

Inspect Used Cars Yourself

It's risky business to rely solely on history and title reports

By Michael Charapp

As dealers, you want your used-car managers to like the cars they buy. Too often, however, managers like them so much that they can't wait to get them on the front line.

That means that no dealership employee takes the time to thoroughly inspect them. That can lead to problems.

Most used-car managers defend the practice, saying that they review the vehicle history report or maybe even the title history. Since those show no problems, they see no reason to inspect a vehicle they wish to retail. However, that disregards the problems with vehicle history reports and title histories.

Vehicle history reports can be unreliable. There are lots of reasons why a problem with a vehicle doesn't show up on a vehicle history report. Perhaps a particular issue with the vehicle — damage or flooding, for example — was not reported to an insurance company and was repaired by a fleet owner in its own shop.

Or perhaps the damage or flooding reported to the vehicle history report company is delayed in making it to the report. For many reasons, a clean vehicle history report does not mean a vehicle has not had problems.

Title histories also may not tell the whole story. Insurance companies have been known to simply "skip title" by arranging a purchase from the owner of a seriously damaged vehicle directly to a subsequent owner (if it has been fixed) or to someone who will fix it for resale (if it has not been repaired).

An insurance company's name sometimes never shows up on the title



There are lots of reasons why a problem with a vehicle doesn't show up on a vehicle history report.

history of a totaled vehicle.

There are a number of reasons you must carefully inspect the used cars you sell at retail.

Floods

With the recent torrential rains and floods in various parts of the U.S., there are many cars that have suffered flood damage that has not yet appeared on a vehicle history report. Lots of organizations can give you tips on what to look for in an inspection to determine whether you are buying a flood vehicle. However, you won't see those if you don't carefully inspect the vehicle.

Serious Damage

Plaintiffs' lawyers in many states love to sue dealers over used vehicles that have sustained previous serious damage without disclosure of that to the buyer. To best protect yourself against such claims, inspect vehicles carefully. That includes putting them on a lift to look at the undercarriage.

Odometer Discrepancy

Generally, liability for an odometer discrepancy requires a knowing non-disclosure of a mileage discrepancy. However, taking a car in with a clean mileage statement is not always fool-proof protection.

Dealers have been sued when the apparent use on the vehicle does not match up with the odometer disclosure. A plaintiff's lawyer will contend that a dealer who sold a car with a disclosure that it has 30,000 miles on the odometer should have known that it was a false representation when the wear patterns on pedals, seats and parts indicate the car has been driven 90,000 miles.

Certified Used Cars

Consumers believe a "certified" used car is something more than run-of-the-mill. An inspection to look for what may prevent certification is a must.

There are many reasons why you must inspect used vehicles before you put them on the lot at retail.

Of course, it is important to know what is in the vehicle history report and the title history. So review each for every car that you retail. But it is just as important to inspect the car for conditions that should put you on notice of a serious problem. ■

Attorney Michael Charapp is co-author of a new book, "Auto Dealer Law: The Definitive Legal Guide to the Purchase, Sale and Operation of Vehicle Dealerships." It is available at www.autodealerlaw.com. Contact him at (703) 564-0220 and mike.charapp@cwattorneys.com.

We welcome readers' feedback, insights and comments for publication. Send them to Editor Steve Finlay at sfinlay@wardsauto.com. Include name, city and state, which will be published unless otherwise requested under special circumstances. Published comments may be edited for clarity and length.

CarFax Gets Its Facts Wrong

Faulty vehicle histories pose legal risks to dealers and auto makers

I have a problem with data pirates who use dealer information against us, damage our reputation and cause consumer distrust.

To me, CarFax is high on that list. Let's look at what this vehicle-history firm does.

It tells consumers its reports are free but charges dealers for them. So, if a dealer asks customers to pay for the report, they look at you like a criminal.

CarFax runs TV ads featuring deceitful car salesmen hiding the truth until the little Car Fax character shows up and sets the customer straight. This sets up CarFax as the Consumer Protector battling the Evil Car People.

The company uses dealer data to tell customers what to demand for their trade-in, based on what CarFax says is the value.

So, here we have another vendor setting prices and limiting dealer profits and charging dealers while it rummages through their customer information. We give them data and pay them to take it from us.

But beyond all that, CarFax is creating huge liability risks to both dealers and the auto makers.

"CarFax, lawsuit, settlement." Enter those words in a Google search to see how many lawsuits have been filed against CarFax, from class actions to individual filings.

I Googled a number of other vendors using the same search words and couldn't find anywhere near as many lawsuits and complaints. In one case, a court rejected a \$500,000 award because the plaintiff attorneys said it was too low.

