

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Maureen K. Ohlhausen
Terrell McSweeney

)	
In the Matter of)	
)	
Jim Koons Management Company, also)	
d/b/a Jim Koons Automotive Companies,)	DOCKET NO. C-4598
a corporation;)	
)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Jim Koons Management Company, also d/b/a Jim Koons Automotive Companies (“Respondent”), has violated provisions of the Federal Trade Commission Act (“FTC Act”), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is a Maryland corporation, with its principal office or place of business at 2000 Chain Bridge Road, Vienna, Virginia 22182. Respondent has marketed, advertised, offered for sale, and sold used motor vehicles.
2. The acts or practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
3. Since at least December 2014, Respondent has disseminated or has caused to be disseminated advertisements promoting the sale of used motor vehicles.
4. Respondent’s advertisements include, but are not necessarily limited to, advertisements and marketing materials posted on the website www.koons.com, excerpts of which are attached as Exhibits A through D. On its website, until at least June 2015, on a page prominently titled, “Koons Used Car Advantage,” and other pages similarly touting the “Koons Used Car Advantage,” it has made claims regarding the advantages of buying from Koons. These marketing materials have included the following representations regarding certified used vehicles:

“Backed by the Koons Used Car Advantage, each vehicle we carry has been carefully selected and tested”

Exhibit A at 1-2.

“The Koons Used Car Advantage Guarantees:

Koons Quality Inspection


Every certified Koons Outlet vehicle must pass a rigorous and extensive quality inspection before it can be sold. Our certified mechanics check all major mechanical and electrical systems and every power accessory as part of our rigid quality controls.”

Exhibit B.

5. Even though it has made the claims set forth in Paragraph 4, Respondent has advertised numerous certified used vehicles subject to open recalls for safety issues on its website.
6. In some instances, these open recalls for safety issues have included recalls for defects that can cause serious injury. For example, Respondent has advertised a used certified vehicle that has an open recall for safety issues for a key ignition switch defect, which can affect engine power, power steering, braking, and airbag deployment, thereby increasing the risk of a crash and occupant injury. Respondent has also advertised a certified used vehicle that has an open recall for safety issues for defects associated with the alternator, which can result in the vehicle unexpectedly shutting down or in an electrical fire. Respondent has also advertised a certified used vehicle that has a rear suspension defect that could result in a fuel leak or fire.
7. In numerous instances, until at least June 2015, when Respondent has advertised certified used vehicles that are subject to open recalls for safety issues making the claims set forth in paragraph 4, it has provided no accompanying clear and conspicuous disclosure of this fact.

8. When consumers search for particular categories of vehicles on Respondent's website, there is no disclosure regarding open recalls for safety issues. An example of such search results includes the following:

Certified Pre-Owned



KOONS USED CAR ADVANTAGE
Quality Used Cars at Low Outlet Prices!

We're Gonna Wow Ya!
FIND OUT MORE

Vehicle Keyword Search **391 Items Matching:** All Listings Select View

Search ▾

All Locations ▾

All Years ▾

All Makes ▾

All Models ▾

All Mileage ▾

All Trms ▾

All Body Styles ▾

All Prices ▾

All Highway MPGs ▾

Location

- Koons Arlington Toyota - Used Car Lot (20)
- Koons Easton Toyota (9)
- Koons Falls Church Ford (9)
- Koons Kia of Baltimore (2)
- Koons Kia of Woodbridge (20)

Sort by Year Make Model Bodystyle Color Mileage WOW Price Drivetrain Page 1 of 16 ▶

2009 Toyota Yaris Hatchback **WOW PRICE: \$8,750***



More ▶


Power Package w/Alloy Wheels (Convenience Package, Power Door Locks, Power Windows, Colored Power Outside Rearview Mirrors, ...)

