

Quoting Payments: The Rules, Risks and Getting it Right!

Inflating a monthly payment quote to leave room in the deal is not only unethical, it's illegal. Instead of promising the "best rate," give your customers all the facts and let them make an informed decision.

BY RONALD J. REAHARD

When it comes to quoting payments, the sales and F&I process still used in many dealerships has to change. The old "quote 'em an inflated monthly payment, peel 'em off the ceiling and see what sticks" is not only deceptive, it doesn't work anymore. Give today's informed, Internet savvy customer an inflated monthly payment, and you not only run the risk of blowing the sale, you might end up spending a significant amount of time and money getting to know your friendly state attorney general.

Thanks to the Internet, today's consumers are better informed with regard to their financing options, current interest rates and the monthly payment. Many have already obtained a copy of their credit bureau report, shopped various sources for financing and interest rates and calculated their monthly payment on a lender or manufacturer's Web site before they ever walk into the showroom.

Many of today's customers demand financing details before they agree to purchase a vehicle. Often, the purchase of the vehicle is contingent upon the customer obtaining the interest rate and/or payment quoted by the sales department.

AT A GLANCE

- Do not provide payment ranges during the negotiation process. Every payment must be calculated by amount financed, term and APR
- Be aware of triggering terms and all their requirements
- Any menu should include the principal, interest payments and rate without any F&I products

The sales and F&I process is under increased scrutiny by attorneys general in several states because of the scourge of "hidden profits," also known as finance reserve, inflicted on unsuspecting and naïve consumers. General Motors Acceptance Corp. and Nissan Motor Acceptance Corp. recently settled lawsuits over alleged discriminatory lending



practices. This resulted in finance reserve being capped, and new disclosures being required on their finance contracts. These disclosures include informing customers that the interest rate is negotiable, and that the dealership may receive a portion of the finance charge.

Consumer advocates, regulatory authorities and plaintiffs' lawyers have current dealership sales practices, F&I practices and even F&I menus squarely in their sights. Quoting inflated monthly payments on the showroom floor as a negotiating tactic, or leaving room in the pay-

ment for F&I products is simply not an option anymore. As Doug Walsh, assistant attorney general in Washington, says, "Consumers are entitled to accurate, non-misleading monthly payment quotes. When they don't get them, it's deceptive and unlawful." Your dealership's old Four-Square might just get you three squares ... and a cot.

NEW RULES, NEW RISKS

You might mistakenly believe you don't have a problem because you only give customers a payment "range" during the negotiation process. It typically does not include either the term or APR of the payment shown at either end of this payment range. This range is then used by the desk to increase the front-end gross or F&I profit once the customer agrees to buy, since he agreed to a "payment" and not a price.

Unfortunately, some of these customers arrive in the F&I office with no idea what they're actually paying for the vehicle (surprise!), or getting for their trade-in. Many dealers and managers also mistakenly believe that regardless of the payment quoted, as long as the three magic letters W.A.C. (with approved credit) are written beside any payment, they are off the hook.

There is just one small problem: Every monthly payment is determined by the amount financed, the term and the APR. It is nothing more than a mathematical calculation. There is no room to fudge the figures, and there is no way for there to be a payment range. If you finance \$20,000 for 60 months at 7.5 percent APR, the payment is \$400.76. That's what the payment is. The only legitimate variable is the number of days to the first payment, which definitely can change the payment a couple of dollars a month. Any payment quote can take this into consideration, but that's the extent of an acceptable range.

If the APR is increased to 12.5 percent for the same term, the payment on \$20,000 goes from \$400.76 to \$449.96. Giving customers a payment range of \$400 - \$450 per month, knowing they qualify for a 7.5 percent loan, in an effort to increase dealership profits by hiding the sales price of the vehicle, or to reduce the true cost of additional F&I products, is a deceptive practice.

The reality is that everyone involved in the sales and F&I process has a responsibility

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to ensure that customers are provided with accurate payment information with regard to the financing of their new vehicle. It is also critical that every sales manager, F&I manager and salesperson comply with Regulation Z disclosure requirements.

WHAT IS A TRIGGERING TERM?

According to Regulation Z (Sec. 226.24(c)(1)), whenever certain triggering terms appear in credit advertisements, the additional credit terms enumerated in Sec. 226.24(c)(2) must also appear. These "triggering terms" include the downpayment, number of payments, amount of payments and the amount of finance charge. According to Reg. Z., the use of any of these terms in an advertisement trigger the need for additional disclosures, including "the amount or percentage of the downpayment, the terms of repayment, and the annual percentage rate (APR) using that term, and, if the rate may be increased after consummation, that fact."

So, the question is: Does a payment shown or agreed to by the customer on the initial write-up, deal sheet, buyer's order or included on an F&I menu constitute an "advertisement," thereby requiring these additional Reg. Z disclosures?

According to Reg. Z, the term "advertisement" means a commercial message in any medium that promotes, directly or indirectly, a credit transaction. (Reg. Z, Sec. 226.2 - Definitions and Rules of Construction). According to the Official Staff Commentary (Sec. 226.2, 2(a)(2)(ii)(a), the term "advertisement" does *not* include "Direct personal contacts, such as follow-up letters, cost esti-

mates for individual consumers, or oral or written communication relating to the negotiation of a specific transaction."

A better question might be: If the monthly payment being quoted is accurate and if it is not being used by anyone to mislead or deceive customers, then why would you not want to include all the Reg. Z disclosures with every payment quote? It will certainly increase your credibility with customers, plus you can prove that every customer is given an accurate, non-misleading monthly payment quote. In these litigious times, helping customers make informed decisions is much more profitable than trying to outwit or deceive them.

Whatever sales and F&I process is being used, every dealer needs to consult with his or her attorney. Some states' attorneys general have become extremely aggressive in their pursuit of deceptive sales practices. In addition, every document utilized by the sales department and F&I department should also be reviewed by the dealership's attorney, since the initial write-up, buyer's order, F&I menu and installment loan agreement all leave a paper trail for a plaintiff's attorney.

In the not-too-distant past, F&I products were routinely included in customers' payments without their knowledge or consent. One dealer was quite confident he didn't have this problem, since he used a computer-generated menu, and customers were not given a payment range. Payments at his dealership were never "packed," and the desk always included the term and APR for any payment shown on the write-up.

The only problem, however, was that one of his managers had set the software to default to 365 days to first payment, dramatically inflating the principal and interest payment on a 60-month loan. Once in the F&I office, even the standard option on the menu only increased the monthly payment a few dollars a month, despite including several F&I products.

Imagine the fun a plaintiff's attorney or the attorney general would have when he discovered that little sales technique! The dealership's deceptive sales practice was well documented on customer, after customer, after customer... One question every dealer, every sales manager and every F&I manager needs to ask himself or herself: What's in your deal jacket?

COMPLIANCE

DEVELOP A PLAN

Your dealership has to have a plan when it comes to quoting monthly payments, and everyone involved in the sales and F&I process must follow that plan. It should include utilization of a finance rates form (see illustration) to ensure consistent payment quotes prior to, and after, obtaining a customer's credit bureau report.

The average interest rate for customers within an established credit score range should be determined by the dealership's management team, and used to calculate payments for everyone in that range. These rates should be utilized by every manager when quoting payments prior to approval by a lender, to ensure consistency, and eliminate any hint of discrimination.

Whatever interest rate a customer is quoted, no one should ever make a commitment that it is the "best rate" available. Whenever someone in the dealership tells

a customer "we'll get you the best rate we can," they're creating potential legal liability for the dealership, whether that promise was made on the showroom floor or in the F&I office.

In addition, any payment provided by the sales department should be for principal and interest only, and include the information used to calculate that payment, including the down payment, amount financed, term and APR. There should be no more than a \$5 payment range, unless the term and APR is shown for the payments on both ends of that range.

Any menu used in the F&I office should also include the principal and interest payment and the rate used to calculate that payment, along with the options available in connection with the purchase. It's important that your menu include a principal and interest payment without any F&I products included. In addition, make sure your customers understand they don't

have to buy any F&I products. All payments should also include the disclaimer that "all rates, terms and payments are subject to credit approval."

Knowing the rules, avoiding the risks and getting it right requires that your dealership have a plan when it comes to quoting payments. Your dealership must have written guidelines in each stage of the buying process, and those payments must be accurate, and not be used to deceive or mislead customers. ■

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Your Dealership Inc.						
Finance Rates As Of <u>December 1, 2005</u>						
Type Of Vehicle	Prior To Obtaining Credit Bureau Report					
	Average Rate 36 Months	Average Rate 48 Months	Average Rate 60 Months	Average Rate 72 Months	Average Rate 84 Months	Special Finance Rates
New		%	9%	%	%	%
Used 2004 - 2005	%	%	12%	14%		%
Used 2003 & Older	%	12%	15%	%		%
Used _____ & _____	%	%	%			%
Used _____ & Older	%	%				%
Type Of Vehicle	After Obtaining Credit Bureau Report					
	Special Rate FICO Score 725+	TIER I FICO Score 700 thru 724	TIER II FICO Score 670 thru 699	TIER III FICO Score 640 thru 669	TIER IV FICO Score 600 thru 639	TIER V FICO Score 550 thru 599
New – 60 Months	7.71%	8.36%	10.32%	13.77%	16.13%	22.18%
New – 72 Months	8.29%	8.87%	11.06%	14.53%	17.16%	23.17%
Used 2004- 05 – Up to 60 mo	%	9.76%	11.24%	14.03%	20.21%	23.92%
Used 2001- 03 – Up to 48 mo	%	10.63%	12.11%	15.23%	21.22%	23.92%
Used 2000 – Up to 36 mo	%	11.36%	13.83%	16.81%	23.27%	23.92%
Used _____ & Older	%	%	%	%	%	%

Any interest rate or payment quoted should reflect the rates above, along with the disclaimer "all rates, terms and payments are subject to credit approval." Any deviation from these rates requires management approval. **At no time should a customer be promised the dealership will obtain the "best rate available."** An F&I manager should be involved in the rare case where a customer demands to know exactly what his interest rate or monthly payment will be, before he will buy the vehicle.

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