

**PREPARED STATEMENT OF THE
FEDERAL TRADE COMMISSION**

on

Rent-to-Own Transactions

before the

HOUSE FINANCIAL SERVICES COMMITTEE

FINANCIAL INSTITUTIONS AND CONSUMER CREDIT SUBCOMMITTEE

July 26, 2011

¹ The views expressed in this statement represent the views of the Commission. My oral statement and responses to questions you may have are my own

⁵ The Commission also enforces various other financial statutes, including the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f, which, inter alia, prohibits discrimination against applicants for credit on the basis of age, race, sex, or other prohibited factors; the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681x, which, inter alia, governs the use of consumer credit reports, and the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692-1692p, which, inter alia, prohibits certain abusive collection practices by debt collectors.

See, e.g., 15 U.S.C. § 45 c60d00010.00 rgD(e F)8

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has transferred to the CFPB. The Commission is not aware of any determination on the part of the CFPB about its authority with respect to RTO transactions.

⁸ See APRO, About Rent-to-Own - Get to Know the Rent to Own Industry, www.rtohq.org/apro-rto-industry-overview.html (last visited July 8, 2011).

RTO agreements provide consumers with the option to purchase the goods, in most cases either by continuing to make payments for a specified period of time, usually 12 to 24 months, or by making an early payment of some specified proportion of the remaining payments. APRO reports that some RTO stores have begun to offer more payment options to consumers for purchasing merchandise, including the option to purchase goods within three to six months instead of the typical period of 12 to 24 months.⁹ APRO estimates that in 2009 there were approximately 8,600 RTO stores in the United States and Canada, serving more than four million customers, and producing \$7 billion in annual revenues.¹⁰

IV. KEY FINDINGS OF THE STUDY

⁹ Id.

¹⁰ Id.

¹¹ James M. Lacko, Signe-Mary McKernan & Manoj Hastak, Survey of Rent-to-Own Customers: Federal Trade Commission Bureau of Economics Staff Report (April 2000), available at <http://www.ftc.gov/reports/renttoown/renttoownr.pdf>.

Signe-Mary McKernan, James M. L^{n, J}

- Actual purchases were consistent with customer purchase intentions. Eighty-seven percent of the customers who intended to purchase the rent-to-own merchandise actually did purchase it. Similarly, 90% of the customers who intended to rent temporarily and return the merchandise actually did return it. Customers who were unsure of their intentions when they began renting divided fairly evenly, with 47% purchasing the merchandise and 44% returning it.
- Thirty-eight percent of rented items were home electronics products, 36% were items of furniture, and 25% were appliances. The most commonly rented items were televisions, sofas, washers, VCRs, and stereos, which together accounted for over half of all rented merchandise.

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¹⁴ See supra note 13.

¹⁵ Id.

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¹⁷ Id.

¹⁹ See, e.g., U.S. Public Interest Research Group, Preemption Alert, 4 (Mar. 2006), <http://www.uspirg.org/html/preemptionalert/march06.pdf> (Federal rent-to-own legislation supported by the industry would prohibit states from “enforcing stronger, more pro-consumer lending laws, such as usury ceilings, interest rate disclosures, or other loan protections against

state credit laws to the RTO industry, while other proposals would have regulated RTO transactions as leases.

Today, forty-seven states and the District of Columbia have laws regulating RTO transactions in a manner similar to leases. These laws vary from state to state, requiring a variety of disclosures and imposing other requirements and prohibitions, such as setting caps on fees that can be charged over and above a baseline cost of the product (for example, the wholesale cost to the store or the price charged to a consumer to purchase the product outright). Although these state laws regulate RTO transactions as lease sales,²⁰ courts in several states, most notably Wisconsin, Minnesota, and New Jersey, have ruled that RTO transactions are credit sales and subject to state laws governing credit sales.²¹ Vermont does not regulate RTO transactions as credit sales,²² but does require disclosure of the “effective APR.”

An important factual issue in the debate over whether RTO transactions are sales or leases continues to be the extent to which RTO customers purchase the rented merchandise. As described earlier, the Bureau of Economics report found that 70 percent of RTO merchandise is purchased by the customer. In contrast, other studies have found that, based on store reporting data, less than 40 percent of RTO merchandise ultimately is purchased, and that the rest is returned to the dealer after a relatively short rental duration.

²⁰ See supra note 12 at 7.

²¹ Id.

²² See Vermont Rule CF 115 (1997); 9 V.S.A. § 41b (2011); see also TILA, 15 U.S.C. §§ 1601-1666j.

²³ Commissioner Brill believes disclosures of effective interest rates are successfully being employed in states where the

