

The complaint against respondents Frank Bommarito also alleges that their credit advertisements have represented that consumers can purchase the advertised vehicles at the terms prominently stated in the ad, such as the monthly payment, annual percentage rate ("APR"), and amount stated as "down." This representation is false, according to the compliant, because consumers must also pay a final balloon payment of several thousand dollars to purchase the advertised vehicles. These practices, according to the complaints, constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act.

The proposed consent orders contain provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future. Specifically, the proposed orders prohibit respondents, in any lease advertisement, from misrepresenting the costs of leasing a vehicle, including but not limited to the total amount due at lease inception. The proposed orders also prohibit respondents, in any lease advertisement, from stating any amount due at lease inception or that no such amount is required, not including a statement of the periodic payment, unless the advertisement also states with "equal prominence" the total amount due at lease inception. This "prominence" requirement for lease inception fees also is found in the Board's 1996 and 1997 revisions to Regulation M.

The proposed orders also require respondents, in any advertisement that states the amount of any payment, the number of required payments, or that any or no downpayment or other payment is required at consummation of the lease, to also state clearly and conspicuously all of the terms required by Regulation M, as applicable and as follows: that the transaction advertised is a lease; the total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease, or that no such payments are required; the number, amounts, due dates or periods of scheduled payments, and the total of such payments under the lease; a statement of whether or not the lessees has the option to purchase the leased property and at what price and time (the method of determining the price may be substituted for disclosure of the price); and a statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term and a statement that the lessee shall be liable for the difference, if any, between the

estimated value of the leased property and its realized value at the end of the lease term if the lessee has such liability. For all lease advertisements, the proposed orders permit respondents to comply with this provision by utilizing applicable provisions of the revised CLA and the 1996 and 1997 revisions to Regulation M. The orders set out for each media which provisions of such revised laws are applicable.

The proposed order for respondents Lou Fusz also prohibits these respondents from stating specific lease terms unless respondents usually and customarily lease or will lease a vehicle at those terms. This proposed order also prohibits respondents Lou Fusz from misrepresenting the type of transaction advertised, including but not limited to the fact that the offer is for a one payment lease.

The proposed order for respondents Beuckman also prohibits these respondents from stating the term "RCL" without disclosing clearly and conspicuously that such term refers to a lease transaction.

With regard to respondents' credit advertisements, the proposed orders require that any advertisement that states the amount or percentage of any downpayment, the number of payments, the amount of any payment, or the amount of any finance charge must also state clearly and conspicuously all of the terms required by the TILA and Regulation Z, as applicable and as follows: the amount or percentage of the downpayment; the terms of repayment; and the annual percentage rate, using that term or the abbreviation "APR." If the APR may be increased after consummation of the credit transaction, that fact must also be disclosed. The proposed order for respondents Suntrup also prohibits these respondents from stating a rate of finance charge without stating the rate as an "annual percentage rate" or the abbreviation "APR."

The proposed order for respondents Frank Bommarito prohibits these respondents, in any credit advertisement, from misrepresenting the terms of financing a vehicle, including but not limited to the amount of any balloon payment. This proposed order also prohibits respondents Frank Bommarito from stating the amount of any payment or the amount or percentage of any downpayment or amount "down" if any advertisement unless these respondents also state the amount of any final balloon payment prominently and in close proximity to the most prominent of the above statements.

The proposed orders also prohibit all respondents from failing to comply in

any other respect with the CLA and Regulation M and the TILA and Regulation Z. The proposed order permits respondents to comply with other requirements of existing Regulation M, 12 C.F.R. § 213 by utilizing the 1996 and 1997 revisions to Regulation M, as amended.

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 97-27228 Filed 10-14-97; 8:45 am]

BILLING CODE 6750-01-M

## FEDERAL TRADE COMMISSION

[File Nos. 9723141 and 9523098]

### Volkswagen of America, Inc., and Toyota Motor Sales, U.S.A., Inc.; Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreements in these matters settle alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaints that accompany the consent agreements and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

**DATES:** Comments must be received on or before December 15, 1997.

**ADDRESSES:** Comment should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** David Medine, Federal Trade Commission, S-4429, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580. (202) 326-3224.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the

accompanying complaints. Electronic copies of the full text of the consent agreement packages can be obtained from the Commission Actions section of the FTC Home Page (for October 7, 1997), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." Paper copies can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

#### **Analysis of Proposed Consent Orders To Aid Public Comment**

The Federal Trade Commission has accepted separate agreements, subject to final approval, to proposed consent orders from Toyota Motor Sales, U.S.A., Inc. ("Toyota") and Volkswagen of America, Inc. ("Volkswagen") (collectively referred to as "respondents").

