



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Division of Advertising Practices

October 13, 2005

Joe Zeidner, Esq.

Re: Potential Violations of the Fairness to Contact Lens Consumers Act and the Contact Lens Rule

As you know, the Fairness to Contact Lens Consumers Act, 15 U.S.C. §§ 7601-7610, took effect on February 2, 2004. The Act imposes certain requirements on contact lens sellers that are intended to facilitate the ability of consumers to comparison shop for contact lenses while ensuring that contact lenses are sold only in accordance with a valid prescription. In July 2004, the Federal Trade Commission issued the Contact Lens Rule to implement the Act.

Among other things, the Act and the Rule allow sellers to provide contact lenses to consumers in accordance with a valid prescription, including one that is verified with the prescriber. To verify a prescription, the Rule requires a seller to send a completed verification request to the prescriber and to provide "a reasonable opportunity for the prescriber to communicate with the seller concerning the verification request." 15 C.F.R. § 315.5(c)(3).

We have received a substantial number of complaints that 1800CONTACTS has not provided prescribers with a reasonable opportunity to communicate with it regarding verification requests. Specifically, complaints allege that its fax lines are often busy, and that prescribers are therefore unable to communicate with it regarding verification requests. This letter places 1800CONTACTS on notice that such conduct may constitute a violation of the Rule. **Violations of the Rule may result in legal action, which may in turn lead to civil penalties of up to \$11,000 per violation. Accordingly, I urge the company to review the Rule and revise its practices as necessary to ensure that they comply with its requirements.**

To assist in this review, we have enclosed copies of "The Contact Lens Rule: A Guide for Prescribers and Sellers," an FTC business guidance publication containing information about how to comply with the Rule; the FTC's Questions-and-Answers about the Contact Lens Rule; and "The Eyes Have It – Get Your Prescription," a consumer education brochure. Please note that the Questions-and-Answers have recently been updated to include additional information regarding telephone communications, including fax communications, between sellers and prescribers. The publications are also available on our website at www.ftc.gov.

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If you have any questions regarding this letter or the Contact Lens Rule generally, you may contact FTC staff at . Thank you for your prompt attention to this matter.

Very truly yours,

Mary K. Engle
Associate Director

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Enclosures