IDAPA 04 – IDAHO OFFICE OF THE ATTORNEY GENERAL

04.02.01 – Idaho Rules of Consumer Protection, Office of the Attorney General

Who does this rule apply to?
These rules apply to the general public and any persons or entities engaging in unfair, false, deceptive, misleading or unconscionable acts or practices.

What is the purpose of this rule?
The purpose of these rules is to protect the general public against unfair, false, deceptive, misleading or unconscionable acts or practices by defining with reasonable specificity some of the acts and practices that violate The Idaho Consumer Protection Act. These rules are further intended to provide reasonable guidance to persons doing business in the State of Idaho.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statutes passed by the Idaho Legislature:

- Section 48-601, et seq., Idaho Code – Consumer Protection Act

Who do I contact for more information on this rule?

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Table of Contents

IDAPA 04 – OFFICE OF THE ATTORNEY GENERAL

04.02.01 – Idaho Rules of Consumer Protection, Office of the Attorney General

SUBCHAPTER A – GENERAL PROVISIONS

000. Legal Authority (Rule 0). 6
001. Title And Scope (Rule 1). 6
002. Written Interpretations – Agency Guidelines (Rule 2). 6
003. Rules Of Construction (Rule 3). 6
004. Non-Inclusive (Rule 4). 6
005. Cumulative (Rule 5). 6
006. Non-Exclusive (Rule 6). 6
007. Exceptions To These Rules (Rule 7). 6
008. Regulated Persons (Rule 8). 6
009. Knowledge (Rule 9). 6
010. -- 019. (Reserved) 7

SUBCHAPTER B – DEFINITIONS

020. Definitions (Rule 20). 7
021. -- 029. (Reserved) 12

SUBCHAPTER C – FALSE, MISLEADING CONDUCT IN GENERAL

030. General Rule (Rule 30). 12
031. Substantiation (Rule 31). 12
032. Contradictory Representations (Rule 32). 12
033. Violations Of Other Laws And Court Orders (Rule 33). 12
034. Official, Governmental, Or Other Misleading Envelopes Or Offers (Rule 34). 13
035. Invoices And Bills (Rule 35). 13
036. Mailbox Addresses (Rule 36). 13
037. -- 039. (Reserved) 13

SUBCHAPTER D – DISCLOSURE OF CONDITIONS IN OFFER

040. General Rule (Rule 40). 13
041. Subsequent Disclosure (Rule 41). 13
042. -- 049. (Reserved) 13

SUBCHAPTER E – BAIT AND SWITCH SALES

050. General Rule (Rule 50). 14
051. Initial Offer (Rule 51). 14
052. Discouragement Of Purchase Of Advertised Merchandise (Rule 52). 14
053. Switch After Sale (Rule 53). 14
054. Pattern Of Conduct (Rule 54). 14
055. Leader Items (Rule 55). 14
056. -- 059. (Reserved) 14

SUBCHAPTER F – DECEPTIVE, COMPARATIVE, REFERENCE, AND WHOLESALE PRICING

060. Deceptive Pricing -- General Rule (Rule 60). 15

061. Comparative Pricing -- General Rule (Rule 61). 15
062. Comparisons Of Seller's Present Prices To Seller's Former Prices (Rule 62). 15
063. Competitor Retail Price Comparisons (Rule 63). 16
064. Comparable Price Comparisons (Rule 64). 16
065. Reference Retail Pricing Practices (Rule 65). 16
066. Wholesale, Factory Direct, Or Similar Claims (Rule 66). 16
067. Limited Offers (Rule 67). 16
068. Substantiation (Rule 68). 17
069. (Reserved) 17

SUBCHAPTER G – USE OF THE WORD "FREE" AND SIMILAR REPRESENTATIONS

070. General Rule (Rule 70). 17
071. Tie-In Sales (Rule 71). 17
072. Conditional Offers (Rule 72). 17
073. Use Of Similar Terms (Rule 73). 17
074. Asterisks (Rule 74). 17
075. Delivery Charges (Rule 75). 17
076. -- 079. (Reserved) 17

SUBCHAPTER H – PROMOTIONAL GAMES AND ADVERTISING AND DECEPTIVE USE OF GIFTS

080. No Purchase Required For Chance Promotions (Rule 80). 18
081. Disclosure Requirements In Gift Promotions (Rule 81). 18
082. Misleading Offers (Rule 82). 18
083. -- 089. (Reserved) 19

SUBCHAPTER I – GOING-OUT-OF-BUSINESS SALES

090. General Rule (Rule 90). 19
091. Inflating Inventory (Rule 91). 19
092. -- 099. (Reserved) 19

SUBCHAPTER J – INSUFFICIENT SUPPLY/LIMITATION ON QUANTITY

100. General Rule (Rule 100). 19
101. Rain Checks (Rule 101). 19
102. Substitute Goods (Rule 102). 20
103. Determination Of Reasonably Expected Public Demand (Rule 103). 20
104. -- 109. (Reserved) 20

SUBCHAPTER K – DISCLOSURE OF PRIOR USE

110. General Rule (Rule 110). 20
111. Disclosure Required (Rule 111). 20
112. Acceptable Disclosures (Rule 112). 20
113. Returned Goods (Rule 113). 20
114. -- 119. (Reserved) 20

SUBCHAPTER L – ESTIMATES

120. General Rule (Rule 120). 20
121. Unforeseeable Conditions (Rule 121). 20
122. Express Limited Authorization (Rule 122). 21

123. -- 129. (Reserved) 21
SUBCHAPTER M – REPAIRS AND IMPROVEMENTS
130. General Rule (Rule 130). 21
131. Itemized Billing (Rule 131). 21
132. Old Or Replaced Parts (Rule 132). 21
133. -- 139. (Reserved) 22
SUBCHAPTER N – TIME OF DELIVERY OR PERFORMANCE INCLUDING MAIL ORDER SALES
140. General Rule (Rule 140). 22
141. Mail Order Sales (Rule 141). 22
142. -- 149. (Reserved) 22
SUBCHAPTER O – LAY-AWAY PLANS
150. General Rule (Rule 150). 22
151. Refunds Of Lay-Away Payments (Rule 151). 23
152. Forfeiture And Default (Rule 152). 23
153. -- 159. (Reserved) 23
SUBCHAPTER P – UNFAIR SOLICITATION PRACTICES AT OTHER THAN TRADE PREMISES
160. Disclosure Requirements (Rule 160). 23
161. General Rule (Rule 161). 23
162. Prohibited Practices (Rule 162). 24
163. Mail Order And Catalog Sales (Rule 163). 24
164. Application Of Other Rules (Rule 164). 24
165. -- 169. (Reserved) 24
SUBCHAPTER Q – COOLING-OFF PERIOD FOR DOOR-TO-DOOR SALES
170. General Rule (Rule 170). 24
171. -- 189. (Reserved) 26
SUBCHAPTER S – PYRAMID AND CHAIN DISTRIBUTION SCHEMES
190. General Rule (Rule 190). 26
191. Purported Limitations (Rule 191). 26
192. Factors (Rule 192). 26
193. -- 199. (Reserved) 27
SUBCHAPTER T – LOAN BROKER FEES
200. General Rule (Rule 200). 27
201. Exceptions (Rule 201). 27
202. -- 209. (Reserved) 27
SUBCHAPTER U – PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES (HOLDER IN DUE COURSE)
210. General Rule (Rule 210). 28
211. -- 219. (Reserved) 28
SUBCHAPTER V – UNORDERED GOODS OR SERVICES
220. General Rule (Rule 220). 28
221. -- 229. (Reserved) 28

SUBCHAPTER W – AUTOMOBILE ADVERTISING AND SALES

230. Objective (Rule 230). 28
231. Application Of Other Rules (Rule 231). 28
232. General Advertising Practices (Rule 232). 29
233. Price Advertising (Rule 233). 29
234. Other Advertising Practices (Rule 234). 30
235. Credit Sales Advertising (Rule 235). 32
236. Truth In Leasing Advertising (Rule 236). 33
237. Motor Vehicle Subject-To-Financing Contracts (Rule 237). 33
238. -- 999. (Reserved) 33

04.02.01 – IDAHO RULES OF CONSUMER PROTECTION, OFFICE OF THE ATTORNEY GENERAL

SUBCHAPTER A – GENERAL PROVISIONS
(Rules 0-19)

000. LEGAL AUTHORITY (RULE 0).
This chapter is adopted under the legal authority of Title 67, Chapter 52, Idaho Code, and pursuant to Section 48-604(2), Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are titled "Idaho Rules of Consumer Protection, Office of the Attorney General," IDAPA 04, Title 02, Chapter 01. (7-1-93)

02. Scope. These rules are intended to protect persons in the state of Idaho against unfair, false, deceptive, misleading or unconscionable acts or practices by defining with reasonable specificity some of the acts and practices that violate the Act. Further, they are intended to provide reasonable guidance to persons doing business in the State of Idaho. (7-1-93)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements that pertain to the interpretation of the rules of this chapter, or to the compliance with the rules of this chapter. The document is available for public inspection and copying at cost at the Office of the Attorney General, Consumer Protection Unit. (7-1-93)

003. RULES OF CONSTRUCTION (RULE 3).
Without limiting the scope of any section of the Act, or any other rule or law, these rules shall be liberally construed and applied to promote the general purposes and policies of the Act. (7-1-93)

004. NON-INCLUSIVE (RULE 4).
These rules are not intended to cover all trade practices that violate the provisions of the Act. Many areas of illegal practice in trade and commerce are not specifically encompassed by these rules, but are still actionable under the Act. (7-1-93)

005. CUMULATIVE (RULE 5).
These rules are intended to be cumulative in effect and supplementary to each other. If acts or practices are governed by more than one (1) rule, compliance with one (1) rule does not excuse violations of another applicable rule. (7-1-93)

006. NON-EXCLUSIVE (RULE 6).
These rules are in addition to, and do not affect, any other rights or obligations that may exist by statute or judicial decision. (7-1-93)

007. EXCEPTIONS TO THESE RULES (RULE 7).
These rules are subject to the same exceptions as set forth in Section 48-605, Idaho Code. (7-1-93)

008. REGULATED PERSONS (RULE 8).
Enforcement activities taken pursuant to these rules shall not be commenced against persons licensed and regulated by any state regulatory board within the Department of Self-Governing Agencies or the United States Government when the actions or transactions are regulated by such regulatory board unless the Attorney General has first referred the matter in writing to the appropriate regulatory board. If at any time following the expiration of thirty (30) days from the time of forwarding the matter to the regulatory board the Attorney General is not satisfied with the progress or decision of the regulatory board, he may proceed to the extent of his jurisdiction under the Act. The 30-day provision will be abated to the extent that the regulatory board was given an express opportunity to review the matter prior to the time when the Attorney General began to consider the matter. The thirty (30) day provision may be waived in whole or in part if the Attorney General deems that the public interest requires prompt attention by the Attorney General. (7-1-93)

009. KNOWLEDGE (RULE 9).

These rules are not violated unless a person knows, or in exercise of due care should know, that he has in the past engaged in or is engaging in conduct specified or prohibited by the Act, or these rules. (7-1-93)

010. -- 019. (RESERVED)

SUBCHAPTER B – DEFINITIONS
(Rules 20-29)

020. DEFINITIONS (RULE 20).
The definitions set forth in Section 48-602, Idaho Code, apply with full force and effect to all provisions and sections of these rules, including rules hereafter amended or supplemented. Terms not defined in these rules or in Section 48-602, Idaho Code, shall be construed in accordance with definitions promulgated by the Federal Trade Commission. Terms not so defined shall be construed in accordance with general principles of Idaho law. As used in this chapter: (7-1-93)

01. **Act**. The Idaho Consumer Protection Act, Title 48, Chapter 6, Idaho Code. (7-1-93)

02. **Actions or Transactions Permitted Under Laws Administered by a Regulatory Body or Officer**. Specific acts, practices, or transactions authorized by a regulatory body or officer pursuant to a contract, rule, or regulation, or other properly issued order, directive, or resolution. (1-21-92)

03. **Advertisement** (including words of similar meaning or import). Any oral, written, graphic, or pictorial representation, statement, or public notice, however made or utilized, including, without limitation, by publication, dissemination, solicitation or circulation, in the course of trade and commerce. A person's name under which trade or commerce is conducted shall be construed as advertising if an assumed name is used, and if the name has the capacity, tendency, or effect of misleading or deceiving consumers acting reasonably under the circumstances. (1-21-92)

