
AMENDMENT OF SECTION

For repeal of amendment by section 13 of Pub. L. 109–455, see Termination Date of 2006 Amendment note below.

Editorial Notes

REFERENCES IN TEXT

The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§ 151 et seq.) of Title 47, Telecommunications. For complete classification of this Act to the Code, see section 699 of Title 47 and Tables.

The Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July 2, 1890, referred to in the text, is known as the Sherman Act, and is classified to sections 1 to 7 of Title 15, Commerce and Trade.

Sections 73 to 76, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes”, approved August 27, 1894, referred to in text, are known as the Wilson Tariff Act. Sections 73 to 76 are classified to sections 8 to 11 of this title.

Act February 12, 1913, is set out as amendments to sections 8 and 11 of this title.

The Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October 15, 1914, referred to in text, is the Clayton Act. For classification of the Act to the Code, see References in Text note set out under section 12 of this title.

CODIFICATION


AMENDMENTS


Statutory Notes and Related Subsidaries

TERMINATION DATE OF 2006 AMENDMENT


EFFECTIVE DATE OF 2002 AMENDMENT


PREERVATION OF EXISTING AUTHORITY


[Section 12 of Pub. L. 109–455, set out above, repealed effective Sept. 30, 2027, see section 13 of Pub. L. 109–455, as amended, set out as a Termination Date of 2006 Amendment note above.]

§ 45. Unfair methods of competition unlawful; prevention by Commission

(a) Declaration of unlawfulness; power to prohibit unfair practices; inapplicability to foreign trade

(1) Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful.

(2) The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, savings and loan institutions described in section 57a(f)(3) of this title, Federal credit unions described in section 57a(f)(4) of this title, common carriers subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to part A of subtitle VII of title 49, and persons, partnerships, or corporations insofar as they are subject to the Packers and Stockyards Act, 1921, as amended [7 U.S.C. 181 et seq.], except as provided in section 406(b) of said Act [7 U.S.C. 227(b)], from using unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce.

(3) This subsection shall not apply to unfair methods of competition involving commerce with foreign nations (other than import commerce) unless—

(A) such methods of competition have a direct, substantial, and reasonably foreseeable effect—

(i) on commerce which is not commerce with foreign nations, or import commerce with foreign nations; or

(ii) on export commerce with foreign nations, of a person engaged in such commerce in the United States; and

(B) such effect gives rise to a claim under the provisions of this subsection, other than this paragraph.

If this subsection applies to such methods of competition only because of the operation of
subparagraph (A)(ii), this subsection shall apply to such conduct only for injury to export business in the United States.

(4)(A) For purposes of subsection (a), the term ‘‘unfair or deceptive acts or practices’’ includes such acts or practices involving foreign commerce that—

(i) cause or are likely to cause reasonably foreseeable injury within the United States; or

(ii) involve material conduct occurring within the United States.

(B) All remedies available to the Commission with respect to unfair or deceptive acts or practices shall be available for acts and practices described in this paragraph, including restitution to domestic or foreign victims.

(b) Proceeding by Commission; modifying and setting aside orders

Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in or affecting commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the Commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice in question is prohibited by this subchapter, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition or such act or practice. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the record in the proceeding has been filed in a court of appeals of the United States, as hereinafter provided, the Commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part any report or order made or issued by it under this section, whenever in the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require, except that (1) the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate court of appeals of the United States, in the manner provided in subsection (c) of this section; and (2) in the case of an order, the Commission shall reopen any such order to consider whether such order (including any affirmative relief provision contained in such order) should be altered, modified, or set aside, in whole or in part, if the person, partnership, or corporation involved files a request with the Commission which makes a satisfactory showing that changed conditions of law or fact require such order to be altered, modified, or set aside, in whole or in part. The Commission shall determine whether to alter, modify, or set aside any order of the Commission in response to a request made by a person, partnership, or corporation under paragraph (2) not later than 120 days after the date of the filing of such request.

