AE
AGENT ENTREPRENEUR
MAY/JUNE 2020 | VOL. 7 NO. 3

THE INDUSTRY'S LEADING SOURCE FOR AUTOMOTIVE GENERAL AGENTS

THE STORM *BEFORE* THE CALM

COVID-19 changes everything . . . Except how Americans will continue to buy cars.

Why do Cybercriminals **Target Dealerships?**

The Evolving Role of **Aftermarket Selling**

An Interactive Approach to **Employee Counseling**

Automotive Compliance Education

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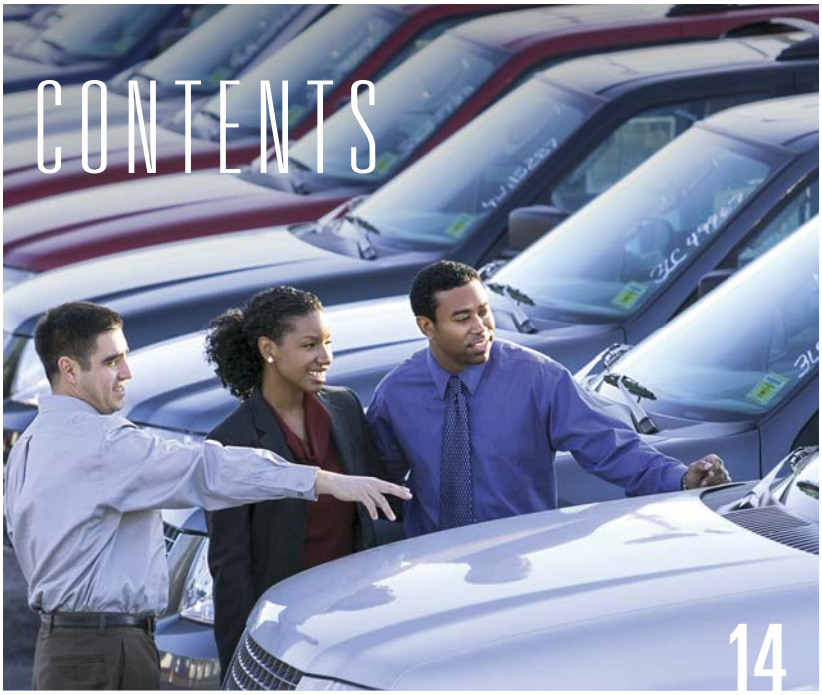

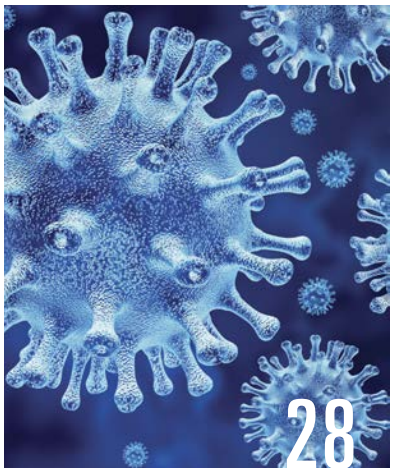

FEATURES

DEPARTMENTS

An Industry United

A group of F&I providers and administrators has created the F&I Providers Relief Fund for F&I Managers, as a way to assist them and their families', during this uncertain time.

BY KATE SPATAFORA

In times of crisis, you see the true strength of the nation we live in, the businesses that drive our livelihood, and the communities of neighbors and co-workers that keep it all together.

As a result of the coronavirus pandemic, the automotive industry has seen an unprecedented loss in sales over the past few months and F&I departments are facing serious challenges amidst these losses. It has been amazing to watch the automotive industry come together in this perilous time. From technology providers offering dealers complimentary services, to training companies setting up virtual sessions to keep the momentum going.

There is one specific effort I would like to focus on today, and that is the F&I Providers Relief Fund for F&I Managers. National Auto Care's CEO, Tony Wanderon, saw the dramatic impact the coronavirus pandemic was having, on not only his own company but the dealers and their F&I departments, that he does business with.

"The F&I professionals are the people who have taken care of us and our companies for quite some time," said Wanderon. "They support us every day when business is normal. Now in their time of need, we are here to support them."

With that thought, he chose a select group of colleagues with whom to share his initiative, and they made up the newly established fund's executive board. "As word spreads, donations follow," he said. "In fact, F&I providers are anxious to show their commitment to F&I professionals during this economic downturn.

Although there are many relief programs for others within and outside the auto industry, Wanderon realized that aid is not readily available to F&I managers. "There's just never been anything that I've seen that specifically was there to help fund F&I managers through these hard times," he said, noting the potential donor pool is deep. "That number [of founding contributors) probably makes up less than 5% of the overall industry, maybe 20% just from a sheer volume perspective."

The seven Relief Fund board members are representatives from an array of organizations. That was done purposefully, so that bias towards a certain automaker, dealership group or region would not come into play when relief is extended.

Once an application has been approved by the board, the process is something akin to a pre-qualification for a mortgage; the prospective recipient's information will be verified, and money will be distributed.

As I write this, the fund has generated $450,000 in donations and is actively working to distribute the funds to those who have applied.

If you have any of your own ideas for ways in which *Agent Entrepreneur* can continue assisting the automotive community in this time of need, I ask that you please reach out to me. As always, I wish you and your families' good health and prosperity, both now and in the days to come. **AE**

– Kate Spatafora

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F&I PROVIDERS
RELIEF FUND
FOR F&I MANAGERS

To all,

I hope all of you, your families and your teams are well. I am sure each of you are dealing with similar challenges and opportunities. Last week, I was thinking of the dramatic impact this is not only having on us, but the dealers and their F&I employees who have supported our companies and our livelihood for years. Like each of our companies, they all are facing serious challenges and having to enact layoffs, furloughs or make deep cuts in pay for the F&I managers nationwide. While we are all focused on our companies, I feel that as a group we could make a difference for many F&I families. I know that giving at a time like this may be a challenge, but by doing this, we can show just how committed we are to the industry.

Since launching this initiative last week, we have had overwhelming responses from many in our industry, raising over $200,000 with a goal of $1 million *in only five days*. AS part of this outstanding progress, we have partnered with Kelly Price at NAE to use her 501c3 charity "Changing Lives" (EN number 83-1369892) to administrate this effort. In addition, we have established an advisory board of five industry leaders who represent a wide range of services including administrators, underwriters, roadside assistance and technology. Their objective will be to help raise funds, oversee where they will go, and decide how they can be best distributed to have maximum impact. Our commitment would be to give 100 percent back to as F&I many professionals as possible.

And, we have established clear guidelines on individual grants with no personal information being shared with the board (dealership name, geographic region, etc.). This will ensure that we are making the best decision for each based on need. Our grants will range from $500 to $2,000 per family. While this is not a lot of money, it will help defray some of the hardship they are being faced with every day.

I have personally committed $10,000 along with a $10,000 match from our company. I would ask each of you to make a similar commitment, but I know that for some, this may not be possible, and that is fine. But I would ask you to think about the good we can do as a group for the people who have always supported us.

There is still much work to be done, but with the passion and determination of this group, we will get this done quickly. I know that as a common voice, united in our efforts, we can be more impactful than as individuals and can show that our commitment runs deep.

Thank you for your time and please let me know if you have any questions.

