

The Value of Arbitration Risk Management

During my many years in the automotive remarketing industry, I have seen the importance of understanding what the lights in the lanes mean on sale days. We will cover the National Auto Auction Association (NAAA) Arbitration policy's "Sale Light System" and its usage in this month's column.

According to the policy, the "Auction has a standard light/video display system to describe the condition and/or disclosures related to the vehicle being sold." The system is defined as:

- **Green Light – "Ride and Drive:"** The green light signals that this vehicle is guaranteed under the conditions outlined in the Arbitration Guidelines section, except for specific disclosures or announcements made prior to the sale.
- **Yellow Light – "Announcements:"** This light is an indication to the buyer that the auctioneer or selling representative has made announcements that qualify/clarify the condition or equipment and limit arbitration of this vehicle. This light can be used in conjunction with any other light.
- **Red Light – "As-Is:"** Vehicles selling under the red light will only qualify for arbitration under the rules outlined in the arbitration guidelines section: as-is dollar amount,

model years, and mileage is subject to local auction policy.

- **Blue Light – "Title Attached/Title Unavailable/Title Absent:"** This light is used to announce that the title is not present at the time of the sale. For auction rules regarding titles please refer to the title arbitration policy section. If "title attached/unavailable/absent" is not announced, a vehicle could be arbitrated for misrepresentation." (Available at: <https://www.naaa.com/standards/standards.html>)

When determining disclosures to would-be buyers, the seller must first determine which sale light to use. Ideally, the sale light should be determined by the total condition of the vehicle and arbitration risk. For example, a late-model vehicle with normal wear and tear that is mechanically sound would tend to be considered a green light vehicle. Conversely, an older model with more wear and tear and a mechanical issue with a wholesale repair cost over \$500 (per policy) would tend to be sold with the red light on.

Some issues require disclosure regardless of which light is on. These include:

- Supplemental Restraint System (SRS) missing or problem with airbags (over \$500)

- Structural issues as per NAAA Structural Damage Policy
- Not actual miles or inoperative odometer
- Salvage, reconstructed, theft recovery and stolen vehicles including credible history
- Insurance and or salvage titles including credible history
- Flood damage (by auction inspection)
- Lemon law/manufacture's buyback
- State issued VIN plate (including all kit vehicles)
- Taxis or livery vehicles, police cars and government vehicles
- Previous Canadian vehicles
- Grey market vehicles
- Vehicles being sold with no title (bill of sale only)
- Logo or decal misrepresentation
- Bio-Hazard vehicles (both cleaned and contaminated) as required by law
- Flood damage history (discovered by DMV or insurance company records)
- Vehicles being sold with a certificate of origin (CO), manufacturer statement of origin (MSO)
- Pending state or local DMV fees and/or taxes over \$100 due on vehicle (if required by state)
- Any state required damage disclosure

The yellow light is used to supplement the green light to exempt defects that are being announced. An example would be a vehicle sold under the green light but with a defective transmission. The appropriate announcement would be "Green light vehicle with the yellow light caution for the transmission."

The blue light is used for the title. This light must be used when the title is going to be late in conjunction with green or red light.

Some sellers do not want the arbitration liability so they may attempt to develop a disclosure that exempts them from everything. This, however, is not within the guidelines of the NAAA policy. If a seller uses a 'shotgun style' announcement, but the vehicle has an undisclosed defect for which a disclosure is required by NAAA policy, a claim would be valid and the seller would be liable.

It is very important both sellers and buyers understand the nature of the transaction via the sale light. As a buyer, the amount of recourse is limited from an arbitration point of view. Auction products like the 'post-sale inspection' may not be available for vehicles sold under specific announcements and the red light. The arbitration policy can be found on NAAA's website under the "Standards" page at: <https://www.naaa.com/standards/standards.html>.

Thanks to all readers for the feedback on this column thus far! ■

ACCORDING TO THE ARBITRATION POLICY, THE "AUCTION HAS A STANDARD LIGHT/VIDEO DISPLAY SYSTEM TO DESCRIBE THE CONDITION AND/OR DISCLOSURES RELATED TO THE VEHICLE BEING SOLD."

The image shows a screenshot of the NAAA Arbitration Policy document. At the top, there are three colored boxes: a green box labeled "Green light only", a yellow box labeled "Green & Red light", and a red box labeled "Red light only". Below these is a table with columns for "Green Light", "Red Light", "Green Light", and "Red Light". The rows are categorized into "Major Components", "Vehicle History Issues", and "Other Issues". Each row contains a description of an issue and a grid of 'Yes' or 'No' entries corresponding to the four light categories. At the bottom, there are footnotes and a disclaimer.



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