



# Federal Trade Commission

## Recent FTC Initiatives Related to Auto Advertising and Financing

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# Road Map

- Today I will cover:
  - The FTC’s Legal Authority
  - Recent FTC Initiatives
    - Deceptive Practices
    - FCRA Violations
    - Data Security
  - Consumer and Business Education



# About This Presentation

These remarks are those of the author and do not necessarily represent the Commission or any individual Commissioner.





# FTC Legal Authority

Statutes, Remedies, and Law  
Enforcement Role

Federal Trade Commission

# FTC's Consumer Protection Role

- Enforce various consumer protection laws
- Promulgate rules, including the Used Car Rule
- Conduct workshops, outreach, & education
- Jurisdiction: most non-bank entities – includes persons, partnerships, corporations and others



# FTC and CFPB Jurisdiction— Auto Dealers

- Under the Dodd-Frank Act, the FTC has:
  - **Exclusive jurisdiction** over many dealers – complex, but generally over dealers that routinely assign financing to unaffiliated third parties
  - **Concurrent jurisdiction** with CFPB over non-bank lenders and “buy here, pay here” dealers



# FTC-CFPB Coordination



- Agencies signed a Memorandum of Understanding (“MOU”) on January 20, 2012
- Objectives:
  - Sustain a strong partnership
  - Avoid duplication
  - Foster transparency



# FTC Enforcement—FTC Act

- The FTC Act broadly prohibits unfair or deceptive acts or practices in or affecting commerce
- Flexible law that can be applied to many different situations, entities and technologies





# FTC Enforcement—Some Other Laws and Rules

- Fair Credit Reporting Act
- Truth in Lending Act (TILA) and Regulation Z
- Consumer Leasing Act (CLA) and Regulation M
- Equal Credit Opportunity Act and Regulation B
- Electronic Fund Transfer Act and Regulation E
- FTC Rules – such as Used Car Rule, Holder Rule, Credit Practices Rule



# FTC Enforcement—Remedies

- FTC has diverse remedies available
  - Can include, for example
    - Cease and desist orders (administrative action)
    - Equitable relief – rescission, redress, injunctions (federal court)
    - Civil penalties – for example, order violations, various rule violations
  - Can include liability for companies and individuals



A vertical strip on the left side of the slide shows a stone relief sculpture of a man in a chariot pulling a horse. The background is a faded image of a classical building facade.

# Recent FTC Initiatives

Deceptive Practices, FCRA Violations,  
& Data Security

# Deceptive Practices

- Deceptive Ads
  - Sales, Financing, and Leasing Offers
  - Sweepstakes and Other Promotions
  - Certification/Inspection Claims
  - Environmental Claims
- Deceptive Practices Related to Add-Ons



# 800-631-6871

# CASINO

13025 Valley Blvd.  
La Puente, CA



'08 MBZ CL550 AMG  
automatic, ac, cd, must see, immac in/out.  
VIN 015652

\$36,995 \$18,995



'05 CHEVY CORVETTE  
automatic, full power, fully loaded, ac, cd.  
VIN 661383

Mal Crédito OK No Crédito OK Matrícula OK



'07 CADILLAC ESCALADE EXT  
automatic, ac, cd, must see, immac in/out.  
VIN 111330



'07 CADILLAC ESCALADE \$27,995  
VIN 661114



'07 CADILLAC ESCALADE ESV \$24,995  
VIN 661114



'07 CHEVY TAHOE LS \$16,995  
automatic, ac, cd, must see, immac in/out.  
VIN 343352



'07 CHEVY TAHOE LTZ \$18,995  
automatic, ac, cd, must see, immac in/out.  
VIN 811237



'07 GMC YUKON \$17,995  
automatic, full power, fully loaded, ac, cd.  
VIN 233352



'07 CHEVY TAHOE \$16,995  
automatic, ac, cd, must see, immac in/out.  
VIN 276001



'08 CHEVY TAHOE LS \$17,995  
automatic, full power, fully loaded, ac, cd.  
VIN 142467



'07 GMC YUKON XL \$16,995  
VIN 181402



'07 GMC YUKON XL \$15,995  
VIN 178992



'07 CHEVY SUBURBAN LT \$18,995  
automatic, ac, cd, must see, immac in/out.  
VIN 221083



'07 CHEVY SUBURBAN LT \$15,995  
automatic, ac, cd, must see, immac in/out.  
VIN 112974



'08 CHEVY SILVERADO \$17,995  
automatic, ac, cd, must see, immac in/out.  
VIN 252359



'07 CHEVY SILVERADO \$15,995  
automatic, ac, cd, must see, immac in/out.  
VIN 09879



'07 CHEVY SILVERADO \$16,995  
automatic, ac, cd, must see, immac in/out.  
VIN 507899



'09 GMC SIERRA \$16,995  
automatic, ac, cd, must see, immac in/out.  
VIN 208493

\*Todos los precios no son en efectivo, si no la cantidad para financiar. \*Prices after +5,000 down + Tax, Lic & Doc fees, on approved credit. Base with a FICO score of 740 & above... special finance available!! See your sales associate for more details. \*Precios después de +5,000 de pago inicial + Tax, Lic & Doc. En crédito aprobado. Basado con un máximo FICO score de 740 puntos. \*Financiamiento especial disponible!! Pregunte a su vendedor por más detalles. Todos los precios son basados a 60 meses y 5.9% intereses. Ad expires 01/25/13. \*Finés especiales disponibles a costo adicional. \*Special fins available at additional cost.

4683EV04A

Casino Auto Sales (consent order)



Los precios no son en efectivo, so no la cantidad para financiar.  
\*Prices after \$5,000 down + Tax, Lic & Doc fees, on approved credit. Base with a FICO score of 740 & above..... Special finance available!!! See your sales associate for more detalles. Precios despues de \$5,000 de pago inicial + Tax, Lic. & Doc. En crédito aprobado. Basado con un minimo FICO score of 740 puntos. Financiamiento especial disponible!!! Pregunte a su vendedor por mas detalles. Todos los precios son basados a 60 meses y 5.9% interes. Ad expires 01/25/13. Rines especialies dispnsibles a costo adicional. Special rims available at additional cost.

**WE SAY YES! EVERY DAY!**

**10**  
YEARS  
INCREASED  
WARRANTY



**ZERO \$ DOWN**

**2013 KIA SPORTAGE**

**\$99/MO**

Example 2013 Kia Sportage  
STK#4886. Sale Price \$27,444. \$0  
down, negotiated payment plan:  
payments 1-3 \$99, payments 4-72  
\$631/mo. @ 9.99% APR. Plus tax,  
tag, title and \$500 administrative  
fee, with approved credit. On  
select vehicles. See dealer for  
details.

**PARAMOUNT**  
KIA of ASHEVILLE

paramount **KIA** asheville.com  
**800-WE-SAY-YES**  
**800-937-2993**

FTC action against Paramount Kia of Hickory, LLC



# Example—Deceptive “\$0 Down” Lease Claims

Honda of Hollywood



**2013 Honda Accord Sedan LX**

(MODEL#: CR23DEW)  
**AUTOMATIC** LEASE FOR **\$199** +TAX PER MONTH FOR 36 MOS  
5 at this payment

Lease for \$199/month + tax for 36 months on approved above average credit. \$2,399 due at lease signing. Includes down payments with no security deposit. Excludes taxes, titles and dealer fees. 12K miles/year. 15¢ per mile in excess.

\$2,399 due at lease signing.





# Deceptive Price, Discount, & Rebate Cases



**FREE**  
REGISTRATION

**PURCHASE!**  
**NOT A LEASE!**

WAS ~~\$30,095~~ **\$299**

**-OR- NOW**

**\$24,777**

#25114, 2 or more at this price, \$1,000 Trade Assistance & \$600 VPP/Active Military discount and \$600 College Grad discount. \$299 - 36 month lease with \$2,000 due at signing. 12k miles per year.



# Deceptive Price, Discount, & Rebate Cases



NEW 2013 FORD **FUSION**

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LEASE FOR **\$180** PER MONTH

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**OR** **25% OFF MSRP!**

DEALER RETAINS FACTORY REBATES AND INCENTIVES. ALL OFFERS 24 MONTH LEASE, 10,000 MILES PER YEAR, \$3000 CASH OR TRADE, DUE AT SIGNING, WITH APPROVED CREDIT. PLUS TAX, TITLE, AND LICENSE. NO SECURITY DEPOSIT REQUIRED. BASED ON BLACK BOOK AVERAGE VALUE.



# Deceptive Credit-Based Offer

<p><b>Sign &amp; Drive!</b> <b>Sign &amp; Drive Leases</b> <b>ALL LEASES ARE</b>  <b>ZERO DOWN!!!!!!</b> <b>Zip, Zero, Zilch - Nothing Down!</b></p>	
<p><b>2014 CHEVY CRUZE LT</b></p>  <p><b>Sign &amp; Drive!</b>  <b>Zip Zero Zilch</b>  <b>Nothing Down!</b>  <b>169 PER MO</b></p> <p>Stock # C40427 Includes 2 years free maintenance</p>	<p><b>2014 JEEP COMPASS</b></p>  <p><b>Sign &amp; Drive!</b>  <b>199 PER MO</b>  <b>Zip, Zero, Zilch - Nothing Down!</b></p> <p>Stock #D40704</p>
	<p><b>2014 JEEP CHEROKEE</b></p>  <p><b>Sign &amp; Drive!</b>  <b>299 PER MO</b>  <b>Zip, Zero, Zilch - Nothing Down!</b></p> <p>Stock #D40741</p>

1-800-370-4107 1-800-360-7600

payments based on 48 month 10,000 mile per year lease plus tax title and fees, 25 cents over mileage penalty. Lease price and sale price may be different due to incentives or discounts that do not combine. Subject to 800 beacon score or higher with approved credit. Special financing programs available for lower credit scores. Negative equity may affect amount financed. Pictures for illustration purposes. EXPIRES: 4/30/2014.



