



IFA LEGAL SYMPOSIUM

Reviewing the FTC Rule: Are Significant Changes in the Making?

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Speakers

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History of the FTC's Franchise Rule

1978: FTC issues Franchise Rule

1995: FTC initiates a review of the Franchise Rule

1997: ANPR

1999: NPR

2004: Staff Report

2007: FTC issues Amended Franchise Rule

Overview of the Franchise Rule

- Pre-sale Disclosure Rule
 - 23 Items
 - Disclosure format set by the Rule
 - FPRs are not mandatory, but if provided, Rule includes specifications
 - Can't disclaim or contradict required disclosures
- Law Enforcement
 - Section 13(b) injunctive relief
 - Section 19 redress
 - Civil penalties – up to \$43,792 per violation

Current Regulatory Review of the Franchise Rule

2019: FTC initiates a review of the Amended Franchise Rule

2020: FTC hosts a Workshop

2021: Review is ongoing

Current Regulatory Review of the Franchise Rule

- Any action will be published in the Federal Register and on [ftc.gov](https://www.ftc.gov)
- Possible Next Steps:
 - FTC initiates a rulemaking
 - FTC closes the rule review

FTC Resources

- FTC resources:
 - [ftc.gov](https://www.ftc.gov)
 - [business.ftc.gov](https://www.business.ftc.gov)
 - [reportfraud.ftc.gov](https://www.reportfraud.ftc.gov)

Financial Performance Representations

- Mandatory or Voluntary FPRs
- Preventing False Earnings Claims
- Associated costs with data collection
- Data accuracy and liability
- Financial performance resources beyond the FDD

Disclaimers, Waivers & Questionnaires

- Disclaimer prohibition - Issue Spotting
- NASAA FPR Commentary
- Waivers and integration clauses – Issue Spotting
- Questionnaires – Prevalence and Issue Spotting

FDD Format

- Length – Where can the FDD be shortened and should it?
- Readability and Understandability
- Pros and Cons of a Summary
- FDD Structure and Organization
- Language
- Technology

Frequently Asked Questions

- Other trends
- Perspectives on priority issues
- Areas of consensus?
- FDD readability/understandability
- Questions from the Audience

THANK YOU