



Kentucky Automobile Dealers Association
The Voice of Automobile Dealers in Kentucky



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Winter is Coming Part 7: Overseeing Your Service Provider

DISCLAIMER: The information in this document may change over time with new information and developments. All content and materials are for general information purposes only. It does not provide, and is not intended to constitute, legal advice. Important: As necessary, dealers should consult an attorney familiar with dealership operations, Federal, State and/or local laws at issue.

This article is the next in a series of materials to help your dealership with the appropriate planning and implementation of the necessary policies and procedures required by the FTC's amended Safeguards Rule, the vast majority of which require dealer compliance by December 9, 2022.

One of the most important facets of the Amended Safeguards Rule is the expanded requirements with respect to dealer oversight of their service providers. Before the recent amendments, dealers were required to use care in selecting service providers who were capable of protecting consumer information and to obligate those providers through contract to implement appropriate safeguards. Under the amendments, **dealers are required to monitor service providers (including your manufacturer/ distributor) on an ongoing basis to verify that they are maintaining adequate safeguards.**

A service provider, for the purposes of this rule, is any person or entity that is permitted to access customer information through its provision of services to your dealership. Your monitoring of the service provider should be "periodic" and should involve a determination of whether the service provider presents risks to the security of your customer data and whether they continue to abide by the safeguards outlined in your contract.

This does not necessarily require an extensive investigation of your providers' information security systems. However, it should include a survey of the vendors' safeguards, and it may include a review of the services provided, any public reports of risky security practices, and security certifications. However, for those providers with access to especially sensitive customer data, simply relying on a certification from the service provider is not sufficient.

Dealers should undertake a thorough review of all contracts involving vendors who receive customer information. Many of these agreements probably need to be amended to provide a covenant on the vendors part to maintain adequate

safeguards and most importantly, indemnification of the dealer for vendor violation of the safeguard rule. If your vendor is unwilling to cooperate with your requests, you should consider changing providers. While much of the Amended Safeguards Rule remains unclear, the FTC has made it evident that it will hold you responsible if you continue to provide customer information to a vendor without taking steps to ensure that the information is protected.

As a vetted KADA Preferred Partner, we recommend the vendor resources and services that ComplyAuto offers. You can find their contact information below.

To see all of the articles in this series, [click here](#).

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