Automotive Broadcasting Rules

Missouri recently enacted "the fifteen commandments" for automotive advertising into law. These make very substantial changes and additions to what you can, must, and cannot do with regard to advertising for this very important product category.

There are 15 sections of this new law dealing specifically with advertising of automobiles which impact current common practices. All stations are encouraged to make certain that appropriate personnel are familiarized with this new section of law.

HB2008

301.567.1. For purposes of this section, a violation of any of the following advertising standards shall be deemed an attempt by the advertising dealer to obtain a fee or other compensation by fraud, deception or misrepresentation in violation of section 301.562:

1. A motor vehicle shall not be advertised as new, either by express terms or implication, unless it is a “new motor vehicle” as defined in section 301.550;
2. When advertising any motor vehicle which is not a new motor vehicle, such advertisement must expressly identify that the motor vehicle is a used motor vehicle by express use of the term “used”, or by such other term as is commonly understood to mean that the vehicle is used;
3. Any terms, conditions, and disclaimers relating to the advertised motor vehicle’s price or financing options shall be stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information, but not be used as a means of contradicting or changing the meaning of an advertised statement;
4. The expiration date, if any, of an advertised sale or vehicle price shall be clearly and conspicuously disclosed. In the absence of such disclosure, the advertised sale or vehicle price shall be deemed effective so long as such vehicles remain in the advertising dealership’s inventory;
5. The terms “list price”, “sticker price”, or “suggested retail price”, shall be used only in reference to the manufacturer’s suggested retail price for new motor vehicles, and, if used, shall be accompanied by a clear and conspicuous disclosure that such terms represent the “manufacturer’s suggested retail price” of the advertised vehicle;
6. Terms such as “at cost”, “$.... above cost”, shall not be used in advertisements because of the difficulty in determining a dealer’s actual net cost at the time of the sale. Terms such as “invoice price”, “$.... over invoice”, may be used, provided that the invoice referred to is the manufacturer’s factory invoice for a new motor vehicle and the invoice is available for customer inspection. For purposed of this section, “manufacturer’s factory invoice” means that document supplied by the manufacturer to the dealer listing the manufacturer’s charge to the dealer before any deduction for holdback, group advertising, factory incentives or rebates, or any governmental charges;
7. When the price or financing terms of a motor vehicle are advertised, the vehicle shall be fully identified as to year, make, and model. In addition, in advertisements placed by individual dealers and not line-make marketing groups, the advertised price or credit terms shall include all charges which the buyer must pay to the dealer, except buyer-

selected options and state and local taxes. If a processing fee or freight or destination charges are not included in the advertised price, the amount of any such processing fee and freight or destination charge must be clearly and conspicuously disclosed within the advertisement;

8. Advertisements which offer to match or better any competitors' prices shall not be used;
9. Advertisements of "dealer rebates" shall not be used; however, this shall not be deemed to prohibit the advertising of manufacturer rebates, so long as all material terms of such rebates are clearly and conspicuously disclosed;
10. "Free", "at no cost", shall not be used if any purchase is required to qualify for the "free" item, merchandise, or service;
11. "Bait advertising", in which an advertiser may have no intention to sell at the prices or terms advertised, shall not be used. Bait advertising shall include, but not be limited to, the following examples: (a) Not having available for sale the advertised motor vehicles at the advertised prices. If a specific vehicle is advertised, the dealer shall be in possession of a reasonable supply of such vehicles, and they shall be available at the advertised price. If the advertised vehicle is available only in limited numbers or only by order, such limitations shall be stated in the advertisement; (b) Advertising a motor vehicle at a specified price, including such terms as "as low as $....", but having available for sale only vehicles equipped with dealer added cost options which increase the selling price above the advertised price;
12. Any reference to monthly payments, down payments, or other reference to financing or leasing information shall be accompanied by a clear and conspicuous disclosure of the following:
    1. Whether the payment or other information relates to a financing or a lease transaction;
    2. If the payment or other information relates to a financing transaction, the minimum down payment, annual percentage interest rate, and number of payments necessary to obtain the advertised payment amount must be disclosed, in addition to any special qualifications required for obtaining the advertised terms including, but not limited to, "first-time buyer" discounts, "college graduate" discounts, and a statement concerning whether the advertised terms are subject to credit approval;
    3. If the payment or other information relates to a lease transaction, the total amount due from the purchaser at signing with such costs broken down and identified by category, lease term expressed in number of months, whether the lease is closed-end or open-end, and total cost to the lessee over the lease term in dollars;
13. Any advertisement which states or implies that the advertising dealer has a special arrangement or relationship with the distributor or manufacturer, as compared to similarly situated dealers, shall not be used;
14. Any advertisement which, in the circumstances under which it is made or applied is false, deceptive, or misleading shall not be used;
15. No abbreviations for industry words or phrases shall be used in any advertisement unless such abbreviations are accompanied by the fully spelled or spoken words or phrases.

The requirements of this section shall apply regardless of whether a dealer advertises by means of print, broadcast, or electronic media, or direct mail.

Dealers shall clearly and conspicuously identify themselves in each advertisement by use of a dealership name which complies with subsection 6 of section 301.560.

Please contact the MBA Legal Hotline or the MBA office for further guidance.

This information is not intended to serve as legal advice. It is a guide to be used by the reader as an aid in determining commercial and programming guidelines. Should any question arise regarding legal interpretation pertaining to a particular problem, you are advised to consult your attorney.