TABLE OF CONTENTS

CHAPTER 1

The Federal Trade Commission Act: Historical Context, Legislative History, and Amendments

§ 1.01	Historical	Context	1-1
§ 1.02	Legislativ	re History	1-4
Ü	[1] Le	gislative Prelude	1-4
	[2] Pre	esident Wilson's Proposal	1-5
		ouse Consideration	1-6
		nate Debate	1-7
		Il Reported by Conference	1-10
§ 1.03		Amendments to the Federal Trade	
Ü		ission Act	1-12
		heeler-Lea Act of 1938	1-12
		Guire Act	1-13
		aska Pipeline Legislation	1-13
		agnuson-Moss Warranty—Federal	
		Trade Commission Improvement Act	
		of 1975	1-14
		deral Trade Commission	
		Improvements Act of 1980	1-15
		reign Trade Antitrust Improvements	
		Act of 1982	1-15
		deral Trade Commission Act	
		Amendments of 1994	1-16
	[8] Do	odd-Frank Wall Street Reform and	
	L J	Consumer Protection Act	1-16

CHAPTER 2

Organization, Liaison Procedures, and Public Access

§ 2.01	Offices and Bureaus	2-3	
Ü	[1] Organization	2-3	
	[a] Office of the Executive		
	Director	2-3	
	[b] Office of the General Counsel	2-4	
	[c] Office of the Secretary	2-4	
	[d] Office of Policy Development	2-4	
	[e] Office of Administrative Law		
	Judges	2-5	
	[f] Office of Presiding Officers	2-5	
	[g] The Operating Bureaus	2-5	
	[i] Bureau of Competition	2-5	
	[ii] Bureau of Consumer		
	Protection	2-6	
	[iii] Bureau of Economics	2-6	
	[h] The Regional Offices	2-6.1	
	[i] Office of International Affairs	2-6.1	
	[j] Office of Inspector General	2-6.1	
	[2] Location of Offices	2-7	
	[a] Headquarters	2-7	
	[b] Regional Offices	2-7	
§ 2.02	The Commissioners	2-9	
Ü	[1] Appointment and Tenure	2-9	
	[2] Office of the Chairman	2-9	
	[3] Meetings and Voting Procedures	2-10	
	[4] Biographies of Commissioners	2-12	
§ 2.03	Federal Trade Commission Staff	2-15	
§ 2.04	Combination of Functions Assigned to the		
· ·	FTC	2-17	
§ 2.05	Disqualifications of a Commissioner	2-19	
§ 2.06	Ex Parte Contacts with Commissioners	2-21	
§ 2.07	Relationships with Congress	2-23	
3 =	[1] Role of the Independent Regulatory		
	Agency	2-23	
	[2] Commissioner Appointments	2-23	
	[3] The Authorization Process	2-24	
	[4] The Appropriations Process	2-24	
	[5] Other Congressional Involvement	2-25	
	[6] Prohibition Against Commission		
	Lobbying	2-25	
§ 2.08	Press Releases and Public Information	2-26	
U	[1] Press Releases	2-26	

		TABLE OF CONTENTS	vii		
	[2] [3] [4]	Congressional Testimony Decisions and Orders Government Publications	2-27 2-27 2-28		
§ 2.09		ory Opinions	2-29		
§ 2.10	Liaison with Other Federal Agencies, the				
	[1]	tes, and Foreign Countries	2-31 2-31		
	[1]	[a] Food and Drug Administration	2-31		
		[b] Federal Communications			
		Commission	2-32		
		[c] Antitrust Division of the Department of Justice	2-33		
		[d] Commodity Futures Trading	2-33		
		Commission	2-33		
		[e] Consumer Financial Protection			
		Bureau	2-33		
	[2]	[f] Department of Veterans Affairs Cooperation with Foreign Countries	2-34 2-34		
	[3]	Federal/State Merger Investigations	2-34		
§ 2.11		Access	2-36		
Ü	[1]	Freedom of Information Act	2-36		
		[a] Required Disclosures	2-36		
		[b] Material Exempt from Mandatory	2 27		
		Disclosure	2-37		
		Specifically Exempted			
		from Disclosure by			
		Statute	2-38		
		[ii] Exemption 4: Trade	2 20		
		Secrets	2-39		
		Memoranda	2-41		
		[iv] Exemption 7: Law			
		Enforcement Records	2-44		
	[2]	Government in Sunshine Act	2-45		
	[3]	Privacy Act Records Systems	2-47		
	[4]	Information Requested in Matters in Which the FTC Is Not a Party	2-48		
		which the fire is for a facty	2 .0		
		CHAPTER 3			
		Jurisdictional Prerequisites			
§ 3.01	Comn	nerce Requirement	3-2		
	[1]	Interstate Commerce	3-2		
0.2.02	[2]	Foreign Commerce	3-4		
§ 3.02	"Reas	on to Believe" Criterion	3-7		

§ 3.03	Publ	ic Interest Requirement	3-9
_	[1]	Triviality	3-10
	[2]	Mootness	3-11
	[3]	Pendency of Civil or Criminal Court	
		Cases	3-14
	[4]	Discriminatory Prosecution of	
		Respondent	3-15
	[5]	Improper Congressional Interference	3-15
	[6]	Proceedings in Other Agencies	3-16
§ 3.04		ate Cause of Action	3-17
§ 3.05		nptions Contained in the FTC Act	3-19
Ü	[1]	Common Carriers Subject to the	
		ICC Act	3-19
	[2]	Common Carriers Subject to the	
		Communications Act	3-20
	[3]	Air Carriers	3-20
	[4]	Matters Subject to Packers and	
		Stockyards Act Jurisdiction	3-21
	[5]	Not-for-Profit Organizations	3-22
	[6]	Banks	3-24
	[7]	Savings and Loan Institutions:	
		Federal Credit Unions	3-24.1
	[8]	Advertising Directed at Children	3-25
	[9]	Standards and Certification Activity	3-25
	[10]	Investigations of Insurance	3-26
	[11]	Agricultural Cooperatives	3-26
	[12]	Prohibited Uses of Appropriations	3-27
§ 3.06		Act Exemptions Contained in Other Acts	3-29
3 -110	[1]	Insurance	3-29
	[2]	Ocean Shipping	3-31
	[3]	Defense Mobilization	3-33
	[4]	International Energy Agreements	3-34
	[5]	Export Trade	3-34
	[6]	Newspaper Joint Operating	
	F.1	Agreements	3-36
	[7]	Small Business Agreements	3-36
	[8]	Soft Drink Bottlers Distribution	3-37
	[9]	Television Programming	3-37
	[10]	Improving America's Schools Act	3-38
§ 3.07		trust Exemptions	3-39
3 - 1 - 1	[1]	Agriculture	3-40
	F-1	[a] Agricultural Associations	3-40
		[b] Agricultural Marketing Orders	2 .0
		and Agreements	3-42
	[2]	Fishery Associations	3-42
	[3]	Labor.	3-43
	[4]	Learned Professions	3-46

