



[BILLING CODE: 6750-01S]

FEDERAL TRADE COMMISSION

[File No. 172 3102]

Federal-Mogul Motorparts LLC; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement; Request for Comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order – embodied in the consent agreement – that would settle these allegations.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY**

INFORMATION section below. Write “Federal-Mogul Motorparts LLC; File No. 172 3102” on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, 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.

FOR FURTHER INFORMATION CONTACT: Sydney Knight (202-326-2162),
Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania
Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade
Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR § 2.34, notice is hereby
given that the above-captioned consent agreement containing a consent order to cease and
desist, having been filed with and accepted, subject to final approval, by the Commission,
has been placed on the public record for a period of thirty (30) days. The following
Analysis to Aid Public Comment describes the terms of the consent agreement and the
allegations in the complaint. An electronic copy of the full text of the consent agreement
package can be obtained from the FTC Website (for March 25, 2020), at this web
address: <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your
comment, we must receive it on or before [INSERT DATE 30 DAYS AFTER
PUBLICATION IN THE *FEDERAL REGISTER*]. Write “Federal-Mogul Motorparts
LLC; File No. 172 3102” on your comment. Your comment—including your name and
your state—will be placed on the public record of this proceeding, including, to the extent
practicable, on the <https://www.regulations.gov> website.

Due to the public health emergency in response to the COVID-19 outbreak and
the agency’s heightened security screening, postal mail addressed to the Commission will
be subject to delay. We strongly encourage you to submit your comments online through
the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write “Federal-Mogul Motorparts LLC; File No. 172 3102” 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.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential” – as provided by 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) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). 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). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Website – as legally required by FTC Rule 4.9(b) – we cannot redact or remove your comment from the FTC Website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC Website 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 [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

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 with Federal-Mogul Motorparts LLC (“respondent”).

The proposed consent order (“order”) has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the order and the comments received, and will decide whether it should withdraw the order or make it final.

This matter involves the respondent’s advertising for Wagner OE^X brake pads. The proposed complaint alleges that Federal-Mogul violated Section 5(a) of the FTC Act by disseminating a series of false and unsubstantiated advertisements claiming that: (1) In an emergency, when a driver is trying to stop in the shortest distance possible, Wagner OE^X brake pads will stop a pickup truck, SUV, or crossover up to 50 feet sooner than competing brake pads; and (2) In an emergency, when a driver is trying to stop in the shortest distance possible, Wagner OE^X brake pads installed on a pickup truck, SUV, or crossover significantly reduce the risk of collisions compared to competing brake pads.

The order includes injunctive relief that prohibits these alleged violations and fences in similar and related conduct. The product coverage would apply to any Federal-Mogul-branded or marketed aftermarket brake pads, including Wagner OE^X aftermarket brake pads, as well as any third-party-branded aftermarket brake pads for which the respondent provides marketing materials.

Part I prohibits the respondent from making any representation about the braking benefits, performance, or efficacy of any covered product, including that such product: (1) will stop a vehicle significantly sooner than competing brake pads; and (2) reduces the risk of collisions compared to competing brake pads, unless the representation is non-misleading, and, at the time of making such representation, the respondent possesses and

relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted by experts in the field of automotive braking, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

Part II requires the respondent to submit a signed acknowledgment that respondent received the order.

Part III requires the respondent to file compliance reports with the Commission, and to notify the Commission of bankruptcy filings or changes in corporate structure that might affect compliance obligations. **Part IV** contains recordkeeping requirements for accounting records, personnel records, consumer correspondence, advertising and marketing materials, and claim substantiation, as well as all records necessary to demonstrate compliance or non-compliance with the order. **Part V** contains other requirements related to the Commission's monitoring of the respondent's order compliance. **Part VI** provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the order, and it is not intended to constitute an official interpretation of the complaint or order, or to modify the order's terms in any way.

By direction of the Commission.

April J. Tabor,

Acting Secretary.