

OMVIC Policy No.: L4 - 2010

PUBLISHING INFORMATION TO PROTECT THE PUBLIC POLICY

Approved January 1, 2010 | Reviewed January 1, 2014

1. INTRODUCTION

It is the mandate of the Ontario Motor Vehicle Industry Council ("OMVIC"), to maintain a fair, safe and informed marketplace in Ontario by protecting the rights of consumers, enhancing industry professionalism and ensuring fair, honest and open competition for registered motor vehicle dealers.

It is the policy of OMVIC to disclose any information as required by s. 27 of Ontario Regulation 333/08 and/or which would protect the public and the rights of consumers while at the same time maintaining the confidentiality of sensitive information in accordance with s. 36 of the Motor Vehicle Dealers Act, 2002 (the "Act") and OMVIC's Privacy Policy.

2. AUTHORITY

From time to time OMVIC is required to exercise its administrative authority to disclose information which would protect the public and the rights of consumers while at the same time maintaining the confidentiality of sensitive information. This authority is exercised pursuant to section 27 of Ontario Regulation 333/08 and section 36 of the *Motor Vehicle Dealers Act, 2002*.

In order to meet the onus set out in section 27, OMVIC shall ensure, as much as is reasonably practical in the circumstances, the following:

- a. that the circumstances are extraordinary;
- b. that there is an overwhelming public interest;
- c. that publishing the information is likely to protect the public; and
- d. that the information is reliable.

3. PUBLISHING INFORMATION TO PROTECT THE PUBLIC

3.1 CLASSES OF INFORMATION

1. Curbsider information
2. Information generated by OMVIC staff (i.e. an investigation/inspection)
3. Information generated by a third party (i.e. the OPP)

3.2 CRITERIA WHICH MAY BE CONSIDERED WHEN ASSESSING INFORMATION

If the information is regarding anything other than a personal safety issue for the public, the circumstances should be extraordinary, and OMVIC should be convinced of an overwhelming public interest. (for example: a registrant or former

registrant, despite a court order – Injunction – against them, continues to violate the MVDA, 2002 by selling undisclosed salvage vehicles)

Staff may consider the following factors when identifying whether any information received “could assist in protecting the public if the public knew about it” as set out in s. 27 (2) of Ontario Regulation 333/08:

- a. Is there a threat to the personal safety of members of the public (for example: selling undisclosed branded “total loss” motor vehicles)?
- b. Is the threat current or ongoing (for example: consumers are unknowingly driving unsafe cars now or the dealer is continuing to supply such cars)?
- c. Will the conduct result in financial/safety harm to members of the public?
- d. How serious is this harm?
 - i. if it's concerning personal safety, is this likely to cause death or serious injury?
 - ii. if it's concerning financial harm, is this likely to cause significant financial losses to the victim?
- e. Is there a potential for future harm?
- f. Has the harm already been done?
- g. Is the harm occurring (or likely to occur) related to a trade in a motor vehicle?
- h. Is the conduct likely to affect the public in Ontario as opposed to other jurisdictions?
- i. Will the harm be done to consumers, dealers, other businesses or all of the above?
- j. Is the harm likely to be done to “vulnerable” members of the public (for example: people who are economically or otherwise disadvantaged)?
- k. Is this a common problem/potential for harm in the industry?
- l. Who/what is the source of the information?

- i. How reliable is the source?
- ii. Has OMVIC received any previous information from this source?
- iii. Has any previous information proven to be reliable?
- m. How reliable is the information about the alleged conduct (for example: has there been a conviction, a charge, an investigation, existence of witnesses etc.)?