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**New Advertising Standards Authority Ruling
and the effects for the motor industry**

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Purpose of the report

To update members of a recent ASA ruling of what constitutes material information when purchasing a used vehicle.

1. The most recent ruling replaces that published on 1 March 2017. There were two adverts placed by a main dealer for two vehicles where the previous ownership was withheld by the garage.
2. The dealership argued that consumers would be given the information they required when they attended the dealership to purchase either of the two cars and therefore allow them to make an informed decision as to whether to go ahead.
3. The dealership also claimed that because a vehicle has come from an ex-fleet did not suggest that it had multiple drivers. The actual previous usage, irrespective of the registered keeper, could not be categorically defined on a used car and they stated that such information had not been given to them by Fiat Chrysler Automobiles UK Ltd (FCA) who had traded the vehicles to them.
4. FCA also believed that a vehicle being ex-fleet was not material information that was likely to influence a consumer's transactional decision.
5. FCA had obtained input from their industry body – The Society of Motor Manufacturers and Traders. They believed that omitting the identification that a vehicle is an ex-fleet was not misleading, because mileage and service history were key indicators to the prior use.
6. The SMMT stated that ex-fleet vehicle had no bearing on its condition compared to any other factor about ownership. For example, a company car used by only one employee under strict rules of driving and maintenance involved on-going servicing and repair. In such cases, the V5C registration certificate would show the fleet operator/leasing company or employer as the registered keeper for the vehicle, not the employee that used it.
7. The SMMT believed that the Office of Fair Trading's Guidance for second hand car dealers only applied to ex-fleet vehicles that might have had multiple users, and that by describing vehicle as ex-fleet did not necessarily mean that it had been used by more than one driver.

8. The ASA considered that vehicles that had been leased out for business purposes and used by multiple users were more likely to have been subjected to wear and tear compared to vehicles that were previously owned by a private owner. They accepted the argument that ex-business single use vehicles might be at least as well maintained as ex-private vehicles but they had not seen evidence to demonstrate that this was generally the case.
9. They considered that if a dealer was aware that a vehicle was ex-fleet because it had previously been used for business purposes, then that was material information likely to influence a consumer's decision to purchase it. Also, if a dealer knew that an ex-fleet vehicle had been used by multiple users, then that too was material information for consumers to make an informed decision.
10. Because the ads had omitted material information regarding the cars having been previously used for business purposes whilst part of a fleet, they concluded that they were misleading.
11. Gateshead Trading Standards has recently prosecuted Peugeot Robins & Day for failing to declare the car's previous owner was in fact Europcar.
12. They advertised a vehicle with one previous owner and it wasn't until the new owner received the V5C a few weeks after purchase they saw that the previous owner was in fact Europcar. The consumer initially reported the issue due to the problems they were having with a burning clutch. They were told by the dealer that this was his wife's driving style as she wasn't used to the automatic handbrake. It cost the consumer £650 to replace the clutch.
13. During the investigation, Europcar confirmed to trading standards that the vehicle had actually been a daily rental vehicle with multiple users.
14. The company pleaded guilty and were fined £5000 plus costs of £500. The company were also ordered to pay the consumer £1000 compensation.

Recommendation

15. The Committee is asked to note the information.

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