

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Robert Pitofsky, Chairman
Mary L. Azcuenaga
Janet D. Steiger
Roscoe B. Starek, III
Christine A. Varney

In the Matter of)
)
) DOCKET NO. C-3714
MAZDA MOTOR OF AMERICA, INC.,)
)
)
a corporation.) DECISION AND ORDER
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)

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34

of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Mazda Motor of America, Inc. is a California corporation with its principal office or place of business located at 7755 Irvine Center Drive, Irvine, California 97218-2906.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

1. "Clearly and conspicuously" as used herein shall mean: 1) video or written disclosures must be made in a manner that is readable and understandable to a reasonable consumer and 2) audio or oral disclosures must be made in a manner that is audible and understandable to a reasonable consumer.

2. "Total amount due at lease inception" as used herein shall mean the total amount of any initial payments required to be paid by the lessee on or before consummation of the lease or delivery of the vehicle, whichever is later, excluding dealer and government mandated fees and charges (if any).

3. Unless otherwise specified, "respondent" as used herein shall mean Mazda Motor of America, Inc., its successors and assigns, and its officers, agents, representatives, and employees.

4. "In or affecting commerce" as used herein shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, or any other device, in connection with any advertisement to aid, promote, or assist, directly or indirectly any consumer lease in or affecting commerce, as "advertisement" and "consumer lease" are defined in Section 213.2 of revised Regulation M, 61 Fed. Reg. 52,246, 52,258 (Oct. 7, 1996)(to be codified at 12 C.F.R. § 213.2) ("revised Regulation M"), as amended, shall not, in any manner, expressly or by implication:

A. Misrepresent the total amount due at lease inception, 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).

B. Make any reference to any charge that is part of the total amount due at lease inception or that no such charge is required, not including a statement of the periodic payment, more prominently than the disclosure of the total amount due at lease inception.

C. State the amount of any payment or that any or no initial payment is required at lease inception unless all of the following items are disclosed clearly and conspicuously, as applicable:

1. that the transaction advertised is a lease;
2. the total amount due at lease inception;
3. that 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 in a lease in which the liability of the consumer at the end of the lease term is based on the anticipated residual value of the vehicle.

II.

IT IS FURTHER ORDERED that an advertisement that complies with subparagraph I.C. shall be deemed to satisfy the requirements of Section 184(a) of the Consumer Leasing Act, 15 U.S.C. § 1667c(a), as amended by Title II, Section 2605 of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, Pub. L. No. 104-208, 110 Stat. 3009, _____ (Sept. 30, 1996) ("revised CLA"), as amended, and Section 213.7(d)(2) of revised Regulation M, 61 Fed. Reg. at 52,261 (to be codified at 12 C.F.R. § 213.7(d)(2)), as amended.

III.

IT IS FURTHER ORDERED that if the revised CLA, as amended, or revised Regulation M, as amended, are amended in the future to alter definition 2 of this order ("total amount due at lease

inception") or to require or permit advertising disclosures that are different from those set forth in subparagraphs I.B. or I.C. of this order, then the change or changes shall be incorporated in subparagraph I.B., subparagraph I.C., and/or definition 2 for the purpose of complying with subparagraphs I.B. and I.C. only, as appropriate; provided however, that all other requirements of this order, including definition 1 ("clearly and conspicuously"), will survive any such revisions.

IV.

IT IS FURTHER ORDERED that respondent Mazda Motor of America, Inc., and its successors and assigns, shall, for five (5) years after the date of service of this order, maintain and upon request make available to the Commission for inspection and copying all records that will demonstrate compliance with the requirements of this order.

V.

IT IS FURTHER ORDERED that respondent Mazda Motor of America, Inc. and its successors and assigns, shall distribute a copy of this order to all current and future principals, officers, directors, managers, employees, agents, and representatives having responsibilities with respect to the subject matter of this order and to all advertising agencies; and shall secure from each such person or entity a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel or entities within thirty (30) days after the date of service of this order, and to such future personnel or entities within thirty (30) days after the person or entity assumes such position or responsibilities.

VI.

IT IS FURTHER ORDERED that respondent Mazda Motor of America, Inc. and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place,

respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

VII.

IT IS FURTHER ORDERED that respondent Mazda Motor of America, Inc. and its successors and assigns shall, within one hundred and twenty (120) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

VIII.

This order will terminate on February 6, 2017, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Donald S. Clark
Secretary

SEAL

ISSUED: February 6, 1997