TABLE OF CONTENTS

CHAPTER 1

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

§ 1.01	Histo	orical Context	1-1
§ 1.02		slative History	1-4
	[1]	Legislative Prelude	1-4
	[2]	President Wilson's Proposal	1-5
	[3]	House Consideration	1-6
	[4]	Senate Debate	1-7
	[5]	Bill Reported by Conference	1-10
§ 1.03		cipal Amendments to the Federal Trade	
	C	ommission Act	1-12
	[1]	Wheeler-Lea Act of 1938	1-12
	[2]	McGuire Act	1-13
	[3]	Alaska Pipeline Legislation	1-13
	[4]	Magnuson-Moss Warranty—Federal	
		Trade Commission Improvement Act	
		of 1975	1-14
	[5]	Federal Trade Commission	
		Improvements Act of 1980	1-15
	[6]	Foreign Trade Antitrust Improvements	
		Act of 1982	1-15
	[7]	Federal Trade Commission Act	
		Amendments of 1994	1-16
	[8]	Dodd-Frank Wall Street Reform and	
		Consumer Protection Act	1-16

FEDERAL TRADE COMMISSION

CHAPTER 2

Organization, Liaison Procedures, and Public Access

§ 2.01	Offices and Bureaus	2-3
	[1] Organization	2-3
	[a] Office of the Executive	2.2
	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
	[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	
Ü	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 2.07	[1] Role of the Independent Regulatory	2 23
	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
8 2 08	Press Releases and Public Information	2-26

		7	ΓABLI	E OF CONTENTS	vii
	[1] [2]			nsesnal Testimony	2-26 2-27
	[3]			and Orders	2-27
	[4]			nt Publications	2-28
§ 2.09	Advis	ory O	pinior	ns	2-29
§ 2.10	Liaiso	n witl	h Othe	er Federal Agencies, the	
				eign Countries	2-31
	[1]			th Other Federal Agencies	2-31
		[a]		and Drug Administration	2-31
		[b]	Fede	ral Communications	
			Co	ommission	2-32
		[c]	Antit	rust Division of the	
				epartment of Justice	2-33
		[d]	Com	modity Futures Trading	
			Co	ommission	2-33
		[e]		umer Financial Protection	
			Βι	ıreau	2-33
		[f]		rtment of Veterans Affairs	2-34
	[2]			n with Foreign Countries	2-34
	[3]			te Merger Investigations	2-35
§ 2.11					2-36
	[1]			f Information Act	2-36
		[a]		ired Disclosures	2-36
		[b]		rial Exempt from Mandatory	
				sclosure	2-37
			[i]	Exemption 3: Matters	
				Specifically Exempted	
				from Disclosure by	2 20
			r	Statute	2-38
			[ii]	Exemption 4: Trade	2 20
			r	Secrets	2-39
			[iii]	Exemption 5: Agency	2 41
			г. т	Memoranda	2-41
			[iv]	Exemption 7: Law	2 44
	[2]	C		Enforcement Records	2-44
				nt in Sunshine Act	2-45
	[3]			t Records Systems	2-47
	[4]			n Requested in Matters in	2 49
		VV	men u	he FTC Is Not a Party	2-48
			(CHAPTER 3	
		Ju	risdic	tional Prerequisites	
§ 3.01	Comn	nerce	Requi	rement	3-2
	[1]			Commerce	3-2
	[2]			mmerce	3-4

§ 3.02	"Reason to Believe" Criterion	
§ 3.03	Public Interest Requirement	
	[1] Triviality	
	[2] Mootness	. 3-11
	[3] Pendency of Civil or Criminal Court	3-14
	Cases	. 3-14
	[4] Discriminatory Prosecution of	. 3-15
	Respondent	3-13
	[5] Improper Congressional Interference	
e 2 0 4	[6] Proceedings in Other Agencies	. 3-10
§ 3.04	Private Cause of Action	
§ 3.05	Exemptions Contained in the FTC Act	. 3-19
	[1] Common Carriers Subject to the	2 10
	ICC Act	. 3-19
	[2] Common Carriers Subject to the	2.20
	Communications Act	
	[3] Air Carriers	. 3-20
	[4] Matters Subject to Packers and	2.21
	Stockyards Act Jurisdiction	
	[5] Not-for-Profit Organizations	
	[6] Banks	. 3-24
	[7] Savings and Loan Institutions:	2 2 4 4
	Federal Credit Unions	
	[8] Advertising Directed at Children	
	[9] Standards and Certification Activity	
	[10] Investigations of Insurance	
	[11] Agricultural Cooperatives	
	[12] Prohibited Uses of Appropriations	
§ 3.06	FTC Act Exemptions Contained in Other Acts	
	[1] Insurance	
	[2] Ocean Shipping	
	[3] Defense Mobilization	
	[4] International Energy Agreements	
	[5] Export Trade	. 3-34
	[6] Newspaper Joint Operating	
	Agreements	
	[7] Small Business Agreements	
	[8] Soft Drink Bottlers Distribution	
	[9] Television Programming	
	[10] Improving America's Schools Act	
§ 3.07	Antitrust Exemptions	. 3-39
	[1] Agriculture	
	[a] Agricultural Associations	. 3-40
	[b] Agricultural Marketing Orders	
	and Agreements	
	[2] Fishery Associations	. 3-42

