Consumer Finance Monitor (Season 7, Episode 8): The CARS Rule: What You Need To Know About the Federal Trade Commission’s Final Motor Vehicle Dealer Trade Regulation Rule, Part II

Speakers: Alan Kaplinsky, John Culhane, Mike Guerrero, Brian Turetsky, and Rick Hackett

Alan Kaplinsky:

Welcome to the award-winning Consumer Finance Monitor podcast where we explore important new developments in the world of consumer financial services and what they mean for your business, your customers, and the industry. This is a weekly podcast show brought to you by the Consumer Financial Services Group at the Ballard Spahr Law Firm. I'm your host, Alan Kaplinsky, the former practice group leader for 25 years, and now senior counsel of the Consumer Financial Services Group at Ballard Spahr. And I'll be moderating today's program.

For those of you who want even more information, either about the topic that we'll be discussing today or anything else in the consumer finance world, don't forget to consult our blog, consumerfinancemonitor.com. Goes by the same name as our podcast show. We've hosted the blog since July 21, 2011 when the CFPB became operational. So there is a lot of relevant industry content there.

We regularly host webinars on subjects of interest to those in the industry. So to subscribe to our blog or to get on the list for our webinars, please visit us at ballardspahr.com. And if you like our podcast, please let us know about it. You can leave us a review on Apple Podcasts, Google, Spotify, or wherever you obtain your podcasts.

Also, please let us know if you have any ideas for any other topic that we should consider covering or speakers that we should consider as guests on our show. Finally, I'm very pleased to let our listeners know that our podcast show was recently ranked by Good2BSocial as the number one podcast show among law firm podcast show within the United States devoted exclusively to consumer financial services. Good2BSocial is a prominent law firm consulting firm owned by the company Best Lawyers. We're very gratified by this recognition from one of the country's leading social media consultants for law firms.

Today's episode is repurposed from a webinar that we conducted on January 23rd entitled The CARS Rule, What You Need to Know about the FTC's Final Motor Vehicle Dealer Trade Regulation Rule. Last week we released part one of that webinar and in part one we first discussed a lawsuit recently filed by the National Automobile Dealers Association against the Federal Trade Commission challenging the legality of the rule. We then talked about how the rule came about, the history of the rule, and then we spoke about Section 463.3 of the rule pertaining to rebates and discounts advertised and the availability of vehicles at the advertised price. And then we talked about the disclosure requirements pertaining to dealer advertising and sales communications.

Today, in part two of this repurposed webinar, we will first discuss what this means for the sale of add-on products and the perspective of the Federal Trade Commission. We'll then talk about the impact of the final rule beyond covered motor vehicle dealers. In other words, how does it interact with other rules that are impacting dealers in this particular space? And we'll also talk about how it can indirectly apply to banks and companies that purchase automobile retail installment sales contracts. And then we will discuss the Federal Trade Commission Used Car Rule and how it ties in, how the CARS Rule ties in with the old used car rule of the FTC.

So let me now turn to who's going to be talking to you today, and we have a very special guest, Rick Hackett. I've known Rick, I think probably for 30 years, maybe even longer than that. He has practiced in the area in private practice initially, more recently, former assistant director of the CFPB responsible for auto finance regulation. He currently serves on the board of F&I Sentinel, which supports lender compliance in the auto F&I industry. This is the first time Rick has been on one of our webinars, but he has been on a podcast that we did when the proposed rule was first published.

I'm also very pleased to be joined today by my colleagues John Culhane, Mike Guerrero and Brian Turetsky.

John's compliance practice in this area of law involves counseling clients on the development and implementation of motor vehicle sales and lease financing programs and includes counseling on add-on sales, fair lending, credit reporting, and other servicing and collection issues. His regulatory defense practice includes preparing clients for state agency and CFPB compliance exams, as well as assisting in the defense of consumer class actions, attorney general investigations, and other agency enforcement actions, particularly those that challenge dealer pricing, credit reporting, repossession and collection practices.

Mike Guerrero co-leads our firm's fintech and payment solutions team. He has advised automotive finance companies, banks, professional sports teams, fintech companies, and retailers on the creation of financial products and on ongoing compliance matters. He advises companies on consumer protection, consumer financial services issues, including clients that offer point of sale, personal property financing and leasing, rent-to-own products, earn wage access, and installment loans. And not too long ago he co-chaired the California Lawyers Association's Consumer Financial Services Committee.

And finally want to introduce Brian Turetsky, who is the newest member to join our consumer financial services group. He focuses on counseling and representing clients and consumer financial services matters in compliance and regulatory matters across a wide variety of products. But he has a particular focus on auto finance matters including add-on products and unfair and deceptive acts and practices in the auto finance space.

So now I'm going to hand it over to our very special guest, Rick Hackett.

Rick Hackett:

I'm going to take this section fairly quickly, but first I do want to tee this up as John did so very well in terms of FTC perspective. So as you read the supplemental material, the perspective of the FTC is the sales process for consumers buying a vehicle is that they spend many, many hours or days selecting a vehicle and haggling over the price of the vehicle. And then at the end of the process, they end up in the finance and insurance office at the dealership where they'd expect to say, "Well, am I approved and how much is my payment?"

But that discussion then proceeds to include add-on products, which can be one or two things, gap insurance and vehicle service contracts, or it can be 12 things. And the view of the FTC and some others like the consumer advocates and perhaps some at the bureau is that that is a process that leads to lack of consumer understanding and the loss of consumer autonomy and free decision-making. It was once described to me by one of my staffers at the bureau as the vertical coffin. So that's the perspective in which the commission promulgated these rules about the sale of add-ons.

There's three takeaways. There's two rules. One, you cannot sell a product that doesn't provide a benefit. And two, for every single add-on product or item that you sell, you must get other than the vehicle itself, you must get express informed consent, and we'll talk about what that means in just a second.

But let's turn first to add-on product requirements, the no-benefit rule. What's a product with no benefit? Well, I'll drop right down to one that has come up to the CFPB's attention in the past, a gap waiver and agreement that because of the LTV and the transaction doesn't cover the car. That is if the gap is written to exclude cars 125% LTV and you're selling 130 or 40 or 50, which is not uncommon transaction at the dealership, well that gap is not going to provide coverage.

There are also some products that are on their face as described by the FTC you have to scratch your head at, nitrogen-filled, tire-related products or services that contain no more nitrogen than naturally exists in the air. Yet according to the commission, many dealers charge hundreds of dollars to put nitrogen in your tires. One key takeaway, as John said, you've got to read all the supplemental material and discussion. There were comments that asked for a requirement of substantial or material benefit from the consumer advocate side and the commission expressly said no, there's got to be some benefit. And so you don't have to go into, for example, an analysis of to what extent does a extended warranty program duplicate or go beyond a manufacturer's warranty? It's got to go at least somewhat beyond.

And now we get to hack its bait and switch. I thought you heard all the definitions from me. Well, this is the critical one for add-ons. You cannot charge a consumer for an add-on or any item, any item even beyond the scope of the definition of add-ons without expressed informed consent. Let's parse this out.

It's an affirmative act of unambiguous assent to be charged and only after and in close proximity to a clear and conspicuous, remember those magic words, disclosure both in writing and if you're in person orally, so both, what the charge is for and the amount of the charge, including all fees and costs to be charged the consumer over the period of repayment. That's going to mean finance charges associated with that add-on or other item. And what does not constitute expressed informed consent includes a signed or initialed document so that you could sign any number of times, the supplemental material says, "Well, you'll just shuffle the papers. They won't see what they're signing." Pre-checked boxes, and here's where we see the commission showing that it thinks the process is broken for selling add-ons, an agreement obtained through any practice designed or manipulated with a substantial effect of subverting or impairing user autonomy decision-making or choice.

So I'm going to talk first in general about the impact of these two requirements. In general together with the prohibition on misrepresenting cost limitations or benefits is going to require dealerships to review and revise all their sales scripts, sales materials, and training materials. And the dealers are going to need to think about what are material limitations that need to be disclosed. So for example, in a gap product you have 60 days to make a claim after loss or you're out of luck. I would think that it would be misrepresenting possibly not to say that when you make a representation that this covers the rest of your balance on your contract.

In general, and I'll talk more specifically, it will make the menu selling of add-ons very cumbersome. And the commission refused to provide any guidance on how do we provide the records that are required under the rule that show that we got this expressed informed consent both to a document and orally if a signed document is not enough. The comments filed said, "Do we have to videotape this?" "Do we need a notary?" "What do we do?" And the commission said, "You'll figure it out."

All right, zeroing in on what the no benefit probably means immediately. I've listed a few things. I think of a particular interest to lenders. Any gap product with a high LTV exclusion is going to put you at risk if there's a kick-out. Or many of them have excluded the top dollar amounts. So similarly is going to be leading to the deception or possibly of no benefit in many transactions.

And on the transaction-by- transaction level, we may need to be thinking about is the LTV so low? And that's what the commission specifically focused on in its rule and in its comment such that at no point will the insured amount under the primary policy be less than the balance on the credit contract. And I've given you a little formula you can think about later. But basically those... If you put 25% down on a new car, you're probably not going to need gap coverage at least on day one or get benefit from gap coverage.

The no benefit rule means that as lenders and as dealers, we need to look at any new product that hit the market. And in my business I'm seeing new products quite a bit under the heading of vehicle value protection. I put that flag out there for you because there are six states now that have authorized this new class of F&I product and they have a wide range of "benefit." And again, I mentioned that it's just some benefit.

Let's move to more detail on menu selling. There are a lot of tweaks or aspects of the rule that will affect menu selling. Menu selling for those who don't know is basically the best practice for selling add-on, F&I, or other products where you lay out what it is, what it does, what it costs, you let the consumer look at each one and pick yes, no, yes, no.

A lot of other marketing systems include such things as bundling, well, you can buy this or if you want to also get that, well you got to buy this and that. If you want A, you got to go buy. If you want B, you got to get A and B. There are a lot of different ways that you can do this. A single-step menu is the best and simplest form.

But the commission has said we'd really rather you move all this to the front end of the process. So okay, you're going to get the car for $45,000 with all the options you asked for. We should talk about gap insurance. Well, how do you talk about gap insurance if you don't know what you're putting down on the contract? The kinds of products we're talking about here are inherently commingled with the financing process and have to happen at the backend, which the commission thinks is oppressing the autonomy of the consumer.

If you think about the requirement of separate express informed consent for every item, that doesn't mean just gap. It means dealer prep, for example, and how that applies to anything that's charged for directly or indirectly. So for example, a free dealer warranty for the lifetime of the car is not free in the FTC's usual jurisprudence because it's a negotiated price transaction. And you think about the fact that we have to disclose the finance charges associated with the item. I believe that's the correct reading. And all that's got to be done orally and in writing for each item. You can imagine how complicated the F&I process is going to get.

And here's my example. This is a two-sheet disclosure which lists the items on sheet one that you have to pay for. The hypothetical transaction is one where you're paying $42,000 for the car, but we're also charging you for another item. Wheels that we put on at the dealership already we won't take off. A destination charge that's on every single vehicle sold and that's the fixed fee to get it to the dealership. Dealer prep, which is a less common dealer charge these days, but still most of the Northeastern dealerships or many of them you'll see it. And dock fees, which I see everywhere in the Northeast and perhaps across the country, which might be called pure profit and might trigger the benefit, the no benefit rule, but I'm not going to go into that right now.

This is a typical dealer invoice for a really simple transaction for things that are already mandatory and we're disclosing each one individually and with his finance charge. And for consumer convenience, I've accumulated that effect so that you end up with a cash price of 44,900 and a cumulative price for each of the items with all fees and charges over the term of the transaction of 49,930.

I need to go through this and get an unambiguous consent on every single line and I probably need to tape it or videotape it and have the consumer say, "Yes, I want that." That's not complicated or burdensome. Then I have to get to optional products. I've tried to do the same thing. By the way, please don't use either of these hypothetical disclosures because in rereading my notes for this, I think there may be other things that are triggered by some of these like having to show the offering price again. In other words, these interplay with other rules that come up at other times. I've just tried to hypothesize, comply with the one subsection what it would involve.

And my idea here is you work off an iPad and you verbally say, "Do you want gap waiver that will cost you $900, but with finance charge will be $1,200. Will give you a monthly payment of this, of $799. But if you don't elect it, then it won't add anything to your memory. Got to show the cost without the item." And then they check a box and the computer says, "All right, this is your payment with that product."

And if you check yeses and nos, you're going to have to have that last column change in response to what you did. And then at the end, print out everything, have the consumer sign it, which doesn't buy you anything, but at least you can authenticate the document. And I've hypothesized that you would use some kind of unique serial number so that you could show that what you tape-recorded tied out to this document.

The impact on add-on selling is going to be substantial under this rule. The question we're all scratching our heads with is A, if we can get this into final form, what does it really look like? And B, what do we as buyers of this transaction, finance companies, need or want to see? And that'll come up in some following sections. That's all I've got on this one.

Mike Guerrero:

All right. Thank you, Rick. So I'm going to jump right into it. We have about 20 minutes left and I want to save some time for best practices. But what we're going to look at right now is what is the impact of the final rule beyond covered motor vehicle dealers and then separately, but related, how does this rule interact with other rules that are impacting dealers and finance companies in this space?

So as you can see, we just spent an hour going through some pretty granular requirements. The rule imposes significant disclosure and substantive requirements, prohibits misrepresentations. It has disclosure requirements relating to the offering price, add-ons, financing terms. And it includes substantive requirements in the form of restrictions on the sale of add-ons. And then we just explored this very interesting expressed informed consent concept. It also has a robust recordkeeping requirement, and we're going to explore the impact of that in a minute.

But all of these requirements are directed, and I know we've said this a few times, at dealers. A dealer who violates the rule can be subject to cease and desist orders, injunctive relief, redress, civil penalties, all remedies available under the FTC Act. The civil penalties can be up to $51,744 for each violation or for each day of violation continues.

But what's important and what really impacts the effect on the finance companies is that there's no direct private cause of action under the rule. That's not to say a dealer can't be sued, we'll get into that. But just under the rule, there is no grant of authority or no ability to bring a private cause of action against the dealer.

So if we are to look beyond the dealers, and the FTC knew this, it's going to impact finance companies. The FTC notes that nearly every new vehicle is either financed or leased, 81% of them are financed. A big portion of used vehicles are financed. And as Rick mentioned, it's a $1.5 trillion credit market, the third-largest consumer debt segment. So the FTC was aware of this. They knew there's going to be an impact, but they also know that they can't directly regulate a lot of the entities in the financing space. So how are the finance companies going to be impacted? And let me jump ahead for you.

The first way I think and an important way is through the FTC Holder Rule. The credit agreements between the dealer and the consumer, the retail installment contract, and to the extent there's a direct loan agreement between a lender and a consumer, they're going to be subject to the Holder Rule. And what is the Holder Rule? We could have an entire webinar on it, but essentially the Holder Rule is an exception to the common law holder in due course doctrine. The holder in due course doctrine would generally say if you acquire paper from a seller, a finance company, you are generally taking it. And if there's a violation on its face, yes, you'll be subject to any claims associated with it, but if you take it free and clear of any knowledge and you're not imputed any knowledge, then you're not subject to those claims.

The FTC felt that in the consumer context that was a little bit of a harsh outcome. So what it did was it said any consumer credit obligation that is a credit sale needs to have a special provision in the contract that says any holder of the credit agreement, it will be subject to claims or defenses that could be asserted against the seller of the goods or service. A similar standard applies to purchase money loans as well when there's a business arrangement, which is an incredibly broad concept under the rule.

But by including this language in the agreement, you are giving the consumer a contractual ability to sue the holder of the agreement for any claim or defense that could be brought against the original seller of the vehicle in this context. So the rule functions to kind of get out of that holder doctrine.

Common examples where this currently arises would be dealer fraud, type of issues, when you have a finance company holding the paper and the consumer's asserting a defense to repayment. As I stated, the CARS Rule doesn't have a private cause of action. So the consumer cannot say, "The dealer violated the CARS Rule, the agreement has this Holder Rule provision, I don't have to pay you." On its face, that doesn't create a right for the consumer.

However, what a consumer can do and what does happen is a consumer can point to state law, like an unfair trade practice at statute. And these state laws will frequently either defer to FTC interpretation, say a violation of an FTC rule is a violation of state law, or have a similar standard and perhaps look to the FTC rule as being persuasive. And these state laws will very frequently give the consumer a private right of action.

So it gets a little antiquated. But the consumer would say, "Look, as a matter of state law, you violated the UDAP or unfair trade practices statute by violating the CARS Rule. And now I'm going to point to the holder provision in the contract and not have to pay the finance company or sue the finance company." That is essentially how the finance companies under the Holder Rule will be facing exposure in connection with the new standard set forth in the CARS Rule.

People who commented on the proposed rule sought an exemption from the FTC Holder Rule for this very purpose. And the comments were, "Look, how are we going to know that the dealers don't or aren't adhering to a lot of these requirements? It's not on the face of the note." "What type of granularity do we have to get into to start looking into our dealers?" And the FTC basically said, "Look, we're not going to exempt you." And this is more or less the purpose of the Holder Rule. The finance companies are in a better position to police the market. You can look to add-on penetration rates. Is this dealer an outlier? Are a ton of people getting a specific type of add-on product? Look at complaints. But in the end, the finance companies are going to be responsible and what they can do is cut off the dealers and that's the mechanism. And if you go back to 1970s, that's how the FTC envisioned this working in general.

