

§ 18.8

than a commercial enterprise operated for profit, unless such be true in fact, 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

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§ 20.0 Scope and purpose of the guides.

(a) The Guides in this part apply to the manufacture, sale, distribution, marketing and advertising (including advertising in electronic format, such as on the Internet) of parts that are not new, and assemblies containing such parts, that were designed for use in automobiles, trucks, motorcycles, tractors, or similar self-propelled vehicles, regardless of whether such parts or assemblies have been cleaned, repaired, reconstructed, or reworked in any other way (industry product or product). Industry products include, but are not limited to, airbags, alternators and generators, anti-lock brake systems, brake cylinders, carburetors, catalytic converters, differentials, engines, fuel injectors, hybrid drive systems and hybrid batteries, navigation and audio systems, power steering pumps, power window motors, rack and pinion units, starters, steering gears, superchargers and turbochargers, tires, transmissions and transaxles, and water pumps.

(b) These guides set forth the Federal Trade Commission’s current views about the manufacture, sale, distribution, and advertising of industry products. The guides help businesses avoid making claims that are unfair or deceptive under Section 5 of the FTC Act, 15 U.S.C. 45. They do not confer any rights on any person and do not operate to bind the FTC or the public. The Commission, however, can take action under the FTC Act if a business makes a claim inconsistent with the guides. In any such enforcement action, the Commission must prove that the challenged act or practice is unfair or deceptive in violation of Section 5 of the FTC Act.

§ 20.1 Deception generally.

(a) It is unfair or deceptive to represent, directly or by implication, that any industry product is new or unused when such is not the fact, or to misrepresent the current condition, or extent of previous use, reconstruction, or repair of any industry product.

(b) It is unfair or deceptive to offer for sale or sell any industry product

without disclosing, clearly and conspicuously, in advertising, in promotional literature, on invoices, and on the product's packaging that the item is an industry product. Additionally, it is unfair or deceptive to offer for sale or to sell any industry product that appears new or unused without disclosing on the product itself that it is an industry product, using appropriate descriptive terms with sufficient permanency to remain visible for a reasonable time after installation. Examples of appropriate descriptive terms include, but are not limited to "Used," "Secondhand," "Repaired," "Relined," "Reconditioned," "Rebuilt," or "Remanufactured." If the term "recycled" is used, it should be used in a manner consistent with the requirements for that term set forth in the Guides for the Use of Environmental Marketing Claims, 16 CFR 260.7(e). On invoices to the trade only, the disclosure may be by use of any number, mark, or other symbol that is clearly understood by industry members as meaning that the part so marked on the invoices is not new.

(c) It is unfair or deceptive to place any means or instrumentality in the hands of others so that they may mislead consumers as to the previous use of industry products.

§ 20.2 Deception as to the identity of a rebuilder, remanufacturer, reconditioner, reliner, or other reworker.

(a) It is unfair or deceptive to misrepresent the identity of the rebuilder, remanufacturer, reconditioner, reliner or other reworker of an industry product.

(b) If the identity of the original manufacturer of an industry product, or the identity of the manufacturer for which the product was originally made, is revealed and the product was rebuilt, remanufactured, reconditioned, relined, or otherwise reworked by someone else, it is unfair or deceptive to fail to disclose such fact wherever the original manufacturer is identified in advertising or promotional literature concerning the industry product, on the container in which the product is packed, and on the product itself, in close conjunction with, and of the same permanency and conspicuousness as,

the disclosure that the product is not new. Examples of such disclosures include:

(1) Disclosure of the identity of the rebuilder: "Rebuilt by John Doe Co."

(2) Disclosure that the industry product was rebuilt by an independent rebuilder: "Rebuilt by an Independent Rebuilder."

(3) Disclosure that the industry product was rebuilt by someone other than the manufacturer identified: "Rebuilt by other than XYZ Motors."

(4) Disclosure that the industry product was rebuilt for the identified manufacturer: "Rebuilt for XYZ Motors."

§ 20.3 Misrepresentation of the terms "rebuilt," "factory rebuilt," "remanufactured," etc.

(a) It is unfair or deceptive to use the word "Rebuilt," or any word of similar import, to describe an industry product which, since it was last subjected to any use, has not been dismantled and reconstructed as necessary, all of its internal and external parts cleaned and made rust and corrosion free, all impaired, defective or substantially worn parts restored to a sound condition or replaced with new, rebuilt (in accord with the provisions of this paragraph) or unimpaired used parts, all missing parts replaced with new, rebuilt or unimpaired used parts, and such re-winding or machining and other operations performed as are necessary to put the industry product in sound working condition.

(b) It is unfair or deceptive to represent an industry product as "Remanufactured" or "Factory Rebuilt" unless the product was rebuilt as described in paragraph (a) of this section at a factory generally engaged in the rebuilding of such products.

PART 23—GUIDES FOR THE JEWELRY, PRECIOUS METALS, AND PEWTER INDUSTRIES

Sec.

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