

Index

ACTUAL DAMAGES

Private Remedies (this index)

ADJUDICATION

Unfair and deceptive practices,
Federal Trade Commission
(FTC), environmental
advertising, § 11:46

ADVERTISING AND ADVERTISEMENTS

**Unfair and Deceptive Practices,
Federal Trade Commission
(FTC)** (this index)

AGENCY ENFORCEMENT

Generally, §§ 7:1 to 7:31
Air travel advertisements,
National Association of
Attorneys General, § 7:31
Amount and type of restitution,
§ 7:16
Assurances of compliance, § 7:12
Authority, express or implied,
restitution, § 7:14
Authority of attorney general,
§ 7:6
Binding versus interpretive rules,
§ 7:24
Civil investigative standards, § 7:2
Civil penalties, §§ 7:17 to 7:22
Compliance, voluntary assurances
of, § 7:12
Criminal penalties, § 7:17, 7:22
Criteria for determining penalties,
§ 7:20
Definiteness of demand, § 7:4
Delegation of legislative power,
§ 7:25
Emergency rulemaking, § 7:27

AGENCY ENFORCEMENT

—Cont'd

Entitlement to share in restitution,
§ 7:15
Federal preemption, § 7:30, 7:31
First amendment defense, § 7:29
First violation versus violation of
outstanding order, § 7:18
Governmental enforcement
authority, **App 7A**
Hearing, respondent's right to,
§ 7:7
Injunctions, §§ 7:8 to 7:11
Investigative powers, §§ 7:2 to
7:7
Judicial review, § 7:7, 7:26
Local enforcement, § 7:28
Mootness, injunctions, § 7:9
Multiplying penalties, § 7:19
National Association of Attorneys
General, § 7:31
Nature and extent of jurisdiction,
injunctions, § 7:11
Penalties, civil and criminal,
§§ 7:17 to 7:22
Public interest standard, injunc-
tions, § 7:10
"Reason to believe standard,"
§ 7:3
Relevance of information
requested, § 7:5
Respondent's right to judicial
review, § 7:7
Restitution, §§ 7:13 to 7:16
Substantive rulemaking power,
§§ 7:23 to 7:27

AGENTS

State acts, § 4:38, 4:41

AIR TRAVEL ADVERTISING

Agency enforcement, National Association of Attorneys General, § 7:31

APPEALS

FTC remedies, First Amendment and commercial speech, §§ 12:40 to 12:43

APPELLATE FEES

Private remedies, § 6:24

ARBITRATION

Prerequisites to statutory actions, clauses, § 5:22

Private remedies, § 6:35

ARTICLE 2 OF UCC

Overview. **Uniform Commercial Code and Magnuson-Moss Warranty Act** (this index)

ASSIGNEES

State acts, § 4:38, 4:42

ATTORNEY FEES

Private remedies, §§ 6:17 to 6:27

AUTHORITY

Agency enforcement, express or implied, restitution, § 7:14

AUTOMOBILES

Lemon laws. **Lemon Laws** (this index)

New cars, lemon laws. **Lemon Laws** (this index)

Used cars. **Used Cars** (this index)

AVERAGE CONSUMER

Unfair and deceptive practices, Federal Trade Commission (FTC), § 10:6

BAIT AND SWITCH

Unfair and deceptive practices
Federal Trade Commission (FTC), § 11:36, 11:37

BAIT AND SWITCH—Cont'd

Unfair and deceptive practices

—Cont'd

grocery specials, unavailability, § 11:37

junk fees, § 11:38

motor vehicle pricing, § 11:38

state, advertising, § 3:14

BANS AND DISCLOSURES

FTC Remedies (this index)

BENEFIT OF THE BARGAIN

Private remedies, § 6:4

BIBLIOGRAPHY

Lemon laws, **App 15C**

Unfair and deceptive practices, state acts, **App 3C**

BROADCASTERS

State acts, § 4:37

BURDEN OF PROOF

Remedies, Federal Trade Commission (FTC), corrective advertising, § 12:36

BUSINESS LITIGATION

State acts, § 4:3, 4:4

CANSPAM ACT

FTC enforcement, new frontiers, § 13:17

CARS

Lemon laws. **Lemon Laws** (this index)

New cars, lemon laws. **Lemon Laws** (this index)

Used cars. **Used Cars** (this index)

CEASE AND DESIST ORDERS

Federal Trade Commission (FTC) remedies, §§ 12:2 to 12:6, 12:26

CELEBRITY ENDORSEMENTS

Unfair and deceptive practices, Federal Trade Commission

INDEX

CELEBRITY ENDORSEMENTS

—Cont'd

(FTC), § 11:23

CHILDREN'S ONLINE PRIVACY

FTC enforcement, new frontiers,
§ 13:19

CIGARETTES

Unfair and Deceptive Practices,
Federal Trade Commission
(FTC) (this index)

CITATIONS

Lemon laws, App 15A
Motor homes, App 17A

CIVIL INVESTIGATIVE STANDARDS

Agency enforcement, § 7:2

CIVIL PENALTIES

Agency enforcement, §§ 7:17 to
7:22
FTC remedies, §§ 12:25 to 12:31

CLASS ACTIONS

Private remedies, §§ 6:28 to 6:35

CLIMATE CHANGE AND ENERGY ISSUES

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § 11:47

COERCION

Unfair and deceptive practices,
Federal Trade Commission
(FTC), §§ 9:8 to 9:11
Unfair and deceptive practices,
state, § 3:19

COMMISSION DISCRETION

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § 9:2

COMMONALITY

Private remedies, class actions,
§ 6:30

COMMON LAW ACTIONS

Consumer contracts
acceptance of terms, § 2:9
deception, defenses, § 2:10
unconscionability, defenses,
§ 2:10
Culpability of seller, § 2:4
Elements of common law fraud,
§ 2:2
Innocent misrepresentation, § 2:7
Limitations, § 2:8
Misrepresentation, § 2:3, 2:6, 2:7
Negligent misrepresentation, § 2:6
Non-disclosure, misrepresentation
by, § 2:3
Puffery, § 2:5
Reliance, justifiable of buyer,
§ 2:5
Remedies, § 2:8
Scienter, § 2:4
State of mind of seller, § 2:4

COMPARATIVE ADVERTISING

Unfair and deceptive practices,
Federal Trade Commission
(FTC), §§ 11:28 to 11:30

COMPENSATORY DAMAGES

Private remedies, §§ 6:3 to 6:7

COMPLIANCE

Agency enforcement, voluntary
assurances, § 7:12

CONSENT ORDER

FTC remedies, § 12:24

CONSEQUENTIAL DAMAGES

Private remedies, § 6:7

CONSUMER CONTRACTS

Acceptance of terms, § 2:9
Deception, defenses, § 2:10

CONSUMER CONTRACTS

—Cont'd

Unconscionability, defenses,
§ 2:10

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Jurisdiction, § 8:11

CONSUMER PRODUCT WARRANTIES

Generally, § 1:6

Homes (this index)

Mobile homes. **Mobile Homes**
(this index)