04. **Appropriate Trade Premises**. Premises at which either the owner or seller normally carries on a business, or where goods are normally offered or exposed for sale in the course of a business carried on at those premises. (1-21-92)

05. **Ascertainable Loss**. Any deprivation, detriment, or injury, or any decrease in amount, magnitude, or degree that is capable of being discovered, observed, or established. It is not necessary for a private plaintiff to prove actual damages of a specific dollar amount to prove ascertainable loss, but only that the item was different from that for which the private plaintiff bargained, or that the private plaintiff suffered some like loss. (7-1-93)

06. **Bait and Switch**. Advertising goods or services with the intent not to sell them but to lure the consumer to the seller's place of business and then switch the consumer from buying the advertised goods or services to other or different goods or services on a basis more advantageous to the seller. (1-21-92)

07. **Bona Fide Gift**. Any goods or services in which a statement is provided to the gift recipient at or prior to the time of delivery or performance, which clearly and conspicuously informs the recipient that the goods or services may be retained, used, discarded, rejected, or otherwise disposed of without any obligation to the person providing, sending, or performing the goods or services. (1-21-92)

08. **Business Arrangement**. Any understanding, procedure, course of dealing, or arrangement, formal or informal, between a consumer and a seller or a creditor and a seller, in connection with the sale of goods or services to consumers or the financing thereof. (1-21-92)

09. **Business Day**. Any calendar day, except Saturday, Sunday, or the following legal holidays: New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (7-1-93)

10. **Buy-Down Rate**. A financing rate which, as a result of a seller's advance payment of finance charges to a third party, is below the prevailing market financing rate. (1-21-92)

11. **Clear and Conspicuous Disclosure**. A statement, representation, or term which is disclosed in a manner that is: (1-21-92)

a. Reasonably close to any statement, representation or term it clarifies, modifies, explains, or to which it otherwise relates; (1-21-92)

b. Reasonably noticeable; (1-21-92)

c. Reasonably understandable by the persons to whom it is directed; and (1-21-92)

d. Not contradictory to any terms it purports to clarify, modify, or explain. (1-21-92)

12. **Consideration**. A right, interest, profit, or benefit accruing to a party, or some forbearance, detriment, loss, or responsibility given, suffered, or undertaken by the other. (1-21-92)

13. **Consumer**. A person who purchases, leases, or rents, or is solicited to purchase, lease, rent or otherwise give consideration for any goods or services. (1-21-92)

14. **Consumer Credit Contract**. Any instrument which evidences or embodies a debt arising from a purchase money loan transaction or a financed sale. (1-21-92)

15. **Credit Card Issuer**. A person who extends to card holders the right to use a credit card in connection with purchases of goods or services. (1-21-92)

16. **Creditor**. A person who, in the ordinary course of business, lends purchase money or finances the sale of goods or services to consumers on a deferred payment basis; provided, such person is not acting, for the purposes of a particular transaction, in the capacity of a credit card issuer. (1-21-92)

17. **Dealer**. A seller of motor vehicles. (1-21-92)

18. **Dealer Documentation Service Fee** (including words of similar meaning or import, such as, but without limitation, "dealer's doc" fee, "administration" fee, "documentation and handling" fee and "D and H" fee). A fee charged by the dealer for services actually rendered to, for, or on behalf of the consumer in preparing, handling and processing documents pertaining to the motor vehicle and the closing of the transaction. (1-21-92)

19. **Demonstrator Vehicle**. A motor vehicle of the current or previous two (2) model years which has not been rented, leased, sold, titled or registered to a member of the public prior to the appearance of the advertisement, and which has been used by the dealer or dealership personnel for demonstration purposes. (1-21-92)

20. **Disseminate**. To publish, advertise, broadcast, deliver, circulate, mail, display, post, or otherwise distribute to a consumer. "Dissemination date" means the first date an advertisement is disseminated. (1-21-92)

21. **Documentary Material**. The original or a copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, audio and/or visual recording, mechanical, photographic, or electronic transcription, or other tangible document or recording. (1-21-92)

22. **Door-to-Door Sale**. A sale, lease, or rental of goods or services primarily for personal, family, or household purposes, with a purchase price of twenty-five dollars ($25) or more, whether under single or multiple contracts, in which the seller or his representative personally solicits the sale, including solicitations made in response to or following an invitation by the consumer, and the consumer's agreement or offer to purchase is made at a place other than the appropriate trade premises of the seller. The term "door-to-door sale" does not include a transaction: (7-1-93)

a. Made pursuant to prior negotiations in the course of a visit by the consumer to the seller's retail business establishment, such establishment having a fixed permanent location where the goods or services being purchased are offered for sale on a continuing basis; (1-21-92)

b. In which the consumer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the consumer, and the consumer furnishes the seller with a separate dated and signed personal statement in the consumer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three (3) business days; (1-21-92)

c. Conducted and consummated entirely by mail or telephone, in compliance with all provisions of the Act, and any other federal or state of Idaho statute, regulation, or rule governing mail or telephone solicitations, and without any other contact between the consumer and the seller prior to delivery of the goods or performance of the services; or (7-1-93)

d. In which the consumer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the consumer's personal property; provided, however, that if in the course of such a visit, the seller sells the consumer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services does not fall within this exclusion; or (1-21-92)

e. Pertaining to the sale or rental of real property, to the sale of insurance or to the sale of securities or commodities by a broker registered with the Idaho Department of Finance. (1-21-92)

23. **Examination**. Examination of documentary material includes the inspection, study, or copying of any such material, and the taking of testimony under oath or acknowledgment with respect to any such documentary material or copy thereof. (1-21-92)

24. **Executive or Official Vehicle**. A motor vehicle which has been driven exclusively by executives of the motor vehicle's manufacturer or by an executive of any authorized dealership selling the same make of motor vehicle. (1-21-92)

25. **Exempt Loan Broker**. Any person: (7-1-93)

a. Doing business under any law of the State of Idaho or of the United States relating to banks, credit unions, trust companies, savings and loan associations, insurers, pension trusts, real estate investment trust and other financial institutions, or under the uniform consumer credit code; (7-1-93)

b. Engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business; (7-1-93)

c. Securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of any act of Congress entitled "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured; (7-1-93)

d. Who is a Federal Housing Administration approved mortgagee; or (7-1-93)

e. Who is licensed under the Idaho Securities Act if the loan is made in accordance with applicable provisions of the Idaho Securities Act, the Securities Act of 1933, the Securities Exchange Act of 1934, and Regulation T promulgated by the Federal Reserve Board (12 C.F.R. Section 220). (7-1-93)

26. **Financed Sale (Including Financing a Sale)**. Extending credit to a consumer in connection with a consumer credit sale within the meaning of the Idaho Credit Code. (1-21-92)

27. **Free (Including Words of Similar Meaning or Import)**. Without charge or cost, monetary or otherwise, to the recipient, and includes terms of essentially identical import, such as "give away" or "complimentary." (1-21-92)

28. **Going-Out-of-Business Sale**. A sale advertised in such a manner as to reasonably cause a consumer to believe that the seller is in the process of concluding its affairs and discontinuing operation. Any sale using any of the following words or words of similar import are deemed to be a going-out-of-business sale unless

each advertisement discloses it is not a going-out-of-business sale in a clear and conspicuous manner: "adjuster's," "adjustment," "assignee's," "bankrupt," "benefit of administrators," "benefit of creditors," "benefit of trustees," "building coming down," "closing," "creditor's," "insolvent," "end," "executor's," "final days," "forced out of business," "last days," "lease expires," "liquidation," "loss of lease," "mortgage sale," "receiver's," "quitting business," "selling to the bare walls," or "trustee's." (1-21-92)

29. **Goods**. Any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situate, including certificates or coupons exchangeable for such goods. (1-21-92)

30. **Information Provider**. Any person that controls the content of a pay-per-telephone-call service. Any telephone corporation that provides basic local exchange service or message telecommunication service, as defined by Section 62-603, Idaho Code, which transmits pay-per-telephone-call service but does not control the content of the information transmitted is not within this definition. (7-1-93)

31. **Leased Vehicle** (including words of similar meaning or import). A motor vehicle that has been driven for a specific period of time pursuant to a lessor-lessee agreement. (7-1-93)

32. **Loan Broker**. Any person, except an exempt loan broker, who offers for compensation to arrange for a loan or other extension of credit. (7-1-93)

33. **Motor Vehicle** (including words of similar meaning or import). A motor vehicle as defined in the Idaho Motor Vehicles Act (Idaho Code Section 49-101 et seq.) (1-21-92)

34. **Negative Option Notice Requirements**. Negative option notice requirements means: (7-1-93)

a. A notice received by a consumer, at least thirty (30) but not more than forty-five (45) days, in advance of the effective date of the delivery or provision of goods or services, clearly and conspicuously: (1-21-92)

i. Describing the specific goods or services to be delivered or provided; (1-21-92)

ii. Stating the price of the goods or services delivered or provided; (1-21-92)

iii. Informing the consumer that the goods or services will be delivered or provided unless the consumer informs the seller that the goods or services are not wanted; and (7-1-93)

iv. Informing the consumer of at least two (2) methods, at least one (1) of which is expense-free to the consumer, by which the consumer can inform the seller of his desire not to receive the goods or services; (1-21-92)

b. A statement on the first bill containing a charge for the goods or services, or a separate notice enclosed with the bill, which clearly and conspicuously advises the consumer of the inclusion of the new charge on the bill for the new goods or services, of the consumer's right to cancel those goods or services within ten (10) days of the receipt of the bill at no cost to the consumer for the period during which those goods or services were provided prior to effective cancellation, and the process by which the consumer may cancel the goods or services; and (1-21-92)

c. In no event shall the consumer be required to cancel the new goods or services governed by this definition to avoid a charge prior to ten (10) days after the consumer's receipt of the first bill containing the charge for the new goods or services. For purposes of cancellation by mail, a cancellation shall be effective upon the date of mailing the cancellation notice. (1-21-92)

35. **New Motor Vehicle** (including words of similar meaning or import). A motor vehicle that has not had its equitable or legal title transferred by a manufacturer, distributor, or dealer to a consumer (except a franchised distributor or franchised new motor vehicle dealer) or which has not been previously rented or leased to a person for any period of time. (7-1-93)

36. **Offer**. Any solicitation, invitation, or proposal by a seller to a consumer through which a seller,

either directly or indirectly, attempts or intends to sell, rent, or lease goods or services or to induce a consumer to purchase, rent, or lease goods or services. This definition is not intended to create a contract, where none would otherwise exist under Idaho law, though it is noted that the Act and these rules impose duties and provide for remedies for violations thereof even in the absence of a binding contract. (7-1-93)

37. **Pay-per-Telephone-Call Services**. Any telecommunications service which permits simultaneous calling by a number of callers to a single telephone number and for which the calling party is assessed, by virtue of completing the call, a charge that is not dependent on the existence of a presubscription relationship and for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call. (7-1-93)

38. **Person**. Natural persons, corporations, both foreign and domestic, companies, business entities, trusts, partnerships, both limited and general, associations, both incorporated and unincorporated, and any other legal entity or any group associated in fact although not a legal entity, or any agent, assign, heir, employee, representative, or servant thereof. (1-21-92)

39. **Purchase Money Loan**. A cash advance that is received by a consumer in return for a credit service charge within the meaning of the Idaho Credit Code, which is applied, in whole or substantial part, to a purchase of goods or services from a seller who refers consumers to the creditor or is affiliated with the creditor by common control, contract, or business arrangement. (7-1-93)

40. **Purchase Price**. The total price paid or to be paid for the goods or services, including all interest and service charges. (1-21-92)

41. **Pyramid or Chain Distribution Scheme**. Any plan or operation whereby a person gives consideration for the opportunity to receive consideration to be derived primarily from any person's introduction of other persons into participation in the plan or operation rather than from the sale of goods or services by the person or other persons introduced into the plan or operation. For the purposes of this definition, the term "consideration" does not include: (1-21-92)

a. The not-for-profit sale of demonstration equipment and materials for use in making sales and which are not for resale; and (1-21-92)

b. Time or effort spent in selling or recruiting activities. (1-21-92)

