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BY THE COMPTROLLER GENERAL

# Report To The Congress

OF THE UNITED STATES

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## Impact Of Congressional Review On Federal Trade Commission Decisionmaking And Rulemaking Processes

This report points out that only two final rules have been submitted for congressional review as required by section 21 of the Federal Trade Commission Improvements Act of 1980. Congressional review delayed the effective date of one rule and prevented the other rule from becoming effective. However, GAO's review of seven rulemaking proceedings showed that congressional review has had only a limited impact on the Commission's decisionmaking and rulemaking processes.



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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON D.C. 20548

B-201197

To the President of the Senate and the  
Speaker of the House of Representatives

This report, required by section 21(e) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1), discusses the impact that congressional review has had on the Federal Trade Commission (FTC) decisionmaking and rulemaking processes. It also discusses the two final rules submitted to the Congress for its review and the action taken on those rules.

FTC has had limited experience with congressional review--as of July 20, 1982, only two final rules had been submitted for review. The congressional review has had little impact on FTC's rulemaking and decisionmaking processes. We identified only one clearly discernible impact on the rulemaking process--FTC added a procedural step to transmit final rules to the Congress. Other changes in the rulemaking process were unrelated to congressional review. FTC Commissioners and staff believe that multiple factors affected FTC's decisionmaking activities, and that FTC decisions in the rulemaking proceedings we reviewed might be attributed to congressional review in only one instance.

Congressional review has, however, had a significant effect on the two rules submitted. The effective date of the games-of-chance rule was delayed by about 9 months, and the Congress disapproved the used car rule on May 26, 1982, which precludes it from becoming effective. This congressional disapproval may have a future impact on FTC's rulemaking and decisionmaking processes. Two FTC Commissioners said they anticipated that congressional disapproval of this rule would encourage other special interest groups to persuade the Congress to disapprove future final rules.

THE FEDERAL TRADE COMMISSION

FTC is an independent agency, organized to promote competition and protect the public from unfair and deceptive acts and practices in advertising and marketing of goods and services. One of FTC's primary means for attaining this objective is the issuance of trade regulation rules prohibiting certain acts and practices within an industry or group of industries. FTC's proceedings for issuing trade regulation rules generally include

- issuing an advance notice of proposed rulemaking;
- publishing a notice of proposed rulemaking citing the reasons for the proposed rule;
- issuing a preliminary regulatory analysis of the proposed rule;
- allowing interested persons to submit written data, views, and arguments and make such submissions available to the public;
- providing an opportunity for an informal oral hearing, which may involve cross-examination of persons and submission of rebuttal evidence;
- promulgating, if appropriate, a final rule (together with a statement of basis and purpose, the Office of Management and Budget's approval of paperwork requirements, and a final regulatory analysis) based on the rulemaking record;
- submitting a final rule for congressional review; and
- if not disapproved by the Congress, prescribing the effective date for the final rule and publishing it in the Federal Register.

For purposes of our review, we considered FTC's rulemaking and decisionmaking processes to be completed when the final rule was promulgated and submitted for congressional review.

During 1979 and 1980, there was considerable congressional debate on whether to enact a congressional review provision (sometimes referred to as legislative veto), its usefulness in exercising congressional control over FTC, its constitutionality, and its impact on current rulemaking procedures. On May 28, 1980, the Federal Trade Commission Improvements Act of 1980 (Improvements Act) was enacted with a congressional review provision.

#### THE CONGRESSIONAL REVIEW PROVISION

Section 21 of the Improvements Act requires that FTC submit all final rules to each House of the Congress for review. If both Houses do not adopt a concurrent resolution of disapproval within "90 calendar days of continuous session," the final rule becomes effective on the date established by FTC. Continuity of session is broken only by an adjournment sine die, i.e., final adjournment of a session of the Congress. The time during which either House is not in session for more than 5 days is excluded in computing

the 90-day period. If the Congress adjourns sine die before the end of the 90-day period and before completing action to disapprove a rule, FTC must resubmit the rule in the next session of the Congress, and another 90-day review period begins.