	TABLE OF CONTENTS	ix
§ 3.08	 [5] Marine Insurance [6] Sports [7] Petitioning the Government [8] State Action [9] Cooperative Research and Production Jurisdiction in Other Agencies [1] Exclusive Jurisdiction [2] Primary Jurisdiction 	3-47 3-48 3-51 3-54 3-55
	CHAPTER 4	
	Unfair Methods of Competition	
§ 4.01 § 4.02	Legislative Intent	
	as Unfair Methods of Competition	
	[1] The Sherman Act	4-4
	to Monopolize [b] Multifirm Behavior—Contracts, Combinations and	4-5
	Conspiracies [i] Contract, Combination or	
	Conspiracy	
	[ii] Effect on Commerce [iii] Determination of	
	Unreasonableness [iv] Types of Conduct Normall	
	Found Anticompetitive.	
	[2] The Clayton Act	4-16.1
§ 4.03	Unfair Methods of Competition That Do Not	
	Violate the Sherman or Clayton Acts	4-18
	[1] Incipient Violations or Those That Violate the Spirit of the Sherman or	î
	Clayton Acts	
	[2] Conduct, Missing Elements of Clayton or Sherman Act Violations, That Ha Been Found to Violate Section 5 of	S
	the FTC Act	4-19
	[a] Characteristics of a Party	4-20
	[b] Characteristics of Conduct[c] Characteristics of the Effect of	
	the Conduct	4-22
	Section 5	4-22

X	FEDERAL TRADE COMMISSION			
	[a] Identifying the Underlying Policy of the Sherman and Clayton	4.22		
	Acts [b] The Standard of Proof Should Be That of the Underlying Sherman	4-23		
	or Clayton Violation [c] Conduct Does Not Become Unfair Solely by Reason of Industry	4-24		
	Structure	4-24		
	on a Thorough Record	4-25		
	[4] 2015 FTC Statement of Enforcement Principles	4-26		
	CHAPTER 5			
	Unfair Acts or Practices			
§ 5.01	Historical Development of the Unfairness			
§ 5.02	Doctrine	5-1		
0.502	Practices			
§ 5.03	Federal Trade Commission Act Amendments of 1994	5-8		
§ 5.04	Application of Jurisdiction Over Unfair Acts or Practices	5-9		
	[1] Use of Coercion or High Pressure			
	Selling	5-9 5-11		
	[3] Making Claims Without			
	Substantiation	5-13 5-17		
	[.]	,		
	CHAPTER 6			
	Deceptive Acts or Practices			
§ 6.01	FTC Authority Over Deceptive Acts and			
§ 6.02	Practices	6-2		
, c.o <u>z</u>	Constitution	6-4		

		TABLE OF CONTENTS	xi
§ 6.03	Tradi	itional Deception Criteria	6-6
_	[1]	Introduction	6-6
	[2]	Commission Expertise to Assess	
		Deceptiveness	6-6
	[3]	Tendency or Capacity to Mislead	6-8
	[4]	Forms of Misrepresentation	6-10
		[a] Affirmative Representation	6-10
		[b] Omission	6-13
		[c] Marketing and Point of Sale	c 1.4
	F.63	Practices	6-14
	[5]	A Substantial Number of Consumers	6-17
0.604	[6]	Materiality	6-20
§ 6.04		y Statement on Deception	6-23
§ 6.05		Guides Dealing with Deceptive	
		actices	6-26
	[1]	Guides Relating to Deceptive Practices	
		Applicable Generally	6-26
		[a] Bait Advertising	6-26
		[b] Debt Collection	6-27
		[c] Endorsements and	(20
		Testimonials	6-28
		[d] Use of "Free"	6-29 6-29
		[e] Guarantees	6-30
		[f] Pricing[g] Environmental Marketing	0-30
		[g] Environmental Marketing Claims	6-32
	[2]	Guides Relating to Deceptive	0-32
	[4]	Practices in Connection with Specific	
		Products or Industries	6-35
		[a] Automobile Fuel Economy	6-35
		[b] Auto Parts (Rebuilt, Reconditioned	0 30
		or Used)	6-35
		[c] [Reserved]	6-35
		[d] [Reserved]	6-35
		[e] [Reserved]	6-35
		[f] Jewelry, Precious Metals and	
		Pewter	6-35
		[g] Leather and Imitation Leather	
		Products	6-36
		[h] [Reserved]	6-36
		[i] Schools (Private Vocational and	
		Distance Education)	6-36
	[3]	Repealed Guides	6-37
§ 6.06	Appl	ication to E-Commerce	6-38

CHAPTER 7

Consumer Protection Trade Regulation Rules

§ 7.01	Introduction			
§ 7.02	Consumer Protection Trade Regulation			
	Rules			
	[1]-[1	15] [Reserved]*	7-6	
	[16]	Care Labeling of Wearing Apparel	7-6	
	[17]	Retail Food Store Advertising and		
		Marketing Practices	7-17	
	[18]	Negative Option Plan Selling	7-17	
		[a] Premailing Practices	7-18	
		[b] Postmailing Practices	7-18	
	[19]	Cooling-Off Period for Sales Made		
		at Homes or at Certain Other		
		Locations	7-18	
	[20]	Power Output Claims for Amplifiers		
		Utilized in Home Entertainment		
	50.47	Products	7-20	
	[21]	Preservation of Consumers' Claims and	= 0.1	
		Defenses	7-21	
		[a] Basis of the Rule	7-21	
		[b] Notice Required in Consumer	7.00	
		Credit Contracts	7-22	
		[c] Application of Rule to Purchase	7.24	
		Money Loans	7-24	
		[i] Customer Referrals	7-24	
		[ii] Affiliation	7-25	
		[iii] Examples Where the Rule		
		Applies to Acceptance of	7-25	
		Proceeds [iv] Examples of Activity That,	1-23	
		Standing Alone, Does		
		Not Constitute a		
		Seller/Creditor		
		Relationship	7-26	
		[d] Application of Rule to	7-20	
		Creditors	7-26	
	[22]	Mail, Internet Or Telephone Order	7-20	
	[22]	Merchandise	7-27	
		[a] Initial Solicitation	7-27	
		[b] Procedures Governing Shipment	, 21	
		Delays	7-27	

^{*} Repealed Consumer Protection Trade Rules have been transferred to § 7.04.

TABLE OF CONTENTS			
	[c]	Cancellation and Refund	
		Procedures	7-28
	[d]	Miscellaneous Provisions	7-29
[23]		achises and Business	
r - 1		Opportunities	7-29
	[a]	The Franchise Rule	7-30
	[b]	The Business Opportunity Rule	7-33
[24]		eral Industry Practices	7-35
[]	[a]	Who Is Covered by the Rule	7-36
	[b]	Transactions to Which the Rule	,
	[~]	Applies	7-36
	[c]	Requirements Regarding Price	, 50
	[~]	Information	7-37
		[i] Price Disclosures Over the	, 3,
		Telephone	7-37
		[ii] Price Lists	7-37
		[iii] Statement of Funeral Goods	7 3 7
		and Services Selected	7-39
	[d]	Misrepresentations and Preventive	1 37
	լայ	Requirements	7-39
		[i] Embalming Provisions	7-39
		[ii] Casket For Cremation	1 37
		Provisions	7-40
		[iii] Outer Burial Container	7-40
		Provisions	7-40
		[iv] General Provisions on Legal	7-40
		and Cemetery	
		Requirements	7-40
		[v] Preservative or Protective	7-40
		Value Claims	7-41
		[vi] Cash Advance Provisions	7-41
	[م]	Required Purchase of Funeral	/-41
	[e]	Goods or Services	7-41
			/ - 4 1
			7-42
		Cremation	7-42
		[ii] Other Required	7.42
	Γ£Ί	Purchases	7-42
	[f]	Embalming Services Provided	7 42
	F - 1	Without Prior Approval	7-43
	[g]	Record Keeping	7-44
FO.53	[h]	State Exemptions	7-44
[25]		thalmic Practice	7-45
[26]		eling and Advertising of Home	7.51
		nsulation	7-51
	[a]	Duties of Manufacturers	7-52
	[b]	Duties of Retailers	7-52

		[c] Duties of Installers	7-52
		[d] Duties of New Home Sellers	7-53
		[e] Duties of Advertisers	7-53
	[27]	Credit Practices	7-53
		[a] Confessions of Judgment	7-54
		[b] Wage Assignments	7-54
		[c] Security Interests in Household	
		Goods	7-55
		[d] Waivers of Exemption	7-55
		[e] Late Charges	7-56
		[f] Cosigner Provisions	7-56
	[28]	Used Car Rule	7-56.1
		[a] Conduct Prohibited	7-56.2
		[b] "Buyers Guide" Disclosures	7-56.2
		[c] State Exemptions	7-56.3
§ 7.03	Rulei	making Proceedings Terminated Without	
9		omulgation of a Rule	7-57
	[1]	Physician Control of Open-Panel	, , ,
	[-]	Medical Prepayment Plans	7-57
	[2]	Fuel Economy Claims	7-57
	[3]	Children's Television Advertising	7-58
	[4]	Food Advertising	7-58
	[5]	Over-the-Counter Drug Advertising	7-58
	[6]	Flammability of Cellular Plastics	7-59
	[7]	Prescription Drug Advertising	, 65
	F. 1	Restraints	7-59
	[8]	Antacid Advertising	7-59
	[9]	Protein Supplements	7-60
	[10]	Health Spas	7-60
	[11]	Hearing Aids	7-60
	[12]	Standards and Certification	7-61
	[13]	Mobile Home Sales and Service	7-61
	[14]	Vocational and Home Study Schools	7-61
§ 7.04		aled Rules Summary	7-63
Ü	[1]	Advertising and Labeling of Sleeping	
		Bag Size [repealed]	7-64
	[2]	Household Electric Sewing Machines—	
		Use of Term "Automatic"	
		[repealed]	7-64
	[3]	Deception Regarding Prismatic	
		Binoculars [repealed]	7-65
	[4]	Deception Regarding "Leakproof" Dry	
		Cell Batteries [repealed]	7-65
	[5]	Advertising and Labeling of Tablecloth	
		Size [repealed]	7-65
	[6]	Representations as to Leather Content	
	_	of Belts [repealed]	7-66