New cars, lemon laws. **Lemon**
Laws (this index)

Uniform Commercial Code and
Magnuson-Moss Warranty
Act (this index)

Used cars. **Used Cars** (this index)

CONSUMER REDRESS

Early Commission efforts, § 12:20

FTC remedies, §§ 12:19 to 12:24

Individual liability, § 12:23

Presentation of issues, § 12:19

Section 5 consent order, § 12:24

Section 13(b), § 12:22

Section 19, § 12:21

CONSUMER TESTIMONIALS

Reviews

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § 11:24

CONTRACT CLAUSES

Prerequisites to statutory actions,
§§ 5:21 to 5:23

Unfair and deceptive practices,
Federal Trade Commission
(FTC), §§ 9:17 to 9:20

CONTRACT DISPUTES

Prerequisites to statutory actions,
not in the public interest,
§ 5:6

CONSUMER PROTECTION AND THE LAW

CORPORATE OFFICERS

State acts, § 4:38, 4:39

CORRECTIVE ADVERTISING

FTC remedies, §§ 12:32 to 12:37

COURT COSTS

Private remedies, §§ 6:17 to 6:27

CREDIT

State acts, § 4:22, 4:23

CRIMINAL PENALTIES

Agency enforcement, § 7:17, 7:22

CULPABILITY OF SELLER

Common law actions, § 2:4

CURE CLAIMS

Unfair and deceptive practices,
Federal Trade Commission
(FTC), advertising
substantiation, § 11:7

DAMAGES

Private remedies, § 6:16

Private Remedies (this index)

DEBT COLLECTION

State acts, § 4:24, 4:25

DECEPTIVE EARNINGS CLAIMS

Internet economy, FTC enforce-
ment, new frontiers, 13:16

DECEPTIVE PRACTICES

Deceptive earnings claims. **Decep-
tive earnings claims** (this
index)

Deceptive pricing. **Deceptive**
pricing (this index)

FTC law violations. **Unfair and**
Deceptive Practices,
Federal Trade Commission
(FTC) (this index)

State law violations. **Unfair and**
Deceptive Practices, State
(this index)

INDEX

DECEPTIVE PRICING

Conclusion, unfair and deceptive practices, Federal Trade Commission (FTC), §§ **11:39**

DEFECTS AND DEFECTIVE PRODUCTS

Unfair and deceptive practices, state, § **3:21**

DEFENSES

Unfair and deceptive practices, Federal Trade Commission (FTC), puffing, § **10:7**

DIETARY SUPPLEMENTS

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, deceptive practices
Standards for over-the-counter drugs, § **11:7**

DISCLOSURES

FTC Remedies (this index)
Unfair and deceptive practices, duty to disclose standard, § **3:11**
Uniform Commercial Code and Magnuson-Moss Warranty Act (this index)

DISCOUNTS

Unfair and Deceptive Practices, Federal Trade Commission (FTC) (this index)

DISSENTING OPINION

FTC remedies, no private right of action, § **12:47**

DO-NOT-CALL REGISTRY

FTC enforcement, new frontiers, § **13:6**

DO NOT CALL RULE

Generally, § **13:7, 13:8**

DOUBLE MEANINGS

Unfair and deceptive practices, Federal Trade Commission (FTC), § **10:10, 10:13**

DURESS

Unfair and deceptive practices, state, § **3:19**

EMERGENCY RULEMAKING

Agency enforcement, § **7:27**

EMOTIONAL APPEAL

Unfair and deceptive practices, Federal Trade Commission (FTC), § **11:19**

EMPLOYER-EMPLOYEE RELATIONSHIP

State acts, § **4:14**

ENVIRONMENTAL ADVERTISING

Unfair and deceptive practices, Federal Trade Commission (FTC), §§ **11:44 to 11:47**

EVIDENCE

Unfair and deceptive practices, Federal Trade Commission (FTC), interpreting advertising, § **10:23, 10:24**

EXCISION OF TRADE NAMES

FTC remedies, § **12:33**

EXEMPT INDUSTRIES

Historical background and jurisdiction of Federal Trade Commission (FTC), §§ **8:7 to 8:10**

EXEMPTIONS

State acts, **App 4A**

EXHAUSTION OF ADMINISTRATIVE REMEDIES

Prerequisites to statutory actions, §§ **5:13 to 5:15**

EXPERT ENDORSEMENTS

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § 11:26

EXPERT WITNESS COSTS

Private remedies, § 6:24

EXTRINSIC EVIDENCE

Unfair and deceptive practices,
Federal Trade Commission
(FTC), interpreting advertis-
ing, § 10:23, 10:24

FDA REGULATIONS

Unfair and deceptive practices,
Federal Trade Commission
(FTC), tobacco advertising,
§ 11:42

FEDERAL PREEMPTION

Agency enforcement, § 7:30, 7:31

**FEDERAL TRADE
COMMISSION (FTC)
IMPROVEMENTS ACT OF
1980**

FTC remedies, § 12:12

**FEDERAL TRADE
COMMISSION (FTC) LAW**

**FTC Enforcement, New
Frontiers** (this index)

FTC Remedies (this index)

**Historical Background and
Jurisdiction of Federal
Trade Commission** (this
index)

**Unfair and Deceptive Practices,
Federal Trade Commission**
(this index)

FEEES

Junk fees. **Junk fees** (this index)

FINANCIAL PRIVACY

Gramm-Leach-Bliley Act, FTC
enforcement, new frontiers,
§ 13:20

FIRST AMENDMENT

Agency enforcement, defense,
§ 7:29

**FIRST AMENDMENT AND
COMMERCIAL SPEECH**

FTC remedies, §§ 12:39 to 12:43

FOOD AND DRUG

**ADMINISTRATION (FDA),
EXEMPTIONS**

Historical background and juris-
diction of Federal Trade
Commission (FTC), § 8:10

**FOOD AND NUTRITION
CLAIMS**

Unfair and deceptive practices,
Federal Trade Commission
(FTC), advertising
substantiation, § 11:11

FOREIGN ORIGIN

Unfair and deceptive practices,
Federal Trade Commission
(FTC), omission of informa-
tion, § 10:17

FRAUD

FTC enforcement, new frontiers,
§§ 13:2 to 13:4

FREE OFFERS

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § 11:34

FRIVOLOUS SUIT

Private remedies, attorney fees
and court costs, § 6:22

**FTC ENFORCEMENT, NEW
FRONTIERS**

Generally, §§ 13:1 to 13:24

CANSPAM Act, § 13:17

Children's online privacy, § 13:19

Deceptive earnings claims,
internet economy, 13:16

Do-not-call registry, § 13:6

INDEX

FTC ENFORCEMENT, NEW FRONTIERS—Cont'd

- Do Not Call rule, § 13:7, 13:8
- Financial privacy, Gramm-Leach-Bliley Act, § 13:20
- Fraud, telemarketing, §§ 13:2 to 13:4
- Gramm-Leach-Bliley Act, consumer financial privacy, § 13:20
- Identity theft, § 13:22
- Impersonation fraud, § 13:21
- International enforcement and U.S.SAFE WEB Act of 2006, § 13:24
- Internet enforcement, § 13:14, 13:19
- Internet-related consumer scams, 13:15
- Mail merchandise rule, § 13:9
- Misrepresentation, § 13:21
- “900” number regulations, §§ 13:10 to 13:13
- Online information privacy, § 13:18
- Online privacy, 13:19
- Pretexting, § 13:21
- Privacy
 - children’s online privacy, § 13:19
 - financial privacy, Gramm-Leach-Bliley Act, § 13:20
 - online information privacy, § 13:18
 - online privacy, 13:19
- Privacy framework, § 13:23
- Security breach, § 13:22
- Spam e-mail, § 13:17
- Spyware, § 13:21
- Telemarketing
 - cases, § 13:11
 - Do Not Call rule, § 13:7, 13:8
 - federal legislation, § 13:12
 - 1991 Telephone Consumer Protection Act, § 13:4

FTC ENFORCEMENT, NEW FRONTIERS—Cont'd

- Telemarketing—Cont'd
 - federal legislation, § 13:12
 - Cont'd
 - 1994 Telemarketing Act, § 13:4
 - rulemaking and enforcement cases, §§ 13:5 to 13:9
 - fraud, §§ 13:2 to 13:4
 - internet, § 13:9
 - mail merchandise rule, § 13:9
 - “900” number regulations, §§ 13:10 to 13:13
 - 1994 Telemarketing Act, FTC cases prior to, § 13:3
 - rulemaking, 13:13
 - rulemaking and enforcement cases, §§ 13:5 to 13:9
 - telephone order merchandise rule, § 13:9
- Telephone order merchandise rule, § 13:9

FTC REMEDIES

- Generally, §§ 12:1 to 12:49
- Advertising, corrective, §§ 12:32 to 12:37
- Appeals, First Amendment and commercial speech, §§ 12:40 to 12:43
- Bans and disclosures
 - advertising, corrective, §§ 12:32 to 12:37
 - burden of proof, corrective advertising, § 12:36
 - corrective advertising, §§ 12:32 to 12:37
 - excision of trade names, § 12:33
 - injunctions, Section 13(b), § 12:38
 - judicial approval, corrective advertising, § 12:35
 - trade names, §§ 12:32 to 12:37

FTC REMEDIES—Cont’d

Bans and disclosures—Cont’d
trends, corrective advertising,
§ 12:37

Burden of proof, corrective
advertising, § 12:36

Cease and desist orders, §§ 12:2
to 12:6, 12:26

Civil penalties, §§ 12:25 to 12:31

Conclusion, no private right of
action, § 12:49

Consent order, § 12:24

Corrective advertising, §§ 12:32
to 12:37

Court application, cease and desist
orders, § 12:4

Criteria for setting penalty, Sec-
tion 5(1), § 12:28

Disclosures. Bans and disclosures,
above

Dissenting opinion, no private
right of action, § 12:47

Early cases, no private right of
action, § 12:45

Early commission efforts,
consumer redress, § 12:20

Excision of trade names, § 12:33

Federal Trade Commission (FTC)
Improvements Act of 1980
and legislative veto, § 12:12

First Amendment and commercial
speech, §§ 12:39 to 12:43

Individual liability, § 12:23

Industry-wide rulemaking, §§ 12:8
to 12:14

Injunctions
authority, generally, § 12:16,
12:17

bans and disclosures, § 12:38

consumer redress, § 12:22

Section 13(b), § 12:38

Judicial approval, corrective
advertising, § 12:35

Judicial review
cease and desist orders, § 12:3

FTC REMEDIES—Cont’d

Judicial review—Cont’d
industry-wide rulemaking,
§ 12:11

Jury trial, right to, Section 5(1),
§ 12:29

Magnuson-Moss rulemaking,
§ 12:10

Majority view, no private right of
action, § 12:46

Multiplying violations, Section
5(1), § 12:27

Pre-Magnusson-Moss rulemaking,
§ 12:9

Private action to enforce
telemarketing rules, § 12:48

Private right of action, no,
§§ 12:44 to 12:49

Proceeding by case or rule, § 12:7

Product coverage, cease and desist
orders, § 12:5

“Proper showing” for injunctions,
§ 12:17

Redress, §§ 12:19 to 12:24

Rulemaking 1981-90, § 12:13

Rulemaking 1990-2021, § 12:14

Rulemaking 2021 to present,
§ 12:15

Scope of conduct prohibited, cease
and desist orders, § 12:6

Scope of relief non-monetary
available in Section 13(b)
proceedings, injunctions,
§ 12:18

Section 5(1) civil penalties,
§§ 12:26 to 12:29

Section 5(m)(1)(A) rule violations,
§ 12:30

Section 5(m)(1)(B) violation of
orders issued against third
parties, § 12:31

Section 19 actions, consumer
redress, § 12:21

Supreme Court cases, First
Amendment and commercial
speech, § 12:40

INDEX

FTC REMEDIES—Cont'd

- Telemarketing, no private right of action, § 12:48
- Third parties, Section 5(m)(1)(B) violation of orders issued against, § 12:31
- Trade names, §§ 12:32 to 12:37
- Trends, corrective advertising, § 12:37

GIFT CARDS

- Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:35

GOVERNMENTAL ENFORCEMENT AUTHORITY

- Agency enforcement, App 7A

GRAMM-LEACH-BLILEY ACT

- FTC enforcement, new frontiers, consumer financial privacy, § 13:20

GROCERY SPECIALS

- Unfair and deceptive practices, Federal Trade Commission (FTC), unavailability, bait and switch, § 11:37

GROUNDLESS SUIT

- Private remedies, attorney fees and court costs, § 6:22

HALF-TRUTH

- Unfair and deceptive practices, Federal Trade Commission (FTC), § 10:10, 10:12

HEALTH AND SAFETY CLAIMS

- Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:10

HEALTH RISKS

- Unfair and deceptive practices, Federal Trade Commission

HEALTH RISKS—Cont'd

- (FTC), omission of information, § 10:18

HEARING

- Agency enforcement, respondent's right, § 7:7

HISTORICAL BACKGROUND AND JURISDICTION OF FEDERAL TRADE COMMISSION (FTC)

- Generally, § 1:5
- Drugs, exemptions, § 8:10
- Exempt industries, §§ 8:7 to 8:10
- Food and Drug Administration (FDA), exemptions, § 8:10
- Insurance industry, exemptions, § 8:8
- Interstate commerce requirement, § 8:4 et seq.
- Jurisdiction, concurrent with Consumer Financial Protection Bureau, § 8:11
- Nonprofit trade associations, exemptions, § 8:9
- Public interest requirement, § 8:3
- Statutory underpinnings, § 8:2

HOMES

- Implied warranty of habitability, state-by-state listing, App 18A
- Mobile Homes** (this index)
- Subsequent buyers
 - state-by-state listing, App 18B
 - treatment, state-by-state listing, App 18B
- Treatment of subsequent buyers, state-by-state listing, App 18B

IDENTITY THEFT

- FTC enforcement, new frontiers, § 13:22

IMPERSONATION FRAUD

- FTC enforcement, new frontiers, § 13:21

**IMPLIED WARRANTY OF
HABITABILITY**

State- by-state listing, **App 18A**

INDUSTRY SELF-REGULATION

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § **11:29**

**INDUSTRY-WIDE
RULEMAKING**

FTC remedies, §§ **12:8 to 12:14**

INFOMERCIALS

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § **11:21**

INJUNCTIONS

Agency enforcement, §§ **7:8 to 7:11**

FTC Remedies (this index)

Private remedies, § **6:9**

INNOCENT

MISREPRESENTATION

Common law actions, § **2:7**

INNUENDO

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § **10:10, 10:12**

INSURANCE INDUSTRY

Historical background and juris-
diction of Federal Trade
Commission (FTC), exemp-
tions, § **8:8**

INSURANCE PRACTICES

State acts, § **4:28, 4:29**

INTENTIONAL VIOLATION

Private remedies, multiple dam-
ages, § **6:13**

**INTERNATIONAL
ENFORCEMENT**

FTC enforcement, U.S.SAFE
WEB Act of 2006, § **13:24**

INTERNET

FTC enforcement, § **13:9**

Internet economy, deceptive earn-
ings claims, **13:16**

Internet-related consumer scams,
FTC enforcement, § **13:15**

Merchandise rule, § **13:9**

Online consumer transactions,
§ **13:14**

Online information privacy,
§ **13:18**

Online privacy, **13:19**

Unfair and deceptive practices,
Federal Trade Commission
(FTC), internet abuses,
§ **9:21**

INTERNET ECONOMY

Deceptive earnings claims, FTC
enforcement, new frontiers,
13:16

**INTERSTATE COMMERCE
REQUIREMENT**

Historical background and juris-
diction of Federal Trade
Commission (FTC), § **8:4 et
seq.**

INVESTIGATIVE POWERS

Agency enforcement, §§ **7:2 to 7:7**

INVESTMENT RISKS

Unfair and deceptive practices,
Federal Trade Commission
(FTC), omission of informa-
tion, § **10:19**

INVESTMENTS

State acts, § **4:26, 4:27**

JUDICIAL REVIEW

Agency enforcement, § **7:7, 7:26**

JUNK FEES

Unfair and deceptive practices,
Federal Trade Commission

INDEX

JUNK FEES—Cont'd

(FTC), bait and switch,
§ 11:38

JURISDICTION

Consumer Financial Protection
Bureau (CFPB), § 8:11
Federal Trade Commission (FTC).
**Historical Background and
Jurisdiction of Federal
Trade Commission (FTC)**
(this index)

LANDLORD-TENANT RELATIONSHIPS

State acts, §§ 4:16 to 4:20

LEGAL SERVICES CLIENTS

Private remedies, attorneys fees
and court costs, § 6:20

LEMON LAWS

Bibliography, **App 15C**
Citations, **App 15A**
Provisions, **App 15B**

LIMITATIONS

Common law actions, § 2:8

LOCAL ENFORCEMENT

Agency enforcement, § 7:28

LOTTERY CASES

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § 9:9

“MADE IN THE U.S.A.”

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § 11:48

MAGAZINES

State acts, § 4:37

MAGNUSON-MOSS WARRANTY ACT

FTC remedies
Magnuson-Moss rulemaking,
§ 12:10

MAGNUSON-MOSS

WARRANTY ACT—Cont'd

FTC remedies—Cont'd
pre-Magnusson-Moss rulemak-
ing, § 12:9

**Uniform Commercial Code and
Magnuson-Moss Warranty
Act** (this index)

MAIL MERCHANDISE RULE

FTC enforcement, new frontiers,
§ 13:9

MAJORITY VIEW

FTC remedies, no private right of
action, § 12:46

MANAGEABILITY

Private remedies, class actions,
§ 6:31

MARKETING GUIDES

Unfair and deceptive practices,
Federal Trade Commission
(FTC), environmental
advertising, § 11:45

MATERIALITY AND MATERIAL INFORMATION

Unfair and deceptive practices,
Federal Trade Commission
(FTC), §§ 9:12 to 9:15; 10:7,
10:8

MEDICAL PROCEDURES

Unfair and deceptive practices,
Federal Trade Commission
(FTC), advertising
substantiation, § 11:8

MENTAL ANGUISH

Private remedies, § 6:5, 6:6

MERCHANTS

State acts, §§ 4:5 to 4:7

MINIMUM DAMAGES

Private remedies, § 6:10, 6:11

MISREPRESENTATION

Common law actions, § 2:3, 2:6, 2:7
FTC enforcement, new frontiers, § 13:21

MOBILE HOMES

State acts, §§ 4:16 to 4:20

MODEL ACTS

State unfair and deceptive practices statutes, § 2:12

MOOTNESS

Agency enforcement, injunctions, § 7:9

MOTOR HOMES

Citations, App 17A
Warranty laws, App 17A, App 17B

MOTOR VEHICLE PRICING

Unfair and deceptive practices, Federal Trade Commission (FTC), bait and switch, § 11:38

MOTOR VEHICLES

Lemon laws. **Lemon Laws** (this index)
Mobile homes. **Mobile Homes** (this index)
Motor vehicle pricing. **Motor vehicle pricing** (this index)
New cars, lemon laws. **Lemon Laws** (this index)
Used cars. **Used Cars** (this index)

MULTIPLE DAMAGES

Private remedies, § 6:10, 6:12 to 6:15

MULTIPLYING PENALTIES

Agency enforcement, § 7:19

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Agency enforcement, § 7:31

“NATIVE” ADVERTISEMENTS

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:21

NEGLIGENCE STANDARD

Unfair and deceptive practices, state, § 3:11

NEGLIGENT MISREPRESENTATION

Common law actions, § 2:6

NET IMPRESSION

Unfair and deceptive practices, Federal Trade Commission (FTC), § 10:10, 10:11

NEWSPAPERS

State acts, § 4:37

1991 TELEPHONE CONSUMER PROTECTION ACT

Generally, § 13:4

1994 TELEMARKETING ACT

Generally, § 13:4

NON-DISCLOSURE

Common law actions, misrepresentation by, § 2:3

NONPROFIT TRADE ASSOCIATIONS

Historical background and jurisdiction of Federal Trade Commission (FTC), exemptions, § 8:9

NOTICE

Prerequisites to statutory actions, provisions, §§ 5:2 to 5:4

NUTRITION CLAIMS

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:11

INDEX

OMISSION OF INFORMATION AND MATERIAL FACTS

Unfair and deceptive practices,
Federal Trade Commission
(FTC), §§ **10:14 to 10:20**
state, §§ **3:8 to 3:11**