Section 21(e) requires that, before the end of fiscal year 1982, the Comptroller General shall submit a report to the Congress which:

1. Lists the final trade regulation rules submitted to the Congress by FTC.
2. Lists the final rules disapproved by the Congress.
3. Specifies the number of instances in which FTC promulgated a final rule after the Congress disapproved the rule as originally submitted.
4. Analyzes the impact that the congressional review requirement has had on the FTC decisionmaking and rulemaking processes.

OBJECTIVES, SCOPE,  
AND METHODOLOGY

The objective of our review was to address each of the four requirements in section 21(e) of the act. The information needed for the first three was readily obtained from FTC records. To address the fourth requirement, we reviewed seven FTC rulemaking proceedings. (See app. I for a description of these proceedings.) We included in our review

- two final rules submitted for congressional review, one of which was controversial,
- the four rulemaking proceedings terminated after enactment of the Improvements Act, and
- one additional proceeding near completion and involving a controversial issue.

We reviewed these rulemaking proceedings because we believed they had the greatest potential to show the impact of congressional review on FTC's decisionmaking and rulemaking processes. Our review did not address the constitutionality of the congressional review process. This issue is presently in litigation.

We reviewed FTC records, congressional hearings, and correspondence between FTC and Members of Congress. We obtained written views from each Commissioner and interviewed other FTC officials to obtain their perceptions on the impact of congressional review. We also interviewed industry and consumer group representatives who participated in some of the rulemaking proceedings. We identified FTC decisions in the selected rulemaking proceedings and changes to the rulemaking procedures since May 1980, and determined why these decisions and changes were made. Our work was performed between August 1981 and May 1982.

We conducted our review in Washington, D.C., where FTC headquarters staff are responsible for processing and submitting FTC rules for congressional review. Our work was conducted in accordance with GAO's current "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

#### STATUS OF FTC RULES

As of May 1980, when the Improvements Act was passed, FTC had 18 ongoing rulemaking proceedings. Between May 1980 and May 1982, FTC terminated four proceedings, initiated two proceedings amending existing rules, and submitted for congressional review two final rules--the amendments to the games-of-chance rule and the used car rule. No resolutions were introduced to disapprove the amendments to the games-of-chance rule and the amendments subsequently became effective. On May 26, 1982, the Congress adopted a concurrent resolution disapproving the used car rule. The Chairman of FTC intends to propose revisions to the used car rule which, if the Commission approves, will be resubmitted for congressional review in accordance with section 21(c) of the Improvements Act.

#### IMPACT OF CONGRESSIONAL REVIEW ON FTC PROCESSES AND RULES

We reviewed changes to FTC's rulemaking process made from May 1980 to January 1982 and found only one change relating to congressional review. This change provides that after promulgating a final rule, FTC shall submit it for congressional review in accordance with section 21 of the Improvements Act. If the rule is not disapproved, FTC shall publish a notice in the Federal Register announcing its effective date.

Other changes to FTC's rulemaking process were not related to congressional review. For example, pursuant to section 8 of the Improvements Act, FTC must now prepare an advance notice of proposed rulemaking to obtain public comments. Also, section 15 of the Improvements Act requires FTC to prepare regulatory analyses discussing the need for a proposed rule, its potential benefits and effects, and alternatives to it.

Multiple factors affecting rulemaking

FTC Commissioners and staff believe that congressional review is only one of many factors affecting FTC rulemaking activities. They believe that, in most cases, it is difficult or impossible to isolate the individual effects of each of these factors. One Commissioner stated that it was virtually impossible to identify the precise impact of congressional review and that it "is only one face of the broad anti-regulatory instinct of the present Congress \* \* \*." This Commissioner said, however, that in at least one instance, he decided not to support the initiation of a rulemaking because of the threat of congressional retribution in some form. Another Commissioner stated it is very difficult to separate the effects of the congressional review from other provisions in the Improvements Act.