	TABI	LE OF CONTENTS	XV
		ng and Labeling of Previously Lubricating Oil [repealed]	7-66
		azard Labeling of Cigarettes	7-60 7-67
		b Industry [repealed]	7-67 7-67
	[10] Advertisin	ng Sizes of Television	
	[11] Disclosure	ses Relating to the Handling of	7-68
	[12] Deception	Fiber Fabrics [repealed]	7-68
	[13] Disclosure Inhalin Spray	[repealed] e of the Lethal Effects of g Quick-Freeze Aerosol Products Used to Frost	7-69
		il Glasses [repealed]	7-69
		Extension Ladders [repealed] Chance in the Food Retailing	7-69
		soline Industries [repealed]	7-70
		CHAPTER 8	
	T	he Clayton Act	
§ 8.01		ective and FTC Enforcement	
		<i>/</i>	8-4
§ 8.02		atman Act Amendments—	
			8-6
		on	8-6
		merce Requirement	8-7
		nmodity" Requirement	8-9
		crimination—Section 2(a)	8-10
		crimination in Price es to Two Purchasers	8-10
	F	Requirement	8-11
	[c] Like	e Grade and Quality	8-13
	[d] Inju	ry to Competition	8-14
	[i]	Primary Line Injury	8-14
	[ii]	Customer Level Injury	8-17
	[e] Def	Penses	8-18.2
		Section 2(b)	8-18.2
	[ii]	Cost Justification	8-20
	[iii]		8-22
	[5] Brokerage	e Payments—Section 2(c) es and Services—Sections 2(d)	8-23
		Services Sections 2(u)	8-25

	[7]	Buy	er Lia	bility for Inducing Price	
				nination—Section 2(f)	8-29
	[8]			rcement Posture	8-30.1
§ 8.03				g and Tying—Section 3	8-31
0	[1]			angements	8-31
	[2]			Dealing	8-33
	[3]	FTC	Enfo	rcement	8-34
§ 8.04				quisitions—Section 7	8-36
3	[1]			on	8-36
		Legi	slative	e Intent	8-37
	[3]				
	[-]			ent That Commerce Be	8-37
	[4]			Which to Test Competitive	
	LJ		00 .	_	8-38
		[a]		graphic Market	8-38
		[่ช]		luct Market	8-39
		[c]	Dep	artment of Justice/FTC Market	
		F.1	Ď	Definition Guidelines	8-40
	[5]	Eval		of Competitive Impact of	
				S	8-43
		[a]		8 Department of Justice	
				Ierger Guidelines	8-43
		[b]		2 Department of Justice	
		F. J		Merger Guidelines	8-45
		[c]	State	ement of the FTC Concerning	
		F.1		orizontal Mergers	8-47
			[i]	Non-Market Share	
			F-3	Considerations	8-47
			[ii]	Factors to Be Considered as	
			[]	Part of Prosecutorial	
				Discretion	8-49
		[d]	1984	4 Department of Justice	0 17
		[4]		lerger Guidelines	8-50
			[i]	Factors Other Than	
			[-]	Concentration and Market	
				Share Data	8-50
			[ii]	Treatment of Foreign	0.50
			[11]	Competition	8-51
			[iiii]	Efficiencies	8-51
				Failing Divisions of Healthy	0-31
			[17]	Firms	8-52
		[م]	1001	2 Department of Justice and	0-32
		[e]		ederal Trade Commission	
				forizontal Merger	
				duidelines	8-52
				Market Shares and	0-32
			[1]	Concentration	8-52
				CONCAINANUI	014

		1	TABLI	E OF CONTENTS	xvii
			[ii]	Evaluation of Competitive	
				Effect of Merger	8-53
			[iii]	Entry Analysis	8-54
			[iv]		8-55
			[v]	Failing Firm and Exiting	
				Assets	8-56
		[f]	1993	Department of Justice/FTC	
				nforcement Policy on	
				ergers Among Hospitals	8-56
		[g]	2010	FTC/DOJ Merger	
		[6]	Gı	uidelines	8-57
			[i]	Adverse Competitive	
			F-3	Effects	8-57
			[ii]	Market Definition	8-59
			[iii]		0 37
			Liii	and Concentration	8-60
			[iv]	Potential Defenses	8-61
			[v]	Monopsony Effects of	0-01
			[v]	Buyer Mergers	8-62
			[wi]		8-02
			[vi]	Acquisitions of Partial	0 60
		F1 ₂ 7	2020	Interests	8-62
		[h]		FTC/DOJ Vertical Merger	0.62
0.05	II4	Q44	וט :נ מ	aidelines	8-63
§ 8.05	Hart-	Scott-	Koaine	o Premerger Notification—	0 65
					8-65
	[1]			on of the Parties	8-65
	[2]	Com	imerce	Test	8-67
	[3]			rties and Transaction	0 67
	F43				8-67
	[4]			t Acquisitions	8-68
	[5]			uations	8-69
		[a]		er Offers and Acquisitions	
				Voting Securities from	0.60
		F1 ₂ 7		nird Parties	8-69
		[b]		ndary Acquisitions	8-70
		[c]		nisitions of Voting Securities	0.70
		ГДT	Dy	Sellers	8-70
	[6]			Ventures	8-70.1
	[6]			n Requirements	8-70.2
	[7]			r Additional Information—	0.70.4
	F01			Request"	8-70.4
	[8]	wan	iing Pe	eriods	8-72
	[9]	Con	naenua	ality	8-73
	[10]			Transactions	8-73
		[a]		disition of Goods or Realty	
				the Ordinary Course	0.73
			of	Business	8-73

	[b]	Transfers to or from	
	[-1	Governmental Entities	8-74
	[c]	Antitrust Exempt Transactions	8-74
	[d]	Transactions Subject to Federal	
		Agency Approval	8-74
	[e]	Acquisitions Solely For	
		Investment	8-76
	[f]	Stock Dividends and	
		Stock Splits	8-76
	[g]	Amended or Renewed Tender	
		Offers	8-76
	[h]	Intraperson Transactions	8-77
	[i]	Acquisitions Involving Foreign	
		Assets, Voting Securities,	0.55
		Purchasers, or Governments	8-77
		[i] Acquisition of Foreign Assets	0.77
		or Voting Securities	8-77
		[ii] Acquisitions by or from	
		Foreign Governmental	0.70
		Corporations	8-78
		[iii] Certain Foreign Banking	8-78
	Гij	Transactions	0-70
	[j]	Underwriters	8-78
	[k]	Certain Acquisitions by Creditors	0-70
	[K]	and Insurers	8-79
	[1]	Acquisitions of Voting Securities	0 17
	[+]	by Institutional Investors	8-79
	[m]	Acquisitions Pursuant to Court or	0 17
	[]	Commission Order	8-79
	[n]	Acquisitions by Gift, Succession	
		or Devise, or by Irrevocable	
		Trust	8-80
	[0]	Acquisitions by Employee	
		Trusts	8-80
	[p]	Certain Acquisitions of Real	
		Property Assets	8-80
	[q]	Acquisitions of Carbon-Based	
		Mineral Reserves	8-80
	[r]	Acquisitions of Voting Securities	
		of Issuers Holding Certain	
		Assets the Direct Acquisition	0.01
	F 3	of Which Is Exempt	8-81
	[s]	Acquisitions of Investment Rental	0.01
	[11] PC	Property Assets	8-81
0.00		d Officer Interlegies - Section 8	8-81
§ 8.06	Director an	d Officer Interlocks—Section 8	8-83

