

Chapter 4: Vehicle Advertising

Regulation 4.1 Regulation four establishes standards of practices setting forth certain basic principles in advertising the sale and lease of new and used motor vehicles. These standards apply to advertisements both in the print (newspapers, mailers, direct offers, etc.) and electronic media (including the internet).

It is the objective of these standards to implement the intent of the legislature by providing for the regulation of the advertising by licensed new motor vehicle dealers, manufacturers, and distributors, in the interest of furthering truthful and accurate advertising practices for the benefit of the citizens of the State of Mississippi.

The foundation for these standards lies in the Better Business Bureau's "Code of Advertising", the basic principles of which are:

- a. The primary responsibility for truthful and non-deceptive advertising rests with the advertiser. Advertisers must be prepared to substantiate any offers made before publication or broadcast and, upon request, present such substantiation.
- b. Advertisements which are untrue, misleading, deceptive, fraudulent, untruthfully disparaging of competitors, or insincere offers to sell, shall not be used.
- c. Advertisements should advise customers of facts and qualities of a product that will allow a more intelligent choice.
- d. An advertisement as a whole may be misleading although every sentence separately considered is literally true. Misrepresentation may result not only from direct statements but by omitting or obscuring material facts.

Advertisers, advertising agencies, and media should also be sure that they comply with Federal, State, and local laws and regulations as they relate to advertising and selling practices. The FTC regulates credit advertising under the federal Truth-In-Lending Act: Regulation Z. Consumer leasing is regulated under Truth-In-Lending Act: Regulation M. The Attorney General's Office operates under broad powers that simply say, "Unfair Methods of Any Trade or Commerce are Unlawful." Included, following the standards outlined in Chapter 4, are samples of Regulation Z and M and a few examples of both proper and improper ads.

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1. Employee Pricing: A dealer may not advertise they are selling vehicles at employee pricing unless it is a manufacturer's program.
2. Bait Advertising: "Bait" advertising is an unfair and deceptive practice and shall not be used by any Licensee. Bait advertising is an alluring but sincere offer to sell a product,

the primary purpose of which is to obtain leads to persons interested in buying merchandise of the type advertised and to switch consumers from buying the advertised product in order to sell some other product at a higher price or on a basis more advantageous to the advertiser. Advertising a new motor vehicle at a price which does not include all equipment listed as standard equipment by the manufacturer or distributor without disclosing such fact, or eliminating any such equipment for the purpose of advertising a low price and "baiting" the customer into changes above the advertised price is prohibited as misleading and deceptive.

3. Availability of Vehicles: Where a specific vehicle is advertised by a dealer as being for sale, that vehicle should be in the possession of the dealer and should be willingly shown and sold as advertised, illustrated, or described at the advertised price and terms, at the advertised address. A dealer should have on hand a reasonable expectable public demand of all vehicles advertised with the equipment advertised at the price advertised. If an advertisement pertains to one specific vehicle only, this fact should also be disclosed and a stock number identifying the vehicle should be disclosed in the advertisement. In the event that a dealer does not have a reasonable expectable public demand of vehicles advertised, the advertisement should disclose that quantity is limited. This provision should not be construed to prohibit general advertising of vehicles by a manufacturer or distributor and the inclusion therein of the names and address of the dealers selling such vehicles in the particular area.
4. Untrue Claims: The following statements shall not be used in any advertising by any dealer:
 - a. Statements such as "write your own deal", "name your own price", "name your own monthly payments", or statements with similar meaning.
 - b. Statements such as "everybody financed", "no credit rejected", "we finance anyone", "all applications accepted" and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit.
 - c. Statements representing that no other dealer grants greater allowances for trade-ins, however stated, unless such is the case and information is provided to the Commission before the ad is run.
 - d. Statements representing that because of its large sales volume a dealer is able to purchase vehicles for less than another dealer selling the same make of vehicles, unless such is the case and information is provided to the Commission before the ad is run.
5. Inclusion in Price and Add-ons: When the price of a vehicle is advertised in a local media, the vehicles shall be fully identified as to year, make, model, and if new, used, or lease. In addition, the stated price must include all charges which the customer must pay for the vehicle, including but not limited to, "freight" or "destination charges", "dealer preparation", "dealer handling", "additional dealer profit", "additional dealer margin", and

"undercoating or rust proofing" if the vehicle is already so equipped. The advertised price need not include state and local taxes, tags, registration, title fees, and doc fee.

