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Chapter 17 PUBLIC INFORMATION AND EDUCATION

.1 PURPOSE AND SCOPE

This chapter provides policies and procedures for relations with the news media, clearance of speeches, and clearance of law review articles and other publications by the staff that are not official Commission publications.

.2 INFORMATION**.2.1 GENERAL**

The basic premise underlying the Commission's public information program is the public's right to know what the Commission is doing, tempered by the parameters established by the FTC Act and the Commission's Rules. The Office of Public Affairs (OPA) is responsible for the following:

- (a) Informing the public, primarily through the communications media, about the Commission's public actions. This is done through the issuance of news releases and the publication of a weekly calendar and weekly News Notes.
- (b) Advising the Commission on public information policy.
- (c) Guiding and coordinating the public information programs of the Regional Offices.

Each Regional Office designates a member of the staff as its Public Information Officer, who is assigned public information responsibilities, ordinarily in addition to other duties.

.2.2 NEWS RELEASES

News releases are issued to inform the public of actions taken by the Commission, such as the issuance of complaints, decisions and orders, acceptance of consent agreements, promulgation of trade regulation rules, and other significant actions. When a memorandum recommending such action is forwarded to the Commission, a copy will also be circulated to OPA. That Office will, after consultation with staff and review by the appropriate Bureau Director, Office Head, or designee, prepare a news release appropriate to the Commission action, not necessarily the staff recommendation.

.2.3 NEWS BRIEFINGS

News briefings are held when:

- (a) The action or activity is highly significant.
- (b) The action or activity is so complex that explanation or interpretation would be helpful
- (c) The activity or action is of such magnitude that it cannot be handled adequately by a news release alone, e.g., the issuance of a major complaint.

The decision to schedule a news briefing is made by the Director of Public Affairs with the concurrence of the appropriate Bureau Director and/or Regional Director.

.2.4 MAILING LIST FOR NEWS RELEASES AND NEWS NOTES

OPA maintains mailing lists for news releases and for the weekly News Notes. Information regarding these lists may be obtained from OPA, and names may be added to the lists by submitting them to OPA. Regional Offices may maintain supplemental mailing lists for dissemination of news releases to local or regional media not covered by the headquarters mailing lists.

.2.5 INQUIRIES FROM THE NEWS MEDIA

Members of the staff often receive inquiries from the media regarding various actions taken by the Commission. Although OPA has primary responsibility for informing the media of Commission actions, there is no policy against communications between the staff and representatives of the media regarding matters of public record. In fact, it is often advantageous to explain to the media representatives the technical aspects of the Commission's procedures, including the contents and effect of complaints and orders, trade regulation rules and other public documents. Such explanations will often enable the media to report the Commission's actions with greater accuracy. Any such discussion, however, may include only information that has been released to the public.

Conversations between staff members and the media should be "for attribution and on the record." OPA and the appropriate Assistant/Associate Director, Regional Director and Bureau Director or Office Head should be informed of all significant contacts between staff and the news media.

Staff members should obtain the approval of Bureau Directors or Office Heads (headquarters staff) or Executive Director (all other staff) and notify OPA before consenting to on-the-air interviews.

Certain Commission actions and records are made confidential by law and regulation and may not be revealed to or discussed with any person not a Commission employee. (See OM Ch. 15.) Even when a proposed respondent in a non-public investigation makes a public disclosure that an investigation is being conducted, staff may neither acknowledge the existence of the investigation nor discuss its purpose or scope or the nature of the suspected violation.

Complaint counsel and other staff engaged in trial should not comment on the merits of the matters in litigation. (See OM Ch. 10.5.3.) See Rule 3.6 of the American Bar Association's Model Rules of Professional Conduct.

Special care must be exercised regarding any comment or action that could effect the value of stock or other securities.

Any public out-of-court statements regarding ongoing litigation should contain no more information than is necessary to meet the Commission's responsibility for keeping the public informed. Allegations should be argued and proved in court, and not in the media. Therefore, any public comment on such matters should minimize the possibility of prejudicial publicity and reflect care for the rights of the respondents.

For further guidance regarding responses to inquiries from the media, contact OPA.

.3 EDUCATION

.3.3 GENERAL

Any activity directed toward preparing and dissemination materials relevant to the Commission's enforcement activities, beyond the issuance of news releases and holding news briefings, may constitute an educational activity. Such activities may be conducted in connection with a specific enforcement program, e.g., warranties, or may be related more generally to the activities of the Commission. Educational activities may include the preparation, production, and distribution of explanatory and interpretive materials (broad

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cast, audio visual, and print), educational speeches, and the presentation of seminars, workshops, and similar programs for consumer, the business community, the bar, academic groups, and personnel of other government agencies, including state and local agencies.

.3.2 CRITERIA

Educational activities are particularly appropriate when:

- (a) The purpose and impact of new laws and rules need to be published.
- (b) An industrywide practice creates a need for an "alert" to consumers. This type of educational effort may take the form of advising consumers about practical questions they should ask before making a purchase.
- (c) A significant contribution can be made to attaining enforcement objectives by explaining to relevant groups how to participate in certain Commission activities, such as the development of a trade regulation rule.
- (d) Commission enforcement activities can be enhanced by encouraging the business community to take voluntary action to eliminate unfair, misleading, or anticompetitive practices.

3.3 CLEARANCE

Any non-routine Bureau of Consumer Protection (BCP) educational activity should be cleared with the Assistant Director for Consumer and Business Education. The Assistant Director will evaluate and coordinate the project, assist with funding if necessary, and arrange for appropriate clearances. If written material is involved, guidance is available from the Office of

.4 SPEECHES

Consumer and Business Education staff. They can provide advice to staff to help assure that:

- (a) the material will be easily understood by intended audience(s);
- (b) educational activities are coordinated within BCP and among the Regional Offices;
- (c) educational materials will be produced and distributed through established channels at the most effective time;
- (d) material prepared by BCP's Office of Consumer and Business Education and the Regional Offices, including broadcast projects, educational speeches, publications, and other material will be circulated for possible use by other offices;
- (e) there will be increased use of the mass media and of major trade and professional journals to inform the public of the availability of FTC educational materials; and
- (f) there will be an integrated effort to reach out to consumer, business, and media groups that are willing to aid the Commission in its efforts to educate consumers and the business community.

.3.4 PREPARATION AND DISTRIBUTION OF EDUCATIONAL MATERIALS

Regional Offices are encouraged to participate in the preparation and distribution of consumer and business educational materials and to do outreach and joint educational efforts, as time permits. However, any plans to develop or promote BCP educational materials first should be discussed with the Assistant Director for Consumer and Business Education. In this way, education efforts can be coordinated, funding needs can be assured, and publication requests can be met.

For purposes of OM Chs. 17.4 and 17.5:

“Standard Content” shall mean description of Commission or court precedent, description of clearly articulated Commission policy, discussion of current Commission activity, and explanation of procedures regarding specific laws or regulations, and

“Organizational Unit” shall mean a unit of the Commission identified in Rule 0.8 or 0.9.

.4.1 POLICY

Headquarters and Regional Offices frequently receive requests for Commission personnel to speak before various organizations and groups. Speech requests received directly by Commission staff should be discussed with the appropriate director or assistant or associate director of the recipient’s Organizational Unit to determine whether referral of the request to another Organizational Unit is appropriate. In considering requests for public appearances, staff must weigh the time and expense involved against the benefits expected to be achieved. Speeches must be based only on public information unless written authorization for disclosure has been given by the General Counsel or the General Counsel’s designee under Rule 4.11.

.4.2 DISCLAIMERS, CLEARANCES, AND APPROVALS

.4.2.1 Disclaimers

Oral Delivery. During the oral delivery of a

speech or other public remarks, staff shall appropriately qualify any statements that go beyond Standard Content. Such qualification will depend on the context of the speech or remarks and the content of the statements and, depending on circumstances, may call for use of an affirmative disclaimer (e.g., “in my opinion” or “these are only my personal views”), a negative disclaimer (e.g., “I don’t know whether the Commission would agree” or “these views are not necessarily shared by the Commission”), or both.

Written Text. If written text of a speech is to be distributed or published, an early paragraph or footnote of such text shall state that the views expressed do not necessarily reflect those of the Commission (the “General Disclaimer”). This obligation shall apply regardless of whether the speech goes beyond Standard Content. Subject to compliance with the preceding paragraph, however, staff is not required to recite the General Disclaimer during oral delivery of the speech. Notwithstanding any other provision of this paragraph, the General Disclaimer may be omitted from written text when all of the following conditions apply: (a) inclusion of the General Disclaimer would confuse the audience or undermine the speaker’s message to the detriment of the Commission, (b) omission of the General Disclaimer is approved by the General Counsel or the General Counsel’s designee, and (c) either (i) the speech does not go beyond Standard Content or (ii) the speech is delivered outside of the United States in circumstances indicating that the text represents the views of the government of the United States.

Regardless of whether inclusion of the General Disclaimer is required, staff shall

appropriately qualify written text that goes beyond Standard Content, as contemplated in the paragraph labeled "Oral Delivery." The omission of the General Disclaimer may call for more extensive qualifications to be expressed in the written text.

PowerPoint slides and other demonstrative materials used in connection with a speech or other remarks shall be treated as written text if they are to be distributed or published in lieu of the text of the remarks themselves. Remarks that are to be transcribed or recorded shall be treated as oral and not written, but the expectation of such memorialization may call for more

extensive qualifications to be expressed during the remarks.

In General. Staff may include more extensive disclaimers than are required by this Section .4.2.1. If a speaker can reasonably expect to be associated with a particular Commissioner, consideration should be given to including clarification that the views expressed are not necessarily those of any individual Commissioner.

Questions concerning the form of appropriate disclaimer should be addressed to the Office of the General Counsel.

.4.2.2 Clearances and Approvals

- (a) If a speech will neither go beyond Standard Content nor be made with a written text that is to be distributed or published, acceptance of the request for the speech requires advance approval of (i) for headquarters staff, the director or assistant or associate director of the speaker's Organizational Unit, and (ii) for Regional Office staff, the speaker's Regional Director.
- (b) For all other speeches, acceptance of the request for the speech requires advance approval of the director of the speaker's Organizational Unit. Such director shall consult with the director(s) of all other Organizational Unit(s) that may be affected by the speech. A memorandum explaining the purpose of the speech and requesting authorization to accept the invitation to speak should be submitted to the director of the speaker's Organizational Unit (via the assistant or associate director where

applicable). If authorization is granted, any written text shall be submitted to the director for clearance before the speech is delivered. A written text will ordinarily be appropriate if the speech will go beyond Standard Content.

.4.3 REIMBURSEMENT FOR TRAVEL EXPENSES

Expenses for official travel by Commission staff are ordinarily borne by the Commission. Questions about travel reimbursement should be directed to the Financial Management Office. Commission staff may not personally accept reimbursement from non-Federal sources for official travel or other expenses. The Commission itself has authority to accept reimbursement from certain non-Federal sources for expenses from staff attendance at meetings, provided that an Agency Ethics Official has granted approval in advance of the travel. Questions about seeking such approval should be directed to an Agency Ethics Official.

.4.4 NOTICE TO REGIONAL OFFICES

So that Regional Offices may answer inquiries from news media or the public, headquarters personnel who plan to make a speech, participate in a program, attend a conference, or conduct other Commission business in the field should inform the appropriate Regional Director, preferably at least 24 hours in advance, of the nature and purpose of the visit.

.5 LAW REVIEW ARTICLES AND

.5.1 POLICY

The staff may write Articles based upon public information. No Article may disclose nonpublic information unless written authorization has been given by the General Counsel or the General Counsel's designee under Rule 4.11.

.5.2 DISCLAIMERS, CLEARANCES, AND APPROVALS

Any biographical note submitted in connection with an Article may identify the author as a Commission employee. Where the author is, or can reasonably expect to be, so identified, the biographical note or an early paragraph or footnote of the Article shall state that the views expressed do not necessarily reflect those of the Commission. The author may include a more extensive disclaimer.

An information copy of every Article concerning the activities of the Commission prepared by a staff member should be filed with the Office of Public Affairs by the director of the author's Organizational Unit.

OTHER PUBLICATIONS PREPARED BY THE STAFF

For purposes of OM Ch. 17.5:

"Article" shall include any law review article and other article or publication issued by a source other than the Commission, and "Standard Content" and "Organizational Unit" shall have the meanings specified in OM Ch. 17.4.

When an Article will be written on government time or using government resources, prior approval for the project is required. Approval may be obtained by submitting a memorandum containing an outline of the proposed Article and a time and resource expenditure estimate to the director of the author's Organizational Unit (via the assistant or associate director where applicable). Such director shall consult with the director(s) of all other Organizational Unit(s) that may be affected by the Article. If approval is granted, the author shall submit the final text to the director for clearance before the Article is submitted for publication.

Any Article concerning the activities of the Commission prepared by staff members on their own time and without reliance on government resources should be submitted after publication to the director of the author's Organizational Unit.

.6 TESTIMONY BEFORE STATE LEGISLATURES

(See OM Chapter 14.2.3.7)