



Office of the Chairman

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**Concurring Statement of Chairman Andrew N. Ferguson
Joined by Commissioner Mark R. Meador
Lindsay Automotive Grp.
Matter No. X250021**

April 2, 2026

Today, the Commission and the State of Maryland filed a proposed order in the United States District Court for the Eastern District of Virginia to resolve claims that Lindsay Automotive Defendants¹ and Individual Defendants² (collectively, Defendants) violated Section 5 of the Federal Trade Commission Act³ and the Maryland Consumer Protection Act.⁴ Specifically, the Commission and Maryland alleged: Defendants “tricked consumers into visiting dealerships by touting low prices in online advertisements” that Defendants “d[id] not honor.”⁵ “Instead, in numerous instances, [Defendants] charge[d] consumers thousands of dollars more than the advertised price,” “often falsely claim[ed] that consumers must pay additional fees to purchase a vehicle if they do not finance through [Defendants], for which [Defendants] receive[d] monetary ‘kickbacks,’” and “tack[ed] fees for unwanted add-ons ... without consumers’ consent or after falsely telling consumers those add-ons are required.”⁶ And as the complaint alleged, Defendants’ misconduct was so pervasive that they, as a result, “overcharged consumers by millions of dollars.”⁷

¹ Lindsay Automotive Defendants are Lindsay Chevrolet, LLC (Lindsay Chevrolet), Lindsay Motors, LLC (Lindsay CDJR), Lindsay Ford, LLC (Lindsay Ford), all Virginia or Maryland limited liability companies, and Lindsay Management Company, LLC (Lindsay Management), a Virginia limited liability company providing operational services to Lindsay dealerships out of Alexandria, Virginia. Compl. ¶¶ 6–11, *FTC v. Lindsay Chevrolet, LLC*, No 1:24-cv-02362 (E.D. Va. Dec. 27, 2024), Dkt. No. 1.

² Individual Defendants are Michael Lindsay, John Smallwood, and Paul Smyth. *Id.* ¶¶ 13–16. Michael Lindsay is part-owner and president of Lindsay Defendants. *Id.* ¶ 13. John Smallwood is the Chief Operating Officer of Lindsay Management, with authority over the operations of the dealerships. *Id.* ¶ 14. Paul Smyth was the general manager of the Lindsay Defendants dealerships. *Id.* ¶ 15. During the relevant time period, the Commission alleged all three oversaw day-to-day management over the Lindsay Defendants dealerships, and the evidence shows that all three knew or were involved in fielding consumer complaints about the allegedly deceptive advertising and unlawful conduct. *Id.* ¶¶ 13–16.

³ *Id.* ¶¶ 55–72.

⁴ *Id.* ¶¶ 73–87.

⁵ *Id.* ¶ 19.

⁶ *Ibid.*

⁷ *Id.* (alleging that “the overwhelming majority of consumers who purchase a vehicle at a Lindsay dealership pay more than the advertised price,” and that according to a survey of Defendants’ consumers, “68% [of consumers] were charged for at least one add-on they did not agree to buy or were falsely told was required”).



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To resolve those allegations, the proposed order contains three terms of injunctive relief. *First*, it prohibits Defendants from misrepresenting any material fact in connection with their car dealership business.⁸ *Second*, it requires Defendants disclose the total price of a motor vehicle they sell, offer to sell, or advertise “[c]learly and [c]onspicuously, [and] as the most prominently displayed item in any visual disclosure.”⁹ *Third*, it requires Defendants obtain consumers’ express and informed consent before charging a consumer.¹⁰

Today’s order accordingly ensures that, going forward, Defendants cannot misrepresent to consumers the total price consumers will pay to purchase cars from Defendants or engage in other misconduct, as alleged in the complaint. If Defendants fail to comply with the order, the Commission can return to the court for contempt proceedings. I applaud staff for their effective work on this case, which promotes price transparency to everyday American consumers, and thus affordability. As I have explained, ensuring price transparency is at the core of consumer protection.¹¹ Without it, consumers are hit where it truly hurts: their wallets.¹² And the money consumers lose due to being kept in the dark or deceived about prices is less money to make other ends meet.

The proposed order also provides relief for many injured consumers. It requires Defendants pay restitution¹³ to certain consumers¹⁴ and a penalty of \$3.1 million paid to Maryland which will use it for further protection or education of consumers “or any other lawful public purpose.”¹⁵ That consumer redress will help remedy consumers who suffered the misconduct alleged in this complaint and the civil penalties will punish Defendants for the same. And that relief can also prevent other consumers from falling prey to other potentially deceptive or unfair business tactics.

⁸ Stip. Order § I, *FTC v. Lindsay Chevrolet, LLC*, No. 1:24-cv-02362 (E.D. Va. Apr. 2, 2026), Dkt. No. 227 (Order).

⁹ *Id.* § II (including circumstances in which Defendants’ obligation applies when “a third party also advertises that motor vehicle”).

¹⁰ *Id.* § III.

¹¹ Remarks of Chairman Andrew N. Ferguson at 8, Meeting of the National Automobile Dealers Association (Sept. 10, 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/ferguson-national-automobile-dealers-association-remarks_0.pdf (NADA Remarks) (“One of my enforcement priorities is ensuring that advertised pricing is transparent and honest” because, for example, “the FTC frequently receives consumer complaints alleging that they saw one price advertised on the internet . . . with another price then offered” in person.).

¹² *Id.* (explaining that without price transparency, consumers face the harm of “*monetary loss*,” “paying *more* than they would have otherwise paid had they not been subject to the deceptive or unfair conduct of the dealership”).

¹³ Order § IV.

¹⁴ Included are consumers who either purchased or leased a vehicle from defendants’ Maryland dealership, *id.* § IV.D, or who are Maryland residents who traveled to defendants’ Virginia dealerships, *id.* § IV.E.

¹⁵ *Id.* § V.



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Notwithstanding the consumer redress contained in the proposed order, I would be remiss not to address the fact that this order contains restitution administered by, and a civil penalty paid to, our state co-plaintiff. For many years, the Commission relied on Section 13(b) of the FTC Act for the authority to obtain “equitable monetary relief” for consumers who were injured by violations of Section 5.¹⁶ That Section 13(b) mechanism accounted for the overwhelming majority of consumer redress that the FTC obtained in fraud cases from the 1980s until 2021.¹⁷ The Commission, however, was wrong; Section 13(b) does not authorize the Commission to obtain money for consumers for violations of Section 5. It authorizes “injunction[s],” and an “injunction” does not usually involve the payment of money.¹⁸ A unanimous Supreme Court recognized as much in *AMG Capital Management v. FTC*.¹⁹ The Commission therefore generally lacks statutory authority to obtain monetary relief for consumers for fraud and other misconduct that violates Section 5 (as opposed to a Commission rule). Even where, as here, the misconduct is egregious, the Commission has no authority to restore to consumers the money wrongfully taken from them in violation of Section 5.

Congress can fix that problem. It can enact legislation authorizing the FTC to obtain equitable monetary redress for consumers along the same lines that it did many times with great success before *AMG Capital Management*. By doing so, Congress would give the Commission one of the most powerful anti-fraud tools available—restoring to injured consumers what was taken from them by deceit, omission, or unfair conduct, as well as requiring wrongdoers to return the profits they obtained by breaking the law.

¹⁶ E.g., *AMG Cap. Mgmt., LLC v. FTC*, 593 U.S. 67, 70–71 (2021) (explaining that due “to Circuit precedent ... interpreting § 13(b) as empowering district courts to grant ancillary relief necessary to accomplish complete justice, including restitution,” the Ninth Circuit rejected the argument that § 13(b) does not authorize monetary relief granted by the district court for the alleged Section 5 violation).

¹⁷ See generally J. Howard Beals III & Timothy J. Muris, *Striking the Proper Balance: Redress under Section 13(b) of the FTC Act*, 79 *Antitrust L.J.* 1 (2013).

¹⁸ 15 U.S.C. § 53(b).

¹⁹ 593 U.S. 67 (concluding that Section 13(b) does not authorize courts to award monetary relief in Commission enforcement actions).