42. **Regulatory Body or Officer**. Any person or governmental entity with authority to act pursuant to State of Idaho or federal statute. (1-21-92)

43. **Seller**. Any person engaged in trade and commerce, the agent, representative, or employee of such person, or any person acting in concert with such person. (1-21-92)

44. **Send**. To deliver, mail, provide, or cause to be mailed, delivered, or provided. (1-21-92)

45. **Services**. Work, labor, or any other act or practice provided or performed by a seller to or on behalf of a consumer. (1-21-92)

46. **Subject to Financing Contract**. An agreement whereby a consumer's obligation to purchase goods or services from a seller is contingent upon the obtaining of financing by, or on behalf of, a consumer. (1-21-92)

47. **Trade and Commerce**. Advertising, offering for sale, selling, leasing, renting, collecting debts arising out of the sale or lease of goods or services, or distributing goods or services, at any point in the marketing chain, either to or from locations within the State of Idaho, directly or indirectly affecting the people of this State. (7-1-93)

48. **Trade Area**. The geographic area where a seller is located and where the seller's advertisements are disseminated. (1-21-92)

49. Unordered Goods or Services. Goods or services which are sent or provided without the prior expressed request or consent from the person receiving the goods or services. Unordered goods or services do not include: (7-1-93)

a. Goods sent or services performed by mistake; (1-21-92)

b. Bona fide gifts; (1-21-92)

c. Additions to existing goods or services or levels of goods or services, already provided to consumers for which there is no separate and specific charge for such additions; (1-21-92)

d. The restructuring of existing goods or services or levels of goods or services already provided, pursuant to negative option notice requirements, where the restructuring does not result in a substantial change in goods or services; or (1-21-92)

e. Goods or services sent pursuant to an agreement which is in compliance with the Federal Trade Commission Rule on Use of Negative Option Plans by Sellers in Commerce (16 C.F.R. Section 425). (1-21-92)

50. Used Motor Vehicle (including words of similar meaning or import). Previously rented motor vehicles, executive or official motor vehicles, leased motor vehicles, and all other motor vehicles that are not new motor vehicles. (7-1-93)

51. Verifiable Retail Value. A price at which a seller can demonstrate that a substantial number of goods or services have been sold at retail by a person other than the seller. If substantiation described in this section is not available to a seller, the verifiable retail value shall be no more than one and one-half (1.5) times the amount the seller paid for the goods or services. (7-1-93)

021. -- 029. (RESERVED)

SUBCHAPTER C – FALSE, MISLEADING CONDUCT IN GENERAL (Rules 30-39)

030. GENERAL RULE (RULE 30).

It is an unfair and deceptive act or practice for a seller to make any claim or representation concerning goods or services which directly, or by implication, has the capacity, tendency, or effect of deceiving or misleading a consumer acting reasonably under the circumstances. An omission of a material or relevant fact shall be treated with the same effect as a false, misleading, or deceptive claim or representation, when such omission, on the basis of what has been stated or implied, would have the capacity, tendency, or effect of deceiving or misleading a consumer acting reasonably under the circumstances. With reference to goods or services, this prohibition includes, but is not limited to, factors relating to the cost, construction, durability, reliability, manner or time of performance, safety, strength, condition, life expectancy, ease of operation, problems associated with repair or maintenance, availability, or the benefit to be derived from the use of the goods or services. (1-21-92)

031. SUBSTANTIATION (RULE 31).

The responsibility for truthful advertising which does not have the capacity, tendency, or effect of deceiving or misleading consumers acting reasonably under the circumstances rests with the seller. Sellers must be able to substantiate all claims or offers made before such claims or offers are advertised. Sellers must maintain sufficient records to substantiate all representations made in their advertisements. (1-21-92)

032. CONTRADICTORY REPRESENTATIONS (RULE 32).

It is an unfair and deceptive act or practice for a seller to make any claim or representation that is inconsistent with or contradictory to any written claim, representation, or provision which is contained in any contract, document, or instrument evidencing a transaction. (1-21-92)

033. VIOLATIONS OF OTHER LAWS AND COURT ORDERS (RULE 33).

It is an unfair and deceptive act or practice for any seller to engage in trade or commerce if in so doing the seller or

the seller's goods or services fail to comply with: (1-21-92)

01. Federal and State Laws. Any Federal Trade Commission rule or regulation, the disclosure requirements of either the federal Truth in Lending Act (15 U.S.C. Section 1601 et seq.) and Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. Section 226) or the federal Truth in Lending Act (15 U.S.C. Section 1667 et seq.) and Regulation M promulgated by the Board of Governors of the Federal Reserve Board (12 C.F.R. Section 213), or any State of Idaho statute or rule that identifies conduct in trade and commerce as unfair or deceptive or a violation of the Act. (7-1-93)

02. Federal Trade Commission Consent Decree. Any Federal Trade Commission Consent Decree in which the seller is a party to the decree. (1-21-92)

03. Judicial Order. Any judgment, injunction, order, or other relief obtained by the Federal Trade Commission in any action brought in a United States District Court in which the seller is a party or otherwise subject to the court's decrees and orders. (1-21-92)

034. OFFICIAL, GOVERNMENTAL, OR OTHER MISLEADING ENVELOPES OR OFFERS (RULE 34).
It is an unfair and deceptive act or practice for any seller to use any printing styles, graphics, layouts, text, colors, or formats on envelopes or on the offer which implies, creates an appearance, or would lead a reasonable person to believe that the offer originates from or is issued by or on behalf of a government or public agency, public utility, public organization, insurance company, credit reporting agency, bill collecting company or a law firm, unless the same is true. (1-21-92)

035. INVOICES AND BILLS (RULE 35).
It is an unfair and deceptive act or practice for a seller to advertise by use of any written or documentary material that has the tendency, capacity, or effect of misleading a consumer, acting reasonably under the circumstances, that the advertisement is an invoice or bill. (7-1-93)

036. MAILBOX ADDRESSES (RULE 36).
It is an unfair and deceptive act or practice for a seller to refer to a U.S. Post Office box number or a private mail service box number in trade and commerce as a "suite," "department," "office," "apartment," or any other term or abbreviation that has the tendency, capacity, or effect of misleading a consumer, acting reasonably under the circumstances, to believe that the reference pertains to anything other than a box number at a U.S. Post Office or at a private mailbox service. (7-1-93)

037. -- 039. (RESERVED)

SUBCHAPTER D – DISCLOSURE OF CONDITIONS IN OFFER
(Rules 40-49)

040. GENERAL RULE (RULE 40).
It is an unfair and deceptive act or practice for a seller to offer goods or services with material contingencies, conditions, or qualifications attendant to the offer unless such contingencies, conditions, or qualifications are clearly and conspicuously disclosed in connection with the initial offer. (1-21-92)

041. SUBSEQUENT DISCLOSURE (RULE 41).
Subsequent disclosure to the consumer of such material contingencies, conditions, or qualifications attendant to an initial offer, even if prior to consummation of the transaction relating to the offer, is not a defense to the requirements of CPR 40. (1-21-92)

042. -- 049. (RESERVED)

SUBCHAPTER E – BAIT AND SWITCH SALES
(Rules 50-59)

050. GENERAL RULE (RULE 50).
It is an unfair and deceptive act or practice for a seller to engage in bait-and-switch sales tactics. (1-21-92)

051. INITIAL OFFER (RULE 51).
It is an unfair and deceptive act or practice for a seller to create a false impression of the grade, quality, quantity, make, value, age, size, color, usability, availability, or origin of the goods or services offered, or which may otherwise misrepresent the goods or services in such a manner that later, on disclosure of the true facts, there is a likelihood that the consumer may be switched from the advertised goods or services to other goods or services. Even though the true facts are subsequently made known to the consumer, subchapter E is violated if the first contact or interview is secured by a bait-and-switch offer. (7-1-93)

052. DISCOURAGEMENT OF PURCHASE OF ADVERTISED MERCHANDISE (RULE 52).
It is an unfair and deceptive act or practice for a seller to discourage the purchase of the advertised goods or services as part of a bait-and-switch scheme to sell other goods or services. For example, among acts or practices which will be considered in determining if an advertisement is a bona fide offer are: (1-21-92)

01. Refusal to Show. The refusal to reasonably show, demonstrate, or sell the goods or services advertised or otherwise offered in accordance with the terms of the initial offer. (1-21-92)

02. Disparagement. The disparagement by acts or words of the advertised goods or services or disparagement with respect to the guarantee, credit terms, availability of service, repairs, or parts, or in any other respect, in connection with the advertised goods or services. (1-21-92)

03. Availability. The failure to have available at all outlets listed in the advertisement a sufficient quantity of the advertised goods or services to meet reasonably expected public demand, as defined in CPR 103, unless the advertisement clearly and conspicuously discloses that the supply of a particular good is limited and/or the goods or services are available only at designated outlets, or unless the advertisement discloses that a particular good is to be closed out or offered for a limited time. Issuing of "rain checks" of goods or offering comparable or better goods at the sale price will be considered a mitigating circumstance, unless there is a pattern of inadequate inventory or the inadequate inventory was intentional. (7-1-93)

04. Refusal to Take Orders. The refusal to take orders for the advertised goods or services to be delivered within a reasonable period of time. (1-21-92)

05. Showing Impractical Goods or Services. The showing or demonstrating of goods or services which are defective, unusable, or impractical for the purpose represented or implied in the advertisement. (1-21-92)

06. Compensation Plans. The use of a sales plan or method of compensation for salesmen which is designed to prevent or discourage them from selling the advertised goods or services. This does not prohibit compensating salesmen by use of a commission. (1-21-92)

053. SWITCH AFTER SALE (RULE 53).
In the event of a sale of the advertised goods or services, it is an unfair and deceptive act or practice for a seller to attempt to "unsell" the advertised goods or services with the intent and purpose of selling other goods or services in their stead, except when the parties are bargaining for a bona fide trade-in. (1-21-92)

054. PATTERN OF CONDUCT (RULE 54).
The fact that a seller occasionally sells the advertised goods or services at the advertised price shall not constitute a defense to a charge that the seller has engaged in bait-and-switch tactics. (1-21-92)

055. LEADER ITEMS (RULE 55).
Nothing in subchapter E shall prevent a seller from advertising goods and services with the hope that consumers will buy goods or services in addition to those advertised. (7-1-93)

056. -- 059. (RESERVED)

SUBCHAPTER F – DECEPTIVE, COMPARATIVE, REFERENCE, AND WHOLESALE PRICING (Rules 60-69)

060. DECEPTIVE PRICING -- GENERAL RULE (RULE 60).

It is an unfair and deceptive act or practice for a seller to represent or imply that: (1-21-92)

01. Misrepresentations. Goods or services may be purchased for a specified price, if such is not the case. (1-1-79)

02. Reduced Price. Goods or services are being offered for sale at a reduced price, if such is not the case. For example, a firm publishes a catalog or brochure entitled "pre-Christmas sale." Some of the items in the catalog are being offered at a reduced price, but others are not. On the non-sale (discounted) items, the advertisement should disclose that the item is being offered at the everyday price or the sales items should be clearly identified as such. If none of the advertised items are being offered at a reduced price, then it is inappropriate to use a term such as "sale." (1-1-79)

03. Hidden Costs. A stated price is for complete or functional goods or services, if, in fact, there are additional hidden costs which must be expended in order to make the goods or services complete or functional. (1-1-79)

04. Services. A stated price of goods or services includes certain services, such as delivery, installation, service or adjustments, or includes parts or accessories, if such is not the case. (1-1-79)

05. Specific Goods or Services. A stated price applies to all sizes or types of goods or services, if the stated price is in fact applicable only to certain sizes or types of goods or services. (1-21-92)

06. Inventory. A stated price reduction applies to an entire inventory or grouping of goods when it only applies to isolated items within the inventory or grouping. (1-1-79)

061. COMPARATIVE PRICING -- GENERAL RULE (RULE 61).

It is an unfair and deceptive act or practice for a seller to represent by any means which has the capacity, tendency, or effect of deceiving or misleading a consumer acting reasonably under the circumstances as to the value of the past, present, common, or usual price of goods or services, or as to any reduction in the price of goods or services, or any savings relating to the cost or price of the goods or services. (1-21-92)

