

## FTC Finalizes CARS Rule

### The Bottom Line

- The CARS Rule goes into effect July 2024, and includes very specific requirements. Companies should ensure that they are prepared to comply.
- The FTC remains focused on seeking monetary relief – and will be able to seek civil penalties of up to \$50,120 for violations of the CARS Rule.

### Update

The FTC is postponing the effective date of the CARS Rule while a legal challenge brought by the National Automobile Dealers Association and the Texas Automobile Dealers Association is pending.

The trade groups have stated that the rule is “arbitrary, capricious, an abuse of discretion, [and] without observance of procedure required by law,” in part because the FTC allegedly failed to reasonably evaluate the costs and benefits of the rule, and failed to show that a significant industry-wide problem exists that would justify the rule.

The FTC’s Combating Auto Retail Scams rule (CARS Rule), intended to target bait-and-switch tactics and hidden junk fees in vehicle shopping, is now finalized. Last summer, the FTC issued a Notice of Proposed Rulemaking related to motor vehicle shopping, and received tens of thousands of comments from consumers, servicemembers, auto dealers and others. The FTC made substantial changes to the proposed rule to address common vehicle buying scams and ensure that auto dealers can compete on a level playing field.

The CARS Rule requires motor vehicle dealers to:

- Not misrepresent key information, including the costs or terms of purchasing or leasing a vehicle, the costs of

other features or add-ons, the availability of a specific vehicle at an advertised price, and if the consumer reviews or ratings of the dealer's services are unbiased, independent or ordinary consumer reviews or ratings.

- Disclose the offering price (the actual price any consumer can pay for the vehicle), tell consumers that optional add-ons (like extended warranties) are not required and give information about the total payment when discussing monthly payments.
- Not charge for any add-on that does not provide a benefit to consumers (e.g., warranty programs that duplicate a manufacturer's warranty or service contracts for oil changes on an electric vehicle).
- Obtain consumers' express, informed consent for any charges that they pay as part of a vehicle purchase. Importantly, such consent cannot be obtained through signed contracts alone, pre-checked boxes or through design features that manipulate consumers.
- Be truthful about whether the dealer is affiliated with the military or any other governmental organization, whether a vehicle can be moved out of state and whether a vehicle can be repossessed.

The above requirements apply to all means that motor vehicle dealers use to communicate with prospective motor vehicle buyers and lessees - including television and radio ads, print ads, direct mail, websites, social media, ads streamed online and oral statements conveyed to consumers.

The CARS Rule will take effect on July 30, 2024. Violations of the CARS Rule could result in civil penalties of as much as \$50,120 per violation.

Note that the CARS Rule will supersede any state law or regulation that is inconsistent with the FTC Rule, but any state laws or regulations that give consumers greater protections will not be preempted.

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## For More Information

Please contact the attorney listed below or the Davis+Gilbert attorney with whom you have regular contact.

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