

**FEDERAL TRADE COMMISSION (FTC)****Statement of Regulatory Priorities**

## Regulatory Priorities

*Background*

The Federal Trade Commission (FTC or Commission) is an independent agency charged with protecting American consumers from "unfair methods of competition" and "unfair or deceptive acts or practices" in the marketplace. The Commission strives to ensure that consumers benefit from a vigorously competitive marketplace; it does not seek to supplant competition with regulation. The Commission's work is rooted in a belief that free markets work—that competition among producers and information in the hands of consumers bring the best products at the lowest prices for consumers, spurs efficiency and innovation, and strengthens the economy. The Commission is, first and foremost, a law enforcement agency.

The Commission pursues its goal of promoting competition in the marketplace through two different, but complementary, approaches. First, for competition to thrive, curbing deception and fraud is critical. Through its consumer protection activities, the Commission seeks to ensure that consumers receive accurate, not false or misleading, information in the marketplace. At the same time, for consumers to have a choice of products and services at competitive prices and quality, the marketplace must be free from anticompetitive business practices. Thus, the second part of the Commission's basic mission—antitrust enforcement—is to prohibit anticompetitive mergers or other anticompetitive business practices without interfering with the legitimate activities of businesses. These two complementary parts of its mission make the Commission the Nation's only Federal agency to be given this combination of statutory authority to protect consumers.

The Commission pursues its mandate primarily through case-by-case enforcement of the Federal Trade Commission Act and other statutes. The Commission, however, is also charged with the responsibility of issuing and enforcing regulations under a number of statutes. In addition, under the FTC Act, the Commission currently has in place seventeen trade regulation rules. The Commission also has adopted a number of voluntary industry guides. Most of the regulations and guides pertain to consumer protection matters, and are

generally intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

*Ten-Year Review Program*

In 1992, the Commission implemented a 10-year review program to review its rules and guides. The Commission's review program is derived from provisions in the Regulatory Flexibility Act. Under the Commission's program, however, rules are reviewed at least every 10 years, not just once as required by section 610 of the Regulatory Flexibility Act. Thus, this program provides the Commission with an on-going systematic approach for seeking information about the costs and benefits of its rules and guides and whether there are changes that could minimize any adverse economic effects.

As part of the 10-year plan, the Commission examines the effect of rules and guides on small businesses and on the marketplace in general. These reviews often lead to the reform of rules and guides to ensure that the Commission's consumer protection and competition goals are achieved efficiently and at the least cost to business. In a number of instances, the Commission has determined that existing rules and guides were no longer necessary and in the public interest. In the past year, for example, the Commission has rescinded 32 percent of its trade regulation rules and 30 percent of its consumer protection guides because they had ceased to serve a useful purpose.

*Current Reviews*

As part of its 10-year review of rules and guides, the Commission is reviewing the Franchise Rule, which requires the disclosure of 20 categories of material information to help prospective franchisees evaluate their investment decision. The Commission is considering issues relating to the Uniform Franchise Offering Circular, earnings claims, and international and new technology issues. 60 FR 17656 (Apr. 7, 1995).

The Commission is also seeking comment regarding three warranty-related rules. The Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 CFR part 701, establishes requirements disclosing the terms and conditions of written warranties on certain consumer products. The Commission has sought comment on, among other things, the economic impact of and the continuing

need for the rule; possible conflict between the rule and State, local, and other Federal laws; and the effect on the rule of any technological, economic, or other industry changes. See 61 FR 14688 (Apr. 3, 1996).

The Rule Governing the Pre-Sale Availability of Written Warranty Terms, 16 CFR part 702, establishes certain requirements for sellers and warrantors for making the terms of a written warranty available to the consumer prior to sale. The Commission is reviewing this rule in conjunction with part 701 because both rules establish requirements for warranty terms (701-disclosures; 702-pre-sale availability). See 61 FR 14688 (Apr. 3, 1996). In addition, the Commission has sought comment on Interpretations of the Magnuson-Moss Warranty Act, 16 CFR part 700. See 61 FR 14688 (Apr. 3, 1996).

*Fiscal 1997 Reviews*

In fiscal 1997, the Commission will commence a review of the Negative Option Rule, the 900-Number Rule, and the Informal Dispute Settlement Procedures Rule. The 900-Number Rule became effective in 1993 and was promulgated pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992, which required that the rule be reviewed 4 years after issuance. The Commission is reviewing the other two rules pursuant to its 10-year regulatory review plan, discussed above.

