

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney

In the Matter of)
)
) DECISION AND ORDER
Asbury Automotive Group, Inc.,)
also d/b/a Coggin Automotive Group and)
Crown Automotive Group,) DOCKET NO. C-4606
a corporation;)
)
)

)

DECISION

The Federal Trade Commission (“Commission”) initiated an investigation of certain acts and practices of the Respondent named in the caption. The Commission’s Bureau of Consumer Protection (“BCP”) prepared and furnished to Respondent a draft Complaint. BCP proposed to present the draft Complaint to the Commission for its consideration. If issued by the Commission, the draft Complaint would charge the Respondent with violation of the Federal Trade Commission Act.

Findings

1. Respondent Asbury Automotive Group, Inc., also d/b/a Coggin Automotive Group and Crown Automotive Group, is a Delaware corporation, with its principal office or place of business at 2905 Premiere Parkway, NW, Suite 300, Duluth, GA 30097.
2. The Commission has jurisdiction over the subject matter of this proceeding and over the Respondent and the proceeding is in the public interest.

ORDER

DEFINITIONS

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

1. Unless otherwise specified, "Respondent" shall mean Asbury Automotive Group, Inc., also d/b/a Coggin Automotive Group and Crown Automotive Group, and its successors and assigns.
2. "Advertisement" shall mean a commercial message in any medium that directly or indirectly promotes a consumer transaction.
3. "Clearly and conspicuously" shall mean that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:
 - a. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be made through the same means through which the representation requiring the disclosure is presented.
 - b. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
 - c. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
 - d. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.

- e. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
- f. The disclosure must comply with these requirements in each medium through which it is received, including all e

- ii. how consumers can determine whether an individual motor vehicle is subject to an open recall for a safety issue that has not been repaired,

and the representation is otherwise not misleading. Provided further that if Respondent receives any written notification from a manufacturer that an individual used motor vehicle is subject to an open recall for a safety issue, Respondent must ~~clearly~~ and conspicuously provide to the consumer, prior to the consummation of the sale of that used motor vehicle, either (a) any written notification from a manufacturer that Respondent has received that the motor vehicle is subject to an open recall for a safety issue, or a document that conveys the same information using a substantially similar format, or (b) a written notification that clearly and conspicuously conveys that the vehicle is subject to an open recall that is unrepaired, and the safety ~~risks~~ associated with the recall, that is made available by the U.S. Department of Transportation's National Highway Traffic Safety Administration ("NHTSA") or a commercial provider of recall information.

B. Misrepresent the following:

1. Whether there is or is not an open recall for safety issues for any used motor vehicle;
2. Whether Respondent repairs used motor vehicles for open recalls for safety issues; and
3. Any other material fact about the safety of the used motor vehicles it advertises for sale.

II.

IT IS FURTHER ORDERED that Respondent, within sixty (60) days of entry of this Order, must provide, by first class mail to the last known address of every consumer who purchased a certified used motor vehicle from Respondent between ~~2013~~ and September 2, 2015, a notice on Respondent's letterhead that clearly and conspicuously discloses the following:

"We want to alert you that some of the used vehicles we recently sold had been recalled for safety issues, but weren't repaired ~~also~~ before they were sold. You can check whether the vehicle you bought from us is subject to an unrepaired recall at the National Highway Traffic Safety Administration's recall website, <https://vinrcl.safercar.gov/vin/> That site also provides information on how to get your vehicle fixed if it's been recalled."

D. Any documents reasonably necessary to demonstrate full compliance with 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.

IV.

IT IS FURTHER ORDERED that Respondent shall deliver a copy of this order to all current and future principals, officers, and directors, and to all current and future managers, 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, with any electronic signatures complying with the requirements of the Sign Act, 15 U.S.C. § 7001 et seq. 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.

V.

IT IS FURTHER ORDERED that Respondent 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 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 or sent by overnight courier (not U.S. Postal Service) to: Associate Director Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The subject line must begin: In re Asbury Automotive Group, Inc.

VI.

IT IS FURTHER ORDERED

