

tee on the Judiciary of the House of Representatives, and to the Chairman and the ranking member of the Committee on the Judiciary of the Senate, not later than 27 months after the date of the enactment of this Act [July 3, 1997].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 37a of this title.

§ 37a. Definitions

For purposes of this section and section 37 of this title:

(1) Antitrust laws

The term “antitrust laws” has the meaning given it in subsection (a) of section 12 of this title, except that such term includes section 45 of this title to the extent that such section 45 applies to unfair methods of competition.

(2) Charitable remainder trust

The term “charitable remainder trust” has the meaning given it in section 664(d) of title 26.

(3) Charitable gift annuity

The term “charitable gift annuity” has the meaning given it in section 501(m)(5) of title 26.

(4) Final determination

The term “final determination” includes an Internal Revenue Service determination, after exhaustion of donor’s and donee’s administrative remedies, disallowing the donor’s charitable deduction for the year in which the initial contribution was made because of the donee’s failure to comply at such time with the requirements of section 501(m)(5) or 664(d), respectively, of title 26.

(5) Person

The term “person” has the meaning given it in subsection (a) of section 12 of this title.

(6) State

The term “State” has the meaning given it in section 15g(2) of this title.

(Pub. L. 104-63, § 3, Dec. 8, 1995, 109 Stat. 687; Pub. L. 105-26, § 2(2), July 3, 1997, 111 Stat. 242.)

AMENDMENTS

1997—Pars. (1), (2). Pub. L. 105-26, § 2(2)(A)–(C), added par. (2), redesignated former par. (2) as (1), and struck out heading and text of former par. (1). Text read as follows: “The term ‘annuity rate’ means the percentage of the fair market value of a gift (determined as of the date of the gift) given in exchange for a charitable gift annuity, that represents the amount of the annual payment to be made to 1 or 2 annuitants over the life of either or both under the terms of the agreement to give such gift in exchange for such annuity.”

Pars. (4) to (6). Pub. L. 105-26, § 2(2)(D), (E), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-26 applicable with respect to all conduct occurring before, on, or after July 3, 1997, and applicable in all administrative and judicial actions pending on or commenced after July 3, 1997, see section 3 of Pub. L. 105-26, set out as a note under section 37 of this title.

EFFECTIVE DATE

Section applicable with respect to conduct occurring before, on, or after Dec. 8, 1995, see section 4 of Pub. L. 104-63, set out as a note under section 37 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 37 of this title.

CHAPTER 2—FEDERAL TRADE COMMISSION; PROMOTION OF EXPORT TRADE AND PREVENTION OF UNFAIR METHODS OF COMPETITION

SUBCHAPTER I—FEDERAL TRADE COMMISSION

- Sec. 41. Federal Trade Commission established; membership; vacancies; seal.
- 42. Employees; expenses.
- 43. Office and place of meeting.
- 44. Definitions.
- 45. Unfair methods of competition unlawful; prevention by Commission.
 - (a) Declaration of unlawfulness; power to prohibit unfair practices; inapplicability to foreign trade.
 - (b) Proceeding by Commission; modifying and setting aside orders.
 - (c) Review of order; rehearing.
 - (d) Jurisdiction of court.
 - (e) Exemption from liability.
 - (f) Service of complaints, orders and other processes; return.
 - (g) Finality of order.
 - (h) Modification or setting aside of order by Supreme Court.
 - (i) Modification or setting aside of order by Court of Appeals.
 - (j) Rehearing upon order or remand.
 - (k) “Mandate” defined.
 - (l) Penalty for violation of order; injunctions and other appropriate equitable relief.
 - (m) Civil actions for recovery of penalties for knowing violations of rules and cease and desist orders respecting unfair or deceptive acts or practices; jurisdiction; maximum amount of penalties; continuing violations; de novo determinations; compromise or settlement procedure.
 - (n) Standard of proof; public policy considerations.
- 45a. Labels on products.
- 46. Additional powers of Commission.
 - (a) Investigation of persons, partnerships, or corporations.
 - (b) Reports of persons, partnerships, and corporations.
 - (c) Investigation of compliance with antitrust decrees.
 - (d) Investigations of violations of antitrust statutes.
 - (e) Readjustment of business of corporations violating antitrust statutes.
 - (f) Publication of information; reports.
 - (g) Classification of corporations; regulations.
 - (h) Investigations of foreign trade conditions; reports.
 - (i) Investigations of foreign antitrust law violations.
- 46a. Concurrent resolution essential to authorize investigations
- 47. Reference of suits under antitrust statutes to Commission.
- 48. Information and assistance from departments.
- 49. Documentary evidence; depositions; witnesses.
- 50. Offenses and penalties.
- 51. Effect on other statutory provisions.
- 52. Dissemination of false advertisements.
 - (a) Unlawfulness.

Sec.		Sec.	
53.	(b) Unfair or deceptive act or practice. False advertisements; injunctions and restraining orders. (a) Power of Commission; jurisdiction of courts. (b) Temporary restraining orders; preliminary injunctions. (c) Service of process; proof of service. (d) Exception of periodical publications.		(d) Time for bringing of actions. (e) Availability of additional Federal or State remedies; other authority of Commission unaffected.
54.	False advertisements; penalties. (a) Imposition of penalties. (b) Exception of advertising medium or agency.	57b-1.	Civil investigative demands. (a) Definitions. (b) Actions conducted by Commission respecting unfair or deceptive acts or practices in or affecting commerce. (c) Issuance of demand; contents; service; verified return; sworn certificate; answers; taking of oral testimony. (d) Procedures for demand material. (e) Petition for enforcement. (f) Petition for order modifying or setting aside demand. (g) Custodial control of documentary material, tangible things, reports, etc. (h) Jurisdiction of court. (i) Commission authority to issue subpoenas or make demand for information. (j) Applicability of this section.
55.	Additional definitions. (a) False advertisement. (b) Food. (c) Drug. (d) Device. (e) Cosmetic. (f) Oleomargarine or margarine.	57b-2.	Confidentiality. (a) Definitions. (b) Procedures respecting documents, tangible things, or transcripts of oral testimony received pursuant to compulsory process or investigation. (c) Information considered confidential. (d) Particular disclosures allowed. (e) Effect on other statutory provisions limiting disclosure. (f) Exemption from disclosure.
56.	Commencement, defense, intervention and supervision of litigation and appeal by Commission or Attorney General. (a) Procedure for exercise of authority to litigate or appeal. (b) Certification by Commission to Attorney General for criminal proceedings.	57b-3.	Rulemaking process. (a) Definitions. (b) Notice of proposed rulemaking; regulatory analysis; contents; issuance. (c) Judicial review. (d) Regulatory agenda; contents; publication dates in Federal Register.
57.	Separability clause.	57b-4.	Good faith reliance on actions of Board of Governors. (a) "Board of Governors" defined. (b) Use as defense. (c) Applicability of subsection (b). (d) Request for issuance of statement or interpretation concerning conduct or practice.
57a.	Unfair or deceptive acts or practices rulemaking proceedings. (a) Authority of Commission to prescribe rules and general statements of policy. (b) Procedures applicable. (c) Informal hearing procedure. (d) Statement of basis and purpose accompanying rule; "Commission" defined; judicial review of amendment or repeal of rule; violation of rule. (e) Judicial review; petition; jurisdiction and venue; rulemaking record; additional submissions and presentations; scope of review and relief; review by Supreme Court; additional remedies. (f) Unfair or deceptive acts or practices by banks, savings and loan institutions, or Federal credit unions; promulgation of regulations by Board of Governors of Federal Reserve System, Federal Home Loan Bank Board, and National Credit Union Administration Board; agency enforcement and compliance proceedings; violations; power of other Federal agencies unaffected; reporting requirements. (g) Exemptions and stays from application of rules; procedures. (h) Restriction on rulemaking authority of Commission respecting children's advertising proceedings pending on May 28, 1980. (i) Meetings with outside parties. (j) Communications by investigative personnel with staff of Commission concerning matters outside rulemaking record prohibited.	57b-5.	Agricultural cooperatives.
57a-1.	Omitted.	57c.	Authorization of appropriations.
57b.	Civil actions for violations of rules and cease and desist orders respecting unfair or deceptive acts or practices. (a) Suits by Commission against persons, partnerships, or corporations; jurisdiction; relief for dishonest or fraudulent acts. (b) Nature of relief available. (c) Conclusiveness of findings of Commission in cease and desist proceedings; notice of judicial proceedings to injured persons, etc.	58.	Short title.
			SUBCHAPTER II—PROMOTION OF EXPORT TRADE
		61.	Export trade; definitions.
		62.	Export trade and antitrust legislation.
		63.	Acquisition of stock of export trade corporation.
		64.	Unfair methods of competition in export trade.
		65.	Information required from export trade corporation; powers of Federal Trade Commission.
		66.	Short title.
			SUBCHAPTER III—LABELING OF WOOL PRODUCTS
		68.	Definitions.
		68a.	Misbranding declared unlawful.
		68b.	Misbranded wool products. (a) False identification; affixation of label, etc., contents. (b) Additional information. (c) Substitute identification. (d) Designations on linings, paddings, etc. (e) False or deceptive advertising in mail order promotions. (f) Location of label, etc.