# “Pay Off Your Trade” Cases



# Sweepstakes Offer

## MATCH & WIN!

8
13
65
68
92

If any of the three cards below match the winning numbers above you have won!  
Prizes listed to the right.\*

SCRATCH OFF BELOW TO REVEAL YOUR NUMBERS

SCRATCH OFF HERE

MATCH 5 AND WIN!

8 16 65 67 90

SCRATCH OFF BELOW TO REVEAL YOUR NUMBERS

SCRATCH OFF HERE

MATCH 5 AND WIN!

8 13 65 68 92


SCRATCH OFF BELOW TO REVEAL YOUR NUMBERS

SCRATCH OFF HERE

MATCH 5 AND WIN!


6 13 65 62 94

SCRATCH OFF ALL 3 LOTTERY TICKETS ABOVE TO SEE IF YOU HAVE WON! \* ONLY ONE CARD NEEDS TO MATCH TO WIN!




## \$25,000 IN GAS!

## CONGRATULATIONS!



YOU COULD BE THE GRAND PRIZE WINNER OF \$25,000 IN GAS!  
**SCAN AT THE DEALERSHIP**

14963-135



\*\*\*\*\*CRWSS\*\*R001  
Postmaster: Please Deliver Daily

\* SCAN BARCODE AT EVENT LOCATION TO DETERMINE WHICH PRIZE TO REDEEM.



\$5,000 CASH

1:30,000 ODDS



\$1,000 CASH

1:30,000 ODDS



\$25,000

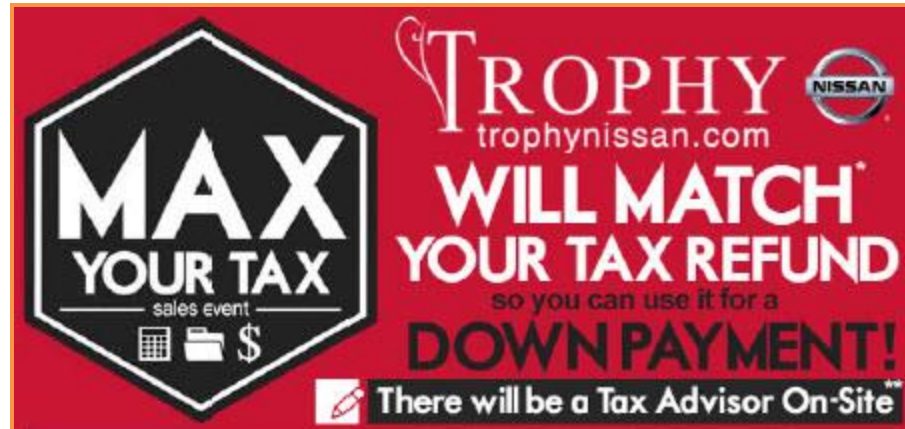
29,997:30,000 ODDS WILL RECEIVE A CHANGE AT \$25,000. CARDS PROVIDED BY ODDS ON PROMOTION. ODDS OF WINNING 1:593,775

BRING THIS INVITATION TO FOWLerville FORD TO CLAIM YOUR PRIZE!

PRESRT STD  
US POSTAGE  
PAID  
HOPKINS, MN  
PERMIT NO. 36



# Tax Refund Promotion



The graphic features a red background. On the left is a black hexagon with a white border containing the text 'MAX YOUR TAX' in large white letters, 'sales event' in smaller white letters below it, and icons for a calculator, a folder, and a dollar sign. To the right of the hexagon is the 'TROPHY' logo in a stylized white font with a heart shape above the 'Y', followed by 'trophynissan.com' in white. Below this is the Nissan logo. The main text reads 'WILL MATCH YOUR TAX REFUND' in large white letters, followed by 'so you can use it for a DOWN PAYMENT!' in white. At the bottom right, there is a small icon of a pencil and the text 'There will be a Tax Advisor On-Site™' in white.

™ Trophy Nissan will match your tax Refund up to \$1,000 when used as a down payment on any new or used vehicle. \*\* Trophy Nissan will not provide tax advice and recommends that you obtain your own independent tax advisor, such as Express Multiservices, for your specific individual circumstances. \*\*\* Based on 2013 Certified Nissan registrations. Photos for illustration purposes only. Not responsible for errors in typography or photography. All offers end 2/2/14.