ONLINE INFORMATION PRIVACY

FTC enforcement, § **13:18**

ONLINE PRIVACY

FTC enforcement, **13:19**

ORGANIZATIONAL ENDORSEMENTS

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § **11:26**

OUT-OF-STATE SELLERS

State acts, § **4:38**

OUT-OF-STATE SELLERS OR CUSTOMERS

State acts, § **4:43**

OVER-THE-COUNTER DRUGS

Standards
Unfair and deceptive practices,
Federal Trade Commission
(FTC), advertising
substantiation, § **11:7**

PENALTIES

Agency enforcement, civil and
criminal, §§ **7:17 to 7:22**

PERFORMANCE CLAIMS

Unfair and deceptive practices,
Federal Trade Commission
(FTC), advertising
substantiation, § **11:13**

PHYSICAL INJURIES

State acts, § **4:13**

PHYSICAL PAIN AND SUFFERING

Private remedies, § **6:6**

PICTORIAL

MISREPRESENTATIONS

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § **11:17**

POLICY STATEMENT

Unfair and deceptive practices,
Federal Trade Commission
(FTC), §§ **9:5 to 9:7**
advertising substantiation, **App**
11A
deception, **App 10A**
unfairness, **App 9A**

POLITICAL ACTIVITIES

State acts, § **4:10**

PREREQUISITES TO CLASS ACTIONS

Private remedies, §§ **6:29 to 6:31**

PREREQUISITES TO STATUTORY ACTIONS

Generally, §§ **5:1 to 5:23**
Adequate notice, § **5:3**
Arbitration clauses, § **5:22**
Ascertainable loss found, § **5:10**
Ascertainable loss not found,
§ **5:10**
Ascertainable loss to plaintiff,
§ **5:9, 5:10**
Contract clauses, **5:20, § 5:21**
Contract disputes not in the public
interest, § **5:6**
Exhaustion of administrative rem-
edies, §§ **5:13 to 5:15**
Notice provisions, §§ **5:2 to 5:4**
Private actions, **App 5A**
Public interest requirement, §§ **5:5**
to 5:8
Repetition, potential for, § **5:8**
Retroactivity, §§ **5:16 to 5:20**
Statute of limitations, §§ **5:16 to**
5:20
Statutory notice, § **5:4**
Timing issues, §§ **5:16 to 5:20**

**PREREQUISITES TO
STATUTORY ACTIONS**

—Cont'd

Tolling of limitations period,
§ 5:18

Violations of other statutes or
regulations, § 5:7

Waiver of right to sue, § 5:23

PRETEXTING

FTC enforcement, new frontiers,
§ 13:21

**PREVAILING CONSUMER
PLAINTIFFS**

Private remedies, award of fees,
§§ 6:18 to 6:20

PREVAILING DEFENDANT

Private remedies, award of fees,
§§ 6:21 to 6:23

PRICING

Deceptive pricing (this index)

Unfair and deceptive practices,
Federal Trade Commission
(FTC), § 9:14, 11:31 to 11:38

**Unfair and Deceptive Practices,
State** (this index)

PRINCIPALS

State acts, § 4:38, 4:40

PRIVACY FRAMEWORK

FTC enforcement, new frontiers,
§ 13:23

PRIVATE ACTIONS

FTC remedies, no private right of
action, §§ 12:44 to 12:49

Prerequisites to statutory actions,
App 5A

Private remedies, § 6:2

PRIVATE REMEDIES

Generally, §§ 6:1 to 6:35, **App 6A**

Abuse of class action, § 6:34

Actual damages
generally, §§ 6:3 to 6:7

PRIVATE REMEDIES—Cont'd

Actual damages—Cont'd
necessity of proving, attorney
fees and court costs, § 6:19

Amount of fee award, § 6:25

Appellate fees, § 6:24

Arbitration and class actions,
§ 6:35

Attorney fees, §§ 6:17 to 6:27

Benefit of the bargain, § 6:4

Class actions, §§ 6:28 to 6:35

Commonality, class actions,
§ 6:30

Compensatory damages, §§ 6:3 to
6:7

Consequential damages, § 6:7

Court costs, §§ 6:17 to 6:27

Damages. Actual damages, above

Expert witness costs, § 6:24

Formula for calculating reasonable
fees, §§ 6:25 to 6:27

Frivolous suit, attorney fees and
court costs, § 6:22

Groundless suit, attorney fees and
court costs, § 6:22

Injunctions, § 6:9

Intentional violation, multiple
damages, § 6:13

Legal services clients, attorneys
fees and court costs, § 6:20

Manageability, class actions,
§ 6:31

Mental anguish, § 6:5, 6:6

Minimum damages, § 6:10, 6:11

Multiple damages, § 6:10, 6:12 to
6:15

Physical pain and suffering, § 6:6

Prerequisites to class actions,
§§ 6:29 to 6:31

Prevailing consumer plaintiffs,
award of fees, §§ 6:18 to
6:20

Prevailing defendant, award of
fees, §§ 6:21 to 6:23

Private rights of action, § 6:2

INDEX

PRIVATE REMEDIES—Cont'd

- Punitive damages, § 6:16
- Recovery of multiple damages in addition to other relief, § 6:15
- Representation of class, ability of individual plaintiff, § 6:32
- Rescission, § 6:8
- Restitution, § 6:8
- Safeguards against abuse of class action, § 6:34
- Settlement, effect on fee award amount, § 6:27
- Standing, § 6:3
- State attorney general, fees available from, § 6:23
- State attorney general class actions, § 6:33
- State enforcement agencies, attorneys fees and court costs, § 6:20
- Unreasonable refusal to settle, multiple damages, § 6:14

PRODUCT PLACEMENT

- Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:20

PROFESSIONAL ACTIVITIES

- State acts, §§ 4:34 to 4:36

PROGRAM LENGTH ADVERTISEMENTS

- Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:21

PSYCHOLOGICAL APPEAL

- Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:19

PUBLIC INTEREST REQUIREMENT

- Historical background and jurisdiction of Federal Trade Commission (FTC), § 8:3

PUBLIC INTEREST

REQUIREMENT—Cont'd

- Prerequisites to statutory actions, §§ 5:5 to 5:8

PUBLIC INTEREST STANDARD

- Agency enforcement, injunctions, § 7:10

PUBLIC UTILITIES

- State acts, § 4:30, 4:31

PUFFERY

- Common law actions, § 2:5

PUFFERY AND PUFFING

- Unfair and Deceptive Practices, Federal Trade Commission (FTC) (this index)

PUNITIVE DAMAGES

- Private remedies, § 6:16

PYRAMID SCHEMES

- Unfair and deceptive practices, state, § 3:15

REAL PROPERTY

- State acts, §§ 4:16 to 4:20

REASONABLE CONSUMER

- Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 10:4 to 10:6

“REASON TO BELIEVE STANDARD”

- Agency enforcement, § 7:3

RECKLESS PROMISES

- Unfair and deceptive practices, state, § 3:20

REGULATED INDUSTRIES

- State acts, §§ 4:21 to 4:33

RELIANCE

- Common law actions, justifiable of buyer, § 2:5
- Unfair and deceptive practices, state, §§ 3:3 to 3:7

REMEDIES

- Common law actions, § 2:8
- FTC Remedies** (this index)
- Private Remedies** (this index)