A third Commissioner stated that over the last 2 years, "the absence of new rulemaking initiatives is at least as easily attributable to the Commission's commitment to the completion of the numerous ongoing proceedings as it is to any concern about the legislative veto." This Commissioner also mentioned several factors affecting the number of rules proposed. These include: the political trend favoring deregulation and less Government intervention, FTC's rulemaking experience enabling it to better judge when an industrywide approach and the related expenditure of substantial resources on a proceeding are justified, and criticisms of rulemaking in general.

FTC staff also cited other factors affecting rulemaking. They mentioned such factors as

- congressional and administration deregulatory initiatives;
- FTC rulemaking experience including the extensive time period for the proceedings, fewer resources for rulemaking, and recognition that rulemaking may not be the answer to all problems; and
- FTC compliance with several statutory provisions, such as the Improvements Act.

Impact on proceedings reviewed

Our examination of the rulemaking records and other FTC documentation prepared in connection with the seven rulemaking proceedings we reviewed revealed no evidence suggesting that FTC decisions were influenced by congressional review. Two Commissioners and some FTC staff told us that congressional review may have influenced

FTC's decision to delete an optional inspection provision from the used car rule, but other Commissioners and staff members did not share this belief.

FTC Commissioners believe that congressional review had little or no impact on its decision to issue a final used car rule. The chronology of major events leading to FTC's approval of the used car rule is discussed in appendix I.

Congressional review has not affected the funeral industry practices rulemaking proceeding. Many changes in the proposed funeral rule occurred before the Improvements Act was passed in May 1980. Also, section 19 of that act specifically outlined what industry practices an FTC funeral rule could cover. FTC Commissioners, staff, and other participants in this proceeding cite this section, rather than the congressional review provision, as a factor affecting this rule. They said that anticipation of congressional review did not influence FTC to change the rule. For example, two Commissioners said FTC retained a requirement for funeral providers to furnish price lists to consumers despite the willingness of a funeral industry trade association to support a modified rule if FTC compromised on the price list issue. On July 28, 1982, FTC approved the funeral rule, which will be submitted for congressional review. (See app. I for a chronology of this proceeding.)

Since the Improvements Act was passed in 1980, FTC has terminated four rulemaking proceedings. (See app. I for a description of these proceedings and the reasons for their terminations.) The congressional review was not a factor in the decisions to terminate any of them. FTC records cited specific reasons for terminating the proceedings, and no references were made to congressional review. Also, each of the current Commissioners who participated in the decisions stated that congressional review was not a factor influencing the termination decisions.

Experience with the two rules submitted for congressional review suggests that some features of the review mechanism may unnecessarily delay the effective date of FTC rules. The congressional review process delayed the effective date of the deregulatory games-of-chance initiative by about 9 months even though the rule was not controversial and no resolutions of disapproval were introduced. Also, before the used car rule was disapproved by the Congress on May 26, 1982, it remained available for consideration by the same Congress for 176 days.

The congressional review provision and FTC's authorization for appropriations expire September 30, 1982. Since the Congress was considering reauthorization legislation earlier this year, we



issued an interim report on April 26, 1982 (HRD-82-56), discussing issues for the Congress to consider to reduce delays caused by congressional review.

Concerns about potential impact  
of congressional review

During hearings in 1979, while the legislative committees were deciding whether to include a congressional review provision in FTC's authorizing legislation, FTC questioned whether congressional review would improve its rulemaking process. FTC believed that congressional review could undermine the rulemaking procedures, which are intended to encourage full public participation in developing a complete rulemaking record, allowing FTC to make an informed decision on whether to issue a rule. FTC believed that, with congressional review, many individuals and groups would work to achieve a legislative veto rather than participating in the rulemaking process. FTC was also concerned that any veto provision that did not provide for concurrence by both Houses of Congress and the President might be unconstitutional.

