

FTC Audits Dealers on Privacy Rule
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Automotive News
September 29, 2003

The Federal Trade Commission has begun investigating car dealerships to see whether they comply with a new law designed to protect consumers from identity theft.

The Safeguards Rule has been in place for only four months. But already at least two dealerships, one in New Jersey and another in Pennsylvania, have received letters from the FTC requiring them to produce evidence by Oct. 1 that they are following the rule.

An FTC spokesman declined to comment on the investigations, but dealer groups are nervous.

Too much documentation

"I have concerns about what the FTC is doing and how they are doing it," says Jim Appleton, president of the New Jersey Coalition of Automotive Retailers, the state dealer association for New Jersey. Appleton says the FTC is asking for too much documentation. He says the inquiry seems to be random, rather than based on a complaint.

But dealer groups say they don't know the number of dealerships being audited, whether they are isolated or part of an enforcement campaign, or whether violators will be assessed penalties or just warnings.

Some legal experts say the agency may try to make an example of a few dealerships.

"The FTC operates kind of like the French Foreign Legion," says Tom Hudson, a senior partner with Hudson Cook, a Linthicum, Md., law firm that helped write a guide on compliance with the Safeguards Rule for the National Automobile Dealers Association. "If they find something wrong, they will drag somebody out and shoot them to get attention."

The Safeguards Rule is the second phase of the federal Gramm-Leach-Bliley Act, which was passed in 1999 to protect consumers' privacy. The first phase, requiring only privacy notices, kicked in two years ago.

Coordinated programs

The Safeguards Rule took effect on May 23. It requires businesses, including car dealerships, to develop written policies and procedures to protect customer data and to train employees to handle the data safely. Dealerships also must appoint staff members to coordinate the program, which includes auditing the procedures regularly to make sure they work.

The penalties are steep. Dealerships and all other businesses could pay as much as \$11,000 per violation. Both NADA and the Association of Finance and Insurance Professionals have guides to help dealerships comply with the Safeguards Rule.