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FTC Takes Action

FTC, December 12, 2014

FTC Takes Action Against Two Auto Dealership Chains For Violating 2012 Orders Prohibiting Deceptive Advertising of Vehicle Costs.

The Federal Trade Commission is taking action against two auto dealer groups, operating in five states with more than two dozen retail stores, for civil penalties for violations of FTC administrative orders, which prohibit them from deceptively advertising the cost of buying or leasing a car. "If auto dealers make ad-

vertising claims in headlines, they can't take them away in fine print," said Jessica Rich, Director of the FTC's Bureau of Consumer Protection. "These actions show there is a financial cost for violating FTC orders." Billion Auto, a chain of 20

family-owned automobile dealerships in Iowa, Montana, and South Dakota, and a family-controlled advertising company, Nichols Media, Inc., have agreed to settle charges that they violated a 2012 FTC administrative order.

That order prohibits Billion Auto, and any companies in active participation with it, from misrepresenting material costs and terms of vehicle finance and lease offers and requires specific disclosures, mandated by the Truth in Lending Act (TILA) and Regulation Z, and the Consumer Leasing Act (CLA) and Regulation M. The Billion Auto defendants have agreed to pay \$360,000 in civil penalties to settle the FTC's charges. According to

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Proposed New Legislation

Currently, motor vehicle dealers (cars and trucks) are governed by the Motor Vehicle Dealer Board, (MVDB) and RVs, Travel Trailers, Motor Homes (T&M), Trailer, and Motorcycle dealers are governed by DMV. Prior to the creation of the Motor Vehicle Dealer Board in 1995, all motor vehicle

dealers were under the purview of the Department of Motor Vehicles and governed under Chapter 15 of Title 46.2. Delegate McQuinn on behalf of the MVDB has introduced HB2189 to the 2015 General Assembly that will move regulation and licensing of the "T & M" (RV's, travel

trailers, motor homes,) trailer, and motorcycle dealers from DMV to MVDB. Additionally, the name "T&M" would be changed to "recreational vehicles" or "RVs" for ease of understanding.

This proposed legislation will affect 1,131 dealers under the purview of DMV that would be

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Upcoming EVENTS PUBLIC MEETING

Discuss the process Board staff uses to enforce/educate dealers on Rebate Advertising.

Meeting Date: Friday, January 30, 2015

Time: 9:30 am

Location: DMV Headquarters, 2300, West Broad Street, Richmond, VA

23220; Room 702

BOARD MEETINGS

All Meetings are held at DMV Headquarters

2300 W. Broad Street, Room 702 Richmond, VA

Monday, March 9, 2015

Time: 9:00 a.m.

Dealer Practices Committee Meeting

Monday, March 9, 2015

Time: Immediately following Dealer Practices

Licensing Committee Meeting

Monday, March 9, 2015

Time: Immediately following Licensing

Advertising Committee Meeting

Monday, March 9, 2015

Time: Immediately following Advertising

Transaction Recovery Fund Committee Meeting

Monday, March 9, 2015

Time: 10:00 a.m.

Full Board Meeting

NOTE: Meetings may begin later, but not earlier than scheduled.

Holiday Hours

CLOSED:

Monday February 16, Presidents Day

Advertising Free

Virginia Advertising regulations prohibit the use of "free" when used in the following manner:

No equipment, accessory, other merchandise or service shall be described using any term that implies that such equipment, accessory, other merchandise or service is free <u>if a purchase</u> is required in order to receive the "free" offer.

Examples of prohibited terms include:

Click the following link to read § 46.2-1581 for this and all Advertising regulations.

Remember that web based advertising is regulated just as print.

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Reminders...

Beginning December 1, 2015, all applications for title and registration of vehicles processed via an independent motor vehicle dealer that sold at least 200 vehicles during calendar year 2014 must be processed on-line.

Independent dealers that sold 200 or more vehicles during 2014, must process title and registration applications on-line. Only those transactions that cannot be processed electronically will be processed manually at a DMV customer service center or dealer center. DMV will continue to update you on the on-line dealer mandate.

Volvo Trucks

The electric power used by Volvo's New River Valley (NRV) assembly plant in Dublin, Virginia, is now carbon neutral. As of November, 100 percent of the plant's electricity is generated by methane gas produced at 13 landfills in the region.

The fossil fuels previously used to generate the NRV plant's electricity in 2013 produced 40,408 tons of carbon dioxide (CO2) emissions. Volvo's electricity provider now uses landfill gas to produce power for the plant that otherwise would have required fossil fuels to produce.

"We are proud that Volvo's commitment to sustainability goes beyond producing fuel-efficient trucks," said Groan Nyberg, President, Volvo Trucks North American Sales & Marketing. "Our customers can be assured that we strive for energy efficiency every step of the way."

"I want to congratulate the entire NRV team for their contributions to our core values of quality, safety and environmental care and their work toward creating a better future for our shareholders, our customers and our people," said Frankie Marchand, Vice President and General Manager of the NRV plant. "Today, our electricity is produced without any additional CO2, contributing to an improved environment for our community. The trash of the past is the methane gas that fuels our plant today."

Carbon neutral electricity is just the latest milestone in the NRV plant's commitment to sustainability. Plant management and employees have worked together to identify and implement various initiatives to reduce the plant's CO2 footprint through energy

efficiency. Some notable results of those efforts include capturing solar heat absorbed on an exterior wall of the plant to provide heating and removing the lighting from vending machines throughout the plant. These initiatives resulted in a reduction of energy intensity by 30 percent.

The NRV plants energy conservation efforts have been recognized with certification under both ISO 50001 standards and the U.S. Department of Energy's Superior Energy Platinum (SEP) program – the top international and U.S. certifications for driving continuous improvements in energy efficiency. Also of note, Volvo announced last year that recycling initiatives added up to zero landfill status — meaning nothing gets thrown away. A lot of the trash is eliminated through traditional recycling methods, some Volvo pays to put to more creative use, and whatever is left over is converted into energy for Virginia's power grid.



Come visit us at our office!

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2014 Auto Sales Numbers

Courtesy of Wall Street Journal, January 6, 2015

Auto makers reported their strongest annual U.S. sales since 2006, taking advantage of low fuel prices and interest rates to rebound from a global financial crisis that hammered results and forced some companies to undergo government-brokered restructurings.

Sales of light cars and trucks in the U.S. rose 5.9% from a year earlier to more than 16.5 million in 2014, according to market researcher Autodata Corp. December sales were roughly 1.5 million, up nearly 11% from a year earlier, Autodata said.

Here's how the top eight automakers' sales fared in 2014 vs. 2013, per AutoData Corp.:

- **GM** Up 5.3 % to 2,935,008 vehicles sold
- **Ford** Down 0.6 % to 2,471,315
- FCA/Chrysler Up 16.1 % to 2,090,639
- **Toyota** Up 6.2 % to 2,373,771
- **Honda** Up. 1.0 % to 1,540,872
- Nissan Up 11.1 % to 1,386,895
- **Hyundai** Up 0.7 % to 725,718
- **Volkswagen** Down 2.9 % to 552,720

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FTC

the complaint against Billion and Nichols, the dealerships and advertising company violated the 2012 FTC administrative order by frequently focusing on only a few attractive terms in their ads while hiding others in fine print, through distracting visuals, or with rapidfire audio delivery. For example, some dealership ads promoted low monthly payments or attractive annual percentage rates and finance periods, while concealing other material items, such as low payments were for leases, not sales; major limits existed on who could qualify for discounts; and offers often included significant added costs. In a separate action seeking civil penalties, the FTC has charged Ramey Motors, Inc., and three affiliated dealerships, in several locations in Virginia and West Virginia, with violating a similar 2012 FTC administrative order. Among other things, Ramey Motors' ads allegedly misrepresented the costs of financing or leasing a vehicle by concealing important terms of the offer, such as a requirement to make a substantial down payment. The complaint also charges Ramey Motors with failing to make credit disclosures clearly and conspicuously, as required by the TILA. The FTC also alleges that the auto dealer group failed to retain and produce appropriate records to the Commission to substantiate its offers. Ramey Motors and its affiliates are subject to \$16,000 in civil penalties for each alleged violation of the FTC administrative order.

The Commission vote to refer the Billion complaint and proposed stipulated order to the Department of Justice for filing was 5-0. The Justice Department filed the complaint and proposed stipulated order on behalf of the Commission in the U.S. District Court for the Northern District of Iowa on Dec. 11, 2014.

The Commission vote to authorize filing the complaint against Ramey Motors, Inc., Ramey Automotive Group, Inc., Ramey Automotive, Inc., and Ramey Chevrolet, Inc. was 5-0. It was filed in the U.S. District Court for the Southern District of West Virginia on Dec. 11, 2014. The FTC has brought more than 20 enforcement actions in the auto marketplace in recent years to protect consumers. Anyone looking for a new or used vehicle can check out the agency's tips in Buying and Owning a Car.

NOTE: The Commission files a complaint when it has "reason to believe" that the law has been or is being violated and it appears to the Commission that a proceeding is in the public interest. Stipulated orders have the force of law when approved and signed by the District Court judge. In the Ramey matter, the case will be decided by the court.

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Proposed New Legislation

transferred to MVDB under this proposal. Of this 1,131 number, 798 (71%) of these dealers also have a dealer license issued by the MVDB. These dealers are referred to as "dual licensed dealers". Per a Memorandum of Agreement between DMV and MVDB, the Dealer Board currently provides most of the licensing services for these dual licensed dealers. Given this fact, only 333 DMV licensed dealers would be impacted by this proposal. In other words, MVDB already issues most of all license impacted in this proposed legislation (71%).

This bill will move regulation and licensing of the above cited dealers from DMV to MVDB as of July 1, 2015. Currently, DMV and MVDB share the same licensing system and therefore making this transition should not be very difficult or costly. DMV and MVDB would work closely to implement the transition.

This proposed legislation of consolidating regulation and licensing of all dealers under one agency will result in efficiencies in government and consistency for dealers and consumers who purchase motor vehicles.

Staff Changes at MVDB

During the January 2015 MVDB Board meeting, Frank McCormick, retiring MVDB Field Supervisor, was recognized for 41 years of distinguished public service. From 1968-1971 Frank served in the US Army 77th Engineering Company as a deep sea diver. After earning a degree in Police Management from VCU, he worked as a patrol officer for Henrico County Police from 1977-1991. From 1992-2005, he worked for the Division of Consumer Protection at the Virginia Department of Agriculture and Consumer Services. In 2005 Frank was hired to be a Field Representative for MVDB, and in 2006 he was promoted to Field Supervisor. Frank graciously accepted a plaque from the MVDB Executive Director Bruce Gould, and a "41 YRS" DMV license plate plaque. Frank expressed gratitude to the Board, and said that he had served on many boards, but that this Board was "top notch". Frank said his 9 years at the MVDB was a "fantastic job", and he served with "great pleasure." When asked what his plans are for retirement Frank replied, "work on my long 'honey do' list, and travel a bit."

Lisa Mack-Nelson has been selected to succeed Frank McCormick for the position of Field Representative Supervisor. Lisa has been a field representative with the MVDB since 1998. Before beginning her employment with the MVDB, she worked at the Virginia DMV for 3 years. Previous to that Lisa worked for five years as an inspector and supervisor for the New York City Department of Consumer Affairs. She has a Bachelor of Science degree from Syracuse University in Consumer Studies. Lisa's promotion is effective January 12, 2015.



Reminders...

As of January 1, 2011, ALL IDO's of independent dealerships must at some point in time, recertify their IDO qualification every three years by either taking an online course, or in a classroom, or by passing a DMV test. Click HERE for more information and HERE to determine your recertification deadline. Please note that dual licensed Franchise dealers are exempt from recertification. If you are unclear on your recertification deadline, or any other recertification questions, please contact the Board. Or, call Ann Majors at the MVDB. She may be reached at 804-367-1100 x 3016, or email her at ann.majors@mvdb.virginia.gov

DID YOU KNOW ??

..... That in 2014, MVDB added 275 Dealership licenses?

Other 2014 statistics of interest:

- 653 total Dealer-Operator exams were administered, and 364 people passed the Dealer-Operator exam at DMV.
- 6,313 Salespersons exams were administered, and 5,134 persons passed the Salesperson exam at DMV.
- 1,114 Independent Dealer-Operator's (IDO) recertified their IDO qualification. 1071 recertified online, 143 recertified in a classroom, and 26 IDO's recertified by taking the recertification exam at DMV. 8 IDO's failed the recertification exam at DMV and subsequently recertified either by classroom, or online.

