DECEPTIVE ADVERTISING

- The **Federal Trade Commission (FTC)** polices advertising that misleads consumers either by making an unjustified claim or by omitting a material fact regarding a product's composition, qualities, sponsorship, or performance.

  - **False Statements:** Advertising that appears to be based on facts that are scientifically untrue is deceptive.

    - Vague generalities or obvious exaggerations – collectively called ***puffery*** – are <u>not</u> deceptive.

  - **Bait-and-Switch Advertising:** Advertising one product (the "bait") at a very attractive price, then informing the customer that the advertised product is either unavailable or of poor quality, convincing the customer to purchase a different, more expensive product (the "switch").

  - **Online Deceptive Advertising:** The **Federal Trade Commission** (FTC) has issued guidelines requiring that online advertising must (1) be truthful and not misleading, (2) not make any claims that cannot be substantiated, (3) not be likely to cause substantial consumer injury that consumers cannot reasonably avoid, and (4) clearly and conspicuously disclose any qualifying or limiting information.

FTC ENFORCEMENT

- If, after investigating, the FTC staff determines that an advertisement is unfair or deceptive, it will send a formal **complaint** to the advertiser. If the advertiser refuses to settle the complaint, the FTC can conduct an administrative hearing. If the staff proves its case, the FTC may

  - issue a **cease-and-desist order**, requiring the advertiser to stop the unfair or deceptive advertisement,

  - require the advertiser to **counteradvertise** (*i.e.*, retract and correct its prior unfair or deceptive advertisement), and

  - impose a **multiple product order**, requiring the advertiser to cease and desist from falsely advertising <u>all</u> of the firm's products or services.

TELEMARKETING AND FAX ADVERTISING

- The **Telephone Consumer Protection Act** prohibits

  (1) telephone solicitation using an **automatic dialing system** or a **prerecorded voice**, and

  (2) transmitting **advertisements via fax** without first obtaining the recipient's permission.

- The FTC **Telemarketing Sales Rule** requires a telemarketer to initially inform the recipient of the seller's name and the product being sold. In addition, the telemarketer must

  (1) **refrain from misrepresenting** information,

  (2) inform those they call of (a) the **total cost** of the goods being sold, (b) any **restrictions** on obtaining or using the goods, and (c) whether a sale will be considered **final and nonrefundable**, and

  (3) **remove a consumer's name** from its contact list if the customer requests it to do so.

  - Telemarketers must not call anyone whose name appears in the national **"Do Not Call" Registry** <u>unless</u> the person is already doing business with the seller on whose behalf the call is made.

LABELING AND PACKAGING

- The **Fair Packaging and Labeling Act** requires that food product labels identify the

  (1) **product**,

  (2) net **quantity** of the product,

  (3) **manufacturer**, and

  (4) **packager** or **distributor**.

- The **Nutrition Labeling and Education Act**

  (1) requires that food containers bear labels providing certain **nutritional information** and

  (2) regulates the use of terms such as “fresh” and “low fat.”

  - As of 2009, labels on **fresh meats**, **vegetables**, and **fruit** must indicate the product’s **place of origin**.

- Other federal labeling and packaging laws include The Comprehensive Smokeless Tobacco Health Education Act, The Wool Products Labeling Act, and The Flammable Fabrics Act.

DECEPTIVE SALES PRACTICES

- **Regulation Z:** Federal Reserve regulation governing credit terms of sales contracts.

- **"Cooling Off" Laws:** Laws that permit consumers a period of time after making a purchase from a door-to-door salesperson in which to cancel the sale and obtain a refund. In addition to various state cooling-off laws, the FTC also regulates door-to-door sales.

- State and federal laws and regulations also govern

  - telephone, mail-order, fax, and on-line sales,

  - used vehicle sales,

  - funeral planning and handling, and

  - real estate sales and lending.

FOOD AND DRUG SAFETY

- The **Food and Drug Administration** (FDA)
  - protects consumers from **adulterated** and **misbranded** food and drugs;
  - regulates food **quality**, food **additives**, and food **classifications**;
  - approves all **prescription and over-the-counter drugs** before they may be sold to the public;
  - may mandate that a manufacturer or processor **recall** from public distribution food and drugs the FDA deems to be unsafe or to be unsafely or misleadingly packaged.

CONSUMER PRODUCT SAFETY

- The **Consumer Product Safety Commission (CPSC)**
  - conducts product safety **research**;
  - maintains a **clearinghouse** of information on the risks associated with various products, including information it requires manufacturers and distributors to self-report about product safety;
  - establishes and enforces product safety **standards**;
  - may **ban** the manufacture and sale of products it deems to pose an "unreasonable risk" to consumers;
  - may **recall** from the market products it deems to be "imminently hazardous";
  - may require manufacturers to report information suggesting that products already sold or intended for sale pose a safety hazard.
- The **Consumer Product Safety Act** requires distributors to immediately notify the CPSC if they receive information that a product "contains a defect which ... creates a substantial risk to the public" or "an unreasonable risk of serious injury or death."

UNFAIR LENDING PRACTICES

- The **Truth in Lending Act (TILA)**, which applies only to loans someone in the business of lending, selling on credit, or arranging credit makes to a consumer,

  (1) requires **clear and conspicuous disclosure** of all credit or loan terms, including the **amount financed**, any **finance charge**, the **annual percentage rate** (APR) of interest and how it is calculated, and **total payments**;

  (2) permits a consumer to **cancel** any credit contract if the creditor fails to comply with TILA's requirements;

  (3) prohibits, pursuant to the **Equal Credit Opportunity Act**,

    (a) denying credit because of race, religion, national origin, color, gender, age, marital status, or receipt of federal income assistance; and

    (b) requiring a cosigner if the credit applicant satisfies the lender's creditworthiness standards; and,

  (4) pursuant to the **Consumer Leasing Act**, requires lessors who lease automobiles and other goods to consumers for more than four months to disclose in writing all of the lease's material terms.

CREDIT CARD REGULATION

- A credit card company
  - may not demand that a cardholder pay (1) more than $50 per card for unauthorized charges made before the cardholder notifies the creditor that a card was lost or stolen or (2) any unauthorized charges on an unsolicited consumer credit card that was lost or stolen;
  - may not retroactively increase the interest rate on an existing balance unless the account is 60 days past due;
  - must notify a cardholder at least 45 days before changing a credit card's terms;
  - must send a cardholder a monthly statement at least 21 days before payment is due;
  - may not increase the interest rate on an existing balance or charge an over-limit fee, except in specific situations;
  - must apply any payment in excess of the minimum due to the highest-interest unpaid balance; and
  - may not compute a finance charge based on any paid balance from the previous billing cycle.

FAIR CREDIT REPORTING

- The **Fair Credit Reporting Act**
  - permits consumer credit reporting agencies to issue credit reports only for certain purposes;
  - requires a creditor to inform a consumer if the creditor's negative decision was based on information in the consumer's credit report; and
  - provides the consumer with mechanisms by which to
    - request a copy of her credit report and
    - challenge any information the consumer believes is inaccurate, which the reporting agency must verify within a reasonable time or remove it from the consumer's credit report.

IDENTITY THEFT

- The **Fair and Accurate Credit Transactions Act**
  - established a national **fraud alert system**,
  - requires major credit reporting agencies to provide consumers with a **free copy** of their credit reports every 12 months,
  - requires credit card receipts to **truncate** the customer's full name and account number,
  - mandates that financial institutions **cooperate** with the FTC to identify key identity theft indicators and develop rules for disposing of sensitive credit data, and
  - allows consumers to report **identity theft** directly to creditors.

FAIR DEBT COLLECTION

- The **Fair Debt Collection Practices Act** limits the means by which collection agencies (including attorneys' who regularly try to obtain payment of consumer debts through legal process) may collect from consumers. The Act prohibits:
  - contacting the debtor at her place of employment, unless the debtor's employer acquiesces;
  - contacting the debtor during inconvenient or unusual times;
  - contacting the debtor after the debtor has retained an attorney;
  - contacting third parties not related to the debtor, excluding the debtor's financial adviser, about payment;
  - harassing or intimidating the debtor, or employing false or misleading information against the debtor; and
  - communicating with a debtor, other than to advise her that the matter has been referred to a collection agency, after she has informed the company that she refuses to pay the debt.