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fundamental part of that posture are the agency promulgated Rules of Practice. Parts 0 and 1 of these Rules shape Commission behavior and process for Section 18 rulemaking. Taking position of requirements beyond what Congress provided in statute has led to the widespread belief among some commentators and policymakers that Section 18 rulemaking is too difficult to address many of the unfair and deceptive practices prevalent in the economy today.

II. Changes to the Rules of Practice.

These changes to the Rules of Practice realign Commission practice with our statutory requirements and remove those extraneous and onerous procedures that serve only to delay Commission business. These streamlined Section 18 rules still provide far greater transparency, process, and opportunity for the public and businesses alike to be heard than APA notice comment rulemaking procedures.

These changes include providing the Commission with greater accountability and control over Section 18 rulemaking, including deciding the final list of disputed material facts to be resolved, deciding who will make oral presentations to the Commission and who will cross examine or present rebuttals submissions. The chair will now either serve as designated Chief Presiding Officer and the Commission will ensure orderly conduct for those rulemakings. Previously, the Chief Administrative Law Judge was designated as Chief Presiding Officer in Part 0, which reinforced the myth that Section 18 rulemakings required elaborate, interminable judicial processes instead of straightforward public participation. Additionally, these streamlined provisions allow Commission to designate disputed issues of material fact earlier in the rulemaking proceeding with the issuance of the Notice of Proposed Rulemaking (NPRM) and avoid delaying proceedings with unresolved matters late in the process.

These procedures also enhance Commission transparency by requiring that records of both written and oral communications to a Commissioner or their advisors during a rulemaking proceeding will be placed in the rulemaking record and be available to the public.

The revised rules respect the underlying statutory requirements of Section 18 that provide ample transparency and opportunity for public participation in the promulgation of Trade Regulation Rules. These requirements include: the publication of an ANPRM for comment; the advance submission of the ANPRM to our congressional oversight committees; the publication of an

III. Conclusion

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will provide much needed clarity about how our central statute applies to contemporary economic realities and will allow the FTC to define with specificity what acts or practices are unfair or deceptive under Section 5 of the FTC Act.

Prospective trade rules will give businesses and consumers concrete guidance about their responsibilities and rights. Importantly the Commission will be able to exercise its prosecutorial discretion to seek a wide variety of relief, including redress, civil monetary penalties, reformation of contracts, and other relief, against first violators of Trade Regulation Rules under Section 19 of the FTC act. While rulemaking is no substitute for a permanent fix to our Section 13(b) authority to obtain monetary relief, trade rules can help ensure that businesses will no longer be able to take advantage of consumers and cement their market position by engaging in practices that do people real harm until we catch them and take them to court the first time.

Self-imposed red tape has only created uncertainty and delay for the important business of this & R P P L V V L R Q 7 K H L P S R V L W L R Q R I W K R V H U H T X L U H P H Q W V G
business world that the brief era of Section 18 rulemaking had come to an end. With the adoption of these streamlined procedures we wish to signal a change in Commission practice and ambition: that we intend to fulfil our mission to protect against unfair and deceptive practices in commerce and provide consumers and businesses with process, clarity, and transparency while crafting the rules to do so.