

# CLIENT ALERT

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## **AREAS OF RESPONSIBILITY: CHALLENGE YOUR "ASSIGNED" TERRITORY AS IT MAY CONTROL YOUR FUTURE.**

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Your performance statistics determine whether your manufacturer has leverage against you. Your area of responsibility ("AOR," "APR" or "PMA" depending on your brand) is the foundation upon which these statistics are calculated. Accordingly, if you accept changes and/or additions to your assigned territory without contesting them, you are in essence conceding to being measured by metrics that may not be accurate or feasible. As a result, in the not-too-distant future, you may find yourself accused of poor performance because you never complained that your factory does not know your market. Keep in mind that raw performance statistics were the basis for wholesale terminations of hundreds of GM dealers. In this day and age, every dealer should carefully confront a request (or notice) to change their assigned territory and request the underlying data upon which the manufacturer claims to have made the adjustment. This has become particularly important as more and more manufacturers have begun insisting on franchise agreement addendums with hard-line performance metrics (and automatic penalties for failing to hit the required numbers).

Currently, GM and Ford are in the process of reassigning their dealers' APRs and PMAs. According to GM, these changes are necessitated by the reduction in the size of its dealer network. Theoretically, these new areas are comprised of those census tracts that most accurately reflect a dealer's customer base. While GM claims these proposed changes are the result of a comprehensive analysis, true to form, the supporting, specific data justifying such changes has not been shared with the affected dealers. The fact is that the changes to a dealer's area may or may not be reflective of current

consumer behavior and customer convenience, especially because, for example, in the case of GM, it is still referring to 2000 census data.

Changes to APR, PMA or AOR may significantly and negatively impact the performance "scores" utilized by manufacturers. For GM dealers, changes to APR may impede attaining an RSI (retail sales index) score of at least 100%, as is required by the GM Sales and Service Agreement.

If you are a Ford or GM dealer, most likely you have been given until mid-January to make comments, provide and request additional information, and otherwise respond before the manufacturers attempt to unilaterally amend your franchise agreement. This change to your franchise agreement may also implicate your rights under our local franchise statute, G.L. c. 93B. We strongly urge you to carefully consider the impact any proposed changes may have on your sales performance as measured by GM or other manufacturers. If you have reasons to believe you will be negatively impacted, then you must communicate those reasons, in writing, to your manufacturer, and you must do so before conceding to their proposed changes.

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