

**IN THE MATTER OF A DISCIPLINE HEARING**

**Held pursuant to By-Law No. 1 of the  
Ontario Motor Vehicle Industry**

**DISCIPLINE DECISION**

**ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL**

**-and-**

**FOSTER PONTIAC BUICK INCORPORATED**

|                          |  |
|--------------------------|--|
| <b>Date of Hearing:</b>  | December 13 <sup>th</sup> , 2006                                   |
| <b>Panel:</b>            | Mr. Jeff Prossler (Chair)<br>Mr. Bruce Wilson<br>Mr. Larry Pringle |
| <b>Findings:</b>         | Breach of Section 3, Standards of Business Practice                |
| <b>Fine:</b>             | \$6,000.00   |
| <b>Date of Decision:</b> | February 20 <sup>th</sup> , 2007                                   |

## REASONS FOR DECISION

1. This hearing, held on December 13<sup>th</sup>, 2006, related to a Notice of Complaint dated April 3<sup>rd</sup>, 2006 (the "Complaint"). The Complaint alleges that the Respondent, Foster Pontiac Buick Incorporated (the "Dealer") breached Section 3 of the *Standards of Business Practice* (the "Standards").
2. The allegations against the Dealer generally related to the prohibition against any form of false or misleading advertising, as provided by Section 3 of the Standards.
3. The Dealer acknowledged receipt of and the following were marked as Exhibits at the hearing:
  - (a) Exhibit 1: Complaint, dated April 3<sup>rd</sup>, 2006;
  - (b) Exhibit 2: OMVIC Book of Documents;
  - (c) Exhibit 3: Correspondence from OMVIC to the Dealer dated September 6<sup>th</sup>, 2006 and October 3<sup>rd</sup>, 2006; and
  - (d) Exhibit 4: Summary Chart of alleged Section 3 violations, prepared by OMVIC.
4. Ms. Aviva Harari represented OMVIC. Mssrs. Mark Murphy (Owner), Kevin Gomez (General Sales Manager) and Craig Watson (Sales Manager) represented the Dealer. The Dealer elected not to have legal counsel present.
5. Ms. Harari reviewed the terms of Section 3 of the Standards which establish marketing and advertising standards. Section 3 provides:

### 3.     **MARKETING**

*Guard against using any form of misleading advertising or innuendo in marketing our products and service.*

### **INTERPRETATION**

Section 19 of the Motor Vehicle Dealers Act states "where the Registrar believes on reasonable and probable grounds that a motor vehicle Dealer is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of that material"

The following Standards are intended to assist Dealers by providing consistency and certainty about advertising that complies with the requirements of the Act.<sup>1</sup>

---

<sup>1</sup> Excerpts of subsections 3.1, 3.4, 3.5, 3.8, 3.14.3, 3.15, 3.16, 3.17, 3.18 and 3.19, relied upon by OMVIC, are attached to these Reasons as Schedule "A".