	TABLE OF CONTENTS	ix
§ 3.08	 [3] Labor. [4] Learned Professions [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 	3-43 3-46 3-47 3-47 3-48 3-51 3-54 3-55 3-55 3-56
	CHAPTER 4	
	Unfair Methods of Competition	
§ 4.01 § 4.02	Legislative Intent	4-2
	as Unfair Methods of Competition	4-4
	[1] The Sherman Act	4-4
	to Monopolize	4-5
	Conspiracies [i] Contract, Combination or	4-8
	Conspiracy	4-9
	[ii] Effect on Commerce [iii] Determination of	4-10
	Unreasonableness [iv] Types of Conduct Normally	4-11 4-14
	Found Anticompetitive [2] The Clayton Act	4-14
§ 4.03	Unfair Methods of Competition That Do Not	7-1/
0	Violate the Sherman or Clayton Acts	4-18.2
	[1] Incipient Violations or Those That Violate the Spirit of the Sherman or	
	Clayton Acts	4-18.2
	the FTC Act	4-19
	[a] Characteristics of a Party	4-20
	[b] Characteristics of Conduct	4-20
	[c] Characteristics of the Effect of the Conduct	4-22
	the Conduct	7-22

X	FEDERAL TRADE COMMISSION		
	[3] Principles Underlying Application of Section 5	4-22	
	of the Sherman and Clayton 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	
	Commission Findings Based on a Thorough Record [4] 2015 FTC Statement of Enforcement	4-25	
	Principles	4-26	
	CHAPTER 5		
	Unfair Acts or Practices		
§ 5.01	Historical Development of the Unfairness		
§ 5.02	Doctrine	5-1	
§ 5.03	Practices	5-6	
§ 5.04	of 1994	5-8	
o .	or Practices	5-9	
	Selling	5-9	
	[2] Withholding Material Information[3] Making Claims Without	5-11	
	Substantiation	5-13 5-17	
	CHAPTER 6		
	Deceptive Acts or Practices		
§ 6.01	FTC Authority Over Deceptive Acts and	-	
	Practices	6-2	

		TABLE OF CONTENTS	X
§ 6.02		Commercial Speech Under the	
		tution	6-4
§ 6.03		al Deception Criteria	6-6
		troduction	6-6
	[2] Co	ommission Expertise to Assess	
	F43	Deceptiveness	6-6
		endency or Capacity to Mislead	6-8
		orms of Misrepresentation	6-10
	[a]		6-10
	[b]	-	6-13
	[c]		(15
	F 1:	Practices	6-15
	[d]		(17
	F. 673 A	Artificial Intelligence	6-17
		Substantial Number of Consumers	6-18
0.604		ateriality	6-20
§ 6.04		atement on Deception	6-23
§ 6.05		des Dealing with Deceptive	
	Practic	ces	6-26
	[1] Gı	uides Relating to Deceptive Practices	(2(
	г -	Applicable Generally	6-26
	[a]		6-26
	[b]		6-27
	[c]		6.20
		Testimonials	6-28
		[i] Updated Guides Concerning the Use of Endorsements	
		and Testamonials	6-30
		[ii] Updated FTC Guidance	0-30
		Document	6-30.3
		[iii] Penalties for Deceptive	0-30.3
		Review and Endorsement	
		Practices	6-30.4
	[d		6-30.6
	[e]		6-30.6
	[f]		6-31
	L*J	[i] Health Products Compliance	0 51
		Guidance	6-32
		[ii] FTC Policy Regarding	
		Advertising	
		Substantiation	6-32.2
		[iii] Post-Claim Evidence	6-32.4
	[g]		6-32.4
	[h		6-32.6
		uides Relating to Deceptive	
	= =	Practices in Connection with Specific	
		Products or Industries	6-35

(Rel. 72)

xii		FEI	DERAL TRADE COMMISSION	
		[a] [b]	Automobile Fuel Economy Auto Parts (Rebuilt, Reconditioned	6-35
		[o]	or Used)	6-35
		[c]	[Reserved]	6-35
		[d]	[Reserved]	6-35
		[e] [f]	[Reserved]	6-35
			PewterLeather and Imitation Leather	6-35
		[g]	Products	6-36
		[h]	[Reserved]	6-36
		[i]	Schools (Private Vocational and	0-30
			Distance Education)	6-36
	[3]	Repe	ealed Guides	6-37
§ 6.06	Appli	cation	n to E-Commerce	6-38
			CHAPTER 7	
	Consu	mer l	Protection Trade Regulation Rules	
§ 7.01	Intro	ductio	n	7-4
§ 7.02	Cons	umer	Protection Trade Regulation	
				7-6
			Reserved]*	7-6
	[16] [17]		Labeling of Wearing Apparel il Food Store Advertising and	7-6
			Iarketing Practices	7-8
	[18]		ative Option Plan Selling	7-9
		[a]		7-9
		[b]	Postmailing Practices	7-9
		[c]		= 10
	E4.03	<i>a</i> ,	Option Rule	7-10
	[19]		ling-Off Period for Sales Made	
			Homes or at Certain Other	7 12
	[20]	Dow	ocations	7-13
	[20]		er Output Claims for Amplifiers tilized in Home Entertainment	
			roducts	7-14
	[21]		ervation of Consumers' Claims and	/-14
	[-1]		efenses	7-15
		[a]	Basis of the Rule	7-15
		[b]	Notice Required in Consumer	, -0
		LJ	Credit Contracts	7-16
		[c]	Application of Rule to Purchase	
			Money Loans	7-18

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

	,	TABL	E OF CONTENTS	xiii
		[i] [ii] [iii]	Customer Referrals Affiliation Examples Where the Rule Applies to Acceptance of	7-18 7-19
		[iv]	Proceeds	7-19 7-19
	[d]		Creditor Relationship ication of Rule to reditors	7-19
[22]	Mail	, Inter	net Or Telephone Order	7-20
	M	erchar	ndise	7-20
	[a] [b]	Initia	al Solicitationedures Governing Shipment	7-21
	[c]	\mathbf{D}_{0}	elaysellation and Refund	7-21
	F.1		ocedures	7-22
[23]	[d] Fran	Misc	rellaneous Provisions and Business	7-22
[23]			nities	7-23
	[a]	The	Franchise Rule	7-23
	[b]		Business Opportunity Rule	7-33
[24]			dustry Practices	7-35
[]	[a]		Is Covered by the Rule	7-36
	[b]	Tran	sactions to Which the Rule	7-36
	[c]	Requ	irements Regarding Price formation	7-37
		[i]	Price Disclosures Over the	
		F***3	Telephone	7-37
			Price Lists	7-37
	[d]	Misr	and Services Selected epresentations and Preventive	7-39
			equirements	7-39
		[i] [ii]	Embalming Provisions Casket For Cremation	7-39
		[iii]	Provisions Outer Burial Container	7-40
		[iv]	Provisions	7-40
			and Cemetery Requirements	7-40
		[v]	Preservative or Protective Value Claims	7- 4 0
			varue Ciairiis	/ - T 1

		[vi] Cash Advance Provisions	7-41
		[e] Required Purchase of Funeral Goods or Services	7-41
		[i] Casket Purchases for	/=41
		Cremation	7-42
		[ii] Other Required	, .2
		Purchases	7-42
		[f] Embalming Services Provided	
		Without Prior Approval	7-43
		[g] Record Keeping	7-44
		[h] State Exemptions	7-44
	[25]	Ophthalmic Practice	7-45
	[26]	Labeling and Advertising of Home	
		Insulation	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
	[29]	Made in USA Labeling	7-56.4
§ 7.03		making Proceedings Terminated Without	
		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	
	F.C	Restraints	7-59
	[8]	Antacid Advertising	7-59
	[9]	Protein Supplements	7-60
	[10]	Health Spas	7-60

		TABLE OF CONTENTS	XV
	[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
	[1]	Advertising and Labeling of Sleeping	
		Bag Size [repealed]	7-64
	[2]	Household Electric Sewing Machines—	
		Use of Term "Automatic"	= 64
	F0.7	[repealed]	7-64
	[3]	Deception Regarding Prismatic	7.65
	F 4 7	Binoculars [repealed]	7-65
	[4]	Deception Regarding "Leakproof" Dry	7.65
	F. 6.7	Cell Batteries [repealed]	7-65
	[5]	Advertising and Labeling of Tablecloth	7.65
	Γ 4 1	Size [repealed]	7-65
	[6]	Representations as to Leather Content	7 66
	Г 7 1	of Belts [repealed]	7-66
	[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	7-07
	[10]	Pictures	7-68
	[11]	Disclosures Relating to the Handling of	7-00
	[11]	Glass Fiber Fabrics [repealed]	7-68
	[12]	Deception as to Transistor Count of	7 00
	[12]	Radios [repealed]	7-69
	[13]	Disclosure of the Lethal Effects of	, 0,
	[]	Inhaling Quick-Freeze Aerosol	
		Spray Products Used to Frost	
		Cocktail Glasses [repealed]	7-69
	[14]	Length of Extension Ladders [repealed]	7-69
	[15]	Games of Chance in the Food Retailing	
		and Gasoline Industries [repealed]	7-70
		r i	
		CHAPTER 8	
		CHAITEN 0	
		The Clayton Act	
§ 8.01	Histo	orical Perspective and FTC Enforcement	
-		sponsibility	8-4
§ 8.02		Robinson-Patman Act Amendments—	
-	Se	ction 2	8-6
	[1]	Introduction	8-6
	[2]	The Commerce Requirement	8-7

	[3]	The "Commodity" Requirement	8-9
	[4]	Price Discrimination—Section 2(a)	8-10
		[a] Discrimination in Price	8-10
		[b] Sales to Two Purchasers	
		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
		[i] Meeting Competition—	0 10.2
		Section 2(b)	8-18.2
		[ii] Cost Justification	8-20
		[iii] Changing Conditions	8-22
	[5]	Brokerage Payments—Section 2(c)	8-23
	[6]	Allowances and Services—Sections 2(d)	0 23
	[o]	and (e)	8-25
	[7]	Buyer Liability for Inducing Price	0-23
	[/]	Discrimination—Section 2(f)	8-29
	[8]	FTC Enforcement Posture	8-30.1
§ 8.03		usive Dealing and Tying—Section 3	8-31
8 8.03			8-31
	[1]	Tying Arrangements	8-33
	[2]	Exclusive Dealing	
0.04	[3]	FTC Enforcement	8-34
§ 8.04		gers and Acquisitions—Section 7	8-36
	[1]	Introduction	8-36
	[2]	Legislative Intent	8-37
	[3]	Requirement That Commerce Be	0.27
	F 43	Affected	8-37
	[4]	Markets in Which to Test Competitive	0.20
		Effects	8-38
		[a] Geographic Market	8-38
		[b] Product Market	8-39
		[c] Department of Justice/FTC Market	0.40
	F.6.3	Definition Guidelines	8-40
	[5]	Evaluation of Competitive Impact of	0.42
		Mergers	8-43
		[a] 1968 Department of Justice	0.42
		Merger Guidelines	8-43
		[b] 1982 Department of Justice	0.45
		Merger Guidelines	8-45
		[c] Statement of the FTC Concerning	0.47
		Horizontal Mergers	8-47
		[i] Non-Market Share	0.47
		Considerations	8-47
		[ii] Factors to Be Considered as	
		Part of Prosecutorial	0.40
		Discretion	8-49

	,	TABLI	E OF CONTENTS	xvii
	[d]	M	Department of Justice erger Guidelines Factors Other Than	8-50
		[i]	Concentration and Market Share Data	8-50
		[ii]	Treatment of Foreign Competition	8-51
		[iii]	Efficiencies	8-51
			Failing Divisions of Healthy Firms	8-52
	[e]		Department of Justice and ederal Trade Commission	
		Н	orizontal Merger	
			uidelines	8-52
		[i]	Market Shares and	0.70
		F3	Concentration	8-52
		[ii]	Evaluation of Competitive	0.52
		riii 1	Effect of Merger	8-53 8-54
		[iii] [iv]	2 2	8-55
		[v]	Failing Firm and Exiting	0-33
		[,]	Assets	8-56
	[f]	1993	Department of Justice/FTC	
			nforcement Policy on	
		M	ergers Among Hospitals	8-56
	[g]		FTC/DOJ Merger	
			uidelines	8-57
		[i]	Adverse Competitive	0.77
		F3	Effects	8-57
		[ii]	Market Definition	8-59
		[iii]		0.60
		F32.7	and Concentration	8-60
		[iv]	Potential Defenses	8-61
		[v]	Monopsony Effects of	8-62
		[vi]	Buyer Mergers Acquisitions of Partial	0-02
		[11]	Interests	8-62
	[h]	2020	FTC/DOJ Vertical Merger	0 02
	[]	Gı	uidelines	8-63
§ 8.05 Har	t-Scott-	Rodin	o Premerger Notification—	
S	Section '			8-65
[1]			on of the Parties	8-65
[2]	Com	merce	Test	8-67
[3]			rties and Transaction	0.67
F # T	To Carles	ests	t Acquisitions	8-67
[4]	Subs	sequent	t Acquisitions	8-68 8-69
[5]	Spec	iai Sil	uations	0-09

	[a]	Tender Offers and Acquisitions	
		of Voting Securities from	
		Third Parties	8-69
	[b]	Secondary Acquisitions	8-70
	[c]	Acquisitions of Voting Securities	
		by Sellers	8-70
	[d]	Joint Ventures	8-71
[6]		fication Requirements	8-72
[7]		uest for Additional Information—	
F. 1		Second Request"	8-72.2
[8]	Wait	ting Periods	8-72.3
[9]	Conf	fidentiality	8-73
[10]		npted Transactions	8-73
[10]	[a]	Acquisition of Goods or Realty	0 72
	[۵]	in the Ordinary Course	
		of Business	8-73
	[b]	Transfers to or from	0 72
	[o]	Governmental Entities	8-74
	[c]	Antitrust Exempt Transactions	8-74
	[d]	Transactions Subject to Federal	0-7-
	լսյ	Agency Approval	8-74
	[e]		0-7-
	[e]	Acquisitions Solely For	8-76
	[f]	Investment	0-70
	[1]		0 74
	[~]	Stock Splits	8-76
	[g]	Amended or Renewed Tender	0.7/
	E1 1	Offers	8-76
	[h]	Intraperson Transactions	8-77
	[i]	Acquisitions Involving Foreign	
		Assets, Voting Securities,	0.50
		Purchasers, or Governments	8-77
		[i] Acquisition of Foreign Assets	
		or Voting Securities	8-77
		[ii] Acquisitions by or from	
		Foreign Governmental	
		Corporations	8-78
		[iii] Certain Foreign Banking	
		Transactions	8-78
	[j]	Acquisitions by Securities	
		Underwriters	8-78
	[k]	Certain Acquisitions by Creditors	
		and Insurers	8-79
	[1]	Acquisitions of Voting Securities	
		by Institutional Investors	8-79
	[m]	Acquisitions Pursuant to Court or	
		Commission Order	8-79
	[n]	Acquisitions by Gift, Succession or	0 77
	L-*J	Devise, or by Irrevocable Trust	8-80
		_ 3,100, 01 0, 1110,000010 11000	0 00

			TABLE OF CONTENTS	xix
		[o]	Acquisitions by Employee Trusts	8-80
		[p]	Certain Acquisitions of Real Property Assets	8-80
		[q]	Acquisitions of Carbon-Based	0 00
		[r]	Mineral Reserves	8-80
		[a]	of Which Is Exempt	8-81
		[s]	Acquisitions of Investment Rental Property Assets	8-81
	[11]	Enfo	property Assets	8-81
§ 8.06			nd Officer Interlocks—Section 8	8-83
			CHAPTER 9	
		Cons	umer Credit Protection Act	
§ 9.01	Consu	ımer	Credit Protection Legislation	9-4
§ 9.02			ending Act	9-5
O	[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]	Rule	es Applicable to Open End Credit	9-7
		[a] [b]	Initial Disclosures	9-7
		[Մ]	Statements	9-7
		[c]	Subsequent Disclosures	9-8
		[d]	Provisions Relating to Credit	
			Cards	9-8
			[i] Issuance of Credit Cards[ii] Liability for Unauthorized	9-8
			Use of Card	9-8.1
		[e]	Right of Rescission	9-9
	[4]	[f]	Advertising of Open End Credit es Applicable to Closed End	9-10
	[+]		redit	9-10
		[a]	General Disclosure Rule and	
		п.	Format	9-10
		[b]	Initial Disclosures for Closed End Credit	9-11

FEDERAL TRADE COMMISSION

	[c]	Subsequent Disclosure	
		Requirements	9-12
	[d]	Right of Rescission	9-12
	[e]	Advertising of Closed End	
		Credit	9-13
§ 9.03	Consumer	Leasing Act	9-14
Ü		verage of the Act	9-14
	[2] Dis	closure Requirements	9-14
		vertising of Consumer Leases	9-16
§ 9.04	Fair Credi	t Billing Act	9-17
U		count Handling Procedures	9-17
		ing Errors	9-17
	[a]	Types of Errors	9-17
	[d]	Billing Error Notices	9-18
	[c]	Error Resolution Procedures	9-18
	[-1	[i] Time Limits	9-18
		[ii] Rules Pending Resolution	9-19
		[iii] Procedures If Billing Error	, 1,
		Occurred as Asserted	9-19
		[iv] Procedures If No Billing	, 1,
		Error or a Different	
		Error Than Asserted	
		Occurred	9-19
	[3] Cre	ditor's Rights and Duties After	7-17
			9-19
	[4] Pro	Resolution	9-19
	[4] F10		9-20
	[۵]	Right to Assert Claims or Defenses	9-20
	[b]	Against Card Issuer Offsets by Card Issuer	9-20
	[Մ]	Prohibited	9-20
	[6]		9-20
	[c]	Prompt Handling of Refunds	0.21
	[4]	and Returns	9-21 9-21
9 0 05	[d]	ative Enforcement of the Truth in	9-21
§ 9.05			
		g, Consumer Leasing and Fair Credit	9-22
		Acts	
		C Enforcement Responsibility	9-22
		chority to Order Account	0.22
		Adjustments	9-23
	[a]	Determining Existence and	0.22
		Amount of Errors	9-23
		[i] Tolerances on Transactions	
		Prior to March 31,	0.00
		1982	9-23
		[ii] Tolerances on Transactions	
		After March 31, 1982	9-23
	[b]	Mandatory and Discretionary	
		Adjustments	9-24

		TABLE OF CONTENTS	xxi
		[i] Mandatory Adjustments	9-24
	[-	[ii] Discretionary Adjustments c] Defenses To An Adjustment	9-25
	L	Order	9-25
		[i] Significant Adverse	
		Impact	9-25
		[ii] Adjustments Less Than	
		One Dollar	9-25
		[iii] Statute of Limitations	9-25
		[iv] Voluntary Adjustments	9-26
		[v] Reliance on Federal	
	- · · ·	Reserve Board	9-26
§ 9.06		edit Reporting Act	9-27
		Consumer Reports	9-27
		Consumer Reporting Agencies	9-28
	[3] F	Furnishers of Information to Consumer	0.20
	Γ <i>Ι</i> 11 Τ	Reporting Agencies	9-28 9-29
	[4] U	Uses of Consumer Reports	9-29
		Disclosures to Consumers	9-31
		Disputes Over Accuracy of Reports	9-34
		Maintenance of Procedures to Assure	, , , ,
	[0]	Compliance	9-35
	[9] F	Fraud and Identity Theft Provisions	9-36
		Enforcement Mechanisms	9-38
		a] Criminal Sanctions	9-38
	Ī	b] Civil Liability	9-38
		c] Administrative Enforcement	9-39
	[11] S	State Enforcement and Relation to	
		State Laws	9-40
§ 9.07	Equal C	Credit Opportunity Act	9-41
	[1] I	Discrimination Prohibited	9-41
	[2] F	Required Notices	9-41
		Administrative Enforcement	9-42
0.00		Civil Liability	9-43
§ 9.08		bt Collection Practices Act	9-44 9-44
	= . =	Debt Collectors Covered by the Act	9-44
		Debt Collector Communications	9-43
	L	Parties	9-45
	Γ	b] Communications with the	7-43
	L	Debtor	9-46
	[3] P	Prohibited Practices	9-48
		a] Harassment or Abuse	9-48
	-	b] False or Misleading	
	L	Representation	9-48
	Γ	c] Unfair Practices	9-50

xxii	FEDERAL TRADE COMMISSION	
	[d] Venue of Legal Actions	9-51
	[4] Enforcement	9-51 9-51
	[b] Civil Liability	9-53
	[5] Exemption for State Regulation	9-53
§ 9.09	Electronic Fund Transfer Act	9-54
	[1] Scope of the Act[2] Regulated Aspects of Electronic Fund	9-54
	Transfers	9-55
	[3] Enforcement	9-56
§ 9.10	Credit Repair Organizations Act	9-57
	[1] Conduct Requirements	9-57
	[2] Enforcement	9-58
	CHAPTER 10	
	Other Laws for Which the FTC	
	Has Enforcement Responsibilities	
§ 10.01	Introduction	10-4
§ 10.02	Federal Cigarette Labeling and Advertising	10 41
e 10.02	Act	10-4.1
§ 10.03 § 10.04	Webb-Pomerene Export Trade Act Textile, Wool and Fur Statutes and Rules	10-7 10-11
§ 10.04	[1] Introduction	10-11
	[2] Wool Products Labeling Act	10-11
	[a] Who Must Comply	10-12
	[b] Labeling Requirements	10-12
	[c] Tracing the Label Through the	
	Distribution Chain	10-13
	[d] Advertising Requirements	10-14
	[e] Enforcement of the Act	10-14
	[3] Fur Products Labeling Act	10-15
	[a] Who Must Comply	10-15
	[b] Proper Labeling, Advertising and	
	Invoicing	10-16
	[c] Tracing the Label Through the	10.16
	Distribution Chain	10-16
	[d] Enforcement of the Act	10-17
	[4] Textile Fiber Products Identification Act	10-18
	[a] Who Must Comply	10-18
	[b] Advertising and Labeling	10-10
	Requirements	10-18
	[c] Tracing the Label Through the	ŭ - 0
	Distribution Chain	10-20

		TABLE OF CONTENTS	xxiii
		[d] Enforcement of the Act	10-21
§ 10.05	Fair I	Packaging and Labeling Act	
O	[1]	Who Must Comply	10-22
	[2]	Consumer Commodities	
	[3]	"Packaged" Consumer Commodities	
	[4]	Labeling Requirements	10-23
	[5]	Enforcement of the Act	
§ 10.06		gy Related Enforcement	
3		sponsibilities	10-26
	[1]	Liquid Automotive Fuel Ratings,	
	[-]	Certification and Posting	10-26
	[1A]	Labeling Requirements for Non-Liquid	
	[]	Alternative Fuels	10-28
	[2]	Consumer Appliance Labeling	10-29
	[3]	Fuel Economy Representations for	
	r- 1	Cars and Retrofit Devices	10-31
	[4]	Installation of Residential Energy	
	LJ	Conservation Measures by Public	
		Utilities	10-33
	[5]	Test Procedures and Labeling Standard	S
		for Recycled Oil	
§ 10.07	Hobb	y Protection Act	
§ 10.08		uson-Moss Warranty Act	
3	[1]	Introduction	
	[2]	Warranties Covered	
	[3]	Required Disclosure of Warranty	
	F- 3	Terms	10-40
		[a] Terms To Be Disclosed	
		[b] Availability of Warranty Terms	
		Prior to Sale	10-40.2
		[c] Time Extensions on Written	
		Warranties	10-40.3
		[d] Prohibition of Conditioning	
		Warranty on Purchase of Other	r
		Goods or Services	
	[4]	Designation of Warranty as "Full" or	
		"Limited"	10-41
		[a] When Warranty May be Labeled	
		"Full"	10-42
		[b] When Warranty Must Be Labeled	d
		"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
		[d] Consumer Cause of Action	10-47
		[8] Effect on State Law	10-48
8	10.09	Comprehensive Smokeless Tobacco Health	
3	10.07	Education Act	10-50
ç	10.10		10-30
8	10.10	Comprehensive Deposit Insurance Reform and	10 51
0	10.11	Taxpayer Protection Act	10-51
8	10.11	Telephone Disclosure and Dispute Resolution	40
		Act	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	
		Services	10-54
		[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	100,
		Practices Prohibited	10-59
		[4] "Do Not Call" Provisions	10-61
		[5] Enforcement and Preemption	10-63
2	10.13	Children's Online Privacy Protection Act	10-03
8	10.13		10-64
e	10.14	of 1998	10-04
8	10.14	Identity Theft and Assumption Deterrence	10.66
		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,	
3	10.17	and Modernization Act of 2003	10-75
2	10.18	Sports Agent Responsibility and Trust Act	10-75
			10-70
8	10.19	Energy Independence and Security Act	10.77
e	10.20	of 2007	10-77
8	10.20	Health Information Technology for Economic	10.50
		and Clinical Health Act	10-78

	TABLE OF CONTENTS	XXV
§ 10.21	Mortgage Acts and Practices Rules	10-79 10-79
	[2] Mortgage Assistance Relief Services	
s 10.22	(MARS) Rule	10-81 10-83
§ 10.22	Restore Online Shoppers' Confidence Act Section 19 of the FTC Act	
§ 10.23 § 10.24	Consumer Fairness Review Act	10-85 10-86
§ 10.24 § 10.25	Better Online Ticket Sales Act	10-80
§ 10.25 § 10.26	Fairness to Contact Lens Consumers Act	10-87
§ 10.20 § 10.27	Horseracing Integrity and Safety Act	10-00
y 10.27	of 2020	10-89
	CHAPTER 11	
	Investigations	
§ 11.01	Origination of Investigations	11-3
	Sources Outside the Commission [a] Request from the Attorney	11-3
	General	11-3
	[b] Request from the President	11-3
	[c] Request from Congress or	11.2
	Governmental Agencies [d] Requests from the Courts	11-3 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 [a] Characteristics and Special	11-6
	Considerations	11-6
	[i] Nonpublic Nature	11-6
	Antitrust Investigations [iii] Investigations Involving	11-7
	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	11 0
	Protection	11-9

xxvi FEDERAL TRADE COMMISSION

		[c]	Investigatory Stages	11-9
			[i] Informal Staff Inquiries	11-9
			[ii] Initial Phase Investigations	11-10
			[iii] Full Investigations	11-10
	[3]	Com	pliance Investigations	11-12
	[4]		osition of Documents Submitted to	
			e Commission	11-12
§ 11.03	Use o	of Con	npulsory Process	11-14
_	[1]		ority	11-14
	[2]	Com	pulsory Process Under Sections 6	
		an	d 9	11-15
		[a]	Issuance, Recipients and Uses	11-15
		[b]	Purposes	11-16
		[c]	Subpoena Compliance	11-17
		[d]	Challenges to a Subpoena	11-20
			[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]	Penalties for Noncompliance	11-29
	[3]		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	11 25
		гm	Questions	11-35
		[f]	Oral Testimony	11-36
0 11 04	CC	[g]	Court Enforcement	11-37
§ 11.04			lity of Information Submitted	11 20
			C	11-39
	[1]		tory Protections	11-39
		[a]	FTC Act Section 6(f)	11-39
		[b]	Trade Secrets Act Freedom of Information Act	11-42
		[c]		11-42
		[4]	Exemptions Federal Trade Commission Act	11-42
		[d]	Section 21	11-43
			[i] Documents Submitted	11-43
			Pursuant to Compulsory	
			Process in a Law	
			Enforcement	
			Investigation	11-44
			1111 Conganon	T T

	TABLE OF CONTENTS	xxvi
	[ii] Documents Submitted Voluntarily in a Law Enforcement Investigation in Lieu of Compulsory	
	Process	11-47
	"Confidential"	11-47
	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
	[3] Indigent Respondents	12-9
0 10 00	[4] Amendment of Complaint	12-10
§ 12.03	Filing and Service Requirements	12-13
	[1] Filing Requirements	12-13
	[2] Service Requirements	12-13 12-13
	[a] Service by the Commission[b] Service by Parties Other Than	12-13
	the Commission	12-14
	[i] Service on the	12 11
	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
3 12.0.	[1] Appointment and Status	12-17
	[2] Disqualification	12-18
	[3] Substitution of Administrative Law	12 10
	Judge	12-20
	[4] Ex Parte Contacts	12-22
	[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	12 20
3 12.00	Complaint	12-28
	Companie	.2 20

xxviii	FEDERAL TRADE COMMISSION	
	[1] Motion for More Definite Statement	12-28
	[2] Answer	12-28
	[3] Dispositive Motions and Motions	12.20
	to Strike	12-29 12-30
	[5] Joinder of Parties	12-30
	[6] Res Judicata	12-30
	[7] Limitations of Actions, Laches or	
0.10.07	Equitable Estoppel	12-31
§ 12.07	Post-Complaint Settlement	12-33
§ 12.08	Prehearing Procedures and Discovery [1] Prehearing Conferences, and	12-36
	Scheduling	12-36
	[2] Motions	12-37
	[3] Discovery	12-38
	[a] General Provisions	12-38
	[b] Requests for Admission	12-41
	[c] Depositions	12-42
	[d] Subpoenas	12-42.1 12-42.1
	[i] In General	12-42.1
	Documents or Testimony	
	or to be Served in a	
	Foreign Country	12-43
	[e] Interrogatories	12-46.1
	[f] Document Production and Access	10.47
	Orders	12-47
	[g] Discovery Other Than That 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	1.0 10
	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 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 Compelled to Testify	12-59
	[5] In Camera Treatment of Evidence	12-60
	[6] Proposed Findings	12-63

		TABLE OF CONTENTS	xxix
§ 12.10	[7] Appe [1]	The Initial Decision	12-63 12-65 12-65
		Certification	12-65
	[2]	Administrative Law Judge Appeal to the Commission from Initial	12-66
	[3]	Decision	12-67
		to Prevailing Respondent	12-70
§ 12.11	Judic	eial Review	12-72
	[1]	Review of Actions Other Than Cease	
		and Desist Orders	12-72
		[a] Jurisdiction in the Courts[b] Ripeness, Finality and	12-72
		Exhaustion	12-75
	[2]	Review of Final Cease and Desist	12 70
		Orders	12-78.1
		[a] Court of Appeals	12-78.1 12-83
		CHAPTER 13	
		Rulemaking	
§ 13.01		making Authority under Section 6(g) of	
	the	e FTC Act	13-2
§ 13.02 § 13.03	Magı	ific Rulemaking Authorized by Statute nuson-Moss Section 18 Trade Regulation	13-6
	F 4 7	ulemaking	13-7
	[1] [2]		13-7
		Proposal	13-8
		[a] Origination of a Proposal [i] Petition Submitted to the FTC	13-8 13-8
		[ii] Commission Initiative	13-8
		[b] Prerulemaking Investigation	13-9
		[c] Advance Notice of Proposed Rulemaking	13-9
	[3]	Commencement of Rulemaking	20)
		Proceeding	13-9
		[a] Notice of Proposed Rulemaking	13-9
		[b] Preliminary Regulatory Analysis	13-10
		[c] Environmental Impact Analysis	13-11

FEDERAL TRADE COMMISSION

		[d] Paperwork Reduction Act	
		Clearance	13-11
		[e] Written Comments and Opportunity	
		for a Hearing	13-11
	[4]	Notice of Informal Hearing and	
	F.1	Designations	13-11
		[a] Notice of Informal Hearing	13-11
		[b] Appointment and Powers of	
		Presiding Officer	13-12
		[i] Appointment of Presiding	
		Officer	13-12
		[ii] Powers of Presiding	
		Officer	13-12
		[iii] Post-hearing review of	
		Presiding Officer	
		Rulings	13-13
		[iv] Ex Parte Communications	
		with Presiding Officers	13-13
	[5]	Rulemaking Proceeding Procedures	13-13
		[a] Written Comments	13-13
		[b] Informal Hearing	13-13
		[i] Cross-Examination Rights	13-14
		[ii] Rebuttal Submissions	13-14
		[c] Presiding Officer's	
		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
	[9]	Congressional Review of Final Rule	13-17
§ 13.04	Exen	nptions from Trade Regulation Rules	13-18
§ 13.05	Preei	mption of State Laws	13-19
§ 13.06		cial Review of FTC Rulemaking	13-30
	[1]	Review of Rules Promulgated Pursuant	
		to Section 6(g)	13-30
	[2]	Review of Final Rules Promulgated	
		Pursuant to Magnuson-Moss	12.22
	F0.7	Procedures	13-30
0.12.07	[3]	Interlocutory Review	13-32.1
§ 13.07	Ento	rcement of Rules	13-36

TABLE OF CONTENTS

xxxi

CHAPTER 14

Remedies

§	14.01	Cease	e and Desist Orders	14-2
		[1]	Persons and Entities Subject to an	
			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
			[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
			[i] Common Enterprise	14-10
		[2]	Scope of Cease and Desist Orders	14-10
		[3]	Modification of Orders	14-20
8	14.02		t Injunctions	14-24
3	1	[1]	Wheeler-Lea Act Injunctions Against	
		[- J	False Advertising of Foods, Drugs,	
			Devices and Cosmetics	14-24
		[2]	Injunctions Pursuant to the All Writs	1121
		[2]	Act	14-26
		[3]	Injunctions Pending Completion of	14-20
		[2]	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
		F 4 7	[c] Scope of Injunction	14-32
		[4]	Permanent Injunctions	14-35
		[5]	Injunctions in Connection with Civil	1 / /1
0	14.02	G: 1	Penalty Suits	14-41
8	14.03		Penalties for Order or Rule Violations	14-42
		[1]	Penalties for Respondent's Violation of	1.4.40
		F07	Its Order	14-42
		[2]	Penalties for Violation of Consumer	
			Protection Order to Which Defendant	4.4.40
			Is Not a Party	14-48
		[3]	Penalties for Violation of Trade	
			Regulation Rules	14-51
		[4]	Criteria for Assessment of Penalties	
			Against Nonrespondents and Rule	
			Violators	14-51

xxxii	FEDERAL TRADE COMMISSION	
	[5] Mechanics of Institution of	
	Penalty Suit	14-52
§ 14.04	Consumer Redress	14-54
Ü	[1] Redress for Violation of an FTC Rule	14-55
	[2] Redress for Unfair or Deceptive	
	Conduct	14-56
	[3] Determination of Dollar Recovery	14-60
	[4] Conclusiveness of FTC Findings in	
	Redress Proceeding	14-61
	[5] Statute of Limitations on Redress	
	Actions	14-61
§ 14.05	Contempt of Court	14-63
INDEX		I-1