

Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection

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Organization

**Automobile Consumer
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1110A Wilson Avenue #208
Toronto, Ontario, M3M 1G7**

Report title

**Online Automobile Shopping and Consumer Protection: A
Safe Option for Consumers?**

Report author

**Shahram (Shari) Prymak
Shari_prymak@hotmail.com**

Report methodologist

Atif Kubursi

Report coordination

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Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection

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Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection
Table of Contents

| | |
|---|----|
| <u>List of Acronyms</u> | 4 |
| <u>Summary</u> | 5 |
| <u>Introduction</u> | 6 |
| <u>Research Goals</u> | 7 |
| <u>Methodology</u> | 7 |
| <u>Review of Prior Study Reports and Legislation</u> | 7 |
| <u>Stakeholder Interviews</u> | 8 |
| <u>National Survey</u> | 8 |
| <u>Online Automobile Shopping and Current Trends</u> | 9 |
| <u>Vehicle Advertising and Shopping Tools</u> | 10 |
| <u>Credit Applications and Lead Generators</u> | 12 |
| <u>Online Transactions and E-Signing</u> | 14 |
| <u>Current Regulations and Efforts at Consumer Protection</u> | 16 |
| <u>Survey Results and Analysis</u> | 20 |
| <u>Recommendations</u> | 22 |
| <u>Bibliography</u> | 23 |
| <u>Research Team</u> | 24 |
| <u>Appendices</u> | 25 |
| <u>Appendix A: Stakeholder List</u> | 25 |
| <u>Appendix B: Consumer Survey Results</u> | 26 |

Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection

LIST OF ACRONYMS

| | |
|-------|---|
| ABR | Automotive Business Regulation |
| ACC | Automobile Consumer Coalition (also known as Car Help Canada) |
| AMVIC | Alberta Motor Vehicle Industry Council |
| APA | Automobile Protection Association |
| ARA | Automobile Retailers Association |
| BPCPA | Business Practices and Consumer Protection Act |
| CPA | Consumer Protection Act |
| FAQ | frequently asked questions |
| MDA | Motor Dealer Act |
| MVDA | Motor Vehicle Dealers Act |
| OMVIC | Ontario Motor Vehicle Industry Council |
| OPC | Office de la Protection du Consommateur of Québec |
| UCDA | Used Car Dealers Association |
| TADA | Trillium Automobile Dealers Association |
| VSA | Motor Vehicle Sales Authority of British Columbia |

Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection

SUMMARY

The automobile industry has experienced significant and critical changes throughout the COVID-19 pandemic. Consumers are increasingly becoming online focused in their approach to automobile shopping. Dealerships and lead generators have expanded their digital presence and are making use of new forms of online shopping experiences designed to induce consumers into purchasing a vehicle. While existing consumer protection measures cover parts of these digital practices, to a certain degree, clear protections which are explicitly directed towards digital automotive purchases are; however, less clearly defined.

In June 2021, the ACC began researching the use of digital shopping practices by the automotive industry, including: current online practices that are being used by the automotive industry; the extent of these practices and the risks they pose to consumers; and the extent of regulation that explicitly addresses online automobile retailing. The ultimate task was to draft a set of recommendations that consumers, dealerships, manufacturers, and government bodies could use to help protect consumers from any potential financial harm.

A few important discoveries were revealed about online automotive retailing following a review of the previously published literature on this subject and interviews with various stakeholders. An increasing number of consumers are open to purchasing a vehicle online. Dealerships are beginning to offer comprehensive online vehicle shopping options, including e-signing of contracts to purchase a vehicle. Unethical sales practices that may cause financial harm to consumers continue to be problematic for online vehicle sales.

The ACC commissioned Decision Point Research to conduct a Canada-wide survey. The survey targeted consumers in order to learn about their vehicle-buying experiences.

The consumer survey data revealed that: 1) 34 percent of consumers claim the online price for the purchased vehicle did not include all the necessary fees and charges. 2) 60 percent of consumers found it either challenging or very challenging to get the dealership to honour the online price. 3) 45 percent of consumers claim that the dealership tried to switch or upsell them into a different vehicle to what they viewed online. 4) 40 percent of consumers were able to use a digital signature to purchase their vehicle and sign paperwork online. 5) 28 percent of consumers who purchased a vehicle had some form of complaint or dispute with the dealership.

INTRODUCTION

Over the course of the past two decades, online purchasing has gradually begun to dominate the general retail market. The automobile industry; however, is the exception, and represents one of the last bastions of physical sales.

The COVID-19 pandemic has accelerated the shift to a digital vehicle shopping experience that includes E-commerce options such as electronic sales' contracts, online express shopping, and digital credit applications. Although many dealerships have historically been slow to adopt E-commerce shopping methods, the pandemic forced many dealerships to expand their digital presence with more social media advertising, online shopping tools, and greater use of e-signing of contracts.

Since the automobile industry has well documented issues around providing honest and transparent information to consumers, it is important to investigate the impact that these practices have had on consumers. The ACC's 2019-2020 research report on automobile advertising practices revealed that dealerships and manufacturers are responsible for misleading and dishonest information that cause some consumers to overpay for their vehicle purchase. These practices include non-compliance with all-in price advertising legislation, non-compliance with mandatory disclosures, and the use of bait-and-switch tactics.

Although the intention of online shopping is to create a more streamlined, transparent, and hassle-free method of purchasing a vehicle, the reality could be quite different for many consumers.

The use of dishonest practices has already expanded into the digital space where consumer protection is less clearly defined. Non-compliance with all-in price advertising, non-compliance with mandatory disclosures, and the use of bait and switch tactics are all evident in online vehicle shopping. The online automobile marketplace has also introduced new concerns for consumers. These include the auto industry's use of online lead generators and sight unseen vehicle purchases with remote sales and e-signing of contracts.

The use of these practices contributes to an environment of mistrust and contention for consumers who are in the market to purchase a vehicle. Many consumers could end up paying far more for their vehicle purchase than what they originally had intended. Consumers may lose confidence in the vehicle shopping process and end up feeling taken advantage of by dealerships. And for those who purchased a vehicle online sight unseen, there is often little to no recourse for cancellation or rescission.

The scope of the problems arising from online vehicle shopping needs to be defined and evaluated. This raises a few questions as to what actions or policies do government and industry need to take in order to reduce the use of these high-risk practices and what options could be proposed or legislated to deal with them?

It is within this context that the following research goals were formulated:

RESEARCH GOALS

1. What are the current online practices that are being used by the automotive industry with regards to vehicle purchases in the areas of:
 - a. online advertising and shopping tools;
 - b. online credit applications; and
 - c. e-contracts or e-signing?
2. What are the risks that these practices pose to consumers?
3. How widespread are the high-risk practices?
4. What sort of regulation is needed and how does it benefit the consumer?
5. What recommendations can be made to reduce the potential and actual risks to consumers?

METHODOLOGY

The research encompassed the following:

- Review of previously published literature (including prior research reports and mystery shopping surveys conducted by the ACC, APA, and OMVIC).
- Analysis of the regulatory and legislative framework (including the *Motor Vehicle Dealers Act* for Ontario, the *Motor Dealer Act* for British Columbia, and the *Consumer Protection Act* for both Alberta and Quebec).
- Interviews with stakeholders, including interviews with dealership organizations, advocacy groups, and regulatory authorities.
- A widely distributed consumer survey coordinated by the Automobile Consumer Coalition and Decision Point Research.
- An ACC-affiliate methodologist helped to coordinate, review, and consolidate the research process. The report was reviewed by select stakeholders prior to the completion of a final draft.

REVIEW OF PRIOR RESEARCH REPORTS AND LEGISLATION

The research started with the examination of previous research reports and surveys on the topic of online vehicle sales. The research also included mystery shopping surveys related to the automotive shopping process. The literature was researched and published by the ACC, the APA, and OMVIC. These included recent reports for field research and mystery shopping of dealerships in Ontario, Alberta, and British Columbia. The reports included data from documented visits to dealerships by undercover mystery shoppers.

The literature review also included an analysis of the regulatory and legislative framework in different provinces. The provincial legislation that was reviewed included the *Motor Vehicle Dealers Act* (MVDA) and the Code of Ethics for Ontario, The *Motor Dealer Act* (MTO) for

Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection
British Columbia, and the *Consumer Protection Act* for both Alberta and Quebec.

STAKEHOLDER INTERVIEWS

The ACC conducted interviews with a list of stakeholders by email, telephone, and in-person over a period of several months. The stakeholders included representatives from consumer advocacy groups, dealership organizations, and various regulatory bodies.

Consumer advocacy groups that were contacted and interviewed included the Automobile Protection Association (APA).

Dealership trade organizations that were contacted and interviewed included the Trillium Automobile Dealers Association (TADA) and the Used Car Dealers Association (UCDA).

Regulatory bodies contacted and interviewed included investigators from the Motor Vehicles Sales Authority of B.C. (VSA); the Alberta Motor Vehicle Industry Council (AMVIC); the Ontario Motor Vehicle Industry Council (OMVIC); and the Office de la Protection du Consommateur (OPC) of Quebec.

NATIONAL SURVEY

The ACC commissioned Decision Point Research to conduct a Canada-wide survey in October 2021.

The consumer survey was completed by 1000 Canadians. The target audience of the survey was adults who engaged in online vehicle shopping and purchased a vehicle from a dealership within the last two years. The consumer must have viewed an online advertisement of the vehicle prior to purchasing it.

The survey questionnaire was prepared by the ACC research team. The research objective of the survey was to determine consumers online shopping practices regarding vehicle purchasing; exploring online dealer advertising, the online shopping experiences of consumers, and the outcomes of these purchases.

For more information on the ACC-Decision Point Research survey, see Appendix B.

ONLINE AUTOMOBILE SHOPPING AND CURRENT TRENDS

The COVID-19 pandemic proved to be a catalyst for change within the automotive industry. Before the pandemic, the majority of automotive dealerships maintained a traditional approach to selling vehicles. With the auto industry largely shutting down as a result of the nationwide lockdowns in March of 2020, dealers were forced to rethink their selling model and adopt new remote or online options.¹

Jody Tessier from Kijiji Autos explains: “The pandemic has certainly impacted the way that consumers shop for cars. When dealerships are closed or by appointment, there are different processes and dealerships have had to evolve and respond to that. Everything is moving online and a very high percentage of consumers search for cars online. The pandemic hit the fast-forward button on that process.”²

Francis Rémillard from OPC explains: “It is clear that the pandemic has had significant effects on vehicle dealers in Quebec. During certain periods over the past 18 months, following government directives, the establishments of road vehicle dealers were inaccessible to consumers. Consequently, many merchants have developed a remote service offer, at different levels.”³

As lockdown restrictions began to ease and dealerships began to reopen, much of the newly adopted online selling practices remained in place alongside the traditional selling practices.

More consumers are now open to an online shopping experience and more rely on digital devices as part of the shopping process than ever before. According to Kijiji’s Brand Spark study, 53 percent of consumers between the ages of 18-34 use a mobile device as part of their purchase or lease process. Consumers between the ages of 35-54 are not far behind, with 40 percent of them having done so as well.⁴

According to Cargurus, many consumers considered the idea of buying online for the first time during the pandemic. As a result, openness and preference for digital retail surged. Before the pandemic, 26 percent of respondents from the Cargurus study said they were open to buying online. During the pandemic, however, the percentage jumped to 50 percent of respondents were open to the idea.⁵

Warren Barnard from the UCDA explains: “At some point we see the popularity of retailers offering the option to buy online and those who don’t will suffer. Consumers appreciate the speed and ease of purchasing online. They don’t want to leave the comfort of their laptop or phone to visit a dealer over a period of several hours when they can do it at home in a few minutes. It is going to become more pervasive and the industry needs to be aware of it. The

¹ Kijiji Autos Brand Spark Study, 2020

² Interview with Jody Tessier, Kijiji Autos, August 9, 2021

³ Interview with Francis Rémillard, OPC, September 4, 2021

⁴ Kijiji Autos Brand Spark Study, 2020

⁵ Cargurus COVID-19 Consumer Study, 2020

Automobile Consumer Coalition

Research Report 2021-2023

Online Automobile Shopping and Consumer Protection

government needs to be ahead of the game, aware and proactive with the legislation to prevent potential issues such as online curbsiders operating out of other countries.”⁶

That being said, many consumers are still not comfortable with an entirely digital purchasing process. According to Deloitte’s 2020 Consumer Automotive Study, 78 percent of consumers still prefer to purchase a vehicle in-person as opposed to an entirely virtual purchasing process. The majority of these consumers claim the main reason for this is that they prefer to see the vehicle in-person before purchasing it.

While 84 percent of consumers spend more than half their time researching online and are open to an online purchasing option, the dealership visit and vehicle test drive remain crucial parts of the purchasing experience.⁷

Evelyn Lam-Joe from AMVIC explains: “In Alberta, automotive businesses were considered essential services; as a result automotive businesses remained open for the majority of the pandemic. Throughout the pandemic, there has been an increase in online sales and also negotiation by email and or text messaging. Consumers; however, appear to have a preference to view a vehicle in person, in order to visually assess if the vehicle is right for their needs.”⁸

Tim Hines from OMVIC explains: “I would say that the pandemic created more of a hybrid model where you had traditional operators now shifting and kind of doing some of the things that they would have traditionally done in-person to over the phone or online.”⁹

According to OMVIC’s 2021 mystery shopping survey, more dealerships are beginning to offer comprehensive online vehicle shopping options. These consist of “shop from home” checkout services which begin with selecting a vehicle listed for sale in inventory. The buyer can then proceed to build the deal with the desired extras, accessories, payment options and preferred purchase method. The online checkout also included trade-in appraisal with virtual vehicle tour. The final step involved reviewing the price breakdown with your selected options and submitting a credit application. A salesperson would then contact the buyer with the appropriate paperwork through email to complete the purchase.

In some cases, the paperwork for the purchase can be completed remotely, but many dealerships still require an in-person dealer visit in order to finalize the paperwork. Not all dealerships with online shopping tools offer e-signing for completing the purchase.¹⁰

VEHICLE ADVERTISING AND SHOPPING TOOLS

The ACC’s 2019-2020 research report on automobile advertising practices revealed that many dealerships consistently use unprofessional and dishonest sales practices that cause some consumers to overpay for their vehicle purchase. These practices include non-compliance with

⁶ Interview with Warren Barnard, UCDA, July 20, 2021

⁷ Deloitte Ontario Automotive Consumer Study, 2020

⁸ Interview with Evelyn Lam-Joe, AMVIC, June 16, 2022

⁹ Interview with Tim Hines, OMVIC, November 9, 2021

¹⁰ Dealer Compliance Assessment Via Mystery Shopping, OMVIC, September 2021

Automobile Consumer Coalition

Research Report 2021-2023

Online Automobile Shopping and Consumer Protection

all-in price advertising legislation, non-compliance with mandatory disclosures, and the use of bait-and-switch tactics.

The report found that non-compliance with all-in pricing advertising legislation ranges from 30 percent to, as high as, 76 percent in the provinces of Ontario, British Columbia, Quebec, and Alberta. Many dealerships were found to be using deceptive advertising offers, bait and switch tactics, and charging additional fees to consumers which were not included in the advertised prices. A more recent mystery shopping survey from 2021 confirms that these trends continue to be common across the auto industry.¹¹

All-in price advertising is the law in several provinces, including Ontario, Quebec, Alberta, and Manitoba. Although British Columbia does not necessarily require dealerships to advertise an all-in price, they do require dealers to disclose all fees and charges which are part of the price in the advertisement.

According to the ACC-Decision Point consumer survey, the use of dishonest practices has already expanded into the digital space, especially in the case of automobile advertising. About 34 percent of consumers claim that the price they were quoted by the dealership was higher than the price in the online advertisement. Equally, 74 percent of consumers indicated that they viewed an online advertisement for a vehicle on the dealership website. The dealer listing the vehicle on a classified's website was the second most common advertisement viewed.

A total of 55 percent of consumers claimed that they found it either challenging or very challenging to get the dealership to honour the advertised price for the vehicle. Almost one third of consumers paid \$500 to \$1,000 more than the advertised price, with 56 percent saying this was due to the dealership charging extra fees and products not included in the advertised price.¹²

The survey data is consistent with mystery shopping data provided by OMVIC. According to a 2021 mystery shopping survey of Ontario, which included both in-person and online vehicle shopping, 43 percent of dealerships were non-compliant with all-in price advertising legislation. In most cases, dealerships were found to be overcharging consumers by \$500 to \$1,500. In the most extreme case, the dealership overcharged the mystery shopper by \$3,571.

Although the intention of online shopping is to create a more streamlined, transparent, and hassle-free method of purchasing a vehicle, some dealerships simply use it for traffic generating purposes. According to the survey, the non-complaint dealerships were reluctant to communicate online and required repeated attempts to obtain requested information such as vehicle price quotes. They were also the most unlikely to provide clear, transparent information online. It is clear that the intention of some dealers is to simply use online shopping as a tactic to lure consumers into the dealership where traditional sales practices may be used to complete the sale.¹³

¹¹ Dealer Compliance Assessment Report, OMVIC, September 2021

¹² ACC Decision Point Research Survey, 2021

¹³ Dealer Compliance Assessment Report, OMVIC, September 2021

Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection

The ACC-Decision Point consumer survey also found that many dealerships continue to use other unethical sales tactics on consumers when shopping online. Over 45 percent of consumers reported the use of bait and switch tactics where the dealership attempted to upsell or switch them into a different vehicle from the one advertised online.¹⁴

The mystery shopping data is consistent with these findings. Many dealerships were found to be advertising vehicles for sales which were no longer available or did not exist. According to mystery shopping data, between 10 to 20 percent of advertised vehicles have been previously sold or were not available for purchase. The result is that consumers looking for the advertised vehicle have to order and wait a long period of time to obtain the advertised vehicle, or purchase a higher-end model, for a higher price.¹⁵

According to OMVIC, often times these unavailable vehicles are kept up on the dealership websites in order to generate traffic. The dealership staff are trained to use these ads to transition consumers into a different vehicle. This means that many consumers shopping for a vehicle online are not only misled by advertised pricing, but also vehicle availability.¹⁶

In certain provinces, dealerships are required to only advertise vehicles which are available for purchase. If an advertised vehicle is not available, the advertisement must be removed or it must clearly state that the vehicle is not available for purchase. Despite this requirement, the practice of advertising unavailable vehicles for attractive prices to lure consumers remains common across the auto industry.

Christina Walker from VSA explains: “It still does happen. They have one vehicle that is a gem so they keep it advertised for six weeks instead of taking it off when it is sold so that they show people that they have it. We see more of that because of the lack of inventory. Dealers will always do the same things they've always done. They just find more creative ways of doing it.”¹⁷

Tim Hines from OMVIC explains: “The traditional complaints that we receive are still the traditional complaints. I think that the more virtual, online, hybrid models that you see do increase the likelihood that things can go wrong and we've definitely noted that in terms of complaint volume.”¹⁸

CREDIT APPLICATIONS AND LEAD GENERATORS

Not all of the online sales tactics are ones that have been carried over from the traditional in-person shopping experience. Online vehicle shopping has led to the emergence of new online tools and sales tactics, including the use of lead generators and ads disguised as credit

¹⁴ ACC Decision Point Research Survey, 2021

¹⁵ Dealer Compliance Assessment Report, OMVIC, September 2021

¹⁶ Interview with Tim Hines, OMVIC, November 9, 2021

¹⁷ Interview with Christina Walker, VSA, August 27, 2021

¹⁸ Interview with Tim Hines, OMVIC, November 9, 2021

Automobile Consumer Coalition

Research Report 2021-2023

Online Automobile Shopping and Consumer Protection

applications. Moreover, online tools of this nature can sometimes be far more misleading and harmful than traditional dealership shopping tools or advertising.

Lead generators are independent businesses with the objective of collecting the personal information of consumers interested in purchasing a vehicle. The information of these potential leads is then shared or sold to automobile dealerships who then attempt to complete the sale.

Many lead generators often push highly deceitful advertising across social media channels which contain engaging, but often false information. The online information often contains deceptively low pricing for a vehicle which does not exist or which is extremely difficult to qualify for. The intention is to lure consumers in order to collect their personal information.¹⁹

Indeed, according to the ACC-Decision Point survey, 53 percent of respondents claimed that they had to complete an online credit application or provide personal information to learn more about the vehicle in the online advertisement.²⁰

Marcela Coellar from OMVIC explains: “You have the majority of dealers advertising on their own behalf and you do have a chunk that is using these lead generating companies to advertise for them. I look at the last five years and I see how much it has increased. Before it was one or two. Canada Drives was the only one. Now it has increased to a level I have never seen before. It has drastically increased.”

Some lead generator ads are online credit applications disguised in the form of an online quiz or questionnaire. These tools are designed to collect the personal information, including running credit information, of consumers, often without their full knowledge.

Coellar explains: “You’ll see quite a few dealerships that have loan institutions that they are directly affiliated with so they own the company, but then there are other ones who are US-based and they are sending the leads with the consumer’s information. Dealers pay for these leads and they’ll pay anywhere from \$200 to \$1,000 per lead. It is quite the revenue that is taking place. They are bringing the consumers and the dealership is inducing the transaction or trade.”²¹

Lead generators are not licensed dealerships, and, therefore, are not subject to the same legislation which regulates dealerships. The result is that many lead generators are able to get away with vehicle advertising that is far more deceitful and misleading than the average dealer advertisement.

Time Hines from OMVIC explains: “They are smart. They found a gap in the system. They are not going to be covered by financial in the same regulatory regime as financial institutions. They are not going to be caught under the regulatory regime for car dealerships. They are out there and it is a little bit like the internet all the time. It is the wild west until somebody comes along and says oh that’s no good.”²²

¹⁹ Interview with Marcela Coellar, OMVIC, September 9, 2021

²⁰ ACC Decision Point Research Survey, 2021

²¹ Interview with Marcela Coellar, OMVIC, September 9, 2021

²² Interview with Tim Hines, OMVIC, November 9, 2021

Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection

Christina Walker from VSA explains: “That is the hard part for us is figuring out who are the dealers and who are these inside agencies. And do those outside agencies fall under our jurisdiction, can we capture them, and make sure there is recourse.”²³

Marcela Coellar explains: “Something that we measure when we're looking at a dealer's advertisement is if an ad is placed by, or on behalf of the dealer, so if we can substantiate that the ad was placed on behalf of the dealer. Then, as the regulator, that is when we can come in and say we found the connection here. We can now take it up with the dealer because we can substantiate that it was placed on behalf of that dealership.”²⁴

Unfortunately, many lead generator type advertising is designed to target vulnerable consumers. They often target those with little automotive knowledge or with bad credit who do not qualify for traditional financing through a major bank or lender.

Consumers who are lured to these sites can sometimes fall victim to auto loan scams. These can include hidden fees, yo-yo financing, spot delivery, guaranteed approval scams, and loan modification scams. The risk of these scams is high among sites which are not registered as a business, or hide their location or contact information.

Divya Shergill from VSA explains: “It's unfortunate that these places are not real. But they have really good marketing and really good websites and they can scam people. With subprime, the reality is consumers are more embarrassed to go in, in person because they think they are going to be told no. If they fill out all the information online and they get told no online, it is not as embarrassing as if you went into the dealership. If you get approved online then you are off and running. The problem with that is, do the (consumers) know who they are dealing with? A lot of these companies are people who get the person's credit information online and then they sell that to the dealers. Then a dealer calls them and six dealers may call and say we have a car for you that you can afford.”²⁵

Evelyn Lam-Joe from AMVIC explains: “Consumers should do their own research and ensure they are engaging with a licensed automotive business and a registered salesperson prior to sending any personal information. Consumers should always review all documentation provided to them by the automotive business in detail.”²⁶

ONLINE TRANSACTIONS AND E-SIGNING

The use of online transactions and e-signing to complete the sale of an automobile has become increasingly common across Canada throughout the pandemic. Health and safety concerns around in-person sales helped accelerate the practice of e-signing vehicle purchase agreements. These purchase agreements are often shared with the consumer through a digital service such as

²³ Interview with Christina Walker, VSA, August 27, 2021

²⁴ Interview with Marcela Coellar, OMVIC, September 9, 2021

²⁵ Interview with Divya Shergill, VSA, August 17, 2021

²⁶ Interview with Evelyn Lam-Joe, AMVIC, June 16, 2022

Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection
DocuSign, Adobe Sign, or similar online document signing services.²⁷

In some cases, the use of these services has eliminated the need for physical sales. Although physical dealership showrooms remain commonplace, some auto manufacturers and dealerships now offer consumers the option to conduct the entire vehicle purchasing process online without the need to visit a physical showroom or see the vehicle in person until taking delivery. A few auto manufacturers participating in this online selling model include Tesla, Polestar, and Genesis.

Jarred Pellat from Genesis Canada explains: “Genesis is the first manufacturer in Canada where the consumer could open up their device, go on our website, configure a car, go through all the steps, submit a credit application, and at the end of the process, a bill of sale comes out. You can then sign it and upload it back onto the platform and we will deliver the vehicle to your residence or place of business. You could go through the entire process online and have the vehicle delivered to your door without ever interacting with a brick and mortar retail space. The vast majority of Genesis customers have not been to a physical retail space. 75 percent of people surveyed would be open to purchasing a vehicle online. We hope that the industry moves in this direction because in the end it benefits everybody.”²⁸

Although signing a purchase agreement online and taking delivery of a vehicle sight unseen has a major convenience element, there are a few potential concerns. One major concern with the purchase of a vehicle online is the risk of undisclosed issues with the vehicle. Consumers who purchase a vehicle sight unseen do not have an opportunity to inspect the vehicle before signing the paperwork and committing to the purchase. If the vehicle has hidden mechanical issues, cosmetic concerns, or accident history, the consumer might not discover these concerns until well after they have taken delivery.

Tim Hines from OMVIC explains: “Probably the biggest issue is when people are purchasing vehicles, particularly used cars sight unseen based on photos and things like that, and they do the deal, and they negotiate everything away from the dealership using whatever medium they're using. Then fast forward to delivery of the vehicle, which probably gets delivered to their house, and now they get a chance to finally be with the car. Now they are seeing things that they didn't see in pictures. It doesn't really change the premise of the complaint, but how you get there is different.”²⁹

A related concern is that many online retailers do not include any form of return period or cooling off period when purchasing a vehicle online. Therefore, if the consumers were to discover any issues with the vehicle after taking delivery, they might not have any recourse with the retailer. Although British Columbia legislation includes a 24-hour cooling off period on vehicle lease agreements, most provinces do not have any form of a cooling off period on in-person or online vehicle purchases.

²⁷ Cargurus COVID-19 Consumer Study, 2020

²⁸ Interview with Jarrad Pellat, Genesis Canada, October 25, 2021

²⁹ Interview with Tim Hines, OMVIC, November 9, 2021

Automobile Consumer Coalition

Research Report 2021-2023

Online Automobile Shopping and Consumer Protection

Divya Shergill from VSA explains: “Thoroughly inspect the vehicle at the time it is delivered and before accepting the goods or completing the paperwork. Many dealers are making their online offerings more robust but even the best walkaround videos of a used car may not show many of scratches and blemishes that could easily be identified in person.”³⁰

There are also concerns with remote sales from an enforcement and investigations standpoint. Some provinces require that dealerships have a physical location, even if they conduct their sales online.

Evelyn Lam-Joe from AMVIC explains: “In the Province of Alberta, a physical location is required for those who advertise and sell vehicles. There could be potentially concerns with consumer protection should a dealership be fully remote. For example: 1) With a physical dealership, inspections and investigations can easily locate the dealer to conduct inspections or investigations. 2) There is no legislation in place to protect the consumer (no “cooling off” period) should a vehicle arrive and it not be in the condition the consumer expects.”³¹

Divya Shergill from VSA explains: “While many dealers are using DocuSign or similar services to facilitate electronic signing of contracts. Most of the major banks in Canada still do not accept that method to fund a car loan, so the dealer still needs to get ink on paper (usually at the time the vehicle is delivered) to complete the financing. The consumer should take time to make sure those physical documents match those disclosed in advance via DocuSign or similar.”³²

CURRENT REGULATIONS AND EFFORTS AT CONSUMER PROTECTION

Each province has its own unique set of regulations and, in certain provinces, delegated authorities, which are responsible for enforcing the regulations of the province.

Divya Shergill from VSA explains: “Consumers in Alberta, BC, Ontario, and Quebec have recourse if there's a problem. OMVIC, VSA, and in any of the other provinces who have something similar, there's somewhere to go with their complaints where they can be dealt with. There are some provinces that don't have that, in which case consumers are left on their own to solve the situation they've been put in.”³³

The regulations demonstrate that there are clear similarities and differences within each province. The provinces of Ontario, Quebec, Alberta, and British Columbia all broadly share the following rules which dealerships must follow:

1. Dealerships must conduct business with a certain degree of honesty, integrity, fairness, and respect.
2. The advertisement must not make false or misleading representations. The vehicle must be

³⁰ Interview with Divya Shergill, VSA, August 17, 2021

³¹ Interview with Evelyn Lam-Joe, AMVIC, June 16, 2022

³² Interview with Divya Shergill, VSA, August 17, 2021

³³ Interview with Divya Shergill, VSA, August 17, 2021

Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection

advertised with accurate and truthful information with regards to its condition, illustrations, and price.

3. Dealerships must disclose all pricing related details of the advertised vehicle including all fees and charges.
4. The advertised vehicle must be in the dealer inventory at the time of the advertisement and must be available at the advertised price
5. Instalment or fixed credit type advertisements must disclose financial details such as the annual percentage rate (APR), length of the loan, and vehicle price.
6. The dealership must disclose the past history of the advertised vehicle including past use as taxi cabs, police cars or emergency vehicles.
7. Dealerships must have a physical space or on-site premise for conducting business.

The bibliography outlines the specific regulations which currently exist in these four major provinces.

There are, however, many areas of concern where provincial legislation may be inadequate. These areas of concern include the extent of all-in pricing advertising, mandatory disclosures, cooling off periods on vehicle purchases, and remote, or off-premise, vehicle sales and inspections.

Although dealerships in several provinces are required to comply with all-in pricing advertising legislation, this legislation does not apply to the advertising of automobile manufacturers, lead generators, or similar automotive-related businesses which do not directly sell vehicles to consumers.

Evelyn Lam-Joe from AMVIC explains: “The Consumer Protection Act does not apply to national manufacturer advertisements. If there is a consumer advertising concern with a manufacturer advertisement, it would be outside of AMVIC jurisdiction. As such there are times where AMVIC is unable to assist the consumer with all in pricing and advertising concerns.”³⁴

Provincial legislation often includes mandatory disclosures. Many provinces require dealerships to disclose additional information about a vehicle before the sale. Dealerships often have to disclose whether or not the advertised vehicle has a salvage or rebuilt title with prior accident history, whether it was used a rental vehicle or taxi, and whether it was previously registered in another jurisdiction.

Divya Shergill from VSA explains: “The dealer is required to represent the vehicle accurately at the time of the sale. That is just for mechanical condition, but if it is a safety issue then that is an extra layer. Dealers are required to ensure that the vehicles that they sell to consumers are roadworthy and safe. If they are not safe then they have to declare it on a purchase agreement.”³⁵

³⁴ Interview with Evelyn Lam-Joe, AMVIC, June 16, 2022

³⁵ Interview with Divya Shergill, VSA, August 17, 2021

Automobile Consumer Coalition
Research Report 2021-2023

Online Automobile Shopping and Consumer Protection

Dealerships, however, often exclude much of this information from their advertisements. Some dealers also fail to disclose this information when they are communicating with consumers, which is a violation of the regulations. The result is that some consumers may purchase a vehicle without knowing vital information about its history. A vehicle that was previously used as a daily rental or one with a rebuilt title could be problematic and be worth far less than the equivalent model with a clear history.

Time Hines from OMVIC explains: “If you're going to buy vehicle sight unseen, maybe there needs to be more protection, and that's certainly something that I support. I think it just makes sense that if we have things like all-in price advertising, then we should have full disclosure advertising too. If it has to be in the contract then it should be in the ad. Consumers should have the information. In the day and age we live in today, it makes sense that they have this information at their fingertips.”³⁶

Another concern with provincial legislation is the lack of a cancellation, or “cooling off” period when purchasing a vehicle. A cooling-off period is a period of time following a purchase or lease when a purchaser is allowed to cancel the contract for any reason and receive a refund. Without a cooling-off period, a consumer is at risk of entering into a financial commitment that they cannot afford or may not fully understand. Although this lack of protection can be problematic for any type of vehicle purchase, it is especially concerning for those who purchase a vehicle online sight unseen. Ontario and Alberta do not have any form of a cooling off period in their legislation.

Evelyn Lam-Joe from AMVIC explains: “In Alberta, there is no “cooling off” period. As such if a consumer chooses to purchase a vehicle sight unseen, there may be very little recourse should the vehicle not be what the consumer thought they were receiving.”³⁷

Although most provinces do not have cooling off period legislation, the legislation in British Columbia and Quebec does allow for the cancellation of a vehicle sales contract under certain circumstances.

In British Columbia, consumers may cancel a contract within 24 hours for a vehicle which is being leased. The Sales of Good Act also gives the consumer a right to examine and refuse goods purchased sight unseen (online). A consumer is not deemed to have accepted the goods unless they have had that opportunity. That Act also provides rules about the rights and obligations of the buyer and the seller regarding the delivery of goods to the buyer.³⁸

In Quebec, consumers have two days to cancel a contract for a vehicle purchase which is financed through a lending institution. This cancellation period increases to 10 days for subprime, or high-cost credit contracts.

