

# DealerTracking

HELPING DEALERS SELL, FINANCE, FUND AND PROTECT

VOLUME ONE

ISSUE ONE

APRIL 2005

## IS YOUR DEALERSHIP AT RISK?

### **BURIED IN PAPER?**

BOOST PROFIT WITH eCONTRACTING

### **FOUND MONEY:**

NEW THINKING ON USED CARS

 DealerTrack™

## Welcome to DealerTracking!

The goal of this publication is to provide dealers with unique insights into better ways to sell cars, finance customers, get contracts funded quickly and protect their businesses.



Over the past 20 years, we've witnessed a lot of changes in how technology is used to sell and finance cars. What was once carbon paper, mimeographs and phone calls became fax machines, mainframe computers, dot matrix printers, and standalone software systems.

The Internet transformed dealership technology yet again – Web-connected PCs, and broadband Internet connectivity have become the standard on dealer desktops. Today, state-of-the-art dealerships use integrated, Web-based applications and signature pads to get their deals done quickly, easily and profitably.

Recently, many of our dealer customers have expressed concern over the increasingly complex legal and regulatory environment. With compliance on everyone's mind,

we're featuring it as our cover story. We hope it provides insight into the steps you need to take to protect your business.

We're always interested in hearing from our more than 24,000 dealers – whether it's ideas for our next issue or how we can better serve you. Please feel free to contact me at [marko@dealertracking.com](mailto:marko@dealertracking.com).

Thanks for your continued support, and enjoy our inaugural issue!

Sincerely,

Mark O'Neil  
President and CEO



## Is Your Dealership At Risk?

Take steps now to be in compliance and protect your profits

**L**arge or small, today's dealer is duty-bound to comply with a whole alphabet soup of acronyms. They're shorthand for a complex web of federal and state laws aimed at regulating consumer finance and protecting customer financial information.

"The last two years have felt like we've been running through a meteor shower of legislation," says Kevin Reilly, a one-time attorney who's now General Manager and co-founder of Alexandria Hyundai in Virginia. "And failure to comply is not an option."

Dealers beware. Federal and state watchdogs have clearly been ratcheting up their regulatory actions. Even inadvertent violations of the maze of rules can be shockingly

costly. Penalties can come in the form of fines (the FTC can seek fines of \$11,000 a day for every violation), lawsuits, and in rare instances, even imprisonment.

"You hear all kinds of problems from not being in compliance," says Brendan Walshe, Business Manager of Webster Dudley Lincoln Mercury in Dudley, Massachusetts. "There was recently a woman in Connecticut who jointly bought a car with her husband. When she died the husband sued the dealership and won a substantial damage award. The dealer couldn't show proof, as the law requires, that the couple was ever offered life insurance."

Adding insult to injury, the penalties being exacted against out-of-compli-

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ance dealers are often trumpeted in high-profile media coverage, further darkening the already clouded lens through which customers view you. A recent CNN/USA Today/Gallup poll showed a widespread disdain for car dealers, just as it has since the polls were first conducted in 1977. When asked to rate the honesty and ethical standards of people in 23 different professions, the public ranked car salesmen at the very bottom of the list.

The good news about compliance is that, far from being your Achilles



The very real threats posed by non-compliance are avoidable once you have a properly run compliance program in place.

heel, it can be a great advantage to you. With a few modifications to how you do business, you can protect your operation from potentially expensive legal as well as “reputation” risks — and increase your profitability.

#### **When You’re in Compliance . . .**

*You minimize enforcement* actions and fines against your dealership and even against you and your staff personally

*You minimize your exposure* to lawsuits – class action or individual. It can cost you hundreds of thousands of dollars to defend your business against a regulatory proceeding or lawsuit. Even if you win, you lose – your attorneys’ fees are not recoverable.

*You minimize the potential* for bad publicity while you strengthen customer relationships. As Reilly observes, based on his dealership’s experience, “From a customer acquisition and satisfaction standpoint, customers have a good comfort level when they provide us their sensitive information.”

#### **A General Framework for Compliance**

Admittedly, gaining a handle on all the rules can be tough. As Joe Collida, Finance Director of Downey Chevrolet in Cooper, Texas, relates, “Any time there’s a new reg, you can get faxes from a dozen different banks; you’ll see new regs suddenly show up in new contracts; you get bulletins. It can be confusing.”

You can begin making sense of the confusion by thinking in terms of a basic compliance framework defined under what’s known as the FTC Safeguards Rule. Issued under the authority of the Gramm-Leach-Bliley Act, the FTC Safeguards Rule requires that dealers:

*Have a written information security program*, tailored for your operation, to secure the personal financial information of customers.

*Designate an employee* to coordinate the information security program.

*Train employees* to understand their responsibilities in the process.

*Have testing and response mechanisms* in place to rectify problems.

**COMPLIANCE TERMS DEFINED**

**ECOA** (Equal Credit Opportunity Act) and Federal Reg B – Prohibits discrimination in lending terms and requires notices to consumers in connection with credit applications.

**ESIGN** (Electronic Signatures Act) – Permits electronic signatures to substitute for paper signatures in most consumer and commercial transactions. Enables electronic contracting of motor vehicle retail installment sales.

**FACT Act** (Fair and Accurate Credit Transactions Act) – A federal law that limits financial information sharing, provides identity theft protections, gives consumers rights to access their credit reports and requires detailed consumer notices on credit reports and applications.

**FCRA** (Fair Credit Reporting Act) – Governs the permissible use of credit reports and requires disclosures to consumers.

**FTC Safeguards Rule** – The Federal Trade Commission’s rules that mandate information security programs.

**GLB** (The Gramm-Leach-Bliley Act) – A federal law requiring dealers to protect the privacy of customers’ financial information.

**Predatory Lending Laws** – Protect minority groups and women. These laws generally enable private consumer lawsuits seeking damages, attorneys’ fees and penalties.

**The USA PATRIOT Act** – A post-9/11 law that requires, among other things, that creditors verify the identity of customers.

**TILA** (Truth in Lending Act) and Federal Regs M and Z – Provides for mandatory disclosures in credit and leasing transactions and advertising of credit. Reg M covers consumer leasing transactions. Reg Z covers disclosures of credit terms and advertising of credit.

**UDAP** (Unfair and Deceptive Acts and Practices laws) – Includes FTC Act Section 5 and similar state laws used frequently by state attorneys general to correct and obtain damages for consumer abuses by automobile dealers.

Onto this general framework, you can hang the full range of laws and regulations that run through all aspects of your business, from sales to credit decisions to F&I product sales. The laws generally sort into three main areas:

**Laws Protecting Confidentiality of Customer Data**

These are the laws and regulations that protect customers’ sensitive financial information. They most often are applicable on the sales floor, where customers first provide financial information as they apply for credit.

Complying with the FTC Safeguards Rule means securing customer information using administrative, technical, and physical safeguards appro-

priate to your operation. Examples include encrypting data; shredding or securely storing paperwork; and installing computer defenses like firewalls. Violations of these rules could mean anything from fines to criminal penalties or lawsuits.

**Laws Documenting Credit Decisions**

If, for any reason, you as a dealer decide not to send a customer’s loan application to any financing source, you may have the obligation under FCRA and ECOA to send an “adverse action notice” to your customer notifying him or her of your action. Under FCRA, it’s also your responsibility to document

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# Buried in Paper?

## Boost profit and CSIs with eContracting

**T**raditional paper-based contracting is bloated with costs that erode dealer profitability. The most obvious cost is overnight shipping charges, notes Tom Murray, Finance Director at Koons Sterling Ford in Sterling, Virginia. "But the biggest problem is the turnaround time, the delay in getting our money," Murray says. And if there's a problem with the contract, like a missing signature, the customer may have to come back in to the dealership, which creates a CSI headache for everyone who was involved in the sale. "Then we usually have to give him a free tank of gas or an oil change," Murray adds.

### Costs and Hassles

Even if the paper contracting process works perfectly – the paperwork is packaged and shipped immediately, there are no errors, and the financing source funds the deal as quickly as possible – the minimum costs include overnight shipping charges and at least a couple of days of carrying the contract-in-transit (measured from the point the customer signs the contract to the point the financing source releases the funds).

In the real world of paper contracting, contracts often aren't shipped immediately, and errors are a fact of life, pushing the average time to fund a contract to about five days (see sidebar). And the direct and indirect costs to "recontract" a deal – redo some portion of a paper contract at the insistence of the financing source – can be significantly higher. At the low end, recontracting may start with a tank of gas or an oil change to keep your customer happy. But the costs and hassles escalate quickly, especially if you don't want to involve the customer in correcting the errors. At the high end, recontracting can mean eating the cost of extra insurance products that the financing source won't fund, or the additional basis points the financing source says it has to charge to fund the transaction. And forget about the cost of repossessing a vehicle for those customers who refuse to return to the dealership to complete the process.

### The Dollars and Cents of eContracting

If you use DealerTrack's eContracting for 300 vehicles a year, your direct savings versus traditional paper contracting can average close to \$6,000. This estimate does not include the less easily measured, but still very real costs of fixing paperwork problems, including employees' time and what you have to do to keep your customers satisfied.

	Paper	Electronic
Average Vehicle Price	\$25,000	\$25,000
Interest Rate	5.00%	5.00%
Days to Fund <sup>1</sup>	5	1
<b>Inventory Costs per Contract</b>	<b>\$17.10</b>	<b>\$3.42</b>
Multi-part Forms	\$1	\$0
Overnight Shipping	\$5	\$0
<b>Processing Cost per Contract</b>	<b>\$6</b>	<b>\$0</b>
Total Contracting Costs	\$23.10	\$3.42
Number of Vehicles per Year	300	300
<b>Annual Cost</b>	<b>\$6,930</b>	<b>\$1,026</b>

**Your Total Savings** **\$5,910**

<sup>1</sup>Days to fund is measured from the time the customer signs the contract until the financing source releases the funds.

### Eliminating the Final Fifteen Percent

Industry experts report problems with approximately 15 percent of all automotive paper contracts submitted for funding. In about a third of those cases, the trouble is so serious that the customer has to return to the dealership to complete the process. Many dealers are turning to electronic contracting as an efficient, cost-effective way to avoid the financial and customer dissatisfaction consequences of paper contract errors.



"DealerTrack's eContracting has completely eliminated problems in the paperwork," says Roger Koby, owner of Koby Subaru in Mobile, Alabama. "With the signature pad, customers say it's like going to Home Depot." One of the key features of eContracting is an electronic verification option, which gives the financing source an opportunity to review the final terms of the contract before the consumer actually starts signing. The exact amount financed, additional details about the transaction and all the supporting math are checked to be certain they're within agreed-upon parameters.

If the terms fall outside the pre-set criteria in the financing source's automated decisioning system, the contract is transferred into a review process involving a human analyst. Once the contract is verified, the dealer can proceed with the contracting process and collect all required signatures from the customer using an electronic signature pad. And every one of those signatures *must* be collected, because each step in the contracting process requires them. Similarly, a copy of the contract must be printed out so the customer can review it – assisting the dealer with compliance requirements in disclosing the deal. After submitting the contract along with supporting documentation, the dealer knows for certain that the deal will be funded – as fast as the same day.

Championing technology like that and saving money for the dealership can make an F&I manager look awfully smart. It also can enhance the dealer's image in the eyes of increasingly tech-savvy consumers. "The technology makes us look more professional," Koby says. "That's because when the deal comes back eVerified, you know it's all approved, so then when you hit the 'Submit' button, you're done – it's as good as gold." 

# Found Money:

## New thinking on used cars

Vince Palmer, sales manager of Market Motor Company in Boardman, Ohio, wows his used car customers with a full array of lease-versus-purchase options printed from the screen of his desk-ing system. Mike Snyder, used car manager at Moore Motors in rural Caro, Michigan, analyzes his auction sheets using the same technology to determine which vehicles will carry the best lease payments.

Both are riding the resurgent trend in used car leasing, and routinely find customers and profit in a sector more often associated with luxury brands. While the raw number of leased used cars is relatively small – an estimated 650,000 to 700,000 this year, according to CNW Marketing Research – a number of factors promise to make used car leases more eye-catching for both dealers and customers in the near future.

### Warranties Drive Demand

Used car certification programs at General Motors and Toyota are fueling growth in used car leases,

2004 Buick Regal GS	Lease <sup>1</sup>	Purchase
Mileage	19,377 mi.	19,377 mi.
Cap Cost/Sale Price	\$13,991	\$13,991
Front-End Gross	\$2,841	\$2,841
Cap Cost Reduction/Down Payment:	\$785	\$785
Money Factor (hypothetical):	.00190	APR 8.00%
Term	36 months (approx. APR 4.56%)	60 months
<b>Monthly Lease payment</b>	<b>\$168</b>	<b>\$284</b>

<sup>1</sup>Based on 12,000 miles/year

These are examples only, based on January data in the Midwest, and do not include taxes. For current accurate information by state, go to DeskLink™ or call a DealerTrack representative.

says CNW President Art Spinella. Attractive warranties on certified vehicles are a key reason. Jesse Toprak, senior analyst at Edmunds.com, concurs: "Warranties are very important. The worst-case scenario for these customers is that they'd have to pay for repairs, and the car is not even theirs." For used cars that are not certified, leasing could still make sense if there is some factory warranty left, or if an extended warranty is built into the lease.

### Upside Down Customers Benefit

Long loan terms on new vehicles

have left a significant number of customers upside down at trade time. While the average loan term in 2004 was near 61 months, Raj Sundaram, president of Automotive Lease Guide, says the average term of ownership was actually closer to 45 months. Data from Edmunds.com shows upside down customers have, on average, \$3,795 in negative equity.

Leasing a late-model car can benefit these customers, explains Christine Buechler, a leasing expert with DealerTrack, since consumers can roll their negative equity into a



lease and still pay less than if they financed. "Used car leasing is a tremendous bargain for the right customer, because it is based upon depreciation, and depreciation on a two- to five-year-old car is less," says Edmunds.com Senior Consumer Advice Editor Philip Reed.

### **Technology Aids Selling and Buying**

Technology can help sell used car leasing to web-savvy customers. Market Motor's Palmer finds great value in desking solutions like DealerTrack's DeskLink™: "I can show the customer everything from

the lowest monthly payment to the highest, with all the deductibles. And DealerTrack guarantees the numbers."

Without the technology, calculating a single lease payment scenario can take a half-hour. But a complete desking solution cuts the time to a minute or two – and delivers a full array of lease-versus-purchase options, including terms, monthly payments, cap cost reduction and money factors from participating financing sources in the dealer's state. Since residual values, money factors, and finance rates change so

frequently, desking electronically becomes critical to quoting a deal that the customer can't beat when they shop around.

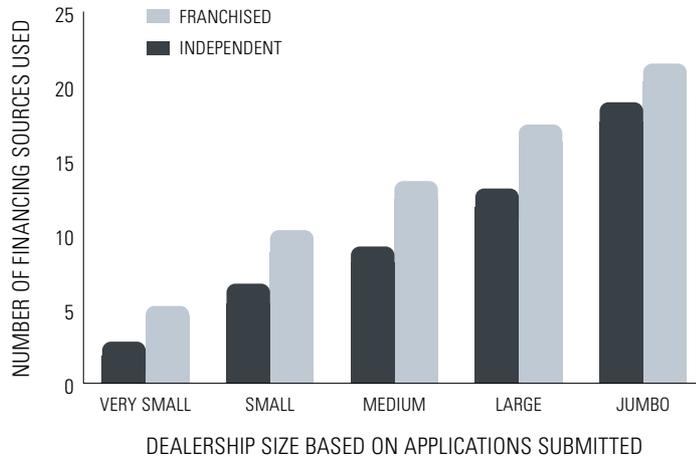
Another technique is to use a desking solution to analyze auction sheets. Such unlikely models as Tauruses and Escorts have turned up listed alongside the predictable high-residual BMWs.

Bottom line: Dealers can move even more used cars by offering both lease and finance options to their customers. 

# Data Center

In December 2004, franchised dealers submitted credit apps to an average of 10 different financing sources.

## DEALER FINANCING SOURCE NETWORKS



Source: December 2004 transaction data, DealerTrack, Inc.

### *Is Your Dealership At Risk* *continued from page 3*

that you have a “permissible purpose” before you can pull a customer’s credit report.

Under the USA PATRIOT Act, you have to verify the identity of your customer. Federal truth-in-lending rules govern your disclosure of credit terms and mean you’d be well-advised to have a lawyer review your communications to customers, such as advertisements and the wording in your forms.

### **Laws for Tracking Sales of F&I Products**

Under Section 5 of the FTC Act and a variety of state laws such as those prohibiting Unfair and Deceptive Acts and Practices (UDAP), dealers must clearly represent F&I products (such as extended warranties) and their prices to customers at the point of sale. Items that a customer declines to order should be clearly documented as well as those that are chosen. Some dealers are even videotaping

these sales presentations to avoid problems, but that practice remains controversial and is not required.