REPAIR

- Lemon Laws** (this index)

REPRESENTATION OF CLASS

- Private remedies, ability of individual plaintiff, § 6:32

REPROCESSED GOODS

- Unfair and deceptive practices, Federal Trade Commission (FTC), omission of information, § 10:15

RESCISSION

- Private remedies, § 6:8

RESTITUTION

- Agency enforcement, §§ 7:13 to 7:16
- Private remedies, § 6:8

RESTORE ONLINE SHOPPERS' CONFIDENCE ACT (ROSCA)

- Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:35

RETROACTIVITY

- Prerequisites to statutory actions, §§ 5:16 to 5:20

SAFETY CLAIMS

- Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:10

SAFETY RISKS

- Unfair and Deceptive Practices, Federal Trade Commission (FTC)** (this index)

SCIENTER

- Common law actions, § 2:4

SECURITIES

- State acts, § 4:26, 4:27

SECURITY BREACH

- FTC enforcement, new frontiers, § 13:22

SETTLEMENT

- Private remedies, effect on fee award amount, § 6:27

SHAREHOLDERS

- State acts, § 4:38, 4:39

SOCIAL MEDIA INFLUENCERS

- Unfair and deceptive practices, § 11:25

SPAM E-MAIL

- FTC enforcement, new frontiers, § 13:17

SPYWARE

- FTC enforcement, new frontiers, § 13:21

STATE ACTS

- Generally, §§ 1:4; 4:1 to 4:43
- Agents, § 4:38, 4:41
- Assignees, § 4:38, 4:42
- Broadcasters, § 4:37
- Business litigation, § 4:3, 4:4
- Completed transaction, § 4:15
- Corporate officers, § 4:38, 4:39
- Credit, § 4:22, 4:23
- Debt collection, § 4:24, 4:25
- Employer-employee relationship, § 4:14
- Exemptions, **App 4A**
- Insurance practices, § 4:28, 4:29
- Investments, § 4:26, 4:27
- Landlord-tenant relationships, §§ 4:16 to 4:20
- Limitation to “consumer” transactions, §§ 4:3 to 4:15
- Magazines, § 4:37
- “Merchandise,” § 4:12
- Merchants, §§ 4:5 to 4:7

INDEX

STATE ACTS—Cont'd

- Mobile homes, §§ 4:16 to 4:20
- Nature of transaction or injury, § 4:9
- Newspapers, § 4:37
- Out-of-state sellers or customers, § 4:43
- Parties' direct involvement in transaction, § 4:8
- Physical injuries, § 4:13
- Political activities, § 4:10
- Principals, § 4:38, 4:40
- Professional activities, §§ 4:34 to 4:36
- Public utilities, § 4:30, 4:31
- Real property, §§ 4:16 to 4:20
- Regulated industries, §§ 4:21 to 4:33
- Securities, § 4:26, 4:27
- Shareholders, § 4:38, 4:39
- Statutory limitations, App 4A
- "Trade or commerce," § 4:11

STATE ATTORNEY GENERAL

- Private remedies
- class actions, § 6:33
- fees available, § 6:23

STATE ENFORCEMENT AGENCIES

- Private remedies, attorneys fees and court costs, § 6:20

STATE LAWS

- Agency Enforcement** (this index)
- Common Law Actions** (this index)
- Lemon laws. **Lemon Laws** (this index)
- Prerequisites to Statutory Actions** (this index)
- Private Remedies** (this index)
- State Acts** (this index)
- Unfair and Deceptive Practices, State** (this index)

STATUTE OF LIMITATIONS

- Prerequisites to statutory actions, §§ 5:16 to 5:20

SUBLIMINAL ADVERTISING

- Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:20

SURVEYS AND TESTS

- Unfair and deceptive practices, Federal Trade Commission (FTC), claims based on, advertising substantiation, § 11:12

TELEPHONE ORDER

MERCHANDISE RULE

- FTC enforcement, new frontiers, § 13:9

TELEVISION MOCK-UPS

- Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:18

TESTIMONIALS AND ENDORSEMENTS

- Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 11:22 to 11:27

TOBACCO ADVERTISING

- Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 11:40 to 11:43

TOLLING OF LIMITATIONS PERIOD

- Prerequisites to statutory actions, § 5:18

TRIPARTITE CIGARETTE RULE TEST

- Unfair and deceptive practices, Federal Trade Commission (FTC), § 9:4

UNFAIR ADVANTAGE

- Unfair and deceptive practices, state, § 3:19

**UNFAIR AND DECEPTIVE
PRACTICES, FEDERAL
TRADE COMMISSION
(FTC)**

Generally, §§ **9:1 to 9:22; 10:1 to 10:25; 11:1 to 11:48**
 Adjudication, environmental advertising, § **11:46**
 Advertising and advertisements comparative advertising, § **11:28**
 environmental advertising, §§ **11:44 to 11:47**
 interpreting, §§ **10:21 to 10:24**
 “native” advertisements, § **11:21**
 product placement, § **11:20**
 program length advertisements, § **11:21**
 subliminal advertising, § **11:20**
 substantiation, §§ **11:2 to 11:15, App 11A**
 tobacco advertising, §§ **11:40 to 11:43**
 unsubstantiated claims, § **9:16**
 Average consumer, protecting, § **10:6**
 Bait and switch, § **11:36, 11:37**
 Breach of contract, § **9:18**
 Burden of proof, shifting, advertising substantiation, § **11:4**
 Capacity to deceive, § **10:3**
 Cases, comparative advertising, § **11:30**
 Celebrity endorsements, § **11:23**
 Cigarettes advertising, § **11:41**
 rule test, § **9:4**
 Climate change and energy issues, environmental advertising, § **11:47**
 Coercive sales technique, §§ **9:8 to 9:11**
 Commission discretion, § **9:2**

**UNFAIR AND DECEPTIVE
PRACTICES, FEDERAL
TRADE COMMISSION
(FTC)—Cont’d**

Comparative advertising, §§ **11:28 to 11:30**
 Consumer testimonials and reviews, § **11:24**
 Contract clauses, §§ **9:17 to 9:20**
 Cure claims, advertising substantiation, § **11:7**
 Deceptive practices generally, §§ **10:1 to 10:25**
 adjudication, environmental advertising, § **11:46**
 advertising and advertisements comparative advertising, § **11:28**
 environmental advertising, §§ **11:44 to 11:47**
 interpreting, §§ **10:21 to 10:24**
 “native” advertisements, § **11:21**
 policy statement on advertising substantiation, **App 11A**
 product placement, § **11:20**
 program length advertisements, § **11:21**
 subliminal advertising, § **11:20**
 substantiation, §§ **11:2 to 11:15, App 11A**
 tobacco advertising, §§ **11:40 to 11:43**
 average consumer, protecting, § **10:6**
 bait and switch, § **11:36, 11:37**
 burden of proof, shifting, advertising substantiation, § **11:4**
 capacity to deceive, § **10:3**
 cases, comparative advertising, § **11:30**

