

## Complaint

## IN THE MATTER OF

**TC DEALERSHIP, L.P.**

D/B/A

**PLANET HYUNDAI**

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF  
SECTION 7 OF THE CONSUMER LEASING ACT, SECTION 213.7 OF  
REGULATION M, THE TRUTH IN LENDING ACT, REGULATION Z,  
AND SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket No.C-4536; File No. 152 3096*  
*Complaint, August 13, 2015 – Decision, August 13, 2015*

The consent order addresses TC Dealership, L.P. d/b/a Planet Hyundai's misrepresentation in certain advertisements of vehicle purchase prices, advertised monthly payment amounts were for vehicle purchases, not leases; and that consumers can pay \$0 at signing to obtain vehicles shown in the advertisements for the advertised monthly amount. The respondent is a motor vehicle dealer. The complaint alleges therefore that the representations are false or misleading in violations of Section 5 of the FTC Act, Consumer Leasing Act, Regulation M, the Truth in Lending Act, and Regulation Z. the order prohibits respondent from misrepresenting the cost of: purchasing a vehicle with financing, including but not necessarily limited to, the amount or percentage of the down payment, the number of payments or period of repayment, the amount of any payment, the annual percentage rate or any other finance rate, and the repayment obligation over the full term of the loan, including any balloon payment; or leasing a vehicle, including but not necessarily limited to, the total amount due at lease inception, the down payment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments.

*Participants*

For the *Commission*: Yan Fang

For the *Respondent*: Joel Winston, Hudson Cook, LLP

**COMPLAINT**

The Federal Trade Commission, having reason to believe that TC Dealership, L.P., also doing business as Planet Hyundai ("Respondent"), has violated provisions of the Federal Trade Commission Act ("FTC Act"), the Consumer Leasing Act ("CLA"), and its implementing Regulation M, and the Truth in

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Lending Act (“TILA”), and its implementing Regulation Z, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is a Nevada limited partnership with its principal office or place of business at 7150 W. Sahara Ave, Las Vegas, NV 89117. Respondent offers motor vehicles for purchase or lease to consumers.

2. The acts or practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

3. Since at least November 2014, Respondent has disseminated or caused to be disseminated advertisements to the public promoting the purchase, finance, and leasing of motor vehicles.

4. Respondent has disseminated or caused to be disseminated advertisements to the public promoting consumer leases for motor vehicles, as the terms “advertisement” and “consumer lease” are defined in Section 213.2 of Regulation M, 12 C.F.R. §213.2, as amended.

5. Respondent has disseminated or caused to be disseminated advertisements to the public promoting credit sales and other extensions of closed-end credit in consumer credit transactions, as the terms “advertisement,” “closed-end credit,” “credit sale,” and “consumer credit” are defined in Section 226.2 of Regulation Z, 12 C.F.R. § 226.2, as amended.

6. Respondent has placed numerous advertisements promoting consumer leases and purchases of motor vehicles, or promoting credit sales and other extensions of closed-end credit in consumer credit transactions, in printed publications, including in the *Las Vegas Review-Journal* newspaper. Exhibit A is an example of a two-page advertisement that Respondent ran in the *Las Vegas Review-Journal*. Respondent’s advertisements in other editions of the *Las Vegas Review-Journal* contain substantially similar statements and depictions.

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“50% OFF” Prices

7. Respondent’s advertisements, including but not limited to the advertisement attached as Exhibit A, deceptively promote offers for motor vehicles with a prominent “50% OFF” statement next to each vehicle. For example, the advertisement attached as Exhibit A features a 2014 Accent with a “50% OFF” price of “\$36/mo” or “\$8,974”:



(from Exhibit A, print advertisement, *Las Vegas Review-Journal* (Nov. 2014))

8. In a block of text near the bottom of the two-page newspaper advertisement, the following statement appears in miniscule print:

All advertised amounts include all Hyundai incentive/rebates, dealer discounts and \$2500 additional down from your trade in value . . .  
1.14MY Accent - \*Price excludes tax, title, license, doc, and dealer fees. MSRP \$18075 - \$2451 Dealer Discount - \$2650 HMA rebates - \$4000 Trade Allowance = Net Price \$8974. Lease 36 months with \$0 Cash down payment. On approved credit. Must trade qualifying vehicle . . .  
All payment and prices include HMA College Grad Rebate, HMA Military Rebate, and HMA Valued Owner Coupon. Must be active military or spouse of same to qualify for HMA Military Rebate. Must graduate college in the next 6 months or within the last 2 years to qualify for HMA College Grad rebate. Must own currently registered Hyundai to qualify for HMA Valued Owner Coupon.

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9. Thus, the prominently advertised prices are not generally available to consumers. In fact, a consumer can qualify for the advertised prices only if the consumer meets certain qualifications for incentives, rebates, or discounts, such as being a recent college graduate, being a member of the military, owning a currently registered Hyundai, or trading in a qualifying vehicle.

10. Additionally, Respondent's advertisements state certain terms, such as a monthly payment amount, but only disclose in miniscule print that the advertised monthly payment is for a lease and the number of scheduled payments. Respondent's advertisements fail to include other required information, such as the total amount due at signing and whether or not a security deposit is required.

"\$0 DOWN AVAILABLE"

11. Respondent's advertisements, including but not limited to the advertisement attached as Exhibit A, deceptively promote offers for motor vehicles with a prominent "\$0 DOWN AVAILABLE" statement:



(from Exhibit A, print advertisement, *Las Vegas Review-Journal* ((Nov. 2014))

12. In fact, consumers seeking to obtain the vehicles shown in the advertisements for "\$0 DOWN" must turn in a qualifying vehicle with a trade-in value of at least \$2,500. Thus, "\$0 DOWN" is not available to consumers who do not trade in a qualifying vehicle.

13. Additionally, Respondent's advertisements state certain terms, such as the amount down, but only disclose in miniscule print that the advertised monthly payment is for a lease and the number of scheduled payments. Respondent's advertisements fail

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to include other required information, such as the total amount due at signing and whether or not a security deposit is required.

“0% APR”

14. Respondent’s advertisements, including but not limited to the advertisement attached as Exhibit A, state credit terms such as “\$0% APR for 72 MONTHS\*\*”:



(from Exhibit A, print advertisement, *Las Vegas Review-Journal* (Nov. 2014))

15. In the block of text near the bottom of the full-page newspaper advertisement, the following statement appears in miniscule print:

\*\*0% APR for 72 months on select models subject to credit approval through HMF.

16. Respondent’s advertisements fail to include other required information, such as the terms of repayment.

**FEDERAL TRADE COMMISSION ACT VIOLATIONS****Count I****Misrepresentation of Vehicle Purchase Prices**

17. Through the means described in Paragraphs 6 through 9, Respondent has represented, directly or indirectly, expressly or by implication, that consumers can purchase vehicles for the prominently advertised “50% OFF” prices.

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18. In fact, vehicles are not generally available for purchase at the prominently advertised “50% OFF” prices. Therefore, the representation set forth in Paragraph 17 is false or misleading.

19. Respondent’s practices constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**Count II**

**Misrepresentation of Offer**

20. Through the means described in Paragraphs 6 through 10, Respondent has represented, directly or indirectly, expressly or by implication, that advertised monthly payment amounts are for vehicle purchases, not leases.

21. In fact, the advertised monthly payment amounts are for vehicle leases, not purchases. Therefore, the representation set forth in Paragraph 19 is false or misleading.

22. Respondent’s practices constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**Count III**

**Misrepresentation of Amount Due at Signing**

23. Through the means described in Paragraphs 6 and 11 through 13, Respondent has represented, directly or indirectly, expressly or by implication, that consumers can pay \$0 at signing to obtain the vehicles shown in the advertisements for the advertised monthly payment amount.

24. In fact, consumers cannot pay \$0 at signing to obtain the vehicles shown in the advertisements for the advertised monthly payment amount. Consumers must turn in a qualifying vehicle whose trade-in value is at least \$2,500. Therefore, the representation set forth in Paragraph 22 is false or misleading.

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25. Respondent's practices constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**VIOLATION OF THE CONSUMER LEASING ACT AND  
REGULATION M**

26. Under Section 184 of the CLA and Section 213.7 of Regulation M, advertisements promoting consumer leases are required to make certain disclosures ("CLA additional terms") if they state any of several terms, such as the amount of any payment ("CLA triggering terms"). 15 U.S.C. § 1667c; 12 C.F.R. § 213.7(d).

27. Respondent's advertisements promoting consumer leases, including but not necessarily limited to the advertisements described in Paragraphs 6 through 13, are subject to the requirements of the CLA and Regulation M.

**Count IV**

**Failure to Disclose or to Disclose Clearly and Conspicuously  
Required Lease Information**

28. Respondent's advertisements promoting consumer leases, including but not necessarily limited to those described in Paragraphs 6 through 13 have included CLA triggering terms, but have failed to disclose or to disclose clearly and conspicuously additional terms required by the CLA and Regulation M, including one or more of the following:

- a. That the transaction advertised is a lease.
- b. The total amount due prior to or at consummation or by delivery, if delivery occurs after consummation.
- c. Whether or not a security deposit is required.
- d. The number, amount, and timing of scheduled payments.
- e. With respect to a lease in which the liability of the consumer at the end of the lease term is based on the

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anticipated residual value of the property, that an extra charge may be imposed at the end of the lease term.

29. Therefore, the practices set forth in Paragraph 27 have violated Section 184 of the CLA, 15 U.S.C. § 1667c, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7.

**VIOLATIONS OF THE TRUTH IN LENDING ACT AND  
REGULATION Z**

30. Under Section 144 of the TILA and Section 226.24(d) of Regulation Z, as amended, advertisements promoting closed-end credit in consumer credit transactions are required to make certain disclosures (“additional terms”) if they state any of several terms, such as the number of payments or period of repayment (“TILA triggering terms”).

31. Respondent’s advertisements promoting closed-end credit, including but not necessarily limited to those described in Paragraphs 6 and 14 through 16, are subject to the requirements of the TILA and Regulation Z.

**Count V**

**Failure to Disclose or Disclose Clearly and Conspicuously  
Required Credit Information**

32. Respondent’s advertisements promoting closed-end credit, including but not necessarily limited to those described in Paragraphs 6 and 14 through 16, have included TILA triggering terms, but have failed to disclose or disclose clearly and conspicuously, additional terms required by the TILA and Regulation Z, including one or more of the following:

- a. The amount or percentage of the down payment.
- b. The terms of repayment, including any balloon payment.
- c. The “annual percentage rate,” using that term, and, if the rate may be increased after consummation, that fact.

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33. Therefore, the practices set forth in Paragraph 31 have violated Section 144 of the TILA, 15 U.S.C. § 1664, and Section 226.24(d) of Regulation Z, 12 C.F.R. § 226.24(d), as amended.

**THEREFORE**, the Federal Trade Commission, this thirteenth day of August, 2015, has issued this complaint against Respondent.

By the Commission.

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EXHIBIT

Page 18 • Saturday & Sunday, November 15-16, 2014 Call Today! (702) 605-6864

**PLANET HYUNDAI SAHARA**

**DOOR BUSTER DEALS:** USE IT FOR:

**\$300 GIFT CARD** with every new purchase!

**BLACK FRIDAY event** **1 DAY ONLY** **ENDS 9PM TONIGHT**

**2014 Accent** **\$8,974** **\$36/mo** **50% OFF**

**NEW 2015 ELANTRA** **\$4,500** **50% OFF** **\$10,948** **NO PAYMENTS FOR 90 DAYS!\***

**NEW 2015 SONATA** **\$5,999** **50% OFF** **\$12,892**

**\$0 DOWN AVAILABLE & 0% APR/72 MONTHS\*\***

**PLANET HYUNDAI (702) 605-6864 PLANETHYUNDAISAHARA.COM**

**7150 W. SAHARA JUST WEST OF RAINBOW**

**Hyundai Assurance**

## Decision and Order

**DECISION AND ORDER**

The Federal Trade Commission (“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 a complaint which the Western Region-San Francisco proposed to present to the Commission for its consideration and which, if issued, would charge the Respondent with violations of the Federal Trade Commission Act (“FTC Act”), the Consumer Leasing Act (“CLA”), and its implementing Regulation M, and the Truth in Lending Act (“TILA”), and its implementing Regulation Z; and

The Respondent, its attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“consent agreement”), which includes: a statement by Respondent that it neither admits nor denies any of the allegations in the draft complaint except as specifically stated in the consent agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; 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 FTC Act, the CLA, and its implementing Regulation M, and the TILA, and its implementing Regulation Z, 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 thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure prescribed in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent TC Dealership, L.P., also doing business as Planet Hyundai, is a Nevada limited partnership with its principal office or place of business at 7150 W. Sahara Ave, Las Vegas, NV 89117.

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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**

For the purposes of this order, the following definitions shall apply:

- A. Unless otherwise specified, “Respondent” shall mean TC Dealership, L.P., a limited partnership, and its successors and assigns.
- B. “Advertisement” shall mean a commercial message in any medium that directly or indirectly, expressly or by implication, promotes a consumer transaction.
- C. “Clearly and conspicuously” shall mean as follows:
  1. In textual communications (*e.g.*, printed publications or words displayed on the screen of a computer or a mobile device), the required disclosures are of a type, size, and location sufficiently noticeable for an ordinary consumer to read and comprehend them, in print that contrasts highly with the background on which they appear;
  2. In communications disseminated orally or through audible means (*e.g.*, radio or streaming audio), the required disclosures are delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend them;
  3. In communications disseminated through video means (*e.g.*, television or streaming video), the required disclosures are in writing in a form consistent with subparagraph (a) of this definition and shall appear on the screen for a duration sufficient for an ordinary consumer to read and

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comprehend them, and in the same language as the predominant language that is used in the communication;

4. In communications made through interactive media, such as the Internet, online services, and software, the required disclosures are unavoidable and presented in a form consistent with subparagraph (a) of this definition, in addition to any audio or video presentation of them; and
  5. In all instances, the required disclosures are presented in an understandable language and syntax, and with nothing contrary to, inconsistent with, or in mitigation of the disclosures used in any communication of them.
- D. “Consumer credit” shall mean credit offered or extended to a consumer primarily for personal, family, or household purposes, as set forth in Section 226.2(a)(12) of Regulation Z, 12 C.F.R. § 226.2(a)(12), as amended.
- E. “Consumer lease” shall mean a contract in the form of a bailment or lease for the use of personal property by a natural person primarily for personal, family, or household purposes, for a period exceeding four months and for a total contractual obligation not exceeding the applicable threshold amount, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease, as set forth in Section 213.2 of Regulation M, 12 C.F.R. § 213.2, as amended.
- F. “Lease inception” shall mean prior to or at consummation of the lease or by delivery, if delivery occurs after consummation.
- G. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.

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H. “Motor vehicle” or “vehicle” shall mean:

1. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
2. Recreational boats and marine equipment;
3. Motorcycles;
4. Motor homes, recreational vehicle trailers, and slide-in campers; and
5. Other vehicles that are titled and sold through dealers.

**I.**

**IT IS HEREBY ORDERED** that Respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for the purchase, financing, or leasing of any motor vehicle, shall not, in any manner, expressly or by implication:

A. Misrepresent the cost of:

1. Purchasing a vehicle with financing, including but not necessarily limited to, the amount or percentage of the downpayment, the number of payments or period of repayment, the amount of any payment, the annual percentage rate or any other finance rate, and the repayment obligation over the full term of the loan, including any balloon payment; or
2. Leasing a vehicle, including but not necessarily limited to, the total amount due at lease inception, the downpayment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments; or

## Decision and Order

- B. Misrepresent any other material fact about the price, sale, financing, or leasing of any vehicle, including whether the offer is for the purchase, sale, financing or leasing of any vehicle.

**II.**

**IT IS FURTHER ORDERED** that Respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for any consumer lease, shall not, in any manner, expressly or by implication:

- A. State the amount of any payment or that any or no initial payment is required at lease inception without disclosing clearly and conspicuously the following terms:
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, amounts, 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;
- B. Fail to comply in any respect with Regulation M, 12 C.F.R. Part 213, as amended, and the Consumer Leasing Act, 15 U.S.C. §§ 1667-1667f, as amended.

**III.**

**IS FURTHER ORDERED** that Respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for any extension of consumer credit, shall not, in any manner, expressly or by implication:

## Decision and Order

- A. State the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without disclosing clearly and conspicuously all of the following terms:
  - 1. The amount or percentage of the downpayment;
  - 2. The terms of repayment; and
  - 3. The annual percentage rate, using the term “annual percentage rate” or the abbreviation “APR.” If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be disclosed;
- B. State a rate of finance charge without stating the rate as an “annual percentage rate” or the abbreviation “APR,” using that term; or
- C. Fail to comply in any respect with Regulation Z, 12 C.F.R. Part 226, as amended, and the Truth in Lending Act, as amended, 15 U.S.C. §§ 1601-1667.

**IV.**

**IT IS FURTHER ORDERED** that Respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation;
- C. All evidence in its possession or control that contradicts, qualifies, or calls into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and

## Decision and Order

- D. Any documents reasonably necessary to demonstrate full compliance with each provision of this order, including but not limited to all documents obtained, created, generated, or that in any way relate to the requirements, provisions, or terms of this order, and all reports submitted to the Commission pursuant to this order.

**V.**

**IT IS FURTHER ORDERED** that Respondent shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

**VI.**

**IT IS FURTHER ORDERED** that Respondent shall notify the Commission at least thirty (30) days prior to any change in the limited partnership(s) or 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 limited partnership or 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 limited partnership or corporate name or address. *Provided, however*, that, with respect to any proposed change in the limited partnership or 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. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to [Debrief@ftc.gov](mailto:Debrief@ftc.gov) or sent by overnight courier (not U.S. Postal Service) to: Associate Director for Enforcement, Bureau of

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Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC, 20580. The subject line must begin: **FTC v. TC Dealership, L.P.**, FTC File No. 152 3096.

**VII.**

**IT IS FURTHER ORDERED** that Respondent, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports. Unless otherwise directed by a representative of the Commission in writing, all reports required by this Part shall be emailed to [Debrief@ftc.gov](mailto:Debrief@ftc.gov) or sent by overnight courier (not U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC, 20580. The subject line must begin: **FTC v. TC Dealership, L.P.**, FTC File No. 152 3096.

**VIII.**

This order will terminate on August 13, 2035, 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 Respondent did not violate any provision of the

## Analysis to Aid Public Comment

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.

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC  
COMMENT**

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing consent order from TC Dealership, L.P., also doing business as Planet Hyundai. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

The respondent is a motor vehicle dealer. According to the FTC’s complaint, the respondent has misrepresented in certain advertisements: (1) vehicle purchase prices; (2) that advertised monthly payment amounts were for vehicle purchases, not leases; and (3) that consumers can pay \$0 at signing to obtain vehicles shown in the advertisements for the advertised monthly amount. The complaint alleges therefore that the representations are false or misleading in violation of Section 5 of the FTC Act.

In addition, the complaint alleges that the respondent violated the Consumer Leasing Act (“CLA”) and Regulation M for failing to disclose or to disclose clearly and conspicuously certain costs and terms when advertising vehicles for lease.

## Analysis to Aid Public Comment

The FTC's complaint also alleges that the respondent violated the Truth in Lending Act ("TILA") and Regulation Z by failing to disclose or to disclose clearly and conspicuously certain costs and terms when advertising credit.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. Part I.A of the order prohibits respondent from misrepresenting the cost of: (1) purchasing a vehicle with financing, including but not necessarily limited to, the amount or percentage of the downpayment, the number of payments or period of repayment, the amount of any payment, the annual percentage rate or any other finance rate, and the repayment obligation over the full term of the loan, including any balloon payment; or (2) leasing a vehicle, including but not necessarily limited to, the total amount due at lease inception, the downpayment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments. Part I.B prohibits the respondent from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle.

Part II of the proposed order addresses the CLA allegations. Part II.A prohibits respondent from stating the amount of any payment or that any or no initial payment is required at lease inception without disclosing clearly and conspicuously: (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, amounts, and timing of scheduled payments; and (5) that an extra charge may be imposed at the end of the lease term. Part II.B prohibits the respondent from violating any provision of the CLA or Regulation M.

Part III of the proposed order addresses the TILA allegations. Part III.A requires the respondent to make all of the disclosures required by TILA and Regulation Z when any of its advertisements state relevant triggering terms. Part III.B requires that if any finance charge is advertised, the rate be stated as an "annual percentage rate" using that term or the abbreviation "APR." In addition, Part III.C prohibits the respondent from failing to comply in any respect with TILA and Regulation Z.

## Analysis to Aid Public Comment

Part IV of the proposed order requires respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part V requires the respondent provide copies of the order to certain of its personnel. Part VI requires notification to the Commission regarding changes in corporate structure that might affect compliance obligations under the order. Part VII requires respondent to file compliance reports with the Commission. Finally, Part VIII is a provision “sunsetting” the order after twenty (20) years, with certain exceptions.

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

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## IN THE MATTER OF

**NOMI TECHNOLOGIES, INC.**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATION OF  
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket No. C-4538; File No. 132 3251*  
*Complaint, August 28, 2015 – Decision, August 28, 2015*

This consent order addresses Nomi Technologies, Inc.’s collection of information from consumer’s mobile devices to provide its “Listen” service without the consumer’s consent. The Commission’s complaint alleges that Nomi’s privacy policy represented that: consumers could opt out of Nomi’s Listen service at retail locations using this service, and that consumers would be given notice when a retail location was utilizing Nomi’s Listen service. The complaint alleges that Nomi violated Section 5 of the Federal Trade Commission Act by misleading consumers because, contrary to its representations, Nomi did not provide an opt-out mechanism at its clients’ retail locations and neither Nomi nor its clients disclosed to consumers that Nomi’s Listen service was being used at a retail location. The consent order requires Nomi to retain documents relating to its compliance with the order, requires all documents be retained for a five-year period.

*Participants*

For the *Commission: Jacqueline Connor and Amanda Koulousiaas.*

For the *Respondent: Edward Holman, Lydia Parnes, and Tracy Shapiro, Wilson Sonsini Goodrich & Rosati.*

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Nomi Technologies, Inc., a corporation, has violated the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Nomi Technologies, Inc. (“Nomi” or “respondent”) is a Delaware corporation with its principal office or place of business at 26 West 17<sup>th</sup> Street, 2<sup>nd</sup> Floor, New York, NY 10011.