(c) Review of order; rehearing

Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty days from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the Commission until the filing of the record and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgement to prevent injury to the public or to competitors pendente lite. The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Com—

*So in original. Probably should be ‘‘clause’’.*
mission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28.

(d) Jurisdiction of court

Upon the filing of the record with it the jurisdiction of the court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive.

(e) Exemption from liability

No order of the Commission or judgement of court to enforce the same shall in anywise relieve or absolve any person, partnership, or corporation from any liability under the Antitrust Acts.

(f) Service of complaints, orders and other processes; return

Complaints, orders, and other processes of the Commission under this section may be served by anyone duly authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the residence or the principal office or place of business of such person, partnership, or corporation; or (c) by mailing a copy thereof by registered mail or by certified mail addressed to such person, partnership, or corporation at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process mailed by registered mail or by certified mail as aforesaid shall be proof of the service of the same.

(g) Finality of order

An order of the Commission to cease and desist shall become final—

(1) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the Commission may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b).

(2) Except as to any order provision subject to paragraph (4), upon the sixtieth day after such order is served, if a petition for review has been duly filed; except that any such order may be stayed, in whole or in part and subject to such conditions as may be appropriate, by—

(A) the Commission;

(B) an appropriate court of appeals of the United States, if (i) a petition for review of such order is pending in such court, and (ii) an application for such a stay was previously submitted to the Commission and the Commission, within the 30-day period beginning on the date the application was received by the Commission, either denied the application or did not grant or deny the application; or

(C) the Supreme Court, if an applicable petition for certiorari is pending.

(3) For purposes of subsection (m)(1)(B) and of section 57b(a)(2) of this title, if a petition for review of the order of the Commission has been filed—

(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

(C) upon the expiration of 30 days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.

(4) In the case of an order provision requiring a person, partnership, or corporation to divest itself of stock, other share capital, or assets, if a petition for review of such order of the Commission has been filed—

(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

(C) upon the expiration of 30 days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.

(h) Modification or setting aside of order by Supreme Court

If the Supreme Court directs that the order of the Commission be modified or set aside, the order of the Commission rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(i) Modification or setting aside of order by Court of Appeals

If the order of the Commission is modified or set aside by the court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been
denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered in accordance with the mandate of the court of appeals shall become final on the expiration of thirty days from the time such order of the Commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(j) Rehearing upon order or remand

If the Supreme Court orders a rehearing; or if the case is remanded by the court of appeals to the Commission for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered upon such rehearing shall become final in the same manner as though no prior order of the Commission had been rendered.

(k) “Mandate” defined

As used in this section the term “mandate”, in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

(l) Penalty for violation of order; injunctions and other appropriate equitable relief

Any person, partnership, or corporation who violates an order of the Commission after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the Attorney General of the United States. Each separate violation of such an order shall be deemed a separate offense. In such action, such person, partnership, or corporation shall be liable for a civil penalty of not more than $10,000 for each violation.

(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

(1)(A) The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person, partnership, or corporation which engages in such act or practice—

(1) after such cease and desist order becomes final (whether or not such person, partnership, or corporation was subject to such cease and desist order), and

(2) with actual knowledge that such act or practice is unfair or deceptive and is unlawful under subsection (a)(1) of this section.

In such action, such person, partnership, or corporation shall be liable for a civil penalty of not more than $10,000 for each violation.

(1)(B) The Commission may compromise or settle any action for a civil penalty if such compromise or settlement is accompanied by a public statement of its reasons and is approved by the court.

(n) Standard of proof; public policy considerations

The Commission shall have no authority under this section or section 57a of this title to declare unlawful an act or practice on the grounds that such act or practice is unfair unless the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition. In determining whether an act or practice is unfair, the Commission may consider established public policies as evidence to be considered with all other evidence. Such public policy considerations may not serve as a primary basis for such determination.
Judicial Procedure.

first section of which enacted Title 28, Judiciary and
''section 240 of the Judicial Code [28 U.S.C. 347]'' on au-

tion of which enacted subtitles II, III, and V to X of Pub.


AMENDMENT OF SECTION

For repeal of amendment by section 13 of Pub. L. 109–455, see Termination Date of 2006 Amendment note below.

Editorial Notes

REFERENCES IN TEXT

The Packers and Stockyards Act, 1921, as amended, referred to in subsec. (a)(2), is act Aug. 15, 1921, ch. 351, 42 Stat. 9 (§ 181 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 181 of Title 7 and Tables.

CODIFICATION


AMENDMENTS


2006—Subsec. (a)(4). Pub. L. 109–455, § 3, which added par. (4) extending the definition of unfair or deceptive acts or practices to include certain ones involving foreign commerce, was repealed by Pub. L. 109–455, § 13, as amended by Pub. L. 112–229, § 1. See Termination Date of 2006 Amendment note below.

1994—Subsec. (g)(1). Pub. L. 103–312, § 6(d), substituted a period for "or" at end.

Subsec. (g)(2). Pub. L. 103–312, § 6(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed, or the petition for review dismissed by the court of appeals, and no petition for certiorari was duly filed or". Subsec. (g)(3). Pub. L. 103–312, § 6(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Upon the denial of a petition for certiorari, if the order of the Commission has been affirmed, or the petition for review dismissed by the court of appeals; or".

Subsec. (g)(4). Pub. L. 103–312, § 6(c), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "Upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review dismissed." Subsec. (m)(1)(B). Pub. L. 103–312, § 4(a), inserted "other than a consent order," after "a final cease and desist order" in introductory provisions.

Subsec. (m)(2). Pub. L. 103–312, § 4(b), inserted at end "Upon request of any party to such an action against such defendant, the court shall also review the determination of law made by the Commission in the proceeding under subsection (b) that the act or practice which was the subject of such proceeding constituted an unfair or deceptive act or practice in violation of subsection (a)."


1987—Subsec. (a)(2). Pub. L. 100–86 inserted "Federal credit unions described in section 57a(f)(3) of this title," after "section 57a(f)(3) of this title,".

1984—Subsec. (o). Pub. L. 98–620 struck out provision that such proceedings in the court of appeals had to be given precedence over other cases pending therein, and had to be in every way expedited.


1980—Subsec. (b). Pub. L. 96–262 added cl. (2) of provision following cl. (1) requiring that the Commission determine whether to alter, modify, or set aside any order of the Commission in response to a request made by a person, partnership, or corporation under paragraph (2) not later than 120 days after the date of the filing of such request.

1979—Subsec. (a)(2). Pub. L. 96–37 added savings and loan institutions described in section 57a(f)(3) of this title to the enumeration of entities exempted from the Commission's power to prevent the use of unfair methods of competition and unfair or deceptive acts or practices.

1975—Pub. L. 93–637, § 201(a), substituted "in or affecting commerce" for "in commerce" wherever appearing. Subsec. (a). Pub. L. 94–145 struck out pars. (2) to (5) which permitted fair trade pricing of articles for retail sale and State enactment of nonsigner provisions, and redesignated par. (6) as (2).

1973—Subsec. (l). Pub. L. 93–153, § 408(c), raised the maximum civil penalty for each violation to $10,000 and inserted provisions empowering the United States District Courts to grant mandatory injunctions and such other and further equitable relief as they might deem appropriate for the enforcement of final Commission orders.

Subsec. (m). Pub. L. 93–153, § 408(d), added subsec. (m).

1970—Subsec. (f). Pub. L. 96–507 substituted "mailing a copy thereof by registered mail or by certified mail for "registering and mailing a copy thereof", and "mailed by registered mail or by certified mail" for "registered and mailed".

1968—Subsec. (a)(6). Pub. L. 85–909 substituted "persons, partnerships, or corporations (insofar as they are subject to the Packers and Stockyards Act, 1921, as amended," for "persons, partnerships or corporations subject to the Packers and Stockyards Act, 1921,


Subsec. (b). Pub. L. 85–791, § 3(a), struck out "the transcript of" before "the record in the proceeding" in sixth sentence.

