

Complaint

125 F.T.C.

IN THE MATTER OF

FOOTE, CONE & BELDING ADVERTISING, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE CONSUMER LEASING ACT, REGULATION M AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-3792. Complaint, April 6, 1998--Decision, April 6, 1998

This consent order prohibits, among other things, the Illinois-based advertising agency of Mazda Motor of America from misrepresenting in any motor vehicle lease advertisement the total amount due at lease signing or delivery, the amount down, and/or the down payment, capitalized cost, reduction, or other amounts that reduce the capitalized cost of the vehicle (or that no such amount is required).

Appearances

For the Commission: *Rolando Berrelez, Sally Pitofsky and David Medine.*

For the respondent: *Elroy H. Wolff, Sidley & Austin, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Foote, Cone & Belding Advertising, Inc., a corporation ("respondent" or "FCB"), has violated the provisions of the Federal Trade Commission Act, 15 U.S.C. 45-58, as amended, the Consumer Leasing Act, 15 U.S.C. 1667-1667e, as amended, and its implementing Regulation M, 12 CFR 213, as amended, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Foote, Cone & Belding Advertising, Inc. is a Delaware corporation with its principal office or place of business at 101 East Erie Street, Chicago, Illinois.

2. Respondent, at all times relevant to this complaint, was an advertising agency of Mazda Motor of America, Inc. ("Mazda"). Respondent has disseminated advertisements to the public that promote consumer leases, as the terms "advertisement" and "consumer lease" are defined in Section 213.2 of Regulation M, 12 CFR 213.2, as amended.

3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

4. Respondent has prepared and disseminated, or has caused to be prepared and disseminated, consumer lease advertisements ("lease advertisements") for Mazda vehicles, including but not necessarily limited to the attached FCB Exhibits A through D. FCB Exhibits A through C are television lease advertisements (attached hereto in video and storyboard format) and Exhibit D is a print lease advertisement. These advertisements contain the following statements:

A. [Audio:] "One penny down. Great leases. Very little time. On Protégé. A penny (down). And one eighty-nine. The B2300 SE. A penny down. And one ninety-nine. 626. A penny and two-o-nine. Miata. . . . A penny and two nineteen. Passion for the road. Put your penny down."

[Video:] [open on a man jumping through a rain of pennies.]

"MAZDA ONE PENNY DOWN 36 MO. LEASES [running footage of Protégé] \$189 A MO. [over graphic of a penny spinning] [running footage of B2300] \$199 A MO. [over graphic of a penny spinning] [running footage of 626] \$209 A MO. [over graphic of a penny spinning] [running footage of Miata] \$219 A MO." [over graphic of a penny spinning] [The advertisement contains the following lease disclosure at the bottom of the screen in white colored fine print superimposed on a black background and accompanied by background sounds and images: ". . . Offer on '96 Protégé DX w/Conv. Pkg., MSRP \$14,720. Assumes \$1325 dealer contribution. 36 mo. payments = \$6,809.04. Initial fees = \$439.15. Purchase option at lease end = \$7,654.40 Offer on '96 B2300 SE . . . MSRP \$14,605. Assumes \$859 dealer contribution. 36 mo. payments = \$7,198.92. Initial fees = \$449.98. Purchase option at lease end = \$7,594.60. Offer on '96 626 DX w/Conv. Pkg., MSRP \$17,540. Assumes \$1,241 dealer contribution. 36 mo. payments = \$7,532.64. Initial fees = \$459.25. Purchase option at lease end = \$9,471.60. Offer on '96 Miata . . . MSRP \$19,280. Assumes \$1,198 dealer contribution. 36 monthly payments = \$7,908.84. Initial fees = \$469.70. Purchase option at lease end = \$10,796.80. . . . \$450 Acq. fee plus taxes, title, license, & registration also due at lease signing. Early termination = \$200. Lessee liable for \$.10/mile over 36,000, maintenance, repairs & excess wear/tear. . . ." The fine print is displayed on four screens, each containing a block of at least five lines, and each block appearing for approximately three seconds.](FCB Exhibit A).

B. [Audio:] "Lease a 626. Zero down, two-o-nine a month."

[Video:] "From \$0 DOWN \$209 A MO. 36 MONTHS." [The advertisement contains the following lease disclosure at the bottom of the screen in white colored fine print superimposed on a black background and accompanied by background sounds and images: ". . . 36 mo. payments = \$7,551. Initial fees = \$459.75 plus \$450 acq. fee, taxes, title, license & registration. Early termination fee = \$200. Lessee liable for \$.10/mile over 36,000, maintenance, repairs & excess wear/tear. Purchase option at lease end = \$9471.60. . . ." The fine print is displayed on three screens, each containing a block of at least three lines, and each block appearing for approximately two seconds.](FCB Exhibit B).

C. [Audio:] "Its Mazda Jump . . . on Summer."

[Video:] "ZERO DOWN LEASES 36 MONTHS"

[cut to Protégé badge. Mazda Protégé running footage]

[Audio:] "On Protégé. Zero and one eighty-nine."

[Video:] "\$0 DOWN PYMT. \$189 A MONTH WELL-EQUIPPED"

[cut to B2300 badge. Mazda B2300 running footage]

[Audio:] "B2300 SE-5. Zero and one ninety-nine."

[Video:] "\$0 DOWN PYMT. \$199 A MONTH FULLY LOADED SE-5."

[cut to 626 badge. . . 626 running footage]

[Audio:] "Six-two-six. . . Zero and two-o-nine."

[Video:] "\$0 DOWN PYMT. \$209 A MONTH WELL-EQUIPPED"

[The advertisement contains the following lease disclosure at the bottom of the screen in white colored fine print superimposed on a black background and accompanied by background sounds and images: "Closed- end leases to qualified lessees. Approval of Mazda American Credit & insurance required. Offer on '96 Protégé DX w/ Conv. Pkg., MSRP \$14,720. Assumes \$1,325 dealer contribution. 36 mo. pymts = \$6,836.04. Initial fees = \$439.89. Purchase option at lease end = \$7,507.20. Offer on '96 B2300 SE Reg Cab w/ A/C & Pref. Equip. Grp., MSRP \$14,605. Assumes \$1,888 dealer contribution. 36 mo. pymts = \$7,193.16. Initial fees = \$449.81. Purchase option at lease end = \$7,740.65. Offer on '96 626 DX w/ Conv. Pkg., MSRP \$17,540. Assumes \$1,241 dealer contribution. 36 mo. pymts = \$7,558.20. Initial fees = \$459.95. Purchase option at lease end = \$9,647. All leases incl. freight, excl. CA/MA/NY emissions. \$450 Acq. Fee plus taxes, title, license & registration also due at lease signing. Early termination = \$200. Lessee liable for \$.10/mile over 36,000, maintenance, repairs & excess wear/tear. Must take retail delivery by 6/3/96. SEE PARTICIPATING DEALERS FOR DETAILS AND ACTUAL TERMS." The fine print is displayed on three screens, each containing a block of at least four lines, and each block appearing for approximately three seconds.](FCB Exhibit C).

D. "MAZDA PENNY DOWN GREAT LEASES OR BUY"

[The advertisement contains lease offers for four vehicles:]

"MAZDA PROTEGÉ . . . LEASE 1¢ DOWN \$189 MO. 36 MOS. . . B2300SE SPORT TRUCK . . . LEASE 1¢ DOWN \$199 MO. 36 MOS. . . 626 SPORT SEDAN . . . LEASE 1¢ DOWN \$209 MO. 36 MOS. . . MAZDA MIATA . . . LEASE 1¢ DOWN \$219 MO. 36 MOS." [The advertisement contains the following lease disclosure at the bottom of the page in small print: "Offer on '96 Protégé DX (LX shown) w/Conv. Pkg., MSRP \$14,720. Assumes \$1,325 dealer contribution. 36 mo. payments = \$6,809.04. Initial fees = \$439.15. Purchase option at lease end = \$7,654.40. Offer on '96 B2300 SE Reg. Cab (Cab Plus shown) w/ A/C & Pref. Equip. Grp., MSRP \$14,605. Assumes \$859 dealer contribution. 36 mo. payments = \$7,198.92. Initial fees = \$449.98. Purchase option at lease end = \$7,594.60. Offer on '96 626 DX w/ Conv. Pkg., MSRP \$17,540. Assumes \$1,241 dealer contribution. 36 mo. payments = \$7,532.64. Initial fees = \$459.25. Purchase option at lease end = \$9,471.60. Offer on '96 Miata w/ pwr. steering & mats, MSRP \$19,280. Assumes \$1,198 dealer contribution. 36 mo. payments = \$7,908.84. Initial fees = \$469.70. Purchase option at lease end = \$10,796.80. All leases incl. freight. Protégé/626/B2300 SE excl. CA/MA/NY emissions. \$450 Acq. fee + taxes, title, license, & registration also due at lease signing. Early termination = \$200. Lessee liable for \$.10/mile over 36,000, maintenance, repairs & excess wear/tear. Must

take retail delivery by 4/1/96. See participating dealer for details & actual terms.")(FCB Exhibit D)

FEDERAL TRADE COMMISSION ACT VIOLATIONS
COUNT I: MISREPRESENTATION IN LEASE ADVERTISING

5. Through the means described in paragraph four, respondent has represented, expressly or by implication, that the amount stated as "down" in respondent's lease advertisements is the total amount consumers must pay at lease inception to lease the advertised vehicles.

6. In truth and in fact, the amount stated as "down" in respondent's lease advertisements is not the total amount consumers must pay at lease inception to lease the advertised vehicles. Consumers must also pay additional fees beyond the amount stated as "down," such as the first month's payment, a security deposit, and/or an acquisition fee, at lease inception. Therefore, the representation as alleged in paragraph five was, and is, false or misleading.

7. Respondent knew or should have known that the representation set forth in paragraph five was, and is, false and misleading.

8. Respondent's practices constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a).

COUNT II: FAILURE TO DISCLOSE ADEQUATELY IN LEASE ADVERTISING

9. In its lease advertisements, respondent has represented, expressly or by implication, that consumers can lease the advertised vehicles at the terms prominently stated in the advertisements, including but not necessarily limited to the monthly payment amount and/or amount stated as "down." These advertisements do not adequately disclose additional terms pertaining to the lease offer, including but not necessarily limited to a required security deposit, an acquisition fee, and/or the first month's payment due at lease inception. The existence of additional terms would be material to consumers in deciding whether to lease a Mazda vehicle. The failure to disclose adequately these additional terms, in light of the representation made, was, and is, a deceptive practice.

10. Respondent knew or should have known that the failure to disclose adequately material terms as set forth in paragraph nine was, and is, deceptive.

11. Respondent's practices constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a).

COUNT III: CONSUMER LEASING ACT AND REGULATION M VIOLATIONS

12. Respondent's lease advertisements, including but not necessarily limited to FCB Exhibits A through D, state a monthly payment amount, the number of required payments, and/or an amount "down." The lease disclosures in these advertisements contain one or more of the following terms required by Regulation M: 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 total of periodic payments due under the lease; a statement of whether or not the lessee has the option to purchase the leased property and at what price and time or the method of determining the purchase-option 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.

13. The lease disclosures in respondent's television lease advertisements, including but not necessarily limited to FCB Exhibits A through C, are not clear and conspicuous because they appear on the screen in small type for a very short duration, accompanied by background sounds or images. The lease disclosures in respondent's print lease advertisements, including but not necessarily limited to FCB Exhibit D, are not clear and conspicuous because they appear in small type.

14. Respondent's practices violate Section 184 of the Consumer Leasing Act, 15 U.S.C. 1667c, as amended, and Section 213.5(c) of Regulation M, 12 CFR 213.5(c), as amended.

Commissioner Thompson and Commissioner Swindle not participating.

FOOTE, CONE & BELDING ADVERTISING, INC.

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Complaint

EXHIBIT A



FOOTE, CONE & BELDING
4 Hudson Centre Drive, Santa Ana, CA 92707
(714) 662-6500

CLIENT: MAZDA MOTOR OF AMERICA

As Produced: 3/10/96

JOB#: MAZD-DTP-T3626
PRODUCT: Lease/Penny Down
LENGTH: :30
TITLE: Penny Down-Protege/626/Miata/Trk-L-30
ORIGINAL ISCI:
NEW ISCI: JQDB 0832

Page 1 of 3

VIDEO

AUDIO:

1. OPEN ON MAN JUMPING THROUGH A RAIN OF PENNIES.
SUPERS: MAZDA
ONE PENNY DOWN
ZOOMS IN AND FADES ON.
2. CUT TO PROTEGE RUNNING FOOTAGE. CUT TO B2300 RUNNING FOOTAGE. SUPER APPEARS AS LINE AT BOTTOM WITH PENNY SPINNING APPEARS.
SUPER: 36 MO. LEASES.
SUPER: ENDS APRIL 1ST
DISC: Closed-end leases to qualified lessees. Approval of Mazda American Credit & insurance required. Offer on '96 Protege DX w/ Conv. Pkg. MSRP \$14,720. Assumes \$1,325 dealer contribution. 36 mo. payments = \$6,809.04. Initial fees = \$439.15. Purchase option at lease end = \$7,654.40. Offer on '96 B2300 SE Reg. Cab w/ A/C
3. CUT TO PROTEGE-BADGE. CUT TO PROTEGE RUNNING FOOTAGE.
DISC: (cont) and Pref. Equip. Grp., MSRP \$14,605. Assumes \$859 dealer contribution. 36 mo. payments = \$7,198.92. Initial fees = \$449.98. Purchase option at lease end = \$7,594.60. Offer on '96 626 DX w/ Conv. Pkg., MSRP \$17,540. Assumes \$1,241 dealer contribution. 36 mo. payments = \$7,532.64. Initial fees
4. CUT TO PROTEGE RUNNING WITH GRAPHIC OF A PENNY SPINNING INTO FRAME.
SUPER: \$139 A MO.
1. SINGERS: Mazda...One penny down.
2. VO: One penny down. Great leases. Very little time.
3. VO: On Protege.
4. SINGERS: A penny (down).
5. VO: And one eighty-nine.

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EXHIBIT A



FOOTE, CONE & BELDING
4 Hudson Centre Drive, Santa Ana, CA 92707
(714) 662-6500

CLIENT: MAZDA MOTOR OF AMERICA

As Produced: 3/10/96

JOB#: MAZD-DTP-T3626
PRODUCT: Lease/Penny Down
LENGTH: :30
TITLE: Penny Down-Protege/626/Miata/Trk-I-30
ORIGINAL ISCI:
NEW ISCI: JQDB 0832

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VIDEO:AUDIO:

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|---|--|
| <p>6. CUT TO B2300 BADGE. CUT TO BOY JUMPING THROUGH RAIN OF PENNIES.</p> | <p>6. <u>VO:</u> The B2300 SE.</p> |
| <p>7. CUT TO RUNNING FOOTAGE OF TRUCK WITH GRAPHIC OF A PENNY SPINNING INTO FRAME.
<u>DISC:</u> (cont) = \$459.25. Purchase option at lease end = \$9,471.60. Offer on '96 Miata w/ pwr. steering & mats. MSRP \$19,280. Assumes \$1,198 dealer contribution. 36 mo payments = \$7,908.84. Initial fees = \$469.70. Purchase option at lease end = \$10,796.80. All leases incl. freight. Protege/626/B2300 SE excl. CA/MAN/NY</p> | <p>7. <u>SINGERS:</u> A penny down...</p> |
| <p>8. <u>SUPER:</u> \$199 A MO.</p> | <p>8. <u>VO:</u> and one ninety-nine.</p> |
| <p>9. CUT TO 626 BADGE.</p> | <p>9. <u>VO:</u> Six-two-six.</p> |
| <p>10. CUT TO MAN GRABBING PENNY.</p> | <p>10. <u>SINGERS:</u> A penny (down)...</p> |
| <p>11. CUT TO 626 RUNNING WITH GRAPHIC OF A PENNY WIPING ON SUPER.
<u>DISC:</u> (cont) emissions. \$450 Acq. fee plus taxes, title, license & registration also due at lease signing. Early termination = \$200. Lessee liable for \$.10/mile over 36,000, maintenance, repairs & excess wear/tear. Must take retail delivery by 4/1/96. SEE PARTICIPATING DEALER FOR DETAILS AND ACTUAL TERMS.
<u>SUPER:</u> \$209 A MONTH</p> | <p>11. <u>VO:</u> and two-o-nine.</p> |
| <p>12. RUNNING FOOTAGE OF MIATA.</p> | <p>12. <u>VO:</u> Miata.</p> |
| <p>13. CUT TO GIRL WITH HAT.</p> | <p>13. <u>SINGERS:</u> Mazda!</p> |

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EXHIBIT A



FOOTE, CONE & BELDING
4 Hutton Centre Drive, Santa Ana, CA 92707
(714) 562-6500

CLIENT: MAZDA MOTOR OF AMERICA

As Produced: 3/10/96

JOB#: MAZD-OTP-T3626

PRODUCT: Lessee/Penny Down

LENGTH: :30

TITLE: Penny Down-Protege/626/Mlata/Trx-L-30

ORIGINAL ISCI:

NEW ISCI: JQDB 0632

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VIDEO:AUDIO:

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|---|--|
| <p>14. CUT TO GIRL WITH HAT IN MLATA.
CUT TO MLATA RUNNING FOOTAGE
WITH GRAPHIC OF SPINNING PENNY.
<u>SUPER:</u> \$219 A MO.</p> <p>15. CUT TO PROTEGE DRIVING AWAY
<u>LOGO:</u> MAZDA
PASSION FOR THE ROAD™</p> <p>16.</p> <p>17. CUT TO FALLING PENNIES WITH
MAN HOLDING ON TO ONE.
<u>SUPER:</u> ENDS APRIL 1.</p> | <p>14. <u>VO:</u> A penny and two nineteen.</p> <p>15. <u>SOLO:</u> Passion for the road ...
<u>SINGERS:</u> Put your penny down!</p> <p>16.</p> <p>17. <u>VO:</u> Ends April 1st.</p> |
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Complaint

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EXHIBIT B



FOOTE, CONE & BELDING

4 Hudson Centre Drive, Santa Ana, CA 92707
(714) 662-6500

JOB#: MAZD-NTP-TJ632

PRODUCT: '96 626 DX

LENGTH: :30

TITLE: Passion -626 DX-0 Down/209 L-30

CLIENT: MAZDA MOTOR OF AMERICA

ORIGINAL ISCI: JOOB 0816

NEW ISCI: JONE J840

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AS PRODUCED: 3/28/96

VIDEOAUDIO

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| 1. OPEN ON QUICK CUTS OF DRIVER STARTING CAR AND 626 WITH EXPLOSION. | 1. SONG: I got a passion. |
| 2. QUICK CUTS OF LOCKED FENCE, 626 DRIVING ACROSS GRAPHIC WITH RUNNER FOLLOWED BY MORE EXPLOSIONS.
<u>SUPER: 626</u> | 2. VO: Six two six. |
| 3. 626 DRIVES OVER FRAME AS WOMAN APPEARS IN SKY WITH 626 IN BACKGROUND. | 3. SONG: Passion. |
| 4. CUT TO RUNNING FOOTAGE OF 626. | 4. VO: Total luxury. |
| 5. CUT TO GEAR SHIFT WITH LIGHTENING AS CAR DRIVES THROUGH TUNNEL.
<u>DISC:</u>
See dealer for limited-warranty details. Based on MSRP. | 5. SFX: (THUNDER CRASH.)
VO: Priced like a base Altima. |
| 6. QUICK CUTS OF 626 EXITING TUNNEL AND DRIVING ACROSS DESERT WITH MAN LOOKING ON. | 6. VO: Best basic warranty in its class. |
| 7. <u>SUPER: MAZDA</u>
FLOATS ACROSS SCREEN AS CAR DRIVES THROUGH DESERT. | 7. SONG: Mazda! |
| 8. QUICK CLOSE UPS OF 626. QUICK CUT OF 626 BADGE. | 8. VO: Six two six. |
| 9. QUICK CUTS OF 626 DRIVING IN FRONT OF MOUNTAIN SCULPTURE WITH CAT EYES APPEARING IN FOREGROUND. | 9. SONG: Passion for the Road. |

Complaint

EXHIBIT B



FOOTE, CONE & BELDING

4 Hutton Centre Drive, Santa Ana, CA 92707
(714) 862-6500

CLIENT: MAZDA MOTOR OF AMERICA

JOB#: MAZD-NTP-T3632

PRODUCT: '96 626 DX

LENGTH: :30

TITLE: Passion -626 DX-0 Down/209 L-3

AS PRODUCED: 3/28/96

ORIGINAL ISCI: JQDB 0816

NEW ISCI: JQNB 0840

Page 2 of 2

VIDEOAUDIO

- | | |
|--|------------------------------------|
| 10. QUICK CUTS OF RUNNING FOOTAGE OF 626. | 10. VO: Lease a 626 ... |
| 11. CUT TO TITLES.
<u>SUPER:</u> From \$0 DOWN
\$209 A MO.
36 MONTHS. | 11. zero down, two-o-nine a month. |
| 12. CUT TO 626 DRIVING ACROSS DESERT.
<u>DISC:</u> 626 LX shown, net MSRP \$17,695.
Closed-end lease to qualified lessees on a '96 626 DX with Conv. Pkg., MSRP \$17,540 incl. freight, excl. CA/NY/MA emissions. Assumes \$1,241 dealer contribution. Approval of Mazda | 12. SONG: Ooh, ooh Mazda! |
| 13. CONTINUE RUNNING FOOTAGE ACROSS DESERT AS SCREEN SPLITS AS CAR DRIVES ON AND MATCH IS BLOWN OUT.
<u>DISC:</u> (cont.) American Credit & insurance required. 36 monthly payments = \$7,531.
Initial fees = \$459.75 plus \$450 acq. fee, taxes, title, license & registration. Early termination fee = \$200. Lessee liable for \$.10/mi over 36,000. | 13. |
| 14. CONTINUE RUNNING FOOTAGE OF 626 AS SUPER COMES UP.
<u>SUPER:</u> 626
<u>DISC:</u> (cont.) maintenance, repairs & excess wear/tear. Purchase option at lease end = \$9,471.60. Must take delivery by 4/30/96. SEE PARTICIPATING DEALERS FOR DETAILS AND ACTUAL TERMS. Prices slightly higher in HI. | 14. VO: Six two six. |
| 15. CUT TO 626 DRIVING AWAY ACROSS DESERT.
<u>SUPER:</u>
PASSION
FOR THE ROAD | 15. SONG: Passion for the Road. |

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EXHIBIT C



FOOTE, CONE & BELDING

4 Horton Centre Drive, Santa Ana, CA 92707
(714) 662-6500

CLIENT: MAZDA MOTOR OF AMERICA

TYPE OF SCRIPT:

☒ NATIONAL
☐ REGIONAL

JOB#: MAZD-DTP-T3631

PRODUCT: 626, Protege, B2300 SE-5

LENGTH: :30

TITLE: Jump-626/Protege-5-L-30

ORIGINAL ISCI:

NEW ISCI: JQNB 0900

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As Produced: 5/9/96

VIDEOAUDIO

- | | |
|--|--|
| 1. OPEN ON BIG MAZDA LOGO. LOGO ZOOMS IN, AWAY FROM CAMERA. | 1. <u>MUSIC UP</u>
<u>SINGERS:</u> MAZDA... |
| 2. CUT TO MAN JUMPING INTO FRAME, IN FRONT OF LOGO. | 2. <u>SINGERS:</u> ...JUMP! |
| 3. EVENT TITLE BUILDS OVER HYPER STREET. | 3. <u>ANNCR VO:</u> It's Mazda Jump... |
| 4. <u>SUPER:</u>
MAZDA JUMP ON SUMMER | 4. <u>ANNCR VO:</u> ...On Summer. |
| 5. CAR PUSHES THROUGH EVENT TITLE.
<u>SUPER:</u>
ZERO DOWN LEASES
36 MONTHS | 5. <u>ANNCR VO:</u> Zero down leases. |
| 6. <u>SUPER:</u>
ENDS JUNE 3RD | 6. <u>ANNCR VO:</u> Ends June 3rd. |
| 7. CUT TO WOMAN BY VEHICLE. SHE DOES A "PSYCHED" JUMP. | 7. <u>SINGERS:</u> JUMP! |
| 8. CUT TO PROTEGE BADGE. | 8. <u>ANNCR VO:</u> On Protege. |
| 9. MAZDA PROTEGE RUNNING FOOTAGE.
<u>SUPER:</u>
ZERO DOWN LEASES | 9. <u>ANNCR VO:</u> Zero. |

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Complaint

EXHIBIT C



FOOTE, CONE & BELDING
4 Hutton Centre Drive, Santa Ana, CA 92707
(714) 662-6500

CLIENT: MAZDA MOTOR OF AMERICA

TYPE OF SCRIPT:

☒ NATIONAL
☐ REGIONAL

JOB#: MAZD-DTP-T3631

PRODUCT: 626, Protegé, B2300 SE-5

LENGTH: :30

TITLE: Jump-626/Protegé-5-L-30

As Produced: 5/9/96

ORIGINAL ISCI:

NEW ISCI: JQNB 0900

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VIDEOAUDIO

- | | |
|--|--|
| <p>10. PROTEGE RUNNING FOOTAGE.
<u>SUPER:</u>
\$139 A MONTH WELL-EQUIPPED
<u>DISC:</u> Closed-end leases to qualified lessees. Approval of Mazda American Credit & insurance required. Offer on '96 Protegé DX w/ Conv. Pkg., MSRP \$14,720. Assumes \$1,325 dealer contribution. 36 mo. pymts = \$6,836.04. Initial fees = \$439.89. Purchase option at lease end = \$7,507.20. Offer on '96 B2300 SE Reg Cab w/ A/C &</p> | <p>10. <u>ANNCR VO:</u> and one eighty-nine.</p> |
| <p>11. CUT TO MAN</p> | <p>11. <u>SINGERS:</u>
JUMP! JUMP! JUMP!</p> |
| <p>12. CUT TO B2300 BADGE.</p> | <p>12. <u>ANNCR VO:</u>
B2300 SE-5.</p> |
| <p>13. MAZDA B2300 RUNNING FOOTAGE.
<u>SUPER:</u>
\$0 DOWN PYMT.</p> | <p>13. <u>ANNCR VO:</u>
Zero.</p> |
| <p>14. B2300 RUNNING FOOTAGE.
<u>SUPER:</u>
\$199 A MONTH FULLY LOADED SE-5
<u>DISC:</u> (cont) Pref. Equip. Grp., MSRP \$14,605. Assumes \$1,388 dealer contribution. 36 mo. pymts = \$7,193.16. Initial fees = \$449.31. Purchase option at lease end = \$7,740.65. Offer on '96 626 DX - Conv. Pkg., MSRP \$17,540. Assumes \$1,400 dealer contribution. 36 mo. pymts = \$7,733.21. Initial fees = \$439.45. Purchase option at lease end = \$8,164.7</p> | <p>14. <u>ANNCR VO:</u> and one ninety-nine.</p> |

