

are hereby extended until the termination date set forth in section 102(c) of H.J. Res. 631 [Sept. 30, 1983] as enacted into law [Pub. L. 97-377], notwithstanding subsections 10(e) [see paragraph above] and 21(i) [set out as a note under section 57a-1 of this title] of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374)."

Pub. L. 96-252, §11(c), May 28, 1980, 94 Stat. 379, provided that: "The amendments made in subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [May 28, 1980]. The children's advertising proceeding pending on the date of the enactment of this Act shall not proceed further until such time as the Commission has complied with section 18(b)(1)(A) of the Federal Trade Commission Act [subsec. (b)(1)(A) of this section], as amended by subsection (a)(3) and as so redesignated in section 8(a). In any such further proceeding, interested parties shall be given a reasonable opportunity to present their views in accordance with section 18(b)(1)(B) of the Federal Trade Commission Act, as so redesignated in section 8(a) [subsec. (b)(1)(B) of this section], section 18(b)(1)(C) of such Act, as so redesignated in section 8(a) [subsec. (b)(1)(C) of this section], and section 18(c) of such Act (15 U.S.C. 57a(c))."

Amendment by Pub. L. 96-252 effective May 28, 1980, see section 23 of Pub. L. 96-252, set out as an Effective Date of 1980 Amendment note under section 45 of this title.

Amendment by Pub. L. 96-221 effective on expiration of two years and six months after Mar. 31, 1980, with all regulations, forms and clauses required to be prescribed to be promulgated at least one year prior to such effective date, and allowing any creditor to comply with any amendments, in accordance with the regulations, forms, and clauses prescribed by the Board prior to such effective date, see section 625 of Pub. L. 96-221, set out as an Effective Date of 1980 Amendment note under section 1602 of this title.

RESTRICTION ON USE OF FUNDS FOR PURPOSE OF INITIATING NEW RULEMAKING PROCEEDING

Section 11(b) of Pub. L. 96-252 prohibited the Federal Trade Commission from using any funds authorized to be appropriated to carry out this subchapter for fiscal year 1980, 1981, or 1982 (or 1983 as extended by Pub. L. 97-377, title I §101(d), Dec. 21, 1982, 96 Stat. 1870), under section 57c of this title, for the purpose of initiating any new rulemaking proceeding under this section which was intended to result in, or which might result in, the promulgation of any rule by the Commission which prohibited or otherwise regulated any commercial advertising on the basis of a determination by the Commission that such commercial advertising constituted an unfair act or practice in or affecting commerce.

RESTRICTION ON USE OF FUNDS RESPECTING REGULATION OF FUNERAL INDUSTRY; EXCEPTION

Section 19 of Pub. L. 96-252 prohibited the Federal Trade Commission from using any funds authorized to be appropriated to carry out this subchapter for fiscal year 1980, 1981, or 1982, under section 57c of this title to issue the proposed trade regulation rule which was published in the Federal Register of Aug. 29, 1975, beginning at page 39901, and which relates to the regulation of funeral industry practices, in final form or a substantially similar proposed or final trade regulation rule unless the final rule met specific requirements and the Commission followed specific procedures.

OVERSIGHT HEARINGS WITH RESPECT TO FEDERAL TRADE COMMISSION

Section 22 of Pub. L. 96-252 required the Consumer Subcommittee of the Committee on Commerce, Science, and Transportation of the Senate to conduct an oversight hearing with respect to the Federal Trade Commission at least once during the first 6 calendar

months, and at least once during the last 6 calendar months, of each of the fiscal years 1980, 1981, and 1982.

APPLICABILITY OF UNFAIR OR DECEPTIVE ACTS OR PRACTICES RULEMAKING PROCEDURES TO RULES CLASSIFYING CORPORATIONS PROMULGATED PRIOR TO JANUARY 4, 1975

Pub. L. 93-637, title II, §202(c), Jan. 4, 1975, 88 Stat. 2198, provided that:

"(1) The amendments made by subsections (a) and (b) of this section [enacting this section and amending section 46 of this title] shall not affect the validity of any rule which was promulgated under section 6(g) of the Federal Trade Commission Act [section 46(g) of this title] prior to the date of enactment of this section [Jan. 4, 1975]. Any proposed rule under section 6(g) of such Act with respect to which presentation of data, views, and arguments was substantially completed before such date may be promulgated in the same manner and with the same validity as such rule could have been promulgated had this section not been enacted.

"(2) If a rule described in paragraph (1) of this subsection is valid and if section 18 of the Federal Trade Commission Act [this section] would have applied to such rule had such rule been promulgated after the date of enactment of this Act, any substantive change in the rule after it has been promulgated shall be made in accordance with such section 18."

STUDY, EVALUATION, AND REPORT BY FEDERAL TRADE COMMISSION AND ADMINISTRATIVE CONFERENCE OF UNITED STATES ON UNFAIR OR DECEPTIVE ACTS OR PRACTICES; RULEMAKING PROCEDURES

Section 202(d) of Pub. L. 93-637, as amended by Pub. L. 94-299, §2, May 29, 1976, 90 Stat. 588; Pub. L. 95-558, Nov. 1, 1978, 92 Stat. 2130, required the Federal Trade Commission and the Administrative Conference of the United States, not later than June 30, 1979, to conduct a study and submit a report to Congress on the rule-making procedures under section 57a of this title.

§ 57a-1. Omitted

CODIFICATION

Section, Pub. L. 96-252, §21(a)-(h), May 28, 1980, 94 Stat. 393; H. Res. 549, Mar. 25, 1980; Pub. L. 98-620, title IV, §402(13), Nov. 8, 1984, 98 Stat. 3358, provided procedures for review by Congress of final rules promulgated by the Federal Trade Commission.

EFFECTIVE DATE; TERMINATION DATE

Pub. L. 96-252, §21(i), May 28, 1980, 94 Stat. 396, provided that: "The provisions of this section shall take effect on the date of the enactment of this Act [May 28, 1980] and shall cease to have any force or effect after September 30, 1982."

Pub. L. 97-377, title I, §101(d), Dec. 21, 1982, 96 Stat. 1870, provided in part that notwithstanding any other provision of law, the provisions of section 21 of the Federal Trade Commission Improvements Act of 1980 [Pub. L. 96-252], which enacted this section and enacted provisions set out as a note under this section, were extended until Sept. 30, 1983, notwithstanding section 21(i) of such Act.

§ 57b. Civil actions for violations of rules and cease and desist orders respecting unfair or deceptive acts or practices

(a) Suits by Commission against persons, partnerships, or corporations; jurisdiction; relief for dishonest or fraudulent acts

(1) If any person, partnership, or corporation violates any rule under this subchapter respecting unfair or deceptive acts or practices (other than an interpretive rule, or a rule violation of which the Commission has provided is not an unfair or deceptive act or practice in violation

of section 45(a) of this title), then the Commission may commence a civil action against such person, partnership, or corporation for relief under subsection (b) of this section in a United States district court or in any court of competent jurisdiction of a State.

(2) If any person, partnership, or corporation engages in any unfair or deceptive act or practice (within the meaning of section 45(a)(1) of this title) with respect to which the Commission has issued a final cease and desist order which is applicable to such person, partnership, or corporation, then the Commission may commence a civil action against such person, partnership, or corporation in a United States district court or in any court of competent jurisdiction of a State. If the Commission satisfies the court that the act or practice to which the cease and desist order relates is one which a reasonable man would have known under the circumstances was dishonest or fraudulent, the court may grant relief under subsection (b) of this section.

(b) Nature of relief available

The court in an action under subsection (a) of this section shall have jurisdiction to grant such relief as the court finds necessary to redress injury to consumers or other persons, partnerships, and corporations resulting from the rule violation or the unfair or deceptive act or practice, as the case may be. Such relief may include, but shall not be limited to, rescission or reformation of contracts, the refund of money or return of property, the payment of damages, and public notification respecting the rule violation or the unfair or deceptive act or practice, as the case may be; except that nothing in this subsection is intended to authorize the imposition of any exemplary or punitive damages.

(c) Conclusiveness of findings of Commission in cease and desist proceedings; notice of judicial proceedings to injured persons, etc.

(1) If (A) a cease and desist order issued under section 45(b) of this title has become final under section 45(g) of this title with respect to any person's, partnership's, or corporation's rule violation or unfair or deceptive act or practice, and (B) an action under this section is brought with respect to such person's, partnership's, or corporation's rule violation or act or practice, then the findings of the Commission as to the material facts in the proceeding under section 45(b) of this title with respect to such person's, partnership's, or corporation's rule violation or act or practice, shall be conclusive unless (i) the terms of such cease and desist order expressly provide that the Commission's findings shall not be conclusive, or (ii) the order became final by reason of section 45(g)(1) of this title, in which case such finding shall be conclusive if supported by evidence.

(2) The court shall cause notice of an action under this section to be given in a manner which is reasonably calculated, under all of the circumstances, to apprise the persons, partnerships, and corporations allegedly injured by the defendant's rule violation or act or practice of the pendency of such action. Such notice may, in the discretion of the court, be given by publication.

(d) Time for bringing of actions

No action may be brought by the Commission under this section more than 3 years after the rule violation to which an action under subsection (a)(1) of this section relates, or the unfair or deceptive act or practice to which an action under subsection (a)(2) of this section relates; except that if a cease and desist order with respect to any person's, partnership's, or corporation's rule violation or unfair or deceptive act or practice has become final and such order was issued in a proceeding under section 45(b) of this title which was commenced not later than 3 years after the rule violation or act or practice occurred, a civil action may be commenced under this section against such person, partnership, or corporation at any time before the expiration of one year after such order becomes final.

(e) Availability of additional Federal or State remedies; other authority of Commission unaffected

Remedies provided in this section are in addition to, and not in lieu of, any other remedy or right of action provided by State or Federal law. Nothing in this section shall be construed to affect any authority of the Commission under any other provision of law.

(Sept. 26, 1914, ch. 311, §19, as added Pub. L. 93-637, title II, §206(a), Jan. 4, 1975, 88 Stat. 2201.)

EFFECTIVE DATE

Pub. L. 93-637, title II, §206(b), Jan. 4, 1975, 88 Stat. 2202, provided that: "The amendment made by subsection (a) of this section [enacting this section] shall not apply to—

"(1) any violation of a rule to the extent that such violation occurred before the date of enactment of this Act [Jan. 4, 1975], or

"(2) any act or practice with respect to which the Commission issues a cease-and-desist order, to the extent that such act or practice occurred before the date of enactment of this Act [Jan. 4, 1975], unless such order was issued after such date and the person, partnership or corporation against whom such an order was issued had been notified in the complaint, or in the notice or order attached thereto, that consumer redress may be sought."

§ 57b-1. Civil investigative demands

(a) Definitions

For purposes of this section:

(1) The terms "civil investigative demand" and "demand" mean any demand issued by the commission under subsection (c)(1) of this section.

(2) The term "Commission investigation" means any inquiry conducted by a Commission investigator for the purpose of ascertaining whether any person is or has been engaged in any unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 45(a)(1) of this title) or in any antitrust violations.

(3) The term "Commission investigator" means any attorney or investigator employed by the Commission who is charged with the duty of enforcing or carrying into effect any provisions relating to unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 45(a)(1) of this title) or any provisions relating to antitrust violations.