

Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

[FR Doc. 98-1674 Filed 1-23-98; 8:45 am]

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FEDERAL TRADE COMMISSION

[Dkt. C-3723]

Boeing Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order involves the Boeing Company's acquisition of Rockwell International Corporation's aerospace and defense business and the competition in the markets for high altitude endurance unmanned air vehicles ("UAVs") and space launch vehicles. The consent order, among other things, gives Teledyne Ryan, the prime contractor of one team, the opportunity to replace Boeing on that team, thereby protecting competition in the UAVs market. The consent order also establishes a "firewall" to prevent the flow of competitively sensitive information between Boeing's team and a division of Rockwell International Corporation's aerospace and defense business that is currently providing wings to the other teams, establishes a firewall that prevents Boeing from making any space launch vehicle manufacturer's non-public information available to its launch vehicle division, and allows Boeing to use such information only in its capacity as a propulsion system provider.

DATES: Complaint and Order issued March 5, 1997.¹

FOR FURTHER INFORMATION CONTACT: George Cary, FTC/H-374, Washington, DC 20580. (202) 326-3741.

SUPPLEMENTARY INFORMATION: On Monday, December 16, 1996, there was published in the **Federal Register**, 61 FR 66038, a proposed consent agreement with analysis In the Matter of The Boeing Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

¹ Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, modified as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 98-1797 Filed 1-23-98; 8:45 am]

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FEDERAL TRADE COMMISSION

[File Nos. 972-3190; 972-3191; and 972-3192]

Grey Advertising, Inc.; Rubin Postaer and Associates, Inc.; and Foote, Cone & Belding Advertising, Inc.—Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements.

SUMMARY: The consent agreements in these matters settle alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaints that accompany the consent agreements and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before March 27, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

David Medine, FTC/S-4429, Washington, DC 20580. (202) 326-3224.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreements containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the complaints. An electronic copy of the full text of the consent agreement

packages can be obtained from the FTC Home Page (for January 20, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions/htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Orders to Aid Public Comment

The Federal Trade Commission has accepted separate agreements, subject to final approval, to proposed consent orders from three advertising agencies—Grey Advertising, Inc. ("Grey"), Rubin Postaer and Associates, Inc. ("Rubin Postaer"), and Foote, Cone & Belding, Inc., ("FCB") (collectively referred to as "respondents").

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

These matters concern automobile lease and/or credit advertisements at issue in the Federal Trade Commission's enforcement actions against Mitsubishi Motor Sales of America, Inc. ("Mitsubishi"), Dkt. No. C-3713, American Honda Motor Corporation, Inc. ("Honda"), Dkt. No. C-3711, and Mazda Motor of America, Inc. ("Mazda"), Dkt. No. C-3714. The complaints allege that Grey, Rubin Postaer, and FCB, the advertising agencies for Mitsubishi, Honda, and Mazda, respectively, created and disseminated automobile lease advertisements that violate the Federal Trade Commission Act ("FTC Act"), the Consumer Leasing Act ("CLA"), and Regulation M. The complaint against Grey also alleges that respondent Grey's automobile credit advertisements violated the FTC Act, the Truth in Lending Act ("TILA"), and Regulation Z.

Section 5 of the FTC Act prohibits false, misleading, or deceptive representations or omissions of material information in advertisements. In addition, Congress established statutory

disclosure requirements for lease and credit advertising under the CLA and TILA, respectively, and directed the Federal Reserve Board ("Board") to promulgate regulations implementing such statutes—Regulations M and Z. See 15 U.S.C. 1667–1667e; 12 CFR part 213; 12 CFR part 226. On September 30, 1996, Congress passed revisions to the CLA that became optionally effective immediately and that have been implemented through the Board's recent revisions to Regulation M. See 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"); 61 FR 52,246 (October 7, 1996), 62 FR 15,364 (April 1, 1997), and 62 FR 16,053 (April 4, 1997) (together "revised Regulation M") (to be codified at 12 CFR part 213), as amended.

