



**Illinois Optometric Association  
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Federal Trade Commission  
Office of the Secretary  
Room H-159 (Annex L)  
600 Pennsylvania Avenue, NW.  
Washington, DC 20580

Contact Lens Study, Project No. V040010

Following are the Illinois Optometric Association's comments regarding the last request for Public Comments.

#### Exclusive Relationships

1. (a) Although several companies profess to sell lenses only to prescribers, most of these lenses are available from sellers. How sellers obtain these lenses is not "common knowledge".

1. (b) We are unaware of any manufacturers that sell only to sellers. Without prescribers there would be no market for the lens.

1. (c) When a company states they sell only to prescribers they ask the prescribers to sign an agreement stating they will only sell lenses to patients they examine and not to alternate delivery channels.

1. (d) It is fairly common for large practices to agree to sell predominantly one manufacturer's lenses in exchange for improved wholesale pricing.

1. (e) Manufacturers engaged in such agreements do not restrict their sales to other parties as a stipulation of their policies toward any other parties to our knowledge.

2. (a) We are unaware of any prescribers marketing their policy of releasing contact lens prescriptions.

2. (b) Many consumers believed before the passage of FCLCA that it was law their contact lens prescription must be released. We have no knowledge of the exact percentage of consumers that were aware of the ability to request their contact lens prescription.

2. (c) Consumers can now ask each individual practice what their policy on contact lens prescription release is, although it is rarely marketed without patients inquiring.

2. (d) In Illinois there are no state regulations governing this issue

2. (e) We are unaware of any manufacturers advertising that specifies exactly where to get their product.

2. (f) Sellers certainly advertise that contact lenses can be purchased from them despite the fact they are not the prescribers.

3. Exclusive relationships may slow the availability of lenses to the excluded group, but in our state eventually those relationships are broken down for one reason or another.

4. We do not have specific data on these questions.

5. (a) Exclusive relationships between manufacturers and prescribers result in lower prescriber costs that are passed on to the consumer. Reduced pricing by manufacturers for high volume sellers reduces the profitability of those lenses to the prescribers, which in the long term will reduce the utilization of those lenses.

5. (b) Where exclusive relationships exist they greatly enhance the promotion of the manufacturers product since the seller/prescriber realizes a higher profit margin.

5. (c) Although the contact lens manufacturers as a whole promote service attached with their product, we do not believe exclusive relationships contributes to this promotion.

6. We would expect exclusive relationships between manufacturers and prescribers to diminish since the law requires release of "private label" information. Exclusive relationships between manufacturers and sellers will encourage sellers to develop networks of prescribers willing to limit their fitting of lenses to the associated manufacturer. We feel this can reduce the number of consumers that have access to lenses that will work best for them because prescribers will be limited to use what is available from one manufacturer. With contact lenses, often a quality manufacturer of one subset of lenses does not do so well manufacturing a different subset of lens designs, making it advantageous to the consumer to have access of many different manufacturers through their prescribers.

#### Online and Offline Sellers

8. In Illinois the prices between these two modes of sales are similar.

9. This would best be answered by the sellers, however it is our impression that avoiding certain taxing bodies is much easier over the internet than it is with a brick and mortar

location. It is intuitive that costs would be much lower since inventory and warehousing would be more predictable with online operations.

10. In general comment to section 10, each consumer is different and we feel there is room for all current types of prescriber/ sellers to fit the different needs of different consumers.

11. All consumers want quality when purchasing their lenses. Some consumers may feel offline sellers are more apt to fill their prescriptions properly since the consumer can actually question and observe the staff member filling that prescription.

12. (a-c) These comments would best be left for sellers.

12. (d, e) There are perceived and real differences in quality service when comparing sellers in both online and offline settings.

12. (f) Manufacturer pricing is typically based on the volume the sellers buy, not the mode of sales. (g) commitment to promotion of a manufacturers product can reflect a change in pricing from the manufacturer.

