

FEDERAL TRADE COMMISSION

Consumer Protection in Automobile Transactions

November 19, 2014

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Disclaimer

The views expressed in this presentation are my own, and do not necessarily reflect the views of the Commission or any individual Commissioner.



FTC's Auto Mission

- Auto transactions are increasingly important to the FTC's consumer protection mission
 - Autos are the second biggest financial transaction for many consumers
 - Dodd-Frank Wall Street Reform and Consumer Protection Act (July 2011) enhanced the FTC's authority over auto dealers
 - In response, the FTC ramped up its auto-related work



FTC v. CFPB Jurisdiction – Auto Dealers

- Under the Dodd-Frank Act, the FTC has:
 - Exclusive jurisdiction over many dealers dealers that routinely assign financing or leasing to unaffiliated third parties
 - Concurrent jurisdiction with CFPB over non-bank lenders and buy here, pay here dealers
 - Broad enforcement authority over auto dealers
 - APA rulemaking authority in auto finance area



The FTC's Law Enforcement Tools

- Recent deceptive advertising enforcement actions brought under several statutes and rules:
 - FTC Act, which prohibits unfair and deceptive trade practices
 - Broad law that can applied to many different situations, entities and technologies
 - Truth in Lending Act (TILA) and its implementing Regulation Z
 - Consumer Leasing Act (CLA) and its implementing Regulation M



Auto Roundtables

- Purpose was to gather information on auto sales, finance, and leasing issues and consider possible initiatives, such as areas for enforcement, business and consumer education, or other appropriate measures
- Roundtables held in
 - Washington, D.C. (November 2011)
 - Detroit (April 2011)
 - San Antonio (August 2011)



Examples of Roundtable Attendees

- Consumer protection agencies (FTC, CFPB, state consumer protection offices)
- Consumer advocacy groups (CRL, NCLC)
- Industry groups (NADA, NIADA, NAFA)
- Lending companies
- Dealers
- Private law firms (business and consumer)
- Auto Finance News
- Other interested groups



Roundtable Topics

- Dealer Markups on Financing
- Spot Delivery/Yo-Yo Financing
- Contract Add-Ons



Additional Information



A Roundtable

The Federal Trade Commission is holding a series of roundtable events and requesting public comment to gather information on possible consumer protection issues that may arise in the sale, financing or lease of motor vehicles. The first event took place in



Issues in Auto Finance

Subprime Lending

Privacy & Data Security

Deceptive Auto Advertising



Subprime Lending

US v. Consumer Portfolio Services, Inc. May 2014

- \$5.5M (including \$2M civil penalty)
- Issues in complaint:
 - Collecting unsubstantiated amounts
 - Fee-related misrepresentations
 - Debt collection violations
 - Credit reporting: furnisher violations



Privacy and Data Security

FTC v. Franklin's Budget Car Sales, Inc. June 2012

Issues in complaint:

- Failed to implement reasonable security measures to protect consumers' personal information: P2P software on company's network → sensitive financial information uploaded to a P2P network
- Info. for 95,000 consumers was made available on the P2P network, including names, addresses, Social Security Numbers, dates of birth, and driver's license numbers



Privacy and Data Security



FTC Workshop September 15, 2014



Advertising Enforcement Actions

 2014: Deceptive purchase price, finance and leasing cases (Operation Steer Clear)

2013: Deceptive price, discount & rebate cases

 2012: Deceptive "pay-off your trade" cases (negative equity)



Deceptive "Pay Off Your Trade" Cases

- Four Administrative Complaints Filed Against Dealerships (2012)
 - Key Hyundai of Manchester & Hyundai of Milford; Frank Myers
 AutoMaxx; Ramey Motors; Billion Auto
- Alleged FTC Act violations (deception):
 - "We'll pay off your trade, no matter what you owe" (implied consumer would have no further obligation on prior loan)
 - In fact, dealer rolled negative equity into new loan (or in one case made consumer pay out of pocket)
- Alleged TILA or CLA violations (three dealers)
 - Used "trigger terms" (specific payment, rate)
 - No disclosure of APR, balloon payments, etc.



Example: Deceptive "Pay Off Your Trade" Claim



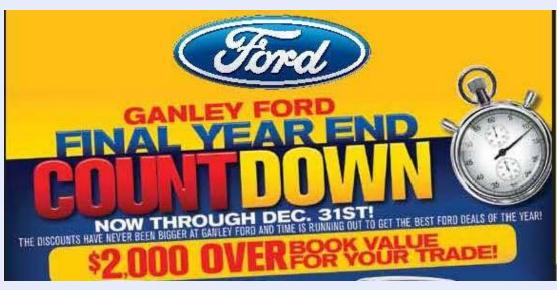


Deceptive Price, Discount & Rebate Cases

- Administrative complaints filed against two dealerships (2013)
- Complaints alleged violations of FTC Act
 - Timonium Chrysler, Inc.
 - Touted specific "internet prices" and "dealer discounts"
 - But failed to disclose that discounts required consumer to qualify for numerous rebates not generally available to them
 - Ganley Ford West, Inc.
 - Advertised discounts on vehicle prices
 - But failed to disclose that the discounts generally only applied to more expensive models of the advertised vehicles



Example: Deceptive Discount







Operation Steer Clear

- Administrative complaints filed against ten dealerships
- Addressed deceptive and misleading advertising
- Complaints alleged that dealers misled consumers to believe they could:
 - Purchase vehicles for low prices
 - Finance vehicles with low monthly payments
 - Lease vehicle with no upfront payment
 - Collect a sweepstakes-like prize at the dealership



Operation Steer Clear

- FTC alleged several types of violations:
 - FTC Act (deception)
 - Truth in Lending Act
 - Consumer Leasing Act



Deceptively Low Purchase Price

- Luis Alfonso Sierra, d/b/a Casino Auto Sales
 - Print ad prominently advertised low purchase prices
 - Inconspicuous disclaimer stated that prices were after \$5,000 down
- Mohammad Sabha d/b/a Rainbow Auto Sales
 - Same



Example: Deceptively Low Purchase Price





*Prices after =5,000 down

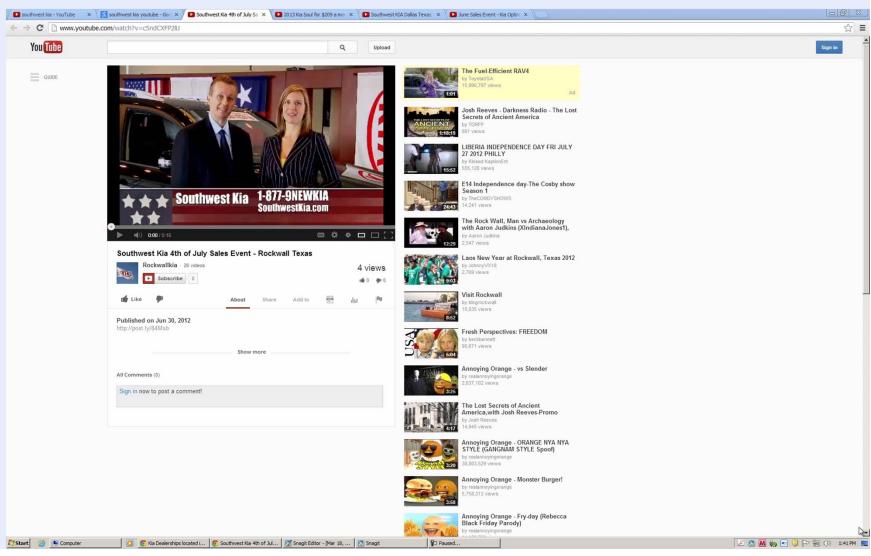


Deceptively Low Monthly Finance Payment

- New World Auto Imports d/b/a Southwest Kia
 - Ads prominently claimed specific low monthly finance payments
 - Disclaimers revealed large balloon payment
- Paramount Kia of Hickory
 - Video ad prominently claimed finance payments of \$99/mo
 - Disclaimer stated that in months 4-72, payments would be \$531
- Nissan South of Atlanta
 - Print ad prominently claimed finance payments of \$99/mo
 - Disclaimer stated \$99 was only for first two of 84 months
- Norm Reeves Honda Superstore
 - Print ad prominently claimed 0% APR for 60 months
 - Disclaimers stated that 0% applied only up to \$12,000 financed
- Fowlerville Ford
 - Video ad prominently claimed specific low monthly finance payments
 - Disclaimer failed to clearly and conspicuously disclose triggered terms, including 72-month repayment term and APR (using that term)