01. Savings or Value Claims. Savings or value claims utilized in connection with terms such as "originally," "formerly," "regularly," "usually," "list price," "compare at," or other like terms, expressions or representations must be based on facts provable by the seller: (1-1-79)

a. By the seller's own records; or (1-21-92)

b. By reasonably substantial competitive sales in the trade area where such claims or representations are made, under circumstances and conditions represented or implied by the claims or representations. (1-21-92)

02. Comparison Claims. The use of such terms as "reduced," "sale," "special price," "originally," "formerly," "slashed," etc. are deemed to be comparisons between the seller's present prices and his bona fide, regular prices. Terms such as "list price," "compare at," "comparable value," "suggested price," etc. are deemed to be comparisons between the seller's present prices and the prevailing competitors' prices. Terms such as "discount," "usually," "regularly," etc., which have a vague meaning are presumed to be a comparison between the seller's present prices and his bona fide, regular prices, unless the seller states otherwise in his advertising or sales promotion. (1-21-92)

062. COMPARISONS OF SELLER'S PRESENT PRICES TO SELLER'S FORMER PRICES (RULE 62).

It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Fictitious Prices. Offer goods or services by representations comparing present prices to former prices of the seller, if the seller establishes a fictitious or inflated former price for a short period of time and for the

purpose of subsequently offering a reduction. For example, a seller usually sells a certain pen for a regular price of seven dollars and fifty cents ($7.50), but he raises the price of the pen to an inflated price of ten dollars ($10) for a short period of time. He then "cuts" the price to its usual level of seven dollars and fifty cents ($7.50), and advertises: "Terrific Bargain: Were $10.00, Now Only $7.50"; or (1-1-79)

02. Bona Fide Regular Price. Offer goods or services by representations comparing present prices to former prices of the seller, if the former price was merely an asking price and was not the bona fide, regular price at which such goods or services were openly, actively, and actually offered for sale or sold. (7-1-93)

063. COMPETITOR RETAIL PRICE COMPARISONS (RULE 63).
It is an unfair and deceptive act or practice for a seller to offer goods or services by representations comparing the prices of the seller's goods or services to the prices of identical goods or services of competitors, unless the seller can substantiate that the represented prices of the competitor's goods or services are in fact the actual prices charged by the competitor in the same trade area, at the same point in time or on the date(s) clearly and conspicuously disclosed in the advertisement. If a price is stated without clear and conspicuous disclosure of a date on which it was in effect, it shall be presumed to be the current price. (7-1-93)

064. COMPARABLE PRICE COMPARISONS (RULE 64).
It is an unfair and deceptive act or practice for a seller to offer goods or services by representations comparing the prices of the seller's goods or services to the prices of comparable, but not identical, goods or services of a competitor's, unless the seller can substantiate that the goods or services compared are substantially similar in grade and quality and the represented prices of the competitor's goods or services are in fact the actual prices charged by the competitor in the same trade area, at the same point in time or on the date(s) clearly and conspicuously disclosed in the advertisement. If a price is stated without clear and conspicuous disclosure of a date on which it was in effect, it shall be presumed to be the current price. (7-1-93)

065. REFERENCE RETAIL PRICING PRACTICES (RULE 65).
It is an unfair and deceptive act or practice for a seller to offer goods or services by representations comparing present prices to "manufacturer's suggested prices," or similar language establishing or implying base reference price comparisons, unless such reference price represents, in fact, a good faith, honest estimate of the regular price at which a substantial number of sales of the goods or services are made by comparable sellers in the same trade area or unless federal or state law permits or requires the disclosure of the price suggested by the manufacturer. CPR 65 applies with the same force and effect regardless of whether the advertiser is a national or regional manufacturer or supplier, a mail-order or catalog seller, or a local retailer, and regardless of whether the prices, establishing a basis for comparison, are advertised or pre-ticketed. (7-1-93)

066. WHOLESALE, FACTORY DIRECT, OR SIMILAR CLAIMS (RULE 66).
It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Factory. Describe itself or its goods by using the terms "factory direct," "factory to you," "direct from maker," "factory outlet," or words of similar meaning in its advertisements unless the seller's goods are actually manufactured by the seller or in factories owned or controlled by the seller. (1-21-92)

02. Wholesaler. Describe itself by using the terms "wholesaler," "wholesale outlet," "distributor," or words of similar meaning in its advertisements unless the seller actually owns and operates or directly and absolutely controls a wholesale or distribution facility which primarily sells goods to retailers for resale. A seller to which this provision applies may in addition be subject to CPR 66.03 and CPR 66.04 below. (1-21-92)

03. Cost. Use in connection with the advertising or sale of any goods or services, the terms "cost," "invoice price," "factory invoice," "factory billing," or terms of similar meaning or import or other representations that a good or service will be sold at, above, or below the seller's actual cost unless such is true. (7-1-93)

04. Wholesale Prices. State or imply that any goods or services are being offered at "wholesale" prices or to use a term of similar meaning unless the prices are in fact at or below the current prices which most retailers in the trade area usually and customarily pay when they buy such goods or services for resale. (1-21-92)

067. LIMITED OFFERS (RULE 67).

It is an unfair and deceptive act or practice to offer goods or services by representations that the offer is "limited" unless the offer is in fact limited in duration or scope, or that the offer is an advance sale or introductory offer, and the seller in good faith expects to increase the price at a later date. (7-1-93)

068. SUBSTANTIATION (RULE 68).
A seller shall keep records or other documentary proof for a period of two (2) years which establish and substantiate the price claims and comparisons made. Failure to do so shall create a rebuttable presumption that the seller lacked a reasonable basis for the claims and comparisons made. (1-21-92)

069. (RESERVED)

SUBCHAPTER G – USE OF THE WORD "FREE" AND SIMILAR REPRESENTATIONS
(Rules 70-79)

070. GENERAL RULE (RULE 70).
It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Free No Cost Offers. Offer any goods or services as free, by use of the word "free" or other term of similar import, unless receipt of the free goods or services by a consumer is without added cost to the consumer; provided, however, that the consumer may be required to pay necessary delivery charges to the United States Post Office or a regulated public carrier if such fact is clearly and conspicuously disclosed in the offer and provided that the consumer may be required to purchase goods at their regular price as a precondition of entitlement to the free goods if such fact is readily apparent to a consumer acting reasonably under the circumstances or is clearly and conspicuously disclosed in the offer. (1-21-92)

02. Free With Cost Offers. Offer any goods or services as "free," "2 for 1," "1-cent Sale," or other term of similar import, if the seller increases the price of the base goods or services above their regular price or if the seller reduces the quality, quantity or size of the base goods or services. (1-1-79)

071. TIE-IN SALES (RULE 71).
It is an unfair and deceptive act or practice for a seller to offer any goods or services as free, by use of the word "free" or other term of similar import, if the seller fails to clearly and conspicuously disclose at the outset all terms, conditions, and obligations upon which receipt and retention of the free items are contingent. (1-21-92)

072. CONDITIONAL OFFERS (RULE 72).
It is an unfair and deceptive act or practice for a seller to offer any goods or services as free, by use of the word "free" or other term of similar import, when the consumer is obligated to perform conditions which are not readily apparent to a consumer acting reasonably under the circumstances or are not clearly and conspicuously disclosed. (1-21-92)

073. USE OF SIMILAR TERMS (RULE 73).
It is an unfair and deceptive act or practice for a seller to meet the provisions of subchapter G by substitution of such similar words and terms as "gift," "given without charge," "at no cost," "complimentary," "bonus," or other words or terms which tend to convey the impression to the consuming public that goods or services are free. (7-1-93)

074. ASTERISKS (RULE 74).
For purposes of this rule, disclosure of the terms of the offer set forth in a footnote of an advertisement to which reference is made by an asterisk or other symbol placed next to the offer, does not constitute a clear and conspicuous disclosure at the outset. (1-21-92)

075. DELIVERY CHARGES (RULE 75).
In all instances in which delivery charges, which include all shipping and handling charges, exceed ten dollars, pursuant to an offer subject to subchapter G, the total amount of such charges shall be clearly and conspicuously disclosed in the offer. Negative option membership plans operated in compliance with the Federal Trade Commission Rule on Use of Negative Option Plans by Sellers in Commerce (16 C.F.R. Section 425) are exempt from the provisions of CPR 75. (7-1-93)

076. -- 079. (RESERVED)

SUBCHAPTER H – PROMOTIONAL GAMES AND ADVERTISING AND DECEPTIVE USE OF GIFTS (Rules 80-89)

080. NO PURCHASE REQUIRED FOR CHANCE PROMOTIONS (RULE 80).

It is an unfair and deceptive act or practice for a seller to offer, initiate, promote, or solicit participation in any kind of game of chance, contest, sweepstakes, or promotion in which goods or services are distributed by random or chance selection that requires any kind of entry fee, service charge, purchase, payments to information providers, or other obligation in order to enter or participate in the promotion or receive any of the offered awards, prizes, or gifts. Those persons authorized by Title 67, Chapter 77, Idaho Code, to conduct bingo and raffle games for charitable purposes, if conducted in conformity with Title 67, Chapter 77, Idaho Code, and negative option membership plans operated in compliance with the Federal Trade Commission Rule on Use of Negative Option Plans by Sellers in Commerce (16 C.F.R. Section 425) are exempt from CPR 80. (7-1-93)

081. DISCLOSURE REQUIREMENTS IN GIFT PROMOTIONS (RULE 81).

It is an unfair and deceptive act or practice for a seller to offer, in writing, any goods or services, without obligation, as an inducement to a consumer to attend an in-person sales presentation or contact the seller by telephone or by mail, but only if the seller follows up the consumer's mail contact with a telephone contact, unless the offer clearly and conspicuously discloses in writing all of the following: (7-1-93)

01. Name and Address. The name and street address of the seller of the goods or services which are the subject of the sales presentation or contact with the seller. If the offer is made by an independent contractor of the seller, or is made under a name other than the true name of the seller, the name of the seller shall be more prominently and conspicuously displayed than the name of the independent contractor or other name. (1-21-92)

02. Purpose of Contact. The purpose of the requested sales presentation or contact with the seller, which shall include a general description of the goods or services that are the subject of the sales presentation and a clear statement, if applicable, that there will be a sales presentation and the approximate duration of the sales presentation. (7-1-93)

03. Odds. If the consumer is not assured of receiving any particular good or service, a statement of the odds of receiving each good or service offered. The odds "100,000" or "1:100,000." The odds shall be printed in a type size that is at least equal to that used for the standard text on the front (or first) page of the offer. (7-1-93)

04. Conditions. All restrictions, qualifications, and other conditions that must be satisfied before the consumer is entitled to receive the good or service, including but not limited to: (7-1-93)

a. Any deadline by which the consumer must attend the sales presentation or contact the seller in order to receive the good or service; and (7-1-93)

b. Any other conditions, such as a minimum age qualification, a financial qualification, or a requirement that if the consumer is married both husband and wife must be present in order to receive the good or service. Any financial qualifications shall be stated with specificity sufficient to enable the person to reasonably determine his or her eligibility; (7-1-93)

05. Verifiable Retail Value. The verifiable retail value of each good or service the consumer has been offered, awarded, or may be awarded. (7-1-93)

06. No Purchase Necessary. That no purchase is necessary in order to receive the goods or services that have been offered to the consumer as an inducement to attend the in-person sales presentation or contact the seller by telephone or by mail, but only if the seller follows up the consumer's mail contact with a telephone contact. (7-1-93)

07. Other Requirements. All other rules, terms and conditions of the offer, plan, or program. (1-21-92)

082. MISLEADING OFFERS (RULE 82).

It is an unfair and deceptive act or practice for any seller making an offer subject to Subchapter H to: (7-1-93)

01. Misrepresent Goods or Services. Misrepresent the size, availability, quantity, identity, value, or qualities of any good or service. (7-1-93)

02. Misrepresent Odds. Misrepresent in any manner the odds of receiving any particular good or service. (7-1-93)

03. Specially Selected. Represent directly or by implication that the number of participants has been significantly limited or that any consumer has been specially selected to receive a particular good or service unless that is the fact. (7-1-93)

04. Labeling Offers. Label any offer a notice of termination or notice of cancellation. (7-1-93)

05. Misrepresent Offer. Misrepresent, in any manner, the offer, plan, program, or the affiliation, connection, association, or contractual relationship between the person making the offer and the owner, if they are not the same. (1-21-92)

