

Federal Trade Commission

§ 18.7

§ 18.5 Deception as to blooming, fruiting, or growing ability.

In the sale, offering for sale, or distribution of industry products, it is an unfair or deceptive act or practice for any industry member to misrepresent directly or by implication to purchasers or prospective purchasers the ability of such products:

- (a) To bloom, flower, or fruit within a specified period of time; or
- (b) To produce crops within a specified period of time, or to give multiple crops each year, or to produce crops in unfavorable climatic regions; or
- (c) To bear fruit through self-pollinization; or
- (d) To grow, flourish, and survive irrespective of the climatic conditions, the care exercised in or after planting, or the soil characteristics of the locality in which they are to be planted.

NOTE 1: Under this section, when flower bulbs are of such immaturity as not reasonably to be expected to bloom and flower the first season of their planting, such fact shall be clearly and conspicuously disclosed in all advertisements and sales promotional literature relating to such products: *Provided, however,* That such disclosure need not be made when sales are confined to nurseries and commercial growers for their use as planting stock.

NOTE 2: Under this section, in order to avoid deception of purchasers and prospective purchasers thereof, when rose bushes have been used in a greenhouse for the commercial production of cut flowers, they shall be tagged or labeled so as to clearly, adequately and conspicuously disclose such fact, and such tags and labels shall be so attached thereto as to remain thereon until consummation of consumer sale. A similar disclosure shall be made in all advertising and sales promotional literature relating to such products. And when, by reason of such previous greenhouse use or their condition at the time of removal therefrom or their handling during or subsequent thereto, there is probability that such rose bushes will not satisfactorily thrive and produce flowers when replanted outdoors, or will satisfactorily thrive and produce flowers outdoors only if given special treatment and attention during and after their replanting, such fact shall also be clearly, conspicuously, and non-deceptively disclosed in close conjunction with, and in the same manner as, the aforesaid required disclosure that such products have been used in a greenhouse for the commercial production of cut flowers.

[Guide 5]

[44 FR 11177, Feb. 27, 1979, as amended at 59 FR 64549, Dec. 14, 1994]

§ 18.6 Plants collected from the wild state.

It is an unfair or deceptive act or practice to sell, offer for sale, or distribute industry products collected from the wild state without disclosing that they were collected from the wild state; *provided, however,* that plants propagated in nurseries from plants lawfully collected from the wild state may be designated as "nursery-propagated." [Guide 6]

[59 FR 64549, Dec. 14, 1994]

§ 18.7 Misrepresentation as to character of business.

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair or deceptive act or practice for any industry member to represent itself directly or by implication to be a grower or propagator of such products, or any portion thereof, or to have any other experience or qualification either relating to the growing or propagation of such products or enabling the industry member to be of assistance to purchasers or prospective purchasers in the selection by them of the kinds or types of products, or the placement thereof, when such is not the fact, or in any other manner to misrepresent directly or by implication the character, nature, or extent of the industry member's business.

NOTE: Among practices subject to the inhibitions of this section is a representation by an industry member to the effect that he is a landscape architect when his training, experience, and knowledge do not qualify him for such representation.

(b) It is also an unfair or deceptive act or practice for an industry member to use the word "guild," "club," "association," "council," "society," "foundation," or any other word of similar import or meaning, as part of a trade name, or otherwise, in such a manner or under such circumstances as to indicate or imply that its business is other than a commercial enterprise operated for profit, unless such be true in fact,

§ 18.8

or so as to deceive purchasers or prospective purchasers in any other material respect. [Guide 7]

[59 FR 64549, Dec. 14, 1994]

§ 18.8 Deception as to origin or source of industry products.

(a) It is an unfair or deceptive act or practice to sell, offer for sale, or advertise an industry product by misrepresenting directly or by implication the origin or source of such product to purchasers or prospective purchasers (e.g., by use of the term *Holland* to describe bulbs grown in the U.S.A.); *provided, however*, that when a plant has an accepted common name that incorporates a geographical term and such term has lost its geographical significance as so used, the mere use of such common names does not constitute a misrepresentation as to source or origin (e.g., "Colorado Blue Spruce," "Arizona Cypress," "Black Hills Spruce," "California Privet," "Japanese Barberry," etc.).

(b) It is also an unfair or deceptive act or practice to advertise, sell, or offer for sale an industry product of foreign origin without adequate and non-deceptive disclosure of the name of the foreign country from which it came, where the failure to make such disclosure would be misleading to purchasers or prospective purchasers. [Guide 8]

[59 FR 64550, Dec. 14, 1994]

PART 20—GUIDES FOR THE REBUILT, RECONDITIONED AND OTHER USED AUTOMOBILE PARTS INDUSTRY

Sec.

20.0 Definitions.

20.1 Deception as to previous use of products.

20.2 Deception as to identity of rebuilder, remanufacturer, reconditioner or reliner.

20.3 Misrepresentation as to condition of products and misuse of the terms "rebuilt," "factory rebuilt," "remanufactured," etc.

AUTHORITY: Secs. 6, 5, 38 Stat. 721, 719; 15 U.S.C. 46, 45.

SOURCE: 44 FR 11182, Feb. 27, 1979, unless otherwise noted.

16 CFR Ch. I (1-1-02 Edition)

§ 20.0 Definitions.

Industry member. Any person, firm, corporation or organization engaged in the sale or distribution of any industry product as defined below.

Industry products. Industry products are automotive parts and automotive assemblies which have been used or which contain used parts, whether such parts or assemblies have been rebuilt, remanufactured, reconditioned, re-lined, or otherwise. The term *automotive assemblies* as herein used mean any part or assembly designed for an automobile, truck, motorcycle, tractor or similar self-propelled vehicle. Industry products include, but are not limited to, armatures, generators, starters, carburetors, clutches, distributors, connecting rods, crankshafts, cylinder blocks, engine assemblies, fuel pumps, brakes, master and wheel brake cylinders, power brakes, shock absorbers, starter drives, solenoids, automatic transmissions, regulators, spark plugs, springs, windshield wiper motors and water pumps. Automobile tires are not products of the industry.

§ 20.1 Deception as to previous use of products.

(a) It is an unfair trade practice to represent, directly or by implication, that any industry product is new or unused, or that any part of an industry product is new or unused when such is not the fact, or to misrepresent the extent of previous use thereof.

(b) It is an unfair trade practice for an industry member to offer for sale or sell any industry product unless a clear and conspicuous disclosure that such product has been used or contains used parts is made in all the industry member's advertising, sales promotional literature and invoices concerning the product, on the container in which the product is packed and if the product has been rebuilt, remanufactured, reconditioned or has the appearance of being new, on the product with sufficient permanency to remain thereon after installation for a reasonable period of time under ordinary conditions of use, and in such manner that said disclosure cannot be easily removed or obliterated.

(1) *Form of disclosure.* The disclosure that an industry product has been used