

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Fowlerville Ford, Inc., File No. 132 3023

The Federal Trade Commission (“FTC”) has accepted, subject to final approval, an agreement containing a consent order from Fowlerville Ford, Inc. 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 a motor vehicle dealer. According to the FTC complaint, respondent has advertised that consumers have won a prize worth between \$1,000 and \$25,000. The complaint alleges that, in fact, consumers have not won a prize worth between \$1,000 and \$25,000. The complaint alleges therefore that the respondent’s representations are false or misleading in violation of Section 5 of the FTC Act. In addition, the complaint alleges a violation of the Truth in Lending Act (“TILA”) and its implementing Regulation Z for failing to disclose or disclose adequately terms of certain financing offered, despite the respondent’s use of certain triggering terms in the advertisements.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices in the future. Part I.A prohibits the respondent from misrepresenting the material terms of any prize, sweepstakes, giveaway, or other incentive, including whether a consumer has won a prize, sweepstakes, giveaway, or other incentive, and the nature, value, or amount of a prize, sweepstakes, giveaway, or other incentive 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 TILA allegation. It requires that the respondent clearly and conspicuously make all of the disclosures required by TILA and Regulation Z if it states relevant triggering terms, including the monthly financing payment. In addition, Part II prohibits any other violation of TILA and Regulation Z.

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