



MAXIMUM VALUE PROGRAM AUTHORIZED DEALER PRICING POLICY EXPLANATION

Why has B&W implemented an Authorized Dealer Pricing Policy?

The products sold by B&W are of high quality with a premium image earned through extensive product and market development activities and superior customer service. Some authorized dealers of these products which purchase from B&W ("Dealers" or individually, a "Dealer") have taken or may take advantage of this fact by using such products as loss leaders or by unfairly discounting them. In an effort to insure the long-term viability of its brands and help protect the investment of those Dealers that provide valuable services to their customers, B&W, as part of its Maximum Value Program, has established by policy (the "Policy") a unilateral minimum resale price (a "MVP Price") for each of certain products (individually, a "MVP Product" and collectively, the "MVP Products")—a price below which Dealers may not offer or sell such product.

What products are covered by the Policy?

The Policy applies to each of the MVP Products for which a MVP Price is communicated or made available by B&W to the Dealer in hardcopy or electronic form or posted on a website designated by B&W. Each Dealer is responsible for making sure that it is aware of the appropriate MVP Price in each circumstance.

Is B&W setting the price charged by its Dealers?

No. Each Dealer may offer or charge any price it wishes, provided that the Dealer's net adjusted price for a MVP Product is at or above the corresponding MVP Price established by B&W from time to time and communicated or made available to the Dealer.

The "net adjusted price" is the lower of the price at which a MVP Product is offered by a Dealer to a customer (potential or actual) or that actually paid to a Dealer for a MVP Product by the Dealer's customer after:

- taking into account all discounts, deductions, rebates and allowances given to such customer (regardless of source, whether given or taken at the time of sale or otherwise and considered by B&W to be part of such offer or sale);
- excluding, if paid by such customer, all applicable taxes and all shipping, delivery and installation charges (However, if such Dealer pays any or all of such taxes and charges that otherwise would be paid by such customer, the amount paid by such Dealer will be considered a discount, except as otherwise expressly provided in the Policy. (See Question 4 in this Explanation));
- subtracting, in the case of free goods or services and similar benefits for such customer provided or made available by such Dealer, the fair market value (as determined by B&W) of all such goods, services and benefits (regardless of source, whether given or taken at the time of sale or otherwise and considered by B&W to be part of such offer or sale); and
- subtracting, in the case of reduced-price goods and services and similar benefits for such customer provided or made available by such Dealer, the difference between: (a) the fair market value (as determined by B&W) of all such goods, services and benefits (regardless of source, given or taken at the time of sale or otherwise and considered by B&W to be part of such offer or sale) and (b) the amount to be paid or actually paid for such goods, services and benefits.

What this means is that the Dealer's "bottom-line" price to its customers for each of the B&W products covered by the Policy must be at or above the applicable price described in the Policy. The bottom-line price is after all discounts, deductions, rebates and allowances and excludes taxes, shipping, delivery and insurance (if paid by the customer). In addition, the fair market value of free goods and services is treated as a discount against the price of the MVP Product, as is the excess of the fair market value of reduced-price goods and services over the amount to be paid or actually paid.



In other words, free or reduced-price goods and services (regardless of whether they come from B&W, another supplier, the Dealer or anyone else) will be considered as discounts against the price to be paid or actually paid by the customer if B&W considers such goods or services to be included with the offer or sale of a product covered by the Policy.

Are certain free or reduced-price services not treated as discounts?

Yes. Any or all of the following services may be offered or provided by a Dealer for free or at a reduced price without it or them being considered to be a discount when offered or provided in connection with a purchase that includes at least one of the MVP Products, as long as the value of such service(s) is reasonable (as determined by B&W):

- Payment by such Dealer of some or all actual shipping or delivery charges for any or all of such purchase
- Delivery by such Dealer of some or all of the MVP Products included in such purchase
- Installation by such Dealer of some or all of the MVP Products included in such purchase
- Removal and disposal by such Dealer of any or all of the product(s) replaced with such purchase

Are there any exemptions from the Policy?

Yes. Provided that a Dealer does not otherwise violate the Policy, the Dealer offering or selling to a potential customer or customer one or more of the MVP Products during the period the Policy is in effect (the "Policy Period") below its respective MVP Price is exempt from the Policy and will not violate it, if such offering or selling is part of any or all of the following done by the Dealer:

(a) Each potential sale or sale

- to an employee of the Dealer for personal (non-commercial) use on or with his or her own vehicle, provided that such sale is reasonable (as determined by B&W);
- of one or more of the MVP Products with minor cosmetic defects (as determined by B&W) or which cannot be sold as new because they are floor models or are used; and
- of a product that is or was one of the MVP Products, but has been discontinued by B&W;
- to a unit of government or a not-for-profit entity for its own use; and

(b) Existing Marketing Efforts.

For purposes of the Policy, "Existing Marketing Efforts" means: (i) bona fide advertising and promotional materials (including without limitation printed catalogs) that cannot reasonably be modified prior to June 1, 2009 (the "Effective Date") (such exemption is effective until such time that it is reasonable to revise such materials to be consistent with the Policy); (ii) a bona fide contract between such Dealer and a customer, provided that such contract is in writing and becomes or became effective no later than the Effective Date; and (iii) a bona fide written proposal from such Dealer made prior to the Effective Date that is accepted by a customer in writing no later than fifteen (15) days after the Effective Date, provided that each of the MVP Products subject to such accepted proposal will be delivered to such customer no later than thirty (30) days after the Effective Date.

If the Dealer otherwise violates the Policy or B&W determines that the Dealer does not qualify for or abused any or all of the exemptions, they will be deemed withdrawn by B&W retroactive to the Effective Date or such other date specified by B&W.

Will B&W consider requests for exemptions?

Only in extraordinary circumstances.



Apart from offering or selling a MVP Product at a price below its MVP Price, do certain other practices violate the Policy?

Yes, there are three other ways to violate the Policy, each of which is deemed to be the same as advertising, promoting, offering, selling or otherwise providing each of the MVP Products associated with such conduct at less than its respective MVP Price:

(a) Auction Sites

By a Dealer:

(i) offering, selling or providing (regardless of price) one or more of the MVP Products during the Policy Period on an Internet auction site (such as eBay or any other site which allows or conducts auctions or accepts bids) or

(ii) knowingly or negligently selling or providing on consignment to any individual(s), entity or entities who or which offer(s), sell(s) or provide(s) (regardless of price) one or more of the MVP Products on such a site; except that, provided that the Dealer otherwise complies with the Policy, the Dealer may offer and sell any or all of the MVP Products on eBay or similar websites which are acceptable to B&W, as long as each such offer and each such sale is made (A) through such Dealer's storefront and (B) at a "buy-it-now" price or, as determined by B&W, the equivalent type of price;

(b) Invitations

If a Dealer (directly or through another party on behalf or for the benefit of such Dealer) in connection (directly or indirectly) with the offering or sale of any or all of the MVP Products invites or in any other way encourages any or all of such Dealer's potential customers and customers to call, e-mail or otherwise communicate to obtain a price and such price is less than one or more of the MVP Prices (as determined by B&W); and

(c) Failure to Itemize

By a Dealer failing to itemize on any or all proposals, quotations, contracts and invoices provided to or prepared for the benefit of any or all of the Dealer's potential customers and customers the price charged for each of the products and services shown or referred to on such proposal(s), quotation(s), contract(s) or invoice(s).

What happens if a Dealer violates the Policy?

After B&W verifies to its satisfaction that a Dealer offered or sold a MVP Product at a net adjusted price below the corresponding MVP Price (or is deemed to have done so) during the Policy Period, B&W immediately will revoke the authorization of such Dealer (the "Violator") to purchase the Affected Products. Effective as of the date of the revocation of authorization, all pending orders from the Violator for any of the Affected Products will be cancelled and no new orders for any of the Affected Products will be accepted. At the same time, the Violator's authorization from B&W to purchase B&W products other than the Affected Products is not changed.