Most of the allegations center on inaccuracy of information. I can attest



Dealers tell me horror stories about CarFax experiences with customers. Those range from missing information to erroneous information.

to that. A relative bought a car two years ago, and the dealer showed us the CarFax showing a clean history. Then, recently when he tried to trade it in, another dealer said CarFax indicated the airbags had been deployed in an accident before he purchased the car.

Yes, CarFax does have some sort of disclaimer somewhere on its form saying it's sort of possible its information might be wrong.

Does that give it a license to insinuate that consumers should rely on its information when buying? Do some consumers then believe a dealer altered the CarFax report and falsified information if it turns out to be wrong? Now we have more animosity.

Dealers tell me horror stories about CarFax experiences with customers. Those range from missing information to erroneous information saying a car had a problem (thus devaluing it) when it didn't have a problem at all.

I am amazed some auto makers and even some dealer associations have jumped into bed with this firm, either endorsing it or requiring dealers to offer CarFax history reports to consumers.

The first time a consumer sues your dealership over anything involving CarFax, point to the auto maker that required the vehicle history. That auto company should be a co-defendant.

CarFax has reached out to me several

times asking me to meet with them. They know I talk about them in speeches and blogs. I recently had a trusted third party ask me to meet with CarFax.

I told that person there's no reason for me to meet with these people. I think they are disreputable and they deliberately cause consumers to distrust dealers.

I do not believe their information is complete nor do I believe it's fully accurate. They indirectly set unrealistic sales prices and interfere with the sales process. There's little chance they could say anything to change my mind. And I'm not for sale.

If I were you, I would certainly examine my affiliation with CarFax. Then I would make doubly sure the company was not accessing my dealership management system to get information.

Then, I would tell consumers when they asked for the CarFax report that I don't use it because the results can be erratic and unreliable. If the consumers insist, charge them for the report. It sure isn't free.

Keep those calls and emails coming. ■

Jim Ziegler, president of Ziegler Supersystems, is a trainer, commentator and public speaker on dealership issues. He can be reached at zieglerss@aol.com.

http://www.bodyshopbusiness.com/Article/83643/qa_carfax_answers_questions_about_new_collision_repair_data_reporting.aspx

Q&A: CARFAX Answers Questions About New Collision Repair Data Reporting

By Jason Stahl
1/26/2011

Jason Stahl

Ever since CARFAX unveiled its new Repair Advantage Program (RAP) that will enable it to include collision repair data provided by data partners in its well-known vehicle history reports, repairers have been eager for more specifics.

BodyShop Business recently conducted an interview with Nancy Fiorino, director of RAP, and Gerry Bayer, vice president of data, to address the as-of-yet unanswered questions the collision repair community has about the program.

BSB: Where do you get this information? One repairer said he purchased a vehicle that his shop did over \$20,000 of repairs to and the report didn't reflect that.

Fiorino: We're primarily getting it from our data partners, such as OEM-certified programs or certified shop preferred networks or any specific industry partner that touches a network of collision repair facilities. That data is being gathered specifically with not only our partners' consent but the shops' consent as well. Because the program is still in its initial roll-out, clearly there's going to be tons of repair data that will not be reflected on the CARFAX reports. The reason for that is because we don't want to go out and get that data from third-party sources that may or may not own that data. Also, if we did that, we couldn't verify that data.

Any industry partner that we know is a verifiable industry entity is where we're getting the data. That's key because there's always concern about the validity of the data we receive, and one of the ways we structured our program, at least in this early stage, is to work with known entities so we can be assured that the data we're getting is valid. I can tell you that those verifiable industry entities so far don't include any of the database information providers such as Mitchell or CCC.

Bayer: It's important to note that we do not work with aggregators or collectors of data. That's a "no-no" for CARFAX because we've found that they don't really own the data and wouldn't distribute it with the consent of the individual shop or insurer. We're more interested in direct relationships with consolidators, OEMs and insurers so that we can treat the data as they would want to see it treated. We want to emphasize the strength of the relationship between CARFAX and that provider of data because there has to be a win-win: What is that value proposition where the provider of that data can feel good about offering this data and be able to make the case as to why this is good for everybody?

BSB: What is the process for submitting this information?

Fiorino: When we embark on a relationship with a data partner, we work with them to reach out directly to those shops that happen to be involved in that program. So the consent is given from both parties. If there are any issues or concerns with shops, we address those individually with them. They have complete control of their destiny. The only exception is in situations where we do get explicit consent but some of the programs mandate that they report the data, and then it's the shop's decision as to whether or not it wants to continue to participate in that program.

BSB: Could a lone shop that is not part of any program report data right now?

Fiorino: As the program evolves and expands, we're going to look at the opportunity to provide mechanisms directly to the shop to actually give us its enrollment form. We're working on that process, and there are some details that need to be dealt with, but ultimately our goal is to allow quality shops to be able to participate even if they aren't involved with a specific data partner. Right now, I can't collect data from every repair facility on the planet because I can't validate that data.

Bayer: We receive damage data from so many sources, and the damage casts a negative on the vehicle, and that's why we sincerely want to get quality repairers to be able to redeem it because well-repaired vehicles are well-repaired, and we believe that wholeheartedly. But I think that often it's confusing when somebody says, "Oh, they have a record on there about a vehicle I worked on," but that record may have come from another source, such as a police officer, salvage pool or recycler. If the shop has information that would help us further clarify things, fine. The information we have doesn't clearly indicate what you believe happened in the repair of that vehicle, so why don't you give us that information to help us describe it properly?

BSB: What specific information will be reported?

Fiorino: It's driven by the data partner. For example, with a couple of our OEM partners, one of their key benefits is to be able to confirm that X percentage of OEM parts were used. That doesn't mean that on every repair record, you're going to see the same information. You may see, "It was repaired by XYZ quality facility and it's under warranty." There could be a whole litany of ways the record is displayed, but it really has to do with what program that repair was associated with.

BSB: How many shops have you gotten on board so far?

Fiorino: We have several thousand shops we're on-boarding in the initial stages of the program. We're seeing the same shops over and over because they're the top tier providers in the industry, the very professional shops. So even though we have a smaller shop population, we're still capturing a very large share of the collision market based on what those shops' volume is.

BSB: When is this data going to be available on reports?

Fiorino: Once that data is loaded, it's available immediately. But whether the consumer sees it or not is another issue because industry statistics show that typically when there's an accident event,

either the car goes back to the retail pool or there's an average 18-month window when that vehicle may be sold. So the data will appear to the consumer when somebody inquires about that particular vehicle or VIN.

BSB: How do you control the accuracy of the info?

Fiorino: Based on our data sources, we're confident it's accurate. If there is an issue, we have an entire department devoted to researching that incident to make sure it's accurate. For example, there was a CARFAX report where one of our insurance partners said, "We don't think this is really what happened," so we investigated that and got more information from that party. We're not in the business of auditing estimates or repair orders. We're relying on that these are professional shops in professional programs and most likely these reports are accurate.

Bayer: Here's an example on the service side. Service Link is where we get data from over 10,000 dealers and 8,000 to 9,000 shops. For a service like an oil change, we probably have 70,000 iterations of how they would describe an oil change both from how it's abbreviated to what other services are being provided along with the oil change. So we've had to map 70,000 iterations in order to clearly describe that a vehicle's oil was changed.

We've done similar work with the body shop in order to clearly describe what has taken place with a vehicle, and we'll continue to look at this as we move forward, both from a tech standpoint and a parts standpoint. We're going to get more and more sophisticated in terms of parts identification. We can't afford to be wrong because we don't want people to say that's not really what happened. That's costly to us.

BSB: Do shops have any incentive, as you see it, to report this info?

Fiorino: There's so much benefit to it. One is the opportunity to put out the actual data of how a vehicle was repaired to indicate the quality of the repair, and that in and of itself fills a huge data gap. I can look at two reports: One that says there was an accident and I don't know what happened, and another one that says there was an accident, but oh by the way, it was repaired to these exacting standards, and that puts a whole different value on that vehicle.

Equally important is that the collision repair facility will be branded on that repair report with CARFAX, which allows them to demonstrate that they're part of this elite group of shops that performs high quality repairs. That's a significant amount of exposure to the consumer in a very positive way.

Collision repair has always had a tough sell because the only time a consumer talks with their friendly body shop is when they wreck their car, so we think this is a really good way to put a shop's quality information out there in a much more positive light. I would say 99.9 percent of the shops we've dealt with truly see the value of that. Positive marketing, great brand association – it's a win-win.

BSB: Will shops perceive this as a way for consumers to know who to sue if the car fails in a

collision?

Fiorino: That illustrates why it's even more important for shops to give us their data. If a consumer owns a vehicle that has been repaired by two different shops, only one of which is giving us data, I don't know what repairs that other shop did. But the shop that is on the report can document what it did and prove it isn't on the line for the repair that perhaps failed.

I think every industry struggles with that liability question with or without CARFAX, and I think that's indicative of why a lot of insurers are starting to move toward guaranteeing those repairs. And in that scenario, it's crucial that that information is documented and reported to a neutral third-party such as CARFAX.

Bayer: It's a glass half-full or half-empty scenario. If you document repairs you did to a vehicle and someone comes back and says this specific part of the vehicle appears to have a problem, you can show that wasn't part of the event which you were asked to repair. It provides shops cover because it discloses what they've done and why, and they have work orders to validate it. If there's a problem with a vehicle, the consumer will come back regardless of whether or not a shop discloses the repair information. So by disclosing it, the shop can say it's proud of what it did and has warranted the repairs and prove it didn't touch that part of the consumer's vehicle. The CARFAX report validates that.

Submit a Comment Comments (4)

Comment by:

Bill

1/27/2011

1:27 PM Personally, I think all that Carfax was invented for, is making it easier for dealerships to sell and buy cars. It gives their customers a false sense of security, and really has nothing to do with the collision industry, our our collision repair shops. Although they are trying to legitimize what they are doing, they are wrong. Just my 2 cents. I have been testing them for years, they have never been correct on the cars I have checked. What they would do if they have their way is devalue any car with a report on it, whether the repairs were done correctly or not. Then we as owners, managers would have to deal with that whole situation with our customers.

Comment by:

Mike

1/27/2011

1:13 PM What's to stop a shop from using another cars VIN that is basically the same vehicle . Seeing as they stated they get info from suppliers, not just insurance co.'s and shops. Afterall some customers get a little weird , when they see the computer writing estimates. Some hink it is going into some sort of national database on the internet. And are worried about organizations like Carfax knowing there personal business.

Comment by:

John Shortell

1/27/2011

12:55 PM I agree with Bob. It's the vehicle owner who owns that information. I find it astonishing that CARFAX thinks the shops and insurers owns it.

As for independent shops not being able to submit data, I think that is fantastic. Only work from DRP shops, those whose work is generally substandard, will have their work reported. So if it comes up on Carfax, run like hell.

Comment by:

Bob Smith

1/27/2011

12:45 PM Jason: Reading through this I find it interesting that Carfax never once addresses the issue of the vehicle owner's right to privacy on the need for insurer and to a lesser extent the repairer.

Being in an accident is possible to be publicly available information because there is a report.

The work or contract formed by the vehicle owner and repairer is just that a private contract which the shop does not have the right to divulge to a third party. The insurer should not even be in the equation of releasing the information because their sole contract is with the customer to pay for reasonable repairs. Secondly if they have a working contract with a particular shop that does not waive the consumer's right to privacy of what is or is not done to his vehicle without knowingly signing a release of information.

Are we going to have to get Hippa laws for the repair industry?

Maybe I am just too old school but as an ED I was once approached by Carfax to get the shops to sell information to them. I did listen to their proposal, which had many holes in it, and for me gave a very short answer, Not a chance....

Repairers should look to who their actual customer is when all the dust settles, the vehicle owner and protect them and themselves.

I have had one shop call me concerning just this problem. They were very irate thinking this shop had released information on the repairs to Carfax without their knowledge. Short version is they threaten legal action which never took place but could have and the shop lost a long standing customer and their circle of friends and family.

Repairers should be sure everyone in the loop gives their permission and that they are not digging themselves a hole before giving up repair data on anyone's vehicle to a third party.

I guess I should state here I am not an attorney but just someone applying good common sense.

re: clean carfax on frame damaged car [Incident: 100621-000502]

From: **CARFAX Consumer Affairs** (CarfaxWebSupport@carfax.com)

Sent: Wed 6/23/10 2:59 PM

To:

Below is CARFAX's response to your recent inquiry.

Subject

re: clean carfax on frame damaged car

Discussion Thread

Response (Chrissy)

06/23/2010 10:59 AM

Hello,

I apologize for the long wait - we've been unexpectedly busier than normal.

I'm sorry to learn that you purchased a vehicle with damage that later came as a surprise to you.

The reporting of accident events through our service is based primarily on three main aspects:

- 1) Whether the event in question was reported to any data source capable of collecting electronic records (government agencies, etc.),
- 2) If CARFAX receives data from the source collecting events in the jurisdiction involved (CARFAX is not contracted with all sources available), and
- 3) The time when data is made available to us (CARFAX does not receive events instantly from sources providing data to us).

We suggest using our service as one important tool along with a physical inspection in the car buying process, but never for sole reliance. I am sorry if you were under any other belief regarding what our service provides.

As a result, we do not offer compensation for missing accidents or other damage events. The only data covered by the CARFAX Buyback Guarantee are missing branded titles. The terms of this guarantee can be referenced at: www.carfax.com/guarantee/hctermsanddef.cfm

I understand how frustrating this must be. Can you advise what the seller of this vehicle had to say about this matter?

Sincerely,

Chrissy
Consumer Affairs Analyst

Customer

06/21/2010 02:36 PM

i bought a car from a ford dealership less than 30 days ago and i found large amounts of front end damage. what can i do? what do you recomend?

[---001:001390:11258---]