



July 24, 2006

Hampton Newsome
Federal Trade Commission/Office of the Secretary
Room H-135 (Annex J)
600 Pennsylvania Avenue, NW
Washington DC 20580
Re: Appliance Labeling Research: No. P064200

Dear Mr. Newsome:

The Consortium for Energy Efficiency (CEE) would like to thank the Federal Trade Commission (FTC) for the opportunity to submit comments on the federal EnergyGuide label and the FTC's plans to research the label's effectiveness.

As you may know, CEE is the national organization of energy efficiency program administrators. Our members are responsible for ratepayer-funded efficiency programs in 27 states and two Canadian provinces. CEE member programs are the primary vehicle for delivering energy efficiency to more than 165 million U.S. residents. In 2005, U.S. CEE members' budgets represented over 90 percent of the total \$1.5 billion of these state-authorized program budgets nationwide. This figure will exceed \$2 billion for 2006.

CEE continues to examine this issue through our Residential Appliances Committee, which consists of managers of voluntary appliance energy efficiency programs at CEE member organizations in the U.S. and Canada. We have also decided to involve our Evaluation Committee, which consists of the professionals that evaluate these programs, in order to provide comments on the details of the FTC's research plans as provided in the June 23 Federal Register Notice (Notice). As before, these comments incorporate the perspective of those who seek to increase the efficiency of residential appliances by impacting consumer purchasing decisions through education, rebates, or other means. A list of supporting organizations is included below.

General Recommendations

EnergyGuide, ENERGY STAR and Voluntary Efficiency Programs

CEE continues to support the FTC's decision to undertake research to inform its decisions regarding the EnergyGuide label. As articulated in our previous comments, we remain concerned about the consequences of tying a categorical label to an endorsement label such as ENERGY STAR. We are particularly interested in the implications of this relationship to the ENERGY STAR program and the voluntary market transformation programs that support it. CEE appreciates the FTC's recognition of the need to understand these interrelationships, and we plan to provide further comment on this issue as the rulemaking proceeding continues, as requested in the June 23 Notice.

We strongly recommend that the FTC continue to acknowledge the complexity of these relationships throughout the rulemaking by carefully separating out and considering the various variables involved. We agree with the FTC that it is important to investigate the effectiveness of

continuous versus categorical labels without the ENERGY STAR label. Then, as articulated in the research plan, the FTC should overlay the ENERGY STAR label on the different possible EnergyGuide designs in order to assess the interactions between the two. We encourage the FTC to consider these interactions carefully, and to address the following questions in particular:

- Within a categorical labeling construct, how would consumers' understanding of what ENERGY STAR represents be impacted if ENERGY STAR were identified as the same level across product categories (e.g., ENERGY STAR = category 4)? How would their understanding of the other ratings be impacted? How would their potential for choosing efficient products be impacted?
- How do these impacts change if the category defined as ENERGY STAR changes across product categories (e.g., ENERGY STAR = category 3 for clothes washers and category 4 for dishwashers)?
- How do these impacts change if there isn't universal coverage by ENERGY STAR for all products that are labeled (e.g., there is currently no ENERGY STAR label for water heaters)?

As discussed in the Label Conditions section below, we also urge the FTC to consider the impacts of different category options besides stars on the effectiveness of a categorical EnergyGuide label as compared to a continuous label, and on a categorical EnergyGuide label's interactions with the ENERGY STAR label.

Finally, the FTC should consider how these label choices would impact the flexibility of voluntary efficiency programs, such as those administered by CEE members, in making choices to promote efficiency levels suitable for their different service territories. For example, many programs offer incentives for different appliances at ENERGY STAR and other higher efficiency levels, like the CEE Super-Efficient Home Appliances (SEHA) tiers. The FTC should consider the implications of changing the EnergyGuide label to programs offering incentives for different appliances, whose continuous scales or categories may also differ (e.g., a program that offers an ENERGY STAR-level cash rebate for a category 4 dishwasher, an ENERGY STAR-level cash rebate for a category 3 clothes washer, and a CEE Tier 1-level cash rebate for a category 5 clothes washer).

Technical Advisors

CEE is concerned that both the FTC's research plan and the previous studies by ACEEE and AHAM have not taken into account the vast knowledge base on the visual display and comprehension of technical information developed by fields such as Technical Communications, Industrial Engineering, Educational Psychology and Perceptual Psychology. It is quite possible that many of the basic communication issues that the FTC is attempting to address with its research have already been resolved in the literature of one or more of these fields. CEE urges the FTC to leverage this knowledge base by hiring a technical advisor who specializes in the visual communication of technical or quantitative information. The advisor could come from any of the fields mentioned above, and should be unbiased and highly credentialed. CEE suggests that the FTC look for an advisor by contacting appropriate academic departments. These can be found via links from the websites of professional organizations such as the Society for Technical Communication (www.stc.org) or the Human Factors and Ergonomics Society (www.hfes.org).

The advisor should be identified and brought on board as soon as possible to provide guidance on the research plan and identify any research questions that could be resolved from the existing literature. Specifically, this advisor could help to assess potential weaknesses in the designs under consideration, such as relationships among typeface, font size, and size and placement of the logos and other graphics on the label, and can suggest ways to improve these before the labels are tested. He or she should be called on for advice throughout the research project, up to and including on the final report.

To ensure that the energy-related aspects of the label are not diluted or overlooked in the process of testing label communication, we also recommend that the FTC find an impartial advisor with expertise in appliance energy consumption to advise both the visual communications expert and the research team on an ongoing basis.

Rulemaking Timeline

While we understand the uncertainty around the FTC's schedule for this rulemaking proceeding, and its dependence on clearance from the OMB under the Paperwork Reduction Act, CEE continues to recommend that the FTC issue a public timeline for the rulemaking. Doing so will help give stakeholders, including CEE and its members, a better sense of the steps involved and will allow us to continue to be most effectively engaged and provide input to the FTC. It will also allow efficiency programs to keep their partners, including distributors and retailers, informed of the process and outcomes.

A timeline spanning from the OMB's clearance of the FTC's research plan to August 2007, when this rulemaking must be complete, would be most useful.

Lifecycle Operating Cost

As mentioned in our most recent comment letter to the FTC, CEE is interested in the possibility and implications of including lifecycle operating cost data on the EnergyGuide label instead of annual operating cost data. We wish to clarify our definition of lifecycle operating cost, however, as there was some confusion on this point in the June 23 Notice. By lifecycle operating cost, CEE means the combined annual operating costs over the life of a product, including any costs related to the appliance's energy use in operation, but not including emissions associated with the product's manufacture and/or use. CEE continues to be interested in how consumers' understanding of energy costs would be impacted, in either a categorical or continuous labeling construct, if the product's annual operating cost were replaced with its lifecycle operating cost. We would also like to know how the inclusion of lifecycle operating cost information would affect consumers' potential to choose efficient products.

Product-specific Recommendations

Refrigerators

CEE wishes to thank the FTC for including alternative refrigerator label conditions in its research plan in an effort to explore possible effects of changing the current refrigerator categorization system. In developing the final refrigerator test label conditions, we recommend that the FTC keep in mind the efficiency differences inherent in refrigerator capacity, and be explicit in the size categories it considers. Although refrigerator configuration is CEE's primary

point of interest, we feel it is important to keep in mind the implications of capacity on energy use and consumer choices, as well.

Televisions

In the June 23 Notice, the FTC did not address CEE's comments regarding televisions. We wish to reiterate our recommendation that the FTC consider expanding the EnergyGuide label to include televisions. As we have stated before, televisions are large energy users and their energy use has increased over recent years, in part due to significant technical changes in the product category (e.g., the introduction of plasma televisions). We further recommend that the EnergyGuide label allow consumers to compare televisions across model types and technologies (e.g., plasma, LCD, CRT, etc.).

Though the current test procedure for televisions is not adequate, a new test procedure is in development. CEE understands that it should be finalized in advance of this rulemaking, giving the FTC time to incorporate this category responsibly.

Research Plan Recommendations

CEE wishes to thank the FTC for responding to our request and allowing us the chance to review the preliminary research plan. Our initial suggestions are below.

