TABLE OF CONTENTS

CHAPTER 1

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

§ 1.01	Historical	Context	1-1
§ 1.02	Legislative	e History	1-4
Ü	[1] Leg	gislative Prelude	1-4
	[2] Pre	sident Wilson's Proposal	1-5
		use Consideration	1-6
		nate Debate	1-7
		Reported by Conference	1-10
§ 1.03		Amendments to the Federal Trade	
	Commi	ssion Act	1-12
		neeler-Lea Act of 1938	1-12
		Guire Act	1-13
		ska Pipeline Legislation	1-13
		gnuson-Moss Warranty—Federal	
		Γrade Commission Improvement Act	
		of 1975	1-14
		leral Trade Commission	
		Improvements Act of 1980	1-15
		reign Trade Antitrust Improvements	
		Act of 1982	1-15
		leral Trade Commission Act	
		Amendments of 1994	1-16
	[8] Do	dd-Frank Wall Street Reform and	
	L 3	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		sory Opinions	2-29		
§ 2.10	Liaison with Other Federal Agencies, the				
	[1]	ates, 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	2-35		
§ 2.11		c 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	2		
		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 110 is 1vot a raity	2 10		
		CHAPTER 3			
		Jurisdictional Prerequisites			
§ 3.01	Comi	merce Requirement	3-2		
	[1]	Interstate Commerce	3-2		
	[2]	Foreign Commerce	3-4		
§ 3.02	"Reas	son 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
3 - 1 - 1	[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	<i>5</i> 2 °
	F.1	Stockyards Act Jurisdiction	3-21
	[5]	Not-for-Profit Organizations	3-22
	[6]	Banks	3-24
	[7]	Savings and Loan Institutions:	3 2 1
	L' J	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
§ 5.00	[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	5 5 1
	[o]	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
8 3.07	[1]	Agriculture	3-40
	[1]	[a] Agricultural Associations	3-40
		[b] Agricultural Marketing Orders	3 10
		and Agreements	3-42
	[2]	Fishery Associations	3-42
	[3]	Labor.	3-43
	[4]	Learned Professions	3-46

	TABLE OF CONTENTS				
§ 3.08 J	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 3-47 3-48 3-51 3-54 3-55 3-55 3-56			
	CHAPTER 4				
	Unfair Methods of Competition				
§ 4.01 I § 4.02	Legislative IntentViolations of the Sherman and Clayton Acts	4-2			
	as Unfair Methods of Competition	4-4			
[[1] The Sherman Act	4-4			
	to Monopolize [b] Multifirm Behavior—Contracts, Combinations and	4-5			
	Conspiracies [i] Contract, Combination or	4-8			
	Conspiracy	4-9 4-10			
	Unreasonableness [iv] Types of Conduct Normally	4-11			
	Found Anticompetitive	4-13			
-	The Clayton Act	4-16.1			
[Violate the Sherman or Clayton Acts Il Incipient Violations or Those That Violate the Spirit of the Sherman or	4-18			
[Clayton Acts	4-18			
	the FTC Act.	4-19			
	[a] Characteristics of a Party	4-20			
	[b] Characteristics of Conduct [c] Characteristics of the Effect of	4-20			
[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	5-6
§ 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	Traditio	onal Deception Criteria	6-6
_		Introduction	6-6
	[2]	Commission Expertise to Assess	
		Deceptiveness	6-6
		Tendency or Capacity to Mislead	6-8
		Forms of Misrepresentation	6-10
		[a] Affirmative Representation	6-10
		[b] Omission	6-13
	l	[c] Marketing and Point of Sale	6 15
	Γ 5]	Practices	6-15 6-17
			6-20
§ 6.04		Materiality	6-23
§ 6.04 § 6.05		uides Dealing with Deceptive	0-23
8 0.03			6-26
	[1]	tices	0-20
	[1]	Applicable Generally	6-26
		[a] Bait Advertising	6-26
	-	[b] Debt Collection	6-27
		[c] Endorsements and	0 21
		Testimonials	6-28
	1	[d] Use of "Free"	6-29
		[e] Guarantees	6-29
		[f] Pricing	6-30
	-	[g] Environmental Marketing	
	•	Claims	6-32
	[2]	Guides Relating to Deceptive	
		Practices in Connection with Specific	
		Products or Industries	6-35
	-	[a] Automobile Fuel Economy	6-35
		[b] Auto Parts (Rebuilt, Reconditioned	
		or Used)	6-35
		[c] [Reserved]	6-35
	-	[d] [Reserved]	6-35
		[e] [Reserved]	6-35
	l	[f] Jewelry, Precious Metals and	6.25
		Pewter	6-35
		[g] Leather and Imitation Leather	6.26
		Products	6-36 6-36
		[h] [Reserved][i] Schools (Private Vocational and	0-30
	l	[i] Schools (Private Vocational and Distance Education)	6-36
	[3]	Repealed Guides	6-37
§ 6.06		ation to E-Commerce	6-38
3 0.00	7 TA DITO	WV	5 50

