

WHY HIDE THE TRANSACTION FEE?

OMVIC appears to be moving ahead with plans to raise the Transaction Fee, but two questions remain ... When? ... and by How Much?

It's been clear since late April, when OMVIC announced plans to raise fees, that OMVIC's preference is to raise the Transaction Fee, rather than increasing salesperson or dealer registration and renewal fees.

After OMVIC's announcement, the UCDA sent out a quick survey to which more than 800 members responded. A majority of responses (52%) were opposed to any increase, but if higher fees become a reality, 78% of respondents who expressed a preference, preferred an increase in the Transaction Fee, rather than raising registration and renewal fees.

OMVIC's announcement said that its Board preferred a \$5 increase to the Transaction Fee, bringing the total fee to \$10.

We have questioned the need for such a large increase all at once, but we have also let OMVIC know that members would be more accepting of a fee increase if their ads could state that the advertised price does not include the OMVIC fee.

The "all-in price" regulation currently permits tax to be added to the advertised price. OMVIC also allows dealers to add licence fees to the advertised price.

The UCDA is proposing that the Transaction Fee be treated in a similar way. The advertised price could be shown, along with a statement that "the price does not

include tax, licensing and \$_____ OMVIC fee". The math would be a simple addition for a customer and the fee would be completely transparent ... No one would be misled and nothing is hidden!

After all ... isn't transparency and fairness what the industry's regulations are all about?

Nothing could be more fair than to tell consumers there will be a fee ... **and how much it will be** ... added to the price of the vehicle they're interested in.

Dealers could advertise a price, without having to later break out the OMVIC fee on the bill of sale, which effectively lowers the price on the bill of sale. Consumers would in no way be misled. In fact, by listing the fee in the ad, consumers would have a more accurate idea of the actual cost of the vehicle.

Dealer added fees, such as "administration fees" are a completely different creature. These fees are kept by the dealer, and in the pre "all-in" days had sometimes become excessive. The Transaction Fee is more like a mandatory government fee and, of course, is not kept by the dealer. It's passed on to the industry regulator (OMVIC) which uses the money to enhance the protection of consumers.

We'll continue our efforts with OMVIC and the Ministry to make the "all-in" advertising requirements fairer for members. We'll keep you informed on our progress.

Total Recall

The recent massive safety recall of Takata airbags affected millions of vehicles in the U.S. and Canada. Unfortunately, it has also reminded us how poorly served we are in Canada by the present system for checking safety recalls.

The American Experience

So often, it seems, the Americans do things faster and more efficiently when it comes to consumer protection.

You would think the ability to search for vehicle recalls by VIN number would be a fairly easy thing to put on the internet for all to see.

Guess what? It is ... at least in the U.S.A.

The National Highway Traffic Safety Administration (NHTSA) does not mess around. Since August 14, 2014 vehicle manufacturers have been required to provide a means to search, by VIN, to determine not only if there is a recall on a vehicle, but also if it has been repaired.

This allows NHTSA to make that data available instantly on a single website <https://vinrcl.safercar.gov/vin/> in real time ... at no charge! But these are U.S. recalls only.

Meanwhile ... in Canada

What does Transport Canada (TC) provide for Canadians in this regard? Well, frankly, not much right now. Despite the recent announcement that the Federal Transport Minister plans to introduce legislation that will allow TC to order recalls, individual consumers or dealers will still have a hard time determining if a particular vehicle has any outstanding Canadian recalls on it.

Visit <http://www.tc.gc.ca/eng/motorvehiclesafety/safevehicles-defectinvestigations-1412.html> and see for yourself.

For starters, you can't search by VIN on TC's website. The site directs visitors to a variety of manufacturer or sponsored sites inside and outside of Canada. Some of these sites do not seem to recognize Canadian VINs or report on recalls accurately.

Entire blocks of manufacturer's VIN search capacity is reported as "not available" on TC's site. Well, consumers and dealers might say, MAKE IT AVAILABLE!!!

What To Do

We did a random survey of known outstanding recalls on specific VINs and found some manufacturers do not allow on-line searches, some provide different information on U.S. sites than on Canadian sites, some have U.S. sites but no Canadian site for recall searches or have incorrect or inconsistent information on their U.S. and Canadian sites.

It's a patchwork quilt ... a real mess!

Meanwhile, we get calls from time to time from consumers who are upset to learn the vehicle they bought from a dealer was subject to a recall they were not told about. No wonder! How is the dealer supposed to know or begin to find out?

Fortunately, Carfax reports now have the majority of safety recall information in Canada. Carfax vehicle information reports are available at ucdash.com. The cost is just \$18 and with that members also receive a UCDA Accident Claims search, showing reported insurance claims on the vehicle.

Our Suggestion

Even if recall information on specific vehicles can be found our recommendation to members is that you suggest to all your used car buyers that they register their purchase with the vehicle manufacturer. This can generally be done by the purchaser with a phone call, or in some cases, on-line.

Once registered, the manufacturer can notify the owner of any currently outstanding or future recalls.

Another suggestion ... put this in writing on the contract so the customer won't forget. We are amending our Used Vehicle Bill of Sale and our Lease Agreement to include a clause with that recommendation to customers.

Hopefully, soon, our government will catch up to our American friends and we'll have "total recall".

Taking Two (Or More) Trades

Dealers are used to taking trade-ins one at a time, but what if a customer comes in to buy a vehicle and has two (or more) vehicles to trade-in?

What follows is the advice we give, assuming your customer is an ordinary consumer and not an HST registrant like a business, which has to collect HST from you just like you do when you sell a vehicle.

The short answer is you can sell a customer a vehicle and take two, or more, trade-ins as part of a single transaction. In fact you could sell two vehicles and take one trade, and so on.

The point is this is legal ... it's just a matter of keeping your paperwork neat and organized, so a third party like OMVIC or Canada Revenue will understand how the deal was done if you're ever audited.

Let's say you're taking two trade-ins for your sale of one vehicle.

One trade-in is valued at \$3,500 and the other \$4,750. The vehicle you are selling has a sale price of \$16,999.

Take two retail bills of sale. We will call one the "master" or "main" contract, the other bill of sale will be an "attachment" or "addendum" to the main contract.

On the main contract describe the selling price of the vehicle you are selling, \$16,999. In the section for the vehicle to be traded-in describe one of the two vehicles in detail and in the trade-in value, where the numbers go, put the combined trade-in value for both trades ie. \$8,250. The customer will pay HST on \$8,749, the reduced selling price when the combined trade-in value is deducted.

In the "Comments" box on the main contract write that this sale involves two trades, describe both vehicles and the values assigned to each.

On the attachment bill of sale describe in detail the second trade-in vehicle and the value given for it.

Have both bills of sale signed in the usual way and obtain trade-in appraisal forms from the customer for both trades.

This will work for two or more trades (just add more bills of sale as needed) or for multiple vehicle sales by you to a buyer with one or more trade-ins.

The UCDA offers a whole suite of MVDA compliant forms for new and used retail sales, wholesale sales and leases, as well as trade-in appraisal forms.

Repair Finance Liens

Most dealers know that the *Repair and Storage Liens Act* ("RSLA") allows repairers who have not been paid for repairs, towing or storage, to claim a lien and seize vehicles for default.

The RSLA also allows an unpaid repairer to assign its repair lien to a third party. In other words, the third party finances the repair and pays the repair bill. The repairer assigns its rights under the RSLA to a third party.

A company called Advantagewon specializes in this. Some members who have repair facilities may have heard of them, some who lease vehicles may have had vehicles seized from lessees by them. A recent small claims case shows that a lot will be expected of companies like Advantagewon when they seize a vehicle.

In *Valles v. Advantagewon Inc.*, the Court heard that on the morning of July 22, 2014, Mr. Valles' motor vehicle was towed away by a towing company called Twin City Towing at the request of Advantagewon.

Valles had financed the installation of new rims and

tires with Advantagewon. The financing was approved and the installation performed. A lien against the vehicle was registered under the RSLA by Advantagewon.

The agreement signed by Valles included a requirement that Advantagewon be named as a "loss payee" in Valles' auto insurance policy.

Valles made his monthly payments, but did not name Advantagewon as a loss payee in his policy. It was not discussed with Valles when he signed the agreement and he apparently didn't know about this requirement. Apparently, for this alone, the vehicle was seized without notice.

As soon as the vehicle was seized, storage fees began to accumulate. Valles offered to pay some of the fees, but Advantagewon demanded the full amount claimed and refused to release the vehicle.

More storage accumulated. Eventually, Advantagewon sold the vehicle. At that point the claim, with storage and other costs, was 5 times the amount of the original repair loan!

Valles sued alleging that Advantagewon and the towing company, Twin City, had no right to seize and sell his vehicle and that in any event, they had not provided proper notice to him.

Advantagewon argued that the RSLA permitted the seizure and sale and counter-sued Valles. Twin City's defence was they were just doing what Advantagewon asked them to do.

The court did not accept either defence. The judge ruled that the requirement to name Advantagewon in the insurance policy was not brought to Valles' attention.

The Judge Also Found That ...

1. Advantagewon acted in bad faith
2. Advantagewon failed to send a written notice of default
3. Many of the fees claimed were not actual out of pocket losses
4. Valles never signed an acknowledgement of the debt to Advantagewon, it was to a different numbered company
5. It was this numbered company, not Advantagewon, that Valles was supposed to add to his insurance, so his failure to add Advantagewon was not, technically, an act of default.

For all these reasons, the judge felt Advantagewon and Twin City had committed the tort of conversion and ordered them to pay Valles \$10,000, plus \$1,100 in court costs. Advantagewon's counter-claim against Valles was dismissed.

All this for a repair finance loan of only \$1,000!

First Annual Ruth Hart-Stephens & Bob Beattie Memorial Golf Tournament a Tremendous Success!

The weather was great, 220 dealers and sponsors participated and the facilities at Lionhead were first class. It was a fitting memorial for two very special people to our industry. Thank you to our generous sponsors and to the dealers that came out to support Ruth and Bob's tournament. Together, we raised almost \$4,000 towards scholarships for students attending the Automotive Business School of Canada at Georgian College.

Look for next year's tournament and plan to be there!



Lead Sponsor Team Desjardins



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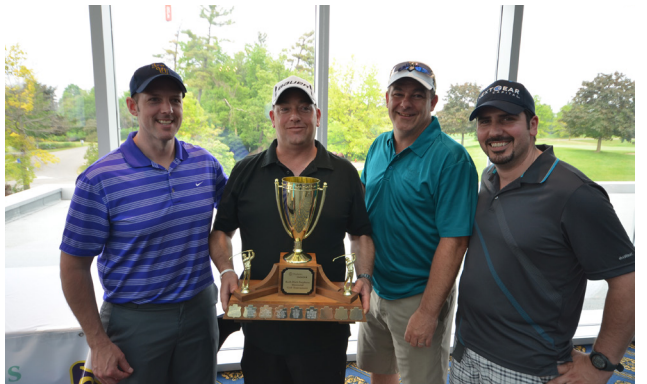
NextGear Putting Contest



Warren Barnard, UCDA; Maria Soklis, President Cox's Canada; Don Wallace, Manheim Toronto; Richard Pasta, Kia of Canada.



Bob Beattie Trophy: Team Scarborough Toyota & Apex Marketing (Not Shown). Pictured: Bart Hartwick, Warren Barnard & Verne Cole, UCDA



Ruth Hart-Stephens Trophy Winners: Team Copart



UCDA & Manheim Registration Desk

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