This chapter provides background information on this treatise. Chapter 2 [1], infra, examines eight of the most important Federal Trade Commission (FTC) trade regulation rules and also considers the scope of FTC rules, the rulemaking process, government and private remedies for rule violations, and parallel state statutes. Chapter 2 [1] also lists FTC rules and guides not considered in the chapter and refers readers to where such other rules and guides are analyzed.

Chapter 3 [2], infra, considers rulemaking and other standards set by the Consumer Financial Protection Bureau (CFPB). Rules that have been transferred to the CFPB (under the “enumerated statutes”) are examined in other NCLC treatises. The chapter instead focuses on CFPB authority relating to unfair, deceptive, and abusive practices (UDAAP). Since unfairness and deception standards are examined in detail in NCLC’s Unfair and Deceptive Acts and Practices [3], this chapter focuses especially on the abusive standard. The chapter examines the CFPB’s authority and action concerning UDAAP rules as well as guidance documents, enforcement actions, the potential scope of CFPB UDAAP rules, and remedies to enforce CFPB rules.

Chapter 4 [4], infra, analyzes in great detail a ninth FTC trade regulation rule and perhaps the most important FTC rule—the Rule Concerning Preservation of Consumer Claims and Defenses, also known as the Holder Rule. The rule requires a notice to be placed in credit agreements providing that the consumer can raise against the holders of their credit agreements all claims and defenses that the consumer can raise against the seller. The chapter examines the operation of the rule, consumer rights if the notice is not placed in the credit agreement, and also state statutes similar to the Holder Rule.

Chapter 5 [5], infra, considers portions of another FTC rule, the Telemarketing Sales Rule, and parallel state statutes. The chapter focuses on those portions of the rule and state law that do far more than just regulate inconvenient calls to consumers—they also provide important substantive rights preventing merchant fraud, even when the consumer initiates a call.

Chapter 6 [6], infra, focuses on the Telephone Consumer Protection Act and other federal laws that limit inconvenient calls, junk faxes, and e-mail spam. Chapter 6 [6] considers the Telephone Consumer Protection Act and Federal Communications Commission regulation of unwanted calls and junk faxes, federal statutes and regulations affecting e-mail spam, and the portions of the Telemarketing and Consumer Fraud and Abuse Prevention Act and the FTC Telemarketing Sales Rule that deal with unwanted telemarketing phone calls.

Chapter 7 [7], infra, provides a detailed analysis with extensive case law interpreting the federal RICO statute, with an emphasis on issues of relevance to a consumer case. Chapter 8 [8], infra, then considers state RICO statutes and also state civil theft statutes. Chapter 9 [9], infra, covers important private remedies available under the federal False Claims Act when the government is also a victim of fraud and also describes state false claims acts.

Chapter 10 [10], infra, in a departure from other chapters in this treatise, focuses on federal and state regulation of one particular industry. Some of the worst abuses targeting consumers today are engaged in by debt relief service agencies, including certain credit counseling agencies offering debt management plans, and by many debt settlement, debt negotiation, and debt elimination companies.

Finally, Chapter 11 [11], infra, briefly sets out other forms of federal and state regulation of broad applicability to consumer transactions. It examines the utility of federal and state anti-trust statutes to consumer transactions. It then considers federal and state regulation of transactions that provide (and bill) consumers for unordered merchandise. Other sections examine state plain English statutes and federal and state requirements for non-English disclosures when a transaction is not conducted in English. The chapter then turns to an analysis of the 2010 Restore Online Shoppers’ Confidence Act, which provides protections against two types of Internet sales: negative option sales and sales by an unrelated merchant that are solicited as a consumer is completing a transaction with an original merchant. The chapter now also covers the federal Computer Fraud and Abuse Act, which prohibits unauthorized access to a computer and related practices.

Footnotes