Sincerely,

Tony Wanderon

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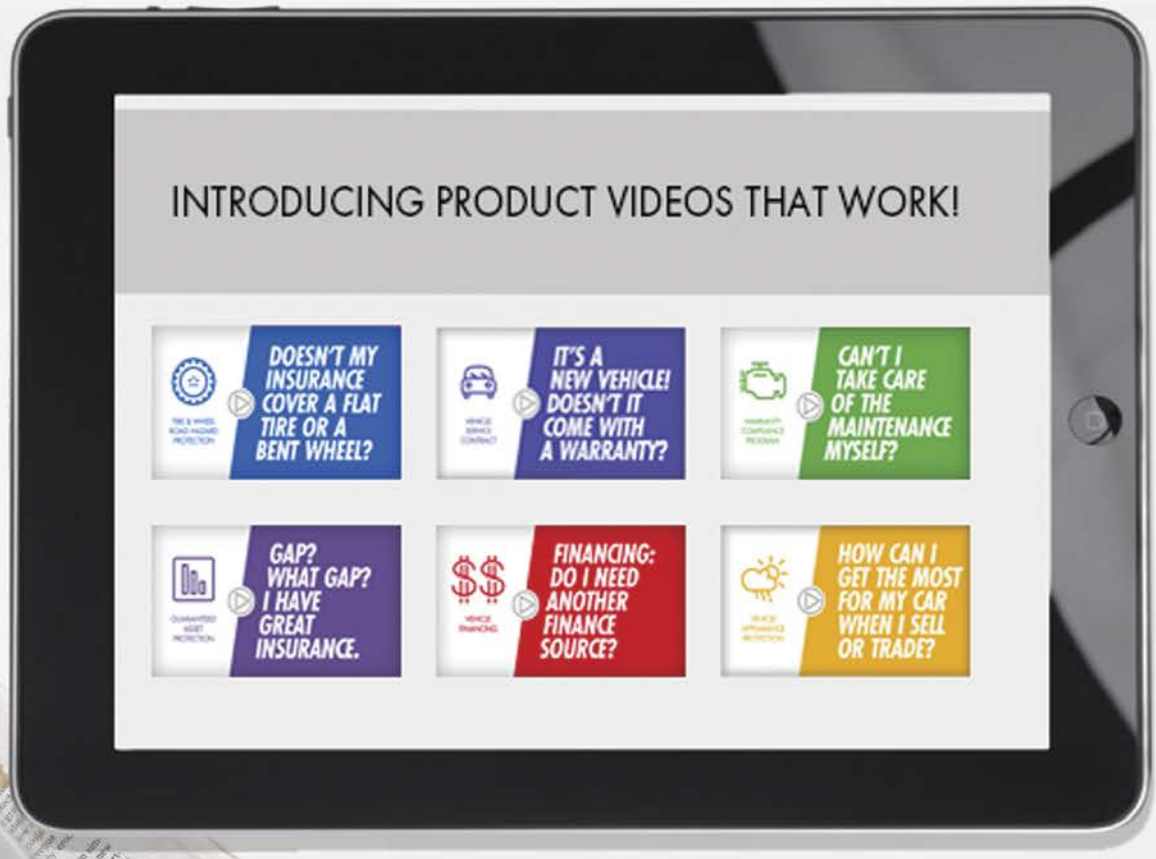

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ASSURANT ACQUIRES AMERICAN FINANCIAL & AUTOMOTIVE SERVICES

AmericanFinancial & AUTOMOTIVE SERVICES, INC.
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Assurant, Inc. announced it has acquired American Financial & Automotive Services, Inc. (AFAS). AFAS CEO and founder, Arden Hetland, along with the AFAS management team, will join Assurant upon the closing of the transaction.

"Following our acquisition of The Warranty Group, our agreement to acquire AFAS further underscores our confidence in the long-term growth potential of the global automotive market," said John Laudenslager, president of Assurant Global Automotive. "Having Arden and his team join Assurant gives us the benefit of their years of experience and expertise, which we will count on as we continue to grow the business together."

With nearly two-million vehicle service contracts in-force, AFAS will provide greater scale and operating efficiencies, and the ability to benefit from long-term favorable market trends that support increasing vehicle service contract attachment rates. Hetland will lead the AFAS business, focusing on delivering an even more superior client experience.

"Joining Assurant enables AFAS to benefit from the global expertise, scale and breadth of an industry leader," said Hetland. "Having partnered with us for so many years, they clearly value our team's depth of experience and high-touch relationship approach, which are key factors in our shared commitment to servicing clients and growing the business."

AFAS will retain its brand and continue to operate as a separate direct-to-dealer channel under Assurant Global Automotive, throughout a multi-year transition process. The transition will focus on building a seamless customer experience that integrates the best of each company's offerings.

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BLACK BOOK USED VEHICLE RETENTION INDEX SEES LARGEST DECLINE EVER IN APRIL

Black Book released its Used Vehicle Retention Index for April 2020 (114.6), a -7.9 point change from March (114.6).

"Compact Cars and Compact SUVs led the decline with record drops due to continuing decreases in gasoline prices," said Alex Yurchenko, senior vice president, Data Science. "On the other hand, the SUV/Crossover segments finished the month especially strong due to low fuel prices. Due to changing economic conditions, we do not expect this strength to continue, and we project a drop in values in April."

The Black Book Used Vehicle Retention Index is calculated using Black Book's published Wholesale Average value on two- to six-year-old used vehicles, as percent of original typically-equipped MSRP. It is weighted based on registration volume and adjusted for seasonality, vehicle age, mileage, and condition.

The Index dates to January 2005, where Black Book published a benchmark index value of 100.0 for the market. During 2008, the index dropped by 14.1%, while during 2016 the index fell by just 6.4%. During 2011, the index rose strongly from 113.3 to 123.0 by the end of the year as the economy picked up steam and used vehicle values rose higher. It continued to remain relatively stable, rising slightly until May of 2014 when it hit a peak of 128.1.

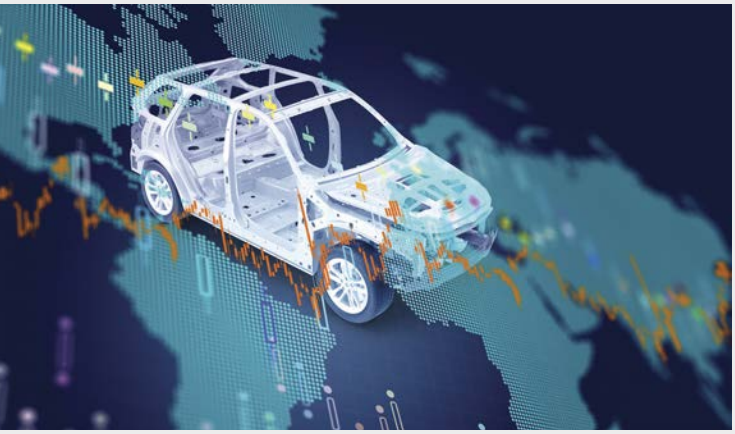
NADA: APRIL 2020 SAAR FALLS TO 8.6 MILLION UNITS

Patrick Manzi, NADA Chief Economist: New light-vehicle sales fell sharply in April to a SAAR of 8.6 million units, the lowest monthly selling rate in almost 30 years. The April SAAR represents a drop of 47.6% compared to April 2019, with declines across the country. Yet many industry watchers believe auto sales have bottomed out and are showing signs of recovery. Those states where there were fewer restrictions on selling vehicles tended to outperform markets that banned all vehicle sales outright or where online sales were allowed with home delivery. And while certain states restricted any vehicle sales whatsoever for the first part of April, online vehicle sales were finally allowed nationwide by the end of the month.

For their part, the automakers have been offering generous loan terms, with zero-percent financing for up to 84 months. The programs are so popular that 18% of customers chose an 84-month loan during the last week of April, according to J.D. Power. Such long-term loans, which provide consumers with increased buying power and the ability to chose from a wider selection of vehicles, helped bolster pickup sales in April. Pickups represented 25.9% of all new vehicles sold last month and were only down 24% compared to April of last year. The light-truck segment as a whole remained popular, representing 76.9% of all vehicles sold in April and 74.6% of all vehicles sold this year.

In May, many states will end their lockdowns and dealerships will reopen—but with enhanced safety, sanitation and social-distancing guidelines. We expect pent-up demand from customers who were forced to delay their lease returns or who are looking for excellent finance terms and enhanced discounts. Sales will likely continue to be down relative to 2019 in the short term. But our forecast for 2020 remains unchanged from last month, with new-vehicle sales between 13 million and 13.5 million units.

IHS MARKIT TRIMS 2020 GLOBAL LIGHT VEHICLE SALES, PRODUCTION FORECASTS



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IHS Markit downwardly revised its forecasts for global light vehicle sales and production as the impact COVID-19 impact has depressed demand. According the new analysis, global light vehicle sales are now forecast to be 69.6 million units this year in the wake of the pandemic. IHS Markit forecasts a similar decline for global light vehicle production, falling to 69.3 million units. Auto sales forecast to drop 22.0 percent, with risk for further deterioration.

Impacts to global auto demand in the wake of COVID-19 have rapidly progressed to severity levels higher than the 2008-2009 recession, and significant uncertainty around prospects for a meaningful recovery remain. Global light vehicle sales in 2020 are now forecast to drop to 69.6 million units, 22.0 percent lower than in 2019, with risks to the forecast still skewed to the downside.

