Add-ons and Loan Packing: How and why car dealers “pack” loans and the products they use to do it

Mark H. Steinbach, O'Toole, Rothwell, Nassau & Steinbach
John W. Van Alst, The National Consumer Law Center
Mary C. Lobdell, Consumer Protection Division – WA AG’s Office

Jessica Hiemenz
National Consumer Law Center

This webinar is sponsored with a grant from the Annie E. Casey Foundation and is one of a series of webinars about working cars for working families.
September 16, 2010
Presenter – John Van Alst

- Joined NCLC in 2006 as a Staff Attorney at the Center’s Washington, DC Office.
- At NCLC John specializes in issues related to car sales and finance.
- Prior to joining NCLC John work for seven years as an Attorney with Legal Aid of North Carolina.
- While at Legal Aid he focused primarily on consumer issues. He was also the Chair of the North Carolina Consumer Law Task Force.
Presenter - Mark H. Steinbach

• A partner in the Washington, D.C. law firm of O’Toole, Rothwell, Nassau & Steinbach.
• He currently serves as President of the Maryland Consumer Rights Coalition and previously served on the Board of Directors of the National Association of Consumer Advocates.
• Mark’s law practice focuses on representing consumers who have experienced problems with car dealers and auto finance companies.
Presenter - Mary C. Lobdell

• Section Chief of Tacoma Consumer Protection Office where her practice is focused on regulating advertising and sales practices in the auto industry.

• Mary has over 20 years experience with the Office of the Washington State Attorney General in tax, bankruptcy, collection and consumer law issues.

• Mary has been recognized by the Attorney General with an Excellence Award and the Governor with a Governor’s Quality Improvement Award.
Agenda: Dealer Markups

Mark H. Steinbach - Preloaded add-ons, back-end products, how auto lenders and sales managers rip people off

Mary C. Lobdell – Litigation, payment packing, NAAG resolution

John W. Van Alst – Potential policy solutions
Add-ons and Loan Packing: How and why car dealers “pack” loans and the products they use to do it

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CAR DEALER ADD-ONS

Mark Steinbach
O’Toole, Rothwell, Nassau & Steinbach
September 16, 2010
Loan Packing

• Targets the “payment buyer,” someone primarily concerned with getting a monthly payment they can handle.

• The payment buyer doesn’t focus on a car’s cash price, or the cash price of other products that may be included in a deal. If a payment buyer thinks he or she can make the monthly loan payment, the deal papers will be signed.

• Many payment buyers never know they’ve purchased various car dealer add-ons like GAP insurance or paid $895 for an Appearance Package consisting of pinstripes and cheap plastic door edge guards.
CAR DEALER ADD-ONS

- Financing
- Extended Service Contracts
- GAP (Guaranteed Asset Protection)
- Credit life, accident or disability insurance
- Undercoating
- Rustproofing
- Paint sealant/clear coat protection
- Fabric protection
- Pinstripes
- Plastic door-edge guards
- Mud flaps
- Appearance Packages/Environment Packages/Tinted Windows
- Tire and wheel protection packages
- Prepaid maintenance packages
- Road Service/club membership
- Theft protection/car alarms/auto immobilizers
- Lojack
- “Etch”
- Various prep fees (extra profit)
- “Dealer Price Add-On” or “Adjusted Market Value” (extra profit)
Gross as percentage of selling price

Source: NADA Industry Analysis Division
“F&I Office”

• The “F&I Office” is where a manager “closes” the deal and has the customer sign the paperwork. “F&I” is an abbreviation for “Finance and Insurance.”

• It’s where the “magic” happens: where dealer add-ons are sold and where loans are packed.
Time Spent in Dealership

**2000**
- F&I: 15%
- Sales Office: 52%
- Show Room: 33%

Sales Office: 73.6 Minutes
F&I: 21.4 Minutes
Show Room: 47.2 Minutes
Total: 142.2 Minutes

**2007**
- F&I: 33%
- Sales Office: 30%
- Show Room: 37%

Sales Office: 41.5 Minutes
F&I: 45.4 Minutes
Show Room: 52.0 Minutes
Total: 138.9 Minutes

www.fi-magazine.com/statistics
CAR DEALER ADD-ONS

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Dealers Profit from Arranging Financing

• Dealers who arrange financing for their customers often receive kickbacks from auto finance companies. Rather than pass along to customers the lowest interest rate for which they qualify, dealers mark-up the financing before they offer it to the customer. Dealers then split the added interest with the auto finance company.