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

The complaints allege that the respondents' automobile lease advertisements violate the Federal Trade Commission Act ("FTC Act"), the Consumer Leasing Act ("CLA"), and Regulation M. Section 5 of the FTC Act prohibits false, misleading, or deceptive representations or omissions of material information in advertisements. In addition, Congress established statutory disclosure requirements for lease advertising under the CLA and directed the Federal Reserve Board ("Board") to promulgate regulations implementing this statute—Regulation M. See 15 U.S.C. 1667-1667e; 12 CFR part 213. On September 30, 1996, Congress passed revisions to the CLA that became optionally effective immediately and that have been implemented through the Board's recent revisions to Regulation M. See Title II, section 2605 of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, Pub. L. 104-208, 110 Stat. 3009, 3009-473 (Sept. 30, 1996) ("revised CLA"); 61 FR 52,246 (October 7, 1996), 62 FR 15,364 (April

1, 1997), and 62 FR 16,053 (April 4, 1997) (together "revised Regulation M") (to be codified at 12 CFR 213), as amended.

The complaints against Toyota and Volkswagen allege that respondents' automobile lease advertisements represent that a particular amount stated as "down" or "due at lease signing" is the total amount consumers must pay at the initiation of a lease agreement to lease the advertised vehicles. This representation is false, according to the complaints, because consumers must pay additional fees beyond the amount stated as "down" or "due at lease signing," such as a capitalized cost reduction, security deposit, first month's payment and/or an acquisition fee, to lease the advertised vehicles. The complaints also allege that respondents fail to disclose adequately lease inception fees, often highlighting only a low monthly payment, in their advertisements. These practices, according to the complaints, constitute deceptive acts or practices in violation of section 5(a) of the FTC Act.

The complaints further allege that respondents' lease advertisements fail to disclose the terms of the offered lease in a clear and conspicuous manner, as required by the CLA and Regulation M. According to the complaints, respondents' television lease disclosures are not clear and conspicuous because they appear on the screen in small type, against a background of similar shade, for a very short duration, and/or over a moving background. The Toyota complaint also alleges that Toyota's fine print disclosures of lease terms in direct mail advertisements are not clear and conspicuous. The complaints, therefore, allege that respondents' failure to disclose lease terms in a clear and conspicuous manner violates the CLA and Regulation M. These alleged practices would also violate the advertising disclosure requirements of the revised CLA and the revised Regulation M.

The proposed consent orders contain provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future. Specifically, subparagraph I.A. of the proposed orders prohibits respondents, in any lease advertisement, from misrepresenting the total amount due at lease signing or delivery, the amount down, and/or the downpayment, capitalized cost reduction, or other amount that reduces the capitalized cost of the vehicle (or that no such amount is required). Subparagraph I.B. of the proposed orders also prohibits respondents, in any lease advertisement,

from making any reference to any charge that is part of the total amount due at lease signing or delivery or that no such amount is due, not including a statement of the periodic payment, more prominently than the disclosure of the total amount due at lease inception. The "prominence" requirement prohibits the companies from running deceptive advertisements that highlight low amounts "down," with inadequate disclosures of actual total inception fees. This "prominence" requirement for lease inception fees also is found in the revised Regulation M recently adopted by the Board.

Moreover, subparagraph I.C. of the proposed orders prohibits respondents, in any lease advertisement, from stating the amount of any payment or that any or no initial payment is required at consummation of the lease, unless the ad also states: (1) That the transaction advertised is a lease; (2) the total amount due at lease signing or delivery; (3) whether or not a security deposit is required; (4) the number, amount, and timing of scheduled payments; and (5) that an extra charge may be imposed at the end of the lease term where the liability of the consumer at lease end is based on the anticipated residual value of the vehicle. The information enumerated above must be displayed in the lease advertisement in a clear and conspicuous manner. This approach is consistent with the lease advertising disclosure requirements of the revised CLA and the revised Regulation M.

Paragraph II of the proposed orders provides that lease advertisements that comply with the disclosure requirements of subparagraph I.C. of the orders shall be deemed to comply with section 184(a) of the CLA, as amended, or § 213.7(d)(2) of the revised Regulation M, as amended.

Paragraph III of the proposed orders provides that certain future changes to the CLA or Regulation M will be incorporated into the orders. Specifically, subparagraphs I.B. and I.C. will be amended to incorporate future CLA or Regulation M required advertising disclosures that differ from those required by the above order paragraphs. In addition, the definition of "total amount due at lease signing or delivery," as it applies to subparagraphs I.B. and I.C. only, will be amended in the same manner. The orders provide that all other order requirements, including the definition of "clearly and conspicuously," will survive any such revisions.

The information required by subparagraph I.C. must be disclosed "clearly and conspicuously" as defined in the proposed orders. The "clear and

conspicuous” definition requires that respondents present such lease information within the advertisement in a manner that is readable [or audible] and understandable to a reasonable consumer. This definition is consistent with the “clear and conspicuous” requirement for advertising disclosures in the revised Regulation M that requires disclosures that consumers can see and read (or hear) and comprehend and in prior Commission orders and statements, interpreting Section 5’s prohibition of deceptive acts and practices, that require advertising disclosures that are readable (or audible) and understandable to reasonable consumers.

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

**Donald S. Clark,**  
Secretary.

[FR Doc. 97-27227 Filed 10-14-97; 8:45 am]

BILLING CODE 6750-01-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Advisory Commission on Consumer Protection and Quality in the Health Care Industry; Notice of Public Meeting**

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby

given on the meeting of the Advisory Commission on Consumer Protection and Quality in the Health Care Industry. This two-day meeting will be limited only by the space available.

*Place of Meeting:* The Watergate Hotel; 2650 Virginia Avenue, N.W., Washington, D.C. 20037, ((4) Subcommittee meetings: on Tuesday, October 21, 8:00 a.m.—12:30 p.m.; and the General Plenary Session II: on Wednesday, October 22, 8:00 a.m.—4:30 p.m.). The Embassy Row Hilton Hotel; 2015 Massachusetts Avenue, N.W., Washington, D.C. 20036, (General Plenary Session I, on Tuesday, October 21, 1:00 p.m.—6:30 p.m.). Exact meeting room locations will be available on the Commission’s web site at “http://www.hcqualitycommission.gov”.

*Times and Dates:* On Tuesday, October 21, (4) subcommittee(s) will meet from 8:00 a.m. until 12:30 p.m. and General Plenary Session I will be from 1:00 p.m. to 6:30 p.m. on Wednesday, October 22, General Plenary Session II will be from 8:00 a.m. to 4:30 p.m.

*Purpose/Agenda:* To hear testimony and continue formal proceedings of the full Advisory Commission and the four (4) subcommittees. Agenda items are subject to change.

*Contact Person:* For more information, including substantive program information and summaries of the meeting, please contact: Edward (Chip) Malin, Hubert Humphrey Building, Room 118F, 200 Independence Avenue, S.W., Washington, DC 20201; [202/205-3038].

Dated: October 6, 1997.

**Janet Corrigan,**

*Executive Director, Advisory Commission on Consumer Protection and Quality in the Health Care Industry.*

[FR Doc. 97-27225 Filed 10-14-97; 8:45 am]

BILLING CODE 4110-60-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of Inspector General**

**Program Exclusions: September 1997**

**AGENCY:** Office of Inspector General, HHS

**ACTION:** Notice of program exclusions.

During the month of September 1997, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

| Subject city, state | Effective date |
|---------------------|----------------|
|---------------------|----------------|

**PROGRAM-RELATED CONVICTIONS**

|  |          |
|--|----------|
| BOWMAN, JIMMY ALLEN, TITUSVILLE, FL .....      | 10/07/97 |
| BOYD, KENNETH GEORGE, WINCHESTER, OR .....     | 10/01/97 |
| BRENNAN, MANUEL FELIPE, MIAMI, FL .....        | 10/02/97 |
| BUI, MAI QUYNH, SAN JOSE, CA .....             | 10/01/97 |
| BUSH, JANE T, MONTGOMERY, AL .....             | 10/02/97 |
| CAMPBELL, DENNIS, W PALM BEACH, FL .....       | 10/07/97 |
| CAMPBELL, MARY A, PRINCETON, WV .....          | 10/06/97 |
| CARR, CHARLES THOMAS, BIG SPRING, TX .....     | 10/05/97 |
| CLARINGBOLD, THOMAS VERNON, TRENTON, MI .....  | 10/07/97 |
| COHEN, STEVEN S, CAMP HILL, PA .....           | 10/06/97 |
| COLLIER, SAMUEL J, NORTON, VA .....            | 10/06/97 |
| COOPER, CONNIE RUTH, ALEXANDRIA, LA .....      | 10/07/97 |
| DEL PENA, VIRGINIA, SAN JOSE, CA .....         | 10/07/97 |
| FANECA, TERRY S, BRADENTON, FL .....           | 10/02/97 |
| FERNANDEZ HERNANDEZ, TERESITA, MIAMI, FL ..... | 10/07/97 |
| FISH, MARY CATHERINE, LEBANON, OR .....        | 10/01/97 |
| FLOWERS, ROSE MARIE, LITTLE ROCK, AR .....     | 10/05/97 |
| FOSTER, DONIETA, FLOWOOD, MS .....             | 10/07/97 |
| GARLING, JESSIE RENEE, TUCKER, AR .....        | 10/05/97 |
| GILL, ROSE S, YORKTOWN, VA .....               | 10/06/97 |
| GONZALES, AMELIA, SACRAMENTO, CA .....         | 10/01/97 |
| HAMMONDS, MICHAEL G, DELTONA, FL .....         | 10/02/97 |
| HAMPTON, JOSEPH, N RICHLAND HILLS, IL .....    | 10/07/97 |
| HASAN, IQBAL, STATEN ISLAND, NY .....          | 10/06/97 |
| HEBRARD, TINA L, BEAVERTON, OR .....           | 10/07/97 |