North America is forecast to see sales drop 26.7 percent y/y in 2020. In the U.S. a consumer-led recession looks inevitable for 2020 and autos face a bleak demand slump. There is no national consistency on rules relative to sales activity or duration for stay-at-home orders; there remains risk of another increase in infections, which could result in another wave of state or local-level restrictions, changing the dynamic again. IHS Markit expects that the known monetary and fiscal measures are not enough to prevent a collapse in auto sales, and in 2020, the U.S. market sales forecast is 12.5 million units.

In recent weeks, Mainland China is seeing green shoots of recovery, while much of the rest of the world remains in lockdown. The IHS Markit forecast for Greater China sales in 2020 sees volume at 21.4 million units, a drop of 15 percent from 2019 levels. Though government incentives could help underpin a more orderly recovery profile, these are not yet indicated.

In Europe, COVID-19 lockdowns remain firmly in place for Italy, Spain, France and the UK, though show signs of easing in Germany. Europe will see mixed recovery cycles, as a result of local restrictions and varied economic support and stimulus. Planning is further plagued by varied containment restrictions across the region, and recovery strategies are a work in progress. The forecast is for Europe to see sales fall 24.6 percent to 15.5 million units.

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COX AUTOMOTIVE RETAIL SOLUTIONS COVID-19 ASSISTANCE PROGRAM

Cox Automotive provided an update for the month of June to the Cox Automotive Retail Solutions COVID-19 Assistance Program. As the initial impact of COVID-19 was being felt, Cox Automotive announced a 50% discount on our Retail Solutions Dealer Subscription Product fees for the months of April and May.

As we work our way to a recovery as a country and an industry, it is critical to focus on driving consumers back to your showrooms and virtual properties. The following product enhancements and limited-time free offers remain available. These have been developed to give you the extra virtual and online functionality that consumers expect and dealers are finding vital to their operations: Autotrader Dealer Home Services; vAuto Market Days Supply Trend Report; Xtime Self Check-in, Online Bill Pay & Intra-Dealer Chat; Dealertrack F&I Assisted Remote Signing; HomeNet SnapLot 360.

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NEW RELEASES

AUL CORP. launched a new vehicle service contract product covering the increasingly complex technology systems found in today's vehicles. Aptly named 'AUL-Tech', this new vehicle service contract provides comprehensive coverage for a vehicle's technology systems, including intelligent cruise control, lane departure warning, navigation, display screens, Bluetooth, audio systems and more. Being focused solely on technology, AUL-Tech is also affordable, providing dealers with a cost-effective policy delivering more safety and convenience to their car buyers. Auto manufacturers provide particularly long powertrain warranties, especially so with electronic and hybrid vehicles, leaving opportunities for F&I providers such as AUL to cover items and systems that are equally costly to repair.

To provide regulated and non-regulated fleets with 24/7 visibility to their vehicles' GPS location, speed, and status, **J.J. KELLER** has launched Encompass® Vehicle Tracking. This expansion of the Encompass® Platform also provides significant mapping enhancements, including robust traffic and weather views, so that fleets can plan more effectively. Encompass® Vehicle Tracking pairs with the easy-to-install Geotab GO9 device. The solution works in all vehicle classes, requires no driver interaction, and provides a robust, cloud-based platform that allows businesses to manage Federal Motor Carrier Safety Administration (FMCSA) driver and vehicle compliance.

DEALER OWNED WARRANTY COMPANY introduces NitroShield, a complete tire and wheel protection product. As part one of a complete tire and wheel protection system to improve car safety and efficiency, NitroShield begins with replacing the tires' conventional air with 99% pure nitrogen. NitroShield benefits include extending the overall life of the tire, better fuel efficiency and improved handling of the vehicle - all due to tire-pressure retention. Because tires and wheels work together, NitroShield is bundled with WheelShield, a class-leading, professionally applied wheel treatment which protects the painted and clear-coated surfaces of alloy and steel wheels. Both NitroShield and WheelShield are backed by warranties that provide for the repair, refurbishment, cleaning, and/or replacement of any covered parts.

OLD REPUBLIC INSURED AUTOMOTIVE SERVICES, INC. announces the successful launch of the Hybrid Model Program, created by Re Imagined, Inc. ORIAS has added private label versions of the Re Imagined Core and Hybrid Model Program to its product line, which are available now to agents and dealers nationwide. In coordination with Re Imagined, Inc; the private label program of the Core and the Hybrid Model Program offered are a part of ORIAS' strong commitment to offering the finest products and services in the market today. These programs are available nationwide to agents and dealers for convenient installation effective immediately.

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FOR F&I MANAGERS

Making a Difference for F&I Families, Together

F&I managers are the backbone of our industry. Right now, they are experiencing substantial financial hardships due to the impact of COVID-19. That's why we have come together to form the F&I Providers Relief Fund* to raise funds and provide financial assistance to these professionals and their families in their time of need. If you are an F&I manager, visit our website to see if you qualify for a grant. If you are an F&I Provider, join us. United as one voice, we can support so many of these professionals who have always supported us.

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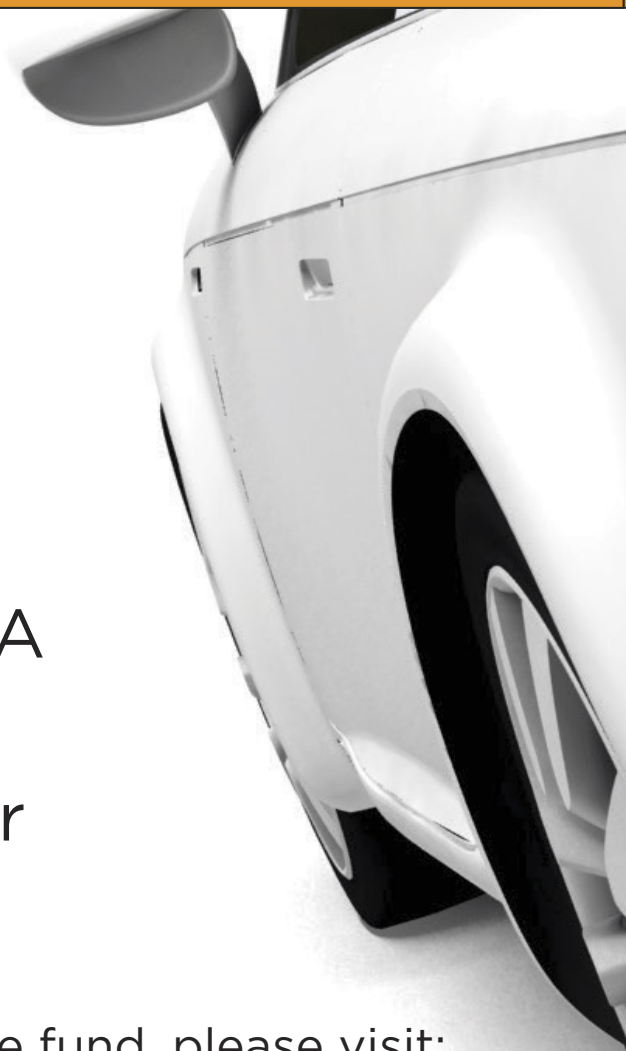

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COVID-19 CHANGES EVERYTHING — EXCEPT HOW AMERICANS WILL BUY CARS

If the COVID-19 crisis has taught dealers anything, it is that they have a fiduciary duty to their shareholders, employees, and customers, to remain well capitalized in order to survive the next crisis. Stay the course, tweak where necessary, but don't be so quick to fix what isn't broken, despite what the disruptors might urge.

BY LEONARD A. BELLAVIA, ESQ.

Before I became a car dealer lawyer, I worked summers at my family's Buick dealerships on Long Island and in Rye, New York, and East Rutherford, New Jersey. Starting as a lot boy, then working as a service writer, I graduated to auto salesperson before I began law school. My father and uncle encouraged me to become a lawyer for the industry, purportedly because very few attorneys specialized in representing dealers. Perhaps they were giving me good career advice, or maybe they just wanted to keep me far away from the family business. I'll never know.

So, I was relegated to learning the business from beyond the family dealerships by representing dealers across Long Island, throughout New York, and, eventually, over the ensuing 35 years, in the other 49 states. Learning the fabric and trends of the business became just as important as knowing the law.

To be sure, the auto retail sector has changed over the years. Occasionally, I will run into dealers that I represented in the '80s and '90s who are either retired or working as a sales manager or consultant. It's never a quick hello, as we lament the changes, new brands, evolving ownership, and technological advances. However, the common refrain is that the franchised dealership model is everlastingly resilient despite all of the frontal attacks, some intentional or cyclical, and others, like COVID-19, unplanned.

There are not many dealer principals active today that operated dealerships through the Arab oil embargo of the early '70s. Gas was rationed, and most vehicles got eight miles per gallon. Showrooms remained empty for months. Dealers survived because the population ultimately needed new cars.

In response to the oil crisis, Honda, Datsun, and Toyota came to the U.S. with fuel-efficient vehicles. The industry experts predicted the demise of domestic dealerships, as consumers would only buy subcompact cars. The domestic manufacturers pivoted, and while their market share diminished, many of those same domestic dealerships that were handed down or sold, still exist today.

The next unfounded prediction came with the advent of the internet. According to the pundits, dealerships would become extinct as the internet replaced dealers. The reality was that buyers still wanted to test-drive vehicles and see the colors and options firsthand. The internet supplanted the due diligence process, but fell short of replacing dealers.

You may recall the radical transformation that was forecasted to finally eradicate the private capital dealer: factory-owned stores. There was the Ford Collection experiment. It flopped largely because the OEMs discovered too late that knowledge of a local market is best left to local dealers.

Then, GM concluded that the buying public would prefer fixed-price selling. Dealers would need to adapt to the Saturn business model or fail. They didn't adapt and they didn't fail. Saturn did.

In 2009, I found myself in the role of co-lead counsel in the Chrysler bankruptcy proceedings, representing many of the 789 rejected dealers. I cross-examined every self-proclaimed expert from Harvard and Yale who posited how increasingly fewer dealers were necessary to save Chrysler. Fast-forward 11 years, and those theories have been proven wrong, as more than 400 dealers have been added to Chrysler's network.

The next death knell, according to the disrupters, was the factory-direct-selling

It is up to dealers to maintain control of their economic destinies.

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model of Tesla, which would surely eviscerate the franchise system. These industry outsiders mused that the general public had no use for local dealers. How wrong they were. Recently, Tesla vacillated over whether to shutter all of its "galleries." Moreover, since Tesla came on the scene, the number of traditional franchised dealerships actually increased.

More recently, electric and autonomous vehicles, as well as ride sharing, have come to the forefront, only to be relegated to the background as consumers continue to stay the course within the traditional culture of two cars in every driveway (both with combustion engines, thank you very much). It is still early, but electric vehicles don't seem to have that "vroom" quality, that appeals to consumers.

By now, you can guess where this is going. Franchised dealers have successfully emerged from game-changing events and crises, and the business model has remained substantially intact, the predictions of industry mavericks notwithstanding.

Of course, no one predicted or advocated for the COVID-19 pandemic. However, the firestorm rages over how it will revolutionize selling. Dealers are being deluged with marketing advice and solicitations from vendors, along with invitations to webinars that promote and facilitate remote digital selling. Virtual test drives and home deliveries are the flavor of the month. Adapt to the "new norm" or become extinct, they caution. I wonder if these are the same armchair experts who warned franchised dealers about subcompact cars, the internet, factory-owned stores, fixed-price selling, reduced dealer footprint, factory-direct selling, electric vehicles, and ride sharing.

After COVID-19 ends and becomes a horrific memory, life will go on. In my opinion, complete remote-selling will not be embraced by the majority of the public. To the contrary, I predict "end-to-end" online selling will be utilized by only 5-10% of consumers, and even less if talented salespeople convert these customers to hybrid online buyers. It is impersonal in an interpersonal world. The purchase of the family vehicle does not lend itself entirely to remote interaction. The process is not that sterile. The human senses come into play with respect to test drives, color choices, comfort, and the need to understand financial options. Innovators and vendors will resist the notion that customers will continue to prefer to visit the dealership and become comfortable with the product, along with the people selling and servicing the product. Relationships matter. That is not to say the process doesn't need to be materially streamlined. That is a topic unto itself.

Maybe it's all as simple as customers not wanting to part with their money and sign on the dotted line until they sit in their new vehicle, test drive it, and on delivery, smell it, feel it, and check for scratches. Or perhaps it's as wholesome as customers clinging to the multi-generational tradition of visiting the dealership to select the next family vehicle.

Industry pundits, along with vendors seeking relevance, blindly envision a world where dealers will double or triple their workforce and hire "runners," whose sole

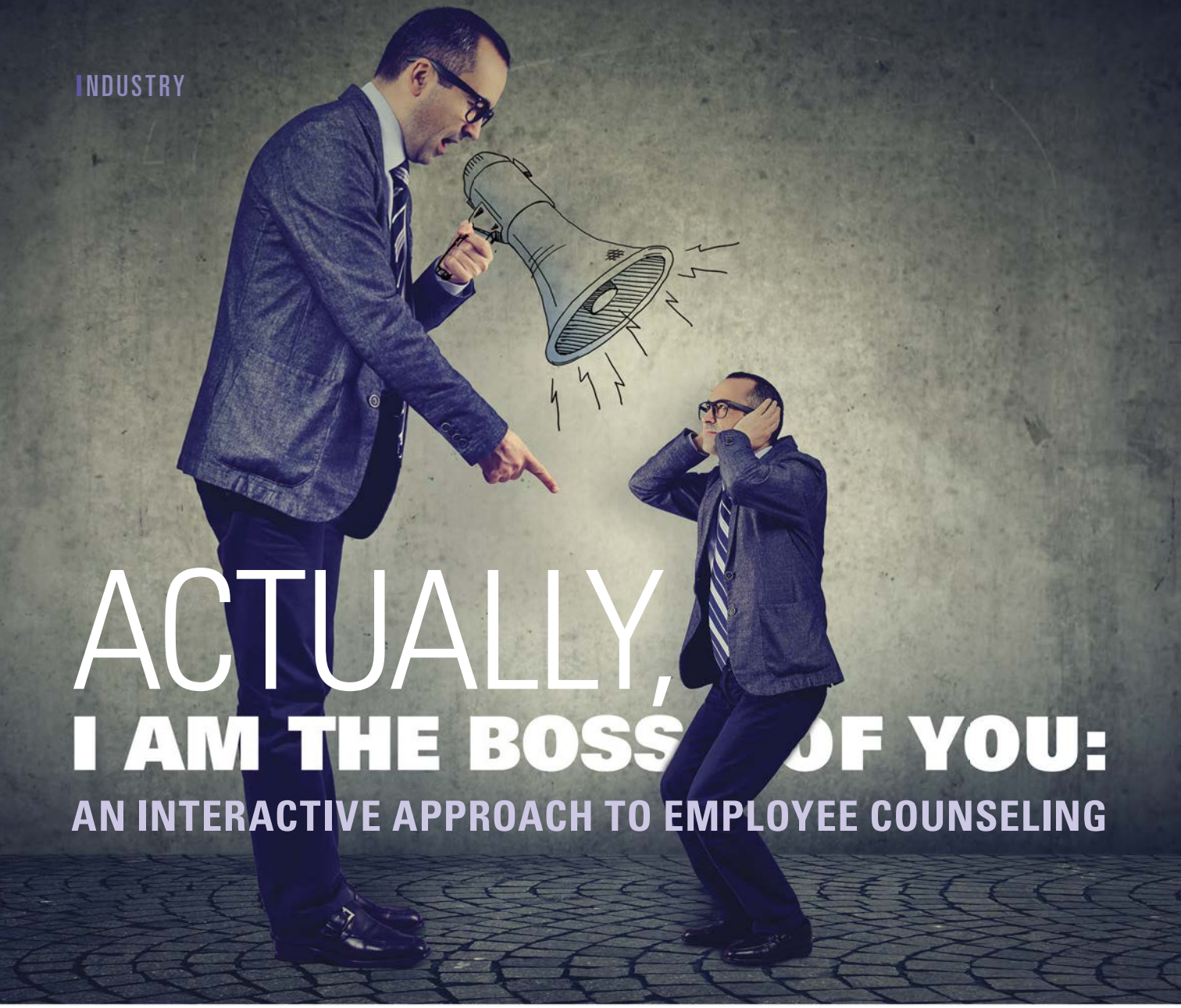
job is to drop off and pick up vehicles at consumers' homes for test-drives, appraisals, deliveries, and service. Such an endeavor would require several hundred round trips a day. When pressed over the absurdity and impracticability of such a model, they recommend that dealers leave vehicles overnight for consumers to test drive to lessen the strain. However, this will only add further risk, cost, and exposure to those dealers.

It is up to dealers to maintain control of their economic destinies. Unrestrained legal liability and added insurance and payroll costs solely to accede to the remote selling model beyond this pandemic will preclude any notion of sustained profitability. That is, unless consumers are willing to suddenly pay list price for such white-glove service. If the COVID-19 crisis has taught dealers anything, it is that they have a fiduciary duty to their shareholders, employees and customers, to always remain well capitalized in order to survive the next crisis for the good of all constituencies. In my 35 years of representing dealers, the clients that survived the longest were the ones that resisted the temptation to be all things to all people. Besides, customers have a newfound appreciation for getting out of the house. Staying home and buying online has worn out its welcome during COVID-19.

Every few years on the way back from JFK Airport, I take a short detour and pass by the dealership that my father and uncle owned. I pause in front of the showroom, unnoticed, and observe salespeople and customers transacting business largely the same way it was done when I worked there 40 years ago. My legal advice is to stay the course, tweak where necessary, but don't be so quick to fix what isn't broken, despite what the disruptors might urge. **AE**

Legal Disclaimer: This article does not constitute legal advice. You should consult an attorney for any matters discussed herein.

Bellavia Blatt, PC is a nationally recognized authority in the field of automotive franchise law. Leonard Bellavia, the firm's founding partner, is a regular speaker at national automotive trade events and has served as chairperson of the Litigation Section of the National Association of Dealer Counsel and member of its board of directors.



ACTUALLY, I AM THE BOSS OF YOU:

AN INTERACTIVE APPROACH TO EMPLOYEE COUNSELING

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The goal in disciplining employees is not to punish but rather to affect a positive change in the employee's conduct or performance, and should remain compatible with that goal and reduce the number of times someone says, "you're not the boss of me."

BY TILLMAN COFFEY

To many employees, being written up is perceived as another way of being told that someone is the boss of them – "do this or I will fire you." They have no voice in this "my way or the highway" dynamic. And reminding an employee that you are the boss is unlikely to fix performance problems – it may even make matters worse.

Rinse and Repeat, Rinse and Repeat

A typical employee disciplinary process unfolds this way. A manager develops a write-up, including a warning that a disciplinary action, "up to and including termination," may follow if the problem reoccurs. The manager presents it to the offending employee, who is then given an opportunity to sign it, and it is then placed in the employee's personnel file. Often, the employee performs acceptably for the next few weeks or months, but then gradually drifts back to their old ways. The cycle repeats itself with no sustained positive outcome.

This approach is certainly better than doing nothing, and it allows the manager to answer, "yes" to the question, "is there anything in their file?" But it is unlikely to change the employee's behavior, and may in fact simply create animosity between the manager and employee. This potential dynamic is one of the reasons many dealership managers, especially those on the sales side where a positive attitude is key, are reluctant to write up anyone. Many managers believe that if they write up an

employee, the employee's head will not be right, and performance will suffer.

How to Bring About Real Change

Utilizing an "interactive counseling" approach, where the employee is involved in the process more effectively, may be more likely to bring about an actual change in behavior. In the dealership setting, this process should reduce the number of times a manager has to "put an employee back together," because it's less confrontational. It works like this:

First, the manager identifies the problem or problems in a way that the employee will understand. The more objective and tangible the explanation, the better. Rather than saying the employee has a "poor attitude," you may want to say: "We've had complaints from customers and coworkers;" "You have been tardy four times in the last two weeks;" or "You refused to follow these directives." Including specific examples also helps clarify the concern.

Second, the manager prepares a memo to the employee based on an existing form that explains the problem – describing what they are doing or not doing – and how this conduct or performance is affecting the company. The memo has a space for the employee to provide their response to the following questions: "Do you agree with my assessment of the situation? If yes, please explain why your conduct or performance shortfall is happening. If you do not agree, please explain why."

Below the space for the employee's response, the employee will be asked to respond to the following instruction: "Please list three specific things that you will do, and three commitments you will make starting tomorrow, to address my concerns and to perform to expectations."

Third, meet with the employee first to explain the performance or conduct problems as you see them, and then to provide the interactive counseling memo you prepared that mirrors the issues you just discussed. Tell the employee to take it home overnight, give it some thought, complete it, and return it to you the following day. When they return it, take some time to study the employee's comments before you meet again to determine:

- Did the employee acknowledge the problems you listed?
- What kind of explanation did the employee offer?
- Did the employee list three specific things they will do to correct the problem and improve their performance?
- Did the employee take this process seriously?
- Did the employee accept responsibility for their actions or performance?

If the employee's plan does not adequately address your concerns, you should tell them that you need additional information and instruct them to add any additional steps or missing information to the plan. If that's the case, meet with them a second time to go over their supplemental responses. Have the employee add any additional steps you feel are necessary to address your concerns. Then have the employee sign the plan, confirming their commitments.

Fourth, monitor the employee's performance over the next few weeks. If it improves, acknowledge it and thank the employee for their efforts, cooperation, and improvement. If performance does not improve, meet with the employee to remind them of the commitments and ask for an explanation. If the employee does not offer a satisfactory response, consider terminating the employee for failing to live up to the commitments.

> The goal in coaching or disciplining employees is not to punish but rather to affect a positive change in the employee's conduct or performance.

The Better Approach

There are some key advantages of the "interactive" counseling approach. It might reveal a misunderstanding or a skills gap that can be remedied through training. If the problem is with the employee's performance, they will be hard pressed to later deny a problem if they have already acknowledged it in their own handwriting, or that expectations were set too high if they themselves helped craft them.

Moreover, the act of taking the time to complete the plan will force the employee to understand that their job may be in jeopardy. Employees worth retaining will think seriously about what changes they should make and create a meaningful plan. Employees worth losing will self-select their way out of the job by not putting in the right effort.

Valuable employees are more likely to view this process as constructive and not as punitive in nature as the typical write-up. But if things don't improve, you will be left in an excellent position to prove with a single document that you did your job as a manager – and it could make for a crucial exhibit if the employee later files a lawsuit against your dealership.

The goal in coaching or discipling employees is not to punish but rather to affect a positive change in the employee's conduct or performance. The interactive process is compatible with that goal and designed to reduce the number of times someone says, "you're not the boss of me." **AE**

Tillman Y. Coffey is a partner at Fisher Phillips, a national workplace law firm representing employers, where he counsels and defends auto dealers on a wide range of employment law issues, including claims of discrimination and harassment, wage and hour laws, and family and medical leave laws.

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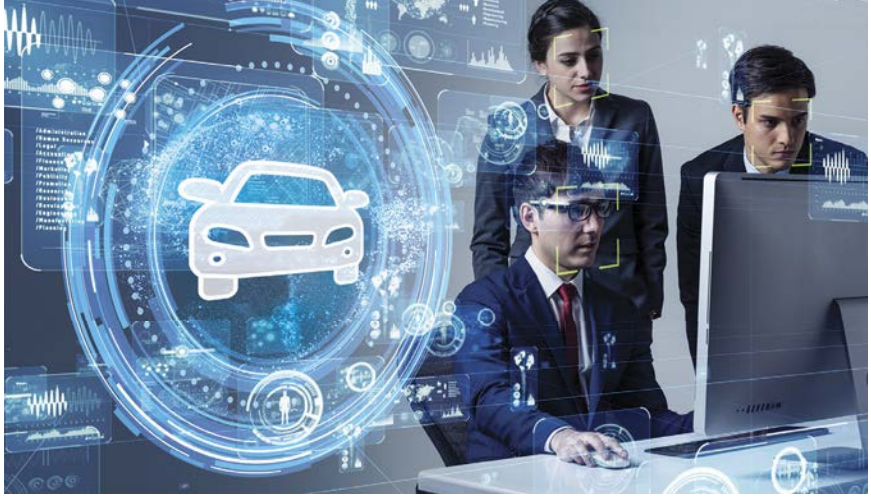
WHY DO CYBERCRIMINALS TARGET AUTO DEALERSHIPS?



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Cyberattacks are happening fairly frequently, and dealerships are prime targets because they have exactly what cybercriminals are looking for. Take the necessary steps to protect your dealership.

BY ERIK NACHBAHR

I'm often asked how many dealerships have experienced a data breach, hack, or cyberattack. The answer is, "no one knows for sure." Because, understandably, most dealers that have experienced this type of attack don't want to talk about it publicly.

But whenever I'm speaking somewhere, multiple dealers reach out to me afterwards to tell me their stories about how they have, in fact, experienced a breach or cyber theft. Just recently, I heard about a dealership employee who was scammed into wiring $75,000 to a cybercriminal's bank account.

My belief is that cyberattacks are happening fairly frequently, and auto dealerships are prime targets because they have exactly what cybercriminals are looking for, and because their information technology (IT) systems and policies tend to be outdated, or not a top priority.

What Do Cybercriminals Want?

Like most criminals, cybercriminals are motivated by money, and go about getting it in one of several ways.

One way is to steal your customer data and sell it on the dark web. Auto dealerships have vast amounts of customer data contained in their technology systems, including credit applications, credit scores, bank account information, and social security numbers.

Another common way to steal money is wire fraud. This is most often perpetrated by a sophisticated phishing scheme, where a cybercriminal poses as a senior executive and sends someone in the accounting office a "spoofed" email containing a wire request. To the accounting person, the email and request appear to be legitimate, so they wire the money.

Cyber criminals can also gain access to a dealership's bank accounts by installing a type of malware that tracks the keystrokes of computer users. If a user has access to your dealership's bank account, the cybercriminal simply waits until they login and captures the login credentials. Once they have this information, the cybercriminal transfers money out of your account. Fortunately, this type of theft is becoming less common with the increasing usage of two-factor authentication to verify all bank logins.

Outdated IT Systems and Policies

As a whole, auto dealers tend to lag behind other industries when it comes to investing in their IT systems, making them more vulnerable to attacks. According to Total Dealer Compliance, only 30% of dealers employ a network engineer with computer security certifications or training, and more than 70% of dealers are not up to date on their anti-virus software.

Many dealerships also use outdated software, such as the Windows 10 operating system. This makes them incredibly vulnerable to cyberattacks, since Microsoft is no longer issuing security patches for Windows 10, making it easy for hackers to gain access to your network.

Since 91% of all data breaches start with a phishing attack, it's essential for dealers to train their employees on how to identify and avoid phishing emails. Enrolling employees into an automated security awareness training program is by far the most effective way to prevent a data breach.

It's also critical that every dealership has a set of written policies and standards regarding its IT operations. These include:

- Incident Response Plan: If a data breach or cyberattack occurs, do you know how to respond? This plan details the steps that should be taken, the people that need to be involved, and what should be communicated to whom.
- Acceptable Use Policy: This set of rules establishes guidelines for how the IT environment may be used.
- Minimum Access Policy: This defines the minimum-security requirements for devices and user access to the network, including rules for password complexity, authentication standards, and specifics around patching and anti-virus software.
- Data Classification Standards: A list of data and assets that are sensitive and critical to the organization (such as customers' personal and private information, financial data and any trade secrets), where this data resides, how it should be handled, and who requires access.

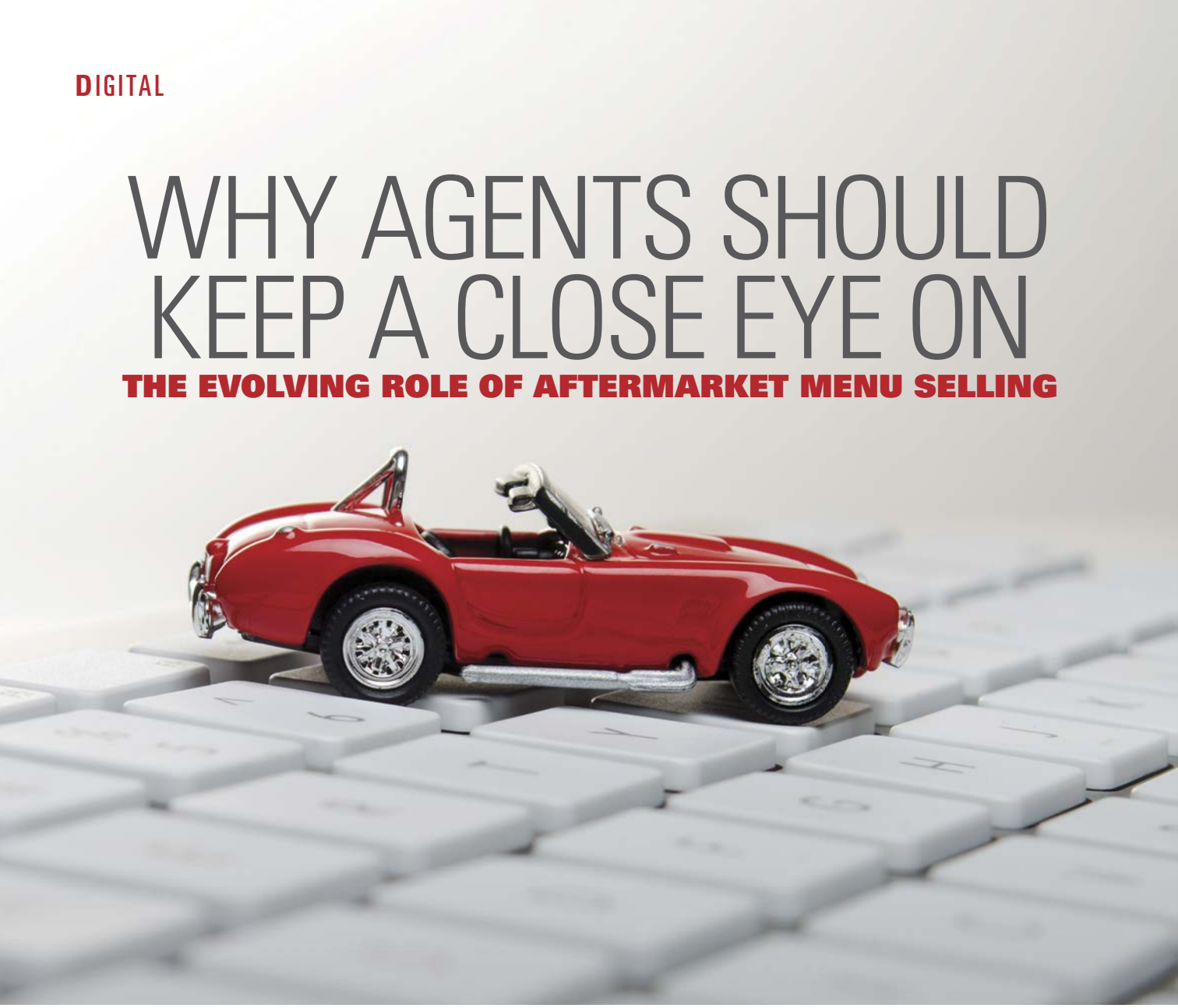
Additionally, every dealership should purchase some type of cyber liability or data breach insurance, which offers financial protection in the event of a successful breach or attack.

Just because auto dealers are prime targets for cybercriminals, doesn't mean your dealership has to become their next victim. Take the necessary steps today to protect your customer data, your bank accounts, and your reputation. **AE**

Erik Nachbahr, CISSP is the founder and president of Helion Technologies.

WHY AGENTS SHOULD KEEP A CLOSE EYE ON

THE EVOLVING ROLE OF AFTERMARKET MENU SELLING



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Consumers and dealers alike have turned to digital retailing in spades as we all adapt to being virtual during these challenging times. Two digital experts sat down with AE to discuss the evolution of menu selling, the need to bridge the traditional F&I sales model with digital retailing, and best practices for agents.

BY STAFF

While the shift to online car sales has been underway for some time now, many agents and dealers have been understandably hesitant to bring more of the F&I process and product presentation experience online, out of fear of lost profit. But now, consumers and dealers alike have turned to digital retailing in spades as we have all had to adapt to being virtual during these challenging times. In fact, according to the 2020 Cox Automotive COVID-19 Consumer Impact Study, 50% of all dealers plan to shift more activities online in the near future.

Cheryl Miller, vice president of operations for Dealertrack F&I Solutions, and Phillip Battista, chief executive officer of Darwin Automotive, recently sat down with *AE* to discuss the evolution of menu selling, the need to bridge the traditional F&I sales model with digital retailing, and best practices for agents as they adapt to this new normal.

Q How has menu selling, and when it occurs in the deal making process, evolved over the past 10 years?

A Miller: Over the past few years in particular, new technology has been coming to the market that has radically changed the F&I process for the better. Dealers today have the capability to drive one paperless F&I workflow and deliver aftermarket presentation on any device. While menu selling has traditionally been

pushed to the end of the process, emerging technology and system integrations are enabling dealers to introduce and educate consumers about aftermarket products significantly earlier in the deal-making process both online and in-store.

A **Battista:** Ten years ago, electronic menus were created. At that time, however, the industry looked to menu selling for compliance and protection from lawsuits rather than selling product more effectively. Over time, menu selling became a key part of the F&I process. Everyone is doing it now, and it has grown from a compliance tool to a core tool to help drive revenue.

As far as the current digital age and looking to the future are concerned, electronic menu selling is an important part of the process to better engage with consumers the way they want to be engaged. The next phase, which is already in motion today, is a mobilization to smartphones, tablets, and online for the customer. The process has grown from a piece of paper, to electronic, to mobile, and to online on the dealer's website, where the consumer is aware of options prior to walking in the door or purchasing online.

Q Why is moving menu selling, earlier in the deal-making process, so critical to F&I profitability?

A **Miller:** Moving menu selling earlier in the deal-making process is a game changer, as it gives dealers the opportunity to increase transparency and become a more consultative figure to consumers. While F&I aftermarket products can be an important source of profitability for dealers, pushing it to the end of the car-buying journey, after consumers already think the final price has been locked in, is no longer a viable option. Today's car buyers expect transparency throughout the entire process and want to be able to learn about the available products on their own time. In fact, according to the 2018 Cox Automotive Future of Digital Retail Study, 71% of consumers prefer to get information about the deal – including aftermarket add-ons – online and outside of the dealership. Agents can be catalysts for helping dealers adjust to this new reality by working with them to maximize each step of the menu-selling process.

> Agents are already some of the strongest subject matter experts for the F&I process and menu selling. Add subject matter expertise on top of digital retailing with menu products to help dealers and partners make a profitable shift.

A **Battista:** The concept of consumers doing research online isn't new. And in today's market where we are required to be virtual, many more consumers have turned online for all kinds of purchases and related research. What has evolved even further is how dealers interact with consumers online. The fact is, if they start to educate customers about F&I protection products as part of the process earlier in the sales cycle, the take rate is dramatically higher, and the number of products purchased increases significantly.

Today, success in F&I depends mainly on three things: transparency, education, and personalization.

As Cheryl also points out, dealers must be transparent and provide education. Then, what makes the real call-to-action is to have the presentation personalized specifically to the individual customer; to their vehicle, driving habits, etc. For most dealerships, the F&I process now starts with the consumer completing a simple ownership survey. This information is then merged with DMS information, including purchase history when applicable, and external data to identify the F&I products most likely to resonate with each customer. All products are presented to ensure compliance, but the presentation order changes based on the individual customer's needs.

Why is F&I so important? The proof is in the data – NADA market data to be exact. It shows a 39.6% increase of overall gross profit for the past two years for both the new and used vehicle department coming from protection products. Dealerships simply cannot afford to lose out on these sales. Consumers these days have become used to a simple click-to-buy process. If F&I is not part of the dealer's digital retail process, then long-term prospects and profitability are at risk.

The challenge, and where the menu process comes in, is when the consumer goes from the salesperson with whom they have built a relationship with into the F&I office. Here, they are confronted with a stranger. There is a real barrier to entry, as the customer does not know who the F&I manager is. And, in most cases, the F&I manager knows nothing about the customer in front of them. A menu helps bring down the barrier, and the customer can feel more engaged with the process.

Q How can agents and dealers bridge the traditional F&I sales model with digital retailing to better meet the needs of today's consumers?

A **Battista:** Simple – put F&I into the digital retailing application. The same way as offline – include transparency, education and provide personalization. In digital retailing, offering too many choices will confuse the consumer. Ultimately, dealers want to control profitability and differentiation. Online, they may offer a service contract personalized to the consumer with a $100 deductible. If the customer comes into the store, the dealer can offer them that $100, plus a $50 or $0 deductible, which may work better for them.

Keep it simple on the web, with one

option personalized for each customer, but protect the dealership's ability to build gross profit with other options that can be talked through at the dealership.

A Miller: Now more than ever, it's important for dealers to make the move to digital retailing. Agents will play a vital role in helping dealers navigate the learning curve to optimize each step of the digital retailing process. In order to sell more cars at greater profits, the consumer must be able to interact with menu choices to see the complete all-in price inclusive of trade-in, monthly payments and any aftermarket products under consideration.

Q How does the unifying of technology providers help agents and dealers better personalize the F&I selling process and enable a more seamless workflow?

A Battista: From an agent perspective, you will miss out on sales if you are not including F&I in digital retailing. Customers are doing more and more of the transaction online. If dealers do not offer F&I up front as part of this process, they just become a place for the delivery and lose the protection product sales.

A Miller: The way we see it, the more that technology solutions and providers can come together to bring greater flexibility to dealers' workflows, the better. With greater integration, agents can work with dealers to find the solutions that map best to their processes. When aftermarket menu selling can connect to the rest of the F&I process, it gives dealers more data to work from to personalize the experience, understand which aftermarket products the customer wants, and how those choices will influence the terms of the deal.

Q What are some best practices agents can leverage as they adapt to this shifting F&I sales model?

A Battista: Just be open to new concepts. Don't be afraid as the F&I sales model continues to transform over the next few months. It will move more-and-more online, and agents and dealers need to be flexible to that dynamic and change with it.

A Miller: The industry is going virtual, and we all need to grow, adapt, and deliver to meet consumer needs. Agents are already some of the strongest subject matter experts for the F&I process and menu selling. Add subject matter expertise on top of digital retailing with menu products to help dealers and partners make a profitable shift. **AE**

COVID-19 and Compliance?

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There are many parallels between COVID-19 and compliance, as both are different varieties of disaster and require planning and foresight to address. Lessons learned during this pandemic apply with equal force to compliance issues.

BY ROBERT J. WILSON, ESQUIRE

While COVID-19 has taken the lion's share of current event reporting, you would be excused for wondering what connection it has with compliance. In fact, there are many parallels as both are different varieties of disaster that require planning and foresight to address. There is a saying in the parental playbook, which invokes the "5 Ps": Proper preparation prevents poor performance.

1 Be Prepared

Best practices include having emergency protocols and an emergency preparedness team in place before the emergency. In compliance, this means having policies and procedures. These policies anticipate the compliance issues the business may face (e.g. privacy, data security, or other regulatory requirements); assess the risk based on the size and nature of the business; and develop procedures to detect, protect and, if necessary, respond to compliance attacks. Preparedness requires engagement from senior management to validate the priority to be given to emergency preparedness and the effort expected of all team members. While a compliance failure is not a matter of life or death like the COVID-19 crisis, it can represent a financial and reputation "life or death" disaster for affected businesses, spawning fines, penalties, investigations, and possibly class action lawsuits.

2 Stock Up on Personal Protective Equipment

Personal protective equipment (PPE) is a critical tool in your arsenal to fight anticipated threats. Compliance management systems (CMS) can be considered PPE for businesses to protect against the various compliance threats such as fraud, data security, and phishing attacks, to name a few. Using your CMS to train your staff to recognize compliance issues and address those issues in a consistent, repeatable fashion, before the compliance meltdown occurs, is just what you expect from PPE. A CMS can stop or help lessen the impact of compliance issues arising in the current and future challenging legal/regulatory landscape.

3 Be a Leader

Leaders own their roles and they do not shirk responsibility. Does your leader value compliance preparedness? Does your leader allocate resources to compliance preparedness? Businessman Arnold Glasow stated, "one of the tests of leadership is the ability to recognize a problem before it becomes an emergency."

