

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

In the Matter of

**FEDERAL-MOGUL MOTORPARTS LLC,
a limited liability company.**

DOCKET NO. C-4717

COMPLAINT

The Federal Trade Commission, having reason to believe that Federal-Mogul Motorparts LLC, a limited liability company (“Respondent”), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is a Delaware limited liability company with its principal office or place of business at 27300 W. 11 Mile Rd., Southfield, MI 48034.
2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed products to consumers, including Wagner OE^X brake pads. The brake pads are after-market products that can be purchased and installed at automobile repair shops.
3. The acts and practices of Respondent alleged in this Complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. Since at least 2015, Respondent has manufactured, advertised, labeled, marketed, promoted, offered for sale, sold, and distributed Wagner OE^X aftermarket replacement brake pads to the public for use on categories of vehicles known as CUVs (crossover utility vehicles), SUVs (sport utility vehicles), and pickup trucks. Wagner OE^X brake pads represent a “premium” price tier among aftermarket brake products sold by Respondent compared to “entry-level” and “mid-range” price tiers of brake products sold by Respondent.
5. To induce consumers to purchase Wagner OE^X brake pads, and to induce aftermarket automobile parts retailers and repair shops to install Wagner OE^X premium brake pads rather than other competing brake pads, Respondent has disseminated or has caused to be disseminated advertisements, packaging, and promotional materials, via various advertising media, including

the television, internet, and print ads depicted in the attached Exhibits A, B, and C. Consumers who view Respondent's advertisements can select and purchase Wagner OE^X brake pads at various third-party automobile parts retailers and repair shops in order to accomplish the installation themselves or by their preferred installer. The materials contain the following statements and depictions:

A. Storyboard of Television Advertisement (Exhibit A)



(Fade In) (Woman driving vehicle #1)



(Woman in vehicle #1 smiles at woman in vehicle #2)



(A truck is crossing in front of vehicles)



(Brake lights activated on both vehicles)



(Vehicle #1 stops safely while vehicle #2 continues moving forward)



(Driver and passengers of vehicle #1 look fearful)



(Vehicle #2 crashes into truck)



WOMAN in Vehicle #1 : Is everybody okay?

Text: Fictionalization, simulated accident, involves stunt drivers



VOICE OVER: Wagner OE^X brake pads...



can stop you up to 50 feet sooner.



Do you know what's on your vehicle?

Text: *Results based on independent testing comparing Wagner OE^X to competitors' brake pads on 2014 Ford F-150, 2011 RAV4 and 2013 Chevy Tahoe



Install Wagner OE^X at Pep Boys and other leading repair shops.
(Fade Out)

B. Storyboard of YouTube advertisement (Exhibit B)



(Fade In) (Woman driving vehicle #1)



(Woman in vehicle #1 gazes at woman in vehicle #2)



(A truck is crossing in front of vehicles)



(Brake lights activated on both vehicles)



(Vehicle #1 stops safely while vehicle #2 continues moving forward)



(Driver and passengers of vehicle #1 look fearful)



(Vehicle #2 crashes into truck)



WOMAN in Vehicle #1 : Is everybody okay?



VOICE OVER: Wagner OE[®] brakes

Text: Fictionalization, simulated accident, involves stunt drivers



can stop you up to 50 feet sooner.



Do you know which brake pads are on your vehicle?

Text: *Results based on independent testing comparing Wagner OE[®] to competitors' brake pads on 2014 Ford F-150, 2011 RAV4 and 2013 Chevy Tahoe



Your kids' lives depend on it. Parts Matter. (Fade Out)

C. Print advertisement (Exhibit C)

Stopping on a dime. It's worth every penny.



Wagner OE^x brake pads can stop your truck, SUV or crossover up to 50 feet sooner than other leading pads.* It can mean 50 feet saved when you need it most. And when your family's safety is on the line, isn't that what really matters? Find out more at wagnerbrake.com.

#partsmatter



WAGNER[®] OE^x

*Results based on independent testing comparing Wagner OE^x to competitor's brake pads on 2011 Ford F150, 2011 Toyota RAV4 and 2010 Chevy Tahoe. ©2012 Federal-Mogul Motorparts Corporation. All trademarks shown are owned by Federal-Mogul Corporation, or one of its direct subsidiaries, or one of its licensors. All rights reserved.



6. Respondent hired an independent party to conduct head-to-head testing of Wagner OE^X brake pads against competing aftermarket brake products. The vehicles used in the tests included a 2014 Ford F-150, a 2013 Chevrolet Tahoe, and a 2011 Toyota RAV4.

A. Pursuant to the test protocol used, certain stopping distance tests were conducted from a speed of 60 mph where the driver was instructed to stop the vehicle by applying a constant and relatively light force of 100 Newtons to the brake pedal. Research has shown that the vast majority of drivers are capable of applying up to four times that much pedal force.

B. The Company's testing protocol also required that the testing be conducted immediately after the braking system was subjected to a sequence of "fade" or "heating" maneuvers designed to heat the brakes until they reached a set temperature above normal driving conditions, also known as "post-fade" or "hot performance" stops. "Post-fade" refers to when the brakes are at their hottest, a condition that will result in a reduction in stopping power. A post-fade condition typically occurs after repeated or sustained application of brakes, such as when a vehicle is driving down a long mountain or hill.

C. The industry standard for measuring vehicle stopping distances is known as the Federal Motor Vehicle Safety Standard for Light Vehicle Brake Systems (FMVSS 135). According to this standard, an evaluation of the stopping distance performance of a vehicle requires that the driver try to stop the vehicle in "the shortest distance achievable," also known as a "best-effort" stop. In a best-effort stop, the driver pushes on the pedal as hard as necessary to achieve the shortest stopping distance.

D. The testing protocol used in Respondent's testing did not evaluate conditions where a driver tries to stop the vehicle in the shortest achievable distance, such as when trying to avoid a collision. Neither did it simulate testing under ordinary driving conditions. Among other things, the test protocol's requirement that the driver apply a constant pedal force of 100 Newtons prevented the driver from applying the amount of pedal force necessary to stop the vehicle in the shortest achievable distance as required by FMVSS 135. Furthermore, by requiring the driver to apply no more than 100 Newtons of force during the "post-fade" or "hot performance" testing, the protocol produces stopping distances that are longer than when the test is conducted at temperatures associated with normal driving conditions. When operating the brakes at the higher temperatures associated with "post-fade" testing, the driver must apply greater pedal force to stop in the shortest achievable distance because heated or faded brakes require more force than cold brakes to produce a comparable level of stopping performance.

Count I False or Unsubstantiated Performance Claims

7. In connection with the advertising, promotion, offering for sale, sale, or distribution of Wagner OE^X brake pads, Respondent has represented, directly or indirectly, expressly or by implication, that:

A. In an emergency, when a driver is trying to stop in the shortest distance possible, Wagner OEX^x brake pads will stop a pickup truck, SUV, or CUV up to 50 feet sooner than competing brake pads; and

B. In an emergency, when a driver is trying to stop in the shortest distance possible, Wagner OEX brake pads installed on a pickup truck, SUV, or CUV, significantly reduce the risk of collisions compared to competing brake pads.

8. The representations set forth in Paragraph 7 are false or misleading, or were not substantiated at the time the representations were made.

Violations of Section 5

9. The acts and practices of Respondent as alleged in this Complaint constitute unfair or deceptive acts or practice in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this twelfth day of May, 2020, has issued this Complaint against Respondent.

By the Commission.

April J. Tabor
Acting Secretary

SEAL: