

January 3, 2012

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Ms. Carol L. Reynolds
Federal Trade Commission
Senior Attorney – Bureau of Consumer Protection

Dear Carol:

You may recall that back in the 90's I made an unsuccessful run at your agency, calling for enforcement of existing vehicle lease advertising regulation. There were and still are repetitive violations of Regulation M and the relevant Consent Decrees. Now, years later, there is a new discussion on how to protect consumers from misleading lease advertising. Please consider this comment from the field.

I will not bring out all the ads promoting transactions that are clearly not "usual and customary," or ads for vehicles that simply do not exist, or ads that do not disclose the required up front payment (freight additional is a favorite), or even the payment ads that fail to mention the advertised transaction is in fact a lease. Nor will I point out that no one ever asks a dealer if they want to participate in the "available at participating dealer" disclosure, or no one can define the criteria for qualified as in "available for qualified applicants."

Instead I will point out a fundamental flaw in the system that transcends any specific ad or violation. It's a flaw that would be apparent in most arenas but has been adroitly disguised by the vehicle manufacturers and their finance arms.

**IT'S FUNDAMENTALLY WRONG TO ADVERTISE
SOMEONE ELSE'S PRICE.**

Seems pretty basic to me, yet in the sleight of hand car business, manufacturers have been permitted to advertise vehicle lease prices that, via regulation and franchise laws, can only be set by its dealers. What results is a labyrinth of justifications for promoting someone else's price in very large print followed by fine print disclaimers.



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- **“ACTUAL LEASE PRICE DETERMINED BY RETAILER”**
- **“DEALER CONTRIBUTION MAY AFFECT PRICE”**
- **“PURCHASE OPTION DETERMINED BY DEALER”**
- **“PAYMENT MAY VARY”**

Think about it. Disclaimer is defined as “the act of disclaiming.... Denying a claim... to disavowal.” What we have in this industry are bold payments followed by an admission that what you just saw is in fact not true.

These advertized transactions are not leases at all. The payments are in fact not “offered by....” Many of these ads are “IF” deals.

- IF the dealer is in fact a “participating dealer.”
- IF the vehicle exists.
- IF the dealer agrees to sell to us what we want to pay.
- IF the customer meets our credit standards.

Then the price listed applies – “Subject to availability,” of course.

In addition to enforcing existing regulation, the suggestions is if a manufacturer is to “directly or indirectly” advertise a lease payment the underlying sale creating the payment be at a price the manufacturer actually controls – the Manufacturer’s Suggested List Price.”

Sincerely, A

✓
Jerry Duffy
Vice President

JD:jd