6. During the period between July 2003 and October 2006, OMVIC advised the Dealer, in writing, of twelve (12) separate violations of section 3 of the Standards. Ten (10) of the letters, between July 2003 and February 2006, from OMVIC to the Dealer were tendered as evidence at Tab 6 of Exhibit 2. Two (2) of the letters, between February 2006 and October 2006, were tendered as evidence as Exhibit 3. Each piece of OMVIC correspondence alleging violations of section 3 of the Standard attached a copy of the Dealer's advertisement at issue.
7. On August 12, 2003, June 30, 2004 and July 23, 2004, OMVIC advised the Dealer in writing that it had breached section 3 of the Standards. Specifically, OMVIC advised the Dealer that its advertisements in the Toronto Star dated August 12, 2003, June 26, 2004, and July 22, 2004 violated the Standard's marketing practices. The Dealers' advertisements violated sections 3.15, 3.17 and 3.19 of the Standards by:
  - (a) comparing MSRP to a sale price to imply savings;<sup>2</sup>
  - (b) failing to provide full disclosure in all lease offers of the fact that the payment is a lease payment, its rate, the term, monthly payment amount, kilometres allowed, security deposit and down payment;<sup>3</sup> and
  - (c) failing to disclose the effective (real) rate of interest when a rebate or retail delivery credit is given up if the consumer opts for the low finance rate.<sup>4</sup>
8. OMVIC's correspondence to the Dealer advising it of violations of the Standards were tendered at Tab 6 of Exhibit 2.
9. On May 2, 2005, June 21, 2005 and August 10, 2005, OMVIC again advised the Dealer in writing that it had breached section 3 of the Standards. Through this written correspondence, OMVIC again advised the Dealer that its Toronto Sun and Brampton Guardian advertisements violated sections 3.1, 3.8, 3.14, 3.16, 3.18, 3.19 of the Standards by:
  - (a) failing to publicize information in a sufficiently clear and prominent manner so that it can be easily noticed and understood by a consumer;<sup>5</sup>
  - (b) failing to disclose the history of the use of the vehicle;<sup>6</sup>

---

<sup>2</sup> Toronto Star Ad, June 26, 2004, violation of section 3.15 of the Standards, pg. 28 of Exhibit 2.

<sup>3</sup> Toronto Star Ads, June 26, 2004 and July 22, 2004, violation of section 3.17 of the Standards, pgs. 28 and 30 of Exhibit 2.

<sup>4</sup> Toronto Star Ads, June 26, 2004 and July 22, 2004, violation of section 3.19 of the Standards, pgs. 28 and 30 of Exhibit 2.

<sup>5</sup> Toronto Sun Ad, June 17, 2005, violation of section 3.1 of the Standards, pg.35 of Exhibit 2.

<sup>6</sup> Toronto Sun Ad, August 5, 2005, violation of section 3.8 of the Standards, pg.39 of Exhibit 2.

- (c) employing print size that is smaller than the print size employed in the classified section in which the advertisement appears;<sup>7</sup>
  - (d) failing to disclose in an offer of credit the price of the vehicle, rate, term, payment and costs of borrowing;<sup>8</sup>
  - (e) failing to disclose what happens to the interest in any payment deferral offer;<sup>9</sup> and
  - (f) failing to disclose the effective (real) rate of interest when a rebate or retail delivery credit is given up if the consumer opts for the low finance rate.<sup>10</sup>
10. OMVIC's correspondence to the Dealer advising it of violations of the Standards were tendered at Tab 6 of Exhibit 2.
11. On October 3, 2005, October 18, 2005 and December 20, 2005, OMVIC again advised the Dealer, in writing, of its violations of section 3 of the Standards. OMVIC advised that Dealer that certain of its advertisements in the Toronto Sun remained in violation of sections 3.5, 3.8 and 3.16 by:
- (a) advertising with ambiguous, misleading or deceptive statements which are based on unclear, unverifiable or inaccurate information;<sup>11</sup>
  - (b) failing to disclose the history of the use of the vehicle;<sup>12</sup> and
  - (c) failing to disclose in an offer of credit the price of the vehicle, rate, term, payment and costs of borrowing.<sup>13</sup>
12. OMVIC's correspondence to the Dealer advising it of these violations of the Standards were tendered at Tab 6 of Exhibit 2.
13. Finally, on February 20, 2006, September 6, 2006 and October 3, 2006, OMVIC again, in writing, advised the Dealer of its violations of section 3 of the Standards. OMVIC advised that Dealer that certain of its advertisements in the Toronto Sun and Toronto Auto Mart continued to violate sections 3.1, 3.4, 3.8, 3.16 and 3.18 of the Standards by:

---

<sup>7</sup> Brampton Guardian Ad., April 27, 2005, violation of section 3.14 of the Standards, pg. 33 of Exhibit 2.

<sup>8</sup> Toronto Sun Ad., August 5, 2005, violation of section 3.16 of the Standards, pg. 39 of Exhibit 2.

