



Policy on Publishing Information to Protect the Public

Ontario Regulation 333/08 s. 27 (2)

A POLICY

1. It is the mandate of the Ontario Motor Vehicle Industry Council (“OMVIC”), to maintain a fair, safe and informed marketplace in Ontario by protecting the rights of consumers, enhancing industry professionalism and ensuring fair, honest and open competition for registered motor vehicle dealers.
2. It is the policy of OMVIC to disclose any information as required by s. 27 of Ontario Regulation 333/08 and/or which would protect the public and the rights of consumers while at the same time maintaining the confidentiality of sensitive information in accordance with s. 36 of the *Motor Vehicle Dealers Act, 2002* (the “Act”) and OMVIC’s Privacy Policy.
3. In order to meet the onus set out in section 27, OMVIC shall ensure, as much as is reasonably practical in the circumstances, the following:
 - a. that the circumstances are extraordinary;
 - b. that there is an overwhelming public interest;
 - c. that publishing the information is likely to protect the public; and
 - d. that the information is reliable.

B CLASSES OF INFORMATION

1. **Curbsider** information
2. Information generated by **OMVIC staff** (i.e. an investigation/inspection)
3. Information generated by a **third party** (i.e. the OPP)

C CRITERIA WHICH MAY BE CONSIDERED WHEN ASSESSING INFORMATION

1. If the information is regarding anything other than a personal safety issue for the public, the circumstances should be extraordinary, and OMVIC should be convinced of an overwhelming public interest. (for example: a registrant or former registrant, despite a court order – Injunction – against them, continues to violate the MVDA, 2002 by selling undisclosed salvage vehicles)
2. Staff may consider the following factors when identifying whether any information received “could assist in protecting the public if the public knew about it” as set out in s. 27 (2) of



Ontario Regulation 333/08:

- a. Is there a threat to the personal safety of members of the public (for example: selling undisclosed branded “total loss” motor vehicles)?
- b. Is the threat current or ongoing (for example: consumers are unknowingly driving unsafe cars now or the dealer is continuing to supply such cars)?
- c. Will the conduct result in financial/safety harm to members of the public?
- d. How serious is this harm?
 - i. if it's concerning personal safety, is this likely to cause death or serious injury?
 - ii. if it's concerning financial harm, is this likely to cause significant financial losses to the victim?
- e. Is there a potential for future harm?
- f. Has the harm already been done?
- g. Is the harm occurring (or likely to occur) related to a trade in a motor vehicle?
- h. Is the conduct likely to affect the public in Ontario as opposed to other jurisdictions?
- i. Will the harm be done to consumers, dealers, other businesses or all of the above?
- j. Is the harm likely to be done to “vulnerable” members of the public (for example: people who are economically or otherwise disadvantaged)?
- k. Is this a common problem/potential for harm in the industry?
- l. Who/what is the source of the information?
 - i. How reliable is the source?
 - ii. Has OMVIC received any previous information from this source?
 - iii. Has any previous information proven to be reliable?
- m. How reliable is the information about the alleged conduct (for example: has there been a conviction, a charge, an investigation, existence of witnesses etc.)?

G LEGISLATION

Motor Vehicle Dealers Act, 2002



36. (1) A person who obtains information in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations shall preserve secrecy with respect to the information and shall not communicate the information to any person except,

(a) as may be required in connection with a proceeding under this Act or in connection with the administration of this Act or the regulations;

(b) to a ministry, department or agency of a government engaged in the administration of legislation similar to this Act or legislation that protects consumers or to any other entity to which the administration of legislation similar to this Act or legislation that protects consumers has been assigned;

(b.1) as authorized under the *Regulatory Modernization Act, 2007*;

(c) to a prescribed entity or organization, if the purpose of the communication is consumer protection;

(d) to a law enforcement agency;

(e) to his, her or its counsel; or

(f) with the consent of the person to whom the information relates.

(2) Except in a proceeding under this Act, no person shall be required to give testimony in a civil proceeding with regard to information obtained in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations.

Ontario Regulation 333/08

27. (1) The registrar shall make available to the public, by electronic or other means, the following information:

. . . .

(2) Subject to subsection (3), if the registrar becomes aware of information respecting a registrant, a former registrant, a person registered at any time under the *Motor Vehicle Dealers Act*, a director or officer of a registrant or a person who is carrying on activities that require registration and if the registrar is of the opinion that the information could assist in protecting the public if the public knew of it, the registrar shall make the information available to the public by electronic or other means.