

**Before the
UNITED STATES FEDERAL TRADE COMMISSION
Washington, D.C. 20580**

In the Matter of

Rule Concerning Disclosures)	
Regarding Energy Consumption and)	
Water Use of Certain Home Appliances)	
and Other Products Required Under)	
the Energy Policy and Conservation)	16 CFR Part 305
Act [“Appliance Labeling Rule”];)	
Advance Notice of Proposed Rulemaking)	
)	
Consumer Electronics Labeling)	
Project No. P094201)	

**SUPPLEMENTAL COMMENTS OF THE
CONSUMER ELECTRONICS RETAILERS COALITION**

The Consumer Electronics Retailers Coalition (“CERC”) provides these supplemental comments to further meet the Commission’s objective of understanding the role and experience of retailers in helping achieve the national goal of enhanced consumer choice and energy efficiency.

In its May Comments, CERC urged the FTC to proceed carefully so as to ensure that its actions do not frustrate already successful energy efficiency efforts. We also urged that full account be taken of concerns, of Members of Congress and others, that the FTC avoid imposing rules that are technologically or economically infeasible, or that would not be helpful to consumers in their own decision-making. CERC also urged the FTC to occupy the field to the extent that State efforts imposing competing disclosure obligations do not confuse the public.

CERC agrees with commenters that the FTC would benefit from public workshops or hearings which would give stakeholders and policymakers an opportunity to discuss the full range of issues surrounding energy labeling. CERC and its members welcome an opportunity to participate in such a forum.

Supplemental Comments As To Label Responsibility And Placement

Based on significant and detailed experience, CERC believes that the *only* way to provide labeling information to consumers and to avoid inaccuracy, confusion and disappointment, is for the product manufacturer to perform the labeling at the time and

place of manufacture. Anyone who advocates a different regime to be effective is simply unfamiliar with the realities of supply chains and the retail environment. The reasons are:

- Manufacturers often revise or update product specifications without necessarily changing the model number. Retail stock, in each of thousands of stores, for the same model number can vary depending on when the product was received and stored in warehouse and/or store inventory.
- Retailers often have more than one supplier for a particular brand and model.
- The retail “SKU” number via which the product is tracked may be different from the manufacturer’s model number.
- The retail stock, in each of thousands of stores, may contain different manufacturers’ models sold under the same SKU.
- Even if the retailer has some way of being confident that a shelf label that originated independently from the actual products on the shelf and in stock is accurate, the very process of affixing separately originated labels on dozens of products in thousands of stores will inevitably lead to errors in placement.
- Even if accurately placed, a label that did not originate with the product in question is more likely to be moved away from that product (by customers or by staff charged with tidying or re-arranging a display area), when on the shelf, than one that did originate with that product and its own packaging.

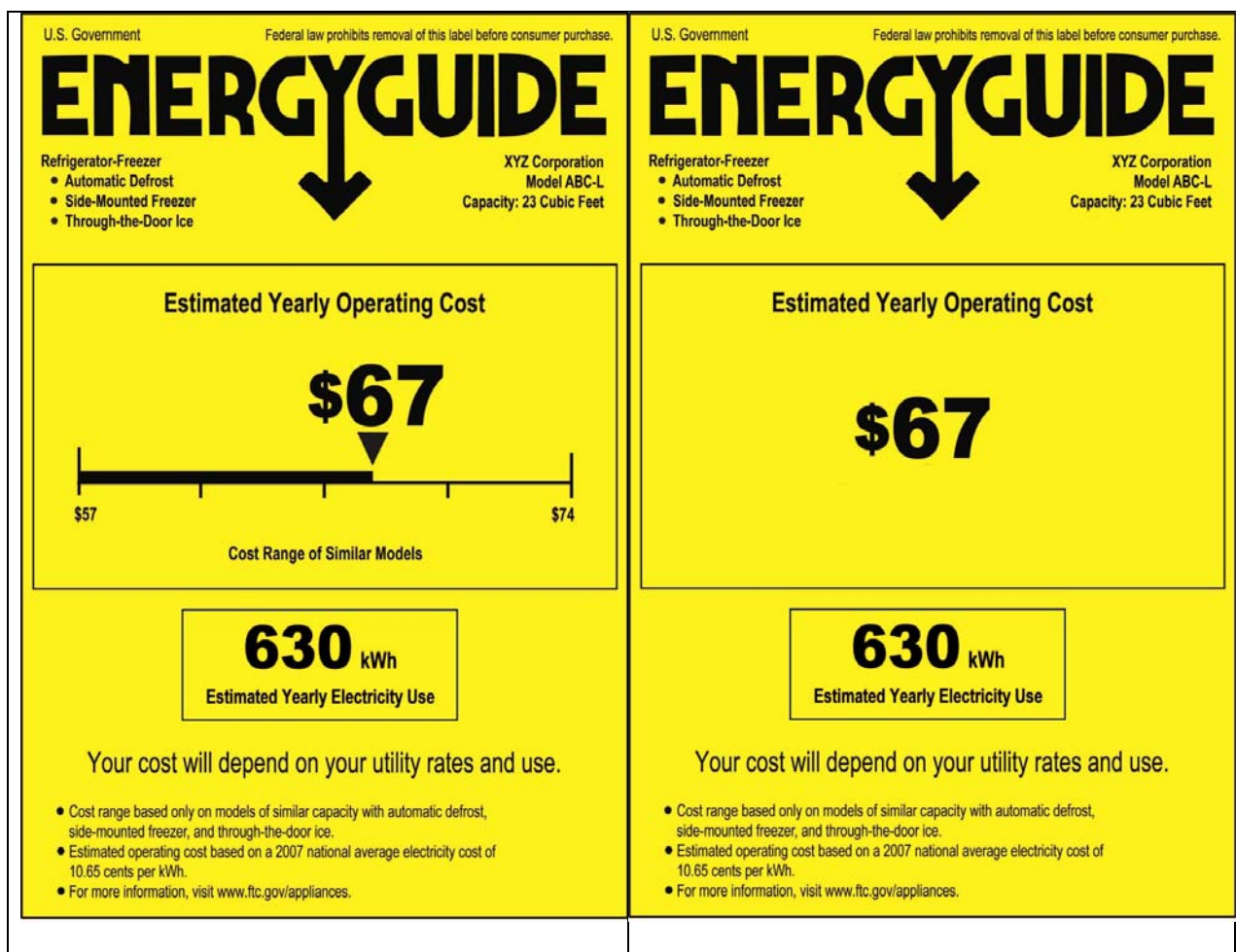
Affixing the label at place of manufacture will avoid or minimize each of these known problems and challenges. Accordingly, if the FTC does impose a labeling obligation, it should start with the product as it is packed for shipment at the factory. This obligation also avoids the problem of a regulation becoming effective while a product is in transit, which would also lead to inaccuracy, confusion, or the absence of any label at all. Accordingly, products that were accurately labeled at the factory will be compliant, and products that were packed and shipped prior to the date of the labeling obligation would not be covered. The obligation date should be set accordingly. This will avoid factual and legal uncertainty for all involved.

Supplemental Comments As To Label Disclosures

A number of CERC members also sell home appliances like refrigerators, dishwashers, washers and dryers. These products have been part of the EnergyGuide program for years. Consumers fully understand, accept and use the EnergyGuide disclosures to make informed purchasing decisions. The FTC should use a similar format, style and comparative data in TV and other consumer electronics labeling taking into account the size, safety and nature of the product and label.

From a consumer perspective, one of the more valuable pieces of information on an EnergyGuide label is how the product compares in energy use within a similar class of products. This gives both consumers (and retailers) an opportunity to understand the balance between purchase price, cost of use and features.

CERC is concerned that some commenters hinted at a stripped down disclosure which would not include comparative data. Simply telling the customer, “this unit uses \$5.00 in energy every year” does not convey enough information to make a fully informed purchasing decision, without some indication as to how that television compares within a similar class of TVs. The illustrations below provide a compelling example of the usefulness of comparative data. CERC urges the FTC to consider which version, the comparative version used in household appliances or the stripped version provides consumers better information.



This comparative data is also very useful to retailers and our buyers who make assortment decisions. The above illustration should also remind policymakers how important it is, to the greatest extent practical, to keep the familiar EnergyGuide label format intact. Consumers have come to know and trust it.

While not our first choice, if the FTC were to adopt a new version of EnergyGuide and apply it to Consumer Electronics products, then the appliance version should also adjust to preserve continuity and brand identification across product lines. The groupings of TV classes are important as well. Screen size is highly relevant as are the features. A seven inch portable TV should not be grouped with a 51" flat panel TV. A TV with a built-in DVD player should be grouped with other TVs having that feature and similar screen size.

Supplemental Comments As To Label Disclosures

CERC's May submission discussed in detail label placement issues. Taking into account the size, nature, use and safety of TVs and other consumer electronics the FTC should as best possible adhere to practices now in use for household appliance disclosures.

CERC has advocated that the EnergyGuide label be "readily available at point of consumer decision, but not interfere with the display or safety of the product and associated services." For large appliances, the practice has been for the yellow EnergyGuide tag to hang inside, or be placed on a flat surface or on the back of the product. For televisions, an analogous requirement in which the label would be similarly available to the consumer would be for it to be affixed to the back of the product or in another way as to not obscure the viewing area of a product.

CERC's experience is that most shoppers have already done significant research, much of it on-line, when they shop for a new TV. The focus should be more, or at least as much, on the "point of decision" as on the "point of purchase." Accordingly, CERC recommends that energy disclosures be placed (1) safely on the product or product box, (2) in the owner's manual, (3) in a PDF version posted on the manufacturer's website 'product detail page', and (4) on the retailer's website "product detail page."

CERC welcomes the opportunity to work with the FTC and its staff to help the Commission understand the complexities and realities of the modern consumer electronics retail environment.

Respectfully submitted,

**CONSUMER ELECTRONICS
RETAILERS COALITION**

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