CHAPTER 7

Consumer Protection Trade Regulation Rules

§ 7.01	Introduction				
§ 7.02	Consumer Protection Trade Regulation				
	Rules				
	[1]-[1	15] [Reserved]*	7-6		
	[16]		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			
		Products	7-20		
	[21]	Preservation of Consumers' Claims and			
		Defenses	7-21		
		[a] Basis of the Rule	7-21		
		[b] Notice Required in Consumer			
		Credit Contracts	7-22		
		[c] Application of Rule to Purchase			
		Money Loans	7-23		
		[i] Customer Referrals	7-24		
		[ii] Affiliation	7-25		
		[iii] Examples Where the Rule			
		Applies to Acceptance of			
		Proceeds	7-25		
		[iv] Examples of Activity That,			
		Standing Alone, Does			
		Not Constitute a			
		Seller/Creditor			
		Relationship	7-26		
		[d] Application of Rule to			
		Creditors	7-26		
	[22]	Mail, Internet Or Telephone Order			
		Merchandise	7-27		
		[a] Initial Solicitation	7-27		
		[b] Procedures Governing Shipment			
		Delays	7-27		

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

TABLE OF CONTENTS			
	[c]	Cancellation and Refund	
		Procedures	7-28
[23]	[d] Fran	Miscellaneous Provisions	7-29
[23]		7-29	
	[a]	Opportunities	7-30
	[b]	The Business Opportunity Rule	7-33
[24]		eral Industry Practices	7-35
[27]	[a]	Who Is Covered by the Rule	7-36
	[b]	Transactions to Which the Rule	
		Applies	7-36
	[c]	Requirements Regarding Price	
		Information	7-37
		[i] Price Disclosures Over the	
		Telephone	7-37
		[ii] Price Lists	7-37
		[iii] Statement of Funeral Goods	
		and Services Selected	7-39
	[d]	Misrepresentations and Preventive	
		Requirements	7-39
		[i] Embalming Provisions	7-39
		[ii] Casket For Cremation	
		Provisions	7-40
		[iii] Outer Burial Container	
		Provisions	7-40
		[iv] General Provisions on Legal	
		and Cemetery	
		Requirements	7-40
		[v] Preservative or Protective	,
		Value Claims	7-41
		[vi] Cash Advance Provisions	7-41
	[e]	Required Purchase of Funeral	, 11
	[c]	Goods or Services	7-41
		[i] Casket Purchases for	/-41
		Cremation	7-42
		[ii] Other Required	7-42
			7-42
	Γ£Ί	Purchases	7-42
	[f]	Embalming Services Provided	7 42
	[~]	Without Prior Approval	7-43
	[g]	Record Keeping	7-44
[25]	[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
	F . J	[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
	[29]	Made in USA Labeling	7-56.4
§ 7.03		making Proceedings Terminated Without	,
8 7.05		omulgation of a Rule	7-57
	[1]	Physician Control of Open-Panel	1-31
	[1]	Medical Prepayment Plans	7-57
	[2]	Fuel Economy Claims	7-57
	[3]	Children's Television Advertising	7-58
	[4]	Food Advertising	7-58 7-58
	[5]	Over-the-Counter Drug Advertising	7-58 7-58
	[6]	Flammability of Cellular Plastics	7-59
	[7]	Prescription Drug Advertising	1-39
	[/]		7-59
	FQ1	Restraints	7-59 7-59
	[8]	Antacid Advertising	7-60
	[9]	Protein Supplements	7-60 7-60
	[10]	Health Spas	
	[11]	Hearing Aids	7-60
	[12]	Standards and Certification	7-61
	[13]	Mobile Home Sales and Service	7-61
0.704	[14]	Vocational and Home Study Schools	7-61
§ 7.04		aled Rules Summary	7-63
	[1]	Advertising and Labeling of Sleeping	7.64
	F07	Bag Size [repealed]	7-64
	[2]	Household Electric Sewing Machines—	
		Use of Term "Automatic"	7.64
	F23	[repealed]	7-64
	[3]	Deception Regarding Prismatic	
	E 43	Binoculars [repealed]	7-65
	[4]	Deception Regarding "Leakproof" Dry	
	F. 6.3	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

		TABLE OF CONTENTS	XV
	[7]	Advertising and Labeling of Previously Used Lubricating Oil [repealed]	7-66
	[8]	Health Hazard Labeling of Cigarettes	7-67
	[9]	Light Bulb Industry [repealed]	7-67
	[10]	Advertising Sizes of Television	7-68
	[11]	Pictures Disclosures Relating to the Handling of	7-00
	[12]	Glass Fiber Fabrics [repealed] Deception as to Transistor Count of	7-68
		Radios [repealed]	7-69
	[13]	Disclosure of the Lethal Effects of Inhaling Quick-Freeze Aerosol Spray Products Used to Frost	
		Cocktail Glasses [repealed]	7-69
	[14] [15]	Length of Extension Ladders [repealed] Games of Chance in the Food Retailing	7-69
	[13]	and Gasoline Industries [repealed]	7-70
		CHAPTER 8	
		The Clayton Act	
§ 8.01		rical Perspective and FTC Enforcement	
		sponsibility	8-4
§ 8.02		Robinson-Patman Act Amendments—	0.6
		ction 2	8-6
	[1]	Introduction	8-6
	[2]	The Commerce Requirement	8-7
	[3]	The "Commodity" Requirement	8-9 8-10
	[4]	Price Discrimination—Section 2(a) [a] Discrimination in Price	8-10
		[b] Sales to Two Purchasers	8-10
		Requirement	8-11
		[c] Like Grade and Quality	8-13
		[d] Injury to Competition	8-14
		[i] Primary Line Injury	8-14
		[ii] Customer Level Injury	8-17
		[e] Defenses	8-18.2
		Section 2(b)	8-18.2
		[ii] Cost Justification	8-20
		[iii] Changing Conditions	8-22
	[5] [6]	Brokerage Payments—Section 2(c) Allowances and Services—Sections 2(d)	8-23
	[ս]	and (e)	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
	[2]	Legi	slative	e Intent	8-37
	[3]			ent That Commerce Be	
	[-]			d	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]		Separation of tastice	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

		,	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	0 33
			[v]	Assets	8-56
		[f]	1002		0-30
		Γτ]		Department of Justice/FTC	
				aforcement Policy on	0.56
		F - 1	1VI 2010	ergers Among Hospitals	8-56
		[g]	2010	FTC/DOJ Merger	0.57
				uidelines	8-57
			[i]	Adverse Competitive	
				Effects	8-57
			[ii]	Market Definition	8-59
			[iii]	Market Participants, Shares	
				and Concentration	8-60
			[iv]	Potential Defenses	8-61
			[v]	Monopsony Effects of	
			F.1	Buyer Mergers	8-62
			[vi]	Acquisitions of Partial	0 02
			[11]	Interests	8-62
		[h]	2020	FTC/DOJ Vertical Merger	0-02
		[11]			9 62
8 9 05	Uort	Soott		aidelines	8-63
§ 8.05				Premerger Notification—	0 65
				on of the Douting	8-65
	[1]			on of the Parties	8-65
	[2]			Test	8-67
	[3]			ties and Transaction	0.67
	F 43				8-67
	[4]			t Acquisitions	8-68
	[5]		cial Sit	uations	8-69
		[a]		er Offers and Acquisitions	
				Voting Securities from	
			Th	nird Parties	8-69
		[b]	Seco	ndary Acquisitions	8-70
		[c]	Acqu	isitions of Voting Securities	
				Sellers	8-70
		[d]	Joint	Ventures	8-70.1
	[6]			n Requirements	8-70.2
	[7]			r Additional Information—	
	F. J			Request"	8-70.4
	[8]	Wait	ting Pe	eriods	8-72
	[9]	Cont	fidentia	ality	8-73
	[10]			Transactions	8-73
	[10]			isition of Goods or Realty	0-13
		[ս]		the Ordinary Course	
				Business	8-73
			UI	Dusiness	0-73

	[b]	Transfers to or from	
	[~]	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,	
		Purchasers, or Governments	8-77
		[i] Acquisition of Foreign Assets	0.55
		or Voting Securities	8-77
		[ii] Acquisitions by or from	
		Foreign Governmental	0.70
		Corporations	8-78
		[iii] Certain Foreign Banking	0.70
	F*3	Transactions	8-78
	[j]	Acquisitions by Securities	0.70
	F1 3	Underwriters	8-78
	[k]	Certain Acquisitions by Creditors	0.70
	F13	and Insurers	8-79
	[1]	Acquisitions of Voting Securities	0.70
	r1	by Institutional Investors	8-79
	[m]	Acquisitions Pursuant to Court or	0.70
	[10]	Commission Order	8-79
	[n]	Acquisitions by Gift, Succession	
		or Devise, or by Irrevocable	8-80
	[6]	Trust	0-00
	[0]	Acquisitions by Employee	8-80
	ſn]	Trusts	8-80
	[p]	Property Assets	8-80
	[q]	Acquisitions of Carbon-Based	0-00
	[4]	Mineral Reserves	8-80
	[r]	Acquisitions of Voting Securities	0-00
	[+]	of Issuers Holding Certain	
		Assets the Direct Acquisition	
		of Which Is Exempt	8-81
	[s]	Acquisitions of Investment Rental	3 01
	اما	Property Assets	8-81
	[11] Enfo	reement	8-81
§ 8.06		d Officer Interlocks—Section 8	8-83
5 0.00	Director dir	a cincer interiorne beetion o	3 03

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
ŭ	[1]		oduction	9-5
	[2]		c Concepts	9-5
		[a]	Creditor	9-6
		[b]	Open End Credit	9-6
		[0]	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	
		F]	Cards	9-8
			[i] Issuance of Credit Cards	9-8
			[ii] Liability for Unauthorized	
			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
	F.1		redit	9-10
		[a]	General Disclosure Rule and	, 10
		[4]	Format	9-10
		[b]	Initial Disclosures for Closed	, 10
		[~]	End Credit	9-10.1
		[c]	Subsequent Disclosure	, 10.1
		F-1	Requirements	9-12
		[d]	Right of Rescission	9-12
		[e]	Advertising of Closed End	, . <u>-</u>
		[-]	Credit	9-13
§ 9.03	Cons	umer	Leasing Act	9-14
3 - 1 - 2	[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	[1]	Acc	ount Handling Procedures	9-17
	[2]		ng Errors	9-17
	[-]	[a]	Types of Errors	9-17
		[b]	Billing Error Notices	9-18
		[c]	Error Resolution Procedures	9-18
		r.1	[i] Time Limits	9-18
			E 3	, -0

		[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	9-31
	[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	Fana	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
	[<i>E</i>]	[b] Civil Liability	9-53
0.00	[5]	Exemption for State Regulation	9-53
§ 9.09		ronic Fund Transfer Act	9-54 9-54
	[1]	Scope of the Act	9-34
	[2]	Regulated Aspects of Electronic Fund Transfers	9-55
	[3]	Enforcement	9-56
§ 9.10		it Repair Organizations Act	9-50 9-57
y 2.10	[1]	Conduct Requirements	9-57 9-57
	[2]	Enforcement	9-58
	141	Linor-cincint	7-50

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

		TABLE OF CONTENTS	xxiii
	[3]	Fuel Economy Representations for	
		Cars and Retrofit Devices	10-31
	[4]	Installation of Residential Energy	
		Conservation Measures by Public	
		Utilities	10-33
	[5]	Test Procedures and Labeling Standards	10.00
0.40.0	** 11	for Recycled Oil	10-33
§ 10.07		by Protection Act	10-35
§ 10.08		nuson-Moss Warranty Act	10-36
	[1]	Introduction	10-36
	[2]	Warranties Covered	10-36
	[3]	Required Disclosure of Warranty	10.40
		Terms	10-40
			10-40
		[b] Availability of Warranty Terms Prior to Sale	10-40.2
		[c] Time Extensions on Written	10-40.2
		Warranties	10-40.3
		[d] Prohibition of Conditioning	10-40.5
		Warranty on Purchase of Other	
		Goods or Services	10-40.4
	[4]	Designation of Warranty as "Full" or	10
	Γ.1	"Limited"	10-41
		[a] When Warranty May be Labeled	
		"Full"	10-42
		[b] When Warranty Must Be Labeled	
		"Limited"	10-43
	[5]	Limitations on Implied Warranties	10-43
	[6]	Use of Warranty Registration Cards	10-44
	[7]	Remedies	10-44
		[a] Informal Dispute Settlement	
		Mechanisms	10-45
		[b] Application of FTC Act	10-46
		[c] Injunctions	10-46
	FO1	[d] Consumer Cause of Action	10-47
0 10 00	[8]	Effect on State Law	10-48
§ 10.09		aprehensive Smokeless Tobacco Health	10.50
0 10 10		ducation Act	10-50
§ 10.10		aprehensive Deposit Insurance Reform and	10.71
0 10 11		axpayer Protection Act	10-51
§ 10.11	-	phone Disclosure and Dispute Resolution	10.72
		ct	10-52
	[1]	Advertising of Pay-Per-Call Services	10-52
	[2]	Pay-Per-Call Service Standards	10-53
	[3]	Billing and Collection For Pay-Per-Call	10.54
		Services	10-54

xxiv	FEDERAL TRADE COMMISSION

		[4] Enforcement	10-54
§	10.12	Telemarketing and Consumer Fraud and	
		Abuse Protection Act	10-55
		[1] Scope	10-55
		[2] Deceptive Acts and Practices	
		Prohibited	10-57
		[3] Abusive Telemarketing Acts or	
		Practices Prohibited	10-59
		[4] "Do Not Call" Provisions	10-61
		[5] Enforcement and Preemption	10-63
§	10.13	Children's Online Privacy Protection Act	
		of 1998	10-64
§	10.14	Identity Theft and Assumption Deterrence	
		Act of 1998	10-66
§	10.15	Gramm-Leach-Bliley (Financial Privacy)	
-		Act	10-67
		[1] Financial Institutions Defined and	
		Enforcement Authority	10-67
		[2] Circumstances That Trigger the	
		Notice Requirement	10-68
		[3] Contents of Policies and Practices	
		Notice	10-69
		[4] The Opt-Out Option	10-70
		[5] Safeguarding Customer Information	10-70
8	10.16	CAN-SPAM Act of 2003	10-72
	10.17	Medicare Prescription Drug, Improvement,	
U		and Modernization Act of 2003	10-75
8	10.18	Sports Agent Responsibility and Trust Act	10-76
	10.19	Energy Independence and Security Act	
3	10.17	of 2007	10-77
8	10.20	Health Information Technology for Economic	10 //
8	10.20	and Clinical Health Act	10-78
8	10.21	Mortgage Acts and Practices Rules	10-76
8	10.21	[1] Mortgage Acts and Practices	10-79
		(MAP)—Advertising Rule	10-79
		[2] Mortgage Assistance Relief Services	10-79
		(MARS) Rule	10-81
2	10.22	Restore Online Shoppers' Confidence Act	10-81
		Consumer Fairness Review Act	
	10.23		10-84.1
	10.24	Better Online Ticket Sales Act	10-85
	10.25	Fairness to Contact Lens Consumers Act	10-86
8	10.26	Horseracing Integrity and Safety Act	10.87
		of 2020	10 87

CHAPTER 11

Investigations

§ 11.01	Origination of Investigations	11-3
_	[1] Investigations Initiated in Response to	
	Sources Outside the Commission	11-3
	[a] Request from the Attorney	
	General	11-3
	[b] Request from the President	11-3
	[c] Request from Congress or	
	Governmental Agencies	11-3
	[d] Requests from the Courts	11-4
	[e] Complaints from the Public	11-4
	[2] Investigations Initiated from within the	
	Commission	11-4
§ 11.02	Investigation Procedures	11-6
	[1] Use of Investigatory Procedures	11-6
	[2] Law Enforcement Investigations	11-6
	[a] Characteristics and Special	
	Considerations	11-6
	[i] Nonpublic Nature	11-6
	[ii] Liaison with Department	
	of Justice Regarding	
	Antitrust Investigations	11-7
	[iii] Investigations Involving	
	Foreign Interests	11-8
	[iv] Grants of Immunity	11-8
	[b] Evaluation of Investigation	
	Proposals	11-8.1
	[i] Office of Policy Planning	11-8.1
	[ii] Bureau of Competition	11-8.1
	[iii] Bureau of Consumer	
	Protection	11-9
	[c] Investigatory Stages	11-9
	[i] Informal Staff Inquiries	11-9
	[ii] Initial Phase Investigations	11-10
	[iii] Full Investigations	11-10
	[3] Compliance Investigations	11-12
	[4] Disposition of Documents Submitted to	
	the Commission	11-12
§ 11.03	Use of Compulsory Process	11-14
	[1] Authority	11-14
	[2] Compulsory Process Under Sections 6	
	and 9	11-15
	[a] Issuance, Recipients and Uses	11-15

	[b	Purposes	11-16
	c		11-17
	[d		11-20
	L.T.	[i] Petition to Limit or	
		Set Aside	11-20
		[ii] Preenforcement Court	
		Challenge	11-20
	[e	Subpoena Enforcement	
	£ .	Actions	11-23
		[i] Courts Where Action	
		May Be Brought	11-23
		[ii] Nature of Proceeding	11-25
		[iii] Relevant Issues	11-26
	[f		11-29
		vil Investigative Demands	11-30
	[a		11-30
	[b		11-32
	c		11-32
	[d		11-35
	[e		
		Questions	11-35
	[f]	Oral Testimony	11-36
	[g		11-37
§ 11.04		tiality of Information Submitted	
	to the	FTC	11-39
		atutory Protections	11-39
	[a]		11-39
	[p]		11-42
	[c]		11 40
	1.1	Exemptions	11-42
	[d]		11 42
		Section 21	11-43
		[i] Documents Submitted Pursuant to Compulsory	
		Process in a Law	
		Enforcement	
		Investigation	11-44
		[ii] Documents Submitted	11-44
		Voluntarily in a Law	
		Enforcement Investigation	
		in Lieu of Compulsory	
		Process	11-47
		[iii] All Other Documents Marked	/
		"Confidential"	11-47
	[2] No	on-Statutory Assurances of	
		Confidentiality	11-49
§ 11.05	Settlemen	nt Prior to Issuance of Complaint	11-52

TABLE OF CONTENTS xxvii

CHAPTER 12

Litigation

§ 12.01 § 12.02	Choice of Adjudication over Rulemaking	12-3
§ 12.02	The Complaint	12-6
	[1] Issuance Procedure	12-6
	[2] Class Actions	12-9
	[3] Indigent Respondents	12-9
	[4] Amendment of Complaint	12-10
§ 12.03	Filing and Service Requirements	12-13
Ü	[1] Filing Requirements	12-13
	[2] Service Requirements	12-13
	[a] Service by the Commission	12-13
	[b] Service by Parties Other Than	
	the Commission	12-14
	[i] Service on the	
	Commission	12-14
	[ii] Service on Other Parties	12-14
	[c] Proof of Service	12-15
	[3] Time Requirements	12-15
	[a] Computation	12-15
	[b] Extensions of Time	12-15
§ 12.04	The Administrative Law Judge	12-17
y 12.0 4	[1] Appointment and Status	12-17
		12-17
	[2] Disqualification	12-10
		12-20
	Judge	12-20
	[4] Ex Parte Contacts	
	[5] Authority, Powers and Duties	12-22
	[a] Delegated Authority	12-22
	[b] Powers and Duties	12-24
§ 12.05	Intervention	12-25
§ 12.06	Pleadings Directed at or Responding to the	
	Complaint	12-28
	[1] Motion for More Definite Statement	12-28
	[2] Answer	12-28
	[3] Dispositive Motions and Motions	
	to Strike	12-29
	[4] Indispensable Parties	12-30
	[5] Joinder of Parties	12-30
	[6] Res Judicata	12-30
	[7] Limitations of Actions, Laches or	
	Equitable Estoppel	12-31
§ 12.07	Post-Complaint Settlement	12-33
8 12 08	Prehearing Procedures and Discovery	12-36

	[1]	Prehearing Conferences, and	12.26
	[2]	Scheduling	12-36
	[2]	Motions	12-37
	[3]	Discovery	12-38
		[a] General Provisions	12-38 12-41
		[b] Requests for Admission	12-41
			12-42.1
		[d] Subpoenas	12-42.1
		[ii] Subpoenas of Government	14-42.1
		Documents or Testimony	
		or to be Served in a	
		Foreign Country	12-43
		[e] Interrogatories	12-46.1
		[f] Document Production and Access	12 10.1
		Orders	12-47
		[g] Discovery Other Than That	12 .,
		Specifically Sanctioned by	
		the Rules	12-48
		[i] In General	12-48
		[ii] Voluntary Methods	12-48
		[iii] Freedom of Information	12-48
		[iv] Special Reports under FTC	
		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		Hearing	12-56
	[1]	Nature, Time and Place	12-56
	[2]	Evidence	12-57
	[3]	Jencks Act Statements	12-58.1
	[4]	Granting Immunity to Witnesses	10.50
	F.7.3	Compelled to Testify	12-59
	[5]	In Camera Treatment of Evidence	12-60
	[6]	Proposed Findings	12-63
e 12 10	[7]	The Initial Decision	12-63
§ 12.10		eals to the Commission	12-65 12-65
	[1]	Interlocutory Appeals	12-03
		[a] Administrative Law Judge Certification	12-65
		[b] Appeals without Certification	12-03
		from Administrative	
		Law Judge	12-66
	[2]	Appeal to the Commission from Initial	12-00
	L~ J	Decision	12-67
	[3]	Award of Expenses and Attorney Fees	-2 07
	F. 1	to Prevailing Respondent	12-70
		<u> </u>	

TABLE OF CONTENTS			xxix
§ 12.11	Judic [1]	cial Review	12-72
		and Desist Orders	12-72
		[a] Jurisdiction in the Courts [b] Ripeness, Finality and	12-72
	[2]	Exhaustion	12-74
		Orders	12-78
		[a] Court of Appeals	12-78 12-83
		CHAPTER 13	
		Rulemaking	
§ 13.01		making Authority under Section 6(g) of	12.2
0 12 02	Crass	e FTC Act fific Rulemaking Authorized by Statute	13-2
§ 13.02 § 13.03	Magı	13-6	
		ulemaking	13-7
	[1] [2]		13-7
		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 Investigation[c] Advance Notice of Proposed	13-9
	[3]	Rulemaking	13-9
		Proceeding	13-9
		[a] Notice of Proposed Rulemaking	13-9
		[b] Preliminary Regulatory Analysis	13-10
		[c] Environmental Impact Analysis [d] Paperwork Reduction Act	13-11
		Clearance	13-11
		[e] Written Comments and Opportunity	12 11
	[4]	for a Hearing	13-11
		Designations	13-11
		[a] Notice of Informal Hearing [b] Appointment and Powers of	13-11
		Presiding Officer [i] Appointment of Presiding	13-12
		Officer	13-12