The complaints allege that each of the respondent's automobile lease advertisements represented that a particular amount stated as "down" is the total amount consumers must pay at the initiation of a lease agreement to lease the advertised vehicles. This representation is false, according to the complaints, because consumers must pay additional fees beyond the amount stated as "down," such as a security deposit, first month's payment and/or an acquisition fee, to lease the advertised vehicles. The complaints allege that respondents knew or should have known that this representation was false or misleading. The complaints also allege that respondents knew or should have known that the failure to disclose adequately lease inception fees in their advertisements was deceptive. These practices, according to the complaints, constitute deceptive acts or practices in violation of section 5(a) of the FTC Act.

The complaints further allege that respondents' lease advertisements failed to disclose the terms of the offered lease in a clear and conspicuous manner, as required by the CLA and Regulation M. According to the complaints, respondents' television lease disclosures were not clear and conspicuous because they appeared on the screen in small type, against a background of similar shade, for a very short duration, and/or over a moving background. The Grey and Rubin Postaer complaints also allege that these respondents' fine print disclosures of lease terms in print advertisements were not clear and conspicuous. The complaints, therefore, allege that respondents' failure to disclose lease terms in a clear and conspicuous manner violates the CLA and Regulation M. These alleged practices would also violate the

advertising disclosure requirements of the revised CLA and the revised Regulation M.

The Grey complaint also alleges that respondent Grey's credit advertisements represented that consumers can purchase the advertised vehicles at the terms prominently stated in the ad, such as a low monthly payment and/or a low amount "down." This representation is false, according to the complaint, because consumers must also pay a final balloon payment of several thousand dollars, in addition to the low monthly payment and/or amount down, to purchase the advertised vehicles. The Grey complaint alleges that Grey knew or should have known that this representation was false or misleading. The Grey complaint also alleges that Grey knew or should have known that the failure to disclose adequately in its credit advertisements additional terms pertaining to the credit offer, including the existence of a final balloon payment of several thousand dollars and the annual percentage rate, was deceptive. These practices, according to the complaint, constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act.

The Grey complaint further alleges that respondent Grey's credit advertisements failed to disclose required credit terms in a clear and conspicuous manner, as required by the TILA and Regulation Z. According to the complaint, respondent's television advertisements contained credit disclosures that were not clear and conspicuous because they appeared on the screen in small type, against a background of similar shade, for a very short duration, and/or over a moving background. The complaint also alleges that this respondent's fine print disclosures of credit terms in print advertisements were not clear and conspicuous. The complaint, therefore, alleges that Grey's failure to disclose credit terms in a clear and conspicuous manner violates the TILA and Regulation Z.

The proposed consent orders contain provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future. Specifically, subparagraph I.A. of the proposed orders prohibits respondents, in any motor vehicle lease advertisement, from misrepresenting 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). Subparagraph I.B. of the proposed

orders also prohibits respondents, in any motor vehicle lease advertisement, from making any reference to any charge that is part of the total amount due at lease signing or delivery or that no such amount is due, not including a statement of the periodic payment, more prominently than the disclosure of the total amount due at lease inception. The "prominence" requirement prohibits the companies from running deceptive advertisements that highlight low amounts "down," with inadequate disclosures of actual total inception fees. This "prominence" requirement for lease inception fees also is found in the revised Regulation M recently adopted by the Board.

Moreover, subparagraph I.C. of the proposed orders prohibits respondents, in any motor vehicle lease advertisement, from stating the amount of any payment or that any or no initial payment is required at consummation of the lease, unless the ad also states: (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 maybe imposed at the end of the lease term where the liability of the consumer at lease end is based on the anticipated residual value of the vehicle. The information enumerated above must be displayed in the motor vehicle lease advertisement in a clear and conspicuous manner. This approach is consistent with the lease advertising disclosure requirements of the revised CLA and the revised Regulation M.

Paragraph II of the proposed orders provides that lease advertisements that comply with the disclosure requirements of subparagraph I.C. of the orders shall be deemed to comply with section 184(a) of the CLA, as amended, or § 213.7(d)(2) of the revised Regulation M, as amended.

Paragraph III of the proposed orders provides that certain future changes to the CLA or Regulation M will be incorporated into the orders. Specifically, subparagraphs I.B. and I.C. will be amended to incorporate future CLA or Regulation M required advertising disclosures that differ from those required by the above order paragraphs. In addition, the definition of "total amount due at lease signing or delivery," as it applies to subparagraph I.B. and I.C. only, will be amended in the same manner. The orders provide that all other order requirements, including the definition of "clearly and conspicuously," will survive any such revisions.

Subparagraph IV.A of the proposed Grey order prohibits respondent Grey, in any closed-end credit advertisement involving motor vehicles, from misrepresenting the existence and amount of any balloon payment or the annual percentage rate; subparagraph IV.B also prohibits respondent Grey from stating the amount of any payment, including but not limited to any monthly payment, in any motor vehicle closed-end credit advertisement unless the amount of any balloon payment is disclosed prominently and in close proximity to the most prominent of the above statements.

Subparagraphs IV.C of the proposed Grey order also enjoins respondent from disseminating motor vehicle closed-end credit advertisements that state the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any periodic payment, including but not limited to the monthly payment, or the amount of any finance charge without disclosing, clearly and conspicuously, all of the terms required by Regulation Z, as follows: (1) The amount or percentage of the downpayment; (2) the terms of repayment, including but not limited to the amount of any balloon payment; and (3) the correct annual percentage rate, using that term or the abbreviation "APR," as defined as Regulation Z and the Official Staff Commentary to Regulation Z. If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be clearly and conspicuously disclosed.

The information required by subparagraph I.C. (lease advertisements) and IV.C of the Grey order (credit advertisements) must be disclosed "clearly and conspicuously" as defined in the proposed orders. The "clear and conspicuous" definition requires that respondents present such lease or credit information within the advertisement in a manner that is readable (or audible) and understandable to a reasonable consumer. This definition is consistent with the "clear and conspicuous" requirements for advertising disclosures in the revised Regulation M and Regulation Z that require disclosures that consumers can see and read (or hear) and comprehend. Similar to prior Commission orders and statements interpreting Section 5's prohibition or deceptive acts and practices, these orders require respondents to include certain disclosures in advertising that are readable (or audible) and understandable to reasonable consumers.

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

Donald S. Clark,

Secretary.

[FR Doc. 98-1801 Filed 1-23-98; 8:45 am]

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(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 98-1798 Filed 1-23-98; 8:45 am]

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FEDERAL TRADE COMMISSION

[Dkt. C-3584]

Schwegmann Giant Super Markets, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, the Ohio-based mortgage corporation and its president from misrepresenting any terms or conditions of financing, such as, the annual percentage rate and finance charges of consumer loans; the number, amount and timing of mortgage payments; and the total number of payments to repay consumer loans.

DATES: Complaint and Order issued March 10, 1997.¹

FOR FURTHER INFORMATION CONTACT: John Mendenhall, FTC Cleveland Regional Office, Eaton Center, Suite 200, 1111 Superior Ave., Cleveland, Ohio 44114. (216) 522-4210.

SUPPLEMENTARY INFORMATION: On Tuesday, December 10, 1996, there was published in the **Federal Register**, 61 FR 65061, a proposed consent agreement with analysis In the Matter of Progressive Mortgage Corporation, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

DATES: Consent order issued June 2, 1995. Modifying order issued February 24, 1997.¹

FOR FURTHER INFORMATION CONTACT:

Daniel Ducore, FTC/S-2115, Washington, DC 20580. (202) 326-2526.

SUPPLEMENTARY INFORMATION: In the Matter of Schwegmann Giant Super Markets, Inc. The prohibited trade practices and/or corrective actions as set forth at 60 FR 35032, are changed, in part, as indicated in the summary.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 98-1799 Filed 1-23-98; 8:45 am]

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¹ Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

¹ Copies of the Modifying Order are available from the Commission's Public Reference Branch, H-130, 600 Pennsylvania Avenue, NW., Washington, DC 20580.