

§ 239.4

Example A: (In an advertisement mentioning a satisfaction guarantee that is conditioned upon return of the unused portion within 30 days) “We guarantee your satisfaction. If not completely satisfied with Acme Spot Remover, return the unused portion within 30 days for a full refund.”

Example B: (In an advertisement mentioning a money back guarantee that is conditioned upon return of the product in its original packaging) “Money Back Guarantee! Just return the ABC watch in its original package and ABC will fully refund your money.”

§ 239.4 “Lifetime” and similar representations.

If an advertisement uses “lifetime,” “life,” or similar representations to describe the duration of a warranty or guarantee, then the advertisement should disclose, with such clarity and prominence as will be noticed and understood by prospective purchasers, the life to which the representation refers.

Examples: These examples are for both print and broadcast advertising. These examples are illustrative, not exhaustive.

Example A: (In an advertisement mentioning a lifetime guarantee on an automobile muffler where the duration of the guarantee is measured by the life of the car in which it is installed) “Our lifetime guarantee on the Whisper Muffler protects you for as long as your car runs—even if you sell it, trade it, or give it away!”

Example B: (In an advertisement mentioning a lifetime guarantee on a battery where the duration of the warranty is for as long as the original purchaser owns the car in which it was installed) “Our battery is backed by our lifetime guarantee. Good for as long as you own the car!”

§ 239.5 Performance of warranties or guarantees.

A seller or manufacturer should advertise that a product is warranted or guaranteed only if the seller or manufacturer, as the case may be, promptly and fully performs its obligations under the warranty or guarantee.

PART 240—GUIDES FOR ADVERTISING ALLOWANCES AND OTHER MERCHANDISING PAYMENTS AND SERVICES

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AUTHORITY: Secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46; 49 Stat. 1526; 15 U.S.C. 13, as amended.

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§ 240.1 Purpose of the Guides.

The purpose of these Guides is to provide assistance to businesses seeking to comply with sections 2(d) and (e) of the Robinson-Patman Act (the “Act”). The guides are based on the language of the statute, the legislative history, administrative and court decisions, and the purposes of the Act. Although the Guides are consistent with the case law, the Commission has sought to provide guidance in some areas where no definitive guidance is provided by the case law. The Guides are what their name implies—guidelines for compliance with the law. They do not have the force of law. They do not confer any rights on any person and do not operate to bind the FTC or the public.

§ 240.2 Applicability of the law.

(a) The substantive provisions of section 2(d) and (e) apply only under certain circumstances. Section 2(d) applies only to:

(1) A seller of products

(2) Engaged in interstate commerce

(3) That either directly or through an intermediary

(4) Pays a customer for promotional services or facilities provided by the customer

(5) In connection with the resale (not the initial sale between the seller and the customer) of the seller's products

(6) Where the customer is in competition with one or more of the seller's other customers also engaged in the resale of the seller's products of like grade and quality.