Francis Rémillard from OPC explains: “If the vehicle is financed, provisions of the Consumer

³⁶ Interview with Tim Hines, OMVIC, November 9, 2021

³⁷ Interview with Evelyn Lam-Joe, AMVIC, June 16, 2022

³⁸ Interview with Divya Shergill, VSA, August 17, 2021

Automobile Consumer Coalition
Research Report 2021-2023

Online Automobile Shopping and Consumer Protection

Protection Act (LPC) define the information that must be found in the installment sale contract or in the long-term rental contract. Within 10 days of its conclusion, a consumer can cancel a high-cost credit contract (LPC 73). This period is two days for credit agreements that are not high cost. This right of cancellation does not apply when the subject of the contract is a new vehicle of which the consumer has already taken delivery (RPC 70).”³⁹

There are also major differences between provinces with regards to the use of electronically-signed contracts and distance sales that take place remotely. For example, the use of distance selling is prohibited in the province of Quebec, so online vehicle sales are not permitted.

Francis Rémillard from OPC explains: “One of the major obstacles to this business model is the legal obligation for a Quebec vehicle dealer to sell or lease long-term at his establishment only. This obligation is provided for in section 260.29 of the Consumer Protection Act (LPC). In short, given this provision of the CPA, distance selling is prohibited. It is possible for merchants to carry out certain steps remotely (on the web or by telephone), but the conclusion of the transaction and the signing of the documents related to the transaction (lease, purchase and financing contracts) must be done at the merchant's establishment.”⁴⁰

Moreover, the Consumer Protection Act in Quebec gives consumers the right to request a road test of the vehicle and may request the performance of an independent mechanical inspection. According to Rémillard, these two obligations could be problematic in the context of a business model where transactions are carried out entirely online.

Rémillard from OPC explains: “Since this practice is prohibited in Quebec, no road vehicle dealer who does business with consumers and who holds a permit from the Office has officially and openly adopted this business model. If the Office found that this was the case, the merchant's license would be revoked.”⁴¹

Other provinces, however, do allow for distance vehicle sales and include regulations for distance or online sales under their Consumer Protection Acts. British Columbia includes certain distance sales provisions in the Business Practices and Consumer Protection Act which protect consumers who engage in online sales. There is the Electronic Transactions Act which places rules around the creation and validity of an electronic contract for personal goods.⁴²

Alberta has the Internet Sales Contract Regulation (ISCR) as part of the Consumer Protection Act. The ISCR outlines the disclosures and other requirements that dealerships must follow or there is a risk the consumer may be able to cancel the contract.⁴³

Aside from Quebec, the regulations for most provinces do not explicitly indicate whether electronic signatures and online contracts are acceptable. Often times, the decision whether to accept electronic documents, such as DocuSign or Adobe Signatures, for vehicle purchase

³⁹ Interview with Francis Rémillard, OPC, September 4, 2021

⁴⁰ Interview with Francis Rémillard, OPC, September 4, 2021

⁴¹ Interview with Francis Rémillard, OPC, September 4, 2021

⁴² Interview with Divya Shergill, VSA, August 17, 2021

⁴³ Interview with Evelyn Lam-Joe, AMVIC, June 16, 2022

agreements rests with the financial institutions.

Divya Shergill from VSA explains: “While many dealers are using DocuSign or similar services to facilitate electronic signing of contracts. Most of the major banks in Canada still do not accept that method to fund a car loan so the dealer still needs to get ink on paper (usually at the time the vehicle is delivered) to complete the financing. The consumer should take time to make sure those physical documents match those disclosed in advance via DocuSign or similar.”⁴⁴

Evelyn Lam-Joe from AMVIC explains: “Legislation does not explicitly indicate whether or not digital signatures are acceptable. In some cases, some financial institutions require an original signature (although this is not an area AMVIC regulates, as each financial institution has their own policies associated with original signatures).”⁴⁵

While distance sales with electronic signatures may be permitted in the provinces of British Columbia, Alberta, and Ontario, but like Quebec, dealerships are still required to have a physical business premise and be registered or licensed under the province. This is to allow for record keeping and physical inspections.

SURVEY RESULTS AND ANALYSIS

The ACC commissioned Decision Point Research to conduct a survey in November 2021. The survey was conducted on consumers across each province. The purpose of the survey was to determine the vehicle purchasing behaviour of Canadian consumers and their experience with purchasing a vehicle from a dealership with an online component. The survey was completed by 1000 Canadians who have purchased or leased a car within the last two years and found the vehicle online.

Of the 1000 respondents, 74 percent claim that they found the vehicle through a dealer website advertisement. This includes social media advertisements which collect personal data and then redirect consumers to a dealer website. while 53 percent of respondents said they had to complete an online credit application or provide personal information to learn about the vehicle in the online advertisement.

With regards to the advertisements, 75 percent of respondents claim that the advertisement included all of the necessary information and was accurate. Only 66 percent, however, claim that the price in the advertisement was all-in. But 34 percent claim that the vehicle price did not include all the necessary fees and charges.

While 40 percent of respondents claim that it was not challenging to get the dealer to honour the online price, the remaining 60 percent found it either challenging or very challenging. Over 35 percent claim that the dealership attempted to charge a higher price, but they eventually

⁴⁴ Interview with Divya Shergill, VSA, August 17, 2021

⁴⁵ Interview with Evelyn Lam-Joe, AMVIC, June 16, 2022

Automobile Consumer Coalition

Research Report 2021-2023

Online Automobile Shopping and Consumer Protection

honored the advertised price, and 25 claim that the dealership charged a higher price than what was advertised.

A total of 30 percent of respondents paid \$500-\$1,000 more than the advertised price; 22 percent paid more than \$1,000 over the advertised price and 56 percent of respondents claim that this was due to the dealership charging extra fees and products that were not already included in the advertised price. Alternatively, 24 percent claim it was due to the vehicle price being higher than what was shown in the advertisement.

The survey found that 45 percent of respondents claimed that the dealership attempted to switch or upsell them into a different vehicle than what was shown online, while 81 percent of the respondents claimed that the vehicle matched what was represented online in terms of physical condition and history when they visited the dealership.

About 50 percent of respondents were not able to use a digital signature to purchase their vehicle and sign paperwork online. A total of 48 percent were offered a money back cancellation or return period by their dealership when purchasing their vehicle, and 67 percent of respondents were aware that vehicle sales were final and did not include a cooling off period.

A total of 72 percent of respondents did not have a complaint or dispute with their dealership. Of the 28 percent who did have dealership complaints, these were primarily due to the condition of the vehicle (56 percent) or related to price (55 percent). The majority of respondents who did have complaints had these resolved by the dealership.

Despite the number of concerns, 80 percent of respondents claim that the dealership and their online advertising were professional, transparent, and honest.

RECOMMENDATIONS

Based on the extensive research conducted on the question and the survey materials presented above, the following recommendations can be made and the following actions could be taken:

- 1) Expand the use of consumer education campaigns so that more consumers understand their rights when shopping for a vehicle online.
- 2) Introduce a cancellation /exchange policy for online purchases in order to ensure consumer protection and enhance confidence in the industry.
- 3) Expand the use of mandatory disclosures in vehicle advertising to include vehicle condition and past use or history.
- 4) Expand all-in price advertising legislation to all provinces.
- 5) Require lead generators and automobile manufacturers to comply with all-in price advertising and mandatory disclosure requirements.
- 6) Expand mandatory ongoing professional development for all dealership licensees.
- 7) Publicly name dealerships with registered complaints and promote awareness for consumers.
- 8) Ensure regulatory agencies have sufficient resources and accountability. Hire compliance officers dedicated to reviewing and monitoring all forms of advertising and take appropriate disciplinary action when required.
- 9) Expand use of substantial penalties and disciplinary action by provincial authorities for non-compliant dealerships, particularly repeat offenders. The cost of non-compliance needs to be commensurate with the size of the business and scope of non-compliance.
- 10) Regulatory authorities should strongly consider streamlining and standardizing the regulations, the enforcement process, the penalties, and the costs across all provinces.
- 11) Require dealerships to provide information in regard to prior infractions and non-compliance in advertising to avoid unfair competition based on price alone.

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Ontario Motor Vehicle Dealers Act

Ontario Consumer Protection Act

Quebec Consumer Protection Act

Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection

RESEARCH TEAM

Shahram (Shari) Prymak

Shahram Prymak organized the research and composition of the report, conducted interviews with stakeholders and coordinated the project's operation. Mr. Prymak holds Bachelor degrees (BSc and BEd) from the University of Toronto and York University respectively, with Sociology as one of his majors in the former. In the last four years, he has published nearly a hundred articles on many aspects of the automobile industry. His work has appeared on automobile websites as well as in consumer oriented newsletters. As a working member of the Automobile Consumer Coalition, Mr. Prymak's experience as an automobile expert has also helped countless consumers with many aspects of automobile ownership. As well as working in print and on the internet, Mr. Prymak has hosted programs on both television and radio.

Mohamed Bouchama

Mr. Bouchama helped in the development of the report methodology and helped conduct interviews. Mr. Bouchama is Ontario's best-known automobile consumer advocate and is the founder and Executive Director of Automobile Consumer Coalition. For over two decades, he has had daily involvement in assisting vehicle buyers to find the lowest prices and has listened to and helped thousands of consumers with virtually every aspect of vehicle ownership. Mr. Bouchama has hosted automobile related programs on television and radio for fifteen years and has granted hundreds of media interviews during his career and has been featured in *The Toronto Star*, *The Globe and Mail*, and *The Toronto Sun*. Mr. Bouchama has also lobbied on behalf of vehicle purchasers and advised governments at the federal and provincial levels.

Atif A. Kubursi

Atif Kubursi is the report methodologist. Dr. Kubursi is Emeritus Professor of Economics and also taught in the elite Arts and Science Programme at McMaster University. Dr. Kubursi taught economics at Purdue University in Indiana, USA, was Senior Academic Visitor at Cambridge University, UK in 1974/75 and a Fellow of the Middle East Policy Institute at Harvard University between 1989 and 1998.

He also served as the Acting Executive Secretary, and Undersecretary General, of the United Nations Economic and Social Commission for Western Asia in 2006, 2007 and 2008, and as Senior Development Officer at UNIDO in Vienna in 1982. He is the recipient of the Canadian Centennial Medal. Dr. Kubursi has published over 250 articles, 12 books, and many technical reports and is a frequent TV commentator on Canadian economic issues and Middle Eastern Affairs.

APPENDICES

APPENDIX A:

STAKEHOLDER CONTACT LIST

Ontario Motor Vehicle Industry Council (OMVIC)

<http://www.omvic.on.ca/>

Tim Hines, Director of Consumer Support

Motor Vehicles Sales Authority of B.C. (VSA)

<http://www.mvsabc.com/>

Divya Shergill, Manager of Consumer Services

Alberta Motor Vehicle Industry Council (AMVIC)

<http://www.amvic.org/>

Evelyn Lam-Joe, Manager of Industry Standards

Office de la Protection du Consommateur (OPC)

<http://www.opc.gouv.qc.ca/>

Francis Rémillard, Directeur territorial – secteur Ouest du Québec

Trillium Automobile Dealers Association

<http://www.tada.ca>

Frank Notte, Director of Government Relations

Used Car Dealers Association

<http://www.ucda.org>

Warren Barnard, Executive Director

Automobile Protection Association

<http://www.apa.ca>

George Iny, President

Automobile Consumer Coalition
Research Report 2021-2023
Online Automobile Shopping and Consumer Protection

APPENDIX B:

NATIONAL CONSUMER SURVEY AND QUESTIONNAIRE