

THREE STRIKES POLICY **September 2020**

Minnesota Automobile Dealers Association (MADA), Greater Metropolitan Automobile Dealers Association (GMADA), and Better Business Bureau of Minnesota and North Dakota (BBB) have a long-standing partnership to create an ethical marketplace and a level playing field for Minnesota auto dealers and consumers. The Steering Committee, comprised of representatives from these organizations, has created the *Minnesota Automotive Advertising Standards*.

BBB works with the dealer community by providing services and education, including Prior-to-Publication advertising review, dispute resolution services, and proactive review of current advertising across multiple platforms.

Initial contact/warning period: BBB is responsible for regular contacts to dealerships about their advertising. BBB will use and reference the *Minnesota Automotive Advertising Standards* and *BBB Code of Advertising* as the guidelines. In most cases, BBB will require a written response, but may accept a verbal assurance of compliance. The agreed-on timeframes for modifying or discontinuing advertising are listed below. The timeline for this initial contact/warning period is 8 business days.

1st Strike: When BBB notices a pattern, does not have a response to the initial contact, or is aware of extreme advertising violation, a 1st Strike letter will be sent. BBB will initiate formal contact with the dealer principal, the general manager, and/or other dealership staff. BBB will closely monitor the dealership's advertising in all media for evidence of changes to the advertising.

- A pattern is defined as 2 or more notices to a dealer about the same or similar violation within 12 months of the first notice.
- If a dealer commits to compliance but does not make the promised changes, a 1st Strike will be issued.
- Advertisements of 'great concern' are defined as ads with egregious or extreme violations of the Standards and/or Code of Advertising. Extreme ads that demonstrate impact to consumers purchasing decisions may result in a 1st Strike.

- Dealerships shall respond to BBB within 5 business days. If no response is received by BBB, then it will be escalated to a 2nd Strike. BBB may notify MADA of the 1st Strike.

2nd Strike: The 2nd Strike trigger will be if the dealership does not respond to BBB's contact, does not modify their advertising within the proscribed timeline, or declines to work with BBB.

- The dealership will be notified by BBB about the ongoing issue. The 2nd Strike letter will be sent to the dealer principal as well as general manager and other dealership staff by Certified Mail and/or email.
 - i. The letter will include a final date for the dealership to provide a response and modify or discontinue their advertising. It will also include information about the possible consequences for non-compliance.
- After a response, the dealer shall be required to send all of their ads (print, electronic and broadcast etc.) for Prior-to-Publication (PTP) review until the dealership shows an understanding of the ad standards and is operating in good faith.
- The 2nd Strike shall happen between 8 and 21 days from BBB's initial contact to the dealership about the advertising.
 - i. The final date shall be no longer than 10 days from the date of the 2nd Strike.
- When a dealer is issued a 2nd Strike, the dealership's name and outstanding issue will be shared with MADA, who will in turn notify the members of the Steering Committee.
 - i. The Steering Committee members may provide feedback to MADA and BBB.

3rd Strike: If, by the final date listed in the 2nd Strike Notice, the dealership does not modify their advertisement, or refuses to act in good faith, the BBB will issue a 3rd Strike and the following will occur:

- BBB will issue a press release.
- BBB will include details of the matter in the BBB Business Profile for the dealership (which may negatively impact BBB accreditation status and BBB rating).
- **BBB will share the press release with enforcement agencies, such as the Federal Trade Commission and Minnesota Attorney General, either at the next quarterly meeting or by email.**
- MADA will include/spotlight the BBB decision in the next MADA newsletter.

- The press release will be shared with the Steering Committee.
- MADA may also choose to communicate the 3rd Strike to the dealer community in additional ways.

Guidelines for Discontinuation / Modification of Advertising

Medium	Days if Discontinuing	Days if Modifying
Print	2	3
Web Banner Ads	2	3
Electronic Signage	2	3
Radio / TV	2	3
Website Formatting / Inventory Listings	2	3
Poster Billboards	5	10

Competitor Reporting Process:

Dealers may contact BBB with ads they see with a violation of the Standards or Code of Advertising. BBB will review the ad and communicate with the initiating dealer about the ad.

- BBB will keep the initiating dealership name confidential.
- If the issue is not a violation, BBB will explain why the issue is not a problem.
- If the issue is a violation, BBB will communicate with the initiating dealer that a case has been sent to the advertising dealer.
- After the case has been closed, BBB will connect with the initiating dealer, explaining the outcome of the case.