

unfair trade practice specified in the sections in this part

GROUP II

§ 154 101 Contract coverage

The industry recommends that all contracts should embody specifically and in full detail the quality, kind, and finish of any leather or substitute therefor required to be furnished under the terms of such contracts and that all other materials to be used shall be specifically described in proper and customary form and wording

COMMITTEE ON TRADE PRACTICES

§ 154 201 Industry committee

The provisions of § 161 of this subchapter shall be applicable to an industry committee established under this part

[21 F R 1174 Feb 21 1956]

**PART 155—RAYON AND SILK DYEING, PRINTING, AND FINISHING INDUSTRY**

GROUP I

- Sec
- 155 1 Misbranding and misrepresentation
- 155 2 Deceptive concealment
- 155 3 Substitution of products
- 155 4 Imitation or simulation of trade-marks trade names etc
- 155 5 Defamation of competitors
- 155 6 Disparagement of products of competitors
- 155 7 Commercial bribery
- 155 8 Procurement of competitors confidential information by unfair means and wrongful use thereof
- 155 9 Inducing breach of contract
- 155 10 Unlawful interference
- 155 11 Unfair threats of infringement suits
- 155 12 Coercing purchase of one product as a prerequisite to the purchase of other products
- 155 13 Bogus independents
- 155 14 Selling below cost
- 155 15 Discrimination prohibited discriminatory prices or rebates refunds discounts credits etc which effect unlawful price discrimination
- 155 16 End piece pilfering false invoicing etc

GROUP II

- 155 101 Repudiation of contracts
- 155 102 Cost records
- 155 103 Arbitration

**AUTHORITY** §§ 155 1 to 155 103 issued under sec 6 (g) 38 Stat 722 15 U S C 46 (g) Interpret or apply sec 5 38 Stat 719 as amended 15 U S C 45 Other statutory

provisions interpreted or applied are cited to text in parentheses

**SOURCE** §§ 155 1 to 155 103 appear at 6 F R 6369 Dec 12 1941

GROUP I

§ 155 1 Misbranding and misrepresentation

The false or deceptive marking or branding of products of the industry, or the making or publishing of any false or deceptive advertisements statements, or representations concerning the dyeing printing bleaching finishing or processing of any products of the industry or concerning their quality quantity weighting fiber content or preparation, or in any other material respect is an unfair trade practice

§ 155 2 Deceptive concealment

It is an unfair trade practice for any member of the industry to use or directly or indirectly to assist others in the use of, any deceptive selling method or other deceptive act or practice by concealing or failing to disclose textile content weighting, and other information required to be disclosed by Parts 123 and 135 of this subchapter or other applicable rules or by any other means to engage in deceptive selling methods

§ 155 3 Substitution of products

The practice of shipping or delivering products which do not conform to samples submitted or to representations made prior to securing the order, without the consent of the customers to such substitutions or with the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public, is an unfair trade practice

§ 155 4 Imitation or simulation of trade-marks, trade names, etc

The imitation or simulation of the trade-marks trade names, brands or labels of competitors, with the tendency and capacity or effect of thereby misleading or deceiving the purchasing or consuming public is an unfair trade practice

§ 155 5 Defamation of competitors

The defamation of competitors by falsely imputing to them dishonorable business conduct inability to perform contracts, questionable credit standing or by other false representations, is an unfair trade practice

**§ 155 6 Disparagement of products of competitors**

The false disparagement of the grade quality quantity weighting, fiber content character, or processing of competitors' products or service is an unfair trade practice

**§ 155 7 Commercial bribery**

It is an unfair trade practice for a member of the industry, directly or indirectly to give or offer to give or permit or cause to be given money or anything of value to agents employees or representatives of customers or prospective customers or to agents employees or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals as an inducement to influence their employers or principals to contract for the processing of goods or products by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing with competitors