# Safety-Related Claims

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

## **172-Point Inspection and Reconditioning**

Our detailed, 172-Point Vehicle Inspection and Reconditioning Process is one of the most comprehensive in the industry. Before any Chevy, Buick, or GMC used vehicle earns the title of Certified Pre-Owned, it must first meet all of our rigorous standards.



# Environmental Claim





# Deceptive Practices Re: Add-Ons

AUTOMOTIVE EXAMPLE		
\$30,000 loan – 8% APR – 6 Year		
Loan Terms	Bi-Weekly Payments	Monthly Payments
Payment amount:	\$ 263	\$ 527
Time to repay:	66 Months	72 Months
Interest reduction:	\$675	\$0
Increased equity in 4 years	\$2,259	\$0



# FCRA Violations

- Furnisher Rule
  - *Tricolor Auto Acceptance, LLC (2015)*
- Risk-Based Pricing Rule
  - Background on Rule
  - *Sprint Corporation (2015)*



# Risk-Based Pricing Rule

- Dealers that are the “original creditor” in a “three-party” automobile financing transaction must provide a Risk-Based Pricing notice to the consumer.



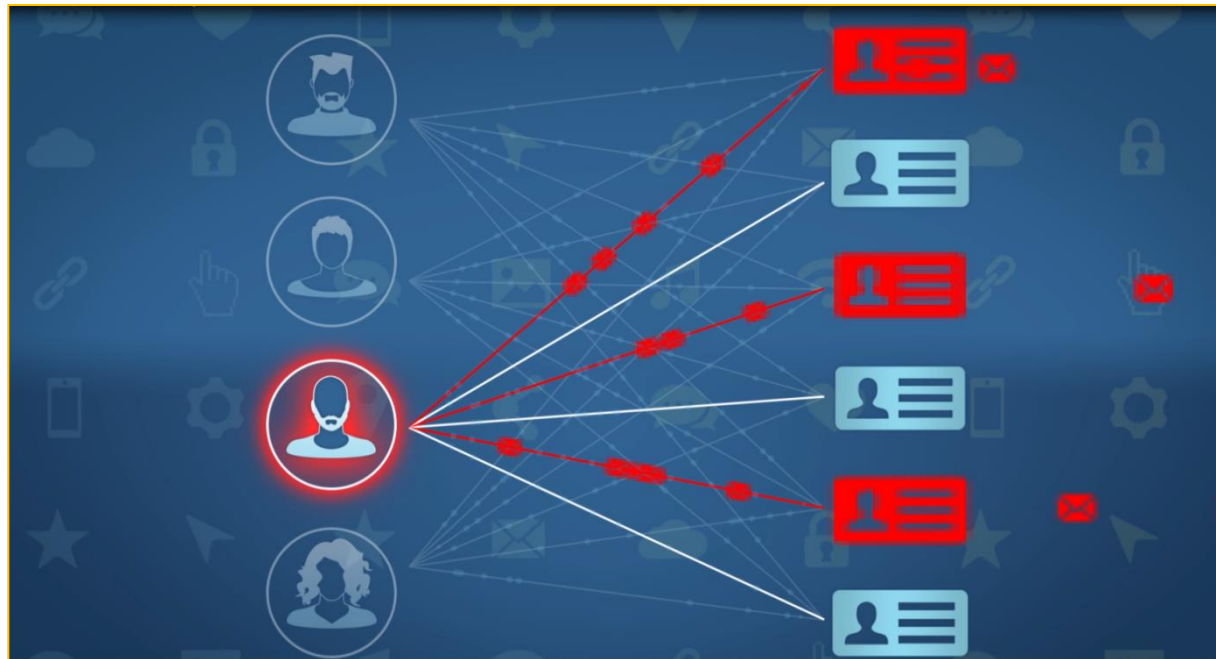
# Risk-Based Pricing Rule

- Notify consumers when you have used information in their credit report to offer them credit on materially less-favorable terms
- “Credit score disclosure exception”: notice to all consumers



# Data Security

Tip – Control Access to Data Sensibly



A vertical strip on the left side of the slide shows a stone relief sculpture of a man in a suit embracing a horse. The background is a light blue sky and a building facade.

# Guidance & Education Materials

FTC Reports & Consumer and  
Business Education Materials

# Deceptive Practices— Disclosures



# CLA and Reg M—Ads

**FTC FACTS** for Business

ftc.gov  
FOR THE CONSUMER  
FEDERAL TRADE COMMISSION  
1-877-FTC-HELP







Text BHPH to 77513  
and take a quick session survey

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*Texting solution provided by Solutions by Text*