803(6) prohibits creditors from using names other than their own that would create the false impression that a third party (presumably a collection agency) is involved. This addresses the problem highlighted by Guide 5. Section 812 of the FDCPA also prohibits furnishing forms creating a false impression of third-party collection agency involvement. In the main, the practices addressed by Guide 5 are addressed by the FDCPA.

G. Services, Guide 6 [Section 237.6]

Guide 6 prohibits an "industry member" from misrepresenting the services it renders in soliciting accounts.¹⁶ Similarly, Section 807(2) of the FDCPA prohibits the false representation of "any services rendered or compensation received by any debt collector for the collection of a debt." Thus, elimination of Guide 6 will have no effect on the Commission's debt collection enforcement policies.

III. Conclusion

The Commission's Guides Against Debt Collection Deception have been superseded by the FDCPA and are no longer needed. Few in the debt collection industry are even aware that the Guides exist. The Commission has never taken any enforcement action alleging violation of Section 5 because the conduct at issue violated the Guides. Since they are superfluous, the Commission has determined that it is in the public interest to eliminate the Guides.

List of Subjects in 16 CFR Part 237

Credit, Trade practices.

PART 237—[REMOVED]

The Commission, under authority of Sections 5(a)(1) and 6(g) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1) and 46(g), amends chapter I of Title 16 of the Code of Federal Regulations by removing Part 237.

By direction of the Commission.

Donald S. Clark,

Secretary.

Statement of Commissioner Mary L. Azcuenaga Concurring in 16 CFR Part 14, Matter No. P954215; Repeal of Mail Order Insurance Guides, Matter No. P954903; Repeal of Guides Re: Debt Collection, Matter No. P954809; and Free Film Guide Review, Matter No. P959101

In a flurry of deregulation, the Commission today repeals or substantially revises several Commission guides and other interpretive rules.¹ The Commission does so without seeking public comment. I have long supported the general goal of repealing or revising unnecessary, outdated, or unduly burdensome legislative and interpretive rules, and I agree that the repeal or revision of these particular guides and interpretive rules appears reasonable. Nevertheless, I cannot agree with the Commission's decision not to seek public comment before making these changes.

Although it is not required to do so under the Administrative Procedure Act, 5 U.S.C. 553(b)(A), the Commission traditionally has sought public comment before issuing, revising, or repealing its guides and other interpretive rules. More specifically, the Commission adopted a policy in 1992 of reviewing each of its guides at least once every ten years and issuing a request for public comment as part of this review. *See* FTC Operating Manual ch. 8.3.8. The Commission decided to seek public comment on issues such as:

(1) The economic impact of and continuing need for the guide; (2) changes that should be made in the guide to minimize any adverse economic effect; (3) any possible conflict between the guide and any federal, state, or local laws; and (4) the effect on the guide of technological, economic, or other industry changes, if any, since the guide was promulgated.

Id. The Commission has sought public comment and has posed these questions concerning a number of guides since adopting its procedures for regulatory review in 1992.²

Notwithstanding its long-standing, general practice of seeking public comment and its specific policy of seeking public comment as part of its regulatory review process, the Commission has chosen not to seek public comment before repealing or revising these guides and interpretive rules. Why not? Has the Commission changed its view about the potential value of public comment? Perhaps the Commission knows all the answers, but then again, perhaps not. Although reasonable arguments can be made for repeal or revision of these guides and interpretive rules, public comment still might prove to be beneficial.

In addition, the relatively short period of time that would be required for public comment should not be problematic. The Commission has not addressed any of these guides or interpretive rules in the last ten years. Indeed, it has not addressed some of them for thirty years or more. For example, the Commission apparently has not addressed the interpretive rule concerning the use of the word "title" in designation of non-ceramic products since it was issued in 1950.³ The continued existence of these guides and interpretive rules during a brief public comment period surely would cause no harm because they are not binding and because, arguably, they are obsolete. I seriously question the need to act so precipitously as to preclude the opportunity for public comment.⁴

In 1992, the Commission announced a careful, measured approach for reviewing its guides and interpretive rules, and public comment has been an important part of that process. Incorporating public comment into the review is appropriate and sensible. Although I have voted in favor of repealing or revising these guides and interpretive rules, I strongly would have preferred that the Commission seek public comment before doing so.

[FR Doc. 95–19542 Filed 8–7–95; 8:45 am] BILLING CODE 6750–01–M

16 CFR Part 242

Guide Against Deceptive Use of the Word "Free" in Connection With the Sale of Photographic Film and Film Processing Service

AGENCY: Federal Trade Commission. **ACTION:** Elimination of guide.

SUMMARY: The Guide Against Deceptive Use of the Word "Free" in Connection With the Sale of Photographic Film and Film Processing Service ("Free Film Guide") sets forth industry guidance concerning offers of "free" ' film in connection with the sale of photographic processing services. The Commission's Guide Concerning Use of the Word "Free" and Similar Representations, which was adopted after the Free Film Guide and which applies to all industries, sets forth essentially the same guidance concerning offers of "free" merchandise or service in connection with the sale of some other merchandise or service. The Free Film Guide has thus been supplanted by the Guide Concerning Use of the Word "Free" and Similar Representations and is no longer needed. Accordingly, the Commission has determined that it is in the public interest to eliminate the Guide Against Deceptive Use of the Word "Free" in Connection With the Sale of Photographic Film and Film Processing Service.

¹⁶ "In the solicitation of accounts for collection or for ascertainment of credit status, an industry member shall not directly, or by implication, misrepresent the services he renders."

¹Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements, 16 C.F.R. Part 14; Guides for the Mail Order Insurance Industry, 16 C.F.R. Part 234; Guides Against Debt Collection Deception, 16 C.F.R. Part 237; and Guide Against Deceptive Use of the Word "Free" In Connection With the Sale of Photographic Film and Film Processing Services, 16 C.F.R. Part 242.

² See, e.g., Request for Comments Concerning Guides for the Hosiery Industry, 59 FR 18004 (Apr. 15, 1994); Request for Comment Concerning Guides for the Feather and Down Products Industry, 59 Fed. Reg. 18006 (Apr. 15, 1994).

³16 C.F.R. 14.2.

⁴Unfortunately, seeking public comment would not permit the Commission to count the repeal and revision of these guides and interpretive rules in its tally of completed actions in the Regulatory Reinvention Initiative Report that will be sent to the President on August 1, 1995, but perhaps that harm could be mitigated by reporting to the President that the Commission is seeking public comment concerning repeal or revision.