

DRAFT – March 23, 2004

March --, 2004

Federal Trade Commission
Office of the Secretary, Room 159-H (Annex A)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Contact Lens Rule, Project No. R411002

To Whom It May Concern:

I am filing these comments in response to the Federal Trade Commission's ("FTC") February 4, 2004 request for public comment on its proposed Contact Lens Rule.

As a board certified ophthalmologist, I have been treating patients for ___ years. I am currently the Clinic Director of the Ophthalmology Residency program at Saint Vincent Catholic Medical Centers and Clinical Assistant Professor of Ophthalmology at New York Medical College. I am also a fellow of the American Board of Ophthalmology, American Academy of Ophthalmology, American Society of Cataract and Refractive Surgery, New York State Ophthalmological Society and Long Island Ophthalmological Society.

I strongly support the efforts of both Congress and the FTC to protect the interests of contact lens wearers. The Fairness to Contact Lens Consumers Act (the "Act") will increase competition, making contact lenses more affordable and more accessible. Giving consumers more choice and greater access to more affordable contact lenses will have a positive effect on eye health, as consumers will be encouraged to change their contact lenses more frequently. The FTC should continue to pursue these goals as it works to finalize regulations to implement this Act.

I am, however, concerned about and opposed to the request made in several comments that the FTC's final regulations require a limit on the number of lenses (or lens refills) that can be ordered under the life of a valid prescription. There is simply no valid health-related reason to limit the quantity of contact lenses a consumer can buy under a prescription. On the contrary, a limitation on quantity could actually pose a risk to ocular health. It is my medical judgment that where contact lenses are cheaper and more accessible, consumers are likely to replace their lenses more frequently. This is the healthiest thing contact lens wearers can do for their eyes. When consumers "overwear" their lenses, they increase the potential for health complications. If doctors are forced to limit the number of contact lenses their patients can buy, consumers may be encouraged, if not forced, to overwear their lenses in order to "stretch" their prescriptions to the end of the expiration period. The likely outcome will be to limit the frequency with which consumers replace their dirty lenses.

There may be many reasons that consumers need to replace their contact lenses multiple times over the life of their prescriptions. In contrast to prescription drugs, which have set dosage levels per day, contact lenses require replacement at varying rates from consumer to consumer, and for any

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one patient over time. Contact lens wearers may choose to wear 1-2 week disposable lenses, daily lenses, or 30-day extended wear lenses. A particular consumer may decide to change which frequency he or she prefers, depending on vision needs, comfort, lifestyle considerations, and other variable conditions. Contact lenses may be lost or torn and may therefore require replacement more frequently than is contemplated by the wearing schedule. If quantity limits are imposed, consumers who tear or lose lenses, or who have to replace lenses more frequently may see their prescriptions run out long before they actually expire. They would then be required to endure the time and expense of a new eye exam long before their ocular needs dictate.

Finally, Congress enacted a minimum 1-year expiration period under the Act precisely to protect consumers from being forced to revisit an eye care provider sooner than would otherwise be necessary. Limiting the number of contact lenses that may be dispensed under one prescription would allow eye care providers to circumvent these expiration date provisions and have the practical effect of artificially expiring the prescription earlier than one year. This could force consumers to choose between obtaining expensive and unnecessary eye examinations or to overwear their contact lenses and potentially put their eye health in jeopardy.

The best thing the FTC can do is make replacement contact lenses easy to obtain so that consumers will replace their lenses more frequently. The FTC should not impose quantity limits on contact lens prescriptions. Instead, the agency should encourage consumers to replace their contact lenses as frequently as necessary, and should make it easy for them to do so.

Thank you for your consideration.

Sincerely,

Peter A. D'Arienzo M.D.