

# FRONT LINE

Q2 2024



## FEATURED IN THIS ISSUE: ANNUAL GOLF TOURNAMENT HIGHLIGHTS

► **FIRST PLACE WINNERS** donated their prize money back to the Used Car Dealers of Colorado Charity Fund! (L to R) Steven Moreland, Jack Hall, Mike Cintron and Dario Arnautovic



◀ **RYAN LORIMOR, WINNER OF BETTING HOLE #12**, donated his \$975 prize to the Used Car Dealers of Colorado Charity Fund! (L to R) David Cardella, Ryan Lorimor, Flor Briones and Mark Weida

— SAVE THE DATE —

**ANNUAL CHARITY FUND GALA: SATURDAY, NOVEMBER 16**

## FRONT LINE

The official digital publication of the  
**COLORADO INDEPENDENT  
AUTOMOBILE DEALERS ASSOCIATION**

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# CELEBRATING 83 YEARS STRONG

## IT HAS BEEN A PLEASURE

A MESSAGE FROM DAVID CARDELLA, CIADA CEO



Five simple words everyone wants to hear and say when conducting business. Your customers, vendors, employees, legislators and your association thrive on hearing those words once negotiations are finished. Do we sometimes unconsciously prevent those words from being said? Everything we do in business starts with the presentation and communication we have with people. Make sure, when you are talking about a vehicle or an issue, that the information is easy to understand and straight to the point.

I believe selling vehicles comes down to one thing: telling the story. Plain and simple, we are storytellers. When we advertise a vehicle, that is the beginning of the story to bring them in the door. We tell them why this is the vehicle to meet their needs, and why this dealership is the place to buy from and how you as the salesperson will help them. When you treat everyone with respect during the sales process, two things happen, one is you build trust with your potential customers including anyone that is with them and you have also created the best type of advertisement money cannot buy, word-of-mouth through personal experience. Everybody likes to talk about their buying experiences, especially vehicles, so do not miss an opportunity to spread the word about your dealership.

In this last legislative session, we were involved in a number of bills connected to our industry, which we wanted defeated or our members exempted from. I am happy to say that not only did that take place, we also helped secure over nine million dollars in funding to continue the fight against auto and catalytic converter theft.

Bill HB24-1148 dealt with the UCCC which was a redundant piece of legislation that we already comply with under the "Truth in Lending Act." We testified against this bill and our lobbyists Aponte & Busam in conjunction with other opposition stakeholders we were able to kill the bill in committee.

Bill HB24-1151 was a regulatory bill concerning fees that we already are required to disclose to consumers. We met with the sponsors of this bill to explain our position and ask to have used car dealers exempted from this onerous and concerning legislation, which they did. Ultimately this bill died in the Senate.

SB24-192 is a bill concerning lemon law legislation, which we began discussing with the Attorney General's office in November 2023. This bill originally included a seven-day inspection period on consumer purchased vehicles new or used. We then met with the bill sponsors and educated them that this was between the manufacturer and consumer, not the independent dealer, which led them to amend the bill with language clarifying this law does not apply to the Independent Used Motor Vehicle Dealer. This bill has been signed into law by the Governor, which includes our exemption. Remember, if it is a lemon law buyback you still need to, in writing, disclose it to the consumer.

This is why building relationships with CONSUMERS, members, vendors, or politicians, actually anyone no matter who they are, makes a difference in protecting our industry. Like I said, "It has been a pleasure" are five words we all need to hear. ■

# GOLF TOURNAMENT HIGHLIGHTS

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# IN THE KNOW

## How to Comply With New FTC Safeguards Rule

By Ronnie Wendt, Editor at Auto Dealer Today



**I**n an era when data is a business' lifeblood, Reynolds and Reynolds Chief Information Security Officer Nikhil Kalani has been the guardian of a high-stakes ballgame.

The digital-evolution leader, who helps create products to enhance dealership data security, observes that the strategy in the game is harder than ever. Hacking, he says, has evolved from people infiltrating personal computers to organized groups breaching entire company systems.

The stakes are different, too. "A decade ago, we might have seen a ransom demand of \$250. Now they ask for millions of dollars."

The high-stakes Kalani describes led the Federal Trade Commission to update its Safeguards Rule, the result of which took effect last June. The new rules strengthened protections for consumers' information maintained by nonbanking financial institutions, from mortgage brokers and payday lenders to automotive dealerships.

The agency then proposed a supplemental amendment to the rule that would require financial organizations to report data breaches and security events to the FTC. In October, the agency amended the rule to include nonbanking financial institutions

within its jurisdiction. Now those institutions—including auto dealerships—must report data breaches affecting 500 or more people.

"Before this change, a dealership might have had to report a breach to state regulators. That's a pretty common requirement in most states," Kalani says. "The new requirement adds in federal reporting directly to the FTC."

### What the Amendment Says

Dealers can refer to the revised rule for specifics, but Kalani says the focus is on "notification events," which the FTC defines as the "acquisition of unencrypted customer information without the authorization of the individual to which the information pertains."

The FTC further defines a notification event as one that "involves the information of at least 500 consumers." In those situations, the covered entity—for our purposes, an auto dealership—must notify the FTC "as soon as possible, and no later than 30 days after the discovery of the event."

An FTC statement on the new provision, which is scheduled to take effect on May 13,

says the notice must include:

- The name and contact information of the financial institution
- Description of the information involved
- The date or date range of the notification event
- The number of consumers effected
- A general description of the notification event

"The FTC has provided a web-based form to fill out," Kalani says. "The form itself is not overly complex. It asks some basic questions about the breach and its scope, the number of customers impacted, and provides a place for additional information. The complexity comes into play after dealerships make a report."

While Kalani can't speak for the FTC on notification handling, past actions can offer insight. He says that historically, the FTC conducted an investigation after a sizeable data breach and if it found security lapses, set security requirements for the organization.

"Historically, they asked for further reporting up to 20 years," he says. "So, not counting the fines they might issue, a dealer must be prepared to report to the FTC for 20 years."

The FTC has also required inspections by an approved third-party auditor every other year to ensure organizations meet the new security provisions. It has asked for the first audit report, and any of the future reports thereafter, for up to 20 years.

## Prevent Breaches First

FTC reporting may be straightforward, but the aftermath might not be. To avoid future problems, Kalani suggests establishing a robust security posture, for which he recommends three steps:

1. Develop a security culture. “This begins at the top, with leadership recognizing the value and promoting it to staff.
2. Put employees through regular security-awareness training. Training should evaluate how employees respond to diverse types of attacks, such as phishing, where hackers contact targets by email, phone or text message to lure them into providing sensitive data, including banking details or passwords.

“Most breaches begin with an email that an employee clicked on, which gives a foothold to an attacker,” Kalani says. “In fact, over 95% of all breaches begin by email. Dealerships need to test employees' security awareness and reward the best performers and give extra attention to those taking security risks.”

Working with a partner offers a consistent approach to gauge the security awareness of every employee. The companies can simulate cyberattacks to test employees and provide performance statistics to the dealership.

3. Put technical protections in place. Kalani says this comprises security protections for email systems, personal computers and company servers, with continuous year-round monitoring. “Monitoring is critical,” he says. “These attacks usually happen on nights, weekends or holidays, times when a dealer's own IT staff may be minimal, so dealers want to work with a partner who is available during those times. Also, email security needs to be given a high priority, and of course, frequent and reliable data backups.”

Reynolds and Reynolds protects customer data through its security operations center,

which focuses on threat intelligence, or what hackers are up to, to keep pace with the latest hacking techniques and tools. It monitors the systems and networks at dealerships. And when a cyber event occurs, Reynolds says the center promptly responds to address the situation.