06. Tendency to Mislead. Use publications, literature, or any written or verbal promotion that has the capacity, tendency, or effect of misleading or deceiving a consumer acting reasonably under the circumstances. (7-1-93)

07. Fail to Deliver. Fail to deliver the good or service to the consumer, at no expense to him or her, within ten (10) business days of the date of the initial contact by the seller to the consumer. Negative option membership plans operated in compliance with the Federal Trade Commission Rule on Use of Negative Option Plans by Sellers in Commerce (16 C.F.R. Section 425) are exempt from CPR 82.07. (7-1-93)

083. -- 089. (RESERVED)

SUBCHAPTER I – GOING-OUT-OF-BUSINESS SALES
(Rules 90-99)

090. GENERAL RULE (RULE 90).
It is an unfair and deceptive act or practice for a seller to advertise a going-out-of-business sale, unless the circumstances are in fact true and the going-out-of-business sale prices for goods or services are in fact lower than the regular prices of such goods or services. (1-21-92)

091. INFLATING INVENTORY (RULE 91).
No goods may be ordered for, or in anticipation of, a going-out-of-business sale, except in accordance with sound commercial practices. For example, it would be considered commercially sound to order a dryer that matches an existing washing machine. For purposes of subchapter I, all goods ordered within thirty (30) days prior to the beginning of a going-out-of-business sale shall create a rebuttable presumption that such goods were ordered in anticipation of a going-out-of-business sale. (7-1-93)

092. -- 099. (RESERVED)

SUBCHAPTER J – INSUFFICIENT SUPPLY/LIMITATION ON QUANTITY
(Rules 100-109)

100. GENERAL RULE (RULE 100).
It is an unfair and deceptive act or practice for a seller to advertise goods or services with intent not to have sufficient quantity of the goods, or sufficient facilities to render the services, to satisfy reasonably expected public demand unless the quantity is clearly and conspicuously advertised as limited. (1-21-92)

101. RAIN CHECKS (RULE 101).
If the seller issues rain checks for goods for which the advertisement does not clearly and conspicuously disclose that

quantities are limited, such "rain checks" will be considered a mitigating circumstance, unless there is a pattern of inadequate inventory, or the inadequate inventory was intentional. (1-21-92)

102. SUBSTITUTE GOODS (RULE 102).
If the seller offers comparable or better goods at the sale price, such practice will be considered a mitigating circumstance, unless there is a pattern of inadequate inventory, or the inadequate inventory was intentional. (1-21-92)

103. DETERMINATION OF REASONABLY EXPECTED PUBLIC DEMAND (RULE 103).
Reasonably expected public demand shall be construed with respect to the following factors: (1-21-92)

01. Records of Past Sales. The record of past sales by a seller. (1-21-92)

02. Price Reduction. The amount of price reduction, if any, and quality of goods or services offered. (1-21-92)

03. Advertising Scope. The extent of advertising engaged in regarding the sale of goods or services and duration of the sale as advertised. (1-21-92)

104. -- 109. (RESERVED)

SUBCHAPTER K – DISCLOSURE OF PRIOR USE
(Rules 110-119)

110. GENERAL RULE (RULE 110).
It is an unfair and deceptive act or practice for a seller to represent, directly or indirectly, that goods are new or unused, or that any part of a good is new or unused, if such is not in fact true, or to misrepresent the extent of previous use of goods. (1-21-92)

111. DISCLOSURE REQUIRED (RULE 111).
It is an unfair and deceptive act or practice for a seller to advertise, offer for sale, or sell any goods, as new goods, which are used, or contain used parts, are rebuilt, remanufactured, reconditioned, or contain rebuilt, remanufactured, or reconditioned parts, if such is not in fact true, unless clear and conspicuous disclosure of such characteristics or attributes is made to the consumer prior to the sale. There is a rebuttable presumption that a seller offers or advertises goods as new goods, unless clear and conspicuous disclosure to the contrary is provided. (1-21-92)

112. ACCEPTABLE DISCLOSURES (RULE 112).
The disclosure that goods have been used or contains used parts as required by CPR 111, may be made by use of a word or words such as, but not limited to, "used," "second hand," "demonstrator," "repossessed," "repaired," "remanufactured," "reconditioned," or "rebuilt," etc., whichever is applicable to the product involved. (7-1-93)

113. RETURNED GOODS (RULE 113).
Goods are not considered used if a prior consumer was given a full refund or exchange for the goods, in the normal course of business, and if the goods are not known to presently or formerly have defects. (1-1-79)

114. -- 119. (RESERVED)

SUBCHAPTER L – ESTIMATES
(Rules 120-129)

120. GENERAL RULE (RULE 120).
It is an unfair and deceptive act or practice in connection with the furnishing of any repairs or improvements to goods, and in any rendering of services, for a seller to unreasonably understate or misstate the estimated price, whether such estimate be oral or written, or whether such estimate be formal or indirect; provided, however, that nothing herein shall be construed to require that an estimate actually be furnished. (1-21-92)

121. UNFORESEEABLE CONDITIONS (RULE 121).

If an estimate is given, it is an unfair and deceptive act or practice for a seller to fail to obtain oral or written authorization in advance of performing additional and related, unforeseen, but necessary, repairs or improvements or services if such repairs, improvements, or services would unreasonably increase the originally estimated price. (1-21-92)

122. EXPRESS LIMITED AUTHORIZATION (RULE 122).
When a person expressly limits the authorized price of any repairs, improvements, or services, it is an unfair and deceptive act or practice for a seller to exceed such authorization without first obtaining the express oral or written consent of such person. (1-21-92)

123. -- 129. (RESERVED)

SUBCHAPTER M – REPAIRS AND IMPROVEMENTS
(Rules 130-139)

130. GENERAL RULE (RULE 130).
It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Necessity of Repairs. Represent that repairs or improvements are necessary when such is not the fact or perform and charge for unnecessary repairs. (1-21-92)

02. Completion of Repairs. Represent that repairs or improvements have been made when such is not the fact. (1-1-79)

03. Misrepresent Danger. Represent that the goods being inspected or diagnosed are in a dangerous condition or that the person's continued use of the goods may be harmful when such is not the fact. (1-1-79)

04. Liens. Wrongfully permit, by action or inaction, any mechanic's or materialmen's lien, or any other lien, to be filed or perfected against goods being repaired or improved, or wrongfully retain possession of the subject goods, when the owner or consumer has tendered payment in full or has tendered payment in accordance with the contract authorizing the repair or improvement. (1-21-92)

05. Model Jobs. In the case of any improvement to real property, represent falsely that the improvement is to serve as a "model" or "advertising job" or similarly mislead the consumer that a price reduction or other compensation will be received by reason of such real property improvement. (1-21-92)

131. ITEMIZED BILLING (RULE 131).
Unless there is an express contract setting forth a lump-sum basis for compensation, it is an unfair and deceptive act or practice for a seller to fail to provide, upon specific request, one itemized billing, statement, or copy of a work order, which includes: (1-21-92)

01. Labor Charges. Labor charges, designating the number of hours and the rate per hour; or designating the flat rate labor charge or job rate if such repairs or improvements are customarily done and billed on a flat rate labor charge or job rate price basis; or, when a minimum charge is imposed, designating that fact. (1-21-92)

02. Parts and Materials. Parts and materials, designating each item that is separately included in calculating the total billing, and designating whether such parts or materials are used or rebuilt. (1-21-92)

03. Other Charges. Miscellaneous charges, designating the reason for the charge and the basis for calculation of the charge. (1-1-79)

04. Unit Pricing. Alternatively, where the agreement sets forth a price per unit, then the number of units being billed at that price. For example, a contract provides for carpeting and installation at ten dollars ($10) per yard. The itemized billing would state "92 yards carpeting at $10 per yard equals $920." (1-1-79)

132. OLD OR REPLACED PARTS (RULE 132).
It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Inspection. Fail, upon request, to return or allow inspection of old or replaced parts upon completion of repairs or improvements. (1-1-79)

02. Retaining Old Parts. Retain old or replaced parts for reuse or resale, after request has been made for their return, unless such retention is made known to the consumer prior to performing any repairs or improvements, or unless the seller is able to demonstrate that he had made a bona fide price reduction for the newly installed parts in consideration for keeping the old or replaced parts, or unless the replacement was made under a warranty. (1-1-79)

133. -- 139. (RESERVED)

SUBCHAPTER N – TIME OF DELIVERY OR PERFORMANCE INCLUDING MAIL ORDER SALES (Rules 140-149)

140. GENERAL RULE (RULE 140).
In connection with any sale, except mail order sales, it is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Promising Delivery. Offer or promise prompt delivery or performance unless, at the time of the offer or promise, the seller has taken reasonable action to ensure such prompt delivery or performance. (1-1-79)

02. Failure to Deliver. Fail to deliver goods or perform services, which have been ordered in person or otherwise, within a reasonable time following a specified delivery or performance date or within a reasonable time following the receipt of payment, unless the seller can show circumstances beyond his control and not within his knowledge at the time the order was accepted which prevented the seller from meeting the specified delivery date, and unless the seller can further show that he has given timely notice to the consumer of any such delay. (1-21-92)

141. MAIL ORDER SALES (RULE 141).
In connection with any mail order sale, pursuant to CPR 33, it is an unfair and deceptive act or practice for a seller to fail to comply with the provisions of the Federal Trade Commission Rule on Mail Order Merchandise (16 C.F.R. 435). (7-1-93)

142. -- 149. (RESERVED)

SUBCHAPTER O – LAY-AWAY PLANS (Rules 150-159)

150. GENERAL RULE (RULE 150).
It is an unfair and deceptive act or practice for a seller, in conjunction with a lay-away transaction, to: (1-21-92)

01. Misrepresent Lay-Away Policies. Misrepresent, in any way, the seller's policy with reference to a lay-away plan. (1-21-92)

02. Failure to Lay Aside Goods. Fail to actually lay aside the specific goods chosen by the consumer or exact duplicates, unless a clear and conspicuous disclosure to the contrary is made to the consumer. (1-21-92)

03. Lay-Away Time Periods. Fail to clearly and conspicuously disclose to the consumer that the specified goods or exact duplicates will be set aside only for a certain period of time, if such is the case. (1-21-92)

04. Duplicates. Deliver to the consumer after payments are completed, goods that are not identical or exact duplicates to those specified, unless informed, mutual consent has been obtained. (7-1-93)

05. Increase Price. Increase the price of the goods laid away after the original agreement has been made. (1-21-92)

06. Failure to Deliver. Fail to deliver to the consumer, upon request, at any time payment is made, a receipt showing the amount of that payment and the date thereof and, upon request, an itemized statement showing the amount previously paid and the amount still owing. (1-21-92)

151. REFUNDS OF LAY-AWAY PAYMENTS (RULE 151).
It is an unfair and deceptive act or practice for a seller to fail to clearly and conspicuously disclose, or to misrepresent in any manner: (1-21-92)

01. Possible Default or Cancellation. The seller's policy with reference to the consumer's possible default or cancellation. (1-21-92)

02. Refund Policy. The seller's policy with respect to refund of payments made prior to the consumer's default or cancellation. (1-21-92)

152. FORFEITURE AND DEFAULT (RULE 152).
If there is a penalty, charge or forfeiture for cancellation or default, written disclosure must be clearly and conspicuously furnished on the initial lay-away receipt and clearly and conspicuously posted at the lay-away desk. (1-21-92)

153. -- 159. (RESERVED)

SUBCHAPTER P – UNFAIR SOLICITATION PRACTICES AT OTHER THAN TRADE PREMISES (Rules 160-169)

160. DISCLOSURE REQUIREMENTS (RULE 160).
It is an unfair and deceptive act or practice for a seller to solicit a sale or order for sale of goods or services at other than appropriate trade premises, in person or by means of telephone, without clearly, affirmatively, and expressly revealing at the time the seller initially contacts the consumer, and before making any other statement, except a greeting, or asking the consumer any other questions, that the purpose of the contact is to effect a sale, by doing all of the following: (1-21-92)

01. Solicitor's Identity. Stating the identity of the person making the solicitation. (1-1-79)

02. Trade Name of Seller. Stating the trade name of the seller represented by the person making the solicitation. (1-21-92)