We summarize this to be "full disclosure" and the following must be included in a note ad:

- Year./make/model
- Stock number
- Down payment
- Monthly note
- APR
- Number of payments
- With approved credit
- Plus tax, title, and doc fee

6. Minimum Trade-in Allowances: Since the amount of trade-in allowance will vary depending on the condition, model, and age of a buyer's vehicle, no specific trade-in amount or range of amounts shall be used in advertising.
7. Disclosure of Material Facts: Any disclosures about material facts which are contained in advertisements and which involve types of vehicles and transactions must be made in a clear and conspicuous manner to minimize the possibility of misunderstanding by the audience. Factors to be taken into consideration include, but are not limited to, ad layout, headlines, illustrations, type size, contrast, crawl speed, and editing. Commonly known abbreviations may be used in advertising; however, those not generally known shall be avoided.
8. An Asterisk (or other characters): An asterisk (or other characters) may be used to give additional information about a word or term; however, use of one or more footnotes or asterisks which, alone or in combination, contradict, confuse, materially modify or unreasonably limit a principal message of the ad should not be used.
 - a. Used Vehicles - vehicles of the current and any preceding model year which are "used" shall be clearly identified as such.
 - b. Whenever any advertisement relates to a lease, the advertisement must make readily apparent (in the body of the ad and not the disclaimer) to the audience that the transaction advertised is a lease.
 - c. Credit Terms – when credit terms are advertised, they must comply with the specific disclosure requirements of the credit advertising provisions of the "Truth-in-Lending" Act and Regulation Z.
 - d. Lease Terms - when lease terms are advertised, they must comply with the specific disclosure requirements of the lease advertising provisions of the "Truth-in-Lending" Act and Regulation M.

- e. Television Disclosures - any disclosure appearing in television advertisements must clearly feature all necessary information in a manner that can be read and understood. Internet Disclosures – any disclosure appearing on the internet must be on the same page of the vehicle advertised.
9. Disclosure in Invoice Ads: The terms "invoice", "factory invoice", “pay what we pay”, "dealer invoice" or "dealer cost" shall not be used as a reference price (such as, but not limited to, \$100 over invoice or dealer cost).
 10. Discounts: When an automotive advertisement contains an offer of a discount on a new vehicle, the amount of such discount must be stated who is giving the discount by reference to the actual dollar figure to the manufacturer's suggested retail price of the vehicle. Discount must not imply the selling price to be below the dealer cost.
 11. Rebate, Cash Rebate, Cash Incentives, or Similar Terms Offers: The terms "rebate", "cash rebate", “cash incentives” or similar terms may be used only when it is clearly stated who is making the payment. Such advertisements must also state that "may affect final negotiated price" and customer has the option to determine how it is applied in the sale process. Rebates, cash rebates, cash incentives or similar terms must not imply the selling price to be below dealer cost.
 12. Free Offer:
 - a. The word "Free" may be used in advertising whenever the advertiser is offering an unconditional gift.
 - b. The "Free" offer must be temporary; otherwise, it would become a continuous combination offer, no part of which is free.
 13. Buy-Down Interest Rates: No buy-down interest rate may be advertised if any of the costs of securing the buy-down are passed on to the customer in any way, unless the dealer discloses that contribution by the dealership may increase the negotiated price of the vehicle to the consumer.
 14. List or Sticker Price: Where the words "list" or "sticker" or words of similar import are used in a new automotive advertisement, they should only refer to the actual dollar figure of the Manufacturer's Suggested Retail Price.
 15. Special Status of Dealership: An automotive advertisement should not falsely imply that the dealer has a special sponsorship, approval status, affiliation, or connection with the manufacturer that is greater or more direct than any other like dealer.
 16. Claims of Under Selling: Any automotive advertisements which makes under selling claims should be capable of being substantiated.