**§ 155 8 Procurement of competitors' confidential information by unfair means and wrongful use thereof**

Obtaining information concerning the business of a competitor by bribery of an employee or agent of such competitor by false or misleading statements by the impersonation of one in authority, or by any other unfair means and using the information so obtained in such a manner as to injure said competitor in his business or to suppress competition or unreasonably restrain trade is an unfair trade practice

**§ 155 9 Inducing breach of contract**

Inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever or interfering with or obstructing the performance of any such contractual duties or services by any such means with the purpose and effect of unduly hampering, injuring or prejudicing competitors in their businesses is an unfair trade practice

**§ 155 10 Unlawful interference**

It is an unfair trade practice for any member of the industry, by means of any monopolistic practices or through combination conspiracy coercion boycott threats or any other unlawful means directly or indirectly to interfere with

a competitor's right to purchase his materials and supplies from whomsoever he chooses or to sell to whomsoever he chooses

**§ 155 11 Unfair threats of infringement suits**

The circulation of threats of suit for infringement of patents or trade-marks among customers or prospective customers of competitors not made in good faith but with the effect of intimidating such customers or prospective customers, or of hampering or injuring competitors in their businesses is an unfair trade practice

**§ 155 12 Coercing purchase of one product as a prerequisite to the purchase of other products**

The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair trade practice

**§ 155 13 Bogus independents**

It is an unfair trade practice to sell or offer to sell industry products through a pretended independent concern in such manner as to mislead or deceive customers or prospective customers into the erroneous belief that such concern is independent and in competition with that member of the industry owning or controlling such concern

**§ 155 14 Selling below cost**

The practice of selling industry products below the seller's cost when pursued with wrongful intent of thereby injuring a competitor and where the effect of such practice is to unreasonably restrain trade tend to create a monopoly or substantially lessen competition is an unfair trade practice

This section is not to be construed as prohibiting all sales below cost but only such selling below the seller's cost as is resorted to and pursued as a monopolistic practice with the wrongful intent referred to and coupled with the effect of unreasonably restraining trade, tending to create a monopoly or substantially lessening competition

The costs referred to in this section are actual costs of the respective seller and not some other figure or average costs in the industry determined by an industry cost survey or otherwise

**§ 155 15 Discrimination, prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination**

(a) *General* It is an unfair trade practice for any member of the industry engaged in commerce in the course of such commerce to grant or allow, secretly or openly directly or indirectly any rebate refund discount credit allowance for alleged imperfect workmanship after material has been cut or other form of price differential where such rebate refund discount credit allowance for alleged imperfect workmanship or other form of price differential effects a discrimination in price between different purchasers of commodities of like grade and quality where either or any of the purchases involved therein are in commerce and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce or to injure destroy or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them *Provided, however* (1) That the goods involved in any such transaction are sold for use consumption or resale within any place under the jurisdiction of the United States

(2) That nothing contained in this section shall prevent differentials which make only due allowance for differences in the cost of manufacture sale or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered

(3) That nothing contained in this section shall prevent persons engaged in selling goods wares or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade

(4) That nothing contained in this section shall prevent price changes from time to time where made in response to changing conditions affecting either (1) the market for the goods concerned or (ii) the marketability of the goods such as but not limited to actual or imminent deterioration of perishable goods obsolescence of seasonal goods distress sales under court process or sales in good faith in discontinuance of business in the goods concerned

(b) *Prohibited brokerage and commissions* It is an unfair trade practice for any member of the industry engaged in

commerce in the course of such commerce to pay or grant or to receive or accept anything of value as a commission brokerage or other compensation or any allowance or discount in lieu thereof except for services rendered in connection with the sale or purchase of goods wares, or merchandise either to the other party to such transaction or to an agent representative or other intermediary therein where such intermediary is acting in fact for or in behalf or is subject to the direct or indirect control of any party to such transaction other than the person by whom such compensation is so granted or paid

(c) *Prohibited advertising or promotional allowances etc* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing handling sale or offering for sale of any products or commodities manufactured sold or offered for sale by such member unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities

(d) *Prohibited discriminatory services or facilities* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing by contracting to furnish or furnishing or by contributing to the furnishing of any services or facilities connected with the processing handling sale or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms

(e) *Inducing or receiving an illegal discrimination in price* It is an unfair trade practice for any member of the industry engaged in commerce in the course of such commerce knowingly to induce or receive a discrimination in price which is prohibited by the provisions of this section

(f) *Purchases by schools colleges, universities public libraries churches, hos-*

*hospitals and charitable institutions not operated for profit* The foregoing provisions of this section relate to practices within the purview of the Robinson-Patman Antidiscrimination Act which act and the application thereunder of this section are subject to the limitations expressed in the amendment to such Robinson - Patman Antidiscrimination Act which amendment was approved May 26 1938 and reads as follows

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled* That nothing in the Act approved June 19 1936 (Public Numbered 692 Seventy-fourth Congress second session) known as the Robinson-Patman Antidiscrimination Act shall apply to purchases of their supplies for their own use by schools colleges universities public libraries churches hospitals and charitable institutions not operated for profit

(Sec 2 38 Stat 730 as amended secs 2 3 4 49 Stat 1527 1528 ch 283 52 Stat 446 15 U S C 13 13a 13b 13c 21a)

**§ 155 16 "End piece pilfering," false invoicing, etc**

(a) In the course of or in connection with conduct of business by any member of the industry involving the sale of or contract to furnish products of the industry to his customers it is an unfair trade practice for any such member to use the device or scheme of false invoicing or of so-called end piece pilfering or of any other device or scheme characterized by deception or fraud

(b) For purposes of this section end piece pilfering shall mean the pilfering purloining or unauthorized conversion to his own use by any member of the industry of fabrics or yarn or pieces thereof belonging to his customers and bailed to such member for dyeing printing finishing bleaching or other processing

**GROUP II**

**§ 155 101 Repudiation of contracts**

Lawful contracts are business obligations which should be performed in letter and in spirit The repudiation of contracts by sellers on a rising market or by buyers on a declining market is condemned by the industry

**§ 155 102 Cost records**

It is the judgment of the industry that each member should independently keep proper and accurate records for determining his costs

**§ 155 103 Arbitration**

The industry approves the practice of handling business disputes between members of the industry and their customers in a fair and reasonable manner coupled with a spirit of moderation and good will, and every effort should be made by the disputants themselves to compose their differences If unable to do so, they should if possible submit these disputes to arbitration

**PART 157—CATALOG JEWELRY AND GIFTWARE INDUSTRY**

NOTE FTC Order File No 21-515 22 F.R. 4567 June 28 1957 provides in part that Part 23 of this chapter supersedes Part 157 with respect only to jewelry items covered in Part 157

**GROUP I**

- Sec
- 157 1 Misbranding and misrepresentation
- 157 2 Passing off inferior sterling silverware as that of superior grade etc
- 157 3 Deceptive pricing
- 157 4 Misrepresentation of character of business
- 157 5 Deceptive set-up of disclosed information
- 157 6 Commercial bribery
- 157 7 Imitation of trade-marks trade names etc
- 157 8 Combination or coercion to fix prices suppress competition or restrain trade
- 157 9 Discrimination
- 157 10 Aiding or abetting use of unfair trade practices

AUTHORITY §§ 157 1 to 157 10 issued under sec 6(g) 38 Stat 722 15 U.S.C 46(g) Interpret or apply sec 5 38 Stat 719 as amended 15 USC 45 Other statutory provisions interpreted or applied are cited to text in parentheses

SOURCE §§ 157 1 to 157 10 appear at 8 F.R. 17256 Dec 23 1943

**§ 157 1 Misbranding and misrepresentation**

(a) The use on any product or article offered for sale sold or distributed of any marks brands or labels which are false misleading or deceptive in respect of such product or article or in respect of the grade quality, quantity use size weight material content origin preparation manufacturer or distribution thereof or which are false misleading or deceptive in any other respect is an unfair trade practice

(b) It is an unfair trade practice to make or publish or cause to be made or published in advertisements catalogs