For purposes of the Policy, the "Affected Products" means all of the products which are part of the same product family as that of the product where the violation occurred, so that a violation of the Policy with respect to any product sold in one of the following three families—(a) Turnover Ball Gooseneck Hitch, (b) Companion 5th Wheel Hitch or (c) B&W Tow & Stow Receiver Hitch®—will mean a loss of all the products sold in that family. B&W also may exclude certain products (such as particular accessories) from the definition of the Affected Products.

In addition, the Violator, if so notified by B&W, will be deemed to have sold to B&W or its designee(s) all or any part of the Violator's inventory of the Affected Products (free of all liens, claims and encumbrances) identified by B&W or such designee(s) at the price the Violator paid or is due for such identified inventory, less a restocking charge of fifteen percent (15%) of such price. In addition, the Violator will pay the freight and all related charges to ship such identified inventory (if and as directed to do so by B&W). The Violator will make such identified inventory available to B&W or such designee(s) (promptly after B&W requests the Violator to do so) for inspection, repurchase and shipment. At the option of B&W, the Violator may be compensated for such identified inventory by credit to such Dealer's account in the amount paid or owed.



Will a Dealer violating the Policy be warned first?

B&W cannot provide any advance warning.

Is the Policy legal?

Yes. At least four U.S. Supreme Court cases taken together—U.S. v. Colgate (1919), Monsanto v. Spray-Rite (1984), Business Electronics v. Sharp (1988) and Leegin v. PSKS (2007)—have recognized that a supplier may establish the terms and conditions under which it will sell its products, including the terms and conditions affecting resale price. Particularly in the resale pricing area, such terms and conditions must be determined by the supplier unilaterally, i.e. without agreeing with any of its customers. For this reason, B&W cannot and will not discuss the conditions of acceptance of the Policy nor solicit or accept any assurances of compliance.

Does this mean that B&W cannot explain the Policy?

No. B&W will answer questions about the Policy, but will not do anything that may change the nature of the Policy into something other than a unilateral one. As a result, B&W cannot give any warning to any Dealer violating the Policy, nor can it ask for or accept pledges of compliance from its Dealers.

All questions or requests for additional information regarding the Policy or information regarding potential violations of the Policy (which must be in writing) are to be addressed to the Policy Administrator:

Christina Umbarger
MVP Administrator
B&W Custom Truck Beds, Inc.
1216 Hawaii Road
P.O. Box 186
Humboldt, KS 66748
Voice: (620) 473-3664
Fax: (620) 473-3766
christinaumbarger@turnoverball.com

Only the Policy Administrator is authorized by B&W to answer questions regarding the Policy, to comment on the Policy or to accept information regarding potential violations. At the discretion of the Policy Administrator, B&W may involve its legal counsel.

Will Dealers that follow the Policy violate the antitrust laws?

No. But they should avoid communicating to B&W their acceptance of the Policy or their compliance with it. Honoring the Policy by offering or selling at or above the relevant MVP Price, properly offering or selling on-line, avoiding the use of certain terms or properly itemizing prices is not communicating acceptance or compliance.

If a Dealer tells B&W that another Dealer has violated the Policy, may B&W act on this information?

Yes. Such notification must be in writing addressed to the Policy Administrator and document the apparent violation. B&W may investigate and, if warranted, take action against the Dealer violating the Policy, as long as the Dealer which contacted B&W does not agree with B&W on a specific resale price. (Following the Policy is not an agreement.) In addition, B&W may use the services of one or more outside firms to monitor Policy compliance.

Why are the rules so strict?

In order to comply with the standards established by the law, B&W must carefully stay within their boundaries.

How long will the Policy be in effect?

The Policy will remain in effect with respect to a Dealer until B&W notifies it otherwise, but B&W may modify or suspend the Policy at any time, including, among other things, changing its terms and conditions in any way.



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Can B&W add other products or services to the Policy and establish minimum prices for them, remove certain products or services from coverage under the Policy or change the MVP Price for a MVP Product?

Yes. B&W may do so at any time.

Are other companies doing this?

Yes. A number of manufacturers and suppliers in diverse industries have adopted similar resale price policies to address the same or similar concerns faced by B&W.