

Kijiji ... CURBER HEAVEN!

Curbsiders are like cockroaches, you have to shine a light on them to see them.

Well, that's what we did ... and it resulted in the highest percentage of curbed cars ever found. It was astounding ... we have never, ever, ever seen so many curbers in one place ... and our studies go back to 1986.

29% of the 37,000 vehicles advertised in just a 90 day period were being offered by curbsiders. Close to one out of every three "private" ads weren't private at all!

Kijiji Online

While the study examined vehicles advertised on Kijiji and Auto Trader in the GTA area, Kijiji was the winner hands down. Fully 96% of the curbsiders chose Kijiji as the place to advertise on line.

Some registered dealers, masquerading as private sellers, use Kijiji regularly. In our study, they're the ones with the high number of cars for sale. With no cost for them to advertise there, it's a natural haven.

OMVIC's Action

We provided OMVIC with the study as soon as it was finished and they began their investigations within hours. Obviously, first on their list were the advertisers with the largest number of cars.

OMVIC advised us that their investigators have reported back on nine from the list of twelve who had 10 or more vehicles advertised.

Seven of these were "dealers advertising improperly" (curbers as far as we're concerned) and two were "curbsiders".

We're told they'll be dealt with as follows:

- The two curbsiders are/will be charged
- Six dealers are/will be disciplined or charged
- One dealer was cautioned (ad placed in error)
- Three investigations are on-going

If OMVIC chooses to proceed against the six dealers by way of the "Discipline Process", the fines are often many times higher than they can get in court.

In the weeks to come, we expect OMVIC will be able to provide updates on their investigations.

Toronto Area Curbsider Study

October 4, 2011 to January 4, 2012

From advertisements on Kijiji and AutoTrader

Advertised Vehicles	37,694
Curbed Vehicles	10,918
Percent Curbed	28.96%

1 Curbsider Advertised 30 Vehicles	14 Curbsiders Advertised 11 Vehicles
1 Curbsider Advertised 27 Vehicles	15 Curbsiders Advertised 10 Vehicles
4 Curbsiders Advertised 20 Vehicles	21 Curbsiders Advertised 9 Vehicles
2 Curbsiders Advertised 18 Vehicles	35 Curbsiders Advertised 8 Vehicles
2 Curbsiders Advertised 17 Vehicles	57 Curbsiders Advertised 7 Vehicles
2 Curbsiders Advertised 16 Vehicles	67 Curbsiders Advertised 6 Vehicles
1 Curbsider Advertised 15 Vehicles	131 Curbsiders Advertised 5 Vehicles
4 Curbsiders Advertised 14 Vehicles	281 Curbsiders Advertised 4 Vehicles
2 Curbsiders Advertised 13 Vehicles	545 Curbsiders Advertised 3 Vehicles
5 Curbsiders Advertised 12 Vehicles	2767 Curbsiders Advertised 2 Vehicles

Remitting HST for "Off-Reserve" Sales to Status Indians

The UCDA has obtained clarification from Canada Revenue Agency ("CRA") about the remittance of HST where a Status Indian has purchased a vehicle and taken delivery at the dealer's premises ("off-reserve").

In these cases, the Status Indian purchaser is exempt from the 8% provincial portion of the HST ... meaning the dealer should only collect and remit 5% tax on the sale.

CRA has instructed that, even though dealers need only collect and remit 5% HST, they must report the full amount of HST that would normally be collected (13%) on Line 105 of the HST remittance form.

Dealers who do not file electronically using NETFILE, must complete the appropriate sections of CRA Form 189 (Rebate Form) to show the amount of the rebate from Line 111 and send this form in with their remittance.

Visit <http://www.ucda.org/DealerInfo/RemittingHST.aspx> for more details, including how to complete the HST remittance form and to download Form 189.

Please call the UCDA if you have any questions not covered on the web site.

Unfair Advertising

We wrote to Minister Best on January 18th concerning manufacturers' advertising practices that disregard all-in pricing.

Until now, Auto Manufacturers have been exempted from the advertising regulations in MVDA 2002. And their unbridled use of mouse-print illustrates their cavalier view of advertising transparency for consumers.

As we said in the January Front Line:

All car advertising is aimed at the same market ... the Ontario consumer. It doesn't matter who places the ad. To the consumer, manufacturers' ads and dealer ads are indistinguishable.

The consumer just wants to know the bottom line price and doesn't want to plod through hundreds of words of mouse print with a magnifying glass to find it.

Our letter to the Minister asked only that she require manufacturers to meet the same standards as Ontario's dealers ... something that Quebec has already done.

We're expecting a response from the Minister shortly.

Extended Warranties

A recent OMVIC bulletin, refuting an A-Protect Warranty claim that they were "OMVIC Bonded", prompted us to again explain the law in this area.

The Motor Vehicle Dealers Act, 2002, requires that dealers may only offer third party extended warranties that are:

- underwritten by a licensed insurer; or
- that have provided OMVIC with a secured letter of credit for \$500,000

OMVIC's web site lists these insurers at http://www.omvic.on.ca/services/shared/insured_warranty_providers.htm

To ensure protection for both members and their customers, the UCDA continues to recommend that members only offer extended warranties insured by licensed Ontario insurance companies.

Here are the extended warranty companies, listed alphabetically, that have provided the UCDA with proof that their products are properly insured.

Coast to Coast Services	1-800-387-0119
Coverage One Warranty	1-866-988-1642
Easy Care Warranty	1-800-428-6184
First Canadian Protection	1-800-381-2580
Global Warranty	1-800-265-1519
INDS Canada Warranty	1-800-995-0290
Lubrico Warranty	1-800-668-3331
NationWide Auto Warranty	1-888-674-8549
Peoples Choice Warranty	1-888-284-2356
Protective – Asset Protection Division (Lyndon-DFS Warranty)	1-800-950-6060

Warning

OMVIC has also recently warned dealers that a company called Akoplex, is apparently soliciting business from Ontario dealers.

OMVIC has advised that Akoplex has not provided any evidence of either insurance or a letter of credit. Akoplex have provided nothing to the UCDA, either.

Therefore dealers are advised not to offer Akoplex warranties to consumers, unless OMVIC provides confirmation that the company has satisfied one of the two requirements for dealer warranty sales.

“Comfort Letters” – Not the Same as a Discharge

We’ve written in the past about the importance of ensuring that liens on vehicles being purchased or taken as trade-ins are discharged.

This is equally true where someone (a customer with a trade, or another dealer selling a vehicle) shows you a lien release letter from a bank or finance company.

These letters are commonly issued by lenders when they are paid as evidence that they have no further interest in the vehicle. They’re meant to give comfort to the owner and potential purchasers, so these letters are often called “comfort letters”.

However, dealers should not get too comfortable with them!

A comfort letter does NOT remove the lien. It will still show up on a lien search until the lien is actually discharged.

Legally, lenders have up to 30 days from the date a lien is paid out to actually register a discharge, so loans and leases which have just been paid out may remain registered for weeks.

Unfortunately, because it has become so common for dealers to rely on comfort letters, they can open the door to fraud. With personal computers, colour printers, email and fax machines, false comfort letters can be produced by simply cutting information from a real letter and inserting incorrect information.

To be safe, if you’re given one of these letters, contact the secured party for confirmation that the letter is genuine. Ask them to provide a copy of the letter directly to you and get an assurance that the lien will be discharged as soon as possible.

If a customer or dealer tells you that a lien you’ve found on a search has been discharged, ask them to provide you with a “verification statement” to confirm the discharge. A verification statement is the official confirmation from the Ministry that a lien has actually been discharged. To be absolutely certain, do another lien search to confirm that the lien has been discharged.

Most importantly, NEVER rely on someone’s assurance that there are no liens on a vehicle. There could be liens that the seller does not even know about.

Always do a lien search!

Curbsider Investigation Leads to Charges against Dealer and Salesperson

An OMVIC curbsider investigation has led to fines and victim surcharges totaling \$56,250 against a Brampton dealer, its owner and a salesperson.

OMVIC had been investigating a curbsider, advertising multiple vehicles for sale. The OMVIC investigator contacted the seller who had several vehicles for sale in a condo parking garage. The seller turned out to be a registered salesperson. The investigation confirmed that the dealer that employed him was aware that the salesperson was selling from his residence address.

The corporation, the dealer principal and the salesperson were each convicted of:

- Selling off premises
- Advertising without identifying as a dealer
- Misrepresentation under the Consumer Protection Act (misrepresenting the car as a “one owner”)

Saad and Company Inc., operating as Platinum Motors, was fined \$18,000, plus a 25% victim surcharge.

The owner of the dealer, Muhammad Siddiqui, and the salesperson, Olsi Cami, were each fined \$13,500, plus the surcharge.

Dealer ads must be clear that the ad is being placed by a dealer and is not a private ad.

Generally, ads must use the dealer’s registered name, unless there is limited space, such as in a classified print ad. In that case, the ad should at least include the word DEALER to indicate that it is not a private ad.

In Online ads that is not sufficient! They require the dealers registered name and business phone number.

LIEN SEARCH HOURS

Monday to Friday

9:00 AM to 8:00 PM

Saturday

9:00 AM to 5:00 PM

416.599.7412 or 1.800.668.8265

Fax : 416.232.0775 or

www.ucdasearches.com

Move to Online Auctions

Dealers have witnessed significant changes in the wholesale market in recent years.

More and more sales are taking place at online auctions compared with the bricks and mortar auctions we've been used to over the years.

Now, Toyota Financial in the U.S. have announced that they've decided to offer "all" of their vehicles for sale to dealers online. "Only if a vehicle fails to sell online will it be sent to a physical auction," said Mike Reid, the company's national remarketing manager. Toyota Financial in Canada have not said whether they're following this path or not.

Toyota may only be the first to make this change and it strongly suggests that all dealers need to review their purchasing processes. Not to be active online may greatly limit what's available to a dealer.

HST on Out-of-Province Sales

How Much Tax to Charge?

We regularly receive calls from members selling vehicles to residents of other provinces inquiring about how much tax to charge. The answer depends on where the purchaser takes delivery of the vehicle.

Delivery in Ontario

If delivery takes place in Ontario, then 13% HST will apply to the sale, regardless of where the customer lives. Delivery in Ontario occurs if:

- the customer picks the vehicle up in Ontario and drives it back home
- the vehicle is shipped **with the customer's name showing as the shipper on the bill of lading**

Delivery outside of Ontario

If delivery takes place outside of Ontario, the tax applicable to the destination province should be charged. If the vehicle is shipped out of province **with the dealer's name showing as shipper on the bill of lading**, then delivery takes place in the destination province and tax is charged at the rate for that province.

For vehicles sold and delivered to purchasers in Alberta, Saskatchewan, Manitoba, Quebec, Prince Edward Island, Yukon, Northwest Territories or Nunavut, 5% GST applies.

The other provinces, like Ontario, are HST provinces, but they have varying HST rates. HST on a vehicle delivered

to New Brunswick or Newfoundland is 13%, to British Columbia HST is 12% and to Nova Scotia, HST is 15%.

Rebates

Out-of-province purchasers who pay Ontario HST may claim a rebate back from Canada Revenue Agency for any extra tax they had to pay here, once they register the vehicle in their home province and pay any provincial sales tax there. The form is available at <http://www.ucda.org/DealerInfo/OutOfProvince.aspx>

For more information, visit http://www.ucda.org/DealerInfo/HST_FAQs.aspx, or contact the UCDA at 1-800-268-2598.

OMVIC Advertising Prosecutions

Some dealers are still not advertising properly and OMVIC continues to lay charges. Recently, we watched a Provincial Court Judge order \$10,000 in fines and victim of crime surcharges against two dealers in Toronto.

OMVIC's Secret Shoppers

Advertise a vehicle for one price, but when the customer comes in to buy the vehicle at that price all of a sudden it's going to cost hundreds or thousands more. A bad idea?

Oh yes, blatant false advertising is illegal. But when the "customer" in this story turns out to be an undercover OMVIC investigator and the dealership is accused of doing this not once ... but twice ... to two different sets of OMVIC secret shoppers ... that adds up to a very bad day in Court for the dealership indeed! Fine and surcharge \$5000.

All-in Advertising Not Quite All In

Most dealers now know if they advertise a vehicle for a set price, that price must include all fees and charges, except taxes and licencing, as long as the ad makes that clear. It's hard to understand why some dealers are still not getting this message.

This dealer ran ads that sought administration and other fees, over and above the advertised price. OMVIC even warned the dealer about their ads and they STILL kept running them! That cost them \$5000!

Without proper enforcement, dealer advertising laws in Ontario would be meaningless. For this to work all dealers have to play by the same rules. OMVIC are trying to educate dealers, but they are also sending a clear message to those that choose to ignore the law.

We don't want our members to have to face charges and fines, please call the UCDA if you are unsure about your ads.

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