

THE WANADA BULLETIN

NEWS AND INFORMATION FOR AND ABOUT FRANCHISED NEW CAR DEALERS IN THE WASHINGTON AREA

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Does your dealership have a social media policy? It should

Every dealer should have a policy about employee communications in digital and social media. If one is in place, when was the last time it was reviewed? Here are two important reasons to have a policy and review it regularly:

- *Digital communications change constantly.* There are often changes to existing programs and introductions of new programs, new apps and new challenges.
- *Regulatory oversight of your practices is increasing and changing.* For example, the National Labor Relations Board has issued several decisions about employer policies prohibiting limitations that the NLRB views as interfering with open communication by employees about working conditions. Another example: Communications during non-work hours could lead to overtime claims by some employees.



A dealer's social media policy must not be written too broadly.

Here are three common misconceptions dealers have, with an explanation of what's correct:

- ✓ A dealer's social media policy may not be written so broadly that it prohibits employees from making comments that impact the company's reputation or brand even if they are negative. The NLRB views such broad prohibitions as improperly inhibiting worker communications.
- ✓ Because employees must be allowed freedom to discuss employment matters, a dealer's social media policy may not require employees to identify themselves in their post. The NLRB views such prohibitions as overly broad. Employees could reasonably construe such a requirement to cover comments about the terms and conditions of employment. A self-

identification requirement would interfere with what the NLRB views as protected activity in various social media outlets.

✓ A dealership's social media policy may not include a prohibition of language "inappropriate in polite conversation." Again, the NLRB views such a prohibition as too broad. It could be seen as a prohibition on discussion of employment practices and working conditions. A business may prohibit cursing and similar offensive language, but the policy should be explicit about what is prohibited.

Thanks to Michael Charapp of Charapp and Weiss, LLP for this information. It should not be used as legal advice. For questions about specific situations, one should consult his/her own attorney.

MADA & VADA webinar on the 2015 legislative session

WANADA's partner organizations MADA and VADA, assembled very helpful dealer member webinars on the respective legislation sessions in Annapolis and Richmond from earlier this year. Pete Kitzmiller, MADA CEO hosted the Maryland webinar and Anne Gambardella, VADA counsel handled the Virginia webinar. Esteemed auto dealer lawyer and WANADA Kindred-Line member, Mike Charapp, Charapp & Weiss, LLP, participated in both webinars.

To accommodate those who were unable to tune in online, MADA and VADA each have made the subject matter available on their websites.

WANADA published the links for each webinar in a separate Special Bulletin this week, which is made available by clicking [here](#).

WANADA is pleased to support its sister organizations and commends both for a job well done on their respective law and legislation webinars!

Tickets for WANADA Open are going fast



Registration for the WANADA Open is available on a first come, first served basis.

Tickets for the WANADA Open, always a popular event to start off the summer, are going fast. This year the number of golfers is limited to 128 players and registration will be accepted on a first come, first served basis.

The golf tournament will be at the Lansdowne Resort in Leesburg, Va. Registration for the tournament will start at 9:00 a.m., with lunch from 10:45 a.m. to 12:00 noon with a shotgun start set for 12:30 p.m.

Tennis players may register for a tennis clinic from 1:00 to 2:00 p.m., followed by open tennis courts from 2:00 to 4:00 p.m.

Golfers, tennis players and non-player guests are invited to a networking cocktail reception at 5:30 p.m., followed by a buffet dinner and presentation of golf awards and door prizes at 6:30 p.m.

Click [here](#) to register or if you have questions, contact Kathy Teich at 202-237-7200 or kt@wanada.org.

CFPB report on military shows few auto loan complaints

A report by the Consumer Financial Protection Bureau on complaints from service members, veterans and their families shows that complaints about consumer loans – of which auto loans are but one type – make up just 5 percent of the total. The CFPB's report is based on fielded 1,400 consumer loan complaints from service members from July 2011 to December 31, 2014.

The largest category of complaint (43 percent) was about managing the loan, lease or line of credit, followed by taking out the loan or lease/account established to include terms and changes, required add-on products, trade-in payoff and fraud, at 23 percent. Just over 20 percent of consumers had problems when they were unable to pay, to include debt collection and repossession. And 11 percent complained about shopping for a loan, lease or line of credit, including sales tactics, credit denial or confusing advertising.

“Military consumers have reported concerns with high interest rates on their auto loans, often citing rates as high as 29 percent,” the report says. The high rates contribute to payment defaults, the risk of repossession and abusive debt collection practices. The report cites one service member who said that not only was his car repossessed, but the company also contacted multiple superiors in his chain of command about his missed payments.

Such incidents made up a fraction of the complaints the CFPB received, but the report features them prominently. Read on for the reaction of one Member of Congress.

Sen. Warren, ardent CFPB proponent to subject dealers to CFPB authority

The Consumer Financial Protection Bureau regulates auto lenders, like banks. By design, CFPB does not regulate auto loan arrangers, like auto dealers. When CFPB came into existence in 2010 as a result of the Dodd-Frank Finance Reform Law, NADA and others saw to it that auto dealers were not included in the reach of Dodd-Frank and its progeny, the CFPB, despite the efforts by plaintiff's lawyers and consumer advocates who favored the opposite result at the time. Now comes Sen. Elizabeth Warren (D-Mass.) who, according to *The Hill* is moving to introduce legislation to reverse the exemption of auto dealer credit arrangers under Dodd-Frank that would have dealers be subject to jurisdiction of CFPB like the banks are currently. In 2010 Professor Warren, a bankruptcy law scholar at Harvard Law School at the time, was an ardent proponent of CFPB under Dodd-Frank which included regulator coverage of auto dealers.

Many Republicans are critical of Warren's effort, and the bill has very little chance of passing a Republican-controlled Congress. Critics point out that the CFPB was created to regulate the financial services industry and that dealers are already regulated by the Federal Trade Commission as well as the Federal Reserve, the Justice Department and state attorneys general.

“I am skeptical of giving the CFPB more power when it refuses to answer Congress's questions regarding its treatment of auto dealers and consumers,” said Rep. Frank Guinta (R-N.H.). Guinta is the author of H.R. 1737, a NADA-backed bill that would rescind the CFPB's guidance on auto loans.

Self-driving cars are coming, but obstacles remain

Vehicles with varying levels of self-driving capacity will start to roll out this summer, says a new report by the Boston Consulting Group (BCG). Partially autonomous vehicles, powered by strong consumer interest, will likely hit the road in large number by 2017. And a fully autonomous vehicle is promised by Mercedes, for one, by 2025.

The first autonomous feature to become available will probably be the single-lane highway autopilot, which Tesla plans to introduce in mid-2015. GM's version, the Super Cruise, is set to appear on an all-new Cadillac in 2016. By 2017, autonomous vehicles with traffic jam autopilot and autonomous valet parking should be in dealer showrooms, followed by highway autopilot with lane changing capacity in 2018.



Autonomous vehicles could be on the road in large number by 2017.

Obstacles remain. On a technical level, sensor technology and integration software must be more fully developed before autonomous features see mass adoption. That would cost an estimated \$1 billion per OEM, the report says. Liability questions need to be resolved, too. Who would be responsible in case of an accident? How would autonomous vehicles be made cyberattack proof?

“Our survey of U.S. drivers shows that more than 50 percent of consumers would likely buy a partially self-driving car, and more than 40 percent would buy a fully self-driving vehicle,” said Lara Koslow, global leader at BCG. Fourteen percent of survey respondents said they would pay more than \$5,000 extra for highway autopilot and 17 percent said they would pay that much for several features, including urban autopilot and self-parking.

May 31 deadline looms for highway funding



Congress – even committee members – can't agree on how to fund road construction and repair.

Congress is tasked with finding a way to pay for funding of highways and other transportation projects when the current federal funding runs out May 31. So far, nothing has even passed out of committee.

All sides agree that a long-term solution would be preferable, but with time again running so short another short-term patch is likely. Transportation Secretary Anthony Foxx has said that if Congress does not pass a transportation bill by May 31, he will have to cut off funding for road projects.

Various proposals have been floated to pay for transportation. The one that had the most chance for

bipartisan approval would allow American corporations to bring back their overseas holdings and pay a lower tax rate. But many Members of Congress are now lukewarm about the idea.

Although the Highway Trust Fund has not raised enough money to pay for infrastructure building and repair for several years, Republicans refuse to consider raising the gas tax. It has not been raised in more than 20 years.

More than half of Americans said in a recent poll that they would support increasing the gas tax by 10 cents if the money were dedicated to targeted transportation purposes such as improving maintenance or safety or reducing local air pollution. The survey was done by the Mineta Transportation Institute.

Gas prices keep rising, but still below a year ago

The national average price of gas has increased for 26 of the past 27 days to \$2.66 a gallon, the highest average of the year. According to the American Automobile Association drivers are paying 27 cents more per gallon than a month ago, but a dollar less than a year ago.

The price of crude has risen since the middle of March because of slowing U.S. production, a weakening U.S. dollar and speculation of higher demand from China. Many market watchers believe the recent rally may be nearing an end because the global market continues to reflect an oversupply, effectively putting a ceiling on how high the price can go.

Washington housing market growing, but sluggish

Housing prices rose in the Washington area in February, but not as much as in other big cities.

Home prices in the area are up 1.4 percent from a year ago. But other major U.S. markets are significantly stronger, like Denver, up 10% and San Francisco up 9.8%. From January to February, Washington area home prices rose by 0.4 percent. Figures are from the S&P/Case-Shiller Home Price Indices.

One reason for the modest area increases may be that home prices fluctuate dramatically depending on the neighborhood. Demographic indicators, like the strength of the housing market, are important auto business candidates.

Memorial Day holiday, Monday, May 25

Under separate cover, WANADA has sent all dealer members optional holiday weekend hours signs where each store can post showroom and service department hours if different than regular hours. Any member needing more than the two signs sent to each store can contact Kathy Teich at 202-237-7200, kt@wanada.org or click [here](#).

Thought for the Week...

If you want to be a good blues singer people might get down on you unless you dress (for the show) like you're going to the bank to borrow money.

--The incomparable

BB King

Died May 15, 2015 @ 89