

other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which . . . is privileged or confidential,” as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <http://www.ftc.gov/ftccomment> by following the instructions on the web-based form. If this Notice appears at <http://www.ftc.gov/ftccomment/#!comment>, you also may file a comment through that Web site.

If you file your comment on paper, write “In the Matter of Asbury Automotive Group, Inc., File No. 152 3103—Consent Agreement” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as

appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 17, 2017. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/privacy>.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from Asbury Automotive Group, Inc. 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 FTC 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 car dealership that sells used motor vehicles. According to the FTC complaint, discussed further below, respondent has represented that the certified used motor vehicles it sells have been subject to rigorous inspection, including for safety issues, but has failed to disclose adequately that some of these vehicles are subject to open recalls for safety issues. Federal law currently does not prohibit car dealers from selling used vehicles subject to open safety recalls; Congress and some states are considering legislation that would do so. The Commission, however, can take action under the FTC Act to prohibit companies from making claims that mislead consumers about safety-related and other material issues. Further, the FTC can take such action in addition to (and entirely independent of) any private rights of action consumers themselves can bring under state law. This proposed action thus does not replace or alter any state laws or legislative proposals; rather, it offers additional protections beyond those afforded under other such laws, as they exist now or may be amended.

More specifically, the complaint in this matter alleges that the respondent has posted advertisements on one of its Web sites that included the following representations:

Our Crown Certified Used Vehicles Include: 150 Point Bumper-to-bumper inspection . . .

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

