

SERVICE ONTARIO RESPONDS TO SURVEY

Service Ontario has responded to the UCDA's survey on satisfaction levels and, as we expected, officials were not pleased to see the 30% level of dissatisfaction expressed by members who responded to the survey.

Though most members conveyed a general level of satisfaction with their experience with Service Ontario, many members, even if satisfied overall, were concerned about long waiting times at many locations. This concern was expressed frequently in responses to our survey.

The UCDA has discussed the survey results with senior Service Ontario officials, who told us that they have already started to look closely at the service levels and type of services available at individual locations.

Inconsistent availability of dealer-only lines and differing rules and policies at individual offices were also a frequent point made in many of the responses.

Local factors, such as the number of dealers served by individual offices and office size are obvious factors in these variances. However, Service Ontario told us they will also be looking into this.

A more sensitive issue, raised by a significant number of members responding to our survey, was unfriendly ... even rude... service at specific locations. At least a half dozen offices, where service was less than friendly, were

mentioned multiple times in the survey responses. We also discussed this with Service Ontario.

The fact that a relatively small number of offices were singled out for comments about a poor attitude should help Service Ontario focus attention on improving the approach taken in those offices. Members are asking for nothing more than the level of respect and service that they would provide to their own customers.

Service Ontario asked us to encourage members to report specific incidents directly to Service Ontario or to call the UCDA so that we can pass these on.

Service Ontario has told us that a timely report of a problem, soon after it has occurred, is much easier to resolve than something that occurred months earlier.

Our survey and these discussions are the first step in what will become regular communication with Service Ontario about service levels and initiatives.

When all is said and done, Service Ontario and the UCDA both want the same thing ... the best service possible for Service Ontario's biggest clients ... our members.

It's something that we believe can be improved upon and we'll work with Service Ontario to do so.

Anti-Spam Enforcement ... The Struggle Continues

We have written previously in Front Line about the very real enforcement measures being brought to bear by the CRTC in enforcing the new anti-spam law.

ANY electronic message sent for a commercial purpose (this includes offers or coupons, alerts to a business opportunity or sales) MUST have the consent of the recipient. This applies to business-to-business communication as well as business-to-consumer.

It is also important to remember, electronic (i.e. email messages) must contain an "unsubscribe" option. Having consent is not enough, you must give the receiver an easy way to exercise an option to stop the messages. Porter Airlines just paid a \$150,000 fine for failing just such a requirement, among other things:

<http://www.crtc.gc.ca/eng/archive/2015/ut150629.htm>

Meanwhile, in our own industry, we sent a Dealer Alert warning dealers to be on the lookout for fake "renewal invoices" being sent by any business with whom they do not deal. This Alert arose because a company

out of Alberta called Carsgone.com was sending a number of our Members emails with renewal invoices for services they never requested in the first place.

Aside from the questionable nature of this practice, such emails also happen to offend the anti-spam law as no message for a commercial purpose can be sent to anyone without consent. Since none of these dealers did business with the sender, they cannot be said to have consented to the message either expressly or by implication!

Our members are reminded they have the means to complain to the CRTC: <http://fightspam.gc.ca/eic/site/030.nsf/frm-eng/MMCN-9EZV6S>

You can also make the CRTC aware of these emails by sending them an email, with details, to spam@fightspam.gc.ca

If you are ever contacted in a similar way by any company, we urge you to make the authorities aware of it ... they have shown a real willingness to act.



Christmas Holiday Hours

All dealers must be closed on Christmas Day, Friday, December 25th. Dealers may open on Boxing Day, Saturday, December 26th.

Dealers must be closed again on New Year's Day, Friday, January 1st, 2016.

Dealers should note however, that employees are entitled to paid holidays for Christmas Day, Boxing Day

and New Year's Day, so dealers who are open on December 26th will need to arrange another day off for employees who work that day, such as December 24th or December 28th.

The UCDA office will be closed for the Holidays from December 24th through 28th, re-opening on December 29th. The office will also be closed on January 1st for New Years.

	Search Office Hours	Internet Lien Search Hours
Thursday, December 24	Closed	9:00 a.m. to 8:00 p.m.
Friday, December 25	Closed	Not Available
Saturday, December 26	9:00 a.m. to 5:00	9:00 a.m. to 8:00 p.m.
Monday, December 28	Closed	9:00 a.m. to 8:00 p.m.
Tuesday, December 29	9:00 a.m. to 8:00 p.m.	9:00 a.m. to 8:00 p.m.
Wednesday, December 30	9:00 a.m. to 8:00 p.m.	9:00 a.m. to 8:00 p.m.
Thursday, December 31	9:00 a.m. to 3:00 p.m.	9:00 a.m. to 8:00 p.m.
Friday, January 1	Closed	Not Available
Saturday, January 2	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 8:00 p.m.
Monday, January 4	9:00 a.m. to 8:00 p.m.	9:00 a.m. to 8:00 p.m.

407 ETR Toll Road Crashes Against the Bankruptcy Act

Friday the 13th was not lucky for the 407 ETR Highway!

In an interesting ruling, the highest court in Canada, the Supreme Court of Canada, has dismissed the appeal of the toll road company 407 ETR from an Ontario Court of Appeal ruling against it.

407 ETR was owed money by a user of the highway, but he had declared bankruptcy. Despite the fact the debt was treated as unsecured in the bankruptcy, and all such debts were discharged in that process, 407 still tried to have the Ministry of Transportation refuse to issue the user a plate permit. The Canadian Superintendent of Bankruptcy took issue with this and fought 407 all the way to this decision.

As most know, in Ontario, the 407 has a pretty sweet deal with the Province of Ontario where any unpaid debts result in a refusal by MTO to issue a permit until 407 gets paid. In effect, Ontario helps the 407 collect its debts.

In this case, however, the court said not so fast. The actions of the Province offended a basic principle in Canadian constitutional law.

Where a Provincial law (*407 Act*) comes into direct conflict with a Federal law (*Bankruptcy Act*), the Federal law wins out. The Province cannot refuse to issue a permit for a debt properly discharged under the Federal law.

As a discharged bankrupt, the user's slate is clean and he must be issued a permit. Assumedly he is driving again today ... maybe even on the 407!

Liens in the Age of Information

The trouble today is that consumers often have too much information to absorb when buying a car.

A variety of searches are available for consumers to discover all kinds of things about vehicles before they buy, but very few resources to explain the results to them.

Information without context or explanation is almost as useless as no information at all.

Take liens for example. We get calls from time to time from consumers who, despite the fact they are buying a car from a dealer and are protected against the chance a dealer might sell a car with a lien on it, still do a lien search and discover ... to their horror ... that there is lien on the car they want to buy.

We know that this is a fairly normal occurrence. Nine times out of ten the lien is there because the dealer has a line of credit or some sort of floor plan arrangement. The finance company will be paid in the ordinary course of the transaction, the lien removed and the consumer will ultimately get a lien-free vehicle.

Unfortunately, the consumer does not know this because no one explained it to them. So, we get a panicked call from the consumer who's sure their worst nightmare has come true and they are about to be fleeced.

As dealers, take the opportunity to explain things to your customers. If you are floor-planned and there are liens on individual vehicles in your inventory, take the bull by the horns and explain to the customer what that means and exactly how the transaction will proceed. Give them a copy of the letter from the floor planner to prove the loan is cleared ... the customer will appreciate it.

This education is a value added service all dealers can provide their customers.

Since there's a good chance consumers are going to find that the lien is still registered, why not tackle the issue head on before it becomes a big problem that could cost you a sale?

Certification Course Classes

MVDA certification classes, taught by UCDA Member Services Director, Bob Pierce, are full for the rest of 2015. Here's a list of classes for the first three months of 2016.