<sup>9</sup> Toronto Sun Ad., June 17, 2005, violation of section 3.18 of the Standards, pg. 35 of Exhibit 2.

<sup>10</sup> Toronto Sun Ad., June 17, 2005, violation of section 3.19 of the Standards, pg. 35 of Exhibit 2.

<sup>11</sup> Toronto Sun Ad., October 13, 2005, violation of section 3.5 of the Standards, pg. 43 of Exhibit 2.

<sup>12</sup> Toronto Sun Ad., September 28, 2005, violation of section 3.8 of the Standards, pg. 41 of Exhibit 2.

<sup>13</sup> Toronto Sun Ad., September 28, 2005, October 13, 2005 and December 8, 2005, violation of section 3.16 of the Standards, pgs. 41, 43 and 47 of Exhibit 2.

- (a) failing to publicize information in a sufficiently clear and prominent manner so that it can be easily noticed and understood by a consumer;<sup>14</sup>
  - (b) advertising a name other than the Dealer's registered name or trade style registered with the Ministry of Consumer and Business Services and OMVIC;<sup>15</sup>
  - (c) failing to disclose the history of the use of the vehicle;<sup>16</sup>
  - (d) failing to disclose in an offer of credit the price of the vehicle, rate, term, payment and costs of borrowing;<sup>17</sup> and
  - (e) failing to disclose what happens to the interest in any payment deferral offer.<sup>18</sup>
14. OMVIC's correspondence to the Dealer advising it of these violations of the Standards were tendered at Tab 6 of Exhibit 2 and at pgs. 1 and 3 of Exhibit 3.
  15. Oral testimony under oath was provided by Mr. Carey Smith on behalf of OMVIC.
  16. Mr. Smith is an OMVIC inspector who provided evidence respecting the history of the Standards and in particular, the importance of compliance with section 3 governing marketing and advertising. Honest and fulsome disclosure in advertising and marketing of vehicles is paramount to consumer protection.
  17. Mr. Smith gave evidence that the Dealer was notified of its violations of section 3 of the Standards on numerous occasions. It was not until October 25, 2005 that the Dealer's representatives attended at OMVIC to discuss its non-compliance with the Standards and seek OMVIC's advice with respect to its advertisements. By October 2005, the Dealer had already been notified, in writing, of its violations by OMVIC on eight (8) separate occasions. Even after the Dealer's visit to OMVIC, it nevertheless continued to violate section 3 of the Standards on four (4) additional occasions.
  18. The Dealer did not cross-examine Mr. Smith on his testimony.
  19. Mr. Murphy gave evidence on behalf of the Dealer and admitted the Dealer had violated the Standards, stating that the advertisements were often prepared in haste and without proper communications between he and the employees. However, Mr. Murphy advised

---

<sup>14</sup> Toronto Sun Ad., February 9 & 16, 2006, violation of section 3.1 of the Standards, pgs. 49 – 50 of Exhibit 2.

<sup>15</sup> Toronto Auto Mart Ad., September 18, 2006 and Dealer website, violation of section 3.4 of the Standards, pgs. 4 – 5 of Exhibit 3.

<sup>16</sup> Toronto Sun Ad., February 9 & 16, 2006, violation of section 3.8 of the Standards, pgs. 49 – 50 of Exhibit 2.

<sup>17</sup> Toronto Sun Ad., February 9 & 16, 2006, Toronto Auto Mart Ad., September 18, 2006 and Dealer website, violation of section 3.16 of the Standards, pgs. 49 – 50 of Exhibit 2 & pgs. 4 – 5 of Exhibit 3.

<sup>18</sup> Toronto Sun Ad., February 9 & 16, 2006, violation of section 3.18 of the Standards, pg. 2 of Exhibit 3.

that the Dealer was now trying to learn from its mistakes. In order to avoid such violations in the future, Mr. Murphy testified that the Dealer's employees now design advertisements as a group and sometimes have OMVIC approve the advertisements prior to publication.

