

March 19, 2020

Online Selling and Sales to Remote Customers

The current health crisis and its impact on businesses (and consumers) has triggered a number of questions from traditional general dealers related to online selling and trading with remote customers - that is, a customer, who is not a registered dealer, who purchases or leases a motor vehicle from a registered dealer without visiting the selling/leasing dealer's registered premises for the purpose of facilitating the trade.

Some may be surprised to learn that the Motor Vehicle Dealers Act (MVDA) does not preclude an online model or sales to remote customers. But it is important to understand that, regardless of the business model, the MVDA, Consumer Protection Act (CPA), Sale of Goods Act (SGA) and all other Ontario laws must be complied with.

Traditional Dealer Model vs Online Dealer/Sales Model – Are the Legal Requirements Different?

The charts below may help answer some of the common questions.

What is Required	Traditional Dealership	Online Dealership
A physical premises accessible by OMVIC staff and members of the public	√	√
Records storage at the registered premises (unless remote storage approved)	√	√
A sign at the premises, visible to the public	√	√
Compliance with all aspects of the MVDA, Code of Ethics (CoE), Standards of Business Practice, CPA and other applicable legislation	√	√

What is Allowed	Traditional Dealership	Online Dealership
Electronic signatures on contracts	√	√
Remote test-drives (i.e. test drives that originate at a place other than at the dealer's registered premises)	√*	√*
Sale of vehicles to remote customers	√**	√**

*Remote test drives, i.e., test drives that originate at a place other than the dealer's registered premises, may be allowed if **the dealer representative who provides the remote test drive is a registered salesperson and, the test drive is offered solely for evaluating a vehicle's performance, suitability and/or condition prior to purchase or lease** and for **NO** other purpose. All trading must take place at the dealer's registered premises or completely online. Trading includes buying, selling, leasing, advertising or exchanging an interest in a motor vehicle or negotiating or inducing or attempting to induce the buying, selling, leasing or exchanging of an interest in a motor vehicle.

Sales to remote customers may be allowed if **appropriate measures are enabled to comply with the MVDA and ensure consumer protection. To help facilitate consumer protection, some dealers have agreed to terms and conditions of registration that provide remote customers with a contract cancellation period. Note: electronic/digital/scanned signatures are allowed.

Q&A

1. **Can a "traditional" dealer also sell vehicles online?** Yes.
2. **Can a dealer take a vehicle to a customer's home for a test drive?** Yes, if the test drive is offered solely for evaluating a vehicle's performance, suitability and/or condition prior to purchase or lease and for NO other purpose.
3. **Can a dealer take a contract to the customer's home so he/she can sign it if he/she likes the car?** No. That would constitute trading off-premises. However, a dealer could email a contract to the customer to print, sign, scan and email back to the dealer at the dealership, or the dealer could use an e-signature program/process. Note: this applies to all agreements/contracts (e.g. finance, warranty, etc.), not just the purchase/lease agreement.

4. **Can a dealer deliver a vehicle to a customer's home?** Yes, if the contract has been completed prior to delivery.
5. **What does OMVIC mean by appropriate measures are enabled to comply with the MVDA and ensure consumer protection?** The MVDA, CoE, CPA and SGA all set out requirements dealers must comply with. For example, the CoE requires dealers to “explain to the consumer the terms of the contract between the consumer and the dealer, including the financial and other obligations, if any, of the customer under the contract.” The SGA requires that vehicles sold or leased be “fit for purpose”. When selling to a remote customer, dealers must ensure processes are in place to fully meet these requirements.
6. **What about sales to a remote customer who is buying the vehicle sight unseen – what are OMVIC's expectations?** These customers are potentially the most vulnerable. OMVIC requires dealers to ensure these customers receive full, clear and comprehensible disclosures and expects dealers to provide these customers with the opportunity to inspect and drive a vehicle and to cancel the contract if the vehicle is not suitable or not as represented.

More Information

Dealers who have additional questions related to online sales, remote test drives, remote sales or unique business models are encouraged to email:

- their local OMVIC Inspector
- OMVIC's Business Standards Team at marketing_standards@omvic.on.ca