

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of General Motors, LLC, File No. 152 3101

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from General Motors, LLC. 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 FTC 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 an automobile manufacturer that sells the cars it manufactures through local franchise dealerships. According to the FTC complaint, the respondent has represented that the used motor vehicles it markets and advertises have been subject to rigorous inspection, including for safety issues, but has failed to disclose that these used motor vehicles are subject to open recalls for safety issues.

For instance, the respondent has posted advertisements on its website that make the following representations about vehicles that purportedly undergo a rigorous 172-point inspection:

We check it, so you don't have to.

172-Point Inspection and Reconditioning

Our 172-Point Vehicle Inspection and Reconditioning Process is conducted only by highly trained technicians and adheres to strict, factory-set standards to ensure that every vehicle’s engine, chassis, and body are in excellent condition. The technicians ensure that everything from the drivetrain to the windshield wipers is in good working order, or they recondition it to our exacting standards. The vehicles are road-tested, put up on a lift for a complete underbody and frame inspection, and then completely checked for any cosmetic flaws.

And we do check it all. From the engine block to the shocks, right down to the floor mats, no major system is overlooked. If it fails a single point, we completely recondition it – or it won’t be Certified.

Even though it makes such claims, the respondent has allegedly advertised on its website numerous Certified Pre Owned (“CPO”) vehicles that were subject to open recalls for safety issues. In numerous instances, when the respondent allegedly advertised CPO vehicles that are subject to open recalls for safety issues, it provided no accompanying clear and conspicuous disclosure of this fact. The proposed complaint alleges that this failure to disclose constitutes a deceptive act or practice under Section 5 of the FTC Act.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices in the future. Part I prohibits the respondent from representing that used motor vehicles it markets or advertises are safe, have been repaired for safety issues, or have been subject to a rigorous inspection unless the used motor vehicles are not subject to any open

recalls for safety issues or the respondent discloses, clearly and conspicuously, in close proximity to such representation, any material qualifying information related to open recalls for safety issues. Part II is a provision that orders the respondent to notify every consumer who purchased a CPO used motor vehicle from a GM dealership between July 1, 2013 and the date of entry of the Order, and whose vehicle has not had the open recall repaired, that (1) the consumer's vehicle has been recalled for safety issues that have not been repaired, and (2) how to get the vehicle repaired.

Parts III through VII of the proposed order are reporting and compliance provisions. Part III requires the respondent to maintain for five years, and produce to the Commission upon demand, any relevant ads and associated documentary material. Part IV is an order distribution provision that requires the respondent to provide the Order to certain current and future principals, officers, and directors, and to all current employees, agents, and representatives having responsibilities with respect to the subject matter of the Order. Part V requires the respondent to notify the Commission of corporate changes that may affect compliance obligations. Part VI requires the respondent to submit a compliance report to the Commission 60 days after entry of the order, and also additional compliance reports within 10 business days of a written request by the Commission. Part VII "sunsets" the order after twenty years, with certain exceptions.

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