

Privacy Rule Catches Dealers Off Guard

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Rules are rules

What: The Safeguards Rule is designed to protect consumer privacy. It requires dealerships to have written policies and procedures to protect customer data. Also, dealerships must train employees to safely handle data.

Why: A federal law that took effect in 2001, the Gramm-Leach-Bliley Act, stipulates the provisions of the Safeguards Rule.

How: To help dealers meet the rule's requirements, NADA published

A Dealer Guide to Safeguarding Customer Information. It explains what dealerships must do to be in compliance with the rule. It's available at nada.org.

Many dealerships have missed the deadline for complying with a new federal rule designed to curtail identity theft, even though they could face thousands of dollars in penalties for violations.

Legal experts who have helped develop guidelines for the National Automobile Dealers Association and the Association of Finance and Insurance Professionals say few dealerships

have complied with the Safeguards Rule.

"Dealers are too busy selling cars," says Tom Hudson, senior partner of Hudson Cook, the Linthicum, Md., law firm that helped NADA write a compliance guide called A Dealer Guide to Safeguarding Customer Information. Though the guide was sent to all NADA members, Hudson says few dealers seem aware of the rule and compliance deadline.

The Safeguards Rule is the second phase of the Gramm-Leach-Bliley Act, which was passed in 1999 to protect consumers' privacy. The first phase on privacy notices kicked in almost two years ago. The Safeguards Rule, which took effect Friday, May 23, requires businesses, including dealerships, to develop written policies and procedures to protect customer data and to train employees to safely handle the data.

Tough penalty

The penalties are potentially steep. If the Federal Trade Commission spots violations, dealers could pay as much as \$11,000 per violation.

"If you leave a dozen deal jackets (customer files) on a counter unguarded and the identities of all 12 are stolen, is it one violation or a dozen violations?" asks James

Ganther, an attorney for Continental-National Services Corp., a provider of insurance products in Tampa, Fla. "I think it is a dozen."

Ganther worked with the Association of Finance and Insurance Professionals to develop a compliance kit on CD-ROM he calls "Safeguards compliance for dummies." The CD-ROM, which costs \$350, walks dealers through compliance and offers templates for written policies and training materials.

He says many dealerships failed to take the Safeguards Rule seriously because they thought it applied to financial institutions. But the rule applies to dealerships because they extend credit to customers and deal with sensitive financial information, Ganther says.

Meanwhile, he says incidences of careless handling of sensitive customer information abound. One man who shopped a tent sale and failed to qualify for financing complained that he saw a copy of his credit application on the top of an overflowing trash can.

Security risks

Other dealership employees have left customer files on their desks unguarded. "The deal jacket has a copy of the driver license, credit application, address, date of birth - enough to do enormous mischief," Ganther says. "It's the easiest sin to commit."

Computer terminals also should not be left open and unattended. Access to a computer - and online credit reporting services - should be restricted to finance managers, and each individual should have an access code and a frequently changed password.

Says Ganther: "You have to change the culture of the dealership."