

## ENFORCEMENT OF PRICE ADVERTISING: ALL-IN, AS-IS, UNFIT

As a result of dealer complaints, a survey of dealer advertising was conducted during the week of January 23, 2012, by OMVIC compliance staff: an unacceptable proportion of the ads reviewed did NOT comply with MVDA Regulations and/or the Code of Ethics Regulations. The three main findings were:

- Failure to advertise an all-in price; specifically not including administration fees or fees associated with safety certification or e-testing in the advertised price
- Failure to disclose as-is status
- Failure to disclose unfit status

The advertising regulations are meant to provide clarity to buyers and to produce a level playing field for all dealers. Bulletins were issued by OMVIC in January and April 2010 and June 2011 regarding price advertising of unfit or as-is vehicles. After two years of implementation and a substantial educational outreach by OMVIC and the trade associations, this lack of compliance is unacceptable to OMVIC and to the majority of dealers whose advertising complies with the rules.

Note: OMVIC will address the noncompliant advertising with each dealer identified in the recent survey.

The requirements for all-in, as-is and unfit advertisements are outlined below

**ALL-IN PRICING** - If a dealer ad includes a price for a vehicle, that price **must** include **ALL** charges related to the sale of the vehicle. This includes:

- freight
- inspection charges
- safety inspection and emission testing charges (*unless vehicle is advertised with required "unfit" or "as-is" statement*)
- administration fees, other fees, levies and HST.

Note - Dealers don't have to include HST (or licensing) in the advertised price so long as the ad indicates in a clear, comprehensible and prominent manner that HST is not included in the price.

**AS-IS** - If an ad includes a price for a vehicle being sold as-is, it is NOT sufficient to simply state the vehicle is being sold as-is. The ad must include in a clear, comprehensible and prominent manner the following statement:

*“This vehicle is being sold “as-is,” unfit, not e-tested and is not represented as being in road worthy condition, mechanically sound or maintained at any guaranteed level of quality. The vehicle may not be fit for use as a means of transportation and may require substantial repairs at the purchaser’s expense. It may not be possible to register the vehicle to be driven in its current condition.”*

**UNFIT** - If an ad includes a price for a vehicle that is not certified and/or e-tested, the ad must state in a clear, comprehensible and prominent manner:

*“This vehicle is not drivable, not certified and not e-tested”.*

If a dealer intends to offer certification and e-testing for the vehicles advertised as unfit, the following statement must also be included in a clear, comprehensible and prominent manner:

*“Certification and e-testing are available for \$XXX.”*

The exact fee **must** be disclosed in the above statement. Certification and e-testing **cannot** be mandatory charges. Vehicles advertised unfit may not be sold at or above the advertised price using the as-is clause on the bill of sale.

**Note: If neither the AS-IS nor the UNFIT statement is used, it will be assumed by OMVIC that the advertised price includes the cost of a safety standards certificate and emissions test.**

**CLEAR, COMPREHENSIBLE AND PROMINENT (CCP)** - All of the above statements must be clear, comprehensible and prominent. An attempt to minimize the prominence of any required statement, including a required as-is or unfit statement, will be considered to have failed this test.

**STAYING INFORMED** - OMVIC’s newly developed seminar on advertising requirements is now available. If a dealership or group of dealers would like to have the seminar presented, contact Terry O’Keefe, Manager of Communications and Education: [terry.o’keefe@omvic.on.ca](mailto:terry.o’keefe@omvic.on.ca)

**PLEASE REVIEW YOUR ADVERTISING IMMEDIATELY. FAILURE TO COMPLY MAY RESULT IN CHARGES, A DISCIPLINE HEARING AND/OR REVOCATION OF REGISTRATION**