03. Types of Goods or Services Offered. Stating the kind of goods or services being offered for sale. (1-21-92)

04. In-Person Contact. In the case of an "in person" contact, the seller making the solicitation shall, in addition to orally revealing the above information, show or display identification which states: (1-21-92)

a. The identity of the person making the solicitation; (1-1-79)

b. The trade name of the seller represented by the person making the solicitation; and (1-21-92)

c. The address of the place of business of one of such persons so identified. (1-1-79)

161. GENERAL RULE (RULE 161).
It is an unfair and deceptive act or practice for a seller, in soliciting a sale or order for the sale of goods or services, either in person or by telephone, at other than appropriate trade premises, to: (1-21-92)

01. Misleading Plan. Use any plan, scheme, or ruse which misrepresents his true identity or purpose. (1-21-92)

02. Representations with Capacity to Mislead. Use any representations which have the capacity, tendency, or effect of misleading or deceiving a consumer acting reasonably under the circumstances in order to

induce a sale, rental, lease, or order for the sale, rental, or lease of goods or services. (1-21-92)

03. Leaving Premises. Fail to promptly leave the premises at which a sales solicitation or presentation is made when the consumer has indicated he does not wish to buy, lease, rent, or order the offered goods or services, or has requested that the person leave the premises. (1-21-92)

162. PROHIBITED PRACTICES (RULE 162).
It is an unfair and deceptive act or practice for a seller: (7-1-93)

01. Misrepresentations About How or Why Consumer Selected. In soliciting a sale or order for the sale of goods or services, either in person or by telephone, at other than appropriate trade premises, to: (7-1-93)

a. Represent that the seller making the solicitation is making an offer to specially selected persons or that the consumer has been specifically selected, unless the selection process is designed to reach a particular type or types of persons; or (7-1-93)

b. Represent that the seller making the solicitation is conducting a survey, test, or research project, or is engaged in a contest or other venture to win a cash award, scholarship, vacation, or similar prize, if in fact the principal purpose or objective is to make a sale of goods or services or to obtain information to help identify sales prospects. (1-21-92)

02. Misleading Practices. In soliciting a sale or order for the sale of goods or services, either in person or by telephone, at other than appropriate trade premises, to misrepresent, directly or by implication: (7-1-93)

a. The identity of the seller, the person on whose behalf the seller is making solicitations, the seller's affiliation or association with other firms, businesses, or governmental entities, or the identity of the goods or services he offers to sell. For example, the X City Fire Department is putting on a fireman's ball. It hires a professional solicitor who is getting a percentage of the proceeds. The solicitor and his employees and agents should identify themselves on the telephone as follows: "I am Pat Telemarketer of XYZ Productions and I am calling for the X City Fire Department." (1-21-92)

b. The reasons for, existence of, or amounts of price reductions; (1-1-79)

c. The length of any sales presentation; (1-21-92)

d. The delivery or performance date; or (1-21-92)

e. The nature or purpose of any documents the consumer is requested or required to execute in connection with the purchase or lease of any goods or services. (1-21-92)

163. MAIL ORDER AND CATALOG SALES (RULE 163).
It is an unfair and deceptive act or practice for a seller engaged in trade and commerce at other than appropriate trade premises, to fail to disclose the legal name under which business is done and the complete street address from which business is actually conducted in all advertising and promotional materials, including order blanks and forms. (1-21-92)

164. APPLICATION OF OTHER RULES (RULE 164).
Pursuant to CPR 5, subchapter P is not intended to contain the only rules governing solicitations or transactions occurring at other than appropriate trade premises. (7-1-93)

165. -- 169. (RESERVED)

SUBCHAPTER Q – COOLING-OFF PERIOD FOR DOOR-TO-DOOR SALES (Rules 170-179)

170. GENERAL RULE (RULE 170).
In connection with any door-to-door sale, it is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Written Disclosures. Fail to furnish the consumer 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 street address of the seller, and the following statement in ten (10) point type in immediate proximity to the space reserved in the contract for the signature of the consumer or on the front page of the receipt if a contract is not used: 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. (1-21-92)

02. Notice of Cancellation. Fail to furnish each consumer, at the time he signs the door-to-door sales contract or otherwise agrees to buy goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and easily detachable, and contain in ten (10) point bold face type the following statement in the same language, e.g., Spanish, as that used in the contract:

NOTICE OF CANCELLATION
enter date of transaction

Date

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOOD DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO (address of seller's place of business) NOT LATER THAN MIDNIGHT OF (Date). (1-21-92)

03. Completed Notice of Cancellation. Fail, before furnishing copies of the "Notice of Cancellation" to the consumer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the consumer may give notice of cancellation. (1-21-92)

04. Purported Waivers. Include in any door-to-door contract or receipt any confession of judgment or any waiver of any of the rights to which the consumer is entitled under subchapter Q, including, specifically, his right to cancel the sale in accordance with the provisions of subchapter Q. (7-1-93)

05. Oral Notice of Cancellation. Fail to inform each consumer orally, at the time he signs the contract

or purchases the goods or services, of his right to cancel. (1-21-92)

06. Misrepresent Right to Cancel. Misrepresent in any manner the consumer's right to cancel. (1-21-92)

07. Failure to Honor Notice of Cancellation. Fail or refuse to honor any valid notice of cancellation by a consumer and within ten (10) business days after the receipt of such notice, to: (1-21-92)

a. Refund all payments made under the contract or sale; (1-1-79)

b. Return any goods or property traded in, in substantially as good condition as when received by the seller; and (1-21-92)

c. Cancel and return any negotiable instrument executed by the consumer in connection with the contract or sale and take any action necessary or appropriate to promptly terminate any security interest created in the transaction. (1-21-92)

08. Transferring Evidences of Indebtedness. Negotiate, transfer, sell, or assign any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased. (1-21-92)

09. Transferring Traded Goods. Transfer, sell, or assign any goods traded in prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased. (1-21-92)

10. Failure to Notify Concerning Return of Goods. Fail, within ten (10) business days of receipt of the consumer's notice of cancellation, to notify the consumer whether the seller intends to take possession of or abandon any goods previously shipped or delivered to the consumer under the cancelled contract. (1-21-92)

171. -- 189. (RESERVED)

SUBCHAPTER S – PYRAMID AND CHAIN DISTRIBUTION SCHEMES (Rules 190-199)

190. GENERAL RULE (RULE 190).
It is an unfair and deceptive act or practice for a seller to promote, offer, advertise, or grant participation in a pyramid or chain distribution scheme. (1-21-92)

191. PURPORTED LIMITATIONS (RULE 191).
A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility, or the fact that, in addition to the right to receive consideration for participation in the marketing plan, a person introduced into the plan actually receives something of value, does not, in and of itself, change the character of the marketing plan as a chain or pyramid distribution scheme. (1-21-92)

192. FACTORS (RULE 192).
In determining whether a promotion is a pyramid or chain distribution scheme, the following factors, among others, may be considered: (1-21-92)

01. Amount of Fees. Whether a substantial fee is required for entry and continued participation in the promotion. Requirement of a substantial fee suggests that the promotion is an unlawful pyramid or chain distribution scheme. (1-21-92)

02. Refund Policies. Whether the purchase of nonrefundable goods is required for entry and continued participation in the promotion or whether a consumer's right to a refund is subject to significant restrictions. Requirement of such purchase or purchases or significant restrictions placed on a consumer's right to obtain a refund suggests that the promotion is an unlawful pyramid or chain distribution scheme. (7-1-93)

03. Plan's Primary Focus. Whether the primary focus of the promotion is the opportunity for financial

gain through the recruitment of more participants, not the sale of goods or services. Marketing programs based primarily upon the recruitment of other participants suggest that the promotion is an unlawful pyramid or chain distribution scheme. (1-21-92)

04. **Price of Goods**. Whether the goods, if any, for which the promotion allegedly exists to distribute, are inflated in price. An inflated price for the goods suggests that the promotion is an unlawful pyramid or chain distribution scheme. (1-21-92)

193. -- 199. (RESERVED)

SUBCHAPTER T – LOAN BROKER FEES
(Rules 200-209)

200. GENERAL RULE (RULE 200).
It is an unfair and deceptive act or practice for a loan broker to: (7-1-93)

01. **Prohibited Practices**. Directly or indirectly receive any fee, interest, or other charge of any nature, including, but not limited to, payments to information providers, from a consumer until a loan or extension of credit is made to the consumer or a written commitment to loan or extend credit is delivered to the consumer by an exempt loan broker. (7-1-93)

02. **Qualifying for a Loan**. Advertise that all or most consumers or that consumers with bad credit or no credit histories will qualify for a loan. (7-1-93)

03. **Conditions of Loan**. Advertise loan brokering services without clearly and conspicuously disclosing any material restrictions regarding obtaining a loan, the cost of the service, and the maximum period of time the loan broker will take to arrange or make the loan to the consumer. (7-1-93)

04. **Written Disclosure**. Fail to provide the consumer a written contract with the following information contained therein: (7-1-93)

a. The name, street address, and telephone number of the loan broker; (7-1-93)

b. The maximum period of time the loan broker will take to arrange or make the loan to the consumer; and (7-1-93)

c. The following statement in at least ten point, bold face type in immediate proximity to the space reserved in the contract for the signature of the consumer:

YOU THE CONSUMER ARE UNDER NO OBLIGATION TO PAY ANY FEE OR CHARGE OF ANY NATURE UNLESS AND UNTIL YOU RECEIVE THE MONEY FROM THE LOAN APPLIED FOR OR A WRITTEN COMMITMENT TO LOAN OR EXTEND CREDIT FROM A QUALIFIED LENDING INSTITUTION AS DEFINED BY IDAHO CONSUMER PROTECTION RULE 20.25, CODIFIED AT IDAPA 04.02.01.020.25. (7-1-93)

201. EXCEPTIONS (RULE 201).
CPR 200 does not apply to fees and charges authorized by the laws of the state of Idaho or the laws of the United States if the maximum charge and the manner of collecting the charge are set out in the law or in the rule or regulation adopted under law. (7-1-93)

202. -- 209. (RESERVED)

SUBCHAPTER U – PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES (HOLDER IN DUE COURSE)
(Rules 210-219)

210. GENERAL RULE (RULE 210).
It is an unfair and deceptive act or practice for a seller, directly or indirectly, to: (1-21-92)

01. Accept Contract Without Written Notice. Take or receive a consumer credit contract which fails to contain the following statement in at least ten (10) point, bold face type:

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER. (1-21-92)

02. Accept Monies Without Written Notice. Accept, as full or partial payment for such sale or lease, the proceeds of any purchase money loan, unless any consumer credit contract made in connection with such purchase money loan contains the following statement in at least ten point, bold face type:

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER. (1-21-92)

211. -- 219. (RESERVED)

SUBCHAPTER V – UNORDERED GOODS OR SERVICES
(Rules 220-229)

220. GENERAL RULE (RULE 220).
It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Send or Provide Unordered Goods or Services. Send or provide to a consumer unordered goods or services. (7-1-93)

02. Bills. Send any bill to a consumer for unordered goods or services. (1-21-92)

03. Delay or Disrupt Goods or Services. Interrupt, delay, terminate, cancel, or deny delivery of or other provision of goods or services to a consumer because the consumer has not paid for or returned the unordered goods or services. (1-21-92)

04. Requiring Consumer Consent. Require a consumer to consent or authorize the receipt of or provision for unordered goods or services as a condition of doing business with the person. (1-21-92)

221. -- 229. (RESERVED)

SUBCHAPTER W – AUTOMOBILE ADVERTISING AND SALES
(Rules 230-239)

230. OBJECTIVE (RULE 230).
It is the objective of subchapter W to implement the intent of the legislature as declared in Section 48-601, Idaho Code, by furthering truthful and accurate advertising and sales practices for the benefit of the citizens and motor vehicle dealers of this state by providing for motor vehicle advertising and sales rules applicable to motor vehicle dealers. (7-1-93)

231. APPLICATION OF OTHER RULES (RULE 231).
Pursuant to CPR 5, subchapter W is not intended to contain the only rules governing automobile advertising and sales practices. (7-1-93)

232. GENERAL ADVERTISING PRACTICES (RULE 232).
The following are unfair and deceptive advertising practices: (7-1-93)

01. Clear and Conspicuous Disclosure of Material Terms. The advertising of any motor vehicle for sale, lease, rent without clearly and conspicuously disclosing all material terms and conditions relating to the offer. Material terms include those without which the advertisement would have the capacity, tendency, or effect of misleading or deceiving consumers acting reasonably under the circumstances. (7-1-93)

02. Footnotes and Asterisks. Use of one (1) or more disclosures by footnote or asterisk which alone or in combination confuse, contradict, materially modify, or unreasonably limit a principal message of the advertisement. (1-21-92)

03. Print Size. Use of any print in type size so small as to be not readily noticeable. An advertisement is misleading if important disclosures made therein are relegated to small print and inconspicuously buried at the bottom of the page. (1-21-92)

04. Photographs and Illustrations. Use of inaccurate photographs or illustrations when describing specific automobiles. For example, advertising a fully-loaded car when the ad actually refers to a minimally-equipped automobile in text. (1-21-92)

05. Color Contrasts. Use of color contrasts which render the text confusing or difficult to read. (1-21-92)

06. Abbreviations. Advertising with abbreviations which are not commonly understood by the general public (e.g., abbreviations commonly understood--AC, AM/FM, AUTO, AIR, 2DR, CYL Dealer's Doc Fee, MSRP, and OAC) unless approved by federal or state law (e.g., terms allowed by the federal Truth in Lending Act, 15 U.S.C. Section 1601 et seq., such as "APR"). (7-1-93)

233. PRICE ADVERTISING (RULE 233).
It is an unfair and deceptive act or practice for a dealer to: (7-1-93)

01. Advertised Price. Advertise the price of a motor vehicle without including in the advertised price all costs to the consumer at the time of sale, or which are necessary or usual prior to delivery of such vehicle to the consumer, including without limitation, any costs of freight, delivery, dealer preparation, and any other charges of any nature; provided, however, the following may be excluded from the advertised price of the motor vehicle: (7-1-93)

a. Taxes, license, and title fees; and (1-21-92)

b. A dealer documentation service fee, as defined herein, so long as the advertisement clearly and conspicuously discloses, in close proximity to the advertised price, the amount of such fee and that the fee is a dealer imposed fee; i.e. PRICE DOES NOT INCLUDE $_____ (insert actual amount charged for dealer documentation service fee) DEALER DOC FEE. (1-21-92)

02. Advertising Limitations. Fail to clearly and conspicuously disclose in an advertisement any material limitations including, but not limited to: (7-1-93)

a. The number of motor vehicles in stock subject to the offer if the number is not likely to meet reasonably expected public demand; (1-21-92)

b. The period of time during which the offer is in effect, if the offer is subject to a time limitation of fourteen (14) days or less or when an offer is within fourteen (14) days of its close; and (7-1-93)

c. Any other applicable restrictions to which the advertised price may be subject. (1-21-92)

03. Low Prices. Use the term "low prices" or words of similar meaning or import in the advertisement,

unless the prices offered are lower than those usually offered by the dealer or other dealers in the same trade area. (7-1-93)

04. Lowest Prices, Guaranteed Lowest Prices. Advertise that motor vehicles cost less in a particular community or geographic area or use the terms "lowest prices," "guaranteed lowest prices," "prices lower than anyone else," "nobody can beat our prices," or words of similar meaning or import in the advertisement, unless the dealer, or dealer association in the case of cooperative dealer advertising, systematically monitors and continues to monitor competitive prices in the trade area and can substantiate such claims. (7-1-93)

05. Price Matching. Use terms "meet your best offer," or "we won't be undersold," or terms of similar meaning or import which suggest that a dealer will beat or match a competitor's price unless: (7-1-93)

a. The advertisement clearly and conspicuously discloses the dealer's price matching policy and any limitations; and (1-21-92)

b. Such policy does not require the presentation of any evidence which places an unreasonable burden on the consumer. (1-21-92)

06. Dealer's Cost. Except as required in CPR 233.07.a., advertise a motor vehicle using any reference to the term "dealer's cost," or that a motor vehicle is available for purchase at, above or below "cost." (7-1-93)

07. Invoice Pricing. Advertise that a motor vehicle is available for purchase at an amount below, at, or above "factory invoice," "factory billing," "manufacturer's invoice," or terms of similar meaning or import, unless: (7-1-93)

a. The advertisement uses the terms "factory invoice," "manufacturer's invoice," or other terms that clearly convey that the invoice referred to is the factory or manufacturer's invoice; (1-21-92)

b. The advertised reference to factory or manufacturer's invoice price shall be the final price listed on the factory or manufacturer's invoice; (1-21-92)

c. The following disclosure is clearly and conspicuously disclosed in the advertisement: "FACTORY INVOICE MAY NOT REFLECT DEALER'S ACTUAL COST"; and (1-21-92)

d. The original factory or manufacturer's invoice, or a true and correct copy thereof, shall be readily available at the place of business for inspection by prospective customers. (1-21-92)

08. Vehicle Availability. Subject to CPR 233.01 and CPR 233.02, fail to allow consumers to purchase all motor vehicles described by the advertisement at the advertised price. If some motor vehicles in stock may not be purchased at the advertised prices, the advertisement shall clearly and conspicuously disclose that the advertised price applies only to a specified number of motor vehicles. Vehicle identification numbers for any motor vehicle advertised for sale by a dealer shall be readily available at the dealer's place of business for inspection by customers. (7-1-93)

09. Buy-Down Rate. Advertise the sale of any motor vehicle at a "buy-down" rate, as that term is defined herein, without clearly and conspicuously disclosing in the advertisement the following: "BELOW MARKET RATE MAY AFFECT PURCHASE PRICE OF CAR." (7-1-93)

10. Hidden Finance Charges. Fail to include hidden finance charges (i.e. the difference, if any, between the cash and credit price of a "buy-down" motor vehicle) in the Truth in Lending calculation and disclosure requirements. (7-1-93)

234. OTHER ADVERTISING PRACTICES (RULE 234).
It is an unfair and deceptive act or practice for a dealer to: (7-1-93)

01. Demonstrator Vehicles. Advertise any demonstrator vehicle without clearly and conspicuously disclosing: (7-1-93)

a. The year, make, and model of the motor vehicle; and (1-21-92)

b. That the motor vehicle is a "demonstrator" or has been previously driven. (1-21-92)

02. Executive or Official Vehicles. Advertise any executive or official vehicle: (7-1-93)

a. Without clearly and conspicuously disclosing the year, make, and model of the motor vehicle; (1-21-92)

b. Without clearly and conspicuously disclosing that the motor vehicle is an executive or official vehicle and has been previously driven, using the words "Pre-Driven," or "Previously Driven," or words of similar meaning; (1-21-92)

c. Without displaying the Used Car Buyers Guide on the motor vehicle as required by the Federal Trade Commission Rule on Used Motor Vehicles (16 C.F.R. 455); or (1-21-92)

d. By using any word or phrase which would lead a reasonable consumer to believe that the advertised motor vehicle is a new motor vehicle. (1-21-92)

03. Leased Vehicles. Advertise any leased vehicle: (7-1-93)

a. Without clearly and conspicuously disclosing the year, make, and model of the motor vehicle; (1-21-92)

b. Without clearly and conspicuously disclosing that the motor vehicle is a leased vehicle; (1-21-92)

c. Without displaying the Used Car Buyers Guide on the motor vehicle as required by the Federal Trade Commission Rule on Used Motor Vehicles (16 C.F.R. 455); or (1-21-92)

d. By using any word or phrase which would lead a reasonable consumer to believe that the advertised motor vehicle is a new motor vehicle. (1-21-92)

04. Other Used Motor Vehicles. Advertise any other used motor vehicle: (7-1-93)

a. Without clearly and conspicuously disclosing the year, make, and model of the motor vehicle; (1-21-92)

b. Without displaying the Used Car Buyers Guide on the motor vehicle as required by the Federal Trade Commission Rule on Used Motor Vehicles (16 C.F.R. 455); or (1-21-92)

c. By using any word or phrase which would lead a reasonable consumer to believe that the advertised motor vehicle is a new motor vehicle. (1-21-92)

05. Dealer Rebates. Advertise that a consumer will receive a payment of money, or that a payment will be made to a third person on the consumer's behalf, in conjunction with the purchase or lease of a motor vehicle, unless the payment is being offered by the manufacturer of the motor vehicle. A dealer may also advertise any manufacturer's rebate for which the manufacturer requires any financial participation by the dealer so long as the dealer clearly and conspicuously discloses in the advertisement the following disclosure: "DEALER PARTICIPATION IN THE REBATE PROGRAM MAY INCREASE VEHICLE PRICE BEFORE REBATE." (7-1-93)

06. Trade-In Allowances. Advertise or offer a specific trade-in allowance (i.e., "$2500 minimum trade-in"), including, without limitation, that the trade-in will be valued at a specific amount or guaranteed minimum amount if: (7-1-93)

a. The price of the motor vehicle offered for sale is increased because of the amount of the allowance; or (1-21-92)

b. The offer fails to disclose that it is conditioned upon the purchase of additional options or services, if such is the case. (1-21-92)

07. **Trade-In Policies**. Advertise or offer a range of amounts for trade-ins (e.g., "up to $1,000" or "as much as $1,000"), unless the advertisement clearly and conspicuously discloses the criteria the dealer will use to determine the amount to be paid for a particular trade-in. Such criteria might include age, condition, or mileage of the motor vehicle. (7-1-93)

08. **No Money Down**. Advertise using the phrase "no down payment," "no money down," or words of similar meaning, unless, subject to the consumer's credit approval, the dealer is willing to sell the advertised motor vehicle to a consumer without the requirement of a trade-in or prior payment of any kind. (7-1-93)

09. **Dealer's Size**. Use statements as to the dealer's size, inventory, or sales volume to represent or imply that the dealer can and does sell automobiles at a lower price, as a result of such size, inventory, or volume, than do other dealers, unless such is the fact. (7-1-93)

10. **Factory Outlet**. Advertise using the terms "Factory Outlet," "Authorized Distribution Center," or similar special affiliation, connection or relationship with the manufacturer that is greater or more direct than that of any other dealer, when, in fact, no such affiliation, connection, or relationship exists. (7-1-93)

11. **Contract Add-Ons**. Negotiate the terms of a sale and thereafter add the cost of items to the contract, including, without limitation, extended warranties, credit life, dealer preparation, or undercoating, to the contract without previously disclosing this to the consumer and without first obtaining the consumer's consent. (7-1-93)

235. CREDIT SALES ADVERTISING (RULE 235).
It is an unfair and deceptive act or practice for a dealer to: (7-1-93)

01. **Disclosure Requirements**. Fail to clearly and conspicuously disclose in connection therewith that the advertised credit terms are available "On Approved Credit," or the abbreviation, "OAC." In advertising credit terms, a dealer shall also comply with either CPR 235.01.a. or CPR 235.01.b. below: (7-1-93)

a. Credit terms advertised by a dealer shall be calculated on the basis of the total retail price of the advertised motor vehicle (which, for purposes of calculating credit terms must include any applicable dealer documentation service fee, as defined herein) plus taxes, license, and title fees, from which may be subtracted out only the amount of the advertised down payment; or (1-21-92)

b. The credit terms advertised by a dealer may be calculated exclusive of taxes, license, and title fees and the dealer's documentation service fee so long as the following statement (or a statement of similar meaning) is clearly and conspicuously disclosed in connection with the credit sale advertisement: "DOES NOT INCLUDE TAXES, TITLE, LICENSE FEES OR $_____ DEALER DOC FEE" (insert actual amount charged for dealer documentation service fee). (1-21-92)

02. **Advertised Terms Unavailable**. Advertise credit terms that are not actually available. (7-1-93)

03. **Advertised Finance Rates**. Advertise a finance rate (A.P.R.) without disclosing, if such is the fact, the following: (7-1-93)

a. That such rate is limited to certain models; (1-21-92)

b. That to take advantage of such a reduced rate, a consumer must purchase additional options or services; (1-21-92)

c. That taking advantage of the rate will increase the final price of the vehicle or options or services purchased; (1-21-92)

d. That the offer expires after a limited time period; or (1-21-92)

e. Any other conditions, qualifications, or limitations which materially affect the availability of such rate. (1-21-92)

04. Truth in Lending Disclosures. Fail to comply with the disclosure requirements of the federal Truth in Lending Act (15 U.S.C. Section 1601 et seq.) and Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. Section 226). Truth in Lending disclosures must be clear and conspicuous. (7-1-93)