TABLE OF CONTENTS

CHAPTER 9

Consumer Credit Protection Act

§ 9.01	Cons	sumer	Credit Protection Legislation	9-4
§ 9.02	Trutl	n in L	ending Act	9-5
	[1]		oduction	9-5
	[2]		c Concepts	9-5
		[a]	Creditor	9-6
		[b]	Open End Credit	9-6
		[c]	Closed End Credit	9-6
		[d]	Finance Charge	9-6
		[e]	Annual Percentage Rate (APR)	9-7
	[3]		es Applicable to Open End Credit	9-7
		[a]	Initial Disclosures	9-7
		[b]	Disclosures in Periodic	
			Statements	9-7
		[c]	Subsequent Disclosures	9-8
		[d]	Provisions Relating to Credit	
		F3	Cards	9-8
			[i] Issuance of Credit Cards	9-8
			[ii] Liability for Unauthorized	, 0
			Use of Card	9-8.1
		[e]	Right of Rescission	9-9
		[f]	Advertising of Open End Credit	9-10
	[4]		es Applicable to Closed End	, 10
	Γ.1		redit	9-10
		[a]	General Disclosure Rule and	, 10
		[۵]	Format	9-10
		[b]	Initial Disclosures for Closed	, 10
		[o]	End Credit	9-10.1
		[c]	Subsequent Disclosure	, 10.1
		[~]	Requirements	9-12
		[d]	Right of Rescission	9-12
		[e]	Advertising of Closed End	, 1 <u>2</u>
		[~]	Credit	9-13
§ 9.03	Cons	sumer	Leasing Act	9-14
3 7.02	[1]		erage of the Act	9-14
		Disc	closure Requirements	9-14
	[3]	Adv	ertising of Consumer Leases	9-16
§ 9.04			Billing Act	9-17
3 7.0 .	[1]	Acc	ount Handling Procedures	9-17
	[2]		ing Errors	9-17
	[-]	[a]	Types of Errors	9-17
		[b]	Billing Error Notices	9-18
		[c]	Error Resolution Procedures	9-18
		[*]	[i] Time Limits	9-18
			r 1	, 10

		[i	i] Rules Pending Resolution	9-19
		[i	iii] Procedures If Billing Error	
			Occurred as Asserted	9-19
		[i	[v] Procedures If No Billing	
		_	Error or a Different	
			Error Than Asserted	
			Occurred	9-19
	[3]	Creditor	r's Rights and Duties After	
			lution	9-19
	[4]		ons Relating to Credit Cards	9-20
			ight to Assert Claims or Defenses	
			Against Card Issuer	9-20
		[b] O	ffsets by Card Issuer	
			Prohibited	9-20
		[c] P1	rompt Handling of Refunds	
			and Returns	9-21
		[d] D	iscounts for Cash; Tie-Ins	9-21
§ 9.05	Adm		e Enforcement of the Truth in	
3 - 1 - 1			onsumer Leasing and Fair Credit	
			5	9-22
	[1]		aforcement Responsibility	9-22
	[2]		ty to Order Account	,
	[-]		stments	9-23
			etermining Existence and) 2 3
		[ա] D	Amount of Errors	9-23
		Гi	Tolerances on Transactions)-23
		Ĺı	Prior to March 31,	
				9-23
		r;	1982	9-43
		Ĺı	Tolerances on Transactions	0.22
		Γh1 λ/	After March 31, 1982	9-23
		[b] M	landatory and Discretionary	0.24
		r:	Adjustments	9-24
		Ξ.	Mandatory Adjustments	9-24
			Discretionary Adjustments	9-25
		[c] D	efenses To An Adjustment	0.25
		۲.	Order	9-25
		Įi		0.05
			Impact	9-25
		[1	ii Adjustments Less Than	
			One Dollar	9-25
		<u>-</u> .	ii] Statute of Limitations	9-25
		[i	[v] Voluntary Adjustments	9-26
		[1	v] Reliance on Federal	
			Reserve Board	9-26
§ 9.06	Fair (Credit Re	porting Act	9-27
	[1]		ner Reports	9-27

