

the product or service promoted, separately, at the same price at which it was promoted with the “Free” offer.

(2) In such offers, no representation may be made that the price is for one item and that the other is “Free” unless the offeror expects, in good faith, to discontinue the offer after a limited time and to commence selling the product or service promoted, separately, at the same price at which it was promoted with a “Free” offer.

(g) *Negotiated sales.* If a product or service usually is sold at a price arrived at through bargaining, rather than at a regular price, it is improper to represent that another product or service is being offered “Free” with the sale. The same representation is also improper where there may be a regular price, but where other material factors such as quantity, quality, or size are arrived at through bargaining.

(h) *Frequency of offers.* So that a “Free” offer will be special and meaningful, a single size of a product or a single kind of service should not be advertised with a “Free” offer in a trade area for more than 6 months in any 12-month period. At least 30 days should elapse before another such offer is promoted in the same trade area. No more than three such offers should be made in the same area in any 12-month period. In such period, the offeror’s sale in that area of the product in the size promoted with a “Free” offer should not exceed 50 percent of the total volume of his sales of the product, in the same size, in the area.

(i) *Similar terms.* Offers of “Free” merchandise or services which may be deceptive for failure to meet the provisions of this section may not be corrected by the substitution of such similar words and terms as “gift”, “given without charge”, “bonus”, or other words or terms which tend to convey the impression to the consuming public that an article of merchandise or service is “Free”.

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

[36 FR 21517, Nov. 10, 1971]

PART 254—GUIDES FOR PRIVATE VOCATIONAL AND DISTANCE EDUCATION SCHOOLS

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AUTHORITY: 38 Stat. 717, as amended; 15 U.S.C. 41-58.

§254.0 Scope and application.

(a) The Guides in this part apply to persons, firms, corporations, or organizations engaged in the operation of privately owned schools that offer resident or distance courses, training, or instruction purporting to prepare or qualify individuals for employment in any occupation or trade, or in work requiring mechanical, technical, artistic, business, or clerical skills, or that is for the purpose of enabling a person to improve his appearance, social aptitude, personality, or other attributes. These Guides do not apply to resident primary or secondary schools or institutions of higher education offering at least a 2-year program of accredited college level studies generally acceptable for credit toward a bachelor’s degree.

(b) These Guides represent administrative interpretations of laws administered by the Federal Trade Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. These Guides specifically address the application of section 5 of the FTC Act (15 U.S.C. 45) to the advertising, promotion, marketing, and sale of, and the recruitment of students for, courses or programs of instruction offered by private vocational or distance education schools. The Guides provide the basis for voluntary compliance with the law by members of the industry. Practices

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inconsistent with these Guides may result in corrective action by the Commission under section 5 of the FTC Act if, after investigation, the Commission has reason to believe that the practices fall within the scope of conduct declared unlawful by the statute.

[63 FR 42572, Aug. 10, 1998, as amended at 78 FR 68989, Nov. 18, 2013]

§ 254.1 Definitions.

(a) *Accredited.* A school or program of instruction that has been evaluated and found to meet established criteria by an accrediting agency or association recognized for such purposes by the U.S. Department of Education.

(b) *Approved.* A school or program of instruction that has been recognized by a State or Federal agency as meeting educational standards or other related qualifications as prescribed by that agency for the school or program of instruction to which the term is applied. The term is not and should not be used interchangeably with “Accredited.” The term “Approved” is not justified by the mere grant of a corporate charter to operate or license to do business as a school and should not be used unless the represented “approval” has been affirmatively required or authorized by State or Federal law.

(c) *Industry member.* Industry Members are the persons, firms, corporations, or organizations covered by these Guides, as explained in § 254.0(a).

[78 FR 68990, Nov. 19, 2013]

§ 254.2 Deceptive trade or business names.

(a) It is deceptive for an Industry Member to misrepresent, directly or indirectly, expressly or by implication, the nature of the school, its Accreditation, programs of instruction, methods of teaching, or any other material fact through the use of any trade or business name, label, insignia, or designation, or in any other manner.

(b) It is deceptive for an Industry Member to deceptively conceal in any way the fact that it is a school or to misrepresent, directly or indirectly, expressly or by implication, through the use of a trade or business name or in any other manner that:

(1) It is a part of or connected with a branch, bureau, or agency of the U.S. Government, including, but not limited to, the U.S. Department of Education, or of any State, or civil service commission; or

(2) It is an employment agency or an employment agent or authorized training facility for any industry or business.

[78 FR 68990, Nov. 19, 2013]

§ 254.3 Misrepresentation of extent or nature of accreditation or approval.

(a) It is deceptive for an Industry Member to misrepresent, directly or indirectly, expressly or by implication, the nature, extent, or purpose of any Approval by a State or Federal agency or Accreditation by an accrediting agency or association. For example, an Industry Member should not:

(1) Represent, without qualification, that its school is Accredited unless all courses and programs of instruction have been Accredited by an accrediting agency recognized by the U.S. Department of Education. If an Accredited school offers courses or programs of instruction that are not Accredited, all advertisements or promotional materials pertaining to those courses or programs, and making reference to the Accreditation of the school, should clearly and conspicuously disclose that those particular courses or programs are not Accredited.

(2) Represent that its school or program of instruction is Approved, unless the nature, extent, and purpose of that Approval are disclosed.

(3) Misrepresent the extent to which a student successfully completing a course or program of instruction will be able to transfer any credits the student earns to any other postsecondary institution.

(b) It is deceptive for an Industry Member to misrepresent, directly or indirectly, expressly or by implication, that a school or program of instruction has been Approved by a particular industry, or that successful completion of a course or program of instruction qualifies the student for admission to a labor union or similar organization or for receiving a State or Federal license to perform certain functions.