As noted above, the leader sets the tone for the business and validates the priority to be given to anticipating future threats to the success of the business. A CMS includes policies and procedures, but leaders

also need to implement audit functionality to test the systems in place. Are the compliance lessons being followed by each and every employee in the dealership? Are the compliance policies being implemented from the initial customer greeting through the sale process to the F&I office, the accounting office, the service department, the parts department, and by the dealership vendors? If just one employee, department, or vendor is not properly trained, prepared, or vetted, the entire dealership will be exposed to a preventable disaster.

COVID-19 has been the biggest public health crisis of our lifetimes. The ensuing social isolation has fundamentally changed the way we interact and the way we do business. While we are all looking forward to the phased recovery from the COVID-19 mandated sheltering in place, one can't help but wonder about the impact on client-facing businesses such as dealerships. Will we see a transformation of the sales process from a personal touch approach to a strictly digital approach?

Through the COVID-19 experience, we now know the fear and uncertainty of an invisible enemy which can strike us down if we are not vigilant. The importance of compliance failures are dwarfed in comparison to the awful loss of life and freedom brought upon by COVID-19, but the same principles apply. Businesses must plan for disaster and must equip their team with proper tools such as a CMS, to detect and prevent disaster before it happens. We can and will overcome this challenge and grow stronger for the future ... just remember the "5 Ps"! **AE**

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Robert J. Wilson, Esquire (Bob) is a Philadelphia lawyer and is General Counsel for ARMD Resource Group. Bob is the principal of Wilson Law Firm and has over 30 years of experience both as a counselor and as a litigator in State and Federal Courts. Risk management, problem solving and dispute resolution are his core competencies. Bob's practice is largely in the consumer finance space and he regularly consults with Lenders and contributes articles on various compliance related issues.

Retail Reset

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As a result of the coronavirus pandemic, dealerships have experienced a complete retail reset, and the dealerships you serve will be looking for more than a way to regain profits – they will be looking for answers.

BY RICK McCORMICK

"Bad companies are destroyed by crisis. Good companies survive them. Great companies are improved by them." – Andy Grove

These past few weeks we have experienced much more than a business interruption. We have experienced a complete retail reset. Likely, none of us will escape without some effect on how we buy things. Our customers will also change in the ways they buy vehicles and the products designed to protect them. The dealerships that you serve will be looking for more than a way to regain profits – they will be looking for answers. Here are a few of the questions you need to be ready to answer.

Do We Have the Right Products?

Now is the perfect time to evaluate the products each dealership has and determine what should be added or reconfigured to give the necessary level of coverage. Not all products were considered useful at one time, such as the antimicrobial protection in most environmental products. However, after this epidemic, can you imagine a customer not being interested in a benefit that sanitizes the interior of a vehicle against virus-causing germ build-up? That benefit is extremely relevant now.

Review if the disappearing deductible is being utilized effectively when a service contract is sold. The difference in the cost to the customer of a disappearing deductible as opposed to a standard $100 deductible is minimal. However the benefit to both the dealership and the customer is magnified in our current environment. Driving service-business back to the dealership has never been more critical than now to the bottom line. The agent that presents the dealership with answers to yet unasked questions will be viewed as proactive and a valued partner.

Does My Team Know How to Complete an Offsite Delivery Effectively?

A symptom of the current reset is that more people wish to spend less time at a dealership, and some would desire not to visit a showroom at all. While many F&I offices have software that is capable of a total off-site delivery, few F&I managers know how to do this. Many others don't know how to present menu options or properly present a customer with options.

We must take the time to connect with our dealership's menu company and set up training opportunities that maximize the capabilities of our F&I team. More customers going forward will seek an online option and later come to the dealership for transaction completion. This crisis has undoubtedly accelerated the trend for online options, and we can no longer afford to ignore it. So it's critical to ready your dealerships to this retail shift to get the competitive advantage over slower adapters. This foresight will make you an even more valuable partner.

Are We Ready for the Customer Whose Credit Has Been Adversely Affected by This Crisis?

This crisis has done a lot of damage to many customers' credit scores. Despite the preventative measures put in place to temporarily limit the economic damage, many will still face a long-term financial struggle.

This struggle will also lead to a more sub-prime customer base. Some dealerships have shied away from the sub-prime customer in the past, but now anyone can find themselves in this financial situation. Now is the time to have this discussion with lenders and start new relationships that can appropriately handle these customers. Have that conversation with your dealer partners and be the catalyst to necessary change.

We have experienced a retail reset. We need to help our dealerships adapt and change because we are the "change agents" they trust. AE

Rick McCormick is the national account development manager at Reahard & Associates Inc.

Inject Red Flags with Steroids

Law requires that dealers have policies, procedures, and processes in place to reasonably detect and prevent identity theft. Agents can assist their dealer-clients to ensure these updates are completed and solutions implemented.

BY GIL VAN OVER

Since 2008, the Federales require that dealers have policies, procedures, and processes in place to reasonably detect and prevent an identity thief from using a victim's identity to purchase and finance a vehicle from a dealership.

Most dealers set up sufficient processes when the law became effective, but some have let the process stagnate. I suspect that many dealers have not met the additional requirements of completing an annual report or an update to their Red Flags policy to address new threats (such as synthetic identity fraud). Agents can assist their dealer-clients to ensure these updates are completed and solutions implemented.

We must continually remind ourselves and our dealer clients that as the identity thieves continue to get better at their profession, we must ramp up our processes to detect them.

Today's Lockdown Reality

Many dealers' Red Flag vetting processes were fairly standardized before the coronavirus pandemic lockdowns. Dealers relied on a third-party vendor to vet the credit applicant who provides the dealer with a basic pass/fail report after they enter the credit application information into the vendor's software and obtain a credit bureau report.

With a thumbs-up, the sales manager continues with the sale. If the vendor's report shows a thumbs-down, some sales managers resolved the potential discrepancy, some ignored the finding, and others manually updated the report to erroneously state the potential discrepancies were vetted and resolved.

The lockdown has dealers transitioning to a digital remote delivery process and they are so focused on this, the Red Flags vetting process may have been overlooked or taken for granted.

Here are some "Red Flags on steroids" solutions that agents can bring to their dealers.

Risks in Remote Digital Deliveries

Some might say that the risk of identity theft does not necessarily increase with remote deliveries, whether digital or paper-based. I submit that identity thieves are generally non-confrontational. Many do not want face-to-face contact and would prefer to steal a victim's identity from afar. This preference for an identity thief in Chicago to purchase and finance a vehicle on a Florida dealer's website, passing over hundreds of similar vehicles available locally, has always been a red flag of identity theft.

Out-of-Area Policy

A dealer should have an out-of-area procedure in place to handle any delivery not completed in the showroom. I do not know of any dealer who dedicated a portion to out-of-area deliveries in its original Red Flag policy.

Government-Issued ID Vetting

Any valid Red Flags policy must also require that the consumer provide a valid government-issued ID to purchase and finance a vehicle. When the Red Flags Rule was implemented in 2008, it was uncommon for an identity thief to successfully forge a government-issued ID. Such is not the case today.

I'm aware of a vendor that has the ability to vet a government-issued ID, essentially using the same machine that TSA uses at the airports. This vendor cannot currently vet the driver's license information with the state DMV to confirm it is a valid license.

Another reputable vendor is preparing to come to market with a process that does not require additional hardware, vets the driver's license or passport, provides optional facial recognition telematics, and can confirm the driver's license information with many state DMVs.

One of these company's product should be used on every retail sale.

Off-Site Signing Service

There are a couple of national document-signing services that use local notaries to contact the customer, obtain signatures, confirm identification, and notarize the documents. These should be employed on every non-digital remote delivery.

Fingerprinting

A few of my dealer clients obtain the right and left thumbprint of every person contracted on a vehicle sale. The dealer reports that each month there are a handful of times when a consumer finds a reason to step out of the F&I office when asked to provide a thumbprint and disappears. The dealer believes that the potential loss of an identity theft disappeared on that transaction as well. He also tells me about the time he did have an identity theft, provided the thumbprint to the police officer, and the thief was ultimately apprehended.

Stay tuned, and as always ... Stay safe, good luck, and good selling. **AE**

Gil Van Over is the executive director of Automotive Compliance Education (ACE), the founder and president of gvo3 & Associates, and author of *Automotive Compliance in a Digital World.*

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