		TABLE OF CONTENTS	xxi
	[2]	Consumer Reporting Agencies	9-28
	[3]	Furnishers of Information to Consumer	
		Reporting Agencies	9-28
	[4]	Uses of Consumer Reports	9-29
	[5]	Content of Reports	9-31
	[6]	Disclosures to Consumers	9-32
	[7]	Disputes Over Accuracy of Reports	9-34
	[8]	Maintenance of Procedures to Assure	
	FO3	Compliance	9-35
	[9]	Fraud and Identity Theft Provisions	9-36
	[10]	Enforcement Mechanisms	9-38
		[a] Criminal Sanctions	9-38
		[b] Civil Liability	9-38 9-39
	[11]	[c] Administrative Enforcement State Enforcement and Relation to	9-39
	[11]	State Laws	9-40
§ 9.07	Eans	1 Credit Opportunity Act	9-40
8 7.07	[1]	Discrimination Prohibited	9-41
	[2]	Required Notices	9-41
	[3]	Administrative Enforcement	9-42
	[4]	Civil Liability	9-43
§ 9.08		Debt Collection Practices Act	9-44
3 - 1 - 0	[1]	Debt Collectors Covered by the Act	9-44
	[2]	Debt Collector Communications	9-45
		[a] Communications with Third	
		Parties	9-45
		[b] Communications with the	
		Debtor	9-46
	[3]	Prohibited Practices	9-48
		[a] Harassment or Abuse	9-48
		[b] False or Misleading	
		Representation	9-48
		[c] Unfair Practices	9-50
	E 43	[d] Venue of Legal Actions	9-51
	[4]	Enforcement	9-51
		[a] Administrative Enforcement	9-51
	F 5 3	[b] Civil Liability	9-53
0000	[5]	Exemption for State Regulation ronic Fund Transfer Act	9-53 9-54
§ 9.09	[1]	Scope of the Act	9-34 9-54
	[2]	Regulated Aspects of Electronic Fund	7-34
	[4]	Transfers	9-55
	[3]	Enforcement	9-56
§ 9.10		it Repair Organizations Act	9-57
y 7.10	[1]	Conduct Requirements	9-57
	[2]	Enforcement	9-58
	11		, , , ,

CHAPTER 10

Other Laws for Which the FTC Has Enforcement Responsibilities

§	10.01	Introduction	10-4			
§ 10.02		Federal Cigarette Labeling and Advertising				
		Act	10-4.1			
§	10.03	Webb-Pomerene Export Trade Act	. 10-7			
	10.04	Textile, Wool and Fur Statutes and Rules				
Ŭ		[1] Introduction	. 10-11			
		[2] Wool Products Labeling Act				
		[a] Who Must Comply				
		[b] Labeling Requirements				
		[c] Tracing the Label Through the				
		Distribution Chain				
		[d] Advertising Requirements				
		[e] Enforcement of the Act				
		[3] Fur Products Labeling Act				
		[a] Who Must Comply	. 10-15			
		[b] Proper Labeling, Advertising and				
		Invoicing	10-16			
		[c] Tracing the Label Through the				
		Distribution Chain				
		[d] Enforcement of the Act	. 10-17			
		[4] Textile Fiber Products Identification	10.10			
		Act				
		[a] Who Must Comply	10-18			
		[b] Advertising and Labeling	10.10			
		Requirements	10-18			
		[c] Tracing the Label Through the	10.20			
		Distribution Chain				
0	10.05	[d] Enforcement of the Act				
8	10.05	Fair Packaging and Labeling Act				
		[1] Who Must Comply	10-22			
		[2] Consumer Commodities				
		[3] "Packaged" Consumer Commodities				
		[4] Labeling Requirements				
ç	10.06	[5] Enforcement of the Act	10-23			
8	10.06	Energy Related Enforcement	10.26			
		Responsibilities	10-26			
		[1] Liquid Automotive Fuel Ratings,	10.26			
		Certification and Posting	. 10-26			
		[1A] Labeling Requirements for Non-Liquid	10.20			
		Alternative Fuels				
		[2] Consumer Appliance Labeling	. 10-29			

		TA	ABLE OF CONTENTS	xxii
	[3]		conomy Representations for	
			s and Retrofit Devices	10-31
	[4]		ation of Residential Energy	
			servation Measures by Public	10.22
	F.#7	Util	ities	10-33
	[5]		rocedures and Labeling Standards	10.22
§ 10.07	Uahl		Recycled Oil	10-33 10-35
§ 10.07 § 10.08			oss Warranty Act	10-33
g 10.08	[1]		iction	10-36
	[2]		nties Covered	10-36
	[3]		ed Disclosure of Warranty	10 50
	[2]		ns	10-40
		[a]	Γerms To Be Disclosed	10-40
			Availability of Warranty Terms	
			Prior to Sale	10-40.2
		[c] 7	Γime Extensions on Written	
			Warranties	10-40.3
		[d] I	Prohibition of Conditioning	
			Warranty on Purchase of Other	
			Goods or Services	10-40.4
	[4]		nation of Warranty as "Full" or	
			mited"	10-41
		[a] \	When Warranty May be Labeled	10.42
		F1. 1 X	"Full"	10-42
		[b] \	When Warranty Must Be Labeled	10-43
	[5]	Limito	"Limited"	10-43
	[6]		Warranty Registration Cards	10-43
	[7]		lies	10-44
	[/]		nformal Dispute Settlement	10 11
		[4]	Mechanisms	10-45
		[b] A	Application of FTC Act	10-46
			njunctions	10-46
			Consumer Cause of Action	10-47
	[8]	Effect	on State Law	10-48
§ 10.09			ve Smokeless Tobacco Health	
	E	ducation	Act	10-50
§ 10.10	Com	prehensi	ve Deposit Insurance Reform and	
	Та	xpayer I	Protection Act	10-51
§ 10.11	Telep	hone Di	sclosure and Dispute Resolution	
	A	ct		10-52
	[1]		ising of Pay-Per-Call Services	10-52
	[2]		er-Call Service Standards	10-53
	[3]		and Collection For Pay-Per-Call	10.5
		Serv	rices	10-54

xxiv	FEDERAL T	ΓRADE	COMMISSION

e 10 17	[4] Enforcement	10-54
§ 10.12	Telemarketing and Consumer Fraud and Abuse Protection Act	10 55
		10-55
	[1] Scope	10-55
	[2] Deceptive Acts and Practices	10.57
	Prohibited	10-57
	[3] Abusive Telemarketing Acts or	40.50
	Practices Prohibited	10-59
	[4] "Do Not Call" Provisions	10-61
	[5] Enforcement and Preemption	10-63
§ 10.13		
	of 1998	10-64
§ 10.14	Identity Theft and Assumption Deterrence	
	Act of 1998	10-66
§ 10.15		
3	Act	10-67
	[1] Financial Institutions Defined and	10 07
	Enforcement Authority	10-67
	[2] Circumstances That Trigger the	10-07
	Notice Requirement	10-68
		10-00
		10.60
	Notice	10-69
	[4] The Opt-Out Option	10-70
0 10 14	[5] Safeguarding Customer Information	10-71
§ 10.16		10-72
§ 10.17		
	and Modernization Act of 2003	10-75
§ 10.18		10-76
§ 10.19		
	of 2007	10-77
§ 10.20	Health Information Technology for Economic	
	and Clinical Health Act	10-78
§ 10.2		10-79
3	[1] Mortgage Acts and Practices	
	(MAP)—Advertising Rule	10-79
	[2] Mortgage Assistance Relief Services	10 77
	(MARS) Rule	10-81
§ 10.2		10-83
-	* *	10-84
§ 10.2		
§ 10.2		10-85
§ 10.2		10-86
§ 10.2		
	of 2020	10.97