20. Mr. Gomez also gave evidence on behalf of the Dealer and testified that much of the Dealer's advertising is done in conjunction with other Dealers, alleging that not all the responsibility for the violations should rest with this Dealer.
21. Ms. Harari cross-examined Mr. Gomez on his evidence. During cross-examination, Ms. Harari established that Mr. Gomez had been employed by the Dealer for nine (9) years but had not completed the industry certification course until just prior to this hearing in December 2006.

### **FINDINGS OF THE PANEL**

22. Written advisements of violations of the Standards were provided to the Dealer on no less than twelve (12) separate occasions during a period in excess of three (3) years. Such conduct represents a pattern of behaviour in flagrant disregard of the Standards. While the Dealer did visit OMVIC to seek advice on its advertisements in October 2005, this visit only occurred after eight (8) warnings had been provided by OMVIC over the course of more than two (2) years. Moreover, in 2003, the Dealer had been the subject of a Notice of Complaint issued by OMVIC for similar violations.
23. A without prejudice letter was tendered at Tab 5 of Exhibit 2. The Panel has given this correspondence no weight whatsoever in arriving at its conclusions.
24. On the basis of the evidence presented, uncontradicted by the Dealer, the Dealer blatantly ignored OMVIC's written warnings over the course of a three (3) year period. Even after each warning, the Dealer continued to repeat the same violations of section 3 of the Standards.
25. The Panel finds that the Dealer violated section 3 of the Standards.

### **PENALTY**

26. Ms. Harari requested a fine in the range of \$4,000.00 to \$5,000.00 in light of the Dealer's repeated violations of the Standards and its prior Notice of Complaint issued by OMVIC in 2003 with respect to similar violations.
27. In determining the appropriate penalty for breaches of the Standards, this Panel has considered the following:
  - (a) the Dealer continued to violate the marketing and advertising provisions of the Standards for a period of over three (3) years;
  - (b) the Dealer admitted violating the Standards;

- (c) the Dealer failed to take timely and appropriate steps to ensure compliance with the Standards;
  - (e) the Dealer made no submissions with respect to an appropriate penalty; and
  - (e) Counsel for OMVIC submitted that an appropriate fine in these circumstances would be in the range of \$4,000.00 to \$5,000.00.
28. The Dealer is ordered to pay \$6,000.00 within ninety (90) days of the date of this decision.
29. While a fine of \$4,000.00 to \$5,000.00 might be appropriate in some marketing violation cases, in this case, the Panel has set the fine at \$6,000.00 due to the repeated pattern of the Dealer's violations of the Standards. OMVIC provided the Dealer with multiple opportunities to correct its advertising breaches. As a result of the Dealer's continual disregard of OMVIC's notices and warnings, OMVIC ultimately had to issue a Notice of Complaint against the Dealer. The purpose of the Panel's fine is intended to act as a general deterrent to breaching the Standards and to punish the Dealer for its repeated violations over such a long period of time.
30. No order of costs has been made against the Dealer because, at the present time, the source of the Panel's jurisdiction to make a costs awards, section 17 of the *Statutory Powers Procedure Act*, R.S.O. 1990, Chap. S. 22, has been amended and only permits costs awards to be made in cases where a party's conduct has been unreasonable, frivolous or vexatious. The Panel is of the view that the Dealer's conduct was neither frivolous nor vexatious in the circumstances.
31. Further, this decision shall be communicated to the industry and to the public.

Mr. Jeff Prossler (Chair)

Mr. Bruce Wilson

Mr. Larry Pringle

## SCHEDULE A

*OMVIC Standards Of Business Practice ~ Issue Date: November 2000*

### 2.9 PUBLIC MOTOR VEHICLE AUCTIONS

2.9.1 These Standards apply to Dealers who carry on business as a public motor vehicle auction. In particular, without limiting the generality of the previous statement, the Standards set out in Section 2.8 with respect to consignment agreements apply to Dealers who carry on business as a public motor vehicle auction.