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Board Actions

Kennon Auto Sales and Timothy W. Kennon. From May of 2001 through September of 2014, eight attempts to visit this dealer were not successful as it was closed. These eight failed inspections resulted in 5 certified letters being sent to the dealer. In the 14 month period running from July 2013 through September 2014 there were four failed attempts to inspect this dealership resulting in 2 certified letters and assessment of a civil penalty. The last time this dealership was inspected was 2010. Mr. Kennon appealed the civil penalty and requested an informal fact -finding conference which was held on October 22, 2014, to address the alleged violations of failure to maintain business hours, and failure to comply with a written warning or willful failure to comply. Mr. Kennon did not attend the conference. Based on the information provided at the conference, the Board assessed a \$2,750 civil penalty, and revoked all licenses and certificates issued by the Board to Mr. Timothy W. Kennon.

Priced Right Car Sales, Inc. and Claude E. Whited. In July 2014, the dealership was inspected and several deficiencies were found including missing records, open titles and proof of safety inspection were not in five files. Later in July, the MVDB received a complaint from a purchaser who had been stopped by the police and it was discovered that the inspection sticker on her car actually belonged to another car. This resulted in Mr. Whited being convicted of a misdemeanor related to the dealer business failing to inspect a motor vehicle prior to retail sale. This conviction and the failed inspection caused staff to convene an informal fact finding conference on November 5, 2014, to address the alleged violations of dealer records, safety inspection required, odometer disclosure, failure to comply with a written warning or willful failure to comply, having used deceptive acts and practices, and having been convicted of any criminal act. Based on the information provided at the conference, the Board assessed a civil penalty of \$2,000, a satisfactory inspection and successful completion of the 2-day dealer-operator course.

Beach Auto Kings and David P. Maher. At its September Board meeting, the Board voted to authorize a \$25,000 payment from the Transaction Recovery Fund as a result of a judgment against a dealership owned by Mr. Maher (Motorsports Inc. t/a Coast 2 Coast Auto Sales). Mr. Maher currently owns Beach Auto Kings. On December 2, 2014, an informal fact-finding conference was conducted to determine if Mr. Maher's actions caused the fraud that led to the judgment against his former dealership, Coast 2 Coast. Specifically the conference addressed the alleged violations of acts of officers, directors, partners and salespersons, defrauding any retail buyer, and deceptive acts or practices. Based on the information provided at the conference, the Board assessed a civil penalty of \$3,000 and revoked all licenses and certificates issued to Mr. David P. Maher.

Freedom Ford-Lincoln of Claypool Hill, and Earl Barnette. Paid a \$1,000 civil penalty for material misstatement, and having used deceptive acts and practices when they sold as new, a Cadillac they had purchased from a GM dealer.

Regional Auto Center, Inc., and Riffat Hussain. Paid a \$250 civil penalty for failure to maintain business hours, and failure to comply with a previous written warning.

Licensing

Curtis M. Andrews (Salesperson applicant). Mr. Andrews was previously licensed as a salesperson. The last dealership terminated him for taking the "year" decals off of expired dealer tags and affixing those decals to his personal license plates. Mr. Andrews was convicted of two misdemeanors related to his actions. Per authority of the Board, the Executive Director denied Mr. Andrews application for a salespersons license. Mr. Andrews appealed that decision and on July 22, 2014, an informal fact-finding conference was conducted to address the alleged violations of having used deceptive acts and practices, and having been convicted of any criminal act involving the business of selling vehicles. Based on the information provided at the conference, the Board approved a salesperson license to Mr. Andrews.

Mark W. Flory and Mark's Cars, LLC. Mr. Mark Flory is the owner of Mark's Cars. He was

Board Actions

convicted of two felonies, was incarcerated, and recently released. An employee of Mr. Flory ran the business while Flory was incarcerated and has continued to do so. On August 26, 2014, an informal fact-finding conference was conducted to address the alleged violations of having been convicted of a felony. Based on the information provided at the conference, the Board revoked all licenses and certificates issued by the Board to Mr. Mark Flory.

Advertising

Frog and Towed Auto Sales, LLC and Susan R. Justice. Three Craigslist advertisements for this dealership were posted under "for sale by owner category". In addition the advertisements did not include the dealer's processing fee and the advertisements failed to identify the name of the dealership or the VA DLR abbreviation. Board staff assessed a civil penalty on the dealer and the dealer appealed the penalty. On October 21, 2014, an informal fact-finding conference was conducted to address the alleged violations of failure to disclose name of dealership in advertising, misleading advertising and failure to disclose processing fee in the advertisement. Based on the information provided at the conference, the Board assessed a civil penalty of \$1,000.

A & R Automobile Sales, LLC and Nidal J. Ramadan. Two Craigslist advertisements for this dealership were posted under "for sale by owner category". Two more were posted under the "dealer" category. None of the advertisements included the dealer's processing fee and the advertisements failed to identify the name of the dealership or the VA DLR abbreviation. The Board assessed a civil penalty, and the Dealer appealed. On December 3, 2014, an informal fact-finding conference was conducted to address the alleged violations of advertisements, acts of officers, directors, partners, and salespersons, deceptive acts and practices, and regulated advertising practices. Based on the information provided at the conference, the Board assessed a civil penalty of \$1,000.

Pearson Hyundai, and Max Pearson. Paid a \$4,000 civil penalty for using deceptive acts or practices, and untrue or misleading price advertising when they advertised a price that included rebates not available to all customers.

Trust Auto, Inc., and Fahriddin Kurbanov. Paid a \$250 civil penalty for failing to advertise in the "Dealer" section of Craigslist, and not disclosing the processing fee in a dollar amount.

Tams Auto Brokers, and Talbert Deane, Jr. Paid a \$1,000 civil penalty for failing to advertise in the "Dealer" section of Craigslist, and not disclosing the processing fee in a dollar amount.

Priority Honda, and Dennis Elmer. Paid a \$250 civil penalty for advertising "free", "at no cost", or words to that effect, after receiving previous educational and warning communications from Board staff.

Priority Toyota, and Dennis Elmer. Paid a \$250 civil penalty for advertising "free", "at no cost", or words to that effect.

Priority Hyundai, and Dennis Elmer. Paid a \$2,250 civil penalty for using deceptive acts or practices, and untrue or misleading price advertising, when they advertised rebates not available to all customers.

Nissan of Chesapeake, LLC, and Daniel Banister. Paid a \$2,000 civil penalty for using deceptive acts or practices, untrue or misleading price advertising when they advertised rebates not available to all customers, and advertising "free", "at no cost", or words to that effect.

Priority Chevrolet, and Robbie Lamb. Paid a \$250 civil penalty for advertising "free", "at no cost", or words to that effect.

NOTE: Depending on the circumstances, all Board Actions may be appealed to Circuit Court, or for an administrative hearing.

For prior issues of Dealer Talk click HERE

IMPORTANT NOTICE TO PROSPECTIVE DEALERS

The path to a Dealer-Operator license begins with a required two-day course of study each month at various community colleges in Virginia with the curriculum and instruction provided by <u>VIADA</u>.

The course takes the attendee from establishing the dealership under local zoning and Dealer Board requirements, through the sales process with its multitude of forms, laws and regulations, in to a sampling of opening and operating expenses, and ending with a discussion on ethics.

The course is open to all existing dealers and their employees.

Date	College	Contact Information
2015		
Feb 10-11	Paul D Camp in Franklin	Renee Brown 757-569-6050 www.pdc.edu/workforce-development
Feb 24-25	VA Western in Daleville	Registration 540-966-3984 www.virginiawestern.edu
Mar 10-11	Northern VA in Manassas	Registration 703-257-6634 <u>www.nvcc.edu</u>
Mar 24-25	Thomas Nelson in Hampton	Registration 757-825-2937 www.tncc.edu
Apr 07-08	Lord Fairfax in Middletown	Registration 540-868-7021 <u>www.lfccworkforce.com</u>
Apr 21-22	New River in Dublin	Patty Ryan 540-462-6722 www.nr.edu/workforce/
May 05-06	Blue Ridge in Weyers Cave	Registration 540-453-2215 www.brcc.edu
May 19-20	J Sargeant Reynolds in Henrico Richmond, Parham Rd. Campus	Sandy Jones 804-523-2293 www.ccwa.vccs.edu
June 2 & 3	Germanna Community College, Freder- icksburg	Registration 540-937-2913 www.germanna.edu/workforce
June 23 & 24	Danville Community College, Danville	Donna Agee 434-797-6437 www.dcc.vccs.edu/workforce

NADA Issues New Advertising Compliance Guide

SAN FRANCISCO (Jan. 23, 2015) – The National Automobile Dealers Association issued a new publication today that will assist new-car dealers in complying with federal advertising requirements on the sale, financing and leasing of automotive products and services.

<u>A Dealer Guide to Federal Advertising Requirements</u> provides examples of "bad" ads and "good" ads and chapters on 41 different federal advertising topics, such as the use of discount claims, e-mail advertising, green marketing claims, Internet advertising, satisfaction guarantees and trigger terms. Readers can access the content quickly by clicking the hyperlinked topics in the table of contents page in the PDF document. "The guide is user friendly and is a valuable resource for the entire auto industry," said NADA Chairman Forrest McConnell. "We are encouraging dealers to provide the publication to their advertising agencies, manufacturers, finance companies and others involved in advertising operations."

The release of the guide coincides with recent intense scrutiny by the Federal Trade Commission of dealer compliance with federal advertising standards and follows an NADA University Online webinar on the topic that was presented last March by attorneys with the FTC's Division of Financial Practices. (To access the webinar, NADA members can log in to NADA University Online at www.nadauniversity.com and enter the search term, "Comply with Federal Advertising Requirements.")

Since 2012, the FTC has initiated five separate rounds of advertising enforcement actions against 18 dealers in 12 states for multiple types of advertising violations, including actions against three dealers that the FTC announced last December.

"The guide does not address additional advertising requirements that may be imposed at the state or local level, which vary considerably and need to be fully addressed when dealer ads are reviewed for legal compliance," said Paul Metrey, NADA chief regulatory counsel. "It's essential that dealers consult with their legal counsel to determine – and to ensure that their advertisements are consistent with – the full scope of their advertising responsibilities."

The guide is part of NADA's Management Series, *Driven*. It is available at www.nada.org and will be included in the suite of compliance products at NADA University Online at www.nadauniversity.com.

What's Wrong With This Picture?



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In this picture, towing a trailer would be in violation of the prohibition of using D-tags to transport another vehicle

According to § 46.2-1550, it is unlawful for any dealer to use a D-tag on:

- Motor vehicles such as tow trucks, wrecking cranes, or other service motor vehicles;
- 2. Vehicles used to deliver or transport (i) other vehicles; (ii) portions of vehicles; (iii) vehicle components, parts, or accessories; or (iv) fuel;
- 3. Courtesy vehicles; or
- 4. Vehicles used in conjunction with any other business.

MOTOR VEHICLE DEALER BOARD

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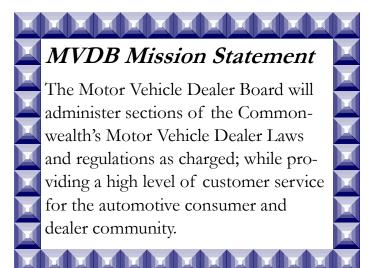
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DISCLAIMER: We make every effort to ensure information in Dealer Talk is accurate, but it is not a substitute for legal advice.





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Dealer Talk

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White is the New Black





Courtesy of

https://www.eecs.berkeley.edu/Research/Projects/CS/vision/shape/vid/dataset.html

It appears new car shoppers aren't very original when it comes to picking colors. According to vehicle paint giant PPG Industries, white was the most popular color for new cars for the fourth straight year.

The company's data shows that 28 percent of new cars were painted white in 2014 worldwide, <u>up from 25 percent last year</u>. The second most popular color was black, found on 18 percent of new cars, while silver and gray tied for third place in the popularity stakes, with each appearing on roughly 13 percent of new cars.

The data is also broken down by geographic region. In North America, white still took the lead with 22 percent, followed by black (18 percent), gray (16 percent) and silver (15 percent). White remained the most popular in other regions, including Europe (25 percent), Asia Pacific (31 percent) and South America (32). Interestingly, silver was just as popular as white in South America, meaning the two colors accounted for 64 percent of all cars.