



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
for British Columbia

Protecting privacy. Promoting transparency.

December 23, 2014

Blair Qualey
President & CEO
New Car Dealer Association of BC
70 - 10551 Shellbridge Way
RICHMOND BC V6X 2W9

Dear Blair Qualey:

Privacy Issue Consultation—New Car Dealer Association of BC and Motor Vehicle Sales Authority of British Columbia—OIPC File P14-57493

I am writing in regard to the issue of the collection and use by car dealers of the personal information of customers and compliance with the *Personal Information Protection Act* (PIPA). In April 2014, there was a media report alleging that a car dealer was collecting and using customer personal information contrary to PIPA. Subsequently, your organizations and Registrar of Motor Dealers both contacted my office indicating an intention to educate car dealers in British Columbia about the requirements of PIPA, and we opened an investigation and agreed to review and comment on your proposed materials. These documents included educational materials, policies, agreements, and consent forms.

Following our investigation and your discussions with my investigators, I would like to confirm our understanding of the direction that the New Car Dealer Association of BC (NCDABC) has agreed to provide to its members (Car Dealers) with respect to the policies and procedures for collecting and using personal information from customers who test drive a vehicle. This direction strikes the right balance between the two purposes of PIPA, which are to recognize the right of individuals to protect their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances.

Our understanding is that the NCDABC will provide the following direction to its members:

1. Car Dealers will only collect personal information that is reasonably required for the purpose of verifying an individual's identity, ensuring the individual has a valid driver's license, ensuring the test vehicle is properly insured, and ensuring that the driver is held accountable for any damage to the vehicle or any contraventions of the Motor Vehicle Act or other statute when in possession of the vehicle. This information will include:
 - a. Name
 - b. Address
 - c. Licence Number
 - d. Date of Issue
 - e. Date of Expiry

This information will not include

- a. weight;
 - b. height;
 - c. sex;
 - d. eye colour;
 - e. hair colour;
 - f. date of birth;
 - g. picture; or
 - h. personal health number
2. Prior to collecting personal information, Car Dealers will ensure individuals who want to test drive a vehicle are informed of the purpose for collection, what personal information will be collected and how that may be used or disclosed.
 3. Car Dealers will obtain consent from the customer for the collection of their personal information. If a Car Dealer wishes to use the customer's contact information for follow up or marketing purposes, the dealer will obtain the customer's explicit consent to use the information for these purposes. The NCDABC will be providing Car Dealers with copies of model agreements and consent forms to obtain signed consent from customers for the collection and use of their personal information for these purposes.
 4. If Car Dealers intend to electronically scan or copy a customer's driver's licence, they must use a scanning program that collects only the appropriate fields from the card or they must manually redact the unnecessary personal information from the copy the machine has produced.
 5. Car Dealers will make reasonable security arrangements to protect the personal information it collects from customers.
 6. Car Dealers will destroy personal information collected from test drivers once the purpose for collection is no longer being served and once retention is no longer required for business or legal purposes. If, on the return of a vehicle taken by a Customer, there is no evidence or reasonable suggestion of any damage or any tickets (whether for violations or tolls); the Car Dealer should destroy the personal information shortly thereafter. However, if there is some reasonable evidence of damage to the vehicle or a possible violation ticket or toll charge, then it is reasonable to keep the information until the matter is concluded. If the Car Dealer suspects an accident or damage or a possible infraction or toll, it will need to note it in the file immediately with reasonable justification to support the retention of the information.

I confirm that we have reviewed the educational materials that the Vehicle Sales Authority has produced for the purpose of providing training to licenced car salespeople in B.C., and these materials are consistent with the principles and practices stated above.

My office intends to follow up with individual Car Dealers to ensure that they are complying with these policies and procedures. However, I believe that it would be fair to give your organizations an opportunity to provide an appropriate level of communication and training to Car Dealers and licenced car sales people. Therefore, our series of spot checks will not begin until three months after the date of this letter.

I thank you for your efforts to ensure that Car Dealers in B.C. comply with the requirements of PIPA. If you have any questions regarding this letter contact Deputy Registrar/Assistant Commissioner, Jay Fedorak.

In light of the ongoing public interest in this matter, this letter will be posted to our website.

Sincerely,



Elizabeth Denham
Information and Privacy Commissioner
for British Columbia

pc: Ian Christman, J.D.
Registrar of Motor Dealers & Privacy Officer