



Motor
Vehicle Sales Authority
of British Columbia

MOTOR VEHICLE SALES AUTHORITY

ADVERTISING GUIDELINES

Pursuant to Motor Vehicle Sales Authority Directive 4

Effective July 15, 2009

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Record of Updates

The table below outlines the updates to the Motor Dealer and/or Motor Vehicle Sales Authority (VSA) Advertising Guidelines since the document was first published in November 2005. The “Date” column shows the month that the updated guidelines were published. The “Changes” column describes the changes from the previous version of the guidelines. The “Advertising Bulletin” column references the Advertising Bulletin that explained the changes included in the updated guidelines.

Advertising Bulletins and the most recently updated version of the Advertising Guidelines are available on the Vehicle Sales Authority (VSA) website at www.vehiclesalesauthority.com.

| Date | Changes | Advertising Bulletin |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| November 2005 | Original document | N/A |
| July 2006 | <ul style="list-style-type: none"> • new definition for “deceptive or misleading advertising” – see pg. 6 • further examples of deceptive or misleading advertising – see pg. 7 | AD-1 |
| | <ul style="list-style-type: none"> • clarifies policy on price comparisons of new and used vehicles – see pg. 9 • change to policy on advertising savings claims for used vehicles – see pg. 10 | AD-2 |
| October 2007 | <ul style="list-style-type: none"> • addition of guideline on use of fine print – see pg. 7 • changes to definition and requirements for display of total price – see pg. 8 • changes to information that must be displayed when advertising credit – see pg. 11 • changes to information that must be displayed when advertising leases – see pg. 13 • changes to information that must be displayed when advertising extended warranties – see pg. 15 • clarification of requirements for dealer identification – see pg. 17 • changes to information that must be affixed to a vehicle – see pg. 18 • general update including changes from Motor Dealer Council to Vehicle Sales Authority; references to legislation, and wording changes for clarification | AD-3 |
| July 1, 2009 | General update, including the following: <ul style="list-style-type: none"> • changes to the numbering system for easier reference to individual guidelines • updated application of the guidelines to reflect the obligations of both dealers and salespersons | AD-4 |

| Date | Changes | Advertising Bulletin |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| | <ul style="list-style-type: none"> • general revisions to clarify the intent of the guidelines • addition of a reference to the authority for individual guidelines, given in brackets after the guideline • addition of an appendix with excerpts from legislation that is relevant to the guidelines • a new part that outlines general obligations of dealers and salespersons in regard to advertising (see part 1.4) • additional explanation of how the guidelines may be enforced by the Registrar (see part 1.5) • additional examples of deceptive or misleading advertising (see part 2.2) • more detailed guidelines on the use of fine print (see part 2.3 and paragraphs 3.1.2 and 4.2.4) • more detailed guidelines on advertising a price benefit or advantage (see paragraphs 3.1.8 to 3.1.12) • changes to the guidelines on advertising fuel economy (see part 6.1) • changes to the guidelines on advertising warranties, including new definitions for “after market warranty” and “dealer warranty” (see part 7.1 and part 12) • more detailed guidelines on the availability of advertised vehicles (see part 8) • new guideline for information that must be affixed to a consigned vehicle (see part 10.4) • a new part with guidelines on advertising promotional contests (see part 11) | |
| July 15, 2009 | <ul style="list-style-type: none"> • amendment to guidelines on the use of fine print by deleting paragraph 2.3.2 (c) re documentation fee • clarification of paragraphs 3.1.9 and 3.1.11 re non-negotiable dealer additions where applicable to the total vehicle price | |

1. Introduction

1.1. Purpose of the Advertising Guidelines

Under Motor Dealer Directive #4, the Registrar requires that motor dealers and licensed salespersons (dealer/salesperson) adhere to the Motor Vehicle Sales Authority Advertising Guidelines (Advertising Guidelines), as amended from time to time. Adherence to the Advertising Guidelines is a condition of registration and licensing and will be enforced by the Registrar.

The Advertising Guidelines are intended to provide the dealer/salesperson with a comprehensive and plain language description of the requirements for advertising a motor vehicle.

1.2. Important terms

Definitions of important terms used in the Advertising Guidelines are provided in Part 12. Terms that are defined in Part 12 are shown in **bold** in the Guidelines.

The definition of the term **advertisement** as used in the Advertising Guidelines is provided in Part 12, as are the definitions for the following related terms:

- **Dealer advertisement**
- **National advertisement**
- **National and dealer advertisement**
- **Salesperson advertisement**

1.3. Legislation and other requirements

A dealer/salesperson must be familiar with legislation governing advertising as well as all other legislative requirements governing the industry.

The Advertising Guidelines are based on requirements found in the following legislation and are a condition of registration or licensing:

- the provincial *Motor Dealer Act* (MDA); the Motor Dealer Act Regulation (MDA-Reg); the Salesperson Licensing Regulation (SL Reg); and the Motor Dealer Consignment Sales Regulation (CS Reg);
- the provincial *Business Practices and Consumer Protection Act* (BPCP Act); the Business Practices and Consumer Protection Regulation (BPCP-Reg); and the Disclosure of the Cost of Consumer Credit Regulation;

- the provincial *Financial Institutions Act*; and the Insurance Company Exemption Regulation;
- the federal *Competition Act*, (CA);
- any other applicable legislation, e.g. municipal bylaws; and
- VSA Directives, which are conditions of registration and licensing.

Excerpts from the legislation noted above are included in the Appendix to the Advertising Guidelines.

1.4. Dealer/salesperson general obligations

- 1.4.1. A **Dealer advertisement**, **Salesperson advertisement** and **National and dealer advertisement** must meet the requirements of the Advertising Guidelines.
- 1.4.2. A dealer/salesperson, not the advertiser who published the **advertisement**, is responsible for the contents of the published **advertisement** and must ensure that it does not contravene the Advertising Guidelines. [BPCP Act - section 6(2)]
- 1.4.3. A dealer/salesperson may choose to simultaneously use one or more **advertisements** to advertise a single **vehicle** or multiple **vehicles**. In any case, each **advertisement** must meet the requirements of the Advertising Guidelines for each unique **vehicle** that is advertised. In addition, the information provided about each unique **vehicle** and its **total price** must be the same in all current and active **advertisements** for the **vehicle**, and must be consistent with the information affixed to the advertised **vehicle**. [CA – section 74.05]
- 1.4.4. If an original **advertisement** contains incorrect information or **total price**, then the dealer/salesperson must immediately follow that **advertisement** with a “corrected **advertisement**” that clearly and prominently corrects the incorrect information or **total price** contained in the original **advertisement**. A copy of the “corrected **advertisement**” must also be posted in a **prominent** location at the dealer’s business premises and be clearly visible to any consumer. [BPCP Act – section 4(3)(a)(i) and (ii); BPCP-Reg – section 9; CA – section 74.05(1) and 2(b)]
- 1.4.5. A dealer/salesperson must not use the VSA or Motor Dealer Council (MDC) names or logos, or make any reference to being registered or licensed by the VSA or MDC in an **advertisement** except to comply with the identification requirement in Part 9 of these guidelines. [MDA – section 3(2); VSA Directives]

- 1.4.6. The VSA recommends that a dealer/salesperson place an expiry date on their **advertisement** so that consumers know when the advertised **vehicle** and its applicable **total price** expire. If an expiry date is included, the size of the font used to print the expiry date should be no less than 12 point.

1.5. Enforcement by the Registrar

- 1.5.1. Compliance with the Advertising Guidelines will be enforced by the Registrar. Enforcement activities may be initiated as a result of routine monitoring of dealer/salesperson **advertisements**, VSA inspections of dealers, or a complaint received by the VSA.
- 1.5.2. To address non-compliance, the VSA has established a Progressive Enforcement Program, starting with a warning and progressing to a suspension or cancellation of a dealer registration or salesperson licence. Nonetheless, depending on the nature of the non-compliance, the VSA may proceed directly to any appropriate level of enforcement under the Progressive Enforcement Program.

The Progressive Enforcement Program consists of:

- a. a warning (verbal or written)
 - b. a violation ticket
 - c. an undertaking (see paragraph 1.5.3)
 - d. a hearing
 - e. a compliance order (see paragraph 1.5.4)
 - f. an administrative penalty (see paragraph 1.5.5)
 - g. placing conditions on a registration and licence
 - h. suspension or cancellation of a dealer/salesperson registration and licence.
- 1.5.3. An undertaking contains terms and conditions that the dealer/salesperson and the Registrar agree are appropriate. It may include a condition that a dealer/salesperson reimburse a consumer, reimburse the VSA for investigation and legal costs, and pay an administrative penalty. [BPCP Act – sections 154 and 164]
- 1.5.4. A compliance order contains terms and conditions the Registrar determines are appropriate. It may include a condition that a dealer/salesperson reimburse a consumer, compensate other persons who have suffered a loss or damage, and reimburse the VSA for investigation and legal costs. [BPCP Act – sections 155 and 164]

1.5.5. An administrative penalty of up to \$5,000 may be imposed by the Registrar on an individual dealer/salesperson and up to \$50,000 on a corporation for each breach of the *Business Practices and Consumer Protection Act*. If a motor dealer does not pay the administrative penalty within 30 days, the Registrar must impose a second penalty equivalent to 10% of the first penalty. The Registrar may impose an administrative penalty for each day a **deceptive advertisement** is in circulation. [BPCP Act – sections 164 and 165; BPCP- Reg. sections 9 and 11]

1.6. For more information

A dealer/salesperson or any person who has questions or needs more information about the Advertising Guidelines, should contact the VSA:

- by e-mail at enquiry@mvsabc.com
- by phone at 604-574-5050
- by fax at 604-574-5886
- by mail at Suite 208-5455-152 Street, Surrey, BC V3S 5A5
- by contacting your Regional Compliance Officer. (See www.vehiclesalesauthority.com for a list of Compliance Officers by Region.).

2. Deceptive or Misleading Advertising

2.1. Definition of deceptive or misleading advertising

Both the provincial *Business Practices and Consumer Protection Act* and the federal *Competition Act* contain provisions that prohibit a dealer from engaging in **deceptive or misleading advertising**.

Section 4(1) of the *Business Practices and Consumer Protection Act* provides a statutory definition for a “deceptive act or practice,” which applies generally to any dealer/salesperson activity in relation to consumers, including advertising. The “deceptive act or practice” is defined as “an oral, written, visual, descriptive or other representation by a supplier or the conduct of a supplier that has the capacity, tendency or effect of deceiving or misleading a consumer or guarantor.” It may occur before, during or after the consumer transaction. The act says that where a dealer/salesperson is accused of a deceptive act or practice, the dealer/salesperson will have to prove that they did not engage in a deceptive act or practice. [BPCP Act – section 5(2)]

In order to assist in compliance with and enforcement of these Advertising Guidelines, the VSA has established a specific definition for **deceptive or misleading advertising** based on the decision of the BC Supreme Court in *Director of Trade Practices v. Household Finance Corporation of Canada* [1976] 3 W.W.R. 731. The definition of **deceptive or misleading advertising** based on this decision is:

Any use, in the oral, visual, written or electronic communication of material facts, of a representation that tends to lead a reasonable person into making an error of judgment.

2.2. Examples of deceptive or misleading advertising

Without limiting section 4(1) of the *Business Practices and Consumer Protection Act*, one or more of the following constitutes a deceptive act or practice.

- 2.2.1. A representation by a dealer/salesperson that a dealer’s goods or services:
 - a. have sponsorship, approval, performance characteristics, accessories, ingredients, quantities, components, uses or benefits that they do not have [BPCP Act – section 4(3)(a)(i)]
 - b. are of a particular standard, quality, grade, style or model if they are not [BPCP Act – section 4(3)(a)(ii)]

- c. have a particular prior history or usage that they do not have, including a representation that they are new if they are not [BPCP Act – section 4(3)(a)(iii)]
- d. are available for a reason that differs from the fact [BPCP Act – section 4(3)(a)(iv)]
- e. are available if they are not available as represented [BPCP Act – section 4(3)(a)(v)]
- f. were available in accordance with a previous representation if they were not [BPCP Act – section 4(3)(a)(vi)]
- g. are available in quantities greater than is the fact [BPCP Act – section 4(3)(a)(vii)]
- h. will be supplied within a stated period if the supplier knows or ought to know that they will not. [BPCP Act – section 4(3)(a)(viii)]

2.2.2. A representation by a dealer/salesperson:

- a. that the dealer/salesperson has a sponsorship, approval, status, affiliation or connection that the dealer does not have [BPCP Act – section 4(3)(b)(i)]
- b. that the consumer transaction involves or does not involve rights, remedies or obligations that differ from the fact [BPCP Act – section 4(3)(b)(iv)]
- c. about the authority of a representative, employee (salesperson) or agent to negotiate the final terms of a consumer transaction if the representation differs from the fact [BPCP Act – section 4(3)(b)(v)]
- d. that uses exaggeration, innuendo or ambiguity about a material fact or that fails to state a material fact, if the effect is misleading. [BPCP Act – section 4(3)(b)(vi)]

2.2.3. A representation by a dealer/salesperson about the **total price** of goods or services if:

- a. a person could reasonably conclude that a **price benefit or advantage** exists but it does not [BPCP Act – section 4(3)(c)(i)]
- b. the price of a unit or instalment is given in the representation, and the **total price** of the products or services is not given at least the same **prominence**. [BPCP Act – section 4(3)(c)(ii)]

2.3. Use of fine print in advertisements

- 2.3.1. Typically, the information included in fine print in an **advertisement** is included to protect the dealer/salesperson. When used in an **advertisement**, fine print must be readable and clearly distinguishable from its background in the final copy. The VSA

recommends that the font size for fine print be at least 10 point in the published copy.
[VSA Directives]

- 2.3.2. In an **advertisement**, fine print may only be used for the following:
- a. declaring that a consumer is or may be required to pay PST, GST, Battery Levy, Tire Levy, or any other required taxes, which are extra to the **total price** [VSA Directives]
 - b. declaring that, to qualify for credit or a lease, a consumer may be required to purchase insurance, which is extra to the **total price** [BPCP Act – section 71 (1)]
 - c. declaring that a consumer may be offered additional services or products, the cost of which are negotiable [MDA-Reg – section 21(1)(l) and 21(2)(a)]
 - d. declaring **material facts**, unless prohibited by law. **Material facts** regarding a unique **vehicle** must clearly identify the **vehicle** to which they refer by using a number or letter beside the description or picture of the **vehicle** that matches the number or letter reference for the **material facts** in the fine print. (VSA Directives)

3. Advertising Vehicle Prices

3.1. Total price

- 3.1.1. Whenever the price of a **vehicle** is included in an **advertisement**, it must be the **total price** of that **vehicle**. [BPCP Act – section 4(3)(c)(i) and (ii); MDA-Reg – section 26.1]
- 3.1.2. The **total price** of a **vehicle** must be **prominently** displayed in the **advertisement** and may not be included in the fine print unless it also appears **prominently** in the body of the **advertisement**. [BPCP Act – section 4(3)(c)(ii)]
- 3.1.3. The **total price** for a vehicle:
 - a. must be **prominently** and clearly displayed on the **vehicle** being offered for sale [MDA-Reg – section 26 and 27]
 - b. must be the same **total price** in every type of current and active **advertisement** for that **vehicle**, including affixed to that specific **vehicle** [MDA-Reg – sections 26 and 27; BPCP Act – section 4(1); CA – section 74.05]
 - c. must be available to all consumers with no qualifications to purchase except for financing. [BPCP Act – section 4(1)]
- 3.1.4. If an instalment is included in an **advertisement** it must be displayed as **prominently** as the **total price**. [BPCP Act – section 4(3)(c)(ii)]
- 3.1.5. If a dealer/salesperson advertises a “free gift or trip” or any other “free” giveaway as an incentive to purchase a **vehicle**, any costs for receiving the giveaway, including any fees or taxes, must be included in the **total price** of any **vehicle** associated with the incentive. [BPCP Act – section 4(3)(c)]
- 3.1.6. In a **National advertisement**, the **total price** is the **MSRP**.
- 3.1.7. In a **Dealer advertisement**, **National/dealer advertisement** and **Salesperson advertisement** the **total price** must meet the requirements in paragraphs 3.1.8 to 3.1.14. [BPCP Act – section 1(1) definition of “supplier” and sections 4(1) and 4(3)]
- 3.1.8. The *Business Practices and Consumer Protection Act* defines **total price** as the total obligation or amount that is payable, given, undertaken or assumed by a consumer under a consumer transaction. If a **documentation fee** is not negotiable, the

documentation fee must be included in the **total price**. [BPCP Act – section 1(1) definition of “total price” and section 4(1); VSA Directives]

- 3.1.9. A dealer/salesperson may advertise the **total price** of a new **vehicle** by listing in the **advertisement** the **Manufacturer Suggested Retail Price (MSRP)**, plus include any non-negotiable dealer additions where applicable [see 3.1.8 for example], and then deducting from that price each legitimate **price benefit or advantage** to arrive at the **total price** for that **vehicle**. [BPCP Act - section 4(3)(c)(i)]
- 3.1.10. If an **advertisement** uses the **MSRP** and a **price benefit or advantage** as a reduction from the **MSRP** to arrive at the **total price** for a **vehicle**, the dealer/salesperson placing the **advertisement** must have sold a substantial number of similar **vehicles** at that **MSRP** prior to publishing the **advertisement**. [CA – sections 74.01 and 74.04]
- 3.1.11. The **total price** for a used **vehicle** is the total cost at which a dealer/salesperson is offering the **vehicle** to a consumer, must include any non-negotiable dealer additions where applicable [see 3.1.8 for example], and if any legitimate **price benefit or advantage** is included, then each **price benefit or advantage** must be listed and deducted to arrive at the **total price**. [MDA-Reg – section 27; BPCP Act – section 4(3)(c)(i)]
- 3.1.12. A dealer/salesperson must not advertise a **price benefit or advantage** as a reduction from the **total price** unless the dealer/salesperson can demonstrate the legitimacy of the **price benefit or advantage**. [BPCP Act – section 4(3)(c)(i); *Hermanus v. Richport Ford Sales Ltd.*, 1993 CanLII 823 (B.C. Supreme Court)]
- 3.1.13. A dealer/salesperson may advertise the price of a new **vehicle** in relation to the **dealer cost** of the **vehicle**. For example, a price may be described as “below **dealer cost**,” “**dealer cost** plus \$200,” or “\$200 over factory invoice.” Describing the price of a **vehicle** in relation to **dealer cost** is not a substitute for the **total price**. The **total price**, as described above, must be included in all **advertisements** and affixed to the **vehicle** being advertised. [BPCP Act – sections 4(3)(a)(i), (ii) and (v), and 4(3)(c)(i)]
- 3.1.14. A dealer/salesperson must not:
 - a. show a guaranteed or minimum trade-in value as a deduction in the calculation of **total price** as the resulting **total price** is not applicable to all consumers [BPCP Act – sections 4(3)(a)(i), (ii) and (v), and 4(3)(c)(i)]
 - b. compare the **total prices** between **vehicles** unless the **vehicles** are exactly the same [BPCP Act – sections 4(3)(a)(i), (ii) and (v), and 4(3)(c)(i)]

- c. compare the **total price** of used **vehicle** to the **MSRP** of a new **vehicle** or to the **MSRP** of the used **vehicle** when it was new [BPCP Act – sections 4(3)(a)(i), (ii) and (v), and 4(3)(c)(i)]
- d. advertise a **vehicle** as a demo or any such similar description unless the **vehicle** was used by the manufacturer or dealer in the normal course of business and the **vehicle** was acquired new by the dealer from the manufacturer [BPCP Act – sections 4(3)(a)(i), (ii) and (iii); MDA-Reg – section 24]
- e. claim or imply that no GST, PST or any other tax is payable. A dealer/salesperson may advertise they will pay the equivalent of the GST, PST or other tax and that the equivalent amount will be deducted from the original **total price** to arrive at a new **total price** on which GST, PST or other tax is payable. [BPCP Act – sections 4(3)(a)(i) and (v), 4(3)(b)(iv) and 4(3)(c)(i)]

4. Credit Advertising

4.1. Advertising that credit is available

4.1.1. An **advertisement** may indicate that a dealer is offering financing on the purchase of a **vehicle** by using phrases such as “financing available,” “on approved credit (OAC),” “credit available to qualified buyers,” “credit available at dealer’s or lender’s discretion” or “monthly payments can be arranged” or similar phrases, without providing any further details.

4.2. Credit details that must be included in an advertisement

4.2.1. Whenever a fixed credit agreement is advertised and information about the interest rate or the amount of any payment is provided, the following information must also be **prominently** and clearly displayed: [BPCP Act – sections 59(3) and 60(1) and (2)]

- a. that the offer is for credit
- b. the **APR** (annual percentage rate)
- c. the term of the credit. Term means the period between the first advance and the end of the period during which payments are required under the credit agreement.

4.2.2. In addition to 4.2.1., if an **advertisement** offers credit on a specific **vehicle**, the **cash price** of that **vehicle** (see paragraph 4.2.4) must also be included and **prominently** and clearly displayed. [BPCP Act – section 60(3)(a)]

4.2.3. In addition to 4.2.1., if an **advertisement** offers credit on a specific **vehicle** for which any **non-interest finance charge** is payable, the following information must also be included and **prominently** and clearly displayed: [BPCP Act – section 60(3)(b)]

- a. the **cash price** of the **vehicle** (see paragraph 4.2.4)
- b. the total cost of credit.

4.2.4. If the **cash price** of a **vehicle** included in an **advertisement** under paragraphs 4.2.2 and 4.2.3 is less than the price of that **vehicle** under the credit agreement being advertised, then the **advertisement** must either: [BPCP Act – section 4(1) and 4(3)(c)]

- a. substitute the price of that **vehicle** under the credit agreement being advertised for the **cash price**, or

- b. include and clearly identify both the **cash price** and the price of that **vehicle** under the credit agreement being advertised.
- 4.2.5. Credit details that must be included in an **advertisement** may not be included in the fine print and must all be displayed with equal prominence. [BPCP Act – section 59(3)]

4.3. Advertising interest-free periods

- 4.3.1. Where an **advertisement** about credit indicates that no interest is payable for a certain period of time, that **advertisement** must indicate and explain whether this period is an **interest-free period** or a **grace period**. [BPCP Act – section 62(2)]
- 4.3.2. In an **interest-free period**, a dealer is not entitled to any interest under any circumstances, even where the purchaser defaults on payments. [BPCP Act – section 57(1)]
- 4.3.3. In a **grace period**, a dealer may be entitled to interest if the purchaser doesn't meet the conditions of the agreement, for example, by defaulting on payments. [BPCP Act – sections 57(1) and 62(4)]
- 4.3.4. If the period is a **grace period**, the **advertisement** must also include:
- a. the conditions that must be met for the interest accrued during the grace period to be forgiven
 - b. the **APR** that will apply to the grace period if the conditions are not met. [BPCP Act – section 62(3)]
- 4.3.5. An **advertisement** that does not disclose the requirement for a **grace period** is deemed to represent that the transaction is unconditionally **interest-free** during the relevant period and the dealer is not entitled to any interest for this period under any circumstances, even where the purchaser defaults on payments. [BPCP Act – section 62(4)]

5. Lease Advertising

5.1. Lease details that must be included in an advertisement

- 5.1.1. Whenever the details of a lease are offered in an **advertisement**, the following information must be **prominently** and clearly displayed: [BPCP Act – sections 59(3)(b) and 63(3)]
- a. that the consumer transaction is a lease [BPCP Act – section 63(3)(a)]
 - b. the amount of any security deposit (even where it is refundable) and applicable conditions [BPCP Act – section 63(3)(c)]
 - c. the type and amount of any other payments that must be made prior to, or at the beginning of the lease (including freight, pre-delivery and inspection charges) [BPCP Act – section 63(3)(c)]
 - d. the amount, timing and number of regular lease payments [BPCP Act – section 63(3)(d)]
 - e. whether or not taxes are included [BPCP Act – section 63(3)(e)]
 - f. the nature and amount of any payments, other than regular lease payments, that may be required under the lease including, where applicable, a buy-out amount [BPCP Act – section 63(3)(e)]
 - g. the **APR (annual percentage rate)** of the lease. [BPCP Act – section 63(3)(f)]
- 5.1.2. When displaying this information, the **APR** must be displayed at least as **prominently** as the other required information. [BPCP Act – section 59(3)(a) and (b)]

