

FTC FACTS for Business



If you advertise consumer leases, the Federal Trade Commission has important information for you: Your ads must comply with the streamlined rules for lease advertising found in the Consumer Leasing Act (CLA) and Regulation M. These requirements focus on essential lease information for consumers and are designed to help consumers shop and compare lease terms. The current rules became effective January 1, 1998.

This brochure answers frequently asked questions about the general advertising requirements of the CLA and Regulation M, the specific disclosure requirements, and the liability for violations.

General Requirements

Q. What's a consumer lease?

A. A lease of personal property to an individual for more than four months for personal, family or household use where the total contractual obligation is not more than \$25,000.

Q. Who's covered?

A. Lessors, automobile dealers, merchants — in short, anyone who advertises consumer leases — must comply with the advertising disclosure requirements spelled out in the CLA and Regulation M.

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Q. Are the media covered?

A. No.

Q. What's a lease ad?

A. Any message that invites, offers or announces to the public the availability of a consumer lease, whether in visual, oral or print (including electronic) media. That includes:

- messages in newspapers, magazines, leaflets, catalogs, and fliers;
- messages on radio, television and public address systems;
- direct mail;
- telephone solicitations;
- signs or displays; and
- online information, such as the Internet.

Q. What's clear and conspicuous disclosure?

A. The required disclosures in your ad must be reasonably understandable. That is, consumers must be able to see and read or hear, and understand, the information. Many factors, including the size, duration, and location of the required disclosures, and the background or other information in the ad, can affect whether the information is clear and conspicuous. This requirement applies to all mandatory disclosures, including those offered through a toll-free (or collect or local) telephone number.

Q. What terms can the ad offer?

A. The terms offered must be usually and customarily available.

Specific Requirements

Q. What terms trigger disclosures in the revised regulation?

A. If your ad includes any of these triggering terms:

- a statement of any capitalized cost reduction or other payment

required before or at lease consummation, or by delivery if delivery takes place after consummation, or that no payment is required — or

- the amount of any payment, it must include these disclosures clearly and conspicuously:
 - that the transaction advertised is a lease,
 - the total amount due before or at consummation, or by delivery if delivery takes place after consummation,
 - the number, amounts and due dates or periods of scheduled payments under the lease,
 - whether or not a security deposit is required, and
 - in leases where the consumer's liability is based on the difference between the property's residual value and its realized value at the end of the lease term, that an extra charge may be imposed at the end of the lease term.

Q. What disclosure rules apply to the total amount due at consummation or delivery?

A. Keep in mind the following:

- The total amount due at consummation or delivery must be stated. If you also choose to itemize the total amount due at consummation or delivery, the total amount due at consummation or delivery must still be clear and conspicuous, that is, readable and understandable to consumers.
- Except for the periodic payment, any positive or negative reference to a charge that is part of the total amount due at consummation or delivery cannot be more prominent than the total amount due at consummation or delivery.

- If third-party fees that vary by state or locality — such as taxes, license or registration — are involved, your ad may give a total amount due at consummation or delivery including the fees based on a particular state or locality while explaining that fact and the fact that such fees vary by state or locality or, exclude the fees from the total amount due at consummation or delivery but disclose that fact. The disclosures about third-party fees also must be clear and conspicuous.

Q. *What if my ad promotes several leased items?*

- A. If a triggering term appears, you can use an example of one or more typical leases — if you disclose the required terms that apply to each. The examples must be labeled as such and must reflect representative lease terms made available to consumers.

Q. *Is there a special option for radio and TV ads?*

- A. The triggering terms and required disclosures described above apply to all lease ads. But, if your radio or TV ad refers clearly and conspicuously to a toll-free (or collect or local) phone number through which consumers can obtain the required lease information, and if you follow certain procedures, you can somewhat limit the information provided in your radio or TV ad. To use this approach, your radio or TV ad still must clearly and conspicuously state:
- that the transaction advertised is a lease,
 - the total amount due before or at consummation, or by delivery if delivery occurs after consummation, and
 - the number, amounts, and due dates or periods of scheduled payments under the lease.

Your radio or TV ad also must clearly and conspicuously indicate that consumers can get all the required disclosures through the toll-free (or collect or local) phone number or print ad. Your radio or TV ad also must include the publication's name and date.

Q. *Are there other special procedures for the toll-free (or collect or local) phone number and print ads?*

- A. Yes, the toll-free (or collect or local) phone number described above — which only applies to radio and TV ads — must be established no later than the ad's air date. It also must continue for at least 10 days after the air date. Callers must be given all the required disclosures early in the message. A clear and conspicuous written copy of the disclosures also must be given to anyone who asks for it.

Print ads described above must appear in a general circulation publication in the community served by the media station. A newspaper circulated nationally, such as *USA Today* or the *Wall Street Journal*, could meet this requirement. The print ad must appear at least three days before the radio or TV ad airs, and continue for at least 10 days after the air date. The print ad must clearly and conspicuously include all the required disclosures.

Q. *Are there special rules for advertising a lease rate?*

- A. Yes, your ad must include the following statement near the rate without any intervening language or symbols: "This percentage may not measure the overall cost of financing the lease." In addition, except for the notice, the rate cannot appear more prominently than any

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terms in the ad that are required written disclosures under the amended CLA and Regulation M, such as “gross capitalized cost,” “residual value” and others. You also **cannot** refer to the lease rate as an “annual percentage rate,” “annual lease rate,” or other equivalent term.

Violations

If your ads don't comply with the law, you could face enforcement actions or civil lawsuits. For advertisers under the FTC's jurisdiction, that could mean:

- orders to cease and desist. If you violate an order, you could be fined up to \$11,000 per day per violation.
- injunctions by federal district courts. Violations of these orders could result in civil or criminal contempt proceedings.
- refunds to consumers for actual damages in civil lawsuits.

For More Information

The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit www.ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

Your Opportunity to Comment

The National Small Business Ombudsman and 10 Regional Fairness Boards collect comments from small businesses about federal compliance and enforcement activities. Each year, the Ombudsman evaluates the conduct of these activities and rates each agency's responsiveness to small businesses. Small businesses can comment to the Ombudsman without fear of reprisal. To comment, call toll-free 1-888-REGFAIR (1-888-734-3247) or go to www.sba.gov/ombudsman.



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