The other kind of avenue through which the finance companies might find themselves exposed, it would be through regulators. So state AGs, the CFPB banking regulators, whoever has the authority to look directly at the company. State AGs would rely on either a state unfair trade practices, UDAP type of statute, or perhaps bring a UDAP claim under the Federal Consumer Financial Protection Act. The CFPB could bring a UDAP claim against a financial company for its own act or for failing to adequately oversee its partners, its dealers. And the rule has a really interesting footnote where they note that the CFPB has in at least 23 instances gone directly after the fintech, or sorry, the finco providers.

And they list a lot of them. What types of violations are there? Inaccurate TILA disclosure. So again, the dealer might be populating this. Payment application issues. Issuing refunds in connection with canceled add-ons. Repossession and other servicing consideration. And then charging for add-ons, and this goes directly to what Rick was just talking about, charging for add-ons that provide no benefit to the buyer. So not entering into it, but actually charging it in connection with the paper that you have.

So all of that presents risk to finance companies. And in light of this, I think diligence and oversight is going to become even more important. And I said earlier I'm going to talk about recordkeeping requirements. This is where I think it comes into play. I think monitoring complaints and add-on penetration, like I said, is going to be important. But the rule has these robust recordkeeping requirements. But the rule has robust recordkeeping requirements. For two years, all advertisements, training materials, sales scripts, purchase orders, finance documents, substantiation of an add-on's benefits perhaps, and consumer consent, that expressed informed consent concept. And complaints have to be maintained by the dealers.

And it's not unreasonable for a regulator to then say, "Did you look at this when you onboarded this deal?" Or, "Does your compliance management system look at this as an ongoing concern? Are you monitoring this?" And I think that's where additional UDAP scrutiny on the vendor third-party oversight perspective will give rise.

So now if we are to zoom back out, not just talking about fincos, but more broadly again, the rule, how does it intersect or play with the other requirements and rules that are out there? So one, state law. And this one isn't earth-shattering or groundbreaking. It does what a lot of other state laws do, or federal laws do. It says that it's not going to supersede any state law that provides greater protections, but a state cannot come in and deprive the consumer of these protections. That's not anything particularly new.

But what is interesting is the FTC's Junk Fee Rule, which is a proposed rule right now. It has prohibitions, and we have webinars and podcasts on this that go into a fairly deep dive, but it has prohibitions on hidden fees and making misrepresentations or being misleading in connection with optional fees. Stuff that, again, Rick was just talking about. The rule carved out auto dealers, but only to the extent that the auto dealers had to comply with the CARS Rule. And there's a comment in there specifically that if for some reason the CARS Rule does not become effective, the dealers are going to be subject to this.

So just because the CARS Rule is kind of tied up or a questionable import at the moment does not mean that there is not change to be looking out for and addressing. This might not be as burdensome or prescriptive as the CARS Rule, but it's definitely something to be aware of.

With that, we have 10 more minutes, so I'm going to turn it over to John to talk about one more interesting intersection and then we'll jump into best practices.

John Culhane:

Thanks, Mike. So I'm going to talk about the FTC's Used Car Rule and how it ties in here. I mentioned when I was talking about advertisements and communications that the FTC was very dismissive of concerns about conflicts with federal law and in particular conflicts with Regulation Z. I also mentioned that they didn't say anything about how to define an advertisement, how to define a communication. With all that, you still might've expected that they would say something about their own used car rule and whether it has any impact here because of the requirement for a buyer's guide, a sticker on the window.

So I think everybody knows that the Used Car Rule requires this sticker on the window, which talks about whether dealers offer a warranty, what the terms and conditions are, and whether service contracts are available. So if you've got a car out on the lot and it's got this sticker on it and people can just walk up and take a look at it, is it an advertisement? It sort of looks like a commercial message in that context, but there's no discussion of that.

And if you're the salesman at the car dealer shop and you take the customer out to look at a car they're interested in, is it then a communication regarding a specific vehicle? Well, if it's an advertisement or a communication regarding a specific vehicle, then it needs the offering price. And even if it's not an advertisement or a communication, it seems to be a document that has representations about an add-on product, service contracts. That would seem to require a disclosure that the add-on is not required and the consumer can purchase the vehicle without it. And the question then is is the text in the buyer's guide sufficient for that purpose because Used Car Rule doesn't allow you to make any changes to this text. And it's sort of there, but it's not as clear as it might be and might be an issue as to whether it's sufficiently clear and conspicuous. So an easy issue that the FTC could have resolved but didn't.