Example: Deceptively Low Monthly Finance Payment





Deceptive "\$0 Down" Lease Claims

Courtesy Auto Group

- Video and Internet ads prominently claimed \$0 down and specific low monthly payments
- Disclaimers stated acquisition fee due up front, and ads lacked certain CLA triggered disclosures

Bill Robertson & Sons d/b/a Honda of Hollywood

- Print ads prominently claimed \$0 due at signing, and specific low monthly payments
- Disclaimers stated large payment due at signing (e.g., \$1,995 \$2,499), and ads lacked certain CLA triggered disclosures

Infiniti of Clarendon Hills

- Video and Internet ads prominently claimed \$0 down and specific low monthly payments
- Disclaimers stated acquisition fee, first payment, and/or large downpayment (e.g., \$3,499 \$4,999) was due upfront, and ads lacked certain CLA triggered disclosures

Norm Reeves Honda Superstore

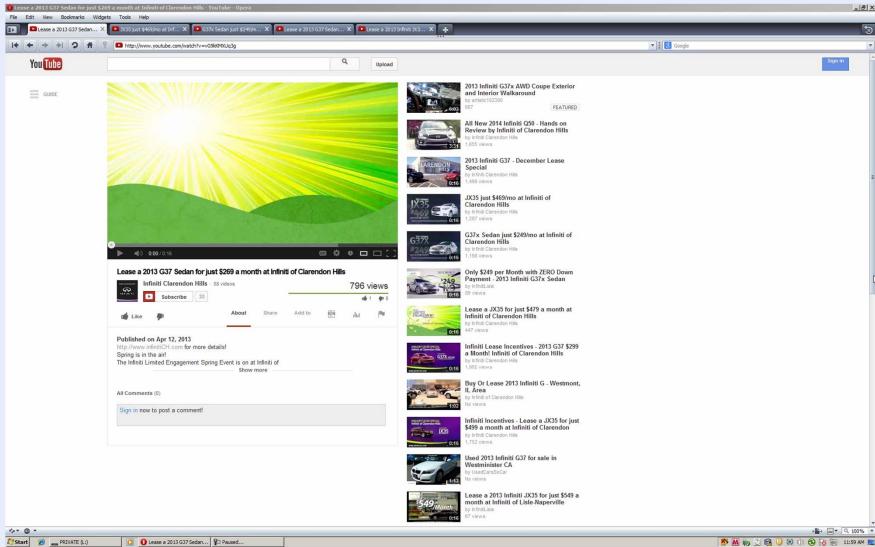
- Print ads prominently claimed \$0 due, \$0 security deposit and specific low monthly payments
- Disclaimers stated acquisition fee and security deposit due up front, and ads lacked certain CLA triggered disclosures

New World Auto Imports d/b/a Southwest Kia

- Internet ads prominently claimed specific low monthly lease payments and \$27 down
- Disclaimers stated acquisition fee and first payment required, and ads lacked certain CLA triggered disclosures



