that. Any challenge will have to be filed with the federal bankruptcy court in New York City, which may apply state law differently than it is applied in state processes.

On the other hand, if the dealer chooses to arbitrate and is successful, he will receive a letter of intent which will be governed by state termination proceedings should the dealer not wish to continue - an important distinction.

Charapp also notes that if a dealer cannot meet the conditions of the letter of intent, GM does not have to reverse the dealer's wind down letter and that if the dealer cannot meet the net working capital requirements (likely higher than the standard before bankruptcy) by October 31, 2010, GM does not have to issue it a new dealer agreement effective November 1, 2010.

Because of the tight time frame and the number of letters outstanding, Charapp believes room for negotiation is likely to be limited for affected GM dealers, but affected dealers should be sure to discuss with GM whether it has all of the right assumptions in calculating the net working capital requirement.

On the matter of the GM/dealer discussion letter, Charapp notes that it is a confidentiality letter designed to allow settlement discussions to take place and cautions that *all materials* created as part of that process will be confidential and may not be used in arbitration.

The Basics of Appraising and Bidding on Auction Vehicles

This article is adapted from *A Dealer Guide to Auctions: Controlling Inventory, Increasing Profits* (SL17), available through NADA University's Resource Toolbox.



As with any business venture, preparation is the key to success, so before ever leaving for the auction you should examine your inventory needs and check recent auction reports. What price did the vehicles you need bring at auction? How do they compare to wholesale valuation books and guides? Are they in a range that seems reasonable to you, or are they higher or lower than you expected? If prices don't seem compatible with prices you would have bid, try to find out why. Is your own market research current, or has it been a while since you last studied your market?

On the day of the auction, go early. Auction personnel will give you the *lane schedule*, a list of the vehicles that will be offered at the sale. The vehicles will be grouped according to the lane in which they will be sold and the time that particular auction will begin. Armed with your inventory "wish list," look over the lane schedule and place a check mark next to the vehicles that interest you. Recognize that others will be bidding on the same cars and that your bid might not always be the winning bid. If you plan to buy five cars, select at least ten cars to appraise.

You are encouraged by auction personnel to look over the vehicles before the sale begins, and you should take advantage of this opportunity. When appraising vehicles at the auction, use the same used-vehicle appraisal form you use in the dealership and the same appraisal procedure. The more you do it, the easier it will become and the faster you will be able to complete the appraisal. Being able to appraise thoroughly but quickly is essential if you plan to become a successful auction "regular."

Accomplished auction buyers suggest that you write down the top price you're willing to spend on a particular car and refuse to bid more than \$200 above that. The excitement of the auction is contagious, and it can be hard to stop if the bidding's still going strong. Remember, however, that you have carefully calculated the value of the vehicle *in your market*. The competing bidders may be able to get more for the same car in their markets. For that reason, they may be able to spend more. Know your limits and stay within the boundaries you have set.

First-time auction buyers might wish to do a "Select Ten" exercise. This "stress free" visit will prepare you to buy on your second visit. Before the auction begins, select 10 cars that interest you (preferably of the type you'd want to buy for your dealership). Using your dealership appraisal form, appraise each selected vehicle to determine the price you'd be willing to pay. When the auction begins, don't bid, just watch the action. When the hammer falls on one of "your" vehicles, write down the sale price. Later on, compare your estimated buying price with the actual sale price of the vehicle. This exercise will help you see if you're ready to buy next week or if you need to spend a little more time studying guide books, auction reports, and market values.

For more on auctions, join NADA and Manheim Online Solutions for the *free* **MarketINSIGHT** mini-webinar [*Maximizing In-lane and Online Auctions to Save Time, Save Money and Get the Best of Both Worlds*](#) March 24.

A Model Dealership Policy for Social Media and its Uses

The advent of social media has opened many new doors for communicating with customers, but dealers are well advised to remember that these new forms of staying in touch need also to be monitored for compliance with state and federal advertising and employee relations laws. WANADA recommends the following guidance policy for regulating social media usage within a dealership.

Employee Guidelines on Using Social Media

The company recognizes that with the advent and popularity of various internet-based social media such as Twitter, Facebook, MySpace, blogs, and the like, employees may be using such media to communicate in their daily lives. This policy is designed to establish the parameters of using social media while employed with our company. Please observe the following:

- Employees may not engage in online social networking activities while in the course and scope of employment or using company computer systems, cell phones, or other company property.
- Employees must never advertise or offer for sale any of our products or services in a social media forum. Doing so could expose the employee and the company to serious legal consequences, including violations of federal and state law. If you are involved in advertising or selling our company's services and products, this activity should only be done through the company's internet, computer or other authorized communications system or forum and only as authorized by the general manager. If you have any questions about this aspect of our policy, please see the general manager or the owner.
- Social media activities are subject to the company's policies regarding protection and confidentiality of company and customer information, and unlawful discrimination or harassment. For example, employees may not disclose private customer information or proprietary company information through social media outlets. Similarly, employees may not unlawfully harass or discriminate against fellow employees, vendors, or customers using social media. Please refer to the company's policies on confidential and proprietary information as well as the policy prohibiting unlawful harassment and discrimination.
- Employees should be mindful not to disclose the private information of their co-workers.
- Employees should take care in how they represent themselves in a social media forum and avoid making defamatory, fraudulent, harassing, discriminatory, or other unlawful statements about co-workers, the company, the company's competitors, or the company's customer or vendors, as such activity could lead to discipline up to and including termination of employment as well as personal liability.
- When using social media, employees are prohibited from representing the company or representing that they speak on behalf of the company. Employees should not use the trademark, logos, or copyrighted materials of the company or its clients or customers. Employees must also make clear in any online activity that the views and opinions they express about work-related matters are their own and have not been reviewed by the company, and do not necessarily represent the views and opinions of the company. The company prohibits employees from listing their company email address unless the social network site is one created and maintained by the company for company business.
- Employees may not use social media to compete with the company's products or services.

- If you are contacted by a member of the media in a social media forum and asked to comment about the company, please refer the request to the general manager or owner of the company for handling.
- Employees should expect compliance monitoring and that any information created, transmitted, downloaded, exchanged or discussed on any social media may be accessed by the company or any third party at any time without prior notice. Remember, anything posted on the internet or in a social media forum may be accessible by anybody else.

Nothing in this policy is intended to and should not be interpreted as violating an employee's rights under the National Labor Relations Act.

If you have any questions about this policy, please consult the general manager.

New Car Shopping App for the Cell Phone



Prospective new car purchasers just got another aid to help them with the shopping process, a new application from AOL Autos that will let them configure, price, and research all makes, models and trim levels; view interior and exterior photos; and download owner and expert opinions on their cell phone even as they walk the lot or visit the showroom. The other major auto sites are expected to follow suit shortly.

Here are the key features of the new application:

Consumers can build and configure a new car before or at the dealership; save the configurations or build cars they see as they go from dealer to dealer; share with friends and family to get feedback on their purchase; get MSRP, invoice, and target market pricing on most models; refine their search results by Make, Model, Style, Type or Price; choose and price trim and options; view interior and exterior photos; get descriptive overviews, trim level specs and expert and owner reviews.

AOL Autos also offers a service that saves the data so consumers can view it even when they're out of cellular range (or in the dealer showroom).

BMW of Sterling Wins OEM's Excellence Award

BMW of Sterling, headed by Thomas Moore, president, has been cited by BMW of North America, LLC as one of its "2010 Centers of Excellence" (COE). The award, which recognizes excellence in customer satisfaction, outstanding brand representation, operational excellence and profitability, went to only 24 out of 338 U.S. BMW dealers.

"All BMW dealerships offer a premium experience to our customers, but the 24 Center of Excellence winners excelled in the way they take care of their customers and represent the BMW brand," said Peter Miles, executive vice president of operations, BMW of North America, LLC.

"It's a highly coveted award and our top dealers worked hard all year to achieve this high honor—we congratulate them."

WANADA applauds the team at BMW of Sterling on the well deserved recognition.

Save the date! May 10, 2010

2010 WANADA OPEN

The 2010 WANADA Open will be played this year at Lakewood Country Club on Monday, May 10. The registration fee for the 2010 WANADA Open is \$225 per golfer and \$100 for those coming for cocktails and dinner only.

Register *early* by calling or e-mailing Kristina Henry, WANADA's director of events at (202-237-7200, ext. 18) or kh@wanada.org, or click [here](#) to download the registration form. **Note:** With only one course, golf positions are available on a first come, first served basis.



An historical fact from Ireland ...

In the spirit of St. Patrick's Day, which occurred this week, we pass along this little known historical fact:

British Racing Green, made famous on the Lotus Formula 1 cars, came to be this color as a way of recognizing Ireland for letting Englishmen race there when such racing was not allowed in England itself. At the time, race cars were to be distinguished from each other by the color of the flag of their country. As Ireland's flag was green, the color was adopted by the England based racing team. Over time, the green grew darker into what is now recognized as British Racing Green.