Several Commissioners are still troubled by these issues. Although the current Chairman views congressional review as a useful means of controlling the rulemaking activities of independent agencies, he is concerned with its constitutionality. In March 1982, he testified that the Congress might want to consider a "veto" provision that contains expedited procedures and provides for concurrence by the President. Other Commissioners continue to be concerned with the potential impact of congressional review on FTC decisionmaking and rulemaking. They, as well as FTC staff, are concerned that

- industry efforts would include persuading the Congress to influence FTC action on proposed rules,
- congressional decisions to disapprove an FTC rule would be politically motivated and not based on the factual rulemaking record, and
- industry lobbying efforts to obtain disapproval of a rule would increase while participation during the rulemaking proceedings may decrease.

Industry and consumer group representatives, on the other hand, did not believe that industry participation in FTC rulemaking proceedings would be reduced.

FTC COMMENTS

FTC stated that this report is a generally accurate summary of recent rulemaking events and of the reaction of individual Commissioners to those events (see app. II).

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We are sending copies of this report to the Director, Office of Management and Budget, and the Chairman of FTC.



Comptroller General  
of the United States

RULEMAKING PROCEEDINGS REVIEWEDGAMES-OF-CHANCE

The games-of-chance rule, promulgated in 1969, covers promotional games used by food stores and gasoline stations to attract customers. The rule required businesses to observe a hiatus or waiting period between different promotional games. The waiting period was required to be at least as long as the duration of the previous game. The rule also required that businesses (1) display the names of all winners, (2) submit a complete list of winners to the Federal Trade Commission (FTC) at the end of each game, and (3) disclose specified additional information to game participants.

In October 1978, FTC proposed an amendment to reduce the required waiting period between games to the duration of the previous game or 30 days, whichever is less. In August 1979, FTC proposed a second amendment which would eliminate the requirement to display the names of all winners and require a business to display only the names of winners who redeem winning pieces in that store. Also, businesses would no longer be required to submit a complete list of winners to FTC.

FTC approved and forwarded these amendments for congressional review in August 1980. After completing the review process in June 1981, the amendments became effective on August 17, 1981.

USED CAR

The used car rulemaking proceeding evolved from an investigation begun by FTC's Seattle Regional Office in 1973. That investigation resulted in a report recommending that FTC require automotive dealers to inspect used cars, disclose any defects, and provide warranties on defective parts. Subsequently, FTC directed its staff to continue this investigation.

In 1975, the Congress enacted the Magnuson-Moss Warranty--Federal Trade Commission Improvement Act. Section 109(b) of this act requires FTC to "\* \* \* initiate a rulemaking proceeding dealing with warranties and warranty practices in connection with the sale of used motor vehicles." This section also provides that, in prescribing such a rule, "the Commission may exercise any authority it may have under this title, or other law \* \* \*." In 1976, FTC initiated a rulemaking proceeding pursuant to this section and section 18 of the Federal Trade Commission Act, which empowers FTC to issue rules to prevent unfair or deceptive acts or practices.

In September 1978, the FTC staff recommended that the Commission approve a used car rule which would have required mandatory inspection of cars prior to sale, disclosure of certain mechanical and safety component defects, disclosure of any warranty coverage, and other specified information.

Used car industry members were concerned that a mandatory inspection rule would increase dealer costs and liability claims. They believed that any rule requiring inspections would thereby create express warranties and would exceed the congressional intent of the Magnuson-Moss Warranty--Federal Trade Commission Improvement Act. A 1979 House report 1/ also pointed out that the Congress never intended to give FTC authority to require inspections or warranties.

One of the major FTC decisions concerning the used car rule was made before the enactment of the Improvements Act. In October 1979, FTC rejected its staff's recommendation to adopt a rule mandating inspections and directed the staff to consider an optional inspection rule. In May 1980, FTC tentatively adopted an optional inspection rule requiring that, if a dealer inspected a used car and found mechanical defects, these defects would have had to be disclosed. Dealers would also have had to disclose the warranty coverage offered.

Industry representatives were concerned that an optional inspection rule would detract from warranty disclosures and questioned whether it would provide consumers with useful information. Consumer groups, which were concerned that information resulting from optional inspections might be useless or misleading, supported a mandatory inspection rule. Also, many Congressmen wrote to FTC expressing concerns with the proposed rule's added regulatory burden, increased costs to dealers, and other issues. Furthermore, 51 Senators signed a letter to FTC in September 1980, expressing their concerns about the practical effects of the proposed rule and referring to possible use of the congressional veto.

In light of the problems raised concerning optional inspections, FTC dropped the optional inspection rule in April 1981. During the April 1981 FTC meeting when this decision was made, the Commissioners discussed several concerns and issues regarding this proposal. For example, one Commissioner believed that the proposed rule could result in increased costs and questioned its usefulness to consumers. Other Commissioners believed that consumers would be confused by its disclosure requirements. According to FTC, it decided to adopt a less intrusive rule. The final rule, approved on August 3, 1981, would have required car dealers to post on each used car a window sticker disclosing to potential buyers whether any warranty was being provided and the terms of that warranty, listing any known major defects in the car's mechanical system, and disclosing certain other information. FTC believes that its rulemaking record shows that substantial abuses have occurred--oral misrepresentations and deceptive practices concerning warranty coverage and mechanical condition--and that the final rule was

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1/House Report 96-181, May 15, 1979.

within FTC's authority as contained in section 18 of the Federal Trade Commission Act and section 109(b) of the Magnuson-Moss Warranty Act.

In September 1981, FTC submitted the final used car rule for congressional review. Because the review period had not ended at the final adjournment of the session, the Commission resubmitted the rule on January 28, 1982. On May 26, 1982, the Congress disapproved the rule.

#### FUNERAL INDUSTRY PRACTICES

FTC began the funeral industry practices rulemaking proceeding in August 1975. The initial notice of this proceeding contained a proposed rule which would have prohibited funeral providers 1/ from

- requiring a casket for cremation;
- embalming without permission;
- misrepresenting the preservative value of embalming, caskets, or outer burial containers;
- misrepresenting that embalming, caskets, or outer burial containers are required by law, health regulations, or religious customs;
- disparaging a customer's (anyone who inquires about or purchases funeral services) concern for price and interfering with a customer's selection of services;
- engaging in exploitative practices, such as taking custody of a body without permission, refusing to release a body on request, and using merchandising techniques designed to steer bereaved customers toward expensive caskets; and
- engaging in certain unfair and deceptive practices, such as attempting to prohibit other providers from advertising or offering inexpensive funerals.

In addition, it would have required that funeral providers give price information over the telephone, furnish price lists of all items offered, and give customers itemized invoices of services and merchandise selected. Furthermore, this rule would have preempted any State or local laws which were inconsistent or contrary to the FTC rule.

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1/FTC has defined a funeral provider as any person, partnership, or corporation that sells or offers to sell funeral goods and funeral services to the public.

In March 1979, FTC approved in principle a funeral rule substantially different from the original proposal. Many provisions in the 1975 proposed rule had been dropped. FTC deleted the provisions which prohibited funeral providers from

- taking custody of a body without permission;
- refusing to release a body on request;
- using merchandising techniques designed to steer bereaved customers toward expensive caskets;
- interfering with a customer's selection of goods and services; and
- disparaging price concerns.

In addition, FTC modified several of the proposed rule's provisions. For instance, the prohibition against embalming without permission was modified to allow embalming if the family of the deceased could not be contacted within a reasonable time.