Example: Deceptive "\$0 Down" Lease Claims





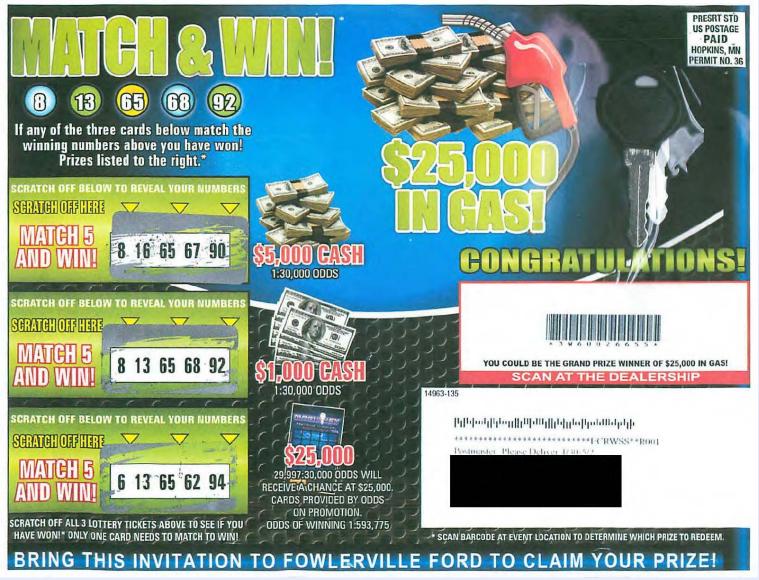
Deceptive Sweepstakes Claim

Fowlerville Ford

- Dealer sent consumers direct mail solicitations resembling a scratch-off sweepstakes entry
- Scratch off ticket always revealed a "winning" entry
- Consumers never received the advertised prize
- Instead, their "prize" was the right to enter a sweepstakes (which no consumers won)



Example: Sweepstakes Claims





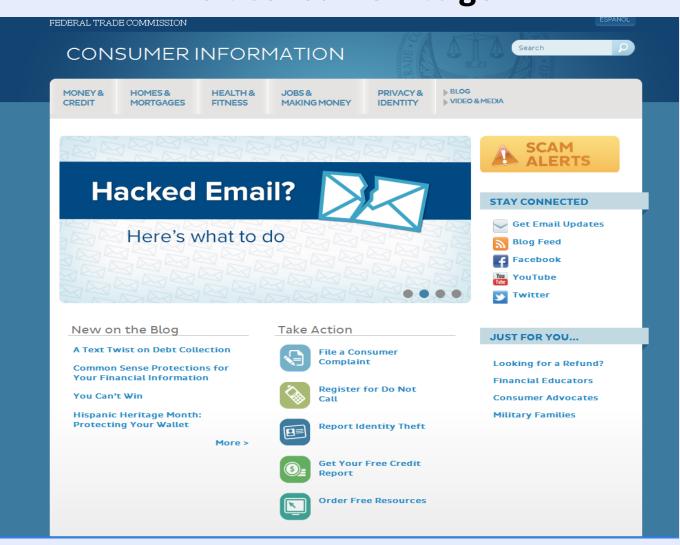
Auto Dealer Order Provisions

- Dealers barred from misrepresenting the types of terms they allegedly misrepresented
- If violated TILA or CLA, they were barred from violating the applicable law
- Dealers must:
 - Maintain and produce records upon request (5 years)
 - File initial compliance report and follow-up reports upon request
 - Notify FTC about changes in business
- Order effective for 20 years



Educational Materials

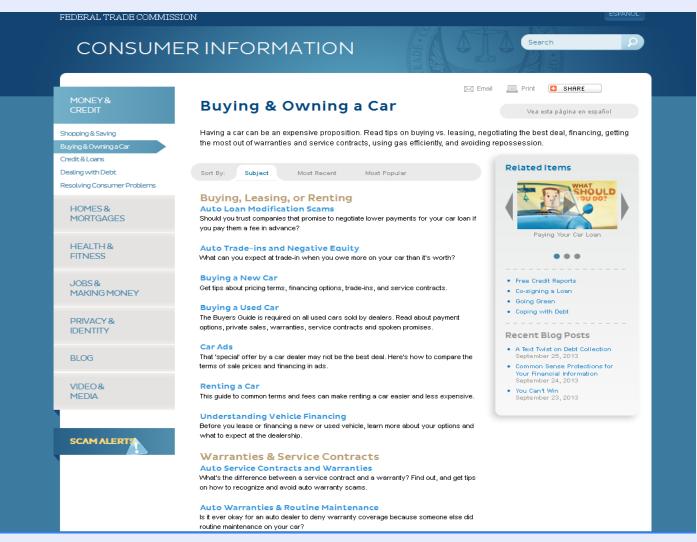
Visit consumer.ftc.gov





Educational Materials

"Money & Credit" → "Buying & Owning a Car"





Educational Materials

Additional FTC Resources:

- Order free materials from bulkorder.ftc.gov
- Visit ftc.gov/subscribe to sign up for Consumer and Business Blog updates.
- Visit consumer.ftc.gov and business.ftc.gov and bookmark auto resource pages Link, post, tweet, blog, adapt.
- All FTC materials are in the public domain.



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