Summer 2016

NATIONAL FRANCHISED DEALERS ASSOCIATION

The Voice

The Official **NFDA** magazine for the Industry

WHAT COULD BREXIT MEAN FOR UK AUTOMOTIVE INDUSTRY?

ALSO IN THIS ISSUE...

- Changes to MOT training
- Making Sense of Brexit
- New Apprenticeship Levy
- Consumer Protection Regulations Latest
- Changes to the Vehicle Excise Duty
- Automotive Management 'Live'

Plus...
Interview with NFDA Chairman, Peter Jones

NFDA
NATIONAL FRANCHISED DEALERS ASSOCIATION

Introduction from Sue

Following the outcome of the EU Referendum on Brexit, there has been much speculation and media coverage on consumer confidence and business investment. Miles Trower, of TLT Solicitors – NFDA's legal counsel – has provided an insight into the possible effects of Brexit for both retailers and manufacturers.

At NFDA Trusted Dealers there has been no apparent decline in enquiries, with the weather having more affect than any external economic issues.

As the Government looks at the future legislation system it is now more important than ever for the sector to have a clear voice. NFDA is that voice.

Finally, I would like to thank Peter Jones who has now stepped down from his role as NFDA Chairman, which he has held for the past two years. He has been a tremendous support. I would like to welcome Mark Squires, former Chief Executive of Benfield Motor Group, who will take over the Chairman's role on 11 October.

Sue Robinson

New Apprenticeship Levy

The new apprenticeship levy is due to start in April 2017. The levy will apply to employers with payroll bills of over £3 million; some 2% of UK employers. The levy is 0.5% of a firm's wage bill and will be collected similarly to other payroll taxes. All employers will be given a £15,000 allowance to offset against their levy payment.

The new levy will help pay for apprenticeship training. Employers will be able to recoup the cost of the levy by taking on apprentices and training them using the funding made available from the new scheme. The Government has not revealed yet what percentage of the levy will be allocated to the training.

Current Situation

Currently, the Government pays two thirds of the training and assessment process with the employer funding the final third.

The Government, however, pays in full for employers' incentives, English and maths educational support, as well as additional learning support.

How will it work

Employers will have more freedom to use the allowance and will be able to develop Trailblazer apprenticeships suited to their business sector and needs. This should mean more employer ownership and hopefully more apprentices trained to fill the skills gaps.

The new levy will be collected by HM Revenue and Customs' through PAYE and funding will then be put into the hands of employers alongside the design of the apprenticeships' standards.

Calculating the new levy

The new levy is based on an employer's payroll cost and applied at 0.5%

For example:-

Employer of 250 employees, each with an average gross salary of £20,000

Payroll cost:
250 x £20,000 = £5,000,000

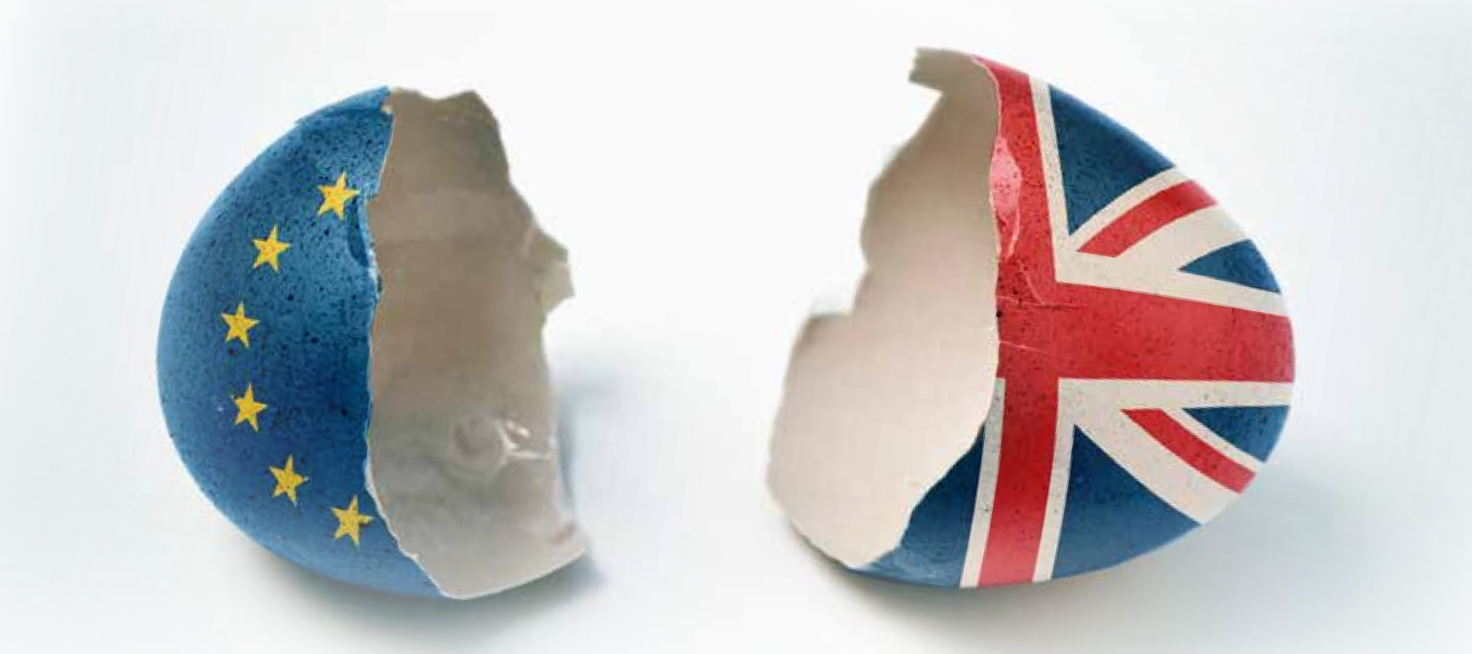
Levy sum:
0.5% x £5,000,000 = £25,000

Applying the allowance of £15,000 would reduce the £25,000 to a levy of £10,000

Implementation

The levy is due to be implemented next April, however businesses have recently called for a delay due to economic concerns following the Brexit vote. Businesses are facing a period of uncertainty and need to adapt, particularly, in the short term. The additional cost of the levy will not be helpful while this is happening. The NFDA have also urged the Government to delay the introduction of the levy for at least a year to ensure no unintended consequences such as job losses due to the extra costs to business.

No Initial Sign of BREXIT Slowdown



Following the unexpected decision of the British public to leave the European Union, there was widespread fear that the resulting economic uncertainty would dent consumer confidence in the used car market. However, Trusted Dealers is pleased to report no initial slowdown in lead generation since the vote – with a continued strong performance in email and phone leads alike.