In May 1980, the Improvements Act placed certain restrictions on FTC's authority to regulate the funeral industry. Section 19 of the act prohibited FTC from issuing a funeral rule similar to its 1975 proposal. However, section 19 allowed FTC to issue a rule prescribing the manner in which funeral providers disclose the prices of funeral goods and services. The rule could also prohibit funeral providers from

- engaging in any misrepresentation;
- engaging in any boycott or threat against others furnishing funeral goods or services;
- conditioning the furnishing of funeral goods and services upon the purchase of other funeral goods or services; and
- furnishing funeral goods or services for a fee without obtaining prior approval.

In addition, section 19 provides for an exemption applicable in those States which have a requirement providing the same or a higher level of protection than FTC's rule.

The funeral industry and some Members of Congress opposed the proposed funeral rule as being burdensome, costly, and a matter for State rather than Federal regulation. The funeral industry was particularly concerned about an itemized pricing provision in the proposed rule requiring funeral providers to maintain price lists of all goods and services provided.

In July 1981, FTC approved rule language retaining an itemized pricing provision and incorporating all the other Improvements Act provisions except one. The prohibition concerning boycotts or threats against others furnishing funeral goods or services was not adopted because the Commission determined that the rulemaking record could not support the need for this prohibition in light of the limitations in section 19.

The rule now has several central features. It requires that funeral providers give customers (1) price information including lists of merchandise and services prior to a funeral selection, (2) a list of merchandise and services selected, and (3) prices over the telephone if requested. The rule also prohibits funeral providers from misrepresenting any legal or State requirements or the preservative value of funeral services and merchandise. In addition, it prohibits such unfair or deceptive practices as embalming without explicit permission in ordinary circumstances or requiring caskets for cremation. It also requires that funeral providers offering cremations have available alternative containers made of such inexpensive materials as heavy cardboard or canvas. Finally, the rule includes an exemption provision which would apply to States which provide the same or higher level of protection than FTC's rule. On July 28, 1982, FTC approved the funeral rule, which will be submitted for congressional review.

#### TERMINATED RULEMAKING PROCEEDINGS

##### Cellular plastics

On July 23, 1974, FTC initiated a rulemaking proceeding covering the flammability of cellular plastics. On July 23, 1975, FTC published a new initial notice in accordance with the requirements of the Magnuson-Moss Act. The proposed rule would have required the industry to disclose the combustion characteristics of cellular plastic products used in construction. It would also have prohibited misrepresentations that cellular plastic products used in mattresses or upholstered furniture were noncombustible.

FTC concluded in June 1980 that there was no current need for the rule because (1) it was already enforcing safety risk disclosure requirements for insulation products, (2) it had evidence indicating that many cellular plastics industry members were disclosing that their products were combustible and must be properly installed to minimize combustion hazards, (3) industry members were under pressure to continue these disclosures, and (4) the proposed rule, while prohibiting misrepresentations concerning plastics used in mattresses or upholstered furniture, would not have remedied the hazards presented by those products.

### Over-the-counter drugs

The over-the-counter drug rulemaking proceeding began in October 1975. This proceeding focused on the problem of ensuring consistency between Food and Drug Administration (FDA)-approved labeling and the advertising of over-the-counter drugs. This proceeding was terminated in February 1981 primarily because FTC could not ascertain the need for and impact of the rule, FDA having approved language for only one category of over-the-counter drugs.

### Physician participation in medical prepayment plans

An advance notice of proposed rulemaking was initiated in March 1980 to determine if a rule was needed to address antitrust concerns about physician control of medical prepayment plans. FTC decided in April 1981 that a rule would not be the most appropriate remedy because physician control of prepayment plans is not always anticompetitive. Instead, FTC decided to use a case-by-case approach to review antitrust concerns arising from physician control of these plans.

### Children's advertising

In April 1978, FTC declared its intent to conduct a rulemaking proceeding addressing problems posed by television advertising directed to children, particularly ads for highly sugared products. At that time, FTC did not propose a specific rule; instead, it sought comments on various approaches to address perceived problems. This rulemaking proceeding was initiated under the theory that advertising aimed at children might be unfair or deceptive. However, the Improvements Act provided that a rule could not be promulgated on the basis of unfairness. The proceeding could only have continued under a theory of deception. The Commission then directed staff to reexamine the record to determine if a rule should be proposed based on deception theory alone.

The children's advertising proceeding was terminated in September 1981 for several reasons. FTC thought that a satisfactory resolution of the factual issues was speculative and was unwilling to commit substantial resources in money and personnel to resolve the complex issues involved. Even if these issues could be resolved, FTC questioned whether it could develop a remedy which would be justified on legal and policy grounds.



FEDERAL TRADE COMMISSION  
WASHINGTON, D. C. 20580

OFFICE OF THE CHAIRMAN

July 16, 1982

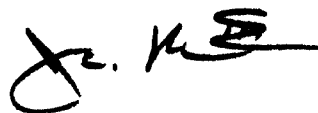
Mr. Gregory J. Ahart  
Director  
Human Resources Division  
U. S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Ahart:

Thank you for your letter of June 22, 1982 inviting the Commission's comments on the draft GAO report entitled "Impact of Congressional Review on Federal Trade Commission Decisionmaking and Rulemaking Processes." We have reviewed the draft report and believe it to be a generally accurate summary of recent rulemaking events and of the reaction of individual Commissioners to those events.

However, the report errs in one summary of a Commissioner's views. In line 10 on page 5, the phrase "threat of congressional retribution in some form" should be inserted in lieu of "congressional review" to accurately reflect what the Commissioner said. In addition, the appendix to the report contains a few minor inaccuracies and omissions. Attached to this letter is a list of suggested revisions. We appreciate this opportunity to comment.

By direction of the Commission.



James C. Miller III  
Chairman

Attachment

GAO note: Page, paragraph, and line numbers have been changed to correspond to numbers in the final report.

Suggested Revisions in Appendix I

Page 1, ¶ 2, line 6: Insert the phrase "who redeem winning pieces" after the word "winners."

Page 1, ¶ 6, line 1: Correct "November 1978" to read "September 1978."

Page 2, ¶ 3: Delete "and consumer groups" in line 1; rephrase the second sentence to read, "Consumer groups, which were concerned that information resulting from optional inspections might be useless or misleading, supported a mandatory inspection rule."

Page 3, carryover ¶, line 2: Insert at the end of the sentence "and Section 109(b) of the Magnuson-Moss Warranty Act."

Page 3, ¶ 1: Insert as a new second sentence, "Because the review period had not ended at the final adjournment of the session, the Commission resubmitted the rule on January 28, 1982."

Page 4, ¶ 2, line 6, Insert "prices" in lieu of "cost."

Page 5, ¶ 1: Delete "final" in line 1 and insert "in light of the limitations in section 19" in lieu of the last line.

Page 5, ¶ 2, lines 15-16: Insert "promulgated a final rule" in lieu of "submitted this rule for congressional review."

Page 5, ¶ 3: Correct "July 23, 1974" to read "July 23, 1975" in line 1 and insert "in the construction of structures" in lieu of "as insulation" in line 6.

Page 5, ¶ 4, line 3: Insert "for insulation products" after "requirements."

Page 6, ¶ 1: Delete the last sentence and rephrase the third sentence to read, "This proceeding was terminated in February 1981 primarily because the FTC could not ascertain the need for and impact of the rule, the FDA having approved language for only one category of over-the-counter drugs."

Page 6, ¶ 3: In line 3, insert "particularly ads for highly sugared products" after "children." In line 7, insert "might be unfair or deceptive" in lieu of "was unfair and deceptive." Finally, insert as a new last sentence, "The Commission then directed staff to reexamine the record to determine if a rule should be proposed based on deception theory alone."

Page 6, ¶ 4, line 3: Insert "factual" before "issues."

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