

PART 424—RETAIL FOOD STORE ADVERTISING AND MARKETING PRACTICES

Sec. 424.1 Unfair or deceptive acts or practices. 424.2 Defenses.

AUTHORITY: 88 Stat. 2193, as amended: 15 U.S.C. 57a(a)(1)(B).

§ 424.1 Unfair or deceptive acts or practices.

In connection with the sale of offering for sale by retail food stores of food, grocery products or other merchandise to consumers in or affecting commerce as “commerce” is defined in section 4 of the Federal Trade Commission Act, 15 U.S.C. 44, it is an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1), to offer any such products for sale at a stated price, by means of an advertisement disseminated in an area served by any stores which are covered by the advertisement, if those stores do not have the advertised products in stock and readily available to customers during the effective period of the advertisement, unless the advertisement clearly and adequately discloses that supplies of the advertised products are limited or the advertised products are available only at some outlets.

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§ 424.2 Defenses.

No violation of §424.1 shall be found if:

- (a) The advertised products were ordered in adequate time for delivery in quantities sufficient to meet reasonably anticipated demand;
- (b) The food retailer offers a “raincheck” for the advertised products;
- (c) The food retailer offers at the advertised price or at a comparable price reduction a similar product that is at least comparable in value to the advertised product; or
- (d) The food retailer offers other compensation at least equal to the advertised value.

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