17. Price Equaling: An advertisement which expresses a policy of matching or bettering competitors' prices should fully disclose any conditions which apply and specify what evidence a consumer must present to take advantage of the offer. Such evidence should not place an unreasonable burden on the consumer such as producing a signed contract from another dealer or requiring the consumer to find a vehicle with such identical features that the possibility of doing so is highly unlikely. Any advertisement stating this policy or "guarantee" must show the terms in the actual ad.
18. Addendum Stickers: Dealers may use addendum stickers when adding equipment to vehicles. However, when advertising a discount on a vehicle, the dealer must clearly disclose that the discount is based on the dealer addendum price and not the factory MSRP.
- a. Example:
- a. Dealership Price \$45,000
 - a. Dealer Discount \$ 5,000
 - b. Manufacturer MSRP \$40,000
 - c. Discount \$ 2,000
 - d. Rebate \$ 1,500
19. Discount Ads: Ads showing a very low priced vehicle that has a disclaimer which says the price is after a sizable customer down payment (20% or more of MSRP for new vehicles or 20% or more of selling price on used vehicles) or trade equity shall be unlawful and deemed unacceptable. Factory lease ads are excluded from this regulation.
20. Manufacturer's Suggested Retail Price: The suggested retail price dollar figure of a new motor vehicle when advertised by a manufacturer, distributor or regional ad association shall include all costs and charges for the vehicle advertised, except that destination, and state and local taxes, title, and license fees may be excluded from such price, provided that the advertisement conspicuously states that such costs and charges are excluded. However, with respect to advertisements placed with local media in Mississippi by a dealer, such price must include all costs and charges for the vehicle advertised including destination charges, and may exclude only state and local taxes, license, title fees, insurance, and doc fees.
21. Lease, Balloon or Residual Advertisements: Vehicle lease advertisements shall clearly and conspicuously disclose that the advertisement is for the lease of a vehicle, the balloon or residual note amount that is due at expiration of the lease, and the customer has the option to buy the vehicle at the pre-determined price, or turn vehicle in.
22. Consolidated Loans: Credit terms which purport to consolidate other bills with new car financing, shall not be advertised.

23. Van Conversion Advertisements: In the case of a modified vehicle, such as a converted van, the dealer may advertise using the conversion firms name and refer to the chassis manufacturer, but in no case should the dealer advertise vans solely by a chassis manufacturers name unless enfranchised to sell that make of vehicle.
24. Demonstrators, Executives, Officials, and Program Vehicles: The word "Demonstrator" shall be understood to refer to a vehicle which has never been sold or leased to a member of the public. This term shall include vehicles used by new motor vehicle dealers or their personnel for demonstrating performance ability but not vehicles purchased and used as their personal vehicles. "Demonstrators" may be advertised for sale as such only by a dealer franchised for the sale of such make of new vehicles. "Executives", "Officials" or "Program Vehicles", when so advertised, shall have been used exclusively by executives of the dealer's franchising manufacturer or distributor, or by any executive of the franchised dealership. These vehicles, so advertised, shall not have been sold or leased to a member of the public prior to the appearance of the advertisement. "Demonstrators", "Executives", and "Officials" vehicles shall be clearly and prominently qualified as such in immediate conjunction with year, make, and model offered.
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25. Auction: Terms such as "Auction" or "Auction Special" and other terms of similar import shall be used in connection with vehicles offered or sold at a bona fide auction and auctioneer license number given.
26. Layout – Type Size: The layout, headlines, illustrations, or type size of a printed advertisement, including billboards, and the broadcast words or pictures of radio/TV advertisements shall not convey or permit an erroneous or misleading impression as to which vehicle or vehicles are offered at featured prices. No advertised offer, expression, or display of price, terms, down payment, trade-in-allowance, cash difference, savings or other such material terms shall be misleading and any necessary qualifications shall be clearly, conspicuously, and accurately set forth to prevent misunderstanding. For purposes of these regulations, qualifying terms and phrases will be considered to be clearly, conspicuously, and accurately set forth if they are:
- a. In bold print and type of such size that is capable of being read without unreasonable extra effort
 - b. Expressed in terms that are understandable to the buying public
 - c. In close proximity (on the same page) to the qualified representation and not separated or buried by asterisk in some other part of the advertisement.
27. Billboard Advertising: Billboards shall not contain pricing information other than the Manufacturer's Suggested Retail Price.
28. Liquidation Sale: Use of terms "Liquidation Sale", "Public Notice", "Public Sale" or similar

terms used to connote or imply a court ordered or other forced liquidation of assets shall not be advertised, unless such is the case.

29. Changes in Monthly Payments: Changes in monthly payments are not allowed. Payments may not go up during contract term and all payments must be split-up equally for the length of contract. (Exception: National manufacturer and/or distributor plan)
30. Alternate Payment Terms: If payments are not based on traditional monthly method, (i.e. bi-weekly, weekly, etc.) it must be disclosed as such in same size font as shown price and not referenced by use of asterisk, character, and/or footnote.
31. Deferred Payments: No advertisement shall offer to defer the first payment on a credit sale or lease beyond the historic and accepted 45 day selective maturity date unless such advertised states with equal prominence the fact that the purchaser's own money or equity will be used in implementing such deferred payment plan (i.e. 90 days until first payment) (Exception: National manufacturer and/or distributor payment plan)
32. Rebates, Cash Back, Cash Incentives, etc.: When advertising an amount to be returned to the buyer, the buyer must be made aware that they have the option to determine how the dollar figure is to be used in the sale or lease.

Source: *Miss. Code Ann. § 63-17-69 (Rev.1983)*.