6. Advertising Fuel Economy for New Vehicles

6.1. Advertising requirements for fuel consumption

- 6.1.1. When a fuel consumption rate is used in an **advertisement**, it must be the rate indicated on the EnerGuide label for the advertised **vehicle**.
- 6.1.2. **Advertisements** that include fuel economy claims for a specific **vehicle** may include the city, highway and overall fuel consumption rate for that **vehicle**. If a city or highway fuel consumption rate is included in an **advertisement**, then the overall consumption rate must also be included. [BPCP Act - section 4(3)(a)(i)]

7. Advertising Vehicle Warranties

7.1. Warranties – general

- 7.1.1. Since there are significant differences between the coverage offered by a “**manufacturer’s warranty**,” an “**extended warranty**,” an “**after market warranty**” and a “**dealer warranty**,” an **advertisement** must not lead consumers to believe that the advertised warranty extends the same coverage provided by the **manufacturer’s warranty**. [BPCP Act – sections 4(3)(a)(i) and 4(3)(b)(iv)]
- 7.1.2. A dealer/salesperson may only advertise a warranty that they are permitted to sell under section 75 of the *Financial Institutions Act* and section 4 of the Insurance Company Exemption Regulation. [BPCP Act – section 4(3)(a)(i), 4(3)(b)(i) and (v)]; CA – section 74.01(1)(c)(i) and (ii)]

8. Availability of Advertised Vehicles

8.1. Vehicles in dealer inventory

8.1.1. Any advertised **vehicle** must be in the **dealer inventory** at the time of the **advertisement** and must be available at the advertised price, except as provided in part 8.2. [BPCP Act – section 4(3)(a)(v), (vi) and (vii)]

8.2. Vehicles not in dealer inventory

8.2.1. If the **advertisement** is for a new **vehicle** model that must be ordered from the manufacturer, then this limitation must be stated in the **advertisement**. [BPCP Act – section 4(3)(a)(iv), (v) and (viii)]

8.3. Advertising vehicles as sold

- 8.3.1. A dealer/salesperson must not continue to advertise a **vehicle** after it has been sold as that **vehicle** is no longer available for sale to the public. [BPCP Act – sections 4(3)(a)(v) and 4(3)(b)(vi); CA – section 74.04(2)]
- 8.3.2. If an advertised **vehicle** is sold while the **advertisement** is in effect, the dealer shall post that particular **advertisement** in a **prominent** and easily viewed location in their showroom or dealer location with a clear notation that the **advertised vehicle** has been sold. The **vehicle** itself, if still on the lot, must have a “Sold” sign clearly affixed to the sold **vehicle**. [BPCP Act – sections 4(3)(a)(iv), (v) and (vi); CA – section 74.04(2)]

8.4. Consigned vehicles

8.4.1. If a dealer/salesperson is advertising a **consigned vehicle**, that dealer/salesperson must disclose that the **vehicle** is on **consignment** in that **advertisement**. [BPCP Act – sections 4(3)(a)(iii), (iv) and (v)]

8.5. Requirement to include stock number or VIN

- 8.5.1. If a specific **vehicle** is in the **dealer inventory**, offered for sale or advertised, it must be clearly identified by a unique **stock number** or **vehicle** identification number (VIN). The **stock number** or VIN must be affixed to the **vehicle** and included in any **advertisement** for that **vehicle**. [MDA-Reg – sections 26, 26.1 and 27; BPCP Act – sections 4(3)(a)(i) and (ii)]
- 8.5.2. The requirements in paragraph 8.5.1 do not apply where an **advertisement** is for a new **vehicle** that must be ordered from the manufacturer and the dealer/salesperson does not have a **stock number** or VIN. Such an **advertisement** must still meet the requirements of paragraph 8.6.2.

8.6. Illustrations or photographs

- 8.6.1. If a photograph or illustration is used to depict the new or used **vehicle** in an **advertisement**, the VSA recommends that a photograph or illustration of that specific **vehicle** be used. Alternatively, a dealer/salesperson may use a photograph or illustration of a **vehicle** that is the same as the advertised **vehicle**, including the same year, make, model and trim package of the advertised **vehicle**. If a dealer/salesperson uses such a photograph or illustration, the **advertisement** must say “Vehicle not exactly as shown”. [BPCP Act - sections 4(3)(a)(i), (ii) and (v), and 4(3)(b)(vi)]
- 8.6.2. If an **advertisement** is for a new **vehicle** that must be ordered from the manufacturer, the **advertisement** must clearly state that the **vehicle** must be ordered from the manufacturer. If the **advertisement** has a photograph or illustration of the **vehicle**, the **vehicle** shown must be the same as the advertised **vehicle**, including the same year, make, model and trim package of the advertised **vehicle**. [BPCP Act - sections 4(3)(a)(i), (ii) and (v)]

9. Requirement for Dealer Identification

9.1. Dealer advertisement

- 9.1.1. Any **dealer advertisement** or website must include the dealer's registered name and dealer number. The dealer name and number must be displayed **prominently** in the **advertisement**. [MDA - section 13 (1)(a)]
- 9.1.2. A description in the format of "D# 00000" is acceptable when identifying the dealer registration number.

10. Information to be Affixed to a Vehicle

10.1. New vehicles

- 10.1.1. Any new **vehicle** that a dealer is exhibiting or offering for sale must have the following information affixed to it in a clear and legible manner at all times:
- a. the **stock number**, serial number or vehicle identification number [MDA-Reg – section 26(a); BPCP Act – section 4(3)(a)(ii)]
 - b. the current **total price** of the **vehicle** inclusive of accessories and items of optional equipment, freight and PDI [MDA-Reg – sections 26(b) and 26.1]
 - c. an itemized list describing each accessory and item of optional equipment that is physically attached to the **vehicle**. [MDA-Reg – section 26(c)]

10.2. Used vehicles

- 10.2.1. Any used **vehicle** that a dealer is exhibiting or offering for sale must have the following information affixed to it:
- a. the current **total price** of the **vehicle** [MDA-Reg – section 27(a)]
 - b. the **stock number**, serial number or vehicle identification number. [BPCPA – sections 4(3)(a)(i) and (ii); VSA Directives]

10.3. New and used vehicles

- 10.3.1. In addition to the requirements in 10.1 and 10.2, every new or used **vehicle** that a dealer/salesperson is exhibiting or offering for sale must have the following information affixed to it:
- a. where the **vehicle** is being sold for parts only or for purposes other than transportation because it is not suitable for transportation, the statement “Not Suitable for Transportation” (MDA-Reg – section 27)
 - b. where two or more dealers share the same or adjoining premises, the registered name of the specific dealer offering the **vehicle** for sale [BPCP Act – section 4(3)(b)(v); VSA Directives]

- c. where a **vehicle** is not ready for sale, the statement “Not Ready For Sale” or “Not for Sale” [BPCP Act – section 4(3)(b)(iv) and (v); MDA-Reg – section 28(b); VSA Directives]
- d. the **vehicle** is sold, the word “Sold” [BPCP Act – sections 4(3)(a)(v) and 4(3)(b)(iv) and (v); VSA Directives]
- e. the current **total price** affixed to the **vehicle** must match the **total price** identified in any current **advertisement**. [BPCP Act – section 4(1); CA – section 74.05]

10.4. Consigned vehicles

- 10.4.1. In addition to the requirements in 10.2 and 10.3, any **consigned vehicle** that a dealer/salesperson is exhibiting or offering for sale must have affixed to the **vehicle** a statement clearly indicating that it is a **consigned vehicle**. [BPCP Act – sections 4(1) and 4(3)(b)(v)]

11. Promotional Contests

11.1. General requirements

- 11.1.1. A dealer/salesperson must abide by the requirements of section 74.06 of the *Competition Act*, sections 4(3)(a)(i), 4(3)(b)(vi), and 4(3)(c) of the *Business Practices and Consumer Protection Act*, section 88 *Gaming Control Act* (BC) and section 206(1) of the *Criminal Code of Canada* in regard to promotional contests, deceptive acts or practices, and lotteries and gaming.
- 11.1.2. The VSA recommends that, prior to conducting a promotional contest, a dealer/salesperson investigate and understand the legal requirements and obtain legal advice where necessary to ensure that the requirements are met.