Subsec. (c). Pub. L. 85–791, § 3(b), in second sentence, substituted "transmitted by the clerk of the court to" for "served upon", and "and Commission shall file in the court the record in the proceeding, as provided in section 2112 of title 28" for "Commission forthwith shall certify and file in the court a transcript of the entire
record in the proceeding, including all the evidence taken and the report and order of the Commission", and which, in third sentence struck out "and tran-
section, after "petition", inserted "concurrently with the Commission until the filing of the record" and struck out "upon the pleadings, evidence, and pro-
ceedings set forth in such transcript" before "a decree affirming".
Subsec. (d). Pub. L. 85–791, §3(c), substituted "Upon the filing of the record with it the" for "The".
(a) generally to permit fair trade pricing of articles for retail sale.
1950—Subsec. (i). Act Mar. 16, 1950, inserted last sen-
tence to make each separate violation of a cease and di-
est order issued as a separate offense, except that each day of a
continuing failure to obey a final order shall be a separate off-
ence.
1938—Subsec. (a). Act June 23, 1938, inserted "air car-
rriers and foreign air carriers subject to chapter 9 of title 49" in second par.
Act Mar. 21, 1938, amended section generally.

Statutory Notes and Related Subsidiaries
CHANGE OF NAME
Act June 23, 1948, eff. Sept. 1, 1948, as amended by act
May 24, 1949, substituted "court of appeals" for "circuit
court of appeals".

TERMINATION DATE OF 2006 AMENDMENT
Amendment by section 3 of Pub. L. 109–455 repealed
effective Sept. 30, 2027, and provisions amended by Pub.
L. 109–455 to be amended to read as if Pub. L. 109–455 had not been enacted, see section 13 of Pub. L. 109–455,
set out as a note under section 44 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT
vided that:
"(a) IN GENERAL.—Except as provided in subsections
(b), (c), (d), and (e), the provisions of this Act [enacting
section 57b–5 of this title, amending this section and
sections 53, 57a, 57b–1, 57b–2, 57c, and 58 of this title,
and enacting provisions set out as notes under sections 46,
50, 57a, 57c, and 58 of this title, and enacting provisions set out as notes under sections 46, 50, 57a–1, 57c, and 58 of this title], and the
amendments made by this Act, shall take effect on the date of
enactment of this Act [Aug. 26, 1994].
"(b) APPLICABILITY OF SECTION 5.—The amendment
made by section 5 of this Act [amending section 57a of
this title] shall apply only to rulemaking proceedings initiated after the date of enactment of this Act. Such
amendment shall not be construed to affect in any manner a rulemaking proceeding which was initiated
before the date of enactment of this Act [Aug. 26, 1994].
"(c) APPLICABILITY OF SECTION 6.—The amendments
made by section 6 of this Act [amending this section] shall apply only with respect to cease and desist
orders issued under section 5 of the Federal Trade Commission
Act (15 U.S.C. 45) after the date of enactment of this
Act [Aug. 26, 1994]. These amendments shall not be con-
strued to affect in any manner a cease and desist order
which was issued before the date of enactment of this
Act.
"(d) APPLICABILITY OF SECTIONS 7 AND 8.—The amend-
ments made by sections 7 and 8 of this Act [amending sections 57b–1 and 57b–2 of this title] shall apply only with respect to compulsory process issued after the
date of enactment of this Act [Aug. 26, 1994].
"(e) APPLICABILITY OF SECTION 9.—The amendments
made by section 9 of this Act [amending this section] shall apply only with respect to cease and desist orders
issued under section 5 of the Federal Trade Commission
Act (15 U.S.C. 45), or to rules promulgated under sec-
57a) after the date of enactment of this Act [Aug. 26,
1994]. These amendments shall not be construed to af-
tect in any manner a cease and desist order which was
issued, or a rule which was promulgated, before the
date of enactment of this Act. These amendments shall
not be construed to affect in any manner a cease and
desist order issued after the date of enactment of this
Act, if such order was issued pursuant to remand from a
court of appeals or the Supreme Court of an order issued
by the Federal Trade Commission before the
date of enactment of this Act."