Label Conditions

We appreciate the FTC's inclusion of the eight possible label conditions in the June 23 Notice. After looking at these label possibilities, we want to alert the FTC to some areas of concern.

Firstly, although CEE commends the FTC for using existing research to develop the label conditions, we recommend that the possibilities be expanded to include other categorical options besides star-based labels. Many symbols or metrics come with built-in implications, some more and some less appropriate to the task of the EnergyGuide label. For example, stars often imply quality, which could introduce complications in consumer interpretation of the label. In addition, there is already uncertainty in the marketplace regarding the EnergyGuide and ENERGY STAR labels, with some consumers confusing the two. The use of a star symbol may only add to that confusion. As mentioned above, an advisor on the visual communication of technical information would be able to provide valuable feedback and suggestions on the FTC's choice of label attributes, and we strongly urge the FTC to consult such an advisor.

Secondly, regardless of whether the label is continuous or categorical, we urge the FTC to consider ensuring that the direction of the label is consistent. That is, regardless of the particular descriptor(s) used (e.g., an energy metric like EER, annual operating cost, etc.), an increase in every descriptor should consistently mean that products are more efficient, or conversely should consistently mean that products are less energy efficient. In contrast, moving to the right on the current continuous EnergyGuide label sometimes means that the product is more efficient (e.g., an increase in the EER of the product) and sometimes means that the product is less efficient (e.g., an increase in annual operating cost). Though CEE recognizes that different descriptors may be appropriate for different products, an increase in every descriptor should indicate the same type of change in efficiency.

Finally, when developing the different label conditions that include the ENERGY STAR label, the FTC should be careful to include the ENERGY STAR label only on products that would qualify for ENERGY STAR in reality. Though it appears that the FTC has considered this in generating the potential label conditions included in the June 23 Notice, CEE wishes to emphasize the importance of the appropriate inclusion of the ENERGY STAR label on any test labels in order to minimize consumer confusion regarding the brand.

Research Method

CEE wishes to draw the FTC's attention to a possible concern related to the choice of panel to which the survey is to be fielded. As with most Internet panels, it is our understanding that panelists are recruited by e-mail or self-select into the Harris Interactive panel. This recruitment method brings with it a potential of bias. It is therefore possible that such panelists might be more educated, wealthier, and less racially and ethnically diverse than the rest of the population. It may also be possible that individuals who self-select into such a panel will have other important biases that cannot easily be measured or corrected for using Census data.

We bring this up in an effort to make sure the FTC and Harris Interactive have considered the potential downsides to using an Internet panel. We also want to make sure that the FTC is aware of other methods of fielding a survey to an Internet panel, including recruiting the panel via some random selection method, such as random digit dial, rather than by non-random methods such as email or self-selection from a website. CEE has successfully used such alternative panels in its own research. The FTC might also consider designing the sampling plan to ensure that results for each label condition can be compared by various demographic characteristics that might be associated with comprehension of the label, such as education, income, age, or ethnicity.

Further Research Plan Review

Finally, while the description of the research plan given in the June 23 Federal Register is a good start, it is not complete. CEE recommends that the FTC allow at least one more comment period after the research plan is fully fleshed out. Specifically, CEE's Evaluation Committee would welcome the opportunity to give feedback on the survey instrument(s) and specific questions when these become available.

Again, thank you for the opportunity to comment; we look forward to participating in the review process as it proceeds. Please contact CEE Senior Program Manager Rebecca Foster at 617-589-3949 ext. 207 with any questions about these comments.

Sincerely,

Marc Hoffman,
Executive Director

Supporting Organizations

Cape Light Compact

Efficiency Vermont

Long Island Power Authority

Massachusetts Division of Energy Resources

National Grid

New Jersey Board of Public Utilities

New York State Energy Research & Development Authority

Northeast Energy Efficiency Partnerships

Northwest Energy Efficiency Alliance

NSTAR

Pacific Gas & Electric

PacifiCorp

Sacramento Municipal Utility District

Southern California Edison

Tacoma Power

Western Massachusetts Electric

Wisconsin Department of Administration