



ALABAMA OPTOMETRIC ASSOCIATION

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Donald S. Clark
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW.
Suite CC-5610 (Annex C)
Washington, DC 20580

RE: Contact Lens Rule, 16 CFR part 315, Project No. R511995

The Alabama Optometric Association represents over 450 doctors of optometry in Alabama. We appreciate this opportunity to offer comment on the Contact Lens Rule.

The Contact Lens Rule (the Rule) is required by statute, the Fairness to Contact Lens Consumers Act (FCLCA). Congress intended the law to enhance competition in the market for contact lenses by creating a federal right of patients to receive their contact lens prescriptions from their eye doctors, and establishing a process for contact lens sellers to verify the prescriptions of lenses ordered by consumers. However, as regulated medical devices that require a prescription from an optometrist or ophthalmologist, contact lenses have always been subject to government oversight. In its role, the Federal Trade Commission should seek to enhance competition in the fair and appropriate delivery of contact lenses to consumers. While most of the provisions of the Rule are required by the text of the FCLCA, the FTC should ensure that competitive practices designed for unregulated products do not undermine or elude critical contact lens patient safety protections. In other words, since the Rule must be maintained and many of its terms are proscribed by statute, moving forward the FTC should focus its efforts to enhance competition that best serves the interests of patients. Too often in the last decade, the FTC has silently allowed some sellers to gamble with patient health at the expense of innovation, improved safety, and other desirable results of competition. The FTC should not allow sellers to deceive patients in the single-minded pursuit of sales. The FCLCA provides rights to patients, so, ultimately, the Rule should protect patients with common sense safeguards.

It is our understanding that consumers have benefited from a wide selection of innovative products that are prescribed by their eye doctor, allowing more of our patients the option to use contact lenses for their vision needs. However, patients don't benefit when their eye health is sacrificed by unscrupulous sellers. The Alabama Optometric Association fully supports the existence of a robust contact lens marketplace, but believes competition is most beneficial when consumer safety is one of the market features. Until all sellers compete on patient safety, any lack of enforcement is more beneficial to sellers than to patients.

To improve the Rule for consumers, the Alabama Optometric Association requests the following:

- 1) The Federal Trade Commission (FTC) should prohibit the sale of contact lenses with an expired prescription. An expired prescription should be seen as an inherently invalid prescription. The FCLCA established that a prescription is required, and that eye doctors should verify those prescriptions.
- 2) The FTC should require that contact lens prescriptions include a maximum quantity of lenses that can be purchased prior to the prescription's expiration.
- 3) The FTC should limit the number of contact lens boxes that can be purchased from a retailer at one time. The amount should not exceed the maximum quantity noted on the patient's prescription.

To improve the Rule for small business, including the practices of doctors of optometry, the Alabama Optometric Association requests the following:

- 1) FTC should no longer allow the use of robocalls for verifying patient prescriptions. This would protect thousands of small businesses from these disruptive calls which, too often, communicate incomplete information or are difficult to understand.
- 2) FTC should require that for larger contact lens retailers, the retailer must make available more than one individual at a company to act as the contact person for physician questions and concerns.
- 3) FTC should develop a distinct complaint submission process for contact lens related concerns.

Thank you for the opportunity to comment on this important issue.

Sincerely,


Amanda Buttenshaw, CAE
Executive Director