

IN THE MATTER OF
GEORGE IRVIN CHEVROLET COMPANY

FINAL ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
TRUTH-IN-LENDING ACT AND SEC. 5 OF THE FEDERAL TRADE
COMMISSION ACT

Docket 9124. Complaint, March 6, 1979—Decision, Sept. 15, 1981

This consent order requires, among other things, a Denver, Colorado, motor vehicle dealer to cease failing to make all the credit disclosures required by Federal law. Further, respondent is prohibited from using certain credit terms in advertisements promoting credit sales, unless those advertisements also include statutorily required information in the manner prescribed by Regulation Z.

Appearances

For the Commission: *George S. Meyer and Cyrus Callum.*

For the respondent: *Glenn A. Mitchell, Michael G. Charapp, and David U. Fierst, Stein, Mitchell & Mezines, Washington, D.C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth-in-Lending Act and the implementing regulations promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that George Irvin Chevrolet Co., a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of said Acts and the implementing regulations promulgated under the Truth-in-Lending Act, and it appearing to the Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint stating its charges as follows:

PARAGRAPH 1. George Irvin Chevrolet Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado with its principal office and place of business located at 390 South Colorado Boulevard, Denver, Colorado.

PAR. 2. Respondent is now, and for many years has been, engaged in the sale and distribution of new and used motor vehicles. Respondent also provides a variety of automotive products and services to consumers.

PAR. 3. In the ordinary course and conduct of its business as aforesaid, respondent regularly arranges for the extension of con-

sumer credit and is a creditor, as "consumer credit" and "creditor" are defined in Section 226.2 of Regulation Z, the implementing regulation of the Truth-in-Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, respondent, in the ordinary course and conduct of its business, has caused to be televised advertisements, which aid, promote or assist, directly or indirectly, credit sales and other extensions of other than open end credit, as "advertisement" and "credit sale" are defined in Section 226.2 of Regulation Z.

PAR. 5. Respondent, in certain of these televised advertisements, has stated the amount of the downpayment, the amount of the periodic installment payment, the number of installment payments, or the period of repayment without also stating, clearly, and conspicuously, as required by Section 226.10(d)(2) of Regulation Z, all of the following terms:

- 1) the cash price;
- 2) the amount of the downpayment required, or that no downpayment is required, as applicable;
- 3) the number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
- 4) the amount of the finance charge expressed as an annual percentage rate; and
- 5) the deferred payment price.

PAR. 6. Respondent, in certain of these televised advertisements, has stated at various times the annual percentage rate, the cash downpayment and the deferred payment price in terminology other than that prescribed by Section 226.8 of Regulation Z, and contrary to Section 226.10(d) of Regulation Z.

PAR. 7. Respondent, in certain of these televised advertisements, has used an advertising format in which the audio portion of the advertisement contained only certain credit representations selected for emphasis, while the video portion of the advertisement contained credit disclosures required by Section 226.10(d)(2) of Regulation Z. For example, respondent televised an advertisement on June 16, 1977, which made use of a videographic "crawl," a moving line of print displayed across the television screen, that disclosed the following verbatim: "NO DOWN 60 PMTS. OF \$193.07 DEF. PRICE \$11,584.20 ANNUAL % RATE OF 14.13% PLUS TAXES AND D & H OF \$48.50 SUBJ. TO PRIOR SALE STK. #790." In this advertisement, the audio portion stated only the amount and period of installment payments. This format constitutes a failure to make

disclosures clearly, conspicuously and in a meaningful sequence, as required by Sections 226.6(a) and 226.10(d)(2) of Regulation Z.

PAR. 8. By and through the acts and practices set forth above, respondent has failed to comply with the requirements of Regulation Z, the implementing regulation of the Truth-in-Lending Act. Pursuant to Section 103(s) of the Truth-in-Lending Act, such failure to comply with Regulation Z constitutes a violation of that Act, and, pursuant to Section 108(c) thereof, respondent has engaged in unfair or deceptive acts and practices and has thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent named in the caption hereof with violation of the Truth-in-Lending Act and the implementing regulations promulgated thereunder and of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondent, its attorney, 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 complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.24(c) of its Rules; and

The Commission having considered the matter 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 3.24(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent George Irvin Chevrolet Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 390 South Colorado Boulevard, in the city of Denver, State of Colorado.
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

It is ordered, That respondent George Irvin Chevrolet Co., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation or other device, in connection with any advertisement to aid, promote, or assist, directly or indirectly, any extension of consumer credit, as "advertisement" and "consumer credit" are defined in Regulation Z (12 CFR 226 *et seq.*) of the Truth-in-Lending Act (Pub. Law 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Stating that no downpayment is required, or stating the amount of the downpayment or of any installment payment required (either in dollars or as a percentage), the dollar amount of any finance charge, the number of installments or the period of repayment, or stating that there is no charge for credit, unless all of the following items are also clearly and conspicuously set forth in terminology prescribed by Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

- (a) the cash price;
- (b) the amount of the downpayment required or that no downpayment is required, as applicable;
- (c) the number, the amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
- (d) the amount of the finance charge expressed as an annual percentage rate; and
- (e) the deferred payment price.

2. Failing in connection with all television and radio advertisements in which cost of credit disclosures must be made pursuant to Section 226.10(d)(2) of Regulation Z, to make such disclosures clearly, conspicuously, and in meaningful sequence, as required by Section 226.6(a) of Regulation Z. The following standards shall be met in order for a television advertisement to be deemed a "clear and conspicuous" disclosure within the meaning of this order:

- (a) (i) the finance charge expressed as an annual percentage rate shall be presented simultaneously in both the audio and video portions of the television advertisement;
- (ii) the remaining disclosures required by Section 226.10(d)(2) of

Regulation Z shall be presented in the video portion of the television advertisement;

(iii) any of the remaining disclosures required by Section 226.10(d)(2) of Regulation Z may be presented in the audio portion of the television advertisement, but if so presented, shall be presented simultaneously and in identical sequence in both the audio and video portions of the television advertisement;

(b) the video portion of the required credit disclosures shall contain letters large enough to be easily seen and read with reasonable ease on all television sets, regardless of picture tube size, that are commercially available to the consuming public;

(c) the video portion of the required credit disclosures shall contain letters of a color or shade that readily contrasts with the background on both color and black and white television sets. The background shall consist of only one color or shade;

(d) during the video portion of the required credit disclosures, no words or images shall appear on the television screen which are not part of the required disclosures; *provided, however*, that during said disclosures two-thirds of the television screen may contain images which do not obscure or detract attention from the required disclosures;

(e) the video presentation of the required credit disclosures shall be no less than ten seconds' duration;

(f) during the audio portion of the required credit disclosures, no sounds which obscure or detract attention from the required disclosures may be presented;

(g) the audio portion of the required credit disclosures shall be spoken with sufficient deliberateness, clarity, and volume, so as not to obscure or detract attention from the required disclosures made in either the video or audio portion;

(h) the audio and video portions of the required credit disclosures shall immediately follow the specific representation which triggers the affirmative disclosure requirement contained in Section 226.10(d)(2) of Regulation Z;

(i) the audio and video portion of the required credit disclosures shall not give such emphasis to any disclosure as to obscure or detract attention from the other credit disclosures.

It is further ordered, That respondent, its successors and assigns, shall forthwith distribute a copy of this order to each of its operating divisions and to each person responsible for or connected with preparation of its television advertisements and secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, or any other circumstances which may affect any compliance obligation arising out of this order.

It is further ordered, That respondent George Irvin Chevrolet Co., shall, within sixty (60) days after this order becomes final, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF
EXXON CORPORATION, ET AL.

FINAL ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC.
5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 8934. Complaint, July 18, 1973—Dismissal Order, Sept. 16, 1981

This order dismisses without prejudice the Commission's July 18, 1973 complaint charging eight major oil companies with maintaining and reinforcing a non-competitive market structure in the refining of crude oil into petroleum products. Upon agreement between complaint counsel and respondents that the matter cannot be resolved in the foreseeable future, the Commission concluded that pending proceedings were not in the public interest. The order also vacates the ALJ's January 5, 1977 Protective Order, as modified by the ALJ's Orders of April 23 and June 5, 1979; and bars the Commission from disclosing documents and information protected by these orders to any unauthorized party, or pursuant to an FOIA request. Upon dismissal of the complaint, the agency is additionally required to place respondents' documents, received pursuant to discovery in Docket 8934, in the physical possession of a designated custodian to be accorded the protections provided by Section 21 of the FTCA.

Appearances

For the Commission: *John A. Woodstock, Marc G. Schildkraut, Daniel P. Ducore, Arthur J. Nolan, Rhett R. Krulla, David C. Dickey, Gregory M. Fox, James M. Giffin, Oleta J. Harden, Eugene Higgins, Charles A. James, Jeff Jacobovitz, Patrick J. O'Brien, Mark L. Rosenberg, and Constance M. Salemi.*

For the respondents: *Robert E. Jordan III, Richard H. Porter and F. Michael Kail, Steptoe & Johnson, Washington, D.C., and Edward E. Vaill, in-house Litigation Counsel, Los Angeles, Calif., for Atlantic Richfield Co., William Simon and Robert G. Abrams, Howrey & Simon, Washington, D.C., and Charles W. Mathews, in-house counsel, Houston, Tex., and A.P. Lindemann, Jr., in-house counsel, New York City, for Exxon Corp., and John E. Bailey, Assistant General Counsel, and Morgan L. Copeland, in-house counsel, Houston, Tex., for Gulf Oil Corp., and Andrew J. Kilcarr and Vincent Tricarico, Donovan Leisure Newton & Irvine, Washington, D.C., and Charles F. Rice, in-house counsel, New York City, for Mobil Oil Corp., and William R. Jentes and Tefft W. Smith, Kirkland & Ellis, Chicago, Ill., and M.J. Keating, Paula J. Clayton, and Jeffrey R. Harder, in-house counsel, Chicago, Ill., for Standard Oil Co. (Indiana), and George A. Sears, Richard W. Odgers, and Roland W. Selman, Pillsbury, Madison & Sutro, San Francisco, Calif., for Standard Oil*