

(d) A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, or representative, may not require or coerce a dealer, by franchise agreement or otherwise, or as a condition to the renewal or continuation of a franchise agreement, to:

(1) ~~Eliminate~~ EXCLUDE from the use of the dealer's facilities a dealership for which the dealer has a franchise agreement to utilize the facilities [as of March 1, 1996]; or

(2) Materially change the dealer's facilities or method of conducting business if the change would impose substantial financial hardship on the business of the dealer.

(e) (1) A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, or representative, may not require or coerce a dealer to adhere to performance standards that are not applied uniformly to other similarly situated dealers.

(2) ~~(i) A performance standard, SALES OBJECTIVE, or program for measuring dealership performance that may have a material effect on a dealer, INCLUDING THE DEALER'S RIGHT TO PAYMENT UNDER ANY INCENTIVE OR REIMBURSEMENT PROGRAM, and the application of the standard, OBJECTIVE, or program by a manufacturer, distributor, or factory branch shall be fair, reasonable, equitable, and based on accurate information, INCLUDING:~~

~~1. THE DEMOGRAPHIC CHARACTERISTICS OF THE POPULATION, WITH EMPHASIS ON CAR AND TRUCK PREFERENCES; AND~~

~~2. THE GEOGRAPHIC CHARACTERISTICS THAT AFFECT CAR AND TRUCK SHOPPING PATTERNS IN THE DEALER'S ASSIGNED MARKET AREA.~~

~~(ii) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT DENY THE BENEFITS OF MEETING A STANDARD, SALES OBJECTIVE, OR PROGRAM TO A DEALER WHO PRESENTS DOCUMENTATION OR REASONABLE EVIDENCE THAT IT WAS MET.~~

(3) (i) If the performance standard is based on a survey, it must be shown that:

1. The survey was designed with experts;
2. The proper universe was examined;
3. A representative sample was chosen; and
4. The data was accurately reported.

(ii) The manufacturer, distributor, or factory branch shall establish the objectivity of the survey process and provide this information to any dealer of the same line make covered by the survey on request.

(f) A franchise agreement or other contract offered to a dealer by a manufacturer, distributor, or factory branch may not contain any provision requiring