INDEX

UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)—Cont'd

Deceptive practices—Cont'd

- celebrity endorsements, § 11:23
- cigarette advertising cases, § 11:41
- comparative advertising, §§ 11:28 to 11:30
- consumer testimonials and reviews, § 11:24
- cure claims, Standards for over-the-counter drugs, § 11:7
- defense of puffing, § 10:7, 10:9
- dietary supplements
 - Standards for over-the-counter drugs, § 11:7
- discounts from former price, § 11:33
- discounts from “list” or prevailing price, § 11:32
- double meanings, § 10:10, 10:13
- early cases, § 10:5
- emotional appeal, § 11:19
- environmental advertising, §§ 11:44 to 11:47
- evidence, interpreting advertising, § 10:23, 10:24
- expert endorsements, § 11:26
- extrinsic evidence, interpreting advertising, § 10:23, 10:24
- FDA regulations, tobacco advertising, § 11:42
- food and nutrition claims, advertising substantiation, § 11:11
- foreign origin, omission of information, § 10:17
- fraud, § 10:25
- free offers, § 11:34
- grocery specials, unavailability, bait and switch, § 11:37
- half-truth, § 10:10, 10:12

UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)—Cont'd

Deceptive practices—Cont'd

- health and safety claims, advertising substantiation, § 11:10
- health risks, omission of information, § 10:18
- ignorant, protection of the, §§ 10:4 to 10:6
- industry self-regulation, § 11:29
- infomercials, § 11:21
- innuendo, § 10:10, 10:12
- intent of seller, irrelevancy of, § 10:2
- investment risks, omission of information, § 10:19
- judicial deference, interpreting advertising, § 10:22
- legal basis, advertising substantiation, § 11:5
- legal requirements, omission of information, § 10:20
- “Made in the U.S.A.,” § 11:48
- marketing guides for environmental advertising, § 11:45
- materiality, § 10:7, 10:8
- medical procedures, § 11:8
- “native” advertisements, § 11:21
- nature of product, omission of information, § 10:16
- net impression, § 10:10, 10:11
- nonverbal deception, §§ 11:16 to 11:21
- nutrition claims, advertising substantiation, § 11:11
- omission of information, §§ 10:14 to 10:20
- organizational endorsements, § 11:26
- origin, purpose and effect, advertising substantiation, § 11:3

**UNFAIR AND DECEPTIVE
PRACTICES, FEDERAL
TRADE COMMISSION
(FTC)—Cont'd**

Deceptive practices—Cont'd
 performance claims, advertising
 substantiation, § 11:13
 pictorial misrepresentations,
 § 11:17
 policy statement on advertising
 substantiation, **App 11A**
 policy statement on deception,
 App 10A
 policy statement on unfairness,
 App 9A
 post-claim evidence, advertising
 substantiation, § 11:15
 prevailing price, discount from,
 § 11:32
 pricing, §§ 11:31 to 11:38
 product placement, § 11:20
 program length advertisements,
 § 11:21
 psychological appeal, § 11:19
 puffing
 advertising substantiation,
 § 11:14
 defense, § 10:7, 10:9
 reasonable basis defined,
 advertising substantiation,
 § 11:6
 reasonable consumer, §§ 10:4
 to 10:6
 reprocessed goods, omission of
 information, § 10:15
 safety claims, advertising
 substantiation, § 11:10
 safety risks, omission of infor-
 mation, § 10:18
 social media influencers,
 § 11:25
 sources, interpreting advertis-
 ing, § 10:24
 Standard for over-the-counter
 drugs, advertising
 substantiation, § 11:7

**UNFAIR AND DECEPTIVE
PRACTICES, FEDERAL
TRADE COMMISSION
(FTC)—Cont'd**

Deceptive practices—Cont'd
 state action, tobacco advertis-
 ing, § 11:43
 subliminal advertising, § 11:20
 surveys and tests, claims based
 on, advertising substantia-
 tion, § 11:12
 television mock-ups, § 11:18
 tendency to deceive, § 10:3
 testimonials and endorsements,
 §§ 11:22 to 11:27
 tobacco advertising, §§ 11:40 to
 11:43
 trend, interpreting advertising,
 § 10:23
 used goods, omission of infor-
 mation, § 10:15
 visual deception, §§ 11:16 to
 11:21
 weight loss claims, advertising
 substantiation, § 11:9
 Deceptive pricing
 conclusion, §§ 11:39
 Defense of puffing, § 10:7, 10:9
 Dietary supplements, deceptive
 practices
 Standards for over-the-counter
 drugs, § 11:7
 Discounts
 from former price, § 11:33
 “list” or prevailing price,
 § 11:32
 prevailing price, § 11:32
 Double meanings, § 10:10, 10:13
 Early cases, § 10:5
 Efficacy, withholding material
 information, § 9:13
 Emotional appeal, § 11:19
 Environmental advertising,
 §§ 11:44 to 11:47

INDEX

UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)—Cont'd

Evidence, interpreting advertising,
§ 10:23, 10:24
Expert endorsements, § 11:26
Extrinsic evidence, interpreting
advertising, § 10:23, 10:24
FDA regulations, tobacco advertis-
ing, § 11:42
Food and nutrition claims,
advertising substantiation,
§ 11:11
Foreign origin, omission of infor-
mation, § 10:17
Free offers, § 11:34
Gift cards, § 11:35
Grocery specials, unavailability,
bait and switch, § 11:37
Half-truth, § 10:10, 10:12
Health and safety claims, advertis-
ing substantiation, § 11:10
Health risks, omission of informa-
tion, § 10:18
High pressure methods, § 9:10
Ignorant, protection of the,
§§ 10:4 to 10:6
Industry self-regulation, § 11:29
Infomercials, § 11:21
Innuendo, § 10:10, 10:12
Intent of seller, irrelevancy of,
§ 10:2
Internet abuses, § 9:21
Investment risks, omission of
information, § 10:19
Judicial deference, interpreting
advertising, § 10:22
Junk fees, bait and switch, § 11:38
Legal basis, advertising
substantiation, § 11:5
Legal requirements, omission of
information, § 10:20
Lottery cases, § 9:9
“Made in the U.S.A.,” § 11:48

UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)—Cont'd

Marketing guides for
environmental advertising,
§ 11:45
Market place morality, § 9:3
Material information, withholding,
§§ 9:12 to 9:15
Materiality, § 10:7, 10:8
Medical procedures, advertising
substantiation, § 11:8
Motor vehicle pricing, bait and
switch, § 11:38
“Native” advertisements, § 11:21
Negative options, § 11:35
Net impression, § 10:10, 10:11
Unfairness policy statement, § 9:5
Non-contractual practices, § 9:19
Nonverbal deception, §§ 11:16 to
11:21
Nutrition claims, advertising
substantiation, § 11:11
Omission of information, §§ 10:14
to 10:20
Organizational endorsements,
§ 11:26
Performance claims, advertising
substantiation, § 11:13
Pictorial misrepresentations,
§ 11:17
Policy statement on deception,
App 10A
Policy statement on unfairness,
App 9A
Policy statements, §§ 9:5 to 9:7
Post-claim evidence, advertising
substantiation, § 11:15
Postpurchase practices, § 9:17
Prevailing price, discount from,
§ 11:32
Pricing, §§ 9:14; 11:30 to 11:38
Product placement, § 11:20

**UNFAIR AND DECEPTIVE
PRACTICES, FEDERAL
TRADE COMMISSION
(FTC)—Cont'd**

Program length advertisements,
§ 11:21

Psychological appeal, § 11:19

Puffing
advertising substantiation,
§ 11:14
defense, § 10:7, 10:9

Reasonable basis defined,
advertising substantiation,
§ 11:6

Reasonable consumer, §§ 10:4 to
10:6

Reprocessed goods, omission of
information, § 10:15

Restore Online Shoppers'
Confidence Act (ROSCA),
§ 11:35

Safety claims, advertising
substantiation, § 11:10

Safety risks
omission of information,
§ 10:18
withholding material informa-
tion, § 9:15

Social media influencers, § 11:25

Standards for over-the-counter
drugs, advertising substantia-
tion, § 11:7

State action, tobacco advertising,
§ 11:43

Subliminal advertising, § 11:20

Surveys and tests, claims based
on, advertising substantiation,
§ 11:12

Television mock-ups, § 11:18

Tendency to deceive, § 10:3

Testimonials and endorsements,
§§ 11:22 to 11:27

Theft of information, § 9:21

Tobacco advertising, §§ 11:40 to
11:43

**UNFAIR AND DECEPTIVE
PRACTICES, FEDERAL
TRADE COMMISSION
(FTC)—Cont'd**

Trend, interpreting advertising,
§ 10:23

Tripartite cigarette rule test, § 9:4

Unfair practices
generally, §§ 9:1 to 9:22
advertising claims, unsubstanti-
ated, § 9:16
breach of contract, § 9:18
cigarette rule test, § 9:4
coercive sales technique, §§ 9:8
to 9:11
commission discretion, § 9:2
contract clauses, §§ 9:17 to
9:20
criteria, generally, §§ 9:3 to 9:7
efficacy, withholding material
information, § 9:13
high pressure methods, § 9:10
lottery cases, § 9:9
market place morality, § 9:3
material information, withhold-
ing, §§ 9:12 to 9:15
unfairness policy statement,
§ 9:5
non-contractual practices,
§ 9:19
policy statement, §§ 9:5 to 9:7
Postpurchase practices, § 9:17
price, withholding material
information, § 9:14
safety risks, withholding mate-
rial information, § 9:15
tripartite cigarette rule test,
§ 9:4
vulnerable consumers, § 9:11

Used goods, omission of informa-
tion, § 10:15

Visual deception, §§ 11:16 to
11:21

Vulnerable consumers, § 9:11

INDEX

UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)—Cont'd

Weight loss claims, advertising
substantiation, § 11:9

UNFAIR AND DECEPTIVE PRACTICES, STATE

Generally, §§ 3:1 to 3:28

Actual knowledge or intent stan-
dard, § 3:10

Actual reliance, § 3:7

Bait and switch advertising, § 3:14

Bibliography, state acts, App 3C

Coercion, § 3:19

Consumer protection statutes, App
3A, App 3B

Deceptive practices

actual knowledge or intent stan-
dard, § 3:10

actual reliance, § 3:7

bait and switch advertising,
§ 3:14

duty to disclose standard, § 3:11

intent standard, § 3:10

intent to deceive, § 3:2

justifiable reliance not required,
§ 3:4

justifiable reliance required,
§ 3:5

materiality, § 3:7

materiality, omission of material
fact, § 3:9

negligence standard, § 3:11

omission of material facts,
§§ 3:8 to 3:15

pricing, deceptive, § 3:13

puffery defense, § 3:6

pyramid schemes, § 3:15

reasonable consumer standard,
§ 3:6

reliance, §§ 3:3 to 3:7

specific deceptive practices,
§§ 3:12 to 3:15

UNFAIR AND DECEPTIVE PRACTICES, STATE —Cont'd

Defective products, § 3:21

Duress, § 3:19

Duty to disclose standard, § 3:11

Federal Trade Commission (FTC)
jurisprudence as interpretive
source, §§ 3:23 to 3:26

Intent standard, § 3:10

Intent to deceive, § 3:2

Judicial deference to FTC, § 3:25

Justifiable reliance not required,
§ 3:4

Justifiable reliance required, § 3:5

Materiality, § 3:7

Model acts for state UDAP
statutes, § 2:12

Negligence standard, § 3:11

Omission of material facts, §§ 3:8
to 3:15

Origins of Acts, § 2:11

Pricing

deceptive, § 3:13

unconscionably high, § 3:17

Puffery defense, § 3:6

Pyramid schemes, § 3:15

Reasonable consumer standard,
§ 3:6

Reckless promises, § 3:20

Reliance, §§ 3:3 to 3:7

States guided but not bound by
FTC, § 3:26

Statutory provisions, FTC, § 3:24

Unconscionable practices. Unfair
practices, below

Unfair advantage, § 3:19

Unfair and Deceptive Practices
Acts, model acts, § 2:12

Unfair practices

generally, §§ 3:16 to 3:22

coercion, § 3:19

defective products, § 3:21

duress, § 3:19

**UNFAIR AND DECEPTIVE
PRACTICES, STATE**

—Cont'd

- Unfair practices—Cont'd
 - miscellaneous misconduct,
§ 3:22
 - prices, unconscionably high,
§ 3:17
 - reckless promises, § 3:20
 - unfair advantage, § 3:19
 - venue, distant, § 3:18
 - warranty, poor performance,
§ 3:21
- Venue, distant, § 3:18
- Violation of regulations, 3:27,
§ 3:27
- Warranty, poor performance,
§ 3:21

**UNREASONABLE REFUSAL TO
SETTLE**

- Private remedies, multiple dam-
ages, § 6:14

USED GOODS

- Cars. **Used Cars** (this index)
- Unfair and deceptive practices,
Federal Trade Commission
(FTC), omission of informa-
tion, § 10:15

U.S.SAFE WEB ACT OF 2006

- FTC enforcement, new frontiers,
§ 13:24

VENUE

- Unfair and deceptive practices,
state, distant, § 3:18

VISUAL DECEPTION

- Unfair and deceptive practices,
Federal Trade Commission
(FTC), §§ 11:16 to 11:21

VULNERABLE CONSUMERS

- Unfair and deceptive practices,
Federal Trade Commission
(FTC), § 9:11

WAIVER OF RIGHT TO SUE

- Prerequisites to statutory actions,
§ 5:23

WARRANTY

- Common law actions. **Common
Law Actions** (this index)
- Magnuson-Moss Warranty Act.
**Uniform Commercial Code
and Magnuson-Moss War-
ranty Act** (this index)
- Motor homes, **App 17A, App 17B**

WEIGHT LOSS CLAIMS

- Unfair and deceptive practices,
Federal Trade Commission
(FTC), advertising
substantiation, § 11:9