

orders. It provides an important deterrent, because any future advertising claims that do not comport with it are punishable by substantial civil penalties. The Commission previously has challenged similar advertising claims by three other gasoline companies, all of which, unlike Exxon, agreed to settlements without litigation, and all of which consented to inclusion of the broader injunctive relief omitted from this order.

Exxon's advertisements seem likely to have contributed to consumer misperceptions about the attributes of and the need for premium gasoline as much as gasoline advertisements run by the other companies. The more lenient injunctive coverage in Exxon's order will be less effective in deterring future deception and may create perverse incentives. In the future, companies may believe it is in their interest to decline negotiated settlement until after litigation has commenced if they think that the Commission will reward greater intransigence.

Narrowing the injunction might be worthwhile if some other effective remedy were added, and the proposed order adds a provision that requires Exxon to produce and disseminate a 15-second television commercial and distribute a certain number of copies of a brochure.³ Given the apparently entrenched consumer misperceptions allegedly created by Exxon's challenged claims about the need for and attributes of premium gasoline, a consumer education remedy is justified. The goal of the consumer education campaign, to correct apparently widespread and assuredly costly consumer misperceptions about the benefits of high octane gasoline, is laudable. Unfortunately, I do not believe that this particular campaign is likely to be effective. The Commission has extensive experience with advertising techniques, and that experience should tell us that there is a good deal more to creating a successful advertisement than first meets the eye.⁴ The commercial is uninspired at best, and we have no basis for concluding that it will be effective in conveying the desired message to consumers or in changing their misperceptions. The order does not provide a performance standard or other

means of assuring that this goal will be met.⁵

Although it may be argued that we similarly have no assurance of the effectiveness of the broader injunction that was included in the Notice of Contemplated Relief, we have, at least, the assurance that further deceptive claims covered by the order may result in substantial civil penalties and, therefore, that the company may think twice before running advertisements that might mislead reasonable consumers about the attributes of particular gasoline products. In addition, the injunctive relief would remain in place for 20 years, far longer than the likely effects of a single short-lived advertising campaign like the one proposed. On balance, I believe that the notice order is stronger. Perhaps the fact that Exxon was willing to sign this order rather than the notice order should tell us something.

To the extent that the proposed order is more narrow than the notice order, I respectfully dissent.

[FR Doc. 97-17280 Filed 7-1-97; 8:45 am]

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FEDERAL TRADE COMMISSION

[Dkt. C-3734]

Herb Gordon Auto World, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, the Maryland company and its seven dealerships from obscuring important cost information in fine or unreadable print, from advertising financed purchase or leasing terms that are not available to consumers, and from misrepresenting the terms of financing or leasing any vehicle, the existence of the amount of any balloon payment, or the existence, number or amount of payments for financed purchases. The consent order requires the respondents to make all the disclosures required by the Truth in Lending Act, Regulation Z, Consumer Leasing Act, and Regulation

M, and to ensure that the disclosures are noticeable, readable, and comprehensible to an ordinary customer.

DATES: Complaint and Order issued April 15, 1997.¹

FOR FURTHER INFORMATION CONTACT: David Medine or Carole Reynolds, FTC/S-4429, Washington, DC 20580. (202) 326-3224 or 326-3230.

SUPPLEMENTARY INFORMATION: On Wednesday, February 5, 1997, there was published in the **Federal Register**, 62 FR 5414, a proposed consent agreement with analysis in the Matter of Herb Gordon Auto World, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, *et seq.*; 15 U.S.C. 1667-1667e; 12 CFR 226)

Benjamin I. Berman,

Acting Secretary.

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FEDERAL TRADE COMMISSION

[Docket No. C-3732]

Huling Bros. Chevrolet, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order requires, among other things, the Seattle, Washington, automobile dealerships to correctly calculate the annual percentage rate (APR) for financed purchases in accordance with Regulation Z, and to include in a clear and conspicuous manner all the disclosures required by law when a triggering term is used in an advertisement. The consent order

³The text of the negotiated advertisement is:

Hi, I'm Sherri Stuewer. I run Exxon's Baytown Refinery. We offer three octane grades. Which is right for you? Most cars will run properly on regular octane, so check your owner's manual * * * and stop by Exxon for this helpful pamphlet.

⁴The advertisement required by the order has not been copytyped.

⁵The order could have specified survey methodology and required that the advertisement be revised as needed until the survey results showed that a minimum number or percentage of consumers actually took the intended educational message from the advertising spot. The Commission has taken this approach in the past. RJR Foods, Inc., 83 F.T.C. 7, 16-21 (consent order, July 13, 1973).

¹Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.