• For more on this, go to www.nclc.org and check out NCLC’s August 19, 2010 webinar entitled “Dealer Kickbacks: How Car Dealers are Paid to Put Us in More Expensive Loans and How We Can Stop It.”
Why car dealers like add-ons

They often carry huge profit margins:

- “Appearance Package” consisting of pinstripes and plastic door edge guards costs less than $45 but lists for $895, a mark-up of some 2,000%
- “Pre-paid Maintenance Packages” earn dealer up-front payment of $895 for discounted oil changes and other services that customer may never use.
- “GAP” costs dealer $295, dealer sells it for $595
- Extended service contracts cost dealer $595, dealer sells it for $1,995
- “Dealer price add-on” or “Adjusted Market Value” charges – pure profit
How do dealers get away with such huge mark-ups?

• The Automobile Information Disclosure Act passed in 1958 (15 U.S.C. § 1231) requires dealers to disclose the Manufacturer’s Suggested Retail Price (“MSRP”) of new vehicles, plus the MSRP of each accessory or item of optional equipment applied to the car by the manufacturer, plus freight charges. This gives buyers a reference point.

• There are no laws requiring dealers to disclose the MSRP for their add-ons. So they can list whatever price they wish, knowing buyers have no similar reference point.

• Dealers target the “payment buyer,” the customer who cares only whether they can afford the monthly payment and who pays little attention to what goes into the price they pay. These customers are the most frequent victims of “payment packing.”
CAR DEALER ADD-ONS

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The Two Kinds of Dealer Add-ons:

• Add-ons which are “pre-loaded”

• Add-ons which are sold at the “back-end” of the deal.
Pre-Loaded Add-ons

• Installed on car before customer sets foot on the lot

• If customer buys the car, these products are included

• Customer cannot refuse to purchase pre-loaded add-ons – if customer wants the car, it comes with the add-ons

• Examples: Undercoating, Appearance Package, Dealer Price Add-on (i.e., extra profit)

• Pre-loaded add-ons typically carry the highest margin because dealers can make something sound valuable (“Appearance Package”) but not disclose what is included unless specifically asked.
The fundamental abuse with pre-loaded add-ons

• Products which “sell themselves” or have actual value can be offered to buyers as options at the back-end, but products which have little or no value have to be forced on buyers by pre-loading them on cars before they are placed on the lot for sale.

• Pre-loaded add-ons deny buyers the right to turn down products which carry a high price and provide little or no value.
Pre-loaded add-ons do not increase value of collateral

- Lenders are not willing to lend more money on a vehicle with pre-loads because pre-loads like rustproofing, mud flaps or paint sealant don’t increase value of collateral.
- Nothing in the Black Book or Blue Book gives an increased value if a car has pre-loaded add-ons.
- When dealers ask customers for info on their trade-ins, they never ask if the trade has undercoating, rustproofing or any other common add-on because they don’t affect the car’s value.
How pre-loaded add-ons are sold

- The Manufacturers Suggested Retail Price sticker must be placed on every new car offered for sale. 15 U.S.C. § 1231

- Many dealers add their own sticker, which is made to look as “official” as possible by using an image of a gas tank similar to the one on the MSRP sticker.
2002 SENTRA SE-R

MECHANICAL AND PERFORMANCE
2.2L DOHC 16V MP, 4-Cylinder Engine
6-Speed Automatic Transmission with Overdrive
Sport Tuned Suspension
Multi-Link Beam Rear Suspension
Independent Rear Suspension
Power-Assisted Torsion Beam & Rear Disc Brakes
Truck and Towing Power Steering
Rops & Rear Stabilizer Bars
Front & Rear Bumpers
15" Steel Wheel Type

INTERIOR FEATURES
5-Passenger Seating Capacity
Dual Zone Air Conditioning/Heating
Leather Wrapped Steering Wheel
Spongy Seat Cushion
6-Way Adjustable Driver's Seat
Door Panels with Cloth Inserts & Pockets