### **Changing How You Work**

It’s obvious that to be fully in compliance, you have to change the way you work. But that’s now much easier to do with a host of available software programs. “Converting processes to electronic format helps in compliance, but also, quite often, has the added benefit of enhancing profitability,” says Reilly.

DealerTrack offers computer- and web-based systems that help you execute deals more consistently, maintain control, track your progress and streamline your overall business — all while managing your compliance risk. For example . . .

**MenuTrack™** is a cost-effective way to scrupulously document aftermarket product presentations and sales.

**eContracting** makes it easy to increase compliance in financing while improving your cash flow. It

simplifies financing and documents the lending process while enabling dealers to electronically transmit contract information to financing sources.

**AppOnline™** protects your customers’ privacy by giving them the ability to submit a fully compliant, encrypted credit application along with their vehicle request through your dealership’s website.

Long story short: The very real threats posed by non-compliance are avoidable once you have a properly run compliance program in place. You’ll protect your business’s profitability and boost customer satisfaction at the same time. 



For more than 20 years, **Randall Noe** has run multiple dealerships profitably. He recently shared some of his hard-won insights with DealerTrack. Mr. Noe owns Randall Noe Ford/Mercury and Randall Noe Chrysler/Jeep/Dodge, both located in Terrell, TX.

## Best Practices Q&A with Randall Noe

### **Somebody said recently that car dealers used to sell cars, but now they sell deals . . . do you agree?**

Yes. When I was a salesman, you had to work at the state fair for two weeks, and answer questions. Sales departments are so weak now, that the manufacturers hire professional people to answer questions for people. And that's what it's come to – sales people are no longer being trained. Everybody wants to go to price right away, and nobody knows the horsepower of the truck or the torque.

### **Do you have a special training program for your sales team?**

Yes. How to sell the product, the features and the benefits of the car, how to do a walk-around and demo ride.

### **What is your best source for new customers – print advertising, the Internet, word of mouth?**

I believe it's a blend of all those things. We definitely see the Internet playing a growing role in the business.

### **Why is your F&I department so successful?**

We've developed relationships over the last 15 to 18 years with our banks, so they know we do business right, that what we tell them is correct. You've got to develop a good customer base, sell them, and give your banks good people who will pay them back.

### **How have F&I revenues grown in your dealership?**

We feel like every customer should come through the finance department, to give them a good chance to have an extended warranty, to have gap insurance, to have any other product that we offer. We're continuously training everybody to make sure, ethically, we're showing every product to every customer. We have a computer presentation, five minutes and 20 seconds, that each person

watches while we're entering everything in the computer. And then we review a menu with them.

### **What is the best piece of advice that you received when you started in the business?**

Open your own mail. See what you're paying for every day when bills come in. It will tell you a lot. Be on your parking lots. People have to see you or see upper management to know that they're involved in the business.

### **What about technology?**

I grew up in a store where it took them three weeks to buy a fax machine. But if my F&I guys say they need something, we put our heads together and they usually get it that day. You just can't worry about spending \$5,000 on something to automate the store. You spend the 5, and you might get back 20-fold. If you're going to be fast-paced and satisfy the customer and your lenders, you've got to have the right electronic equipment.

### **What is it about regulatory compliance that keeps you up at night?**

Losing the customer for life, and the 10 people he'll tell that to, and the bad press you'd get from it, is potentially the worse thing that could happen.

### **Does an external organization need to reform F&I, or can dealers regain public confidence themselves?**

I think we do need some type of an ethics code, and I believe there should be some licensing. I think good F&I guys want to treat everybody like they treat their family. Our philosophy here is treat them like you would if you had them at your house. We all live here, in the community. I don't want to go the grocery store on Sunday, and have somebody say my F&I guy did something wrong.

# PROTECTION



**MenuTrack** protects you by giving your finance team an online menu to present your financial products correctly, each and every time. Increased compliance. More income. More satisfaction for your customers. Beat the tag with **MenuTrack**.

**MenuTrack**<sup>™</sup> now available in

**BusinessOffice**<sup>™</sup>

Are you in compliance?

**DealerTrack**<sup>™</sup>

SELL | FINANCE | FUND | PROTECT