- Sec. 68c. Stamp, tag, label, or other identification.
 - (a) Affixing; retention until sale.
 - (b) Removal or mutilation.
 - (c) Packages of wool products.
- 68d. Enforcement of subchapter.
 - (a) Authority of Commission.
 - (b) Maintenance of records by wool manufacturers.
- 68e. Condemnation and injunction proceedings.
 - (a) Grounds for condemnation; disposition of merchandise.
 - (b) Grounds for temporary injunction or restraining order; issuance without bond.
- 68f. Exclusion of misbranded wool products.
- 68g. Guaranty.
 - (a) Avoidance of liability; requirements.
 - (b) Furnishing false guaranty.
- 68h. Criminal penalty.
- 68i. Application of other laws.
- 68j. Exceptions from subchapter.

SUBCHAPTER IV—LABELING OF FUR PRODUCTS

- 69. Definitions.
- 69a. Violations of Federal Trade Commission Act.
 - (a) Introduction or manufacture for introduction into commerce, sale, advertising or offering for sale in commerce.
 - (b) Manufacture for sale, sale, advertising, offering for sale, transportation or distribution.
 - (c) Introduction into commerce, sale, advertising or offering for sale in commerce or transportation or distribution.
 - (d) Removal or mutilation of label.
 - (e) Substitution of labels; records.
 - (f) Application of section to common carrier or freight forwarder.
- 69b. Misbranded fur products.
- 69c. False advertising and invoicing.
- 69d. Fur products imported into United States.
 - (a) Necessity of proper labelling; additional information.
 - (b) Violations of Federal Trade Commission Act.
 - (c) Verified statement of compliance.
- 69e. Name guide for fur products.
 - (a) Fur products Name Guide.
 - (b) Additions and deletions; public hearing.
 - (c) Prevention of confusion or deception.
- 69f. Enforcement of subchapter.
 - (a) Enforcement by Federal Trade Commission.
 - (b) Rules and regulations for disclosure of information.
 - (c) Inspection, analysis, tests for fur products; cooperation with other governmental agencies.
 - (d) Maintenance of records by manufacturer or dealer.
- 69g. Condemnation and injunction proceedings.
 - (a) Grounds for condemnation; disposition of merchandise.
 - (b) Grounds for temporary injunction or restraining order; issuance without bond.
- 69h. Guaranty.
 - (a) Avoidance of liability; requirements.
 - (b) Furnishing false guaranty.
- 69i. Criminal penalty.
- 69j. Application of other laws.

SUBCHAPTER V—TEXTILE FIBER PRODUCTS IDENTIFICATION

- 70. Definitions.
- 70a. Violations of Federal Trade Commission Act.

- Sec. (a) Introduction or manufacture for introduction into commerce, sale, advertising or offering for sale in commerce.
- (b) Sale, offering for sale, advertising, delivery, transportation of products advertised for sale in commerce.
- (c) Sale, offering for sale, advertising, delivery, transportation of products after shipment in commerce.
- (d) Application of section to common carrier, freight forwarder, etc.
- 70b. Misbranded and falsely advertised textile fiber products.
 - (a) False or deceptive identification.
 - (b) Stamp, tag, label or other means of identification; contents.
 - (c) False or deceptive advertisement.
 - (d) Additional information allowed.
 - (e) Labelling of packages.
 - (f) Fabric severed from bolts, pieces or rolls of fabric.
 - (g) Advertisement of textile product by use of name or symbol of fur-bearing animal.
 - (h) Reused stuffing.
 - (i) Mail order catalog or promotional material.
 - (j) Location of stamp, tag, label, or other identification.
- 70c. Removal of stamp, tag, label, or other identification.
 - (a) Removal or mutilation after shipment in commerce.
 - (b) Substitution of stamp, tag, etc.
 - (c) Affixing of stamp, tag, etc. to individual unit of broken package.
- 70d. Records.
 - (a) Maintenance and preservation by manufacturer.
 - (b) Maintenance and preservation by person substituting stamp, tag, etc.
 - (c) Neglect or refusal to maintain or preserve records.
- 70e. Enforcement.
 - (a) Enforcement by Federal Trade Commission.
 - (b) Terms of Federal Trade Commission Act incorporated into this subchapter.
 - (c) Rules and regulations by Federal Trade Commission.
 - (d) Inspection, analyses, tests, etc.
- 70f. Injunction proceedings.
- 70g. Exclusion of misbranded textile fiber products.
- 70h. Guaranty.
 - (a) Avoidance of liability; requirements.
 - (b) Furnishing false guaranty.
- 70i. Criminal penalty.
- 70j. Exemptions.
- 70k. Application of other laws.

SUBCHAPTER VI—PREVENTION OF UNFAIR METHODS OF COMPETITION

- 71. "Person" defined.
- 72. Importation or sale of articles at less than market value or wholesale price.
- 73. Agreements involving restrictions in favor of imported goods.
- 74. Rules and regulations.
- 75. Retaliation against country prohibiting importations.
- 76. Retaliation against restriction of importations in time of war.
- 77. Discrimination against neutral Americans in time of war.

SUBCHAPTER I—FEDERAL TRADE
COMMISSION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 18a, 64, 65, 68, 68a, 68c, 68d, 68e, 68f, 68g, 69, 69a, 69d, 69f, 69g, 69h, 70a, 70c, 70d, 70e, 70f, 70g, 70h, 638, 640, 1012, 1013, 1172, 1191, 1192, 1194, 1195, 1197, 1291, 1460, 1607, 1679h, 1681s, 1691c, 1692l, 1693o, 1802, 2079, 2101, 2103, 2106, 2311, 2821, 2823, 3301, 3503, 5713, 5723, 6105, 6505, 6805 of this title; title 7 section 198b; title 10 section 7430; title 12 section 1831t; title 16 section 2602; title 19 section 2485; title 21 section 378; title 30 sections 184, 1413; title 40 section 488; title 42 sections 2135, 5417, 5909, 6202, 6294, 6315, 6325, 8235f; title 43 sections 1331, 1770; title 45 section 791; title 46 App. sections 1702, 1707; title 49 sections 10706, 32908; title 50 App. sections 1941a, 2158.

§ 41. Federal Trade Commission established; membership; vacancies; seal

A commission is created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission), which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the Commissioners shall be members of the same political party. The first Commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from September 26, 1914, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed: *Provided, however,* That upon the expiration of his term of office a Commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The President shall choose a chairman from the Commission's membership. No Commissioner shall engage in any other business, vocation, or employment. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the Commission shall not impair the right of the remaining Commissioners to exercise all the powers of the Commission.

The Commission shall have an official seal, which shall be judicially noticed.

(Sept. 26, 1914, ch. 311, § 1, 38 Stat. 717; Mar. 21, 1938, ch. 49, § 1, 52 Stat. 111; 1950 Reorg. Plan No. 8, § 3, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265.)

AMENDMENTS

1938—Act Mar. 21, 1938, inserted proviso clause to third sentence.

TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission, with certain reservations, transferred to Chairman of such Commission by Reorg. Plan No. 8 of 1950, set out below.

Functions of Federal Trade Commission (1) under Flammable Fabrics Act [section 1191 et seq. of this title] and under this subchapter to extent that such functions relate to administration of Flammable Fabrics Act, and (2) under Act of August 2, 1956, [section 1211 et seq. of this title], transferred to Consumer Product Safety Commission by section 30 of Act Oct. 27, 1972, Pub. L. 92-573 [section 2079 of this title].

By section 3 of act Sept. 26, 1914, Bureau of Corporations abolished and all employees and functions of said Bureau transferred to Federal Trade Commission.

CLARIFICATION OF STATUS OF SUBSIDIARIES AND
AFFILIATES

Pub. L. 106-102, title I, §133(a), (b), Nov. 12, 1999, 113 Stat. 1383, provided that:

“(a) CLARIFICATION OF FEDERAL TRADE COMMISSION JURISDICTION.—Any person that directly or indirectly controls, is controlled directly or indirectly by, or is directly or indirectly under common control with, any bank or savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]) and is not itself a bank or savings association shall not be deemed to be a bank or savings association for purposes of any provisions applied by the Federal Trade Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.].

“(b) SAVINGS PROVISION.—No provision of this section [amending section 18a of this title] shall be construed as restricting the authority of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]) under any Federal banking law, including section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818].”

REORGANIZATION PLAN NO. 8 OF 1950

Eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see 5 U.S.C. 901 et seq.].

FEDERAL TRADE COMMISSION

SECTION 1. TRANSFER OF FUNCTIONS TO THE CHAIRMAN

(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Trade Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b)(1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of members of the Commission other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

SEC. 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

SEC. 3. DESIGNATION OF CHAIRMAN

The functions of the Commission with respect to choosing a Chairman from among the membership of the Commission are hereby transferred to the President.

MESSAGE OF THE PRESIDENT

To the Congress of the United States: