Article 9 requires the creditor’s disposition of the collateral to be commercially reasonable in all respects. The creditor has the burden of proving commercial reasonableness, at least if the debtor has raised the issue in the pleadings.

- Did the creditor recondition, clean, or repair the collateral? If not, was it commercially unreasonable not to? See § 10.3.3 [1], infra.
- Did the creditor allow potential buyers to inspect or test drive the collateral? See § 10.8.7 [2], infra.
- Did the creditor advertise the sale to an appropriate extent and in appropriate media? Did the advertisements accurately describe the collateral and the time and location of the sale? See § 10.8.5 [3], infra.
- Was the timing of the sale commercially reasonable, neither too soon nor too long after repossession, and at an appropriate season for the sale of this type of collateral? See § 10.5 [4], infra.
- Was the creditor’s choice of the location for the sale commercially reasonable? Did the creditor make a commercially reasonable choice about who would conduct the sale? See § 10.8.2 [5], infra.
- Was the creditor’s choice of the type of sale commercially reasonable? Did the creditor choose a wholesale disposition when a public sale would have brought a higher price? See §§ 10.7 [6], 10.9 [7], infra.
- Did the creditor set a minimum price for the sale? Did the creditor turn down any offers for the collateral? See § 10.8.3 [8], infra.
- If the consumer was notified that the sale would be public, was it truly public? Were members of the public actually able to attend and bid? See § 10.6 [9], infra.
- What happened at the sale? How many bidders were there? Did potential buyers make written bids or were the bids made orally? Did the sale occur on the date and at the location stated in the notice and the advertisements? Did the creditor do anything to discourage potential bidders? See §§ 10.7 [6], 10.8 [10], infra.
- Who was the buyer at the repossession sale? Was it the secured party itself, an alter ego of the secured party, a person related to the secured party, or the original dealer? See §§ 10.10 [11], 11.3.5 [12], infra.
- How does the price received at the repossession sale compare with the collateral’s actual value, as reported in pricing guides or determined by other means? See § 10.9 [7], infra.

Source: National Consumer Law Center, Repossessions [9th Ed.], updated at www.nclc.org/library
Source URL: https://library.nclc.org/repo/010408

Links
[1] https://library.nclc.org/nclc/link/Repo.10.03.03
[2] https://library.nclc.org/nclc/link/Repo.10.08.07
[3] https://library.nclc.org/nclc/link/Repo.10.08.05
[4] https://library.nclc.org/nclc/link/Repo.10.05
[5] https://library.nclc.org/nclc/link/Repo.10.08.02
[8] https://library.nclc.org/nclc/link/Repo.10.08.03
[9] https://library.nclc.org/nclc/link/Repo.10.06
[10] https://library.nclc.org/nclc/link/Repo.10.08
[12] https://library.nclc.org/nclc/link/Repo.11.03.05