236. TRUTH IN LEASING ADVERTISING (RULE 236).
It is an unfair and deceptive act or practice for a dealer to fail to comply with the disclosure requirements of the consumer leasing portions of the federal Truth in Lending Act (15 U.S.C. Section 1667 et seq.) and Regulation M promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. Section 213). Truth in Leasing disclosures must be clear and conspicuous. (7-1-93)

237. MOTOR VEHICLE SUBJECT-TO-FINANCING CONTRACTS (RULE 237).

01. Required Contract Disclosure. Unless specifically exempted in CPR 237.06, every subject-to-financing contract for the purchase of a motor vehicle in Idaho shall include the following disclosure in ten (10) point bold face type or a size at least three (3) points larger than the smallest type appearing in the contract or form:

YOU AND THE DEALER HAVE AGREED THAT THE MOTOR VEHICLE WILL BE DELIVERED TO YOU PRIOR TO THE PURCHASE. IF FINANCING CANNOT BE ARRANGED ON THE TERMS AND WITHIN THE TIME PERIOD AGREED UPON IN THE MOTOR VEHICLE PURCHASE CONTRACT, THE CONTRACT IS NULL AND VOID. (7-1-93)

02. Other Contractual Provisions. Nothing in CPR 237 is intended to prevent language from being included in a motor vehicle purchase contract specifying the responsibilities of the parties thereto in the event the contract becomes null and void pursuant to CPR 237. (7-1-93)

03. Trade-In Motor Vehicles. If a motor vehicle purchase contract has become null and void pursuant to CPR 237, the dealer must return the consumer's trade-in vehicle, if any, together with its title, if previously provided to the dealer, upon the consumer's return of the motor vehicle to the dealer. If the trade-in vehicle is not available, the dealer shall give the consumer the trade-in allowance within one business day. (7-1-93)

04. Subsequent Agreement. Nothing in CPR 237 is intended to prevent the parties to a motor vehicle purchase agreement from entering into a subsequent agreement for the purchase of the motor vehicle on different terms and conditions. (7-1-93)

05. Consumer's Copy. A copy of the disclosure specified in CPR 237.01 must be given to the consumer at the time the contract is signed. (7-1-93)

06. Exceptions. CPR 237 does not apply to sales transactions in which a dealer purchases a motor vehicle for resale. (7-1-93)

238. -- 999. (RESERVED)

Subject Index

A

Acceptable Disclosures, Disclosure Of Prior Use 20
Application Of Other Rules - Automobile Advertising/Sales 28
Application Of Other Rules, Solicitations 24
Asterisks 17
Automobile Advertising/Sales
- Advertising Limitations 29
- Buy-Down Rate 30
- Dealer's Cost 30
- Hidden Finance Charges 30
- Invoice Pricing 30
- Low Prices 29
- Lowest Prices, Guaranteed Lowest Prices 30
- Price Matching 30
- Vehicle Availability 30

C

Comparable Price Comparisons 16
Comparative Pricing -- General Rule 15
- Comparison Claims 15
- Savings or Value Claims 15

Comparisons Of Seller's Present Prices To Seller's Former Prices 15
- Bona Fide Regular Price 16
- Fictitious Prices 15

Competitor Retail Price Comparisons 16
Conditional Offers 17
Contradictory Representations 12
Credit Sales Advertising 32
- Advertised Finance Rates 32
- Advertised Terms Unavailable 32
- Disclosure Requirements 32
- Truth in Lending Disclosures 33

Cumulative 6

D

Deceptive Pricing -- General Rule
- Hidden Costs 15
- Inventory 15
- Misrepresentations 15
- Reduced Price 15
- Services 15
- Specific Goods or Services 15

Deceptive Pricing--General Rule 15
Definitions, IDAPA 04.02.01 7
- Act 7
- Actions or Transactions Permitted Under Laws Administered by a Regulatory Body or Officer 7
- Advertisement 7
- Appropriate Trade Premises 7
- Ascertainable Loss 7
- Bait & Switch 7
- Bona Fide Gift 7
- Business Arrangement 7
- Business Day 7
- Buy-Down Rate 7
- Clear & Conspicuous Disclosure 8
- Consideration 8
- Consumer 8
- Consumer Credit Contract 8
- Credit Card Issuer 8
- Creditor 8
- Dealer 8
- Dealer Documentation Service Fee 8
- Demonstrator Vehicle 8
- Disseminate 8
- Documentary Material 8
- Door-to-Door Sale 8
- Examination 9
- Executive or Official Vehicle 9
- Exempt Loan Broker 9
- Financed Sale (Including Financing a Sale) 9
- Free (Including Words of Similar Meaning or Import) 9
- Going-Out-of-Business Sale 9
- Goods 10
- Information Provider 10
- Leased Vehicle (Including Words of Similar Meaning or Import) 10
- Loan Broker 10
- Motor Vehicle (Including Words of Similar Meaning or Import) 10
- Negative Option Notice Requirements 10
- New Motor Vehicle (Including Words of Similar Meaning or Import) 10
- Offer 10
- Pay-Per-Telephone-Call Services 11
- Person 11
- Purchase Money Loan 11
- Purchase Price 11
- Pyramid or Chain Distribution Scheme 11
- Regulatory Body or Officer 11
- Seller 11
- Send 11
- Services 11
- Subject to Financing Contract 11
- Trade & Commerce 11
- Trade Area 11
- Unordered Goods or Services 12
- Used Motor Vehicle (including words of similar meaning or import) 12
- Verifiable Retail Value 12

Delivery Charges 17
Determination Of Reasonably Expected Public Demand 20
- Advertising Scope 20
- Price Reduction 20
- Records of Past Sales 20

Disclosure Required, Disclosure Of Prior Use 20
Disclosure Requirements 23
- In-Person Contact 23
- Solicitor's Identity 23
- Trade Name of Seller 23
- Types of Goods or Services Offered 23

Disclosure Requirements In Gift Promotions 18
- Conditions 18
- Name & Address 18
- No Purchase Necessary 18
- Odds 18
- Other Requirements 18
- Purpose of Contact 18
- Verifiable Retail Value 18

Discouragement Of Purchase Of Advertised Merchandise 14
- Availability 14
- Compensation Plans 14
- Disparagement 14
- Refusal to Show 14
- Refusal to Take Orders 14
- Showing Impractical Goods or Services 14

E

Exceptions To These Rules 6
Exceptions, Fees & Charges, Loan Broker Fees 27
Express Limited Authorization, Estimates 21

F

Factors - Pyramid & Chain Distribution Schemes 26
- Amount of Fees 26
- Plan's Primary Focus 26
- Price of Goods 27
- Refund Policies 26

Forfeiture & Default, Lay-Away Plans 23

G

General Advertising Practices
- Automobile Advertising/Sales

Abbreviations 29
Color Contrasts 29
Footnotes & Asterisks 29
Photographs & Illustrations 29
Print Size 29
General Advertising Practices - Automobile Advertising/Sales 29
Clear & Conspicuous Disclosure of Material Terms 29
General Provisions 6
General Rule - Bait & Switch Sales 14
General Rule - Cooling-Off Period for Door-to-Door Sales 24
Completed Notice of Cancellation 25
Failure to Honor Notice of Cancellation 26
Failure to Notify Concerning Return of Goods 26
Misrepresent Right to Cancel 26
Notice of Cancellation 25
Oral Notice of Cancellation 25
Purported Waivers 25
Transferring Evidences of Indebtedness 26
Transferring Traded Goods 26
Written Disclosures 25
General Rule - Disclosure Of Conditions In Offer 13
General Rule -- Disclosure Of Prior Use 20
General Rule -- Estimates 20
General Rule - False, Misleading Conduct 12
General Rule -- Going-Out-Of-Business Sales 19
General Rule - Insufficient Supply/ Limitation On Quantity 19
General Rule -- Lay-Away Plans 22
Duplicates 22
Failure to Deliver 23
Failure to Lay Aside Goods 22
Increase Price 22
Lay-Away Time Periods 22
Misrepresent Lay-Away Policies 22
General Rule - Loan Broker Fees 27
Conditions of Loan 27
Prohibited Practices 27
Qualifying for a Loan 27
Written Disclosure 27
General Rule - Preservation Of Consumers' Claims & Defenses 28
Accept Contract Without Written Notice 28
Accept Monies Without Written Notice 28
General Rule - Pyramid & Chain Distribution Schemes 26
General Rule -- Repairs & Improvements 21
Completion of Repairs 21
Liens 21
Misrepresent Danger 21
Model Jobs 21
Necessity of Repairs 21
General Rule -- Time of Delivery or Performance Including Mail Order Sales 22
Failure to Deliver 22
Promising Delivery 22
General Rule - Unfair Solicitation 23
Leaving Premises 24
Misleading Plan 23
Representations with Capacity to Mislead 23
General Rule - Unordered Goods Or Services 28
Bills 28
Delay or Disrupt Goods or Services 28
Requiring Consumer Consent 28
Send or Provide Unordered Goods or Services 28
General Rule -- Use of the Word "Free" and Similar Representations 17
Free No Cost Offers 17
Free With Cost Offers 17

I

Inflating Inventory, Going-Out-Of-Business Sales 19
Initial Offer - Bait & Switch Sales 14
Invoices & Bills 13
Itemized Billing 21
Labor Charges 21
Other Charges 21
Parts & Materials 21
Unit Pricing 21

K

Knowledge 6

L

Leader Items - Bait & Switch Sales 14
Legal Authority 6
Limited Offers 16

M

Mail Order & Catalog Sales, Unfair Solicitation 24
Mail Order Sales 22
Mailbox Addresses 13
Misleading Offers 18
Fail to Deliver 19
Labeling Offers 19
Misrepresent Goods or Services 19
Misrepresent Odds 19
Misrepresent Offer 19
Specially Selected 19
Tendency to Mislead 19
Motor Vehicle Subject-To-Financing Contracts 33
Consumer's Copy 33
Exceptions 33
Other Contractual Provisions 33
Required Contract Disclosure 33
Subsequent Agreement 33
Trade-In Motor Vehicles 33

N

No Purchase Required For Chance Promotions 18
Non-Exclusive 6
Non-Inclusive 6

O

Objective - Automobile Advertising & Sales 28
Official, Governmental, Or Other Misleading Envelopes Or Offers 13
Old Or Replaced Parts 21
Inspection 22
Retaining Old Parts 22
Other Advertising Practices
Automobile Advertising/Sales
Leased Vehicles 31
Other Used Motor Vehicles 31
Other Advertising Practices - Automobile Advertising/Sales 30
Contract Add-Ons 32
Dealer Rebates 31
Dealer's Size 32
Demonstrator Vehicles 30
Executive or Official Vehicles 31
Factory Outlet 32
No Money Down 32
Trade-In Allowances 31
Trade-In Policies 32

P

Pattern Of Conduct - Bait/Switch Sales 14
Price Advertising 29, 30
Price Advertising - Automobile Advertising/Sales 29
Advertised Price 29
Prohibited Practices 24
Misleading Practices 24
Misrepresentations About How or

Why Consumer Selected 24
Purported Limitations - Pyramid/Chain Distribution Schemes 26

R

Rain Checks, Insufficient Supply/ Limitation On Quantity 19
Reference Retail Pricing Practices 16
Refunds Of Lay-Away Payments 23
Possible Default or Cancellation 23
Refund Policy 23
Regulated Persons 6
Returned Goods, Disclosure Of Prior Use 20
Rules of Construction 6

S

Subsequent Disclosure - Disclosure Of Conditions In Offer 13
Substantiation, Documentary Proof 17
Substantiation, Truthful Advertising 12
Substitute Goods, Insufficient Supply/ Limitation On Quantity 20
Switch After Sale 14

T

Tie-In Sales 17
Title & Scope 6
Truth In Leasing Advertising, Credit Sales Advertising 33

U

Unforeseeable Conditions, Estimates 20
Use Of Similar Terms 17

V

Violations Of Other Laws & Court Orders
Federal & State Laws 13
Federal Trade Commission Consent Decree 13
Judicial Order 13
Violations Of Other Laws And Court Orders 12

W

Wholesale, Factory Direct, Or Similar Claims 16
Cost 16
Factory 16
Wholesale Prices 16
Wholesaler 16
Written Interpretations--Agency Guidelines 6