Let's talk about best practices, and I'll ask Rick to chime in here. You've heard Mike and Rick talk about what the obvious best practices are, but we're going to go over them again here. This really requires a lot of attention to what's going on. And if you're looking at particular jackets or deal flows, you want to know precisely which products you will and won't finance. You've got to be very sensitive to limits on products, neighborhood exclusions for gap, for example. You really need an inventory and a content review of all F&I products. And as Rick mentioned in talking about some of the new ones emerging into the marketplace, particularly newer F&I products, you can't be behind the curve here. You've got to drill down very carefully on gap insurance, any sales of gap insurance.

Penetration rate anomalies are going to raise an issue as to whether there's been expressed consent or whether the dealer somehow has their finger on the scale in the process. And if you're in this situation, you probably want to be sure that your contracts allow you to cancel products that have a high risk of being unfair, deceptive, and not in compliance here. There's really no substitute for enhanced due diligence prior to purchase of a portfolio of products, or portfolio of contracts and prior to the purchase of even a small sum of individual motor vehicle installment sales contracts. And looking at deal flow checklists is going to be a very important way to make sure that the dealers are compliant.

Rick, anything you want to add here?

Rick Hackett:

Well, I think, and this may be on the next slide, but I think what stands out to me is that this is going to require some tweaking of the lender's own CMS, or if they put it into vendor management for dealers, one of those two places in which you're thinking about how much do I need to know from the dealer about its own training and compliance systems and recordkeeping. So that's one level. And I'm going to have more burden placed on my dealer side business people to come up with and enforce standards for what we require dealers to do inside themselves and what they are required to show us as lenders on a periodic basis.

But looking at my own CMS, I'm really as a former regulator thinking about what stands out to a lender because the most recent cases we've seen from the bureau have been finding a hook to call the lender committing an unfair, deceptive, or abusive practice because they recklessly provide substantial assistance to another party's unfair or deceptive practice. And if the commission's defined some practice as unfair or deceptive in the CARS Rule and we as lenders can or could see it in our ordinary course of business, then failure to pay attention to it may be reckless.

And in that area, the kinds of things you just mentioned, what is in every gap contract that we finance? Do we have control over what we will or won't finance? Do we have control over at the jacket level what actually got into the jacket? Do we monitor dealers for, as you mentioned, penetration rates? Do we monitor things like we know as lenders if the consumer within the 30 or 60 days of the delivery of the car cancels the whole F&I product because we have to adjust the financing, do we monitor how frequently that's happening?

So I would as a lender focus on what are the things I have control over, what I'll finance for add-on products and how I make sure that that's all that I'm financing, and what happens in front of me when I get the jacket and as I service the product. And I'll end with, I think complaint monitoring by consumers is perhaps the most obvious and important. Again, in the recent complaint filed by the CFPB against an auto lender for this recklessly providing substantial assistance, it was failure to respond to complaints. And in a similar vein, a auto finance company got in trouble in servicing because they weren't responding to complaints that the F&I product company wouldn't let them cancel. And so complaint monitoring to me seems to be the absolute minimum that you're going to do on the servicing side.

John Culhane:

And I guess one last comment about something that you obviously want to do, you want to look at your agreements to see what they say about indemnification or covering the cost of defense in the event of a CFPB or state attorney general action. The CFPB just will not allow you to recover civil money penalties from a third party, so you're not going to get that. But you want to be sure that to the extent possible, you are indemnified and your cost of defense, which can be very high, are covered.

And ideally, you'd like to have the agreements allow you to cancel products and get refunds when consumers complain of violations. I think those are two obvious points. You may already have addressed them in your dealer agreements, but you definitely want to go back, look at your dealer agreements and see what precisely they say on these two issues.

I think we're out of time and we're through the deck, so let me stop here. And Alan, I'll turn it back to you.

Alan Kaplinsky:

Well, my thanks to all of our speakers and particularly our special guest, Rick Hackett. To make sure that you don't miss our future episodes, subscribe to our show on your favorite podcast platform, be it Apple Podcasts, Google, Spotify, or wherever you obtain your podcast shows. And please don't forget to check out our blog, consumerfinancemonitor.com, which goes by the same name as our podcast show. On our daily blog, we provide daily insights into the consumer finance industry. There is a lot of content there. You certainly will want to consult it every day. And if you have any questions or suggestions for our show, please email them to us at podcast, that's singular, podcast@ballardspahr.com. And stay tuned each Thursday for a new episode of our show. Thank you for listening and have a good day.