11.2. Advertising a promotional contest

- 11.2.1. A dealer/salesperson may only advertise a promotional contest that they are authorized to conduct under applicable legislation. [BPCP Act – section 4(3)(b)(i) and (v)]
- 11.2.2. In any **advertisement** for a promotional contest, the dealer/salesperson must clearly state the conditions for participating, such as the requirements to qualify, the chances of winning, rules for participating, etc. [BPCP Act – section 4(1)]

12. Important Terms

This part contains definitions of important terms used in the Advertising Guidelines. These definitions are provided solely to assist the reader's understanding of the Advertising Guidelines. In some cases, they are general interpretations only and are not to be considered legal definitions. Where the definitions are taken from legislation, they are subject to change. A dealer/salesperson should consult legal counsel where necessary to ensure compliance with legal obligations.

Advertisement – means any type of solicitation that is oral, written, visual, descriptive or any other representation or conduct by a dealer/salesperson, either directly or indirectly, which urges consumers to buy their **vehicles**, products, or services. This includes, but is not limited to a solicitation that is:

- on a **vehicle**, whether stationary or moving
- at the point of sale (dealer' business premises)
- at promotional or marketing events, or an off-site sale
- on radio, television, the internet or distributed by other electronic means
- a telephone solicitation or telemarketing
- sent via mail or e-mail
- published in a newspaper or a magazine
- printed on a flyer, brochure, sign, poster, showroom display or other printed material.

After market warranty or after market extended warranty – means a warranty provided by a third party on a used **vehicle** that requires the purchaser to pay an additional cost.

APR (annual percentage rate) – means an interest calculation representing an effective rate of interest accruing over a one-year period. The formula for calculating **APR** is found in the Disclosure of the Cost of Consumer Credit Regulation, under the *Business Practices and Consumer Protection Act*.

Cash price, in relation to an **advertisement** that offers credit on a specific **vehicle** – means

- the price at which the **vehicle** is currently offered to cash customers, or
- if the dealer/salesperson does not currently offer the **vehicle** to cash customers, the dealer/salesperson's reasonable estimate of the price at which cash customers would buy the **vehicle**.

Consigned vehicle – means a **vehicle** that is on **consignment** with a motor dealer in accordance with the Motor Dealer Consignment Sales Regulation.

Consignment – means an arrangement by which a **vehicle** is entrusted to a motor dealer:

- for sale by the motor dealer,
- under a conditional sale to the motor dealer for the purpose of resale, or
- to display by the motor dealer for sale.

Dealer advertisement – means any **advertisement** by a dealer or group of dealers.

Dealer cost – means the cost of a specific **vehicle** to the dealer minus any discounts, volume rebates or other reductions from the manufacturer or supplier in the cost of placing that **vehicle** in the **dealer inventory**. **Dealer cost** must not include any allocation for the dealer's overhead or operating expenses.

Dealer inventory means a stock of new or used **vehicles** that a dealer has on hand and which the dealer has authority to sell.

Dealer warranty – means a warranty on a used **vehicle** provided by a dealer that is usually limited to a specified period of time and distance travelled, and may include coverage limits such as a power train warranty or a savings on labour.

Deceptive advertisement means an **advertisement** that has the capacity, tendency or effect of deceiving or misleading a consumer or guarantor.

Documentation fee means a fee charged for a service, such as administration, finance, registration, a lien check, vehicle history report, or any other fee for a service provided to a consumer that is included in the sale of a **vehicle**.

Extended warranty – means a warranty that requires the purchaser to pay an additional cost, either directly or through an agreement to purchase some specified products or services. An **extended warranty** may be offered as a supplement to a **manufacturer's warranty** to increase the coverage or the length of the warranty period on a new **vehicle**, or to provide warranty coverage on a used **vehicle**.

Grace period – in reference to a credit agreement, means a period during which interest accrues on money advanced to a purchaser to purchase a **vehicle**, but that interest will be forgiven if the purchaser satisfies the conditions specified in the credit agreement. This means that the dealer may be entitled to interest for this period if the purchaser doesn't meet the conditions of the agreement, for example, by defaulting on payments. (See the *Business Practices and Consumer Protection Act* for a statutory definition of this term.)

Interest-free period – in reference to a credit agreement, means a period during which no interest accrues on money advanced to a purchaser to purchase a **vehicle**. This means that the dealer is not entitled to any interest for this period under any circumstances, even where the purchaser defaults on payments. (See section 57(1) of the *Business Practices and Consumer Protection Act* for a statutory definition of this term.)

Manufacturer's Suggested Retail Price (MSRP) or "sticker price" – means the price of a new **vehicle** that:

- is labelled and priced by the manufacturer and not by the dealer,
- is the price the manufacturer recommends that the dealer sell the new **vehicle** for,
- includes a list of all of accessories and items of optional equipment physically attached to the new **vehicle** and the individual price of each accessory or item of optional equipment,
- includes transportation charges for its delivery to the dealer, and
- includes any pre-delivery and inspection charges.

Manufacturer's warranty – means a warranty provided by the manufacturer of a **vehicle** that is provided with a new **vehicle** at no additional cost to the purchaser.

Material fact – means information that may have a significant effect on a consumer's decision whether or not to buy a product or service.

Misleading advertisement has the same meaning as **Deceptive advertisement**

National advertisement – means an **advertisement** for a new **vehicle** that has been designed or approved by a manufacturer and does not identify any local dealer.

National/dealer advertisement, also called a co-op ad – means any **advertisement** designed or approved by a manufacturer in which a specific dealer or group of dealers is named, regardless of whether the manufacturer, a dealer, or a group of dealers pays for some or all of the cost of the **advertisement**.

Non-interest finance charge – means any charge that a borrower is required to pay in connection with a credit agreement, other than

- interest
- a prepayment charge
- a default charge
- a charge for an optional service

- a charge for an amount of money obtained or to be obtained or the cash price of a product obtained or to be obtained through the use of a credit card obtained under the credit agreement
- any of the following expenses, if the credit grantor incurred or is to incur the expense for the purpose of arranging, documenting, insuring or securing the credit agreement:
 - fees to a third party to record or register a document or information in, or to obtain a document or information from, a public registry of interests in real or personal property
 - fees for professional services required for the purpose of confirming the value, condition, conformity to law or location of property that serves as security for a credit agreement, if the borrower is given a report signed by the person providing the professional services and is free to give the report to third persons
 - premiums for casualty insurance on the subject matter of a security interest, if the borrower is a beneficiary of the insurance and the insured amount is the full insurable value of the subject matter
 - premiums for any insurance provided or paid for by the credit grantor in connection with a credit agreement if the insurance is optional
- in the case of a credit sale, any charge that would also be payable by a cash customer.

Price benefit or advantage – means an inducement to purchase a **vehicle** which results in an actual savings for a purchaser.

Prominent, prominence or prominently – means that something is noticeable, stands out, is large or projecting, or is otherwise likely to attract attention from its size or position in an **advertisement**.

Salesperson advertisement – means an **advertisement** placed by a salesperson regardless of who pays for the **advertisement**.

Stock number – means a unique number assigned to an individual **vehicle** in a **dealer inventory**.

Total price – means the total obligation or amount that is payable, given, undertaken or assumed by a consumer under a consumer transaction

Vehicle – means a motor vehicle as defined by the *Motor Dealer Act*.

Appendix – Legislation Excerpts

Important note: The excerpts included here are subject to change at any time. Readers should not rely on these excerpts without confirming whether they have been amended since publication.

A. *Motor Dealer Act* Excerpts

Application for registration

- 4 (1) An application for registration must be made to the registrar in the form approved by the registrar and must be accompanied by the prescribed fee.
- (2) If an applicant carries on business at more than one location in British Columbia, the applicant must apply for registration for each location.
- (3) A registration or renewal of registration expires at midnight on the day before the anniversary of the day in the previous year that it came into effect.
- (4) The registrar may register or renew registration on terms, conditions or restrictions that the registrar considers necessary.
- (5) Under subsection (4), the registrar may impose a condition requiring an irrevocable letter of credit, in an amount set by the registrar, as evidence of financial responsibility.
- (6) The registrar at any time may, on giving written notice to a registered person, add to or alter the terms, conditions or restrictions of a registration.
- (7) The registrar may grant or renew a registration to be effective on a date after the date the registrar's decision is made.

Inquiries

- 7 (1) The registrar, in the exercise of the registrar's powers and duties under sections 4 and 5, may make inquiries and require information
 - (a) the registrar considers appropriate or necessary to decide whether or not to grant, renew, cancel or suspend registration, or
 - (b) respecting the business or proposed business of the applicant as authorized by the regulations.
- (2) It is a condition of registration or renewal of registration that the applicant, or the holder of a certificate of registration or renewal, provide information and documents respecting the business of a motor dealer that the registrar or another person conducting an inquiry under this Act requires.

Advertising

13 (1) A motor dealer must, in every written sale or purchase agreement that the motor dealer enters into in respect of a motor vehicle, and in every advertisement or written representation, include

- (a) the name of the motor dealer and the word "dealer" followed by the registration number issued to the motor dealer under this Act, and
- (b) other prescribed information.

(2) A motor dealer must affix, as prescribed, to a motor vehicle exhibited or offered for sale or exchange, a selling price and other prescribed information.

Claimant to repay fund for money received from debtor

20 (1) If the fund pays a person's claim and the person receives something of value from some other source in payment of the loss that led to the payment from the fund, the person must repay to the fund money equal to the value of the thing received from the other source.

(2) If the person fails to repay the fund, the government has a cause of action against the person for the amount unpaid.

Complaints

25 (1) If the registrar receives a complaint in respect of a motor dealer, the motor dealer must provide to the registrar the information respecting the matter complained of that the registrar requests in writing.

(2) The request under subsection (1) must indicate the nature of the complaint.

(3) For the purposes of subsection (1), the registrar or a person designated in writing by the registrar may, at any reasonable time during normal business hours, enter the business premises of the motor dealer to make an inspection with respect to the complaint.

Inspection

26 A motor dealer must, at a reasonable time during normal business hours, on request of the registrar or a person authorized in writing by the registrar, permit the registrar or authorized person to

- (a) enter the motor dealer's place of business,
- (b) inspect the records of the business,
- (c) enter premises in which any motor vehicle owned, possessed or controlled by the motor dealer for his or her business is kept or stored, and
- (d) inspect all vehicles on the premises.

B. Motor Dealer Act Regulation Excerpts

Demonstrator, executive car, etc.

24 No motor dealer shall refer in an advertisement or representation to or offer for sale, a motor vehicle as being a company car, an executive car, or a demonstrator or any similar description, unless the motor vehicle was used by the manufacturer or motor dealer in the course of his normal business operation and had been acquired by him as a new automobile.

Advertising new motor vehicle

26 A motor dealer exhibiting or offering for sale a new motor vehicle shall affix to it in a clear and legible manner information concerning it as follows:

- (a) the serial number or vehicle identification number or numbers, make and model;
- (b) the price at which it is offered for sale, inclusive of accessories and items of optional equipment that are physically attached to it, transportation charges for its delivery to the dealer and any pre-delivery and inspection service charged by the dealer;
- (c) an itemized list describing each accessory and item of optional equipment that is physically attached to it.

Advertising new motor vehicle

26.1 A motor dealer must not refer in an advertisement to the price at which a new motor vehicle is offered for sale, unless the price is the total asking price and includes all elements provided for in section 26 (b).

Advertising used motor vehicles

27 A motor dealer exhibiting or offering for sale a used motor vehicle shall affix to it in a clear and legible manner information concerning it as follows:

- (a) the price at which it is offered for sale;
- (b) where it is a vehicle that is not suitable for transportation, the statement "Not Suitable for Transportation".

Exemption for vehicles in storage area or part of new inventory

28 Sections 26 and 27 do not apply to

- (a) a motor vehicle which is in a storage area, or
- (b) a motor dealer's inventory which has not yet been prepared for sale.

C. Salesperson Licensing Regulation Excerpts

Application

3 An individual may apply to the authority for a licence by submitting the form approved by the authority and the fee required by the authority.

Inquiries

8 The authority may make inquiries and require information and records the authority considers appropriate or necessary to decide whether or not to issue, cancel or suspend a licence.

D. Business Practices and Consumer Protection Act Excerpts

Part 2 – Unfair Practices

Division 1 – Deceptive Acts or Practices

Deceptive acts or practices

4 (1) In this Division:

"deceptive act or practice" means, in relation to a consumer transaction,

- (a) an oral, written, visual, descriptive or other representation by a supplier, or
- (b) any conduct by a supplier

that has the capability, tendency or effect of deceiving or misleading a consumer or guarantor;

"representation" includes any term or form of a contract, notice or other document used or relied on by a supplier in connection with a consumer transaction.

(2) A deceptive act or practice by a supplier may occur before, during or after the consumer transaction.

(3) Without limiting subsection (1), one or more of the following constitutes a deceptive act or practice:

- (a) a representation by a supplier that goods or services
 - (i) have sponsorship, approval, performance characteristics, accessories, ingredients, quantities, components, uses or benefits that they do not have,
 - (ii) are of a particular standard, quality, grade, style or model if they are not,
 - (iii) have a particular prior history or usage that they do not have, including a representation that they are new if they are not,
 - (iv) are available for a reason that differs from the fact,
 - (v) are available if they are not available as represented,
 - (vi) were available in accordance with a previous representation if they were not,
 - (vii) are available in quantities greater than is the fact, or
 - (viii) will be supplied within a stated period if the supplier knows or ought to know that they will not;
- (b) a representation by a supplier

- (i) that the supplier has a sponsorship, approval, status, affiliation or connection that the supplier does not have,
 - (ii) that a service, part, replacement or repair is needed if it is not,
 - (iii) that the purpose or intent of a solicitation of, or a communication with, a consumer by a supplier is for a purpose or intent that differs from the fact,
 - (iv) that a consumer transaction involves or does not involve rights, remedies or obligations that differs from the fact,
 - (v) about the authority of a representative, employee or agent to negotiate the final terms of a consumer transaction if the representation differs from the fact,
 - (vi) that uses exaggeration, innuendo or ambiguity about a material fact or that fails to state a material fact, if the effect is misleading,
 - (vii) that a consumer will obtain a benefit for helping the supplier to find other potential customers if it is unlikely that the consumer will obtain the benefit,
 - (viii) that appears in an objective form such as an editorial, documentary or scientific report if the representation is primarily made to sell goods or services, unless the representation states that it is an advertisement or promotion, or
 - (ix) to arrange for the consumer an extension of credit for a fee, unless the fee is deducted from the advance, as defined in section 57 [definitions];
- (c) a representation by a supplier about the total price of goods or services if
- (i) a person could reasonably conclude that a price benefit or advantage exists but it does not,
 - (ii) the price of a unit or instalment is given in the representation, and the total price of the goods or services is not given at least the same prominence, or
 - (iii) the supplier's estimate of the price is materially less than the price subsequently determined or demanded by the supplier unless the consumer has expressly consented to the higher price before the goods or services are supplied;
- (d) a prescribed act or practice.

Prohibition and burden of proof

5 (1) A supplier must not commit or engage in a deceptive act or practice in respect of a consumer transaction.

(2) If it is alleged that a supplier committed or engaged in a deceptive act or practice, the burden of proof that the deceptive act or practice was not committed or engaged in is on the supplier.

Advertising

6 (1) In this section, "**advertiser**" means a supplier who publishes advertisements.

(2) An advertiser who, on behalf of another supplier, publishes a deceptive or misleading advertisement is not liable under section 171 [*damages recoverable*], 172 [*court actions respecting consumer transactions*] or 189 [*offences*] if the advertiser proves that the advertiser did not know and had no reason to suspect that its publication would contravene section 5.

(3) An advertiser, for each advertisement accepted, must maintain a record of the name and address of the supplier who provides the advertisement.

Part 5 – Disclosure of the Cost of Consumer Credit

Division 2 — Advertising

Disclosure in advertisements

59 (1) In this section, "credit grantor" includes a lessor.

(2) For the purpose of applying section 57 [*definitions*] to this section:

"**borrower**" includes a lessee;

"**credit agreement**" includes a lease.

