

The Five Stages of Compliance Grief

October 1, 2014 | [Patricia E.M. Covington](#)

When I consider the events leading up to and following the creation of the Consumer Financial Protection Bureau and the reactions by dealers and finance companies to those events, I am reminded of the Kübler-Ross "Five Stages of Grief" thesis. According to that thesis, people facing a severe loss go through distinct, recognizable stages as they adjust to the loss.

The "loss" in this case is the loss of a marketplace for selling and financing vehicles that has been highly regulated but mostly ignored by those charged with enforcing the laws and regulations. Many dealers and finance companies determined that 'flying under the compliance radar,' while a risk, was one that seemed worth taking since the alternative was an expensive and time-consuming compliance effort that their competitors were not making. Thanks to (i) the Dodd-Frank Act; (ii) the creation of the CFPB; and (iii) the newly aggressive Federal Trade Commission and state attorneys general, that 'under-the-radar' marketplace is gone, probably for good.

The Kübler-Ross stages are denial, anger, bargaining, depression, and acceptance. So far, most dealers and finance companies seem to have gone through at least the first three or four of these stages.

Because the reality of a loss is hard to face, one of the first reactions to the loss is denial. As the Dodd-Frank Act was working its way through Congress, many industry pundits predicted that the measure would not pass or that, if it did, it would not result in the creation of the Bureau. But if it did pass, they said, the Bureau won't be that much different from the federal regulators that had previously been the cops on the compliance beat. Or, if it did pass, we'd elect a Republican Congress and repeal the law. The Bureau was created, has not gone away, and has turned out to be a considerably more aggressive enforcer than the ones dealers and finance companies had faced previously.

When dealers and finance companies realized that denial wasn't working, their anger flared: *'It's not fair! The Great Recession dealt mostly with bad actors in the housing finance marketplace. Auto sales and financing were generally not implicated in the meltdown. Why is the auto industry being penalized? Why would our elected representatives let this happen?'*

It's hard to stay mad forever, and eventually a person experiencing a loss turns to action,

in this instance, bargaining: *' I'll do as little as I can to stay off the CFPB's radar, but I'm not going to crank up my compliance effort to a level that will be expensive and time consuming. I'll do just enough to get by'*.

Bargaining can forge a path to depression. As the Bureau and the FTC announce one enforcement action after another, hammering company after company with eye-popping fines and penalties, dealers and finance companies have begun to understand the certainty of the change of the regulatory landscape and the huge burden that they must bear if they are to avoid the fate of the companies targeted by the regulators. Many dealers and finance companies I deal with are in this stage of grieving. They are depressed at the enormity of the situation they are facing.

Some dealers and finance companies have worked through the first four stages to face the last one, "acceptance." They have come to terms with the New Order, embracing a compliance culture - investing the necessary management time and incurring the large expense - and sometimes the competitive disadvantages that this sort of effort requires. These dealers and finance companies have decided: *It's going to be okay. We can't fight it, so we may as well prepare for it.'*

If this observation holds true - that the five stages of grief apply to the events of the last two or three years - then eventually every dealership and finance company will work its way through to the acceptance stage and will do what must be done to survive in a more tightly regulated marketplace. If your company hasn't yet reached "acceptance," it's time for a wake-up call.

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