CLICK HERE TO CONFIRM AVAILABILITY

Drive Line: Front-wheel Drive Exterior Color: Silver
 Transmission: Automatic Interior Color: Dark Charcoal
 Model Code: 1482 Stock #: 0150550A
 Engine: I-4 cyl Bodystyle: Hatchback
 Mileage: 70,407 miles Location: Koons Arlington Toyota - Used Car Lot
 MPG Range: 29/35

KBB Retail Value: \$9,582
Koons Savings: -\$832

2009 Toyota Yaris Hatchback **WOW PRICE: \$9,890***



More ▶

Power Package w/Alloy Wheels (Convenience Package, Power Door Locks, Power Windows, Colored Power Outside Rearview Mirrors, ...)

CLICK HERE TO CONFIRM AVAILABILITY

Drive Line: Front-wheel Drive Exterior Color: Meteorite
 Transmission: Automatic Interior Color: Dark Charcoal
 Model Code: 1482 Stock #: 0150686A
 Engine: I-4 cyl Bodystyle: Hatchback
 Mileage: 57,140 miles Location: Koons Arlington Toyota - Used Car Lot
 MPG Range: 29/35

Exhibit C.

9. When consumers have viewed specific vehicle listings on Respondent's website, there is no disclosure regarding open recalls for safety issues. An example of such a listing includes the following:

The screenshot shows a website interface for Koons Toyota. At the top, there are navigation elements including '0 Saved Cars' and '0 Price Alerts'. A prominent banner reads 'OVER 2 MILLION VEHICLES SOLD!' with the Koons logo. Below this is a navigation menu with options like 'Locations', 'New', 'Pre-Owned', 'Financing', 'Specials', 'Parts', 'Service', 'Collision', and 'Employment'. The main heading is '2009 Toyota Yaris Hatchback'. The listing includes a large photo of the car, a 'WOW PRICE: \$8,750*' callout, and a 'KBB Retail Value: \$9,582' with 'Koons Savings: -\$832'. A 'CLICK HERE TO CONFIRM AVAILABILITY' button is present. To the right, there are buttons for 'Chat Live Now', 'Request More Info', 'Schedule a Test Drive', 'Trade-In Appraisal', and 'Kelley Blue Book'. A 'Fuel Efficiency Rating' box shows 'City MPG: 29' and 'Hwy MPG: 35'. A 'Comments' section contains a detailed description of the car's features and the dealership's 7-day exchange policy. Below the comments is a 'Tech Specs' table with the following data:

Overview	Options & Packages	Tech Specs	
Engine:	I-4 cyl	Stock #:	0150550A
Fuel Type:	regular unleaded	Transmission:	Automatic
Make:	Toyota	MPG Range:	29/35
Drive Line:	Front-wheel Drive	Engine Class:	1.5L
Exterior Color:	Silver	Bodystyle:	Hatchback
Interior Color:	Dark Charcoal	Mileage:	70,407 miles
Model Code:	1482	VIN:	JTDKT803095275080

Additional features on the page include a 'CARFAX 1 OWNER' badge, a 'Location' section for 'Koons Arlington Toyota - Used Car Lot' at 3212 Lee Hwy, Arlington, VA 22207, and a 'Map' showing the location. A 'Similar' section lists other vehicles like a 2008 Toyota RAV4 SUV and a 2010 Toyota FJ Cruiser Base SUV.

Exhibit D.

10. To uncover any information about open recalls for safety issues through Respondent's website, until at least June 2015, a consumer would have to locate the "Carfax" link on the search results page or the vehicle listing page and click on it to access a vehicle history report. Moreover, in numerous instances, even these reports omit information about open recalls for safety issues.

VIOLATION OF THE FEDERAL TRADE COMMISSION ACT

Count I

11. In connection with the marketing, advertising, offering for sale, or sale of used motor vehicles, Respondent has represented, directly or indirectly, expressly or by implication, that used motor vehicles it sells have been subject to rigorous inspection, including for safety issues.
12. In numerous instances in connection with the representation set forth in Paragraph 11, Respondent has failed to disclose, or disclose adequately, that used vehicles it sells are subject to open recalls for safety issues.
13. Respondent's failure to disclose, or disclose adequately, the material information set forth in Paragraph 12 above, in light of the representation described in Paragraph 11, above, constitutes a deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THEREFORE, the Federal Trade Commission, this eighth day of December, 2016, has issued this complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: