

Analysis of Proposed Consent Order to Aid Public Comment

TC Dealership, L.P., also doing business as Planet Hyundai, File No. 152 3096

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing consent order from TC Dealership, L.P., also doing business as Planet Hyundai. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

The respondent is a motor vehicle dealer. According to the FTC’s complaint, the respondent has misrepresented in certain advertisements: (1) vehicle purchase prices; (2) that advertised monthly payment amounts were for vehicle purchases, not leases; and (3) that consumers can pay \$0 at signing to obtain vehicles shown in the advertisements for the advertised monthly amount. The complaint alleges therefore that the representations are false or misleading in violation of Section 5 of the FTC Act.

In addition, the complaint alleges that the respondent violated the Consumer Leasing Act (“CLA”) and Regulation M for failing to disclose or to disclose clearly and conspicuously certain costs and terms when advertising vehicles for lease.

The FTC’s complaint also alleges that the respondent violated the Truth in Lending Act (“TILA”) and Regulation Z by failing to disclose or to disclose clearly and conspicuously certain costs and terms when advertising credit.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. Part I.A of the order prohibits respondent from misrepresenting the cost of: (1) purchasing a vehicle with financing, including but not necessarily limited to, the amount or percentage of the downpayment, the number of payments or period of repayment, the amount of any payment, the annual percentage rate or any other finance rate, and the repayment obligation over the full term of the loan, including any balloon payment; or (2) leasing a vehicle, including but not necessarily limited to, the total amount due at lease inception, the downpayment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments. Part I.B prohibits the respondent from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle.

Part II of the proposed order addresses the CLA allegations. Part II.A prohibits respondent from stating the amount of any payment or that any or no initial payment is required at lease inception without disclosing clearly and conspicuously: (1) that the transaction advertised is a lease; (2) the total amount due at lease signing or delivery; (3) whether or not a security deposit is required; (4) the number, amounts, and timing of scheduled payments; and (5) that an extra charge may be imposed at the end of the lease term. Part II.B prohibits the respondent from violating any provision of the CLA or Regulation M.

Part III of the proposed order addresses the TILA allegations. Part III.A requires the respondent to make all of the disclosures required by TILA and Regulation Z when any of its advertisements state relevant triggering terms. Part III.B requires that if any finance charge is advertised, the rate be stated as an “annual percentage rate” using that term or the abbreviation “APR.” In addition, Part III.C prohibits the respondent from failing to comply in any respect with TILA and Regulation Z.

Part IV of the proposed order requires respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part V requires the respondent provide copies of the order to certain of its personnel. Part VI requires notification to the Commission regarding changes in corporate structure that might affect compliance obligations under the order. Part VII requires respondent to file compliance reports with the Commission. Finally, Part VIII is a provision “sunsetting” the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint or proposed order, or to modify the proposed order’s terms in any way.