	[ii] Powers of Presiding	
	Officer	13-12
	[iii] Post-hearing review of	
	Presiding Officer	12 12
	Rulings	13-13
	[iv] Ex Parte Communications	12 12
	with Presiding Officers	13-13 13-13
	[5] Rulemaking Proceeding Procedures [a] Written Comments	13-13
	[a] Written Comments	13-13
	[i] Cross-Examination Rights	13-13
	[ii] Rebuttal Submissions	13-14
	[c] Presiding Officer's	15 11
	Recommended Decision	13-15
	[6] Promulgation of Rule	13-15
	[a] Procedure	13-15
	[b] Documents Accompanying	
	Promulgation	13-15
	[i] Statement of Basis and	
	Purpose	13-15
	[ii] Final Regulatory Analysis	13-16
	[7] The Rulemaking Record	13-16
	[8] Funding for Public Participation	13-17
0.12.04	[9] Congressional Review of Final Rule	13-17
§ 13.04	Exemptions from Trade Regulation Rules	13-18
§ 13.05	Preemption of State Laws	13-19 13-30
§ 13.06	Judicial Review of FTC Rulemaking [1] Review of Rules Promulgated Pursuant	13-30
	to Section 6(g)	13-30
	[2] Review of Final Rules Promulgated	13-30
	Pursuant to Magnuson-Moss	
	Procedures	13-30
	[3] Interlocutory Review	13-32.1
§ 13.07	Enforcement of Rules	13-36
	CHAPTER 44	
	CHAPTER 14	
	Remedies	
§ 14.01	Cease and Desist Orders	14-2
5 101	[1] Persons and Entities Subject to an	112
	Order	14-2
	[a] Nonprofit Entities	14-2
	[b] Company Whose Representatives	
	Engage in Unlawful Activity	14-3
	[c] Parent Company Whose	
	Subsidiary Violates Law	14-4

	TABLE OF CONTENTS	xxxi
	[d] Advertising Agencies [e] Individuals [f] Dissolved Corporations	14-5 14-6 14-8
	[g] Successors and Assigns	14-9
	[h] Aiders and Abettors	14-9 14-10
	[i] Common Enterprise	14-10
	[2] Scope of Cease and Desist Orders [3] Modification of Orders	14-10
§ 14.02	Court Injunctions	14-24
g 14.02	[1] Wheeler-Lea Act Injunctions Against False Advertising of Foods, Drugs,	
	Devices and Cosmetics	14-24
		14-26
	Act	
	Administrative Proceeding	14-26
	[a] Statutory Authority	14-26
	[b] Statutory Criteria	14-29
	[i] Likelihood of Success	14-29
	[ii] Evaluation of the Equities	14-31
	[c] Scope of Injunction	14-32
	[4] Permanent Injunctions	14-35
	Penalty Suits	14-41
§ 14.03	Civil Penalties for Order or Rule Violations [1] Penalties for Respondent's Violation of	14-42
	Its Order	14-42
	[2] Penalties for Violation of Consumer Protection Order to Which Defendant	
	Is Not a Party	14-48
	[3] Penalties for Violation of Trade Regulation Rules	14-51
	[4] Criteria for Assessment of Penalties	14-31
	Against Nonrespondents and Rule	
	Violators	14-51
	[5] Mechanics of Institution of	
	Penalty Suit	14-52
§ 14.04	Consumer Redress	14-54
o .	[1] Redress for Violation of an FTC Rule[2] Redress for Unfair or Deceptive	14-55
	Conduct	14-56
	[3] Determination of Dollar Recovery[4] Conclusiveness of FTC Findings in	14-59
	Redress Proceeding	14-60
	[5] Statute of Limitations on Redress	14 60
§ 14.05	Actions	14-60 14-61
INDEX		I-1