## Pick the Right Partner

Picking the right partner hinges on knowing the difference between compliance and security, according to Kalani.

“Dealers often think security and compliance are the same thing,” he says. “They are related, but they are not the same. A dealership that is compliance-motivated might pick a partner whose skill set is fixed on compliance. But that won't stop hackers.”

He explains the difference with an analogy: A car that's road-legal can be driven on the road. It is a compliant car. However, that doesn't mean it's designed for safety or dependability, which requires “a different class of vehicle.”

Dealerships need a cybersecurity-focused technical partner to safeguard their data. The partners can help them establish a robust security foundation across systems, networks and data management, then layer on the right security tools, monitoring and training.

“Once you have strong technical cybersecurity, building in compliance is easy,” he says. “You are already doing the right things.”

He shares an example of how that might look in a dealership. Dealers need formal information security policies, but policies are documents that may sit on a file share or get published. Having policies, he says, doesn't stop hackers.

“It's about the implementation quality of the policy,” he says. “The policy describes what actions are needed, but you need to make sure the actions taken are of an appropriate quality. That's data security versus compliance.”

In order to improve cybersecurity, some dealers may need to invest in technology. Many dealers haven't kept up with their technology investments and are now in technical debt, Kalani says.

“These dealers may need to do some projects and implement new tools to catch up. They may need to upgrade their systems to establish a good baseline.”

Upgrading security and monitoring it once systems and policies are in place will help keep data secure so dealers might avoid a breach entirely, he says.

## How Hacking Has Evolved

Hacking has evolved beyond the stereotypical teenager in his or her parents' basement. It's now an organized crime network bent on destruction, according to Kalani.

Here's how he describes the face of hacking today.

- It's organized. The criminal network functions as companies, complete with supply chains, employee handbooks, and vacation policies. Nearly two decades ago, it mostly involved individuals attacking a single PC at a time. Now gangs are involved. The rise in bitcoin and other digital currencies made financial transactions harder to track, causing a rise in ransomware attacks.
- It's specialized. One hacking organization might focus on getting a foothold in a network to sell access to another group. A second group might purchase access, then work to infiltrate the entire network. A third entity might carry out data exfiltration, encryption and pass on the attack to a fourth group for ransom negotiations. “It operates like a modern company where each team, or gang, in this case, focuses on what they do best,” Kalani says.
- It's expensive. A report by IBM and the Ponemon Institute puts the average data breach cost for businesses with fewer than 500 employees at nearly \$3 million, and the average cost per breached record at \$164. The figures exclude additional regulatory fines or costs to get back online.
- It takes a long time to recover. Recovery can take weeks and typically requires a vendor that may bill by the hour. Recovery is made much harder there are no reliable backups. Ransomware gangs typically search for backups on the network and attempt to destroy them. ■



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# Compliance from deal start to completion

## How Dealertrack solutions help your customers and your profits

Compliance oversights can be costly to your customers, your dealership's bottom line and your reputation. As you continue to execute on your 2024 goals, and look at the year ahead in a market that has experienced uncertainty with high interest rates and wavering consumer demand, it is more important than ever to make every dollar count.

Prioritizing compliance is a must in this market to avoid potentially debilitating fines that threaten profits. A culture of compliance at the dealership helps protect consumers from identity theft and ensures that all customers are treated fairly and consistently, safeguarding both the consumer's financial health and the dealership's reputation.

Dealertrack's connected DMS, F&I platform and complete suite of registration and titling solutions help promote a culture of compliance that assists your dealership in operating and staying compliant. Here's how.

### Stop identity theft in its tracks

Identity theft continues to plague Americans, with the Federal Trade Commission (FTC) estimating over 1 million complaints in 2023.<sup>1</sup> At the same time, synthetic identity theft, a special form of fraud that combines fake information with real data to create a credit profile, is gaining traction. The FTC continues to strengthen the Safeguards Rule and at least 13 states - including California, Colorado and Virginia - recently enacted new data privacy and data security laws, with several other states considering legislation to follow suit.

Ensuring the security and confidentiality of consumers' personal information starts with your DMS. An advanced DMS helps mitigate risk from login through secure document management with built-in Multifactor Authentication (MFA) for compliant customer information protection. During the F&I process, compliance tools help detect fraud before progressing through the financing process. This can give dealerships the information necessary to avoid submitting fraudulent deal documents that trigger potential chargebacks from finance companies - up to \$15,000 per incident in potential losses.<sup>2</sup>

### Protect customer cash and your dealership's reputation

The FTC estimates that illegal tactics like hidden fees during the buying process cost consumers more than \$3.4 billion each year.<sup>3</sup> In response, the agency created the Combating Auto Retail Scams (CARS) rule to save people money and protect honest, law-abiding dealers from those who give our industry a bad name. Although pending judicial review, the Rule seems likely to go into effect in 2024.



The good news is that a complete and compliant F&I workflow, from credit to contracting and signing, can help dealers protect consumers from unfair practices while safeguarding their own finances and reputations. When compliance defense extends the length of the deal, proactive alerts and notifications help ensure compliance at every step. This includes aftermarket sales which are a ripe area for consumer misunderstanding. All user interactions are tracked and saved within the deal jacket to protect against future audits and enforcement actions.

### Safeguard customer data all the way through deal completion

Increased federal and state regulations mean dealerships should expect continued scrutiny over all aspects of the business - including title and registration. Paper-based processes can potentially expose customer information to theft at the dealership or while being couriered, mailed or shipped for processing. When it comes to finalizing cross-border deals, staff may inadvertently collect too much or the wrong customer information to complete a deal, putting the dealership at risk for fines.

Electronic registration and title processes help mitigate risk because transactions are completed and securely submitted online directly to the registering state. When completing cross-border deals, staff can access an electronic checklist so they only collect the information, documents and forms needed for a particular customer and state. When you safeguard customer data all the way through deal completion, you protect your customers financial health and reduce your compliance risk.

**Compliance at every step of the deal is critical for dealership's to protect customers and profits. Schedule a no-obligation demo with your Regional Sales Manager to discuss how Dealertrack's advanced DMS, F&I platform and complete set of registration and titling solutions - all with proactive support - can help you safeguard your dealership with a culture of compliance.**

<sup>1</sup> Federal Trade Commission, Consumer Sentinel Network Data Book 2023

<sup>2</sup> Synthetic Identity Fraud in the U.S. Payment System: A Review of Causes and Contributing Factors, The Federal Reserve, July 2019.

<sup>3</sup> <https://www.ftc.gov/news-events/news/press-releases/2023/12/ftc-announces-cars-rule-fight-scams-vehicle-shopping>

This is not meant as legal advice, and we do not purport to provide any legal or regulatory analysis. Consult with your attorney for any legal, regulatory, or compliance questions you may have.



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## IMPORTANT INFORMATION REGARDING UCCC



### **DEADLINE APPROACHING:**

Uniform Consumer Credit  
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**Deadline: Mon., July 1, 2024**  
*(30-day Grace Period)*

**Renewal Fee: \$400**

***ATTENTION MEMBERS:***  
*If you don't renew on time,  
there is a fine of \$5/day.*

**NEW THIS YEAR,** you will also need to ensure that your DBA (Doing Business As) are registered with the Colorado Secretary of State's office, which is part of your general business license registration, and that you list each GAP administrator through whom you sell GAP waivers.

Remember, every Used Car Dealer is a retailer under the UCCC and must be licensed as such. This is the lesser of two licenses - the other being supervised lender - which allow dealers to facilitate financing in the car purchase. This license is required in addition to a general business license, Motor Vehicle Dealer license, and sales tax licenses.

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