Delegation doctrine

15 U.S.C. § 41

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.
15 USC 57a
(a) Authority of Commission to prescribe rules and general statements of policy

(1) Except as provided in subsection (h) of this section, the Commission may prescribe--
(A) interpretive rules and general statements of policy with respect to unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 45(a)(1) of this title), and

(B) rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 45(a)(1) of this title), except that the Commission shall not develop or promulgate any trade rule or regulation with regard to the regulation of the development and utilization of the standards and certification activities pursuant to this section. Rules under this subparagraph may include requirements prescribed for the purpose of preventing such acts or practices.

(2) The Commission shall have no authority under this subchapter, other than its authority under this section, to prescribe any rule with respect to unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 45(a)(1) of this title). The preceding sentence shall not affect any authority of the Commission to prescribe rules (including interpretive rules), and general statements of policy, with respect to unfair methods of competition in or affecting commerce.
Rulemaking

- Administrative Procedures Act, 5 U.S.C. 553 procedural process for implementing legislative power

- Notice and Comment (informal rulemaking)
  - publication of proposed rules
  - period for comments and participation in the decision making
  - publication of final rule
Other administrative materials

- Guidelines, guidance documents
- Policy statements
- Interpretations
- Enforcement activities and quasi-judicial functions

Vary by agency
Regulation publication

- Federal Register (FR)
  daily announcements from agencies
  monitor TOC

- Code of Federal Regulations (CFR)
  codified (arranged by subject) final regulations currently in force
Decisions and Rulings

- Hearings and decisions by administrative law judges
- About 15 agencies officially report decisions (Bluebook T.1)
- UVA list
Finding/Discovery

- Usual techniques of secondary sources, references in cases
- Difficulty of finding statute/regulation connection
- Specialized research tools (e.g. CCH, BNA)
- Agency website
- LexisNexis/Westlaw
History of regulation


SOURCE: 53 FR 45459, Nov. 10, 1988; 60 FR 54186, Oct. 20, 1995, unless otherwise noted.

Antitrust and Trade Regulation

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TC-RULE, TRADE-REGULATION ¶38.030, Cooling-Off Period for Door-to-Door Sales

Cooling-Off Period for Door-to-Door Sales

16 CFR 429, as amended

29.1. The Rule.

In connection with any door-to-door sale, it constitutes an unfair and deceptive act or practice for any seller to:

(a) Fail to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form.

"You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

The seller may select the method of providing the buyer with the duplicate notice of cancellation form set forth in paragraph (b) of this section, provided however, that in the event of cancellation the buyer must be able to retain a complete copy of the contract or receipt. Furthermore, if both forms are not attached to the contract or receipt, the seller is required to alter the last sentence in the statement above to conform to the actual location of the forms.
Presidential lawmaking

- Executive Orders
government business, organization

- Proclamations
  often ceremonial, but can be related to treaties

- In Federal Register
  Title 3 CFR
Presidential statements

- proposed legislation explanations, signing statements, speeches

- Congressional Record

- Weekly Compilation of Presidential Documents (cumulated as Public Papers of the President)