CHAPTER 11

Investigations

§ 11.01		on of Investigations	11-3
	[1] In	vestigations Initiated in Response to	
		Sources Outside the Commission	11-3
	[a	Request from the Attorney	
		General	11-3
	[b		11-3
	[c]		
	L.	Governmental Agencies	11-3
	[d		11-4
	[e		11-4
		vestigations Initiated from within the	11 1
	[2] III	Commission	11-4
§ 11.02	Investiga	tion Procedures.	11-6
y 11.02	_	se of Investigatory Procedures	11-6
			11-6
		w Enforcement Investigations	11-0
	[a		11.6
	F1	Considerations	11-6
	[b		11 0 1
	-	Proposals	11-8.1
	[c		11-9
		ompliance Investigations	11-12
	[4] Di	sposition of Documents Submitted to	
		the Commission	11-12
§ 11.03	Use of C	Compulsory Process	11-14
	[1] A	athority	11-14
		ompulsory Process Under Sections 6	
		and 9	11-15
	[a		11-15
	[b	*	11-16
	[c		11-17
	[d		11-20
	ſ	[i] Petition to Limit or	11 =0
		Set Aside	11-20
		[ii] Preenforcement Court	11 20
			11-20
	Го	Challenge	11-20
	[e		11-23
		Actions	11-23
		[i] Courts Where Action	11.00
		May Be Brought	11-23
		[ii] Nature of Proceeding	11-25
		[iii] Relevant Issues	11-26
	[f		11-29

xxvi	FEDERAL TRADE COMMISSION	
	[3] Civil Investigative Demands	11-30
	[a] In General	11-30
	[b] Service	11-32
	[c] Petitions to Limit or Set Aside	11-32
	[d] Document Production	11-35
	[e] Reports or Responses to	
	Questions	11-35
	[f] Oral Testimony	11-36
	[g] Court Enforcement	11-37
§ 11.04	Confidentiality of Information Submitted	
	to the FTC	11-39
	[1] Statutory Protections	11-39
	[a] FTC Act Section 6(f)	11-39
	[b] Trade Secrets Act	11-42
	[c] Freedom of Information Act	11 42
	Exemptions	11-42
	[d] Federal Trade Commission Act Section 21	11-43
	[i] Documents Submitted	11-43
	Pursuant to Compulsory	
	Process in a Law	
	Enforcement	
	Investigation	11-44
	[ii] Documents Submitted	
	Voluntarily in a Law	
	Enforcement Investigation	
	in Lieu of Compulsory	
	Process	11-47
	[iii] All Other Documents Marked	
	"Confidential"	11-47
	[2] Non-Statutory Assurances of	
	Confidentiality	11-49
§ 11.05	Settlement Prior to Issuance of Complaint	11-52
	CHAPTER 12	
	Litigation	
§ 12.01	Choice of Adjudication over Rulemaking	12-3
§ 12.02	The Complaint.	12-6
	[1] Issuance Procedure	12-6
	[2] Class Actions	12-9 12-9
	[3] Indigent Respondents	12-9 12-10
§ 12.03	[4] Amendment of Complaint Filing and Service Requirements	12-10
g 12.03		12-13
	[1] Filing Requirements	12-13
	[-] ~	

		TABLE OF CONTENTS	xxvii				
		[a] Service by the Commission[b] Service by Parties Other Than	12-13				
		the Commission [i] Service on the					
		Commission	12-14				
		[ii] Service on Other Parties					
		[c] Proof of Service	12-15				
	[3]	Time Requirements					
		[a] Computation	12-15				
		[b] Extensions of Time	12-15				
§ 12.04	The	Administrative Law Judge	12-17				
	[1]	Appointment and Status					
	[2]	Disqualification	12-18				
	[3]	Substitution of Administrative Law Judge	12-20				
	[4]	Ex Parte Contacts					
	[5]	Authority, Powers and Duties					
		[a] Delegated Authority					
		[b] Powers and Duties					
§ 12.05	Inter	vention					
§ 12.05 § 12.06			12-20				
g 12.00		Pleadings Directed at or Responding to the Complaint					
	[1]	Motion for More Definite Statement	12-29 12-29				
	[2]	Answer					
	[3]	Dispositive Motions and Motions					
	F 4 T	to Strike					
	[4]	Indispensable Parties	12-31				
	[5]	Joinder of Parties					
	[6]	Res Judicata	12-31				
	[7]	Limitations of Actions, Laches or Equitable Estoppel	12-32				
§ 12.07	Post.	-Complaint Settlement					
§ 12.07 § 12.08		earing Procedures and Discovery					
y 12.00	[1]	Prehearing Conferences, and	12 30				
	[1]	Scheduling	12-36				
	[2]	Motions	12-37				
	[3]	Discovery					
	[-]	[a] General Provisions					
		[b] Requests for Admission					
		[c] Depositions	12-41				
		[d] Subpoenas					
		[i] In General					
		[ii] Subpoenas of Governmen					
		Documents or Testimor					
		or to be Served in a	-				
		Foreign Country					
		[e] Interrogatories	12-46.1				

