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(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal to the Commission's General Counsel.

(i)(1) An appeal under this section must be filed within 90 days of the complainant's receipt of the letter under paragraph (h) of this section unless the General Counsel extends the time period for good cause.

(2) The appeal must be addressed to the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

(3) The appeal shall specify the questions raised by the appeal and the arguments on the points of fact and law relied upon in support of the position taken on each question; and it shall include copies of the complaint filed under paragraph (d) of this section and the letter by the Director of Equal Employment Opportunity under paragraph (h) of this section as well as any other material relied upon in support of the appeal.

(j) The General Counsel shall notify the complainant of the results of the appeal within 60 days of the receipt of the appeal. If the General Counsel determines that additional information is needed from the complainant, the General Counsel shall have 60 days from the date of receipt of the additional information to make a final determination on the appeal. The General Counsel may submit the appeal to the Commission for final determination provided that any final determination of the appeal is made by the Commission within the 60-day period specified by this paragraph.

(k) The time limits specified by paragraphs (h) and (j) of this section may be extended by the Chairman for good cause.

(l) The Commission may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

[52 FR 45628, Dec. 1, 1987, as amended at 66 FR 51864, Oct. 11, 2001]

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§§ 6.171–6.999 [Reserved]

PART 14—ADMINISTRATIVE INTERPRETATIONS, GENERAL POLICY STATEMENTS, AND ENFORCEMENT POLICY STATEMENTS

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AUTHORITY: 15 U.S.C. 41–58.

§ 14.9 Requirements concerning clear and conspicuous disclosures in foreign language advertising and sales materials.

The Federal Trade Commission has noted that, with increasing intensity, advertisers are making special efforts to reach foreign language-speaking consumers. As part of this special effort, advertisements, brochures and sales documents are being printed in foreign languages. In recent years the Commission has issued various cease-and-desist orders as well as rules, guides and other statements, which require affirmative disclosures in connection with certain kinds of representations and business activities. Generally, these disclosures are required to be "clear and conspicuous." Because questions have arisen as to the meaning and application of the phrase "clear and conspicuous" with respect to foreign language advertisements and sales materials, the Commission deems it appropriate to set forth the following enforcement policy statement:

(a) Where cease-and-desist orders as well as rules, guides and other statements require "clear and conspicuous" disclosure of certain information in an advertisement or sales material in a newspaper, magazine, periodical, or other publication that is not in English, the disclosure shall appear in the predominant language of the publication in which the advertisement or sales material appears. In the case of any other advertisement or sales material, the disclosure shall appear in the

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language of the target audience (ordinarily the language principally used in the advertisement or sales material).

(b) Any respondent who fails to comply with this requirement may be the subject of a civil penalty or other law enforcement proceeding for violating the terms of a Commission cease-and-desist order or rule.

(Sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [38 FR 21494, Aug. 9, 1973, as amended at 63 FR 34808, June 26, 1998]

§ 14.12 Use of secret coding in marketing research.

(a) The Federal Trade Commission has determined to close its industry-wide investigation of marketing research firms that was initiated in November 1975, to determine if the firms were using questionnaires with invisible coding that could be used to reveal a survey respondent's identity. After a thorough investigation, the Commission has determined that invisible coding has been used by the marketing research industry, but it is neither a commonly used nor widespread practice. Moreover, use of the practice appears to have diminished in recent years. For these reasons, the Commission has determined that further action is not warranted at this time.

(b) However, for the purpose of providing guidance to the marketing research industry, the Commission is issuing the following statement with regard to its future enforcement intentions. The Commission has reason to believe that it is an unfair or deceptive act or practice, violative of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to induce consumers to provide information about themselves by expressly or implicitly promising that such information is being provided anonymously, when, in fact, a secret or invisible code is used on the survey form or return envelope that allows identification of the consumer who has provided the information.

(c) While the Commission has made no final determination regarding the legality of the foregoing practice, the Commission will take appropriate enforcement action should it discover the practice to be continuing in the future, and in the event that it may be causing substantial consumer injury. Among

the circumstances in which the Commission believes that the use of secret coding may cause significant consumer harm are those in which:

(1) A misleading promise of anonymity is used to obtain highly sensitive information about a consumer that such consumer would not choose to disclose if he or she were informed that a code was being used that would allow his or her name to be associated with the response; and

(2) Information of any sort is used for purposes other than those of the market survey.

[43 FR 42742, Sept. 21, 1978]

§ 14.15 In regard to comparative advertising.

(a) *Introduction.* The Commission's staff has conducted an investigation of industry trade associations and the advertising media regarding their comparative advertising policies. In the course of this investigation, numerous industry codes, statements of policy, interpretations and standards were examined. Many of the industry codes and standards contain language that could be interpreted as discouraging the use of comparative advertising. This Policy Statement enunciates the Commission's position that industry self-regulation should not restrain the use by advertisers of truthful comparative advertising.

(b) *Policy Statement.* The Federal Trade Commission has determined that it would be of benefit to advertisers, advertising agencies, broadcasters, and self-regulation entities to restate its current policy concerning comparative advertising.¹ Commission policy in the area of comparative advertising encourages the naming of, or reference to competitors, but requires clarity, and, if necessary, disclosure to avoid deception of the consumer. Additionally, the use of truthful comparative advertising should not be restrained by broadcasters or self-regulation entities.

¹For purposes of this Policy Statement, comparative advertising is defined as advertising that compares alternative brands on objectively measurable attributes or price, and identifies the alternative brand by name, illustration or other distinctive information.