This is also reflected in consumer behaviour visible through other metrics – with site visits, bounce rates and time on site all remaining well within normal seasonal bounds, the only blip we've seen coinciding with the first bit of sunny weather this year! Year on year, the picture also remains remarkably even.

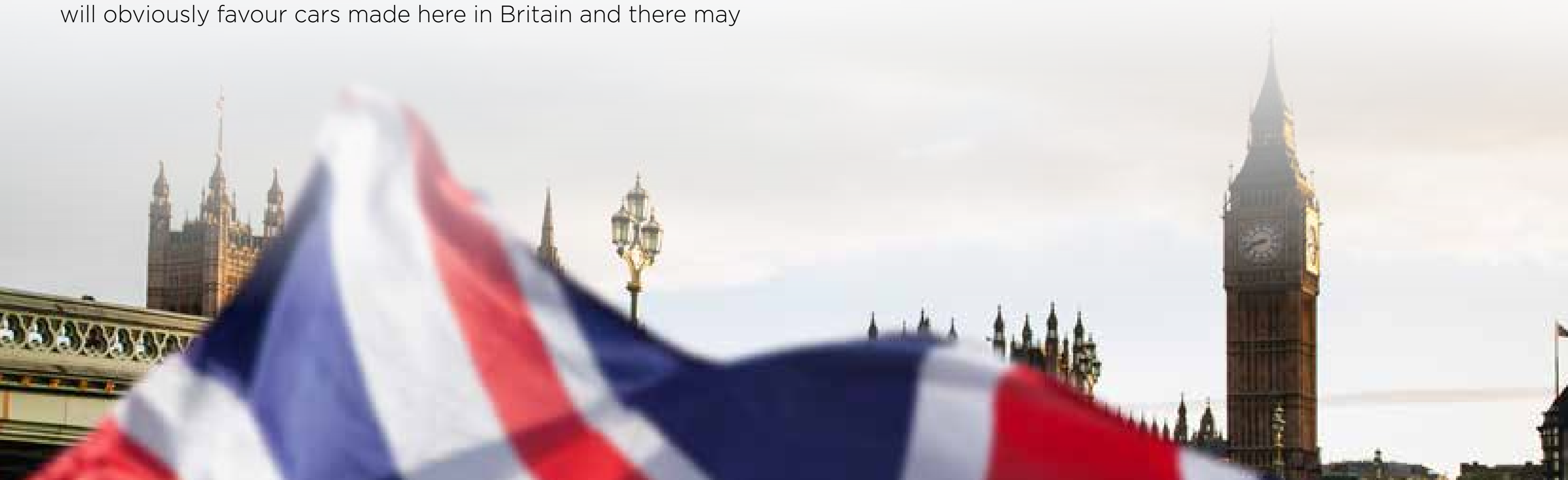
With the announcement of a further cut in interest rates by the Bank of England, it remains a good climate for consumers seeking the kind of competitive finance deals offered by main dealers.

Now is also a good time for franchised dealers to extoll the value of their offering: main dealers remain the safest place to buy a used car, and initiatives such as the NFDA's campaign against odometer fraud will be crucial to retaining consumer confidence and helping people to buy safely.

Looking forward to the future, the falling value of the pound will obviously favour cars made here in Britain and there may be further volatility ahead, but fears of a collapse in consumer behaviour has so far not been evident in the numbers.

Trusted Dealers continues to believe that new routes to market – through social media and video – will continue to deliver increased value through the second half of the year. With recent advancements in business intelligence we also believe that there are still better margins to be gained through collaboration with advertising partners. So whilst now is not the time to make long term decisions, keeping a close eye on internal performance will be key to making any decision on your marketing as we come to terms with the Brexit vote.

For more information about joining NFDA Trusted Dealers, contact Neil Addley today on 01423 506272.



Brexit pursued by a bear?

What are the real implications for the automotive industry?

The decision taken by the UK to leave the European Union following the referendum on 23 June has already had an impact on UK and overseas markets and currencies; more muted than many predicted, but it's still early days.

Notwithstanding the negative impact on the value of sterling, stocks have rebounded, even the FTSE250 which (unlike the FTSE100 whose results may partly be flattered by currency movements) comprises a greater proportion of companies with a domestic focus.

That said, much media attention has been devoted to the question of business and consumer confidence, and it is this relatively abstract factor that will play the most crucial role in the longer term. This confidence will be influenced by the media, but more importantly, through the establishment of a coherent and practicable plan, both in terms of the timing and practicalities of exit, as well as an explanation of the actual legal framework that will replace EU membership.

Against this backdrop, it is inevitable that the automotive industry, one of the strongest advocates for the UK remaining in the EU, will experience some turbulence; however, at least domestically, the sector is also one of the UK's most resilient, particularly at the retail level, and well used to absorbing the effects of global overproduction, financial crises and the like. Will Brexit present a radically different and tougher challenge for businesses in this sector?

Background

Currently, the UK automotive industry makes up a significant part of the UK economy and is a significant contributor to exports, particularly those to the EU.

The industry accounts for £69.5 billion in turnover, contributing £15.5 billion of added value to the UK economy each year. 160,000 people are directly employed by the industry in manufacturing and a further 799,000 across the wider industry, mainly retail. [1]Indeed, dealer groups are, collectively, the largest employer in the sector.

Last year 1.58 million cars were manufactured in the UK, with 57.5% of those being exported and sold in Europe. [2]The UK's relationship with the EU is clearly of high importance to the industry and its success.

It follows that a decision to leave the Single Market causes concern, at least in the short term where the UK's subsequent relationship with the EU has not been clearly defined. That said, it is logical to anticipate that, ultimately, enlightened self-interest will prevail (in the sense of a workable trade/tariff deal) over any EU political imperative to make the separation as difficult as possible to discourage further fragmentation of the block. It is, of course, important to consider both the negative and positive effects, as well as associated practicalities.

Should we expect radical change?

One effect of the decision to leave the EU will be the removal of the UK from the Single Market and the current basis upon which the country trades freely across Europe.

It is still unclear what the future of the UK's relationship with Europe will look like, however it is possible that the UK's departure from this free trade area will result in the loss of tariff free trade, thus prompting an increase in the price of imports and exports from and to Europe.

A 10% levy on the price of cars manufactured in the UK could, in isolation, reduce demand for UK-manufactured vehicles in the long-term (i.e. post any actual exit), albeit this could be off-set by any sustained drop in sterling. Indeed, in the short term, the acute drop in sterling means that UK exports are more competitive than many of their foreign counterparts.

It has been suggested that export rates for UK manufactured cars will rise due to the depreciation in sterling, with firms having the choice of whether to increase output or boost prices in order to take higher profits. While these may only be short to medium term benefits, it is clear that the decision to leave the EU is not having a purely negative impact.

It is hard to tell how companies manufacturing in the UK would react to tariffs/currency fluctuations in the longer term. If the price of importing components (currently 60% of components used in UK cars are imported[3]) did increase significantly (whether as a result of any sustained depreciation in sterling or the imposition of tariffs), it could prompt some manufacturers to transfer production to other EU countries which still enjoy the benefits of the free trade area. The impact that this could have on the UK economy and employment rates could be severe and, indirectly, lead to an increase in the price of cars for UK consumers.

However, this only examines part of the equation long term. Manufacturers with production facilities elsewhere in the EU (and those importing components into the UK) recognise that the UK is a key market for the consumption (and production) of their goods, particularly in the automotive sector (the second most important in the EU after Germany[4]). For example, over 70% of the 2.6 million cars sold in the UK last year were imported from Europe and tariff deals flow two ways. It is inevitable that the might of the European car manufacturers' lobby, whose members have far more to lose than to gain as a result of unhelpful tariff barriers (which might otherwise prompt UK price increases), will focus their considerable resource on ensuring that the current status quo is preserved.

Logical outcomes aside, a lack of confidence in the UK economy and the country's future in the post-Brexit world will have an important impact on investments in the sector at both the retail and manufacturing level. Investment in the industry has, in the past, been significant (over the past four or five years UK investment reached £8 billion[5]), so if confidence were to falter in the longer term, this would have a more pronounced impact on the automotive industry.

Other impacts and costs also have to be considered, such as the need to address EU regulations (block exemptions etc.) which may (depending on the exit model) no longer apply to the UK, although the swiftest, cheapest and most pragmatic solution (and one that would ensure as harmonious a trading position with the EU as possible) would be for those regulations, albeit with some modification, to be adopted as domestic legislation.

In many respects, the biggest long-term challenge for the UK automotive industry – both for manufacturers and retailers - will be its ability to attract qualified and committed overseas talent, necessary to support the businesses that have shown such growth over recent years. Ultimately, markets will regulate themselves and trade deals can be negotiated, but for an industry with a growing need for young professionals, Brexit may be a backwards step.

What model is the UK likely to follow?

Consideration of a long term and sustainable agreement between the UK and the EU regarding trade is essential. The media is awash with different possible models, from:

- European Economic Area / European Free Trade Area membership (like Norway), which is as close as you can get to being in the EU without being in the EU, and although positive from a trade perspective still involves delegating much control to Brussels (and the acceptance of free movement) which, politically, would be difficult to sell; to
- Free Trade Agreements / the World Trade Organisation mechanism, which transfers more control back to the UK but may be less business-friendly (from an EU perspective) and involves lengthy negotiations with other countries/trading blocks.

Even the latter model does not preclude the adoption into UK legislation of EU regulation affecting arrangements in the automotive industry, as well as offering the opportunity to achieve a better balance between manufacturers and dealers.

This would reduce the likelihood of significant adverse change within the industry. On the other hand, a move to more protectionism could see some UK-based car makers reconsidering their operations taking into account lower margins and the importance of the wider EU market.

What Needs to Happen Now?

In any event, the uncertainty surrounding the UK's eventual relationship with the EU needs to be addressed as quickly as possible to avoid any further erosion of confidence. This does not mean that new trade deals need to be struck overnight (not that this is possible); however, a sensible timetable, format and plan needs to be articulated and communicated sooner rather than later.

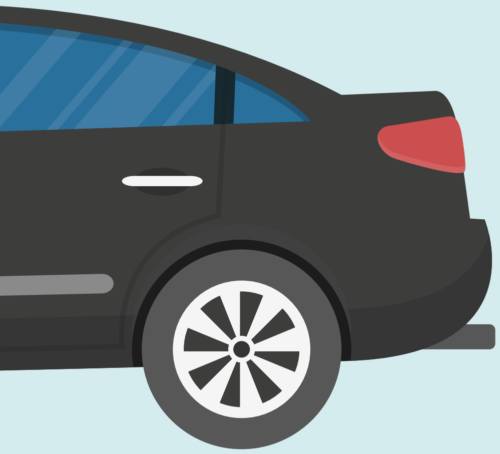
As well as this, instead of simply developing and creating new agreements with the EU, the UK – and its key sectors, including automotive - need to develop systems of education, skills training and retraining as part of a wider industrial policy.

Certain decisions previously made such as measures to scrap the Advanced Manufacturing Supply Chain Initiative (which aimed to help the existing UK supply chain grow and achieve world class standard, whilst also encouraging manufacturing into the UK) and the Manufacturing Advisory Service should be revisited in order to get the most out of the industry. Equivalent initiatives at the retail level, including those supported by the NFDA, should also be encouraged and fostered. In short, a better funded and more active industrial and retail policy is now needed to boost competitiveness in the automotive sector.

Provided these challenges can be confronted relatively quickly, notwithstanding any short-term impacts on consumer confidence in 2016/17, there is no reason to doubt that the natural resilience of the sector will enable it to continue to invest and grow in the UK in the longer term.

Prepared for the NFDA by Miles Trower, Partner and Head of Competition at TLT LLP, and Elysia Morter, researcher.

1. *'The Brexit effect on the UK car industry', Driven, 30 June 2016*
2. *'Brexit: Will it affect car companies?', Motoring, 30 June 2016*
3. *Professor David Bailey, Aston Business School, 'What does Brexit mean for the UK's automotive industry?' 25 July 2016*
4. *ACEA data, January - June 2016*
5. *Professor Bailey*



Changes to the Vehicle Excise Duty (VED)

In the 2015 Budget Statement it was announced that from 1 April 2017 the Vehicle Excise Duty (VED) will be reformed in order to create a simpler method with standard rates. The new tax will only affect brand new cars registered on or after 1 April 2017, while tax rates for all vehicles registered before this date will not be affected.

For new vehicles registered on or after 1 April 2017, first year vehicle licence rates will be based on carbon dioxide (CO_2) emissions of the vehicle, according to different CO_2 ranges compared to current ones. For subsequent years and also if the registered keeper changes, a flat Standard Rate (SR) of £140 will apply unless the vehicle has zero emission, in this case the rate will be £0.

Vehicles over £40,000

For vehicles with a list price over £40,000 at first registration, there will be a supplement of £310 per year in addition to the standard £140 VED cost, a total cost of £450.

This will be in effect for the first five years of the car's life. After five years of the surcharged rate (£140+£310), the vehicle tax will revert back to the standard rate of £140 a year. Any additional charge will also be applicable if the keeper is changed within the first five years.

This (VED) tax change has been driven by the HMRC in order to generate additional taxes as many customers have acquired lower CO_2 cars over the last 10 years, thereby reducing tax revenues to the Government. Now all cars except Zero CO_2 emissions vehicles and fully electric vehicles will pay a minimum rate of £140 per year.

Since November 2015, the NFDA and car manufactures have worked with the DVLA to ensure the changes are introduced in a timely way and to minimise the effect on customers and dealers.

List price

The NFDA & SMMT have lobbied for the list price to be based on the retail price plus factory options including delivery charges, but not dealer-fit accessories, PDI's and tax to DVLA.

The list price of the vehicle is defined as the manufacturer's recommended retail price prior to any dealer discounts. This would allow manufacturers to build the price into the AFRL system for registrations. This price will be based on the list price for the car published in the 24 hours prior to the registration.

Dealers and manufacturers who allow 'price protection' for their customers, cannot price protect the VED rate, these customers will pay the correct value rate on the date of registration.

Advance Registrations

In case of advance registrations, the price is recorded as the list price on the day before the advance registration is submitted to DVLA.

For Example: if an advance registration is submitted on the 15 of the month, then the list price will be the price on the 14 of the month (I.e., the day before the advance registration is submitted to DVLA). The vehicle tax would start from the 1st of the following month.

How does this affect your dealership

Current VED rates are cheaper for most customers and therefore there will be an incentive for them to register new cars before 1 April 2017. It is important that sales executives explain new rates to customers and do not promise deliveries prior to April if this deadline cannot be met perhaps because of supply delays. A customer who is promised a March delivery, but does not receive the vehicle until April, could ask for compensation for the additional VED which is to be paid over the next three to six years or cancel the order.

Exhibitors

So far, 61 exhibitors from 38 industry sectors – including website designers, legal experts, finance providers and remarketing firms – have signed up to appear.

AA Garage Guide
Alphera Financial Services
ASE plc
Automotive Compliance
Autosonshow.TV
AutoWeb Design
Autovolo
Assured Group
BCA
Buyacar
Call it Automotive
Car Care Plan
carwow
CBW Design
CitNOW
Codeweavers
Cooper Solutions
Cox Automotive
Dealer Auction
Dealer Management Services
Diamondbrite
Drive Development Solutions
DSG Group
Dura
EDT Automotive
EMaC
eDynamix
GardX International
Gemini Systems
GForces
GMD People
Hitachi Capital Consumer Finance
Howes Percival
In-Automotive
Insurethat
iVendi
JudgeService
Lawdata
Manheim Remarketing
Manheim Retail Services
Marketing Delivery
Moneypenny
Motors.co.uk
Movex
Nextgear Capital
NFDA
Pentana Solutions
Perfect Channel
Premia Solutions
Product Partnerships
Quid Car Ads
RDS Global
Reef Business Systems
Reynolds & Reynolds
Rhino Events
Rotary Lift
Salesmaster
Search Optics
Spidersnet
Supagard
Steele-Dixon
T Cards Direct
Titan Dealer Management Solutions
Total UK
TRACS Solutions
VE Interactive
WMG
Yomdel

Best-practice masterclasses

As part of *AM*'s Best Practice Programme, industry experts will share their most effective working methods and crucial advice in a dedicated masterclass area throughout the day.

CitNOW: How video is forging customer relationships, sales and retention
The opportunity to use video throughout the customer lifecycle is huge. CitNOW will explain video relationship marketing (VRM) and show how manufacturers and dealers have adopted this.

Cooper Solutions: The modern auction as part of the new and used car strategy
Exploring the role of both physical and online auctions and the appraisal process as vital elements of the dealership's new and used car strategy.

eDynamix: Boosting customer loyalty via aftersales
This session discusses how aftersales can maximise the dealership's customer retention capability, confronts issues such as migration to the independent sector and explores wider opportunities.

GForces: The continually evolving digital landscape
GForces will highlight how the fast-paced digital environment continually develops and evolves and outlines some of the best practices currently in operation.

iVendi: Understanding consumer online finance behaviour
iVendi draws on its data and detailed analysis to show how finance and the availability of information online can sway the car-buyer's decision to visit a dealership and other insights into the car-buyer's online behaviour.

JudgeService: From purchase to retention, the customer review cycle
This session underlines the hugely influential role fellow consumers play in a customer's decision to buy. It will encourage dealers to think holistically about the entire purchase journey including how consumers research their next vehicle, the purchase experience, customer reviews, retention and repurchase.

Marketing Delivery: The maturing of social media
Tackling issues such as balancing organic and paid-for reach, local content, the dominance of mobile and relevant analytics, this session promises to bring you up-to-date with the latest thinking, trends and influences.

Supagard: Developing a sustainable new car strategy
Exploring the new car market and areas that require the dealer's focus in order to maximise profitability and best prepare for the future.

The F&I Theatre

The F&I Theatre will be your place to learn the latest on Financial Conduct Authority (FCA) regulation in an engaging, interactive way.

ALPHERA Financial Services
Creating a win-win approach to customer finance
Exploring the motor finance landscape in the context of increasing competition, evolving consumer demands and regulatory impacts, Alphera draws upon its decade of experience in the UK market to share knowledge and deliver skills-oriented workshops. These will feature practical ideas that can be implemented in dealerships, as well as some 'must-do' finance top tips.

Car Care Plan
Insurance products, regulation, customer satisfaction and profitability
Stringent regulations under the FCA are creating a very different sales environment for insurance products. This session looks at the latest developments and how best practice has evolved since the introduction of new GAP rules. It also explores the increasing role of online in customer engagement and alternative methods of purchase to the traditional point of sale.

Legal advice clinic

Independent legal advisers to the automotive sector, Lawdata will be on hand to answer individual queries in the Automotive Management Live Legal Advice Clinic. Dealers will be able to raise any areas on which they would like a legal view. Lawdata expects questions on legal developments such as the Consumer Rights Act, employment law and compliance queries.

MOT Training is changing

MOT training has changed, the DVSA has been responding to government policies, modifying an old and out of date system. Both new tester and 'refresher' trainings have changed.

The role of MOT tester becomes an occupation with a new National Occupational Standard (NOS), and a newly created qualification for testers. The new qualifications are certified under recognised awarding bodies.

There are three qualifications:

- Qualification in MOT Testing
- Qualification in MOT Motorcycle Testing
- Qualification in Managing an MOT Test Centre

And three awarding bodies:

- The IMI
- City & Guilds
- ABC Awards

Existing testers do not need to achieve this qualification, but they may choose to do so.

When does it start

This September 2016, the qualification will become "business as usual" and more training providers will be added.

New Annual Refresher training

The old "refresher" model, which was based on a five-year cycle, was outdated and inflexible. From April 2016 annual refresher training was introduced as part of a "Continuous Professional Development" (CPD) program allowing more regular updates of knowledge.

This training is more flexible than in the past, letting testing stations and their testers to choose how and when to undertake it. The new model requires a minimum of three hours training per year and the need to complete a minimum of 16 hours training over a five-year period.

Employers and testers have to decide how to best undertake the training, choosing the most suitable delivery method (e.g. classroom or web based) and training provider.
A training record must be kept by all trainees and testers. Finally, all testers must undertake the MOT Annual Assessment Test online.

The annual assessment

The assessment, which is now available, consists of a short online "open book" test. It is formed of 30 Multi Choice Questions including: 21 questions from the Annual Syllabus, three questions about current Special Notices and six questions about MOT Inspection Standards and Procedures. The pass mark is 50% for the 2016-17 test.

The syllabus that the DVSA will set each year for the MOT annual online assessment and training, as well as further guidance, can be found on www.gov.uk/guidance/mot-training.

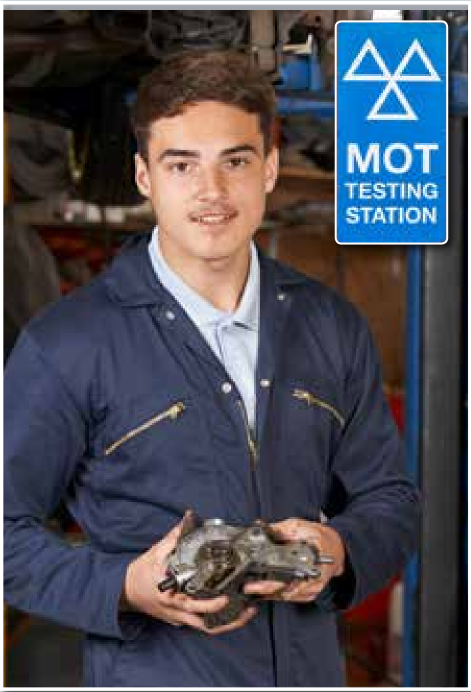
In case of failure, the test can be retaken, however, there might be an additional fee to pay depending on the awarding body, although the DVSA does not apply any further cost.

A certificate is issued following the assessment, this must be retained with Annual Training Records and shown upon request. Results can be recorded in the MOT Testing System.

The RMI Academy of Automotive Skills

The Academy of Automotive Skills is run by the Retail Motor Industry Federation and it is open to everyone, with preferential rates for RMI members. The Academy is set up to deliver the new MOT qualifications.

For further information, please contact the NFDA helpline on 01788 538303.



Meet the team...
in conversation with Gabriele Severini

Q: What was your first job?
First full time job - census officer. A great experience, I used to drive around my little village in Italy to meet people, get to know them, and help them filling out census questionnaires about their families and houses.

Q: What was your first full time job in automotive?
This is my first job in automotive. However, my father has always been working for car dealerships, so with all the time spent as a child walking around and getting in and out of brand new cars I do feel like I have been in this sector all my life!

Q: First car?
Fiat 600. Perfect to learn when you are 18 and you think you are a great driver, but what you would actually need is a bumper car.

Q: Favourite Newspaper, TV programme, music and film?
Newspaper - The Guardian; I don't watch much TV, but I love following all sport competitions, not only motors and football, but also all the international ones; music - it depends on what I do, but I am never tired of good rock, one name: Dire Straits. Film - The Pursuit of Happiness.

Q: Favourite holiday destination?
I have to say Italy. As I am not living there, but it is my home country, I love exploring it as much as I can. I love the fact that I can go skiing or kayaking within a few miles and the food.

Q: Which gadget can't you live without?
A notepad – with a pen – if I can write, scribble and draw my thoughts, I never get bored.

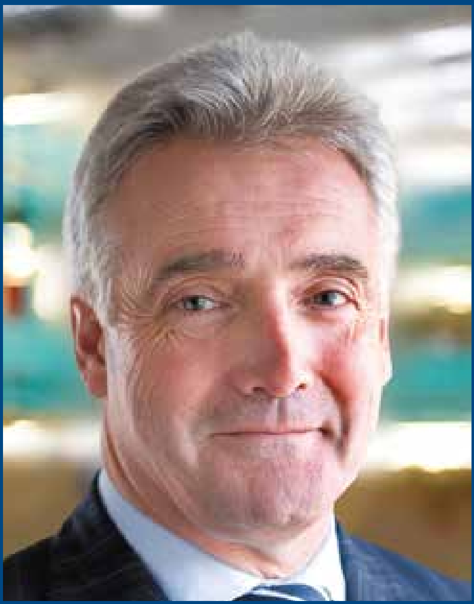
Q: Which individual do you admire the most?
I have to name two - both my grandads, so opposite and inspiring. Two self-made men who have never stopped being positive in their own ways and working hard to give their families all they needed.

Q: Best and worst business decisions?
The best life/business decision was to move to London less than three years ago. I have been given fantastic opportunities and learnt certain things that I would have never been able to experience elsewhere. I do not know what is the worst, I always try to turn slightly negative things into positive, however I know I am only 25 and I still have many important decisions ahead to make.

Q: Best and worst aspects of your job?
The variety of my role and the need to be always up-to-date on a wide range of different topics, but also being part of an industry which is evolving quickly and facing several fascinating changes. Working within news and communications, you must be always 'ready to act' if anything comes up, it is not negative at all, but it can be the most challenging.

Taking on the Challenge

Neil Addley interviews NFDA Chairman, Peter Jones about his role



Have you enjoyed being chairman of the NFDA?

I'm not sure enjoyed would be the right term, a lot of the work the NFDA executives undertake flies below the radar, elements of it are frustrating especially the challenge of attempting to improve dealer protection working through CECRA in Europe, but equally the team has enjoyed significant success in tempering regulation that threatened to undermine dealer profitability, which is satisfying. I have enjoyed working with the NFDA executive team and hopefully have added a bit of value along the way.

What do you think are the most significant events during your tenure?

I think the main challenges have fallen in two areas; the first of these would be increased regulation. The work the team undertook in modifying the original FCA proposals for the sale of GAP was challenging but successful and clearly work is ongoing as the FCA continues to look at commission disclosure, regulation in respect of finance sales, etc. The CMA calling in a number of dealer group acquisitions at significant cost to affected members raised a further challenge and the work undertaken by the team consulting with the CMA appears to have reduced their focus on UK dealer group mergers and acquisitions.

The other significant development has been new market entrants taking advantage of digital marketing developments to create middle man positions in the acquisition process that from my perspective add no true value to the consumer.

What do you see as the main focus for the NFDA in the coming months?

The purpose of the NFDA is to protect dealer interests and to promote to the consumer the advantages of dealing through the franchised network.

On the issue of protection, it is important that the NFDA continues to lobby for a code that dictates that dealers have contractual protection from termination without cause, that dealers retain a right to sell their businesses without undue manufacturer restriction, that facility investment is compensated in the event of enforced franchise terminations, and finally that dealers enjoy protection should any manufacturers determine to sell direct to the retail channel.

Clearly regulation change through the FCA, CMA, DVLA, Consumer Rights Act, etc will also continue to be a major focus.

What do you think the effects of Brexit are likely to be on franchised dealers?

It is obviously still early days, Article 50 has not yet been invoked, but when it finally is I am certain that all parties will work quickly to establish a tariff free environment for vehicle imports and exports. We are the second biggest car market in Europe, massively important to the German, French and Spanish vehicle manufacturers and I am certain win/win solutions will be sought and delivered.

I don't see huge change in manufacturer and dealer relations, but who knows – some of the protections we have been lobbying for in Europe may be clearer to negotiate in an environment where there are not 28 different countries with different priorities involved in sourcing a solution.

The main challenge logically may be FOREX, but with the euro at 1.19 the UK remains a vital market to manufacturers

Why do you think non-members should join the NFDA?

As already stated the NFDA's sole role in life is to work on behalf of franchised dealers, it makes good business sense to be an active part of the group.

What pearls of wisdom would you bestow on Mark Squires?

Mark has been an active member of the NFDA over many years and actually even following the successful sale of his Benfield group to Lookers, he has continued to head the NFDA's aftersales group to good effect. But we were delighted when Mark agreed to take on the role and his insight will be invaluable to Sue and the team in continuing to progress dealer interest.

Mark takes on the role at an interesting time both in respect of some recent developments working with the German and French dealer bodies, and of course during the Brexit negotiation period which will no doubt throw up some challenges and opportunities. He will do a great job in the role.

What are your future plans?

I will continue to work with Robert Forrester and the team at Vertu in a non-executive role which I enjoy. I am still involved with Tony Bramall in his property and investments companies, and both provide a nice balance within semi-retirement. Outside of that, enjoy the E-Type, a bit of golf and travel, and hopefully Jose Mourhino quickly gets Van Gaal out of United's DNA.

Consumer Protection Regulations

Recent prosecutions of car dealers have brought into sharp focus the 2008 Consumer Protection Regulations (CPRs). The CPRs regulate against unfair commercial practices and apply to all businesses when dealing with consumers.

It would seem timely following recent Trading Standards activity to remind dealers of their obligations under these regulations. Prosecutions have occurred where dealers have not declared that a vehicle they have sold is ex-rental, seen as a misleading omission that has influenced a consumer's decision to buy.

The CPRs were brought into UK legislation from the EU Unfair Practices Directive and were intended to simplify and increase consumer protection from practices seen to be unfair. The CPRs prohibit a number of practices seen as misleading actions or omissions, or aggressive business and banned practices. These are actions that could influence a customer's buying decision at any time in the buying process either pre, during or post sale.

The NFDA has put this Guidance together to assist members to be compliant with the CPRs.

Overview

The CPRs expressly forbid, as the name would suggest, unfair businesses practices that could detrimentally impact a consumer or sway their decision to buy a vehicle. The legislation particularly defines unfair practices, misleading actions, misleading omissions and aggressive commercial practices. Dealers are able to protect themselves through the 'Due Diligence Defence'. Penalties for contravention of the regulation can be stiff and the offence may be both civil and criminal.

Breaches of the CPRs

The CPRs relate to business dealings with consumers. A consumer is defined for the purpose of the regulations as an 'individual who, in relation to a commercial practice, is acting for purposes which are outside his business. There is also a concept of 'average consumer' which is distinct from an actual consumer. Actions by a company need to be viewed by how they would impact the average consumers rather than an actual consumer, in other words would an action impact an average consumer not just the one you are selling too.

Businesses are expected to operate with Professional Diligence, if not there would be a breach of the CPRs. Professional Diligence means 'the standard and special skill and care which a trader may reasonably be expected to exercise towards consumers.' It is to act in good faith and use honest business practices at all times. Further, businesses must always act in a professional manner. Practices that might be seen as less than professional:

- The failure to carry out pre-sales checks on vehicles for mechanical condition, mileage or history.
- Declining customers their contractual rights if a vehicle has been sold with a fault needing rectification.
- Failure to deal with customer complaints.

As well as the overarching requirement of professional diligence the CPRs lay down a number of specific types of unfair practice which are set out below.

1. Misleading Actions

Include:

- False statement about vehicle condition or history, or claiming a vehicle history check has been undertaken when it has not.
- Clocking or offering for sale a clocked vehicle.
- Misleading advertising.
- Using statements that might mislead customers such as 'sold as seen', 'trade sale only' or 'no refund'.
- Not making it clear about previous vehicle usage such as stating the vehicle has had one owner when it is from an ex-rental company or other multi-driver source.
- Misleading customers about the value of their part exchange.

2. Misleading Omissions

Include:

- Failure to disclose existing faults on a vehicle.
- Failure to disclose the results of checks such as mileage discrepancies or a mechanical check.
- Omitting to declare that an ex-business vehicle has been used by multiple users such as a driving school or rental vehicle. (The original OFT Used Car guidance specifically mentions ex-rental vehicles)
- Failure to alert customers to key exclusions or terms of a warranty or guarantee.

3. Aggressive Business Practices

Include:

- Using high pressure selling techniques to sell a vehicle or additional services.
- Exploiting a consumer's misfortune or circumstances.
- Using aggressive behaviour to force consumers into dropping complaints against a business.
- Forcing consumers to buy a warranty to have faults fixed which should be rectified by the dealer.

4. Banned Practices

There are a number of business practices that are banned in all circumstances such as:

- Must not claim to be signed up to a code of practice if this is not true.
- Must not claim that you have approval, endorsement or authorisation by a public or private body when this is not true.
- Must not use pricing to attract customers knowing that goods at this price cannot be delivered, such as advertising a base model car when only higher specification vehicles are available.
- Falsely stating that a vehicle is only available for a limited period to force a quick sale.
- Must not present rights given to a consumer in law as a distinctive feature of a traders offering.
- Must not falsely claim or create the impression that a dealer is acting for a purpose unrelated to their business. For example, a dealer selling a second hand vehicle displaying it as if a private individual.

How can dealers ensure that they are compliant with the CPRs

Of course it is easy to say that the best way to ensure compliance of the regulation is to avoid practices that are banned by the regulation. However, it is not always so black and white.

The important thing to be aware of is the need to supply a vehicle in a satisfactory condition. This means that the goods should be fit for purpose and be of a quality expected for the age, mileage and price of the vehicle. Dealers should also ensure that all dealings with customers are polite, non-aggressive and transparent. Dealers that always act in a professional manner will be able to prove they act with 'Professional Diligence' and this will help to ensure compliance and if needs be should provide a defence under 'Due Diligence.'

Due Diligence

The CPRs allow a defence of 'Due Diligence' if subsequently after sale a vehicle is found to be defective or that important details were not disclosed that swayed the customer's decision to buy.

The following actions that would help establish due diligence and protect dealers from prosecution under the CPRs are:

- Vehicle history checks pre-sale – reasonable steps should be taken to ensure a vehicle is not stolen, does not have outstanding finance, has not been an insurance write off and that the seller has 'good title' to the vehicle. In most circumstances it would be advised to use a professional vehicle checking service provider. Any information from the report should be cross referenced with the seller. The seller should also be asked to provide documentary evidence such as service records and MOT certificates to support the vehicle history.
- Vehicle Mileage Check pre-sale – reasonable steps should be taken to verify the mileage of a vehicle for sale. This should normally be done through a mileage checking company. A dealer may take additional steps to confirm mileage by ensuring the physical condition of the vehicle tallies with the mileage declared and by consulting the VOSA database. A dealer may also use other means to determine vehicle mileage such as service history if the car is being purchased from an existing customer and the vehicle is known to the dealer. Unless you are certain the mileage is accurate you must not warrant the mileage and should let customers know that the mileage has not been verified. Sales documentation including adverts should not carry the odometer reading if the mileage has not been confirmed as accurate.

- Disclose Mileage Discrepancies - Consumers should be informed prior to a vehicle sale if there are any discrepancies in the mileage record and what steps have been taken to verify the mileage of the vehicle.
- Do not rely on Mileage Disclaimers – these should not be used as a substitute to carrying out a mileage check and should only be used as a last resort if mileage cannot be verified.
- Pre-sales mechanical checks – reasonable steps should be made to ensure vehicles that are sold are in a roadworthy and good mechanical condition. A full mechanical inspection of the vehicle would be preferable. However, in the absence of a full mechanical check a recent MOT could suffice as long as it is clear that it is an MOT check that has been carried out rather than an inspection. A recent MOT would be within the last month and should be accompanied by disclosure of any advisory notices given by the testing station. Supply of an unroadworthy vehicle is not only a contravention of the CPRs but could also be an offence under the Road Traffic Act 1988 or General Product Safety Regulations 2005.
- Check to see if the vehicle is subject to any recalls - for franchised dealers that hold the franchise of the vehicle this should be a simple check with your manufacturer. If not the VOSA website (http://www.vosa.gov.uk/vosa/apps/recalls/default.asp) has a free facility to make enquiries that give details of all recalls that may be searched by vehicle make and model.
- Record all vehicle checks – ensure you keep a record of all checks (mechanical, mileage and history) in case there is a need at a later date to refer to them.
- Avoid placing on the forecourt for sale any unchecked vehicles – vehicles that have not been fully check will expose a dealer to a breach of the CPRs. You should also avoid selling the vehicle until all the checks have been completed.
- Avoid using Disclaimers – using a disclaimer is not a replacement for a full vehicle check and leaves the dealer open to a customer cancelling as well as falling foul of the CPRs.
- Ensure customers are given all the information they require to make an informed purchasing choice – therefore not just the vehicle price and basic vehicle details such as make and model but: vehicle history; odometer reading and mileage check details; vehicle faults needing rectification and MOT status; insurance record such as previous accident damage and vehicle write off; multiple user vehicle such ex-rental or driving school. There is no specific requirement for this information to be given in writing but it is difficult to evidence verbal notification and we would therefore advise where possible for the details to be given in writing perhaps as a form of check-list. The point about disclosing users is of particular importance due to recent Trading Standard prosecutions under the regulations for omitting to disclose that a vehicle is ex-rental.
- Give clear details of any warranty or guarantee – should include details of cover, limits and any exclusions as well as the name of the warranty provider. Any specific conditions of the warranty should be disclosed i.e. where the vehicle needs to be taken if repairs are required under the warranty. Any work carried out under the warranty should be done promptly and the consumer kept informed of any delays or other problems with carrying out the work.
- Have a robust and fair customer complaints procedure – a procedure needs to be well documented and staff members need to have a clear understanding of it. You should endeavour to deal with customer complaints promptly in a fair and professional manner at all times. Complaints should be recorded and the outcome noted. Failure to deal with customer complaints in the proper manner would be an infringement of the CPRs.
- Be mindful of the Regulations when advertising and displaying vehicles – the CPRs are not intended to impact normal business practice but this does not mean that a dealer can ignore the rules. Good practice must be adhered to at all times but this may be tailored to the circumstances and the type of vehicle for sale.

Dealers Selling Through Auctions

One particular area of concern that has been raised by dealers is the risk of breaching the CPRs when selling vehicles through an auction. Most auctions do not conduct closed sales and therefore buyers at sales may be consumers. As consumers are present it is possible that the CPRs would cover an auction sale if a vehicle is sold to a consumer. In some circumstances it may be possible to use the argument that a consumer at the auction is not acting as a consumer if it can be proved they are buying cars to sell on, in other words acting as a trader. However, this would need to be proved and the legislation is written in such a way that it may be difficult to confirm.

The other issue with auction sales is that the CPRs do not just affect the auction sale but can be applied further up or down the sales chain. A dealer who puts a vehicle into an auction with a fault or mileage discrepancy that is then bought by a consumer, could find itself with a breach of the CPRs. This could also be the case if the dealer entering the vehicle originally sourced the vehicle from another dealer.

Dealers therefore need to be very aware of the consequences of entering any vehicle to auction that may have a problem. To ensure that dealers protect themselves we would recommend the following:

- Avoid mis-describing vehicles – refrain from using descriptions such as in 'good mechanical condition' or declaring mileages accurate if they have not been confirmed by a mileage check.
- Ensure all important information is disclosed – information such as insurance history, particularly write offs, multi-user ownership such as daily rental, and mechanical faults you are aware of.

Much discussion has occurred around the need to carry out thorough condition checks as well as history checks on vehicles put into the auction for sale. We would recommend that as a minimum a vehicle history check is undertaken to ascertain clear title of the vehicle and any outstanding finance. We would also advise a mechanical check but a dealer must decide whether the age and value of the vehicle would make this economically viable.

Trading Standards do accept to a point that buyers at auction, even consumers, will have a lower expectation of the vehicle than if they have bought in a dealership. They also accept that consumers are likely to pay less for a vehicle bought through this channel. In light of this, any alleged breach of the CPRs through an auction sale would be looked at slightly differently to one happening at a dealership. However, dealers should not rely on falling back on the defence that the vehicle has been sold by auction.

Finally

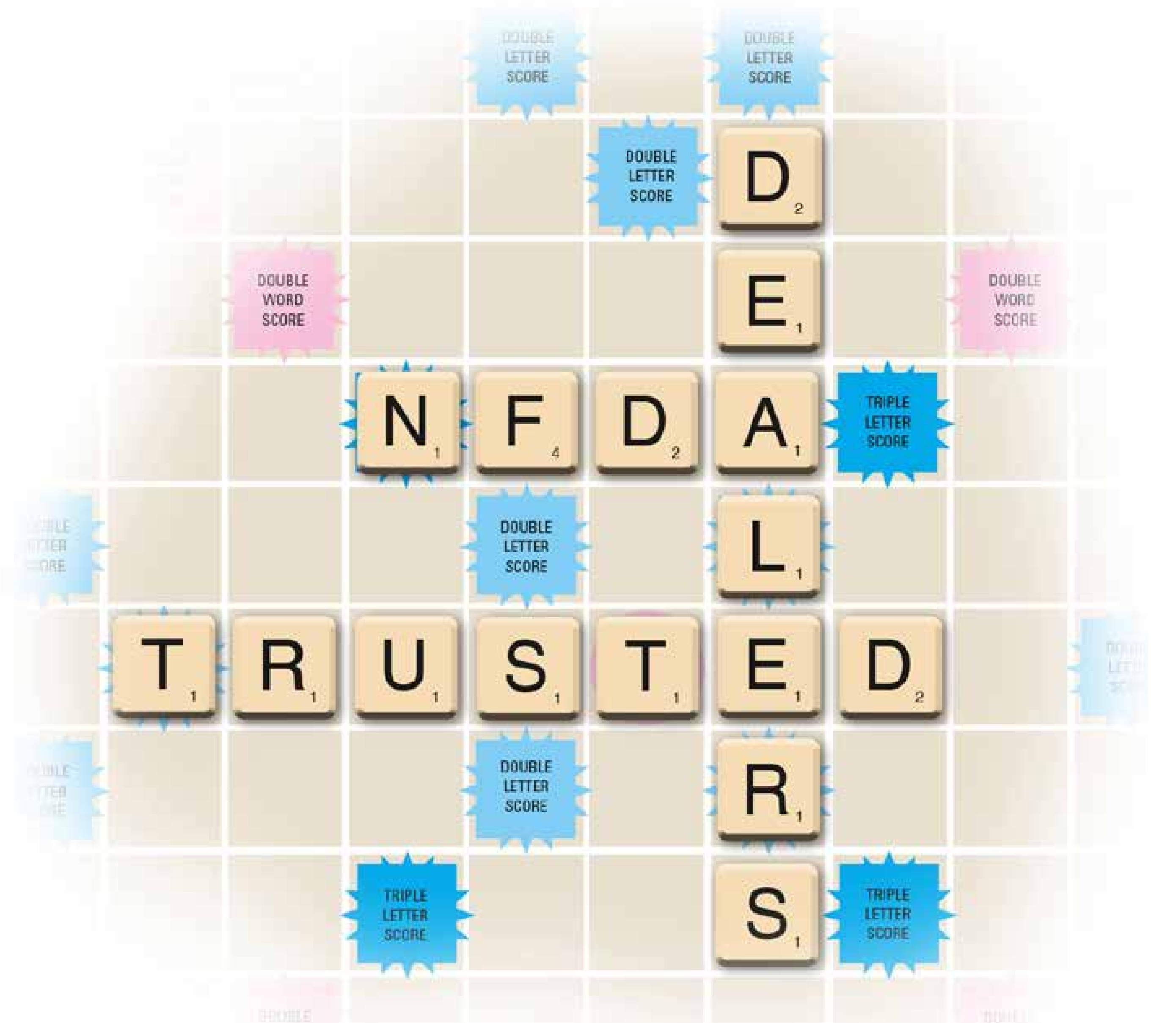
Dealers need to be fully aware of the CPRs and actively ensure that they are not breaching them. Trading Standards only need to prove that an average customer has been misled by a dealer by not providing relevant information for their prosecution to succeed unless the dealer can fall back on the due diligence defence. An offence under the CPRs carries a fine of up to £5000 or 2-years imprisonment for a Director who had knowledge the offence was being committed. Current Trading Standards prosecutions show that there is a real risk for dealers who do not take appropriate action to ensure the business complies with the regulations. This means having systems in place to ensure all vehicles are properly checked, that all vehicles have full histories, that staff are trained to give the correct information to consumers, and you have a robust and effective complaints procedure in place.

This document should be taken as only guidance. Further information can be sort from the NFDA or your local Trading Standards, as well as from your own legal advisors.

To contact the NFDA:

Telephone: 01788 538303
Email: Louisewoods@rmif.co.uk

NFDA
NATIONAL FRANCHISED DEALERS ASSOCIATION



Together, a stronger voice to consumers

In May 2013 the NFDA took a control interest in Trusted Dealers.

3 years on, we thought we would take a look at the progress NFDA and Trusted Dealers have made, the performance of Trusted Dealers as a lead-generating media and the future plans for the partnership.

Trusted Dealers was originally conceived by the heads of dealer groups as a means of generating cost-effective used car leads for their businesses. The board still comprises Ken, Robert, Peter, Andy, Neil and Andrew. As part of the differentiation for Trusted Dealers, all the original members signed up to the Trusted Dealers 10 points of difference. When the NFDA wanted to create their own standards, these were designed to support each other and with such common ground the members agreed that it was of mutual benefit to join the NFDA and Trusted Dealers together, with Trusted Dealers giving the NFDA a consumer platform and voice.

As a result of the partnership, the NFDA also created standards and 10 points of difference on aftersales and Trusted Dealers has seen a near doubling of its inventory (used car stock).

Neil Addley, Managing Director of Trusted Dealers said "prior to the involvement with the NFDA over the standards, I wasn't really sure what it did. But working with Sue and the team has given me a real insight into the complexities of dealers' interests engaged with Government and has been a genuine pleasure". With the launch of the new fully responsive Trusted Dealers website in partnership with Auto Trader in November 2015, Trusted Dealers has also seen an increase in genuine used car enquiries, particularly from mobile devices.

For many of our members, Trusted Dealers provides leads only second in volume to the market leader. Looking forward, the collaboration between Trusted Dealers and the NFDA in promoting where to buy, as well as what to buy is set to go from strength to strength.

Increased activity in social media and sharing in campaigns, such as the odometer fraud campaign from the NFDA, will produce a clear voice from franchised dealers to consumers.

An example of this complimentary activity was the recent visit of Andrew Jones MP (Under Secretary of State for Transport) to Trusted Dealers' offices in Harrogate, where he offered his support to the campaign. Watch this space for video and other social media activity reinforcing the issue.

If you would like more information on becoming a trusted dealer, please email neil@trusteddealers.co.uk or call 01423 506272.

NFDA TrustedDealers