

CHAPTER NINE

The Wheels of Life

Automobile sales, leases and repairs

BUYING A NEW CAR, TRUCK OR VAN: The thought might excite you, or it might make you anxious. But no matter how you feel about it, the bottom line is that you are about to part with a substantial amount of hard-earned dollars for something that is going to be around for a while.

BUYING A NEW CAR

As with any other big-ticket item, it's important to do your homework in advance -- before hitting the showroom. Decide what kind of vehicle you need, and how much you can afford to spend. Think about size: do you need a big family car, or will a sporty little coupe do the trick? How much head and leg room do you need? What safety features are important to you -- anti-lock brakes, side-air bags? (Check with your insurance agent to find out what discounts you'll get with these features. In some cases, such as car alarms, the insurance savings may make it much easier to afford the option.) Think about other options: do you care if you have power everything, or do you mind cranking open the windows yourself? Do you prefer cloth, vinyl, or leather seats? Are other features important to you? And what is a realistic budget for you?

After you've analyzed your needs and your finances, you're ready to begin looking. Before you start pounding the pavement, first check out some of the consumer-oriented publications that have information on cost, reliability, comfort factors, and other features of many cars. Books and magazines include, among many others, *Consumer's Guide*, *Consumer's Report*, and *The Car Book*. Many of these publications can be tremendously

helpful to you in the negotiating process (see “Negotiating Tips When Buying” on page XXX). Your local library and bookstores should have many of these references. Then, as you zero in on a model or models, or even a make, talk to people you know and try to find out what kinds of experiences they've had with particular cars and dealerships.

Advertising and Sales Practices

Advertising for motor vehicles is largely regulated by statute, and regulations vary from state to state. In some places, ads must state the number in stock of vehicles advertised. Other items that may be required in the ad include price, dealer and factory-installed options and warranty terms. In addition, if the vehicle is "on sale," the ad should state the date the sale ends. Be on the alert for scams. The bait and switch ad scam -- where the dealer is advertising a vehicle that the dealer does not intend to sell -- is particularly important to watch for. (We discussed this technique earlier, in [chapter 5](#).) Also, if the dealer knows important facts about the vehicle, but fails to reveal them, the law may consider that as a deceptive act that could enable you to cancel the deal and even recover damages in court under consumer fraud laws. “Clearing up” the missing facts after the sale does not erase the dealer's deceitful act.

-----Sidebar

Negotiating Tips When Buying

Do you like to negotiate and try to get the best possible price? Buying a car usually gives you plenty of opportunity to test your bargaining skills. A recent study by the American Bar Foundation found that the price of cars that are exactly the same can easily vary by \$1,000 or more. A lot of that depends on the bargaining skills and tenacity of the buyer.

Unfortunately, lots of us *don't* like to haggle. And even if you do, salespeople at the car

dealer do it all the time and are usually very good at it.

Experts recommend that you do some hard figuring *before* you even step into the showroom. How much can you afford for a down payment? For monthly payments? It may even help to shop for a loan before you shop for a car, so you know exactly what a loan for X dollars will cost. Then try to get the car you want for that price.

Go in armed with information. There are books, magazines, and a burgeoning number of Internet websites that will tell you exactly what a *dealer* pays at that time for a certain model, and each possible option. Some of them will even calculate what a fair price is, given how much the dealer pays. This information gives you a solid base from which to negotiate (far better than looking at the sticker price and asking them to cut off 5% or some other arbitrary figure). Make the dealer aware that *you* know how much the car and the options cost them. (You'll probably find that many options are marked up way more than the car itself.) Let them know too that you're comparison shopping and will be getting prices from at least three dealers. To make the comparisons simpler, keep your trade-in separate from buying the new car. Don't even mention your trade-in possibility until you've settled on a price for the new car and options.

Sound like a lot of hassle and work? You can avoid the whole problem by either going for a "one-price" model or going to a dealer that promises not to dicker. Or you can use one of the auto quotation services that you'll find advertised on the Internet, or in car books and magazines. These services say that they can get you very low prices because they work with extensive networks of dealers. For a fee, they'll get price quotes for you from a variety of dealers, letting you compare and make your choice in privacy--and with the time to make a smart choice.

The New Car Contract

A new car contract must be in writing, according to the present statute of frauds section of the Uniform Commercial Code (UCC), in effect in every state but Louisiana. If the dealership has not signed the purchase agreement, you may not be able to enforce the contract.

The sales contract should

- describe the car and include the **vehicle identification number** (VIN), which you can find it on the driver's side of the dashboard near the windshield;
- state whether the car is new, used, or has had a previous life as a demonstrator, rental car or taxicab, as well as the year (i.e., 1996, 1997 -- it could be "new" but be a previous model year);
- include price terms consistent with your oral agreement, and details on any trade-in you will supply, including mileage and the dollar amount credited;
- include a cancellation provision that enables you to get your deposit back if certain conditions occur, such as the car not being delivered by a certain date; this is required by the law of many states;
- state the warranty terms very clearly;
- include financing terms that state price, deposit, trade-in allowance, annual percentage rate of finance charge (APR), monthly payments (including any taxes) and length of term.

By the way, don't let the dealer take back your solid negotiating gains in last-minute add-ons. For example, virtually no new car needs rustproofing; in fact, it voids most manufacturers' rust warranties. Is an alarm necessary or even useful where you live? Don't get one if it isn't. Credit insurance is an expensive way to guarantee that your family will be able to

pay off the loan in the event of your death. Paying off your debts is one of the reasons to buy regular term or whole life insurance, and it ' s much cheaper per insured dollar than the credit insurance offered by finance companies. Remember that ultimately almost anything can be made to sound cheap if you divide its cost by 12, 24, 36, 48, or 60 (the number of months in your finance contract). But you could turn around after all those little add-ons and find yourself paying twenty or fifty dollars more a month than you thought for items that are overpriced to begin with and usually available elsewhere cheaper.

If the dealer presents you with a computer-printed form that has terms in it you don ' t agree with, don ' t be shy to make the dealer go back and run off another one. Be sure that credit insurance is not included if you don't want it. (If you already have life and disability insurance, you probably don't need it.) Also watch out for "destination charges" and the notorious "dealer prep." These are just price add-ons, especially the latter. You don't have to pay them, and you should be able to negotiate them away or at least down.

Your old Edsel will almost certainly be accepted in trade for credit toward the purchase. Experts recommend separating the new car negotiations from a possible trade-in (see negotiating tips), but if you do mix them try to get the highest price possible on your trade-in while negotiating hard on the new car. Go in familiar with the **blue book** value of your car. (The blue book is available on line, at most public libraries, and at banks and other lending institutions.) Given your knowledge of its condition, mileage, etc., push hard for at least the blue book value. Make sure your trade-in cannot be decreased when the car is delivered.

Better yet, negotiate a provision that enables you to pay cash or the trade-in for a down payment, then try to sell the car on your own. The dealer is interested in the "turnaround"-- the profit that can be made in selling the car. Someone who really wants the Edsel for personal use is probably willing to pay more than the dealer, since the same car will -- because of the

“turnaround” calculus -- cost more if it is bought from the dealer. Your only problem then is timing everything (and getting a ride to the dealership!).

The last step in the deal will be signing the purchase agreement. Be very careful at this stage. By signing it, you become obligated to the dealer to buy the car specified, with the features specified, according to the terms you've negotiated. *Before* you sign the purchase agreement, make sure you understand and accept all the contract terms. This is important because not reading it won't get you off the hook -- you'll probably have to abide by the conditions of the contract you have signed even if you have not read it. Read the contract carefully. Ask questions. Cross out blank spaces to avoid any additions after you sign. **Make sure that all the dealer's oral promises made during negotiations appear in the contract.** Do *not* sign until the contract satisfies *you*.

Who should sign it for the other side? Either an authorized salesperson or a supervisor, the manager or the owner. If for some reason the person is not authorized, the contract might not be enforceable, and the dealership might refuse to deliver the car you thought you had bought at the price you thought you had negotiated. A new car is a huge purchase. With that much money at stake, you should be sure that you've met the manager or owner, and that the person signing the contract is authorized to sign.

If you cancel the sales contract after signing, what happens to your deposit depends on the stage of the transaction and on the contract terms you signed. The earlier in the deal, the more likely the dealer will refund your deposit and the less likely you will be sued. Some states entitle you to a refund if, for example, you decide to cancel before the dealer representative signs the contract. If you need financing, be sure that the purchase agreement states that you can get a refund if you cannot get financing, despite your best efforts.

Dealer Financing Versus Other Options

Most people don't have enough cash to buy a new or late-model used car, and need financing. Banks, credit unions, finance companies, and car dealers are all potential funding sources. Interest rates will vary among these options, though some experts think you'll generally do better at a bank or credit union than at the dealer.

Shop around for the best deal by comparing the various terms and **annual percentage rates** (APR's). The APR is the unit price for credit that takes into account all the finance costs of the loan. The APR is expressed as a yearly rate. It may depend partially on your credit history. It pays to shop around. Some observers believe the lowest rates are often available from credit unions, especially for used cars.

The creditor (the person or institution who provides the money for the car) must inform you, prior to your being bound to particular financing, of:

- the annual percentage rate (this must be conspicuous, for example, printed in red or in much larger type than the rest of the document);
- the balance on which the creditor computes the finance charge;
- the dollar amount of the finance charge (this also must be conspicuous);
- the amount to be financed (the amount of credit);
- the total dollar amount that will be paid (credit obtained plus finance charge); and
- the number, amount, and due dates of payments.

The annual percentage rate enables you to comparison shop for credit. Don't make the mistake of automatically going for the arrangement that gives you the lowest monthly payment, since it could cost you more in the long run, as explained below. A good example of using APR to find the best deal is provided by shopping for financing for a car. Suppose that you're buying a \$5,000 used car, putting \$1,000 down and planning to borrow \$4,000. How might you use the credit terms disclosed to select the best credit contract? Before you sign a loan, the lender

must show you the amount financed (\$4,000), length of loan, monthly payment, total finance charge and the APR.

Compare these four possible credit arrangements*:

	APR	Length of Loan	Monthly Payment	Total Finance Charge	Total Amount Paid
Lender A	11%	3 years	\$131	\$714	\$4,714
Lender B	11%	4 years	\$103	\$962	\$4,962
Lender C	12%	4 years	\$105	\$1,056	\$5,056
Lender D	12%	2 years	\$188	\$512	\$4,512

*Please note that these figures are correct even though the arithmetic appears to work out slightly different in some cases. Lenders frequently round off monthly payments to the nearest dollar, and adjust the final payment to make up the difference.

Which loan offers the best terms? The answer depends partly on what you need. The two cheapest loans (that is, those with the lowest APRs) are those offered by lenders A and B. You will pay a higher total finance charge to Lender B because you are using borrowed funds for four years instead of three years. However, if you only have room enough for \$105 a month for car payments in your budget, and you can't find an APR less than 11%, you might have to take the longer term from lender B. You will cut your monthly payments from \$131 to \$103, but you will have 12 more of them and wind up paying almost \$250 more in finance charges.

You may not be able to shop for credit effectively if you merely compare the APRs.

The benefits of a low rate may have to be compared with those of a rebate--you cannot have both. The less credit you need, the better deal taking the rebate may be.

For example, a major automobile manufacturer recently offered consumers a choice of a cash rebate of \$1,500 or 5.8 percent financing for four years on certain models. Assume that the car that you would like to buy under this offer costs \$16,000, and that you have \$2,000 for a down payment. You have the following choices:

1. Finance through the dealer. A \$2,000 down payment, if required, would leave \$14,000 to be financed over four years at 5.8 percent. Monthly payments would be \$327.51.
2. Finance through a bank, credit union or other lender. With the \$1,500 cash rebate and your \$2,000, you have \$3,500 to apply to the purchase price of \$16,000. This leaves \$12,500 to borrow (\$16,000 - \$3,500 = \$12,500). If you can borrow \$12,500 for four years at 11.17 percent, you will find that your monthly payments are \$324.10. This is the better deal.

Or let's say your car dealer is pushing "incentive financing," by offering a 4.9 percent rate, while your credit union may be charging 12 percent on new car loans. In such cases, you need to find how much the dealer would charge for the car if you paid cash. By holding constant the down payment and the length of the loan from the dealer or credit union, you can see which arrangement would cost less in finance charges and be better for your particular situation. In essence, you make all the terms of the two credit arrangements the same, except for finance charges and monthly payment. Then favor the deal that gives you the lowest monthly payment for the same length loan.

The Paper Chase

One way buying a car differs from buying a loaf of bread is that the buyer virtually never walks in with a checkbook and drives off with the car -- especially where financing is involved. Part of the reason is that, even if the car doesn't have to be ordered for you, the dealer usually handles the paper work with your state's motor

vehicle administration that makes it possible for you to hold title -- legal ownership -- of the car. (This is one area of the law where possession is much less than nine-tenths of the law, because the technical title requirements are legally critical.)

Dealers are entitled to charge a fair fee for running down your paperwork, but keep an eye on these numbers -- getting you a registration and plates shouldn't be a profit center for them. (Though use this opportunity to have them order duplicates of the registration, as needed for your family, in states that issue them.)

What if something happens to the car between the time you make your deposit and the time the dealer delivers it? The answer depends on who has the risk of loss. Usually, unless there is an agreement to the contrary, the party who possesses the vehicle bears the risk and is more likely to have insurance against the loss. Under the UCC, if the seller is a merchant (for example, a car dealer), the risk of loss passes to buyers only when they receive the car. If the seller is not a merchant, as in a private sale of a used car, the risk passes to the buyer on "tender of delivery" -- when the seller actually tries to deliver the car, or makes the vehicle available for a pick-up arranged by a contract.

Repossession

You may lose title if you fail to make your payments as they become due. The creditor is then permitted to repossess your car. When you buy a car on credit, you usually give the creditor rights in your property (the car) that are superior to the rights of your other creditors. This is known as a **lien**. When you buy the vehicle on credit, you sign a **security agreement**, which gives the creditor a **security interest** in your car (the collateral). These liens are filed with the state, usually by noting the lender's interest on the title certificate. If you don't pay, the creditor may try to get the car back and apply its value toward your debt. That is **repossession**.

The only limitation on a repossession is that the vehicle must be taken without "breaching the peace," i.e., without violence or a significant potential for violence. The reposessor can, however, essentially break in to the

car or tow it away. In many states, the creditor does not have to sue the debtor, or even notify the debtor of the default before reclaiming the vehicle.

If your car is repossessed, you have one chance to redeem yourself -- or, more specifically, to **redeem** the property before it is sold to someone else. To do so, you normally must pay the entire balance due, plus any repossession costs and other reasonable charges. This is because of the contract's **acceleration clause**. This forces you, the debtor, to pay the entire outstanding debt, not just the amount of overdue payments. Some states, however, have laws that allow you to "reinstate" the contract by making up missed payments. But in most cases, once a default and repossession have occurred, it is unlikely that you will have enough money to pay the entire balance, even if you don't have to pay interest for the period after the car was repossessed. Redemption rarely takes place.

If you do not redeem the car, the creditor may keep the car to satisfy the debt fully (unless you have paid at least 60% of the purchase price). The law refers to this as **strict foreclosure**. There is no duty to return excess value over the amount owed in a strict foreclosure. You must, however, be provided notice of a proposal to strictly foreclose and may object to it. Creditors seldom use the option of strict foreclosure, because dealers want to sell, not keep, cars.

More likely, the creditor will sell the car to satisfy the debt. If the profits from the sale are not enough to pay expenses and satisfy the debt, you would be liable for the difference. The only limitation placed on the creditor is that the sale be "commercially reasonable." In some cases, that may mean first getting court permission to hold a sale. The sale may be public or private. The creditor must, however, give you reasonable notice of the time and manner of the sale. If it is a public sale, you have the right to take part (bid on the car). If the sale produces too much money, the creditor must pass some of it along to you. For example, if the amount of debt and expenses totals \$5,000, and the creditor gets \$5,600 from the sale of the car, the balance of \$600 is due to you and the UCC obliges the creditor to refund the money to you.

BUYING OR SELLING A USED CAR

In recent years, the used-car business has boomed, partly because consumers may resist the high prices of new cars, partly because the popularity of leasing has resulted in many clean, late-model cars on the used car market. The business is changing too, with superstores promising low prices, no-haggle shopping, and good warranties on late model cars. Some auto brokerage services, including some that are on-line and available through the Internet or a commercial service such as Compuserve⁰, advertise that they'll get you low, no-haggle prices on used as well as new cars.

Legally, buying and selling a used car has some unique features, but it is similar to buying a new car. The advertising rules are largely the same, so you must still beware of bait and switch ads that look too good to be true. And you have to keep in mind, always, that unlike most auto dealerships, a private seller (the source of most used car sales) is not concerned about a commercial reputation. The private seller might leave town with your money and never be seen again -- especially if you're the one looking.

Still, some experts believe you may be better off buying from a private seller, as alluded to in the discussion on trade-ins above. A private seller may give a more accurate description of the car's faults based on personal knowledge, and you may get a lower price from a private seller. (They're not in the car business, after all, and indeed are seldom looking for profit on the "turnaround" but rather need to raise cash for something new.) Private sellers, however, seldom give warranties, which dealers sometimes offer. Also, some states have regulations governing used car sales that may apply only to dealers.

You have to handle your own paperwork with a private seller. If you are paying more than \$500, you should have a written contract. An oral contract to sell a car for over \$500 may not be enforceable. Even under \$500, it is always best to put the contract in writing if you are not going to conclude the deal immediately with a Bill of Sale. Many states require you to present a Bill of Sale to register your car. A Bill of Sale also may serve as a receipt. The Bill of Sale should contain the: date of the sale; year, make, and model of the car; Vehicle Identification Number (VIN); odometer reading; a statement of the car's condition; amount paid for the car, and

merchantability has been extended to repair work. Finally, many states require repair shops to post price lists conspicuously.

If you think a repair shop has intentionally cheated you, or made unauthorized repairs, you should notify your state attorney general's office and call your lawyer to discuss possible legal action. Keep in mind that for many mechanics -- and the only ones you should deal with! -- their business depends on a good reputation, which they will take care to maintain. So you may wish to try to adjust the matter with them before you complain to your state attorney general's office, or the local branch of the Better Business Bureau, or even to the Chamber of Commerce.

If you do not get satisfaction, you may wish to sue if, for example, the shop made unneeded repairs or reinstalled the original part rather than a replacement. If the shop tried its best to correct the fault by fixing something that *was* broken, though *not* the problem's ultimate cause, you should pay the shop. After all, the repair shop *did* fix one of your car's problems. It is not, however, a complete guarantor of your car's health.

The Mechanic's Lien

In most states the shop obtains a **mechanic's lien** on your car, which helps the shop secure payment for the work done. For example, if you have authorized extensive work, but decide that the car isn't worth that much after the shop completes the work and refuse to pay for completed repairs, the shop may keep your car. The car's actual value, and the actual cost of the repairs, do not matter. If you abandon your car in this manner, the shop may ultimately sell your car so that it can recover as much of the cost of repairs as possible. But note that in states that require written estimates and repair authorization, the mechanic's lien does not attach if the repair shop has not complied

with these requirements. In such states, you are entitled to ask a court to order the car returned to you.

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