EFFECTIVE DATE OF 1984 AMENDMENT
Amendment by Pub. L. 98–620 not applicable to cases
pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620,
set out as an Effective Date note under section 1657 of
Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENT
that: "The provisions of this Act [enacting sections
57–1 to 57b–4 of this title and sections 46, 49, 57a, 57c,
and 58 of this title, and enacting provisions set out as notes under sections 46, 50, 57a–1, 57c, and 58 of this title]
and the amendments made by this Act, shall take effect on the date of the
enactment of this Act [May 28, 1980]."

EFFECTIVE DATE OF 1975 AMENDMENTS
Amendment by Pub. L. 94–145 effective upon expira-
tion of ninety-day period beginning on Dec. 13, 1975, see
section 4 of Pub. L. 94–145, set out as a note under sec-
tion 1 of this title.
Amendment by section 204(b) of Pub. L. 93–637 not ap-
plicable to any civil action commenced before Jan. 4,
1975, see section 204(c) of Pub. L. 93–637, set out as a
note under section 56 of this title.
Pub. L. 93–637, §205(b), Jan. 4, 1975, 88 Stat. 2201, pro-
vided that: "The amendment made by subsection (a) of
this section [amending this section] shall not apply to
any violation, act, or practice to the extent that such
violation, act, or practice occurred before the date of
enactment of this Act [Jan. 4, 1975]."

EFFECTIVE DATE OF 1958 AMENDMENT
Amendment by Pub. L. 85–726 effective on 60th day
following the date on which the Administrator of the
Federal Aviation Agency first appointed under Pub. L.
85–726 qualifies and takes office, see section 1505(2) of
Pub. L. 85–726. The Administrator was appointed, quali-
ified, and took office on Oct. 31, 1958.

EFFECTIVE DATE OF 1950 AMENDMENT
Amendment by act Mar. 16, 1950, effective July 1, 1950,
see note set out under section 347 of Title 21, Food and
Drugs.

PROHIBITING DECEPTIVE ACTS OR PRACTICES IN
CONNECTION WITH THE NOVEL CORONAVIRUS
Pub. L. 116–260, div. FF, title XIV, §1401, Dec. 27, 2020,
134 Stat. 3275, provided that:
"(a) In General.—For the duration of a public health
emergency declared pursuant to section 19 of the Public
Health Service Act (42 U.S.C. 247d) as a result of
confirmed cases of the 2019 novel coronavirus
(COVID–19), including any renewal thereof, it shall be
unlawful for any person, partnership, or corporation to
engage in a deceptive act or practice in or affecting
commerce in violation of section 5(a) of the Federal
Trade Commission Act (15 U.S.C. 45(a)) that is associ-
ated with—
"(1) the treatment, cure, prevention, mitigation, or
diagnosis of COVID–19; or
"(2) a government benefit related to COVID–19.
"(c) Enforcement by the Federal Trade Commis-
sion.—
"(1) Violation.—A violation of subsection (b) shall
be treated as a violation of a rule defining an unfair or
deceptive act or practice prescribed under section
18(a)(1)(B) of the Federal Trade Commission Act (15
U.S.C. 57(a)(1)(B)).
Chapter 5: Consumer review protection

(a) Definitions

In this section:

(1) Commission

The term “Commission” means the Federal Trade Commission.

(2) Covered communication

The term “covered communication” means a written, oral, or pictorial review, performance assessment of, or other similar analysis of, including by electronic means, the goods, services, or conduct of a person by an individual who is party to a form contract with respect to which such person is also a party.

(3) Form contract

(A) In general

Except as provided in subparagraph (B), the term “form contract” means a contract with standardized terms—

(i) used by a person in the course of selling or leasing the person’s goods or services; and

(ii) imposed on an individual without a meaningful opportunity for such individual to negotiate the standardized terms.