

# Regulatory Compliance: Pitfalls for Equipment Dealers

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# Regulatory Landscape

*The Only Event for Equipment Dealers and Finance Providers*

# Where Is the Risk?

- **Federal Level – Federal Trade Commission**
  - **FTC Act Section 5 – Prohibits Unfair and Deceptive Acts and Practices - “UDAP”**
  - **Applies to B2B and B2C Transactions**
  - **New Leadership – Expected to be active where law is clear and injury results from UDAPs**
  - **Also, privacy law, data security, furnishing credit information.**
- **State Level – Administrative Agencies and State AGs**
  - **Some form of UDAP law in every state**

# Hot UDAP Issues

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## **Misrepresentations In Sale of Equipment**

- **Is the advertised price the “all in” price?**
- **What must be included? All charges for a cash deal, except for taxes and government fees . . . .**
- **What about listing a price after a mfr rebate?**
- **Is advertised equipment available – and at the stated price?**
  - **What if it is in transit to the dealer – or already sold?**
- **Advertising reviews or testimonials . . . .**

## Misrepresentations of Additional Items, Products, Services

- If dealer has added items or products to equipment, is the cost included in advertised or quoted price?
- If Add-ons are optional, is that fact clearly explained?
- Is buyer's consent to purchase Add-ons unambiguous?
- Are claimed benefits supported by adequate proof?
  - Advertising Substantiation: Seller must have substantiation of material claims before item is offered for sale . . . .
  - What if Add-on product/service is supplied by a third-party vendor? Who must provide proof of benefit?

## Misrepresentations of Financing Terms

- Credit advertising rules apply to consumer transactions, but . . .
  - Deception in financing terms is also illegal in B2B deals.
- Advertising a down payment or monthly payment amount . . . .
  - “Trigger terms” require add’l disclosures.
- Can offering price be net of required down payment?
- Be careful with monthly payment comparisons . . . .

## **Is That ALL???**

- **Of course, not. There is an ocean of federal laws, rules, advisory opinions, and official industry guidance. As of this week, the CFPB has revoked all compliance guidance it has ever issued, pending its review. Will this act hurt or help creditors comply?**
- **Each State was its own laws, regulations, advisory letters, and various less formal methods of communicating policy.**

## **Additional Hot Issues for Dealers:**

- **State privacy and data protection laws, FTC and state data security regulations, accuracy of data furnished to credit reporting services.**



# Example –

## ***NEW* Forklift**

Only \$24,099!\*

Pay as little as \$350 per month!

Save thousand\$\$\$!

### **SPRING SALE – LOWEST PRICES ONLINE**

Spring is here, and so are the best deals on the market. Shop now and lock in the lowest prices available before the sale ends!

\* After \$6,000 down. Subject to availability. Dealer installed equipment extra. Tariffs may increase price. May have balloon payment.. See dealer for details.



## Questions??

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