PART 242—[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 242.

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. 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 I have long supported the general goal of repealing or revising unnecessary, outdated, or unduly burdensome legislative and interpretive rules, and I agree that the repeal or revision of these particular guides and interpretive rules appears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 "tile" 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. 95–19543 Filed 8–7–95; 8:45 am] BILLING CODE 6750–01–M

16 CFR Part 248

Guides for the Beauty and Barber Equipment and Supplies Industry

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

summary: The Guides for the Beauty and Barber Equipment and Supplies Industry (the "Beauty/Barber Guides" or the "Guides") designate as unacceptable certain advertising and trade practices relating to the sale of products used by, and/or marketed through, "industry members" (as defined in Section 248.0 of the Guides) such as barber shops, barber schools, beauty parlors, beauty

salons, beauty clinics, and organizations or corporations engaging in the manufacture or distribution of industry products. Such products embrace a wide range of beauty and barber preparations, as well as articles or items of equipment, furnishings, and supplies for such establishments.

The Commission believes that the Beauty/Barber Guides do not provide guidance substantially specific to the beauty and barber equipment and supply industry. In addition, the Commission believes that, in some instances, the Guides no longer accurately represent current Commission policy, and would require extensive revision to be made up-to date. Although such a revision and reissuance might be warranted if there were evidence of widespread marketing abuses of the type addressed by the Guides, the Commission has no such evidence. In addition, the Commission believes that likely abuses, if any, are adequately addressed under applicable antitrust, consumer protection, and commercial tort laws, which are matters of public record. Consequently, the Commission believes that there is no continuing need for the Guides, and that they should be repealed in their entirety.

Although the Commission is eliminating the Guides, proceedings still may be brought against businesses under Section 5(a)(1) of the Federal Trade Commission Act (the "FTC Act"), 15 U.S.C. 45(a)(1), for engaging in unfair or deceptive acts or practices in or affecting commerce in the advertising and sale of beauty and barber equipment and supplies. Proceedings also may be brought under Section 5(a)(1) of the FTC Act against businesses engaging in unfair methods of competition.

EFFECTIVE DATE: August 8, 1995.

ADDRESSES: Requests for copies of this document should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Introduction

As a part of its ongoing project to review all rules and guides, the Commission invited comment on its Guides for the Beauty and Barber Equipment and Supplies Industry, 16

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 Fed. Reg. 18004 (Apr. 15, 1994); Request for Comment Concerning Guides for the Feather and Down Products Industry, 59 Fed. Reg. 18006 (Apr. 15, 1994).

^{3 16} 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.