

FACILITY IMAGE PROGRAMS: DISRUPTION BRINGS OPPORTUNITIES

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Generally speaking, automotive OEMs, their independently owned dealerships and ultimate consumers all expect new vehicles to be sold from clean, attractive and modern facilities. For decades, however, tensions have sometimes arisen between OEMs and their dealers about the merits of facility image programs, and the significant expense and disruption often associated with complying with an OEM's requirement to standardize and modernize facilities.

Most dealer agreements contain provisions requiring dealers to update their facilities over time and upon the OEM's request to comply with current image standards. The historic tensions between OEMs and dealers about complying with facility image programs have spawned disputes in the past, and these tensions can be expected to increase given recent developments.

Increasing Online Sales Creates Friction

As long as nine years ago, the United States National Automobile Dealers Association ("**NADA**") predicted that by 2020 traditional brick and mortar dealerships may not be well-suited to car buyers who are increasingly shopping on-line. Back in 2012, NADA summarized the findings of its research project into OEM factory image programs. In its White Paper (entitled "Factory Image Programs: An NADA Research Project"), NADA expressed its view that the economic value of OEM factory image programs is only weakly demonstrated, their costs are excessively high and they may not best prepare automobile dealerships for future evolution. Among other recommendations found in the White Paper, NADA strongly suggested that both OEMs and dealers plan for the future to avoid building "white elephant" facilities that are made obsolete by evolving consumer shopping habits.

More recently, in 2019 McKinsey & Company wrote that automotive dealers function in a progressively disrupted environment and must discover new ways to operate in an increasingly digital, omnichannel environment.^[1] One of the forces of disruption they noted was the emergence of third-party digital channels (in the form of Cars.com, CarGurus, Carvana, Shift and Vroom, among others) permitting customers to research

and purchase vehicles on-line. McKinsey predicted that e-commerce vehicle sales, characterized by single pricing and streamlined processes, will only grow in the future and take business away from brick and mortar dealerships.

Notably, both NADA's and McKinsey's predictions were made *before* the covid-19 pandemic struck the world in early 2020. That the current pandemic constitutes another disruptive force that will forever change the automotive retailing model cannot be overstated. It has both accelerated the pace at which customers have become comfortable purchasing vehicles on-line and can be expected to make dealers more resistant to what can be costly facility image programs.

According to a Think with Google article published in late 2020,^[2] the impact of the pandemic on the automotive retailing industry will be more than just a passing trend and customers will increasingly continue to want to buy vehicles online. The article notes that:

- In March 2020, nearly 10% of car buyers in the United States purchased their vehicle online (up from 1% in 2018);
- 73% of automobile purchasers are comfortable negotiating the purchase, lease, and financing terms completely online or through a mix of online and offline;
- 63% of purchasers said they would consider ordering their future car online and having it delivered to their home — and 65% expect more online purchase options in the future; and
- 98% of purchasers who were offered an at-home test drive found it helpful with decision-making, but only 24% of them were offered one.

The Google article concludes by observing that while dealership facilities will continue to play a key role in car shopping, delivering “a blended retail model that combines online strategies with traditional dealership-based interactions” is not just “good business – it’s the future of the business”.

Accordingly, moving forward OEMs can likely expect more resistance from some dealers to make the often significant investment required to comply with facility image programs in a tight-margin market that is moving increasingly towards on-line transactions.

What Are OEMs to do?

Obviously, one of the key take-aways from the above is that OEMs need to accelerate their building of platforms to assist purchasers to engage, shop for and purchase vehicles online. Among other things, such platforms ought to enable purchasers to easily move between the websites of the OEM and its dealers (or make seamless the information sharing between the OEM and dealers on single platform) to search for inventory, obtain pricing and close deals.

Notably, some OEMs have already embraced this idea. Nissan Canada, for example, launched its nationwide virtual showroom, Nissan Studio, in December 2020. It is an interactive website that permits customers to speak to Nissan representatives, build and order certain models of vehicles online and arrange to pick them up at local dealerships. Nissan Studio is similar to Cadillac Live, which launched in 2019.

Embracing the new online realities will require OEMs to develop and make increased investments in online and digital solutions. The new online realities (and the fact that going forward customers may spend less time physically in new car showrooms) may also, over time, likely prompt additional physical changes to dealership facilities. While dealerships likely should feel fresh, welcoming and modern, do they need to be as big? Does their inventory need to be as large? What are the important customer-facing areas that need to be modernized? etc.

These realities, which have been significantly accelerated by the pandemic, provide OEMs and dealers with the opportunity to work together to improve the car buying experience and expand market share in creative and new ways.

In the meantime, the appearance and condition of dealership facilities will remain important. When requiring a dealer whose facility is substandard to upgrade, OEMs should consider assembling data that makes a convincing business case for the dealer to spend the required money to implement the facility image program. To further encourage dealer willingness to comply with image requirements, OEMs might also want to consider what they can do to reduce the costs of doing so and be more creative in developing financial incentives to assist dealers in making the improvements.

by W. Brad Hanna

[1][ps2id id='1' target=''] "As Dramatic Disruption Comes to Automotive Showrooms, Proactive Dealers Can Benefit Greatly", McKinsey & Company, January 23, 2019.

[2][ps2id id='2' target=''] "With Car Shoppers More Willing to Buy Online, Auto Marketers Must Bridge the Divide", Kyle Keogh and Thomais Zaremba, September, 2020.

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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