UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION

COMMISSIONERS:

Maureen K. Ohlhausen, Acting Chairman Terrell McSweeny

In the Matter of

CarMax, Inc., a corporation.

DOCKET NO. C-4605

COMPLAINT

The Federal Trade Commission, having reason to believe that CarMax, Inc., a corporation ("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 Virginia corporation with its principal office or place of business at 12800 Tuckahoe Creek Parkway, Richmond, VA 23238. 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. Respondent has disseminated or has caused to be disseminated advertisements promoting the sale of used motor vehicles.
- 4. Respondent's advertisements have included, but are not necessarily limited to, advertisements and marketing materials posted on the website <u>www.carmax.com</u>, excerpts of which are attached as Exhibits A through D. Until at least November 2014, on its website, including on pages prominently titled, "Why CARMAX?" and "CarMax Quality Certified," it has made claims regarding the rigorous inspections CarMax completes on every used vehicle it sells. These marketing materials have included the following representations:

"125+ Point Inspection

Experienced technicians put every vehicle through a rigorous Certified Quality Inspection – over 125 points must check out before it meets our high standards."

"No cars with flood or frame damage

Not every car that looks good is good. We're confident in the safety and reliability of our vehicles because our technicians are trained to detect those with hidden damage."

Every used car is renewed

CarMax cars undergo (on average) 12 hours of renewing—sandwiched between two meticulous inspections—for a car that doesn't look or feel used."

Exhibit A at 1.

"Every car we sell is carefully inspected and reconditioned to the best condition possible – in fact, we spend over 12 hours, on average, on each used car."

"We check more than 125 points" The website then lists several categories, including engine, steering system, and brake system.

Exhibit B at 1-3.



Exhibit C.

"Our top 10 most frequently asked questions...

1. Are all of your used cars inspected?

Yes. All of our used cars are CarMax Quality Certified, which means every vehicle on our lot must pass a 125+ point Certified Quality Inspection by one of

our technicians. This comprehensive and detailed inspection includes an investigation to ensure that the car does not have flood or frame damage."

Exhibit D.

- 5. Respondent's advertisements also have included a television commercial, which is attached as Exhibits E (video), F (transcript), and G (screenshot). The visual component of this commercial has depicted a vehicle undergoing an inspection and "reconditioning" by a team of CarMax employees – as many as six employees simultaneously. The commercial has further depicted the employees inspecting and fixing a wide variety of components of the vehicle, including underneath the front hood, underneath the body of the car, and within the interior of the car. As these images are displayed, an audio voiceover has made the following representations: "To the car that just survived hours of reconditioning, sorry, we know that was a bit invasive. But if we didn't hoist you up in the air and poke around a little, we wouldn't be CarMax. We expect a lot from our cars and we need to make sure that you'll make the grade. ... Oh, just relax. It's going to be a long time before anybody peeks at your undercarriage again." For only approximately three seconds of the thirty second commercial, in tiny, blurry white font at the bottom of the screen, the commercial displays text stating that "Some CarMax vehicles are subject to open safety recalls. See carmax.com for details." Exhibits E, F, and G.
- 6. Even though it has made the claims set forth in Paragraphs 4 and 5, Respondent has regularly advertised vehicles subject to open recalls for safety issues on its website.
- 7. In some instances, these open recalls for safety issues have included recalls for defects that can cause serious injury. For example, at least until November 2014, Respondent advertised used vehicles with open recalls 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, at least until November 2014, also advertised used vehicles with open recalls for safety issues for defects with airbags, thereby increasing the risk of air bags rupturing and striking occupants with metal fragments upon deployment.
- 8. In numerous instances, when Respondent has advertised used vehicles subject to open recalls for safety issues, making the claims set forth in Paragraphs 4 and 5, it provided no accompanying clear and conspicuous disclosure of this fact.

VIOLATION OF THE FEDERAL TRADE COMMISSION ACT

Count I

9. 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.

- 10. In numerous instances in connection with the representation set forth in Paragraph 9, Respondent has failed to disclose, or disclose adequately, that used vehicles it sells are subject to open recalls for safety issues.
- 11. Respondent's failure to disclose, or disclose adequately, the material information set forth in Paragraph 10 above, in light of the representation described in Paragraph 9, 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 twenty-second day of March, 2017, has issued this complaint against respondent.

By the Commission.

Donald S. Clark Secretary

SEAL:

Exhibit A



Why CarMax?

Quality, value, service, and a company you can trust

15 great reasons to start at CarMax

Low, no-haggle prices

Get a fair price up front without spending hours negotiating for it.

Flexible financing options



We work with a variety of financial institutions to provide the best possible financing. If approved, you see your offers when we do—just choose the one that's right for you. If you find a better option, you have three business days to refinance, penalty- and interest-free.

Thousands of cars priced under \$12,000

With over 35,000 cars in stock across the country, you're sure to find a car that fits your needs and budget. Most can be transferred to a store near you, often for free!

Our Sales Consultants are paid the same

Fixed commissions (except in CA) put their best interests in line with yours, so they can focus on helping to find the car that best fits your needs.

125+ point inspection

Experienced technicians put every vehicle through a rigorous Certified Quality Inspection—over 125 points must check out before it meets our high standards.

No cars with flood or frame damage

Not every car that looks good is good. We're confident in the safety and reliability of our vehicles because our technicians are trained to detect those with hidden damage.

Every used car is renewed

CarMax cars undergo (on average) 12 hours of renewing—sandwiched between two meticulous inspections—for a car that doesn't look or feel used.

Free Full Vehicle History Report

Every used car we sell comes with one, available online or from your Sales Consultant.

Clean Title Guarantee

We guarantee every car to have accurate mileage and not ever to have been designated salvaged or flood-damaged—or we'll buy it back.

5-Day Money-Back Guarantee

If you change your mind for any reason, you can return a car hassle-free within 5 days.

(See your Sales Consultant for written details.)

Limited 30-Day Warranty (60-Day in CT, 90-Day in MA and NY)

Repairs made under warranty cost you nothing—parts and labor are included. (See your Sales Consultant for written details.) Enjoy added security with purchase of an available MaxCare Extended Service Plan —you can choose one that meets your driving needs, and include the cost in your financing!

Nearly every make and model all in one place

Don't drive all over town to find the vehicle you need. Almost all of our stores carry over 30 top brands—from Acura to Volvo.

We'll buy your car even if you don't buy ours®

We'll buy any car we appraise, regardless of make, mileage, or condition. And your offer will be the same, whether you buy from us or not. Bring in your car today! Learn more about appraisals

Experience that's measured in millions

That's millions, as in over 4,000,000 cars sold and over 16,000,000 appraised. There's simply no substitute for what we've learned about cars and what you want when it comes to buying and selling cars. That's why we're America's #1 used car retailer.

Learn more about CarMax



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[-] Website Feedback

Exhibit B

CarMax Quality Certified

CarMax quality is knowing that you can depend on your car, day after day, year after year. Every car we sell is carefully inspected and reconditioned to the best condition possible in fact, we spend over 12 hours, on average, on each used car. To give our customers even more confidence in our cars, we offer a 5-Day Money-Back Guarantee and a Limited 30-Day Warranty (60-Day in CT, 90-Day in MA and NY).* We believe in our cars, and we think you will, too.



*See store for written details



We check more than 125 points, including:

1. Cooling System	8. Steering System		
1. Cooling System	o. Steering System		
Radiator	Tie Rods		
Coolant	Idler Arms		
Radiator/Heater Hoses	Center Links		
Recovery System	Pump		
Cooling Fan	Hoses		
Belts	Lines		
Top	Shaft		
2. Lighting System	Couplings		
Brake Lights	Alignment		
Turn Signal Lights	Top		
Dash Lights	9. Body/Interior		
Instrument Lights	Carpet		
Back-Up Lights	Upholstery		

2014			Carmax
	Hazard Lights		Trim
	Side Marker Lights		Hood Latches
	Hood Lights		Trunk Release
	Trunk Lights		Fuel Door Release
	Courtesy Lights		Paint
	Reading Lights	<u>Tc</u>	<u>q</u>
	Glove Box Lights	10.	Accessories
	Tag Lights		Clock
<u>T</u> (<u>qc</u>		Sunroof
3. H	leating & A/C System		Power Antenna
	Compressor		Rear Defroster
	Clutch		Rear Defogger
	Condenser		Radio
	Evaporator		Tape/CD Player
	Hoses		Power Seats
	Lines		Warning Chimes
	Refrigerant Level		Cigarette Lighter
	Cooling Fan		Cruise Control
<u>T</u> (<u>qc</u>		Trip Computer
4. E	lectrical System		Electronic Instrument Cluster
	Alternator/Regulator		Tachometer
	Starter	<u>Tc</u>	<u>q</u>
	Battery	11.	Miscellaneous
	Gauges		Odometer
	Horn		Tilt, Lock & Telescopic
	Windshield Wiper		Steering Wheel
	Windshield Washer		Spare Tire
<u>T</u> (<u>qc</u>		Jack
5. Engine			Door Locks
	Engine Performance		Trunk Locks
	Emission Controls		Remote Control
	Emission Filters	_	Locks
	Vacuum Hoses	<u>Tc</u>	
	Oil Pressure	12.	Drive Axles
	Motor Mounts		Constant Velocity Joints

Exhibit B, Page 2

CarMax

- Constant Velocity Boots
- Spark Plugs

Exhaust

- Secondary Ignition System
- Catalytic Converter

<u> Top</u>

<u> Top</u>

6. Transmission 13. Fuel System Fluid Shift Points Slipping **Transmission Mounts** Noise Top **Clutch Operation** 4WD Operation 14. Brake System Leakage Hoses Lines Modulator Linkages Top 7. Suspension System Frame Integrity **Ball Joints** Tires Wheels Springs **Torsion Bars** Sway Bar Links Top MacPherson Struts <u>Top</u>

Privacy policy | Terms of Use

- Website Feedback

Exhibit C



Exhibit D

	Find a Car	Sell Us	Your Car	Resear	rch Fi	inancing	Why CarMa	x Find a Store
CAR <u>max</u>							1	
The way car buying should be.	611.000	_						s Your Car! Iule an appraisal
Si	earch		yCarMax		Your Near			
		<u>Sign in</u>	<u>Register</u>		<u>Change</u> <u>C</u>	<u>Contact Us</u>	<u>Map</u>	+ <u>Website Feedback</u>
Company Information	At	oout CarMax	Careers	Diversity	CarMax F	oundation	Investor Rela	tions Pressroom

Our top 10 most frequently asked questions

- 1. Are all of your used cars inspected?
- 2. What are my payment options?
- 3. How do I contact someone at CarMax?
- 4. Do you transfer used cars between stores? What about new cars?
- 5. Can I buy a car online?
- 6. Can I be notified when a car I'm interested in is added to your inventory?
- 7. Can I reserve a car online until I can come in to see it?
- 8. Do your used cars come with warranties?
- 9. Some of the cars in my results are marked with a "V" in a circle. What does this mean?
- 10. Do you offer financing?

1. Are all of your used cars inspected?

Yes. All of our used cars are <u>CarMax Quality Certified</u>, which means every vehicle on our lot must pass a 125+ point <u>Certified Quality Inspection</u> by one of our technicians. This comprehensive and detailed inspection includes an investigation to ensure that the car does not have flood or frame damage. In addition, we back every one of our cars with a <u>5-Day Money-Back Guarantee</u>* and a <u>Limited 30-Day Warranty (60-Day in CT, 90-Day in MA and NY)</u>.*

* See store for written details

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2. What are my payment options?

Your payment options will vary depending on the company who finances your car. For information on your payment options, please speak with a representative of your finance company.

If you financed your car through CarMax Auto Finance, you have access to a variety of payment options. In all cases, you receive credit on the date we receive your payment (for late charge and finance charge purposes), although it may take 1-2 business days for your payment to post to your account.

1. Pay online

By registering with <u>MyCarMax</u>, you can manage your CarMax Auto Finance payments with ease. You can make a single payment or set up recurring payments.

Pay Now through MyCarMax

2. Payments by phone

Call us at 800-925-3612 to make a one-time payment on our automated system. You will be provided a confirmation number with your payment.

About CarMax

- Our culture and values
- Dimeline
- > Awards
- D Top 10 FAQ

More questions, more answers

Got a question that's not answered here? We have several other FAQs you can check.

⊳ <u>FAQ</u>

3. By postal mail

Send payments to: CarMax Auto Finance P.O. Box 3174 Milwaukee, WI 53201-3174

Payoffs should be mailed to: CarMax Auto Finance Attn: Payoff Department P.O. Box 440609 Kennesaw, GA 30160

We recommend mailing your payment 7-10 days before your due date to ensure that we receive it on time.

4. Western Union/Moneygram®

Western Union

You may go to any Western Union location to have your payment sent to us. Call 1-800-238-5772 to find the nearest location. You will need to reference our city code, "CarMax," along with the state code of "Georgia." Please be sure to reference your account number to ensure proper posting. We typically receive and post these payments to your account within one full business day. Our business days are Monday-Friday. Western Union may charge a fee for this service.

MoneyGram ExpressPayments® Service

You may go to any MoneyGram retail agent location to have your payment sent to us. Call 1-800-MoneyGram to find the nearest location. At the agent location, please provide the clerk with the following; Receive Code "4645," company name "CarMax," city "Kennesaw," state "GA," and your account number to ensure proper posting. We typically receive and post these payments to your account within one full business day. Our business days are Monday-Friday. MoneyGram may charge a fee for this service.

For more information about CAF payment options, call us at 1-800-925-3612.

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3. How do I contact someone at CarMax?

To get an immediate answer to your question, start at your nearest CarMax Superstore.

If the store is unable to resolve your concern, use the <u>Corporate Contact Form</u>, or call us at (800) 519-1511, Mon-Fri, 8:30 am to 8:00 pm EST.

Send written customer comments to: CarMax Attn: Customer Relations 12800 Tuckahoe Creek Parkway Richmond, VA 23238

CarMax Auto Finance

Submit questions about your existing account through the <u>CarMax Auto Finance Contact</u> <u>Form</u> (note: please do not submit potentially sensitive information, such as your account number or social security number, through the website).

You can also contact CAF by phone at (800) 925-3612, or write to: CarMax Auto Finance Attn: Customer Service Department P.O. Box 440609 Kennesaw, GA 30160

For questions about financing a vehicle, please contact your nearest CarMax store.

Website questions

Submit all questions or concerns about carmax.com[®] through our <u>Web Feedback Form</u>. Please note, we can only answer technical questions related to the CarMax website through the following link. For information on specific vehicles or CarMax policies, please contact your local CarMax store.

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4. Do you transfer used cars between stores? What about new cars?

Yes. We can transfer most used cars to the store nearest you from another store. In some cases, a transfer fee will apply. We are unable to transfer new vehicles, Toyota Certified Used vehicles in Laurel, Maryland or Kenosha, Wisconsin, and any used vehicle identified as nontransferable. Learn more about <u>transferring vehicles</u>.

5. Can I buy a car online?

Although you cannot complete a car-buying transaction online, you can begin the process. Each car page includes several links to help you get started, including "Request more information," "Schedule a test drive," and "Request financing information." Clicking these links allows you to submit a request to one of the dedicated Internet Sales Consultants at your nearest store. Of course, you are also welcome to call your nearest store; the phone number and address will be listed at the bottom of every page in our website.

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6. Can I be notified when a car I'm interested in is added to your inventory? Yes. All you have to do is click the "Create alert" link at the top of the search results page. You'll then have the chance to specify exactly what type of car you're searching for and give us your email address so we can notify you when one becomes available.

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7. Can I reserve a car online until I can come in to see it?

Yes. You can hold most of our cars for a specific appointment time, online or by phone. Choose the "Hold This Car" option on the car's page, then choose the date and time you'd like to come in. Once your car is reserved, it will be no longer be available for sale to anyone but you until after your appointment.

△ <u>Top</u>

8. Do your used cars come with warranties?

All of our used cars are <u>CarMax Quality Certified</u>, which means every CarMax used car comes with a <u>Limited 30-Day Warranty (60-Day in CT, 90-Day in MA and NY)*</u>. Please see your local CarMax store for written details. We also offer an optional MaxCare[®] extended service plan for all our used vehicles. Learn more about <u>MaxCare extended</u> <u>service plans</u>.

* See store for written details

____<u>Тор</u>

9. Some of the cars in my results are marked with a $"\mbox{V"}$ in a circle. What does this mean?

The "V" stands for ValuMax.[®] ValuMax vehicles are thoroughly inspected and reconditioned older vehicles, 6+ years old and/or 60,000+ miles. They all offer the CarMax <u>5-Day Money-Back Guarantee</u>* and <u>Limited 30-Day Warranty (60-Day in CT, 90-Day in MA and NY</u>),* and are chosen for their exceptional value.

* See store for written details

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CarMax FAQ



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[+] Webs te Feedback

Exhibit E

[Video File]

Exhibit F

1		OFFICIAL TRANSCRIPT PROCEEDING
2		FEDERAL TRADE COMMISSION
3		
4		
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7		
8	MATTER NO.	1423202
9		
10		
11	TITLE	CARMAX, INC.
12		
13		
14	DATE	RECORDED: DECEMBER 22, 2015
15		TRANSCRIBED: JANUARY 6, 2016
16		
17		
18	PAGES	1 THROUGH 5
19		
20		
21		
22		
23		
24		CARMAX TV ADVERTISEMENT
25		PEVM CARMAX AD 2015-12-22

1	FEDERAL TRADE COMMISSION	
2	I N D E X	
3		
4	RECORDING:	PAGE:
5	CarMax TV Advertisement	4
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1	FEDERAL T	RADE COMMISSION
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3	In the Matter of:)
4	CarMax, Inc.) Matter No. 1423202
5)
6)
7		December 22, 2015
8		
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10		
11	The following tr	canscript was produced from a
12	digital recording provided	l to For The Record, Inc. on
13	January 5, 2016.	
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1	PROCEEDINGS
2	
3	CARMAX TV ADVERTISEMENT
4	ANNOUNCER: To the car that just survived hours
5	of reconditioning, sorry, we know that was a bit
6	invasive. But if we didn't hoist you up in the air and
7	poke around a little, we wouldn't be CarMax. We expect a
8	lot from our cars and we need to make sure that you'll
9	make the grade. You have to admit you're looking awfully
10	nice. Oh, just relax. It's going to be a long time
11	before anybody peaks at your undercarriage again.
12	(End of advertisement.)
13	(The recording was concluded.)
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1
           CERTIFICATION OF TYPIST
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3
      MATTER NUMBER: 1423202
4
      CASE TITLE: CARMAX, INC.
5
      TAPING DATE: DECEMBER 22, 2015
б
      TRANSCRIPTION DATE: JANUARY 6, 2016
7
           I HEREBY CERTIFY that the transcript contained
8
9
      herein is a full and accurate transcript of the tapes
10
      transcribed by me on the above cause before the FEDERAL
      TRADE COMMISSION to the best of my knowledge and belief.
11
12
13
                              DATED: JANUARY 6, 2016
14
15
16
                                 ELIZABETH M. FARRELL
17
18
        CERTIFICATION OF PROOFREADER
19
20
           I HEREBY CERTIFY that I proofread the transcript for
21
      accuracy in spelling, hyphenation, punctuation and
22
      format.
23
24
25
                                     SARA J. VANCE
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Exhibit G

Video Image Screenshot With Text Disclaimer:

