

## Dealers Claim Vendor 'Hijacked' Store Data

Donna Harris

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Staying safe

Here are 3 ways dealerships can control data mining.

1. Make sure the vendor contract spells out what data can be shared with third parties.
2. Require the vendor to get permission to pull any data shared with third parties.
3. Add restrictions on data mining to the dealership's privacy policy.

ADP Dealer Services, one of the industry's two biggest vendors of dealership computer services, has acknowledged that it siphoned data from customers' systems and sold it without their knowledge.

ADP says a subsidiary extracted repair and maintenance records from dealerships after hours and sold the data to Carfax Inc., a Fairfax, Va., company that provides used-vehicle history reports.

ADP of Hoffman Estates, Ill., says it has stopped pulling the data because of dealer complaints. But dealers fear it could happen again because ADP's vendor contracts permit the company to use the data.

The company would not disclose how many dealerships were involved in the Carfax program, which took place from December through March of this year.

At issue is who owns the data on dealership computer systems. Dealers believe the information belongs to them. And they are leery of third parties -- automakers and computer vendors -- who can access it in an era of rampant identity theft, mounting privacy lawsuits and stiff privacy regulations.

### **Confusing contract**

"It's just wrong," says Lawrence White, owner of White's Chevrolet-Cadillac Inc. in Roanoke Rapids, N.C. White claims the fine print in ADP's contract is confusing. He made ADP delete the language that allows it to use his data.

David Farris, owner of Farris Motors in Rocky Mount, N.C., says he pays ADP "thousands of dollars a month" for computer services.

"And they're taking our information and selling it to other organizations. Every dime of that money (paid to ADP) needs to be returned to the dealers," he says.

Dealers say their prime concern is that they could be liable if customers' personal information fell into the hands of hackers. Federal law requires dealerships to protect consumers' personal data.

But ADP only furnishes Carfax with VIN data, which is not protected by federal privacy laws.

ADP has been charged with mining data before. In 1992, an Oregon Nissan dealer sued ADP, claiming the company lifted vehicle-price information from his files after hours and sold it.

ADP settled the complaint and the lawsuit was dropped.

ADP's closest competitor, Reynolds and Reynolds Co. of Dayton, Ohio, sells dealership information to the Power Information Network. But the Reynolds contract promises to get the dealer's "express consent" before doing so.

"Privacy is a huge area of concern," says Reynolds spokesman Mark Feighery. "We are aware of the sensitivities."

### **Seeking permission**

The ADP contract specifies that it will seek dealers' permission to tap their data only when the information is "identifiable," or information that can lead to the identity of the consumer. The information it shared with Carfax meets that test because it excluded the names of retail customers, ADP says.

Kevin Henahan, ADP's senior vice president of marketing, says dealers should have their lawyers review contracts before signing them. "The contracts are negotiable," he says.

Farris agrees that the contracts are negotiable. "But we're not going to spend a couple thousand dollars to have an attorney read a contract for a corporation we have been dealing with for years and years," he says.

Henahan says ADP meant to assist dealerships and consumers by sharing vehicle-service records with Carfax. The information could help dealerships evaluate trade-ins and help used-vehicle buyers make informed purchases, he says.

"While the goal of the program was in the best interest of dealers and consumers, a better job should have been done thinking through potential dealer concerns and communicating to dealers the rationale and advantages of the program," he says.

Still, the North Carolina Dealers Association is so riled that it's lobbying for state legislation that would require computer vendors to get dealer consent to pull data.

Carfax spokesman Larry Gamache says the company has received few dealer complaints about the inclusion of service records in Carfax reports. But if dealers object to the data, he says, Carfax will remove it.