(3) If a credit grantor who publishes an advertisement, or on whose behalf an advertisement is published, is required under this Part, as a result of disclosing certain information in the advertisement, to include other information in the advertisement, the credit grantor must ensure that

(a) if the required information is the APR, the APR is disclosed at least as prominently as is the information that necessitated the inclusion of the APR, and

(b) any other required information is prominently displayed in a clear and comprehensible manner.

Advertising requirements applicable to fixed credit

60 (1) This section applies only to advertisements that

- (a) offer credit under a credit agreement that extends fixed credit, and
- (b) state the interest rate or amount of any payment.

(2) A credit grantor must ensure that every advertisement published by or on behalf of the credit grantor discloses, in relation to the proposed credit agreement,

- (a) the APR, and
- (b) the term.

(3) In addition to complying with subsection (2), the credit grantor must ensure that,

- (a) if the advertisement is for a credit sale of a specifically identified product, the advertisement discloses the cash price of that product, or
- (b) if the advertisement is for a credit sale of a specifically identified product in connection with which a **non-interest finance charge** is to be payable, the advertisement discloses
 - (i) the cash price of the product, and
 - (ii) the total cost of credit.

Advertising requirements applicable to open credit

61 (1) This section applies only to advertisements that offer credit under a credit agreement that extends open credit.

(2) A credit grantor must ensure that every advertisement published by or on behalf of the credit grantor that gives specific information about the cost of open credit must disclose,

- (a) [Not in Force.]
- (b) if the open credit is associated with a credit card,
 - (i) the current annual interest rate, and
 - (ii) any initial or periodic **non-interest finance charges**.

Advertising interest-free periods

62 (1) This section applies to an advertisement to which section 60 [*advertising requirements applicable to fixed credit*] or 61 [*advertising requirements applicable to open credit*] applies.

(2) An advertisement that states or implies that no interest is payable for a certain period in respect of a consumer transaction must disclose whether, under the credit agreement, the transaction

- (a) has an interest-free period, or
- (b) has a grace period.

(3) If, under the credit agreement, the transaction has a grace period, the advertisement must also disclose the conditions under which the interest accrued during the period will be forgiven and,

- (a) if the credit agreement extends fixed credit or open credit that is not associated with a credit card, the APR that will apply to the period if those conditions are not met, or
- (b) if the credit agreement extends open credit that is associated with a credit card, the annual interest rate that will apply to the period if those conditions are not met.

(4) An advertisement to which subsection (2) applies that does not disclose the information required under subsections (2) (b) and (3) is deemed to represent that the transaction is unconditionally interest-free during the relevant period.

Advertising requirements applicable to leases

63 (1) In this section, "estimated residual cash payment" and "estimated residual value" have the same meaning as in section 100 (1) [*definitions*].

(2) For the purpose of applying section 57 [*definitions*] to this section, a reference in that section to "borrower", "cash price", "credit agreement", "credit grantor" or "purchased" is deemed to be a reference to "lessee", "cash value", "lease", "lessor" or "leased", respectively.

(3) Subject to the regulations, a lessor must ensure that every advertisement published by or on behalf of the lessor that gives specific information about the cost of a lease discloses the following information:

- (a) a statement that the consumer transaction is a lease;
- (b) the term of the lease;
- (c) the nature and amount of any payments that are payable by the lessee on or before the beginning of the term;
- (d) the amount, timing and number of the periodic payments;
- (e) the nature and amount of any other payments that are payable by a lessee in the ordinary course of events;
- (f) the lease APR;
- (g) if required by regulations under this or any other enactment, prescribed information regarding extra charges based on usage of the leased goods.

Advertising a representative transaction

64 (1) If this Part requires that certain information be included in an advertisement and if that information is different for different credit agreements to which the advertisement relates, the advertisement must disclose that information as it applies to a representative transaction and must identify the transaction as a representative transaction.

(2) For the purposes of subsection (1), a transaction is a representative transaction if its terms are reasonably typical of the terms of the credit agreements to which the advertisement relates.

E. Business Practices and Consumer Protection Regulation Excerpt

Part 2 — Administrative Penalties

Continuing contraventions

9 The director may impose administrative penalties on a daily basis for continuing contraventions.

Failure to pay an administrative penalty

11 If a person fails to pay an administrative penalty as required under section 167 [*due date of penalty*] of the Act, the director, before filing the notice of penalty with a court in accordance with section 168 (2) [*enforcement of administrative penalty*] of the Act, must impose an additional administrative penalty equal to 10% of the unpaid administrative penalty.

F. *Financial Institutions Act* Excerpts

Part 3 — Business Authorization and Business

Division 4 — Insurance Business

Unauthorized insurance business prohibited

75 A person must not carry on insurance business in British Columbia unless the person is

- (a) an insurance company or extra-provincial insurance corporation that has a business authorization to carry on insurance business,
- (b) a company registered under the *Insurance (Captive Company) Act*,
- (c) a member of a reciprocal exchange as defined in section 186 for which a permit under section 187 has been issued and is in effect,
- (d) licensed under Division 2 of Part 6 as an insurance agent, insurance salesperson, insurance adjuster or employed insurance adjuster and is carrying on the insurance business only in that capacity,
- (e) the deposit insurance corporation, the Canada Deposit Insurance Corporation or the Insurance Corporation of British Columbia,
- (f) an insurer
 - (i) [Repealed 2004-48-48.]
 - (ii) that administers an insurance compensation plan designated by regulation for the purpose of section 66 (2),
- (g) a society described in section 193 (1) (a) to (g) that, immediately before September 15, 1990, was carrying on the business of insurance,
- (h) a credit union that is carrying on insurance business only by making or participating in contracts of insurance as permitted by section 82 of the *Credit Union Incorporation Act*, or
- (i) a central credit union that is carrying on insurance business only by providing or arranging insurance as permitted by section 90 (2) of the *Credit Union Incorporation Act*.

G. Insurance Company Exemption Regulation Excerpts

Manufacturer's and retailer's warranties

4 Section 75 of the Act does not apply to

- (a) a manufacturer or a retailer,
- (b) a corporation of which the manufacturer or retailer is a wholly owned subsidiary, or
- (c) a wholly owned subsidiary of the manufacturer or retailer

that provides vehicle warranty insurance or product warranty insurance that is solely incidental to the sale of the vehicle or product by the manufacturer or retailer.

H. Competition Act Excerpts

PART IV

SPECIAL REMEDIES

False or misleading representations

52. (1) No person shall, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, knowingly or recklessly make a representation to the public that is false or misleading in a material respect.

Proof of deception not required

(1.1) For greater certainty, in establishing that subsection (1) was contravened, it is not necessary to prove that any person was deceived or misled.

Permitted representations

(1.2) For greater certainty, a reference to the making of a representation, in this section or in section 52.1, 74.01 or 74.02, includes permitting a representation to be made.

Representations accompanying products

(2) For the purposes of this section, a representation that is

- (a) expressed on an article offered or displayed for sale or its wrapper or container,
- (b) expressed on anything attached to, inserted in or accompanying an article offered or displayed for sale, its wrapper or container, or anything on which the article is mounted for display or sale,
- (c) expressed on an in-store or other point-of-purchase display,
- (d) made in the course of in-store, door-to-door or telephone selling to a person as ultimate user, or
- (e) contained in or on anything that is sold, sent, delivered, transmitted or made available in any other manner to a member of the public,

is deemed to be made to the public by and only by the person who causes the representation to be so expressed, made or contained, subject to subsection (2.1).

Representations from outside Canada

(2.1) Where a person referred to in subsection (2) is outside Canada, a representation described in paragraph (2)(a), (b), (c) or (e) is, for the purposes of subsection (1), deemed to be made to the public by the person who imports into Canada the article, thing or display referred to in that paragraph.

Deemed representation to public

(3) Subject to subsection (2), a person who, for the purpose of promoting, directly or indirectly, the supply or use of a product or any business interest, supplies to a wholesaler, retailer or other distributor of a product any material or thing that contains a representation of a nature referred to in subsection (1) is deemed to have made that representation to the public.

General impression to be considered

(4) In a prosecution for a contravention of this section, the general impression conveyed by a representation as well as its literal meaning shall be taken into account in determining whether or not the representation is false or misleading in a material respect.

Offence and punishment

- (5) Any person who contravenes subsection (1) is guilty of an offence and liable
- (a) on conviction on indictment, to a fine in the discretion of the court or to imprisonment for a term not exceeding five years or to both; or
 - (b) on summary conviction, to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding one year, or to both.

Reviewable conduct

(6) Nothing in Part VII.1 shall be read as excluding the application of this section to a representation that constitutes reviewable conduct within the meaning of that Part.

Duplication of proceedings

(7) No proceedings may be commenced under this section against a person against whom an order is sought under Part VII.1 on the basis of the same or substantially the same facts as would be alleged in proceedings under this section.

PART VII.1

DECEPTIVE MARKETING PRACTICES

REVIEWABLE MATTERS

Misrepresentations to public

74.01 (1) A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever,

(a) makes a representation to the public that is false or misleading in a material respect;

(b) makes a representation to the public in the form of a statement, warranty or guarantee of the performance, efficacy or length of life of a product that is not based on an adequate and proper test thereof, the proof of which lies on the person making the representation; or

(c) makes a representation to the public in a form that purports to be

(i) a warranty or guarantee of a product, or

(ii) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result,

if the form of purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that it will be carried out.

Ordinary price: suppliers generally

(2) Subject to subsection (3), a person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, makes a representation to the public concerning the price at which a product or like products have been, are or will be ordinarily supplied where suppliers generally in the relevant geographic market, having regard to the nature of the product,

(a) have not sold a substantial volume of the product at that price or a higher price within a reasonable period of time before or after the making of the representation, as the case may be; and

(b) have not offered the product at that price or a higher price in good faith for a substantial period of time recently before or immediately after the making of the representation, as the case may be.

Ordinary price: supplier's own

(3) A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, makes a representation to the public as to price that is clearly specified to be the price at which a product or like products have been, are or will be ordinarily supplied by the person making the representation where that person, having regard to the nature of the product and the relevant geographic market,

(a) has not sold a substantial volume of the product at that price or a higher price within a reasonable period of time before or after the making of the representation, as the case may be; and

(b) has not offered the product at that price or a higher price in good faith for a substantial period of time recently before or immediately after the making of the representation, as the case may be.

References to time in subsections (2) and (3)

(4) For greater certainty, whether the period of time to be considered in paragraphs (2)(a) and (b) and (3)(a) and (b) is before or after the making of the representation depends on whether the representation relates to

(a) the price at which products have been or are supplied; or

(b) the price at which products will be supplied.

Saving

(5) Subsections (2) and (3) do not apply to a person who establishes that, in the circumstances, a representation as to price is not false or misleading in a material respect.

(6) [Repealed, 2009, c. 2, s. 422]

Representation as to reasonable test and publication of testimonials

74.02 A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of any product, or for the purpose of promoting, directly or indirectly, any business interest, makes a representation to the public that a test has been made as to the performance, efficacy or length of life of a product by any person, or publishes a testimonial with respect to a product, unless the person making the representation or publishing the testimonial can establish that

(a) such a representation or testimonial was previously made or published by the person by whom the test was made or the testimonial was given, or

(b) such a representation or testimonial was, before being made or published, approved and permission to make or publish it was given in writing by the person by whom the test was made or the testimonial was given,

and the representation or testimonial accords with the representation or testimonial previously made, published or approved.

Representations accompanying products

74.03 (1) For the purposes of sections 74.01 and 74.02, a representation that is

(a) expressed on an article offered or displayed for sale or its wrapper or container,

(b) expressed on anything attached to, inserted in or accompanying an article offered or displayed for sale, its wrapper or container, or anything on which the article is mounted for display or sale,

(c) expressed on an in-store or other point-of-purchase display,

(d) made in the course of in-store, door-to-door or telephone selling to a person as ultimate user, or

(e) contained in or on anything that is sold, sent, delivered, transmitted or made available in any other manner to a member of the public,

is deemed to be made to the public by and only by the person who causes the representation to be so expressed, made or contained, subject to subsection (2).

Representations from outside Canada

(2) Where a person referred to in subsection (1) is outside Canada, a representation described in paragraph (1)(a), (b), (c) or (e) is, for the purposes of sections 74.01 and 74.02, deemed to be made to the public by the person who imports into Canada the article, thing or display referred to in that paragraph.

Deemed representation to public

(3) Subject to subsection (1), a person who, for the purpose of promoting, directly or indirectly, the supply or use of a product or any business interest, supplies to a wholesaler, retailer or other distributor of a product any material or thing that contains a representation of a nature referred to in section 74.01 is deemed to make that representation to the public.

Certain matters need not be established

(4) For greater certainty, in proceedings under sections 74.01 and 74.02, it is not necessary to establish that

(a) any person was deceived or misled;

(b) any member of the public to whom the representation was made was within Canada; or

(c) the representation was made in a place to which the public had access.

General impression to be considered

(5) In proceedings under sections 74.01 and 74.02, the general impression conveyed by a representation as well as its literal meaning shall be taken into account in determining whether or not the person who made the representation engaged in the reviewable conduct.

Definition of "bargain price"

74.04 (1) For the purposes of this section, "bargain price" means

(a) a price that is represented in an advertisement to be a bargain price by reference to an ordinary price or otherwise; or

(b) a price that a person who reads, hears or sees the advertisement would reasonably understand to be a bargain price by reason of the prices at which the product advertised or like products are ordinarily supplied.

Bait and switch selling

(2) A person engages in reviewable conduct who advertises at a bargain price a product that the person does not supply in reasonable quantities having regard to the nature of the market in which the person carries on business, the nature and size of the person's business and the nature of the advertisement.

Saving

(3) Subsection (2) does not apply to a person who establishes that

(a) the person took reasonable steps to obtain in adequate time a quantity of the product that would have been reasonable having regard to the nature of the advertisement, but was unable to obtain such a quantity by reason of events beyond the person's control that could not reasonably have been anticipated;

(b) the person obtained a quantity of the product that was reasonable having regard to the nature of the advertisement, but was unable to meet the demand therefor because that demand surpassed the person's reasonable expectations; or

(c) after becoming unable to supply the product in accordance with the advertisement, the person undertook to supply the same product or an equivalent product of equal or

better quality at the bargain price and within a reasonable time to all persons who requested the product and who were not supplied with it during the time when the bargain price applied, and the person fulfilled the undertaking.

Sale above advertised price

74.05 (1) A person engages in reviewable conduct who advertises a product for sale or rent in a market and, during the period and in the market to which the advertisement relates, supplies the product at a price that is higher than the price advertised.

Saving

(2) This section does not apply

(a) in respect of an advertisement that appears in a catalogue in which it is prominently stated that the prices contained in it are subject to error if the person establishes that the price advertised is in error;

(b) in respect of an advertisement that is immediately followed by another advertisement correcting the price mentioned in the first advertisement;

(c) in respect of the supply of a security obtained on the open market during a period when the prospectus relating to that security is still current; or

(d) in respect of the supply of a product by or on behalf of a person who is not engaged in the business of dealing in that product.

Application

(3) For the purpose of this section, the market to which an advertisement relates is the market that the advertisement could reasonably be expected to reach, unless the advertisement defines the market more narrowly by reference to a geographical area, store, department of a store, sale by catalogue or otherwise.

Promotional contests

74.06 A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product, or for the purpose of promoting, directly or indirectly, any business interest, conducts any contest, lottery, game of chance or skill, or mixed chance and skill, or otherwise disposes of any product or other benefit by any mode of chance, skill or mixed chance and skill whatever, where

(a) adequate and fair disclosure is not made of the number and approximate value of the prizes, of the area or areas to which they relate and of any fact within the knowledge of the person that affects materially the chances of winning;

(b) distribution of the prizes is unduly delayed; or

(c) selection of participants or distribution of prizes is not made on the basis of skill or on a random basis in any area to which prizes have been allocated.

Saving

74.07 (1) Sections 74.01 to 74.06 do not apply to a person who prints or publishes or otherwise disseminates a representation, including an advertisement, on behalf of another person in Canada, where the person establishes that the person obtained and recorded the name and address of that other person and accepted the representation in good faith for printing, publishing or other dissemination in the ordinary course of that person's business.

Non-application

(2) Sections 74.01 to 74.06 do not apply in respect of conduct prohibited by sections 52.1, 53, 55 and 55.1.

Civil rights not affected

74.08 Except as otherwise provided in this Part, nothing in this Part shall be construed as depriving any person of a civil right of action.