14. (a) All contact lens prescriptions include the brand name. No "generic" contact lenses are manufactured. There are many parameters that are not specified in a contact lens prescription that effects the safety of that particular lens on a particular patient's eye. Two contact lenses of different brands with exactly the same parameters (base curve, diameter power) will perform very differently on the same eye.

14. (b) We do not know the exact percentages of contact lenses that are "custom labeled".

14. (c) The incidence of 14.(a) should currently be 100%, or the prescriber is not properly protecting their patient's eye health. It is our impression the incidence of 14. (b) is on the rise.

14. (d) Again, the patterns for 14. (a) should not change as it should be 100%. It is intuitive that as the pressure on prescribers to release prescriptions increases the number of custom label contacts will increase. Custom labels are designed to give the patient the impression that they cannot receive the identical product from any other source. This is an implied impression, we are not aware of any prescribers that are telling patients you cannot get this lens anywhere but in our practice. However, many prescribers do not tell the patients the custom label lenses have commercially available equivalents unless they are pressed by the patient.

15. The benefits of prescribing a certain brand of lens are immense. Just as a V-6, three speed Porsche performs differently that a V-6, three speed Chrysler; an 8.6 base curve -1.00 Ciba Focus Dailies will perform differently than an 8.6 base curve -1.00 CSI DW. As with many consumer products, there are no standard generics in contact lenses.

Custom labeling is an entirely different story. This practice is usually meant to mislead patients into believing their lenses will perform differently than commercially available lenses. In reality, most custom label lenses are identical to lenses sold without restriction that have a different name. We believe custom labeling limits consumer choice.

16. There are no statutes in Illinois governing contact lens prescriptions.

17. Brand name lenses includes all available lenses, custom labeled lenses are a subset of this group since there is no generic standard. It is our impression very few custom label lenses are actually manufactured for certain prescribers. Rather, they are lenses that are widely available that are simply labeled differently than their commercially available counterparts.

18. We have no data on this subject and are unaware of any surveys that would accurately answer this question.

19. (a) We are unaware of any advertising by prescribers that explain their policies on prescription release.

19. (b) An educated consumer can certainly question prescribers whether they use custom label lenses.

19. (c) Since we are unaware of any advertising related to this subject we are unaware of outside forces that may govern these practices.

21. The state of competition in the market for retail sales of eyeglasses was more mature in 1978 than the contact lens market is today, in that independent opticals (sellers) were very common. Optical shops have people trained to help resolve problems with eyeglasses without the patient having to return to the prescriber in many cases. This is not true of contact lenses. Due to this service component all product had to be supplied locally.

22. As with contact lenses, most prescribers would release eyeglass prescriptions before the Eyeglass rule. Therefore there was not a large change in the market after its passage.

23. (a) For those practitioners that did not release eyeglass prescriptions it has made a big impact. For the market as a whole it has not made much difference because the majority of prescribers released eyeglass prescriptions before the rule. This is evident by the limited number of prescribers disciplined for not following the rule.

23. (b) Our state laws do not have language covering eyeglass prescription release.

23. (c), (d) We are unaware of any trade association policies or technology changes that would effect the eyeglass marketplace.

23. (e) Consumer demand for choice is the main driver of the marketplace. Prescribers that refuse to release prescriptions would find not only patients leaving with their prescriptions for eyeglasses, but also the loss of those patients for examinations.

24. It is our belief the overall market was not impacted by the Eyeglass rule significantly.

25. We feel consumer demand has had a much larger impact on prices than the Eyeglass rule has had. If prescribers that charged more for eyeglasses would not release prescriptions consumers would refuse to pay the higher prices, rather they would seek out prescribers with lower prices.

26. Illinois's laws did not change in response to the Eyeglass rule.

27. We are unaware of any policy changes by trade associations that are a direct result of the Eyeglass rule.

29. In Illinois, state law only requires out of state suppliers to comply with the same rules as in state suppliers. Therefore, competition is not effected.

Thank you for your consideration. Please feel free to email us with any requests for clarification.