The Commission also expects to complete review of a number of rules and industry guides in fiscal 1997. It is likely that the Commission will modify some existing regulations and eliminate unneeded regulations. With respect to rule modifications, the Commission has proposed amending the Care Labeling Rule, which requires manufacturers and importers of wearing apparel to attach care labels to garments (for example, "dry clean only"). The rule currently requires the instructions to be in words, but allows symbols to be used in addition to words. Symbols could make care instructions more understandable to some consumers and could foster trade with Mexico and Canada, consistent with the goals of the North American Free Trade Agreement (NAFTA). Accordingly, the Commission has requested comment on a proposed conditional exemption to permit the use of certain care symbols in lieu of words so long as hangtags with explanatory language are used for the first 12-month period of symbol use. See 60 FR 57552 (Nov. 16, 1995). The Commission has also sought comment on other care

labeling issues, such as whether it is desirable to require washing instructions for all washable garments in amending the rule's current requirement that either a washing instruction or a dry cleaning instruction may be used. See 60 FR 67102 (Dec. 28, 1995).

#### *Amendments to Rules*

The Commission has amended the Textile Rule by adding the International System of Units (SI Metric System) equivalents beside the inch/pound unit measurements in the Textile Rules (16 CFR 303.10, 303.21, 303.32, and 303.45). See 61 FR 11543 (Mar. 21, 1996). These amendments are required by Executive Order 12770 of July 25, 1991, and the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act. The Commission has also sought comment with regard to other textile issues, including whether to allow a system of shared information for manufacturer or importer identification among the NAFTA countries; whether to eliminate certain required disclosures on textile labels; and whether to allow the use of abbreviations for fiber content labels and abbreviations and symbols in country of origin labeling. See 61 FR 5340 (Feb. 12, 1996). The Commission plans to seek comment on similar issues with respect to its Wool and Fur Rules.

The Commission has amended the Appliance Labeling Rule to permit placement of energy use labels required by the Canadian and Mexican Governments directly adjoining the Commission's required "EnergyGuide" label. See 61 FR 33651 (June 28, 1996). Previously, the rule prohibited placing non-required information "on or directly adjoining" the EnergyGuide. The Commission has determined that relaxing the prohibition will facilitate trade among the NAFTA countries.

In connection with its 10-year review plan, the Commission has completed its review of the Cooling-Off Rule, which requires sellers who are selling away from their regular place of business to give customers 3 days in which to cancel contracts. The Commission found that the Cooling-Off Rule continues to serve a valuable function and determined to retain the rule with certain nonsubstantive amendments (e.g., adding a parenthetical statement to the Cooling-Off Rule's definition of the term "Door-to-Door Sale" to give examples of the kinds of sales locations covered by the rule). 60 FR 54180 (Oct. 20, 1995).

The Commission reviewed the Used Car Rule, which requires automobile dealers to post warranty information on used cars offered for sale, as part of its 10-year regulatory review plan. The Commission also found that this rule continues to serve a valuable purpose and approved certain nonsubstantive amendments to the rule (e.g., permitting dealers required to comply with the Used Car Rule to post Buyers Guides anywhere on the car as long as they are prominently and conspicuously displayed). 60 FR 62195 (Dec. 5, 1995).

Additionally, the Commission completed the regulatory review of the R-Value Rule for insulation and issued nonsubstantive amendments. 61 FR 13659 (Mar. 28, 1996). The Commission is now considering recommendations for certain substantive changes, such as whether the rule should impose additional requirements on manufacturers or installers to help consumers ensure that the requisite amount of insulation has been installed in their homes.

#### *Statutory Rulemakings*

In fiscal 1996, the Commission adopted two new rules pursuant to statutory requirements: the Telemarketing Sales Rule and the Recycled Oil Rule. The Telemarketing Sales Rule, which became effective December 31, 1995, implemented the Telemarketing and Consumer Fraud and Abuse Prevention Act. Among other things, the Telemarketing Sales Rule provides restrictions on the time of day telemarketers may call consumers; requires disclosure of the fact that the call is a sales call and the nature of the goods or services being offered; prohibits telemarketers from calling consumers who have said they do not want to be called; and prohibits misrepresentations about the cost, quantity, and other aspects of the offered goods or services.

The Commission promulgated the other new rule, the Recycled Oil Rule, after it received a report from the National Institute of Standards and Technology (NIST), as required under the Energy Policy and Conservation Act (EPCA). Under EPCA, the Recycled Oil Rule preempts the Commission's Used Oil Rule labeling and advertising requirements for engine oils. The Recycled Oil Rule, published on October 31, 1995, permits manufacturers to label processed used engine oil as substantially equivalent to new oil only if that determination has been based on the test procedures certified by NIST and prescribed in the

rule. The rule became effective on November 30, 1995.