## 3. MARKETING

*Guard against using any form of misleading advertising or innuendo in marketing our products and services.*

### INTERPRETATION

Section 19 of the Motor Vehicle Dealers Act states "where the Registrar believes on reasonable and probable grounds that a motor vehicle Dealer is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of that material."

The following Standards are intended to assist Dealers by providing consistency and certainty about advertising that complies with the requirements of the Act.

### EXAMPLES AND APPLICATION

#### 3.1 DISCLOSURE GENERALLY

3.1.1 Any information required by these Standards to be disclosed is sufficiently clear and prominent so that in the consideration of the Registrar, it can be easily noticed and understood by a consumer. Disclosure is in a form appropriate to the advertising medium. The Registrar will consider factors that include:

- (a) Size of print;
- (b) Clarity, legibility of font;
- (c) Location of the disclosed information in the advertisement;
- (d) Prominence of the disclosed information compared to other information in the advertisement;
- (e) In a broadcast advertisement, the length of time that the message appears or is presented.

3.1.2 In addition to 3.1.1, all disclosure in advertisements appearing in newspapers, periodicals and other publications is printed in a minimum size and font that is the same as that normally used in classified advertising by the publication where the advertisement appears.

#### 3.2 DISCLOSURE IN BROADCAST ADVERTISEMENTS

3.2.1 Where disclosure of leasing or financial information is required by these Standards and applies to a broadcast advertisement, the advertisement includes as an alternative to the requirements in Section 3.1, either of the following messages:

- (a) A telephone number and a statement that the number may be called to obtain pre-recorded disclosure of the information. For example: "Call [telephone number] for full financing information". The required information must be available on a pre-recorded message and may be followed by an option connecting the caller to a live operator;
- (b) A pre-recorded message is not required if the broadcast advertisement discloses the monthly payment, the term, and the total due on delivery which shall include down payment, freight and PDI; or
- (c) A statement that full disclosure can be obtained in a concurrent newspaper advertisement. For example: "See our ad in your local newspaper for full financing information". The newspaper must be locally available in the market area of the advertiser.

3.2.2 The message in 3.2.1 is sufficiently clear and prominent so that in the consideration of the Registrar, it can be easily noticed and understood by a consumer.

### 3.3 **GENERIC ADVERTISING**

3.3.1 Advertisements do not present insulting portrayals of individuals or groups, and do not exploit violence, sex, children, customs or characteristics of religious or ethnic groups, persons with disabilities or any person or group in a way that offends current legal and ethical standards. Advertisements do not portray the motor vehicle industry, salespeople or Dealers in an insulting or derogatory manner.

### 3.4 **IDENTIFICATION OF DEALER STATUS**

3.4.1 Advertisements by or on behalf of a Dealer disclose the Dealer's status in one of two ways:

- (a) With a trade style name provided to the Registrar.  
This can be the Dealer's registered name;
- (b) By including the word "Dealer" in the advertisement.

3.4.2 Advertisements do not indicate or imply that consumers may purchase or lease a car from an unregistered salesperson. Example:

- (a) No salespeople.

3.4.3 Advertising of specific vehicles do not indicate or imply, through words, phrases, or style that it is not presented for commercial purposes. Example:

- (a) Public Service Announcement.

### 3.5 **AMBIGUOUS OR MISLEADING STATEMENTS**

3.5.1 Advertisements do not contain statements which, in the consideration of the Registrar, are ambiguous, misleading or deceptive due to unclear, unverifiable or inaccurate information.

3.5.2 Advertisements do not refer to an award unless its source and date is disclosed.

Advertisements do not refer to an award when it was purchased by the Dealer, and is not based on any verifiable test or research. This does not refer to celebrity endorsements.

### **3.6 TRANSACTION NOT IN ORDINARY COURSE OF BUSINESS**

3.6.1 Advertisements do not indicate or imply that vehicles are being offered out of the ordinary course of business unless full disclosure of the situation is made. Examples of prohibited terms include:

- (a) Going out of business, closing;
- (b) Bankrupt, in receivership, liquidation;
- (c) Lease expired, moving;
- (d) Fleet sale;
- (e) Repossessed motor vehicles.

3.6.2 "Wholesale" is not used to describe any transaction other than one between motor vehicle Dealers.

3.6.3 If a Dealer's registered or trade style name includes "liquidation" or "wholesale," all advertisements for vehicles offered for retail sale or lease include the word "retail".

### **3.7 DEALER COST ADVERTISING**

3.7.1 Advertisements do not indicate or imply that vehicles are offered for retail sale or lease without economic advantage to the Dealer. Examples of prohibited terms include:

- (a) Dealer cost;
- (b) Factory price, invoice price, under/over invoice price.

### **3.8 DISCLOSURE OF VEHICLE HISTORY**

3.8.1 Advertisements for specific vehicles that are of the current model year or the previous model year disclose whether the vehicle is new or used. Advertisements of used vehicles must include one of the phrases "used," "preowned," "previously driven," "used as a demonstrator by the Dealership," "used as an executive vehicle by the Dealership," or other phrase that is accurate.

3.8.2 Advertisements of a specific used vehicle disclose all known material facts about the prior regular use of the vehicle, including if it was a:

- (a) Daily rental that was not previously owned by a consumer;
- (b) Police cruiser;
- (c) Taxi vehicle.

### **3.9 BAIT AND SWITCH ADVERTISING**

3.9.1 The advertised vehicle is to be:

- a) At the advertised location or available at the advertised location;

- b) In condition to be shown;
- c) Willingly shown to a consumer;
- d) Willingly shown under the same terms as advertised; and
- e) Sold on the same terms as advertised.

3.9.2 A vehicle or class of vehicles are not advertised at a specific price or other incentive unless the Dealer is able to supply a quantity of those vehicles that, in the consideration of the Registrar, is reasonable considering factors that include the size of the Dealership, and the target area of the advertisement.

3.9.3 Advertisements do not misrepresent the opportunity to purchase a vehicle. If the available supply of vehicles is unusually limited, the nature of the limit, such as the number available or the time they are available, must be disclosed. If a factory order or acquisition from another Dealer is, or may be required, this must be disclosed.

3.9.4 Dealers do not use phrases such as "supply limited" and "limited time only" if they are misleading considering factors including the number of vehicles available to the Dealer, and the Dealer's target area.

3.9.5 Illustrations of vehicles offered for sale will be reasonable representations of the vehicle(s) if an exact illustration is not available.

### **3.10 ENCOURAGING BREACH OF CONTRACT**

3.10.1 Advertisements do not encourage a breach of contract. For example: "we will beat your best deal."

### **3.11 "FREE" OPTIONS OR OFFERS**

3.11.1 Advertisements using the word "free" clearly indicate that the item is free with purchase at the advertised price.

### **3.12 MINIMUM TRADE IN ALLOWANCE OFFERS**

3.12.1 Advertisements do not guarantee a minimum trade in allowance. For example: "Push, Pull, Drag your trade in for \$2000.00 guaranteed."

### **3.13 WARRANTY ADVERTISING**

3.13.1 Advertisements do not offer an extended warranty included with purchase unless the following information is declared: term and lifetime claim maximum.

3.13.2 Words or phrases that indicate or imply that a warranty covers all of a vehicle, or lasts for an unlimited time, or both, are not used unless the warranty is without such exclusions. Prohibited phrases include:

- (a) Bumper to bumper;

- (b) Inclusive / all-inclusive;
- (c) Total.

### 3.14 PRICE ADVERTISING

- 3.14.1 Vehicle price advertising discloses that the advertised price does not include the following:
- (a) Industry specific taxes;
  - (b) Freight charges;
  - (c) Pre delivery Inspections/Pre delivery Expenses (PDI/PDE) charges;
  - (d) Administration fees charged by the Dealer.
- 3.14.2 The following are examples of acceptable wording:  
"Not including taxes, freight, pre delivery and administration charges";  
"Taxes, freight, PDI and administration charges extra".
- 3.14.3 All disclosure in advertisements appearing in newspapers, periodicals and other publications is printed in a minimum size and font that is the same as that normally used in classified advertising by the publication where the advertisement appears.

### 3.15 DISCLOSURE OF FINANCIAL INFORMATION - SAVINGS AMOUNTS

- 3.15.1 Savings amounts shown in new vehicle advertising are based on a vehicle's average selling price, not the Manufacturers Suggested Retail Price (M.S.R.P.) The Dealer is able and willing to support the average selling price. For example:

|                       |             |
|-----------------------|-------------|
| M.S.R.P.              | \$20,000.00 |
| Average Selling Price | \$19,000.00 |
| Sale Price            | \$18,500.00 |
| Savings               | \$ 500.00   |

### 3.16 DISCLOSURE OF FINANCIAL INFORMATION - COST OF BORROWING

- 3.16.1 Advertisements conform to the cost of credit disclosure legislation in force in Ontario.
- 3.16.2 Advertisements for every credit offer disclose the following:
- (a) The annual cost of borrowing stated as an annual interest rate, and the total cost of borrowing expressed in dollars (e.g. 8.9% annually, \$1 500.00); and,
  - (b) The term of the credit transaction;
  - (c) If a specific vehicle is advertised, the advertised cash price of the vehicle.
- 3.16.3 Where the information required by 3.16.2 is not the same for all credit offers shown in an advertisement, the information may be for a representative offer if this fact is disclosed.
- 3.16.4 Advertisements that indicate or imply that all credit applications will be approved, disclose whether a down payment may be required.

- 3.16.5 An advertisement of a variable interest rate discloses any of the following information that applies to that transaction:
- (a) A statement that the interest rate is subject to change during the transaction term;
  - (b) For any period that the interest rate is set out in the credit agreement, when the period begins and ends, and the annual interest rate during the period;
  - (c) For any period that the interest rate is variable, when the period begins and ends if less than the entire term of the transaction;
  - (d) If the variable rate is based on a prime rate, disclosure of this fact, together with a statement that the prime rate may vary, and the source of the prime rate;
  - (e) Where the interest rate is variable and is also subject to a minimum or maximum rate, the minimum or maximum interest rate.

### **3.17 DISCLOSURE OF FINANCIAL INFORMATION - LEASE ADVERTISING**

3.17.1 The Standards apply to lease advertising. All advertisements for specific lease offers disclose:

- (a) That the transaction is a lease;
- (b) The term of the lease;
- (c) The amount of the payments;
- (d) The frequency of payments;
- (e) If a payment is required before the beginning of the lease term, the amount of that payment, e.g. a security deposit;
- (f) The annual cost of borrowing stated as an annual interest rate;
- (g) If additional costs may be charged for vehicle options, this fact must be disclosed;
- (h) If the consumer will be required to pay an extra usage charge at the end of the lease term (e.g. limitations on kilometres traveled) and the way it will be calculated.

3.17.2 Where the information required by 3.17.1 is not the same for all leases referred to in the advertisement, the information may be for a representative transaction if this fact is disclosed.

3.17.3 All advertising referring generally to leases discloses the fact that the transactions referred to are leases.

3.17.4 An advertisement of an open-end lease also discloses what the consumer's financial obligation will be at the end of the lease term.

### **3.18 DISCLOSURE OF FINANCIAL INFORMATION - NO INTEREST PERIODS**

3.18.1 Advertisements that offer no interest periods state the period of time that the offer applies and disclose whether:

- (a) The transaction is without any interest during the advertised period; or,
- (b) Interest accumulates during the advertised period but will be forgiven under certain conditions.

3.18.2 If interest accumulates during the period but may be forgiven, the advertisement discloses:

- (a) The conditions for interest forgiveness; and,
- (b) The interest rate for the period, if the conditions for forgiveness of interest are not met.

3.18.3 An advertisement that does not disclose all information required by this section is considered to indicate that the transaction is unconditionally interest-free during the advertised period.

### 3.19 DISCLOSURE OF FINANCIAL INFORMATION – OPTION OF LOW INTEREST RATE FINANCING OR A REBATE

3.19.1 Advertisements offering a choice between low interest rate financing and a rebate disclose the effective interest rate of the financing option. The effective interest rate is the cost of borrowing at the low interest rate plus the value of the rebate. For example, if the choice is between a 1.9% annual interest rate or a \$2000.00 cash rebate, the real cost of the financing option is 1.9% annually plus \$2000.00. The following is an example of acceptable wording:

“If vehicle financed at 1.9 % and the \$2000.00 rebate is not taken, the effective interest rate is 9.2%.”

### 3.20 THE FOLLOWING ARE TERMS THAT ARE RESTRICTED OR PROHIBITED.

They are provided as examples only. Other terms that have a similar meaning or intent to those shown below are subject to the same restriction or prohibition. The numbers following the term refer to the section of these Standards that describes the restriction.

|   |               |
|---|---------------|
| No salespeople                          | Section 3.4.2 |
| Public Service Announcement             | Section 3.4.3 |
| Going out of Business                   | Section 3.6.1 |
| Closing                                 | Section 3.6.1 |
| Bankrupt, bankruptcy                    | Section 3.6.1 |
| In receivership                         | Section 3.6.1 |
| Liquidation                             | Section 3.6.1 |
| Lease expired                           | Section 3.6.1 |
| Moving, relocating                      | Section 3.6.1 |
| Fleet sale                              | Section 3.6.1 |
| Repossessed motor vehicles              | Section 3.6.1 |
| Wholesale                               | Section 3.6.2 |
| Dealer cost                             | Section 3.7.1 |
| Factory price                           | Section 3.7.1 |
| Invoice price, under/over invoice price | Section 3.7.1 |
| Supply limited                          | Section 3.9.4 |
| Limited time only                       | Section 3.9.4 |

|                               |                |
|-------------------------------|----------------|
| Beat your best deal           | Section 3.10.1 |
| Free                          | Section 3.11.1 |
| Push, pull, drag (or similar) | Section 3.12.1 |
| Extended warranty included    | Section 3.13.1 |
| Bumper-to-bumper              | Section 3.13.2 |
| All-inclusive                 | Section 3.13.2 |
| Savings                       | Section 3.15.1 |

#### **4. ACCOUNTABILITY**

##### **STANDARD**

*Fulfill all contractual obligations promptly and completely, and resolve legitimate claims without delay.*

##### **EXAMPLES**

###### **4.1 GENERALLY**

4.1.1 Dealers promptly, honestly and willingly perform all of their contractual obligations.

###### **4.2 MOTOR VEHICLE FITNESS**

4.2.1 Dealers sell or lease motor vehicles reasonably fit for the intended use that a consumer expressly or by implication makes known to the Dealer. A motor vehicle may be considered not reasonably fit because it is not designed for the intended use, or because it has structural or mechanical defects.

###### **4.3 LIENS**

4.3.1 A Dealer ensures that all liens have been discharged prior to selling a motor vehicle to a purchaser.

4.3.2 Where a Dealer sells a motor vehicle that has a lien against it, the Dealer either:

- (a) Ensures that the lien against the motor vehicle in question is discharged; or
- (b) Ensures that the lienholder has confirmed in writing that it no longer has a financial interest in the vehicle; or
- (c) Buys the vehicle back from the purchaser for an amount representing the current fair value of the motor vehicle, accounting for depreciation.

###### **4.4 LEASED MOTOR VEHICLES**

4.4.1 When leasing a used motor vehicle, Dealers ensure that the motor vehicle has been inspected and that a Safety Standards Certificate has been issued for that vehicle.