COMFORT AND CONVENIENCE
Remote Keyless Entry System
Power Windows with One-Touch Down
Power Door Locks
AM/FM/CD Audio System
CFC-Free Air Conditioning
Cruise Control
Traction Control
Dual Vizor Vanity Mirrors with Covers
Dual 12-Volt DC Power Outlets
Battery Saver Function
Full Side and Rear Door Trim
Tinted Glass Windows

SAFETY AND SECURITY
Direct Fused Air Bags
Front Seat Belts with Passengers & Load Limiters
3-Point Seat Belts in all Seating Positions
ALR/ELR Seat Belt System for all Passenger Seats
Child Safety Rear Door Locks
Child Seat Anchors (LATCH System)
Emergency Braking Distance Warning System
Side Impact Air Bags
Front and Rear Crumple Zones
Emergency Inside Trunk Release

CITY MPG
23
HIGHWAY MPG
28

CONCENTRATED NISSAN PERFORMANCE FROM JAPAN
Manufacturer's Suggested Retail Price
17,799.00
Options Included by Manufacturer
IN-CABIN MICROFILTER
49.00
Destination Charges
540.00
Total
18,388.00

CITY MPG
23
HIGHWAY MPG
28

Security Plus Vehicle Protection Plan
The only service plan backed by Nissan.
Ask your dealer for details, or call 1-800-NISSAN-6 for information.
NATIONWIDE MOTOR SALES CORP.

Stock No: ________________________________
Make: __________________________________
Model: 2002 Sentra SE-R
Vehicle ID #: ______________________________

ATTENTION PROSPECTIVE BUYERS
This vehicle may have negotiable additional dealer installed items and/or negotiable additional Dealer Mark up. The selling price will differ from the MSRP. Please see a salesperson or manager on duty for details.

DEALER PROCESSING CHARGE
(Not Required By Law): $25.00

**TOTAL DEALER INSTALLED ITEMS,
CHARGES, AND ADDITIONAL DEALER
MARKUP: _____________________________ NEGO TIAN LE

TAX AND GOVERNMENTAL
FEES NOT INCLUDED

NATIONWIDE

* VIN: ____________________________
* MODEL: 2002 Sentra SE-R
AMOUNT FORWARDED MANUFACTURER'S LABEL $17,388.00

DEALER INSTALLED OPTIONS

<table>
<thead>
<tr>
<th>Description</th>
<th>Price</th>
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<tr>
<td>DEALER PRICE AD ON</td>
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<tr>
<td>APPEARANCE PKG.</td>
<td>$695.00</td>
</tr>
<tr>
<td>AUTO IMMOBILIZER</td>
<td>$999.00</td>
</tr>
<tr>
<td>DEALER PROCESSING PKG. (NOT REQUIRED BY LAW)</td>
<td>$25.00</td>
</tr>
</tbody>
</table>

OPTIONS SUBTOTAL: $2,919.00
TOTAL*: $20,307.00

Consult FREE GAS MILEAGE GUIDE.

Actual Mileage will vary with options, driving conditions, driving habits and vehicle's condition. For complete MPG listings, please consult FREE GAS MILEAGE GUIDE available at the dealer.

* Our Price for this vehicle as equipped. Does not include state and local taxes, license and title fees, doc fee, or finance charges if any. This label has been affixed to this vehicle by this dealer. It has been
Example of pre-load abuse

- A car dealer added the following charges on a dealer sticker for every new vehicle placed on its lot for sale:
  - Dealer Price Ad On $1,000
  - Appearance Pkg. 895
  - Auto Immobilizer 995
- This enabled dealer to start negotiations from a point nearly $3,000 above the MSRP, while its costs were less than $200.
STOCK NO.  30/80
MAKE.  HONDA
MODEL  Sonora GXC

Total Vehicle Price $ 16,189
(includes Dealer Preparation and Destination Charge)

ADDITIONAL DEALER INSTALLED ITEMS
AND CHARGES

DEALER PRICE ADD ON  $ 1995

APPEARANCE PACKAGE  $ 125

Dealer Processing Charge  $ 25

TOTAL DEALER INSTALLED
ITEMS AND CHARGES  $ 2745

TOTAL DEALER SELLING PRICE  $ 19,934

TAX AND GOVERNMENTAL
FEES NOT INCLUDED
Back-end Products

• Almost any product (including items sometimes pre-loaded on cars) can be offered at the back-end, in the F&I Department
• Usually, customer has already agreed on cash price of car
• Purchase of these products ostensibly is optional
• If the customer declines the product, it is not part of the deal
• Examples: Extended service contracts, GAP, car alarm, paint protection
• Back-end products can be facilitated by payment packing
F&I Customer Acceptance Rates 2007

Survey by Superior Integrated Solutions
www.fi-magazine.com/statistics
The “Big Three” Back-end Products

- Extended Service Contract
- GAP
- Insurance (credit life, accident and disability)
How the “Big Three” are different than most other add-ons

• Most lenders agree in advance to finance the cost of the Big Three, within limits, and require dealers to itemize those costs on Retail Installment Contracts

• Many states specifically regulate their sale

• Many states require that charges for these items be itemized on Retail Installment Contracts

• Some states require that the Retail Installment Contract disclose their purchase is voluntary

• By regulating their sale, lenders and states confer a certain legitimacy on the Big Three that pre-loaded add-ons do not have
The key to understanding dealer add-ons: financing

• Lender rate sheets containing program terms outline how much lenders will pre-approve for selected or preferred back-end products.
# Highlights of Hypothetical Rate Sheet

<table>
<thead>
<tr>
<th>1st TIER</th>
<th>2ND TIER</th>
<th>3RD TIER</th>
<th>4TH TIER</th>
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<td>750+ credit score</td>
<td>725-749 score</td>
<td>696-724 score</td>
<td>677-695 score</td>
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<tr>
<td>665 or greater credit</td>
<td>665 or greater</td>
<td>665 or greater</td>
<td>665 or greater</td>
</tr>
<tr>
<td>score for co-buyer</td>
<td>for co-buyer</td>
<td>for co-buyer</td>
<td>for co-buyer</td>
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<tr>
<td>140% max advance</td>
<td>130% max advance</td>
<td>120% max advance</td>
<td>110% max advance</td>
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<tr>
<td>Max amt financed $60,000</td>
<td>Max amt financed $60,000</td>
<td>Max amt financed $58,000</td>
<td>Max amt financed $58,000</td>
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<tr>
<td>Buy rate 5.5%</td>
<td>Buy rate 6.25%</td>
<td>Buy rate 7.0%</td>
<td>Buy rate 8%</td>
</tr>
</tbody>
</table>
Advance

Advance is plus, plus, plus (title, license, doc fee, ext. warranty, GAP, insurance not included). Measured by invoice on new vehicles, NADA trade-in on used vehicles.

**Back-end Guidelines:** Max allowable back-end for all products is 25% of cash sale price (excludes warranty); back-end additions include sales tax, license, registration and doc fees + soft adds

**Mechanical Breakdown Warranty Guidelines**

2WD cars, trucks: $2,000 or 10% of cash sales price, whichever is greater
4WD cars, trucks: $2,500 or 10% of cash sales price, whichever is greater

**GAP:** Max advance is $800.

**Flat fees for contract:**
1% of amount financed ($450 max), charged back if customer doesn’t make 1st payment

**Ineligible collateral, exclusions:**

Kias, Suzukis, Isuzus more than 3 years old, all Daewoo, all Chinese products, salvaged vehicles, branded vehicles, lemon law buy-backs, van conversions, vehicles over 100K miles, gray market vehicles

**Participation/Chargeback Guidelines:** 75/25 split. Chargeback on unearned amount if voluntarily pre-paid within 90 days from purchase, or in event of repo, bankruptcy or charge-off, if buyer has made fewer than 3 payments.
**New & Used Non-Recourse Auto Finance Program - Oklahoma**

**Effective** January 17, 2008

<table>
<thead>
<tr>
<th>Tier</th>
<th>I</th>
<th>II</th>
<th>III</th>
<th>IV</th>
<th>V</th>
<th>VI</th>
<th>VII</th>
<th>VIII</th>
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<td>Buy Rates from*</td>
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<td>8.10%</td>
<td>9.35%</td>
<td>10.10%</td>
<td>12.10%</td>
<td>13.85%</td>
<td>15.85%</td>
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<tr>
<td>Max Participation**</td>
<td>to</td>
<td>to</td>
<td>to</td>
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<td>to</td>
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<td></td>
<td>15.10%</td>
<td>15.45%</td>
<td>15.65%</td>
<td>16.90%</td>
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<td></td>
<td>2%</td>
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<td>2%</td>
<td>2%</td>
<td>2%</td>
</tr>
</tbody>
</table>

* All Participation Paid at 70/30 Split with No Chargebacks!

* Contract APRs cannot exceed State usury limitations by model year
** The dealer will receive participation of up to 2% based on the applicant's credit quality

**Program Guidelines**

**Term Eligibility**
- 61-72 month term: Mileage cannot exceed 60,000
- Min. Wholesale Value or Invoice: $10,000
- 49-50 month term: Mileage cannot exceed 70,000
- 48 month term or less: Mileage cannot exceed 80,000
- Additional $205 fee for 12 mth term extension to 50 months

**Dealer Advance**
- Invoice or Wholesale + TT&L + UAH + Service Contract + GAP + approved Documentation fees
- Standard advance %< 136% - Additional rate will be added for higher advances.
- Additional $100 Acquisition fee on Suzuki, Mitsubishi, Oldsmobile, and Chevy Aveo

**Acquisition Fees**
- A non-refundable acquisition fee may be assessed for each loan based upon the applicant's credit quality

**Dealer Buydown**
- Any rate can be "bought down" by substituting fee equal to 2% of amount financed for every 1% of required rate

**Assignment Fee**
- A $75 non-refundable fee will be assessed for each contract funded

**Eligible Vehicles**
- 7 years old or newer with less than or equal to 80,000 miles
- Vehicle must be in appropriate value guide to be considered

**Ineligible Vehicles**
- Commercial vehicles; Exotics; Cross Lander; "Gray Market" vehicles (odometer fraud, salvage titles, repaired flood damage and VIN cloning)

**Joint Applicants**
- Average bureau score will determine pricing. Bureau score based on AmeriCredit bureau score.

**Other**
- Simple Interest contracts only
- Proof of Insurance (No Binders/30-Day Policies)
- Program exceptions will be considered on a deal-by-deal basis
<table>
<thead>
<tr>
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<td>$35.00 gas</td>
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<td>$1,860.00 BANK FEE</td>
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<tr>
<td>$500.00 REBATE</td>
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<td>TRADE OVER ALLOW DEALER CASH</td>
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<td>TOTAL VEHICLE COST</td>
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<td>Profit less Hold Back</td>
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<td>TAGS</td>
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<td>REBATE</td>
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<tr>
<td>HOLD BACK</td>
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<tr>
<td>FINANCE DEPARTMENT</td>
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<tr>
<td>RESERVE</td>
<td>$-</td>
</tr>
<tr>
<td>WARRANTY</td>
<td>$-</td>
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<tr>
<td>GAP</td>
<td>$-</td>
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<tr>
<td>CL/AD</td>
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<tr>
<td>TOTAL F&amp;I</td>
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<tr>
<td>TOTAL DEALER PROFIT</td>
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<td>RES</td>
<td>$</td>
</tr>
<tr>
<td>TTL COMM</td>
<td>$650.32</td>
</tr>
</tbody>
</table>
BANK FEES FUEL THE NEED TO SELL ADD-ONS

• Especially for customers with bad credit scores, auto lenders will demand “bank fees” to compensate them for higher risk

• Sale of profitable add-ons can make it possible to cover the bank fees

• Bank fees are not disclosed to the buyer, distorting the fair and efficient operation of the marketplace
HOW A SALES MANAGER STRUCTURES A DEAL FOR MAXIMUM PROFIT

• Works backward from desired monthly payment

• Uses software to identify the most profitable deal or reviews rate sheets from different lenders

• Has to work within limits imposed by customer’s income and downpayment

• Often has to “rehash” the deal if the lender balks at how hard the dealer is pushing
How to Challenge Abusive Add-ons

First, look to whether they are properly disclosed under your state law

- Some states require that Retail Installment Contracts and/or Buyer Orders contain an itemized disclosure of charges not included in the MSRP or base price of the vehicle
- Are the charges for the add-ons hidden in the cash price of the car, i.e., did dealer bump up the sales price by the cost of the add-ons?
Do add-ons kick price in excess of MSRP?

• Where cash price of car exceeds MSRP, dealer may have duty to disclose why car was sold in excess of its advertised price.

• Bill Crouch Foreign, Inc., 96 F.T.C. 111 (1980) Consent Order (violation of FTC Act when dealer failed to disclose clearly and conspicuously that total purchase price exceeded MSRP)
Was add-on a bona fide product offered in good faith?

• The UCC requires that all parties act “in good faith.” Per NCLC Consumer Warranty Law Manual, a court is authorized “to police the transaction for unreasonableness and to reach a decision based as much on equities as on the written agreement.”
Was the add-on worthless?

• Some old FTC cases suggest a retailer can be prevented from making reference to a deceptive price. By setting a price of $895 for its Appearance Package, the dealer is representing the customer is getting a substantial product of real value (not pinstripes and cheap plastic door edge guards).
Use the add-ons’ high price

• “. . . the price at which a merchant closes a contract is an excellent index of the nature and scope of his obligations . . .” Comment 7 to UCC §2-314.
Unconscionability

- While always a tough argument to make, you can show the dealer forced the product on the buyer by pre-loading it, because it knew that given a choice, no customer in her right mind would pay $895 for pinstripes and cheap plastic door edge guards.
Where add-on description is ambiguous or misleading

- Often, only the 2 or 3 words on the dealer sticker inform the buyer of what is being sold. Those few words may be incomplete, misleading or ambiguous and subject to UDAP challenge.
Look for double-dipping

• Some dealers like to charge fees for work they have already been paid for by the manufacturer, such as getting the car ready for delivery to the customer (“Glaze” packages and other prep fees)
False implication the add-on was provided by the manufacturer

- Dealers sometimes convey the false impression an add-on was provided by the manufacturer when, in fact, it was provided by the dealer. Potential UDAP violation, often intended to make buyer think dealer had no control over price.
Did dealer fail to provide the add-on?

- Dealers have been known to charge for, but not provide, add-ons. Potential UDAP violation, of course. Can also be TILA violation. Gibson v. LTD, Inc., 434 F.3d 275 (4th Cir. 2006).
Working Cars for Working Families

Add-ons and Loan Packing: How and why car dealers “pack” loans and the products they use to do it

Mary C. Lobdell
Assistant Attorney General
Tacoma Section Chief
Consumer Protection Division
IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,

v.

RESOURCE DEALER GROUP, INC., an Illinois Corporation; ASSOCIATES DEALER GROUP OF BELLEVUE, WASHINGTON, INC., a Washington Corporation; and DOES 1 THROUGH 57,

Defendants,

v.

RESOURCE DEALER GROUP, INC., and ASSOCIATES DEALER GROUP OF BELLEVUE, WASHINGTON, INC.,

Counterclaimants,

v.

STATE OF WASHINGTON,

Counterclaim Defendant,

and

CHRISTINE O. GREGOIRE, individually and in her official capacity as the Attorney General of the State of Washington,

Additional Party Defendant.

CONSENT DECREE

EXHIBIT 101: Consent Decree
I. JUDGMENT SUMMARY

1.1 Judgment Creditor: State of Washington


1.3 Principal Judgment Amount:

   a. *Cy Pres* and Complaint Procedure: Complaint and arbitration program; and $400,000.00 in *cy pres* payment ($200,000.00 to Legal Aid for Washington (The Law Fund); $100,000.00 to National Consumer Law Center, Inc., and $100,000.00 to an interest bearing *cy pres* account with the Washington State Attorney General, Consumer Protection Division for consumer education purposes.)

   b. Civil Penalties: $150,000.00

1.4 Costs and Attorney Fees: $350,000.00

1.5 Total Judgment: $900,000.00

1.6 Post Judgment Interest Rate: 12% per annum

1.7 Attorney for Judgment Creditor: Sally B. Steinberg, Esq.,
4.3 Injunctions. Defendants and all their successors, assigns, transferees, officers, agents, servants, employees, representatives and all other persons or entities in active concert or participation with Defendants are hereby permanently enjoined and restrained from directly or indirectly engaging in the following acts or practices in the state of Washington and from failing to comply with the provisions of the Consumer Protection Act, chapter 19.86 RCW, and chapter 48.30 RCW, including but not limited to:

a. Teaching, training, counseling, tracking, or aiding or abetting others, in any manner, to misrepresent, directly or by implication, the amount of a monthly automobile payment;
b. Teaching, training, counseling, or aiding or abetting others, in any manner, to misrepresent, directly or by implication, the voluntary and optional nature of purchasing Defendants’ products;

c. Teaching, training, counseling, or aiding or abetting others, in any manner to misrepresent, directly or by implication, the actual price of credit insurance, or service contracts charged to a consumer;

d. Teaching, training, counseling, or aiding and abetting others, in any manner, to utilize any technique where a monthly payment is deceptively adjusted higher than that previously quoted and/or agreed to by a prospective purchaser.
NAAG Resolution on Packing

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Adopted
Spring Meeting
March 23-26, 1999
Washington D.C.

RESOLUTION

CONSUMER PROTECTION REGARDING “PACKING:” DURING CAR SALE/LEASE NEGOTIATIONS.

WHEREAS, “packing” is the deceptive practice of misrepresenting monthly payments to consumers during auto sales and lease negotiations in order to facilitate the sale of automobile related products and services; and

WHEREAS, consumers are entitled to be dealt with in a fair and non-deceptive manner during negotiations to buy or lease a car; including their right to receive timely, accurate and non-misleading information about the cost of the vehicle and all related products and services; and

WHEREAS, auto sales complaints to our respective consumer protection units continue to rank high among concerns expressed by consumers; and
NAAG Resolution on Packing

WHEREAS, some automobile dealers use “packed” payment schemes and poor disclosure to trick consumers into believing that services such as credit insurance, automobile service contracts, chemical protection, and security devices are included or provided “free” in the purchase or lease contract or are discounted or that such products and services are not optional when financing a vehicle; and

WHEREAS, the misrepresentation of monthly payments violates the “good faith” or fiduciary duty of those who engage in the business of selling insurance; and

WHEREAS, states continue to pursue vigorous law enforcement, business training, and consumer education to deter deceptive practices in the automobile industry:

NOW, THEREFORE, BE IT RESOLVED THAT THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL:

1. Supports voluntary efforts by the auto sale/lease, credit insurance, and service contract industries to eradicate the practice of misrepresenting monthly payments and related deceptive practices in order to facilitate the sale of automobile related goods and services.
2. Undertakes to educate consumers in recognizing the misrepresentation of monthly payments during the negotiation process.

3. Hereby encourages the Federal Reserve Board and the Federal Trade Commission (FTC) to investigate and review auto industry sales practices employed during negotiations for the purchase or lease of a vehicle and the quoting of monthly payments with respect to compliance with Truth in Lending Act, 15 USC § 1601 and the FTC Act, 15 USC § 41 et seq.

4. Authorizes its Executive Director and General Counsel to transmit these views to Members of Congress, The Federal Reserve Board, the Federal Trade Commission, other federal and state enforcement agencies, industry groups, and other interested parties.
Add-ons and Loan Packing

Questions
Working Cars for Working Families

Add-ons and Loan Packing: How and why car dealers “pack” loans and the products they use to do it

John W. Van Alst- National Consumer Law Center
Dealer Add-ons- Back end/ Loan Packing

The Problem- A wide range of overpriced that the dealer uses to “pack” the loan

- Rust Proofing
- Window Etch
- Service Contracts
- Key Chains and Pens
- GAP Insurance
The Problem-
The dealer presents the consumer with a monthly payment during the purchase process without disclosing the loan term or itemizing what is being purchased.

In the F&I department loan is “packed” without consumer’s knowledge or consent.
Dealer Add-ons- Back end/ Loan Packing

The Solution

- Require Add-ons to be negotiated after agreement is reached as to the purchase price of the car
- Posted pricing of all add-ons
- Disclosure of two different options-
  - Price of car alone
  - Price of car with add-ons
- For 3rd party add-ons, amount being retained by dealer should be posted
- Regulation of relationship between dealer and add-on supplier
- Right to Cancel- Rebate Calculations
Add-ons and Loan Packing

Questions