



June 26, 2009

Office of the Secretary  
Federal Trade Commission  
Room H0135 (Annex F)  
600 Pennsylvania Ave., NW  
Washington, DC 20580

**Subject: Fuel Economy Guide Review, Matter No. 711008**

Filed Online at <https://secure.commentworks.com/ftc-fueleconomy> guide

Dear Secretary Clark:

The Council of Better Business Bureaus appreciates this opportunity to provide comments on the FTC's Fuel Economy Guides. We applaud the FTC's decision to retain these guides, as we concur that the Guides benefit consumers who are attempting to compare the fuel economy of competing vehicles. We also agree it is important to review and update regulations and guides to reflect industry changes and real world experience. Accordingly, BBB supports the changes to revise the Guides to reflect the changes in technology in the automotive industry (e.g., alternative and mixed fuel vehicles) and broaden the Guides to incorporate other vehicles not previously referenced (e.g., medium duty passenger vehicles are now covered by EPA mileage labeling requirements).

BBB also supports the FTC's efforts to harmonize the Guides with revised EPA rules for mandatory fuel economy tests that, among other things, incorporate different driving conditions, and with EPA rule changes that modify the design of the fuel economy label and require disclosure of combined (city and highway) fuel economy figures in addition to separate city and highway ratings. We believe that harmonizing government requirements is important and reduces the costs and burdens on companies. Up-to-date requirements also help create a level playing field for advertisers and they help consumers compare products more easily.

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Finally, we support the FTC establishing clear guidelines that can be easily understood. Such guidelines help BBB monitor compliance and, as needed, assist regulatory agencies in addressing significant violations.

#### About the BBB

The Council of Better Business Bureaus (CBBB), a non-profit 501(c) (6) membership organization, is the umbrella organization for local Better Business Bureaus (BBB), which are grassroots organizations that foster a fair and honest marketplace and an ethical business environment.

BBB's mission is to be the leader in advancing marketplace trust and to be the resource of choice for consumers on marketplace issues. BBB is a leading organization in the area of evaluating and addressing advertising and marketplace issues. The CBBB administers a number of self-regulation programs including the *National Advertising Division*, the *Children's Food and Beverage Advertising Initiative*, the *Children's Advertising Review Unit*, the *Electronic Retailing Self-Regulation Program*, the *Wise Giving Alliance*, and *BBB AUTO LINE*.

BBBs accredit businesses that meet BBB accreditation standards set out in the BBB Code of Business Practices. Included in these standards is a commitment to honestly represent products and services, including clear and adequate disclosures that are necessary or are required by regulatory agencies such as the FTC (e.g., the Fuel Economy Guides). To date, more than 400,000 businesses have become BBB Accredited Businesses.

As part of the accreditation process and the BBB compliance program, BBBs may evaluate the advertising of accredited businesses. Additionally, BBBs routinely review advertising for both accredited and non-accredited businesses as part of our general focus on promoting trust in the marketplace and these reviews include advertisements making fuel economy claims. When problems are identified, BBB works with the businesses directly to correct problematic advertising. BBBs also have conducted dealer education campaigns focusing on the general BBB

standards for advertising and on compliance with the Fuel Economy Guides. Below, we share some observations regarding current disclosure practices that we believe will assist the FTC in revising the Guides or in formulating a compliance strategy for any new Guides.

### BBB Experience with Fuel Economy Claims

In the course of reviewing automobile ads, BBB staff have identified the issues noted below. We are sharing our observations to assist the FTC in revising its Guides, developing business education materials, or formulating a compliance strategy, as the FTC determines is appropriate.

1. Ads making fuel efficiency claims that are inaccurate or lacking required qualifying information are not uncommon (e.g., an ad says only "33 MPG").
  - BBB routinely found advertising with specific, but unattributed, fuel efficiency figures that exceeded all publicly available information on the specified model's EPA-estimated fuel economy. Inaccurate claims or claims that do not include required information could lead consumers to make a purchase based on erroneous information.
  - BBB also saw ads with fuel efficiency claims that used the upper end of the EPA "expected range" and did not include the required lower end of the range, and lacked the required city and highway mileage estimate disclosures.
2. Fuel efficiency claims are presented along with the image of a vehicle, but the specific vehicle variables affecting fuel efficiency are not specified (e.g., automatic or standard transmission, engine size, four wheel drive versus front wheel drive, etc).

### BBB Comments

The NADA has suggested that the FTC delete Section 259.2 (c), which permits fuel economy claims that are not based on EPA estimates. We agree

with the desire to make compliance easier. However, BBB agrees with the FTC that as long as advertisers clearly explain the basis for the estimate and include the “corresponding EPA estimates with more prominence than other estimates,” advertisers will have flexibility to advertise legitimate fuel efficiency claims while still permitting fair comparisons with other vehicles. To promote compliance, we recommend that the FTC develop examples of claims that comply with the Guides, especially claims that relate to variables that may differ from the EPA test, such as high speed/rapid acceleration driving, use of air conditioning, cold temperature operation, road grade, etc.

The emergence of alternate use fuel vehicles has been appropriately recognized by the modifications included in the revised rules and BBB supports the attempt to clarify advertising standards for these vehicles. Consumers’ purchasing decisions may be influenced by advertising related to the estimated range of a vehicle. Accordingly, it is essential for consumers to have confidence in the accuracy of information so they may determine if the vehicle will meet their needs and whether their own driving patterns are similar to those upon which the data is based. The proposed requirement for advertisers making cruising range claims to “identify the estimate required on the FTC label and any non-FTC derived cruising range information, and describing differences between the FTC-mandated and non-FTC procedures” will help encourage uniformity and limit misunderstandings as these new technologies are introduced.

BBB agrees with the FTC’s conclusion that a requirement for the advertiser to include the model year of a vehicle may not be necessary for television advertising as most models advertised will be the current model year and