		[f]	Document Production and Access	12 47
		[g]	Orders Discovery Other Than That Specifically Sanctioned by	12-47
			the Rules	12-48
			[i] In General	12-48
			[ii] Voluntary Methods	12-48
			[iii] Freedom of Information [iv] Special Reports under FTC	12-48
			Act Section 6(b)	12-49
			[v] Information Gathered by the FTC in Connection with	
			Other Matters	12-50
		[h]	Protective Orders	12-51
		[i]	Enforcement and Sanctions	12-53
§ 12.09	The		g	12-56
	[1]	Natu	re, Time and Place	12-56
	[2]		ence	12-57
	[3]		ks Act Statements	12-58.1
	[4]		iting Immunity to Witnesses	
			ompelled to Testify	12-59
	[5]		amera Treatment of Evidence	12-60
	[6]		osed Findings	12-63
	[7]		Initial Decision	12-63
§ 12.10			the Commission	12-65
	[1]	Inter [a]	locutory AppealsAdministrative Law Judge	12-65
			Certification	12-65
		[b]	Appeals without Certification from Administrative	
			Law Judge	12-66
	[2]		eal to the Commission from Initial	
			ecision	12-67
	[3]		rd of Expenses and Attorney Fees	
			Prevailing Respondent	12-70
§ 12.11	Judio	cial Re	view	12-72
	[1]		ew of Actions Other Than Cease	
		ar	nd Desist Orders	12-72
		[a]	Jurisdiction in the Courts	12-72
		[b]	Ripeness, Finality and	
			Exhaustion	12-74
	[2]		ew of Final Cease and Desist	
		O	rders	12-77
		[a]	Court of Appeals	12-77
		[b]	Supreme Court	12-83

TABLE OF CONTENTS

xxix

CHAPTER 13

Rulemaking

§	13.01		emaking Authority under Section 6(g) of	
			ne FTC Act	13-2
§ 13.02 § 13.03			cific Rulemaking Authorized by Statute gnuson-Moss Section 18 Trade Regulation	13-6
Ü	Rulemaking			
	[1]	FTC Authority	13-7	
		[2]	Development of a Rulemaking	12 0
			Proposal	13-8
			[a] Origination of a Proposal [i] Petition Submitted to	13-8
			the FTC	13-8
			[ii] Commission Initiative	13-8
			[b] Prerulemaking Staff Investigation	13-9
			[c] Advance Notice of Proposed	
			Rulemaking	13-9
		[3]	Initiation of Rulemaking Proceeding	13-10
			[a] Initial Notice of Proposed	
			Rulemaking	13-10
			[b] Preliminary Regulatory Analysis	13-11
			[c] Environment Impact Analysis[d] Paperwork Reduction Act	13-12
			Clearance	13-12
			Presiding Officer	13-12
		[4]	Rulemaking Proceeding Procedures	13-15
			[a] Final Notice of Proposed Rulemaking and Designation	
			of Issues	13-15
			[b] Informal Hearing	13-16
			[c] Staff Report	13-18
			[d] Presiding Officer's Recommended	
			Decision	13-18
			[e] Postreport Comment Period	13-19
			[f] Commission Review of the	
			Record	13-19
		[5]	Promulgation of Rule	13-19
			[a] Procedure	13-19
			[b] Documents Accompanying	
			Promulgation	13-20
		[6]	The Rulemaking Record	13-21
		[7]	Communications with the	
			Commission	13-22
		[8]	Funding for Public Participation	13-24

XXX	FEDERAL TRADE COMMISSION	
§ 13.04 § 13.05 § 13.06	[9] Congressional Review of Final Rule Exemptions from Trade Regulation Rules Preemption of State Laws	13-24 13-25 13-26 13-30
	to Section 6(g) [2] Review of Final Rules Promulgated Pursuant to Magnuson-Moss	13-30
	Procedures	13-30
§ 13.07	[3] Interlocutory Review	13-32.1 13-36
	CHAPTER 14	
	Remedies	
§ 14.01	Cease and Desist Orders	14-2
	Order	14-2
	[a] Nonprofit Entities	14-2
	Engage in Unlawful Activity [c] Parent Company Whose	14-3
	Subsidiary Violates Law	14-4
	[d] Advertising Agencies	14-5
	[e] Individuals	14-6
	[f] Dissolved Corporations	14-8
	[g] Successors and Assigns	14-9
	[h] Aiders and Abettors	14-9 14-10
	[i] Common Enterprise	14-10.1
	[2] Scope of Cease and Desist Orders [3] Modification of Orders	14-10.1
§ 14.02	Court Injunctions	14-24
y 14.02	[1] Wheeler-Lea Act Injunctions Against False Advertising of Foods, Drugs,	14-24
	Devices and Cosmetics	14-24
	[2] Injunctions Pursuant to the All Writs	
	Act	14-26
	[3] Injunctions Pending Completion of	
	Administrative Proceeding	14-26
	[a] Statutory Authority	14-26
	[b] Statutory Criteria	14-29
	[i] Likelihood of Success	14-30
	[ii] Evaluation of the Equities	14-31
	[c] Scope of Injunction	14-32
	[4] Permanent Injunctions	14-35

	TABLE OF CONTENTS	XXX	
	[5] Injunctions in Connection with Civil		
	Penalty Suits	14-40 14-41	
§ 14.03	Civil Penalties for Order or Rule Violations [1] Penalties for Respondent's Violation of		
	Its Order	14-41	
	[2] Penalties for Violation of Consumer Protection Order to Which Defendant		
	Is Not a Party	14-47	
	[3] Penalties for Violation of Trade		
	Regulation Rules	14-49	
	[4] Criteria for Assessment of Penalties		
	Against Nonrespondents and Rule		
	Violators	14-50	
	[5] Mechanics of Institution of		
	Penalty Suit	14-51	
§ 14.04	Consumer Redress	14-52	
	[1] Redress for Violation of an FTC Rule	14-53	
	[2] Redress for Unfair or Deceptive		
	Conduct	14-54	
	[3] Determination of Dollar Recovery	14-56	
	[4] Conclusiveness of FTC Findings in		
	Redress Proceeding	14-57	
	[5] Statute of Limitations on Redress		
	Actions	14-58	
§ 14.05	Contempt of Court	14-59	
INDEX		I_1	