

Motor Dealer Council of British Columbia
Industry Summit
November 21, 2006

River Rock Casino Resort
8811 River Road - Richmond, BC

This historic meeting of the three industry associations with the regulatory council followed the publication of MDC's second annual report as an authority independent of government. Members of the Board of Directors are selected from the industry and the public at large. The industry associations are:

- Automotive Retailers Association of BC (ARA)
- New Car Dealers Association of BC (NCDA)
- Recreation Vehicle Dealers Association of BC (RVDA)

Misunderstandings and controversy surrounding MDC's fee structure, mission and operations had become increasingly prevalent despite constant dialogue and communications with both dealers and their associations. It was believed by all that if the leadership of the four entities could meet together, a Summit should help to clear the air.

MDC's Judy McRae, Manager, Corporate Services & Communications, called the meeting to order and outlined the agenda and objectives. The morning would be devoted to the basic premise for the Summit, a recap of the history and a report on MDC's current issues and activities. The Summit would then separate into workshop tables, each with a mix of representatives of the four organizations. Each table would report back to the full room with key issues and questions emanating from their discussions. The plan for the afternoon was basically the same process, but looking toward the future.

The Summit objectives were as follows:

- MDC to report on past and current activities
- Review and discuss MDC's mandate
- Outline and reflect on MDC's future plans
- Create dialogue between industry partners

MDC Chair Robert J. (Bob) Stewart, who chaired the Summit, first put the meeting into historical context by tracing his involvement back to 1999, when he was invited to play a role in establishing a voluntary agency that would work toward improving the industry's image, set standards and enhance professionalism of personnel. Stewart said his precondition then was that clear Codes of Conduct and Ethics must be established and sworn to by all members. This was the precondition that launched the voluntary Motor Dealer Standards Association (MDSA), the precursor to the MDC. Several of the MDSA founders were in the audience. Stewart then introduced the MDC Board members present.

Moray Keith, a director and past-president of NCDA, introduced the directors and key executives of his association who were in attendance. Keith characterized the original ambition of MDSA as a demonstration to government that the industry could manage its own affairs and through combined efforts from the other organizations, be able to standardize and educate the industry.

John Schat, president of the RVDA, and Dale Finch of the ARA introduced the directors of their associations present. Both welcomed the Summit and Finch said it furthered the goal of working together in pursuit of both a healthy industry and the interests of consumers.

Opening remarks - Bob Stewart

The Summit Chair set the stage for subsequent discussion by calling attention to two concerns emphasized by MDC Registrar and President Ken Smith in the most recent annual report: a misunderstanding that MDC is industry "self-governance" and also the deliberate noncompliance with salesperson licensing regulations by far too many dealers. Stewart said that MDC "is definitely not industry self governance" and added, "government has entrusted us to enhance professionalism and public respect within the industry, but to also accept the traditional government responsibility to protect and educate consumers." He said that five of 11 MDC directors are not dealers, but rather representatives of the public at large. Agencies such as BCAA, the Better Business Bureau, the BC Crime Prevention Association and others depend upon MDC to help them in their work on behalf of consumers.

Stewart referred to the title of the 2006 MDC annual report, ***A Professional Industry***, and a quote from his preface to that report:

The word "professional" implies expertise, integrity, the adherence to principles and accepted standards of behaviour.

MDSA-MDC history - Earl Manning, MDC Director of Licensing

Manning traced the roots of MDC back to an initiative of the NCDA (then named the BC Auto Dealers Association), ARA and RVDA who wanted to emulate industries such as real estate, and to explore "self-governance." KPMG management consultants and Dean David Cohen of the University of Victoria Law School were each separately commissioned to study the proposal and to make recommendations about how it might proceed.

An outcome of this was the voluntary MDSA formed in 1999. Moray Keith was the first chair, followed by Bob Stewart. The Board of Directors was broadly based consisting of the three industry associations and representatives of several consumer groups.

Funding was principally provided by the New Car Dealers until membership dues started coming in. MDSA published standards of practice and guidelines for consumers. Working with Douglas College and other educators, a Salesperson Certification Course was designed and a two-day course commenced. By 2004, more than 400 dealers had voluntarily joined MDSA and 4,000 salespeople had gone through the certification program.

But Manning explained that the voluntary culture of MDSA limited the potential effectiveness. Consistent with the present government's policy of deregulating wherever possible, and delegating responsibilities to the private sector, the industry started the process that created MDC, which went into business June 1, 2004.

The responsibility to licence dealers and salespeople, educate professionals, enforce regulations and serve the interests of consumers, was delegated to the new independent agency.

Chair Bob Stewart advised the Summit that Ken Smith, as President of MDC, reports to his Board of Directors. But, as Registrar, is responsible for administration of the Motor Dealer Act and enforcement, he is accountable to the Legislature and the courts.

MDC start-up and current Issues - Ken Smith

Smith outlined the storm clouds that were evident before MDC started business. Government provided start-up monies, but on April 1, 2004, all other government funding ceased. MDC began collecting revenues from new and renewal dealer licences, but did not receive the operating capital needed to continue operations after start-up. This situation severely limited MDC's effectiveness during its first year of operations.

Challenges included the establishment of an office, province-wide service, computer systems and communication issues with dealers. Salesperson licensing established June 1, 2004, provided a new revenue stream and new challenges, discovering after two years that the B.C. industry had almost 8,000 salespeople instead of the 5,000 MDC had been told to expect. Today, Smith said, the BC salesperson certification program is viewed by many as number one in North America.

A policy of progressive enforcement was adopted, wherever possible achieving voluntary compliance. In the case of clear violations, it was decided to hold hearings rather than immediately go to the courts. Within these discussions, the Registrar's option to impose administrative assessments, recover costs of investigations, send a receiver or even suspend a dealer licence would be discussed. Compliance is always the goal. The courts and negative news releases through media are last resorts

Original thinking by the industry founders was that MDC enforcement issues would primarily be focused on curbers and less-than-reputable independents. While these are problems and often the source of the most egregious activity, the fact is that over a third of the consumer complaint calls MDC receives concern franchise dealers.

The first two years clearly demonstrated that MDC was seriously under resourced, and that a disproportionate amount of revenue was coming from salesperson licences. A significant correction was made for the fiscal year commencing April 1, 2006. New car dealers would pay more (except those who sell fewer than 100 new vehicles per year). An additional surcharge of \$500 per dealer was assessed to all dealers in the Lower Mainland, where a preponderance of MDC activity is required. Additional budget has facilitated an expansion of staff from 20 to 35, the elimination of backlogs in licensing services and new programs.

In terms of the relationship between MDC and industry, Smith quoted Justice Horace Kreever:

“The relationship between a regulator and the regulated...must never become one in which the regulator loses sight of the principle that it regulates only in the public interest, and not in the interest of the regulated.”

MDC looking ahead - Ken Smith

The Registrar described the Legislation Review as the most important task now facing the industry. Legislation in British Columbia has not been updated for 26 years. An industry-wide committee has worked for over two years to prepare its presentation to government.

Without changes to legislation, controlling curbers is virtually impossible: those who define themselves as wholesalers, agents, brokers, financiers, bailiffs or other related trades, are actually dealers who should be licensed and covered by legislation.

Smith emphasized that on a go-forward basis more can be achieved by professional development and consumer education. Investigations and prosecutions are very expensive and can process but one case at a time; education of sales people; the promotion of best practices and the creation of a more informed consumer can impact thousands with each initiative.

The Registrar outlined a series of goals, both immediate and long term:

- Integrating 15 new staff members and complete computer system upgrades
- Becoming a valued partner of industry in efforts to improve the image and consumer confidence.
- More uniform compliance with licensing, regulations and standards of practice.
- Upgrade dealer licensing rules.
- Create advisory committees for salespeople, motorcycles, advertising and consumer stakeholders.
- Continue to develop professional education.
- Create a Salesperson Upgrade Program (1 day course).
- Establish a voluntary dispute resolution service for both dealers and consumers.
- Future revenues to facilitate the mass education of consumers could come from a transfer fee attached to all vehicle licences.

The Workshops and Table Discussions

As noted in the opening of this report, there were two separate workshop sessions, at which table groups discussed issues. The first addressed the current state of MDC and the industry. The second focused on future directions. However, the dialogue and questions that were reported back to the Summit in both sessions, wandered from past to present and future with respect to most issues.

Therefore, we thought it most effective to merge the outcome of both these workshop sessions into one section of this report.

Funding

MDC fees and finance was the subject of considerable discussion, particularly the fairness of fees with respect to large and small dealers, and the Lower Mainland versus the rest of the province. The disproportionate amount of MDC work - relative to regional revenue - in the Lower Mainland had been previously outlined at length. It was further backgrounded that fees related to specific dealer size or sales volume would require an expensive auditing procedure.

The comment was made that MDC "cannot go to the same well too often."

Considerable discussion focused on services to consumers without any direct consumer contribution to the cost. The possibility of licence transfer fees had widespread appeal. A further benefit of this would be more thorough tracking of all sales transactions. Discussions are currently taking place with government on this topic.

Other suggestions included charging consumers to investigate complaints (government would not permit this), increasing salesperson licence fees, and increased fines and administrative penalties for abusers.

When it was explained that all ticket revenue go to government, a participant asked why this couldn't stay with MDC.

***Answer:** Agencies that are permitted to issue tickets in British Columbia – similar to other Canadian jurisdictions – do so under the Offence Act, revenues from which flow into government's general revenue. The sound theory behind this is that enforcement officers should have no other motive than compliance with statutes.*

Compensation Fund

Responding to questions concerning the compensation fund, it was explained that the fund does not cost MDC any money as it is self supported. The methods definitely need to be reviewed and definitely need new legislation.

Salesperson licensing and education

One table inquired about whether a sales recruit would have to take the certification course and get licensed before stepping onto a showroom floor or lot?

Answer: *A person job shadowing at a dealership does not need a licence. However, as soon as that person is interacting directly with retail consumers, they need to have applied for a licence to sell vehicles. A conditional licence is issued from the MDC which allows the salesperson time to take the course and fulfill all other requirements in order to get their licence.*

In response to a query about whether there is salesperson representation on the MDC Board, it was reported that the plan is to establish a salesperson advisory committee.

One group suggested that the "bar is set too low" with respect to salesperson education and advocated Computer Based Training for in-service education that would cover issues such as the "appropriate use of dealer plates." Another asked bluntly if anyone ever fails the certification course text.

Answer: *there are people that fail the test. Many times it is an ESL problem. MDC is trying to set a fair and even standard. With sales contracts that are written in English it is important that salespeople are able to read and understand the contract they are presenting to consumers.*

It was suggested that there is insufficient promotion to establish value for holding a salesperson licence and salespeople don't feel it earns any respect in the eyes of consumers. This is a key message of future consumer communications.

Enforcement

Several questions concerned curbers:

Answer: *this is a problem across the country. B.C. is bad but not the worst province in Canada. MDC has been able to shut down a few curbers working from lots. Some sales staff working at dealerships are also curbing vehicles on the side and we have taken action on these. Longer term the plan is to take away the customer from the curber by having them realize the value in dealing with licensed dealers and salespersons. Two months ago, MDC was able to get jail time for a curber – this involved two years of investigation.*

A participant asked if MDC would make available to dealers negative information about employees as a result of criminal record checks.

Answer: *This information is a requirement of the licensing process. The information received by MDC is confidential. If there is a real issue with checks received, they are dealt with on an individual basis.*

Concern was expressed that in the early days overzealous inspectors created a "defensiveness" among dealers that has proved counterproductive today. There is frustration when competitors are seen to be clearly violating regulations and not being caught. New car dealers were unconvinced by the statistics showing that their sector earned the most complaints, and suggested that the "severity" of these complaints ought to be compared with problems elsewhere in the industry.

It was emphasized by more than one the need to have fair and equal treatment across the board. Several asked for more enforcement, but acknowledged that education must be the future priority.

One participant suggested that a difficulty is that inspectors and investigators have no car business background. They have police credentials only.

Communications

A consensus of the meeting was that MDC and what it does is not sufficiently well known either by the public or industry, but Smith responded that the first year's communications budget was just \$25,000, not much more than the cost of an annual report. It grew marginally in year two and it is a bit better now. He said, "with the funds we have, MDC uses the budget well." he urged dealers to be more proactive in initiating awareness among consumers of what MDC does.

Emphasis is placed on the web site, which is a tremendous information resource for both dealers and consumers, and numerous interactive services. News releases, Bulletins, media appearances, the annual reports and trade show booths have all proved effective in their place.

A paradox has been that news releases reporting on disciplinary matters capture the headlines and achieve extraordinary coverage - elevating the profile of MDC - but also unfortunately further impairing the image of the industry.

Fees based on vehicle transfers may become the source of considerable income to use in consumer education.

Measuring performance

Good questions were asked about how MDC measures success. What is being accomplished?

Answer - *The annual reports document the funding, the growth, the achievements and frustrations to date. Contrast any number with the pre-MDC era and progress appears dramatic: number of hearings, penalties, license suspensions or cancellations, inspections, salespersons educated, media news coverage, web site hits and many other factors, and the progress is profound. Simply building the organization and attaining the resources necessary to fulfill the mandate has been an ongoing achievement.*

Other issues, comments and suggestions

- Policies for issuing or transferring licences to new addresses for well-established dealers could be streamlined.
- A participant was advised that consumer complaints are first referred back to the dealer for resolution.
- Another complimented the plan for a Dispute Resolution service.
- There was some discussion of standardized contracts both as a benefit to consumers and as a possible revenue source for MDC.
- It was suggested that an MDC information brochure should accompany all vehicle transfers.
- Concern was expressed that the BC Legislature would have a heavy agenda next spring and that without some powerful lobbying; MDC's Legislation Review might get shunted aside, or postponed.

Closing remarks - Bob Stewart

The Summit Chair closed with a promise that a DRAFT Summit report would be circulated among all attendees for comment, before a final report of the day is completed and made available through the MDC web site to both the industry and the public.

In his closing, he also made these points:

- MDC is neither government nor "self-governance," but rather an independent agency entrusted by government to build a more professional industry and to enhance consumer confidence.
- Communications is a two-way street. The best material in the world is of little value if people ignore it. Dealers should not only make themselves aware of the issues, they should help spread the message.
- Before significant progress can be made about curbers and many other issues, wholesale amendments are necessary to legislation. Dealers must help MDC emphasize the urgency with government.

ATTENDEES

Motor Dealer Council of BC

Directors

BOB STEWART	Chair, Public-at-Large	
GEORGE MORFITT	Vice-Chair, Public-at-Large	
KEN BESSASON	Public-at-Large	
JAMES CARTER	NCDA	Carter Chevrolet Oldsmobile
EDD CROOKS	ARA	Honest Crooks Auto Sales
SHELL HARVEY	Public-at-Large	
NEIL KALAWSKY	NCDA	Kalawsky Pontiac Buick GMC
CATHERINE RANKINE	ARA	Adesa Auctions Vancouver
JOHN RATEL	Public-at-Large	
ANNE SALOMON	RVDA	Candan RV Centre

Staff

KEN SMITH	President and Registrar	
DIANA DEN DUYF	Director of Finance and Operations	
ERAY KARABILGIN	Director of Regulatory Services	
EARL MANNING	Director of Licensing	
JUDY MCRAE	Manager, Corporate Services & Communications	
GARY BANNERMAN	Communications Consultant	

Automotive Retailers Association of BC

DALE FINCH	Director, ARA Services	
JERRY RAISEN		Raisen Sales Ltd.
GORDON VALANTE		Auto Depot

New Car Dealers Association

MANSE BINKLEY

BOB BUCKNER

JOHN CHESMAN

MIKE FINNERON

MORAY KEITH

BILL SIE

MICHAEL STEVULAK

RAYMOND VAN EMPEL

GLEN RINGDAL

President & CEO

Harmony Honda

Bank of Montreal

MCL Motor Cars

Mike Finneron Pontiac Buick

Dueck GM

Gold Key Pontiac

Pacific Mazda

Pioneer Chrysler Jeep

Recreation Vehicle Dealers Association of BC

GORD BRAGG

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MIKE ROSMAN

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Peden RV Superstore

Meridian RV

Mike Rosman Holdings

Voyager RV Centre