Thursday, January 7th	Tuesday, February 16th
Tuesday, January 12th	Wednesday, March 2nd
Thursday, January 14th	Friday, March 11th
Thursday, February 4th	Thursday, March 31st
Wednesday, February 10th	

Classes are held at Wye Management's training facility, 55 Winges Road, Unit 1, in Woodbridge. Courses will fill up quickly. Contact Valerie at v.maclean@ucda.org, to register!

UCDA/OMVIC On-Line Webinars

To assist members, including anyone taking the OMVIC certification course, the UCDA has put OMVIC's recent Advertising, Disclosure and Consumer Protection webinars on-line. These areas make up the most important sections of the certification course for new people coming into the industry as well as for existing sales people and managers. View them at www.ucda.org by clicking on OMVIC COURSES/WEBINARS under information for dealers.

UCDA Repair Lien Process Upheld By Ontario's Highest Court

Most dealers know that the *Repair and Storage Liens Act* ("RSLA") allows repairers who are owed money for vehicle repairs, towing or storage, under the right circumstances, to claim a lien on the vehicle.

In this case, one of our members (the "repairer") had a vehicle in their possession and, as they were not getting paid for the repair work they had done, they sent the notice required by the RSLA to express their "intention to sell" the vehicle.

The notice, designed by the UCDA to conform with the RSLA, was sent by registered mail to all interested parties which included the lessee, and the lessor / lienholder. The repairer then waited the required period and sold the vehicle as intended.

The lessor then sued the repairer claiming an "improper sale" under the RSLA. In a strange decision, the Ontario Superior Court of Justice ruled the repairer sold the vehicle without notice to the lessor! The judge went on to say that even if notice was given, the notice was deficient in that it:

1. Failed to explain how the vehicle could be recovered,
2. Did not say to whom payment was to be made, and,
3. Did not say if the sale of the vehicle would be by private or public sale.

The judge ruled the sale of the vehicle was not "commercially reasonable".

This is what the actual letter said, with the specific details omitted, on the letter head of the repairer:

***** may regain possession of the vehicle upon payment, in certified funds, of the amount of \$*****, plus any additional applicable storage charges. Payment may be made at the business premises of ***** during our regular business hours of 9:00 a.m. to 5:00 p.m. Monday to Friday and 8:00 a.m. to noon on Saturday. We may be reached by telephone at *****.

Should payment of the applicable sum not be received by ***** within twenty-five (25) days of the date of this letter, we will have no alternative but to offer the vehicle for sale in order to recover the amount owing to us.

The repairer appealed this decision.

The Ontario Court of Appeal ruled in favour of the repairer on all counts. It found, first, clear evidence of service of the letter by registered mail, as required by the RSLA. It went on to find that the letter, as written, was quite obvious how the vehicle could be recovered, to whom payment could be made and that the sale would be by way of private sale. The Court also found that the vehicle had been sold by the repairer for a fair price.

Not only did the repairer win this case, they were also awarded costs of \$13,000!

And the form of the letter used by the UCDA was found to be correct.

If you ever encounter a problem like this with the RSLA call the UCDA legal department for help.

Selling Vehicles at U.S. Auctions Getting Harder

The steady stream ... some may say flood ... of Canadian vehicles being sold at U.S. auctions may be about to slow down, at least in Michigan.

Many auctions have one or more lanes dedicated specifically to Canadian vehicles, many being offered for sale directly by Canadian dealers. This will no longer be allowed in Michigan.

The Michigan Department of State recently clarified that Canadian vehicles cannot be sold at dealer auctions without a Michigan resale title. These titles had previously been made available to Canadian dealers, but will now be restricted to Michigan dealers only. This means Canadian dealers will need to work with a registered dealer in Michigan if they want to sell at dealer auctions in that state.

Other states, such as Ohio, may also follow suit.

Presumably, these and other recent requirements, such as mandatory tire pressure monitors, are the result of concerns in the U.S. about the large number of Canadian vehicles that have entered the market there this year and in the past.

Don't be surprised if U.S. authorities place more restrictions on Canadian vehicles in the future. Ultimately, market forces will determine whether the demand for Canadian vehicles in the U.S. will continue to be strong enough to overcome efforts south of the border to slow it down.