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EXHIBIT C



FOOTE, CONE & BELDING
4 Hutton Centre Drive, Santa Ana, CA 92707
(714) 662-6500

CLIENT: MAZDA MOTOR OF AMERICA

TYPE OF SCRIPT:

☒ NATIONAL☐ REGIONAL

JOB#: MAZD-DTP-T3631

PRODUCT: 626, Protégé, B2300 SE-5

LENGTH: :30

TITLE: Jump-626/Prot/SE-5-L-30

ORIGINAL ISCI:

NEW ISCI: JQNB 0900

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As Produced: 5/9/96

VIDEOAUDIO

- | | |
|--|---|
| 15. WOMAN JUMPING OFF BED OF TRUCK ONTO GUY'S BACK. | 15. <u>SINGERS:</u> JUMP! |
| 16. CUT TO 626 BADGE. | 16. <u>ANNCR VO:</u>
SIX-TWO-SIX. |
| 17. CUT TO WOMAN DOING HIGH FIVE. | 17. <u>SINGERS:</u> MAZDA ... |
| 18. 626 RUNNING FOOTAGE.
<u>SUPER:</u>
\$0 DOWN PYMT. | 18. <u>ANNCR VO:</u>
Zero. |
| 19. 626 RUNNING FOOTAGE.
<u>SUPER:</u>
\$209 A MONTH WELL-EQUIPPED.
<u>DISC:</u> (cont) All leases incl. freight, excl. CA/MAN/VA emissions. \$450 Acq. Fee plus taxes, title, license & registration also due at lease signing. Early termination = \$200. Lessee liable for \$.10/mile over 36,000, maintenance, repairs & excess wear/tear. Must take retail delivery by 6/3/96. SEE PARTICIPATING DEALERS FOR DETAILS AND ACTUAL TERMS. | 19. <u>ANNCR VO:</u>
and two-o-nine. |
| 20. MAZDA LOGO COMES UP OVER DESERT ROAD.
<u>SUPER:</u>
MAZDA
PASSION FOR THE ROAD | 20. <u>SINGERS:</u>
...PASSION FOR THE ROAD. |
| 21. <u>SUPER:</u>
PASSION FOR THE ROAD | |

528

Complaint

EXHIBIT C



FOOTE, CONE & BELDING

4 Horton Centre Drive, Santa Ana, CA 92707
(714) 662-6500

CLIENT: MAZDA MOTOR OF AMERICA

TYPE OF SCRIPT:

☒ NATIONAL☐ REGIONAL

JOB#: MAZD-DTP-T3631

PRODUCT: 626, Protegé, B2300 SE-5

LENGTH: :30

TITLE: Jump-626/Pro/SE-5-L-30

ORIGINAL ISCI:

NEW ISCI: JQNB 0900

Page 4 of 4

As Produced: 5/9/96

VIDEOAUDIO

- | | |
|---|---|
| 22. CLOSE UP OF WOMAN JUMPING
INTO AIR TOWARDS CAMERA. | 22. <u>ANNCR VO:</u>
Jump on it. |
| 23. <u>SUPER:</u>
ZERO DOWN LEASES
36 MONTHS | 23. <u>SINGERS:</u>
Jump |
| 24. <u>SUPER:</u>
ENDS JUNE 3RD. | 24. <u>ANNCR VO:</u> Zero down...
ends June 3rd. |
| 25. TITLE JUMPS IN SYNC WITH
MUSIC. | 25. <u>SINGERS:</u> JUMP! |

Complaint

125 F.T.C.

EXHIBIT D

THE NEW YORK TIMES, FRIDAY, MARCH 5, 1994

MAZDA PENNY DOWN

GREAT LEASES OR BUY
4.8% / 48 MOS.





MAZDA PROTEGE
BUY 1¢ 4.8% 48
DOWN APR MOS
AND \$1000 CASH BACK**
LEASE 1¢ \$189 36
DOWN MO. MOS

Protege LX sport sedan. Power windows and locks, cruise control, cassette stereo, plus the best basic warranty in its class* — all for the price of a stripped-down Corolla. Buy now, with no payments for 90 days.



MAZDA 626 LX
BUY 1¢ 4.8% 48
DOWN APR MOS
AND \$1000 CASH BACK**
LEASE 1¢ \$199 36
DOWN MO. MOS

626 LX sport sedan. Standard with power everything, cassette stereo, cruise control, air conditioning, plus the best basic warranty in its class* — all for the price of a base Altima. Buy now, with no payments for 90 days.



MAZDA 626 LX
BUY 1¢ 4.8% 48
DOWN APR MOS
AND \$1000 CASH BACK**
LEASE 1¢ \$209 36
DOWN MO. MOS

626 LX sport sedan. Standard with power everything, cassette stereo, cruise control, air conditioning, plus the best basic warranty in its class* — all for the price of a base Altima. Buy now, with no payments for 90 days.



MAZDA MIATA
BUY 1¢ 4.8% 48
DOWN APR MOS
LEASE 1¢ \$219 36
DOWN MO. MOS

Miata. The world's best-selling sports car. 1.8L engine. Classic roadster looks. 5-speed, short-throw shifter. And an unbeatable basic warranty.* Buy now, with no payments for 90 days.



**AND UP TO
\$1000
CASH
BACK**

OFFERS END APRIL 1ST

mazda
PASS ON FOR THE ROAD

DECISION AND ORDER

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 Foote, Cone & Belding Advertising, Inc. is a Delaware corporation with its principal office or place of business located at 101 East Erie Street, Chicago, Illinois.

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 signing or delivery*" 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. The total amount due at lease signing or delivery may 1) exclude third-party fees, such as taxes, licenses, and registration fees, and disclose that fact or 2) provide a total that includes third-party fees based on a particular state or locality as long as that fact and the fact that fees may vary by state or locality are disclosed.

3. Unless otherwise specified, "*respondent*" as used herein shall mean Foote, Cone & Belding Advertising, Inc., its successors and assigns, and its officers, agents, representatives, and employees.

4. "*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 involving motor vehicles 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) and 62 Fed. Reg. 15,364 (April 1, 1997)(to be codified at 12 CFR 213.2) ("revised Regulation M"), as amended, shall not, in any manner, expressly or by implication:

A. Misrepresent 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).

B. Make any reference to any charge that is part of the total amount due at lease signing or delivery 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 signing or delivery.

C. State the amount of any payment or that any or no initial payment is required at lease signing or delivery 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 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 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, 3009-473 (Sept. 30, 1996) ("revised CLA"), as amended, and Section 213.7(d)(2) of revised Regulation M, 61 Fed. Reg. at 52,261 and 62 Fed. Reg. at 15,368 (to be codified at 12 CFR 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 signing or delivery") 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 Foote, Cone & Belding Advertising, 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 Foote, Cone & Belding Advertising, Inc., and its successors and assigns, shall:

A. Within thirty (30) days after the date of service of this order, distribute a copy of this order to all current principals, officers,

directors, managers, employees, agents, and representatives having responsibilities involving motor vehicle lease advertising; and

B. For a period of ten (10) years from the date of service of this order, distribute a copy of this order to all future principals, officers, directors, managers, employees, agents, and representatives having responsibilities involving motor vehicle lease advertising, within thirty (30) days after the person or entity assumes such position or responsibilities.

VI.

It is further ordered, That respondent Foote, Cone & Belding Advertising, 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.

VII.

It is further ordered, That respondent Foote, Cone & Belding Advertising, 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 April 6, 2018, 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.

Commissioner Thompson and Commissioner Swindle not participating.

Complaint

125 F.T.C.

IN THE MATTER OF

GREY ADVERTISING, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE CONSUMER LEASING ACT, REGULATION M,
TRUTH IN LENDING ACT, REGULATION Z AND
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3793. Complaint, April 6, 1998--Decision, April 6, 1998

This consent order prohibits, among other things, the New York-based advertising agency of Mitsubishi Motor of America from misrepresenting in any motor vehicle lease advertisement the total amount due at lease signing or delivery, the amount down, and/or the down payment, capitalized cost, reduction, or other amounts that reduce the capitalized cost of the vehicle (or that no such amount is required). The consent order also prohibits the respondent, in any closed-end credit advertisement involving motor vehicles, from misrepresenting the existence and amount of any balloon payment or annual percentage rate.

Appearances

For the Commission: *Rolando Berrelez, Sally Pitofsky and David Medine.*

For the respondent: *Leonard Orkin, Kay, Collyer & Boose, New York, N.Y.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Grey Advertising, Inc., a corporation ("respondent" or "Grey"), has violated the provisions of the Federal Trade Commission Act, 15 U.S.C. 45-58, as amended, the Consumer Leasing Act, 15 U.S.C. 1667-1667e, as amended, and its implementing Regulation M, 12 CFR 213, as amended, and the Truth in Lending Act, 15 U.S.C. 1601-1667, as amended, and its implementing Regulation Z, 12 CFR 226, as amended, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Grey Advertising, Inc. is a Delaware corporation with its principal office or place of business at 777 Third Avenue, New York, New York.
2. Respondent, at all times relevant to this complaint, was an advertising agency of Mitsubishi Motor of America, Inc. ("Mitsubishi"). Respondent has disseminated advertisements to the public that promote consumer leases, as the terms "advertisement"