#### *Rescissions of Rules and Guides and Amendments to Guides*

In light of the Commission's promulgation of the Recycled Oil Rule, the Commission is considering repeal of the Used Oil Rule, certain provisions of which, as discussed above, are preempted by the Recycled Oil Rule. For non-engine oils, the Used Oil Rule's original labeling disclosure provisions continue to be subject to a stay imposed by the Used Oil Recycling Act, and the original advertising disclosure provisions continue to be subject to a 1981 Commission stay. See 46 FR 20979 (Apr. 8, 1981) announcing both the statutory suspension and a statement of enforcement policy suspending enforcement of the advertising portions of the Used Oil Rule. A notice of proposed rulemaking requesting comment on whether the rule should be repealed was published on July 26, 1996. See 61 FR 39101.

In December 1995, the Commission rescinded six rules as part of its 10-year plan for reviewing all its rules and guides: (1) the Binocular Rule, 60 FR 65529 (Dec. 20, 1995); (2) the Quick-Freeze Spray Rule, 60 FR 66071 (Dec. 21, 1995); (3) the Glass Fiber Curtain Rule, 60 FR 65532 (Dec. 20, 1995); (4) the Sleeping Bag Rule, 60 FR 65528 (Dec. 20, 1995); (5) the Tablecloth Rule, 60 FR 65530 (Dec. 20, 1995); and (6) the Extension Ladder Rule, 60 FR 65533 (Dec. 20, 1995). In 1996, the Commission also rescinded the Leather Belt Rule, 61 FR 25560 (May 22, 1996) and the Light Bulb Rule, 61 FR 33308 (June 27, 1996). A staff report recommending repeal of the Games of Chance Rule was placed on the public record for public comment, 61 FR 29039 (June 7, 1996), and the comment period closed on August 6, 1996.

In 1996, the Commission repealed two voluntary industry guides: the Watch Band Guides, 61 FR 27222 (May 30, 1996) and the Hosiery Guides, 61 FR 3799 (Feb. 2, 1996); sought public comment in its review of five other guides: the Environmental Guides, 60 FR 38978 (July 31, 1995), the Mirror Guides, 61 FR 10708 (Mar. 15, 1996), the Warranty Guides, 61 FR 14688 (Apr. 3, 1996), the Vocational Schools Guides, 61 FR 14685 (Apr. 3, 1996), and the Jewelry Guides, 61 FR 27224 (May 30, 1996); and amended another guide: the Fuel Economy Guide, 60 FR 56230 (Nov. 8, 1995). The Fuel Economy Guide was amended to conform to the Environmental Protection Agency's

(EPA) rule regarding fuel economy labeling of new automobiles. In part, the amendments are intended to conform the Guide to those portions of EPA's rule that now require disclosure of certain fuel economy information, including adjusted city and adjusted highway miles-per-gallon (mpg) numbers, rather than the one "estimated mpg" number previously required.

#### *Summary*

With regard to both content and process, the FTC's ongoing and proposed regulatory actions are compatible with the President's priorities. The actions under consideration inform and protect consumers and reduce the regulatory burdens on business. The Commission will continue working toward these goals. The Commission's efforts in 1996 also serve to promote environmental protection, conserve energy resources,

and foster a system of shared information consistent with NAFTA. The Commission's 10-year review program is based on provisions in the Regulatory Flexibility Act and complies with the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission's 10-year program also is consistent with President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations. The program corresponds as well to section 5(a) of Executive Order 12866, 58 FR 51735 (Sept. 30, 1993), which directs executive branch agencies to develop a plan to reevaluate periodically all of their significant existing regulations.

As set forth in Executive Order 12866, the Commission continues to identify and weigh the costs and benefits of proposed actions and possible alternative actions and receive the

broadest practicable array of comments from affected consumers, businesses, and the public at large. As stated above, during the past year, the Commission has rescinded 32 percent of its trade regulation rules and 30 percent of its consumer protection guides and policy statements because they had ceased to serve a useful purpose. In sum, the Federal Trade Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of "private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people." Executive Order 12866, section 1.

#### II. Regulatory Actions

The Commission has no actions that constitute "significant regulatory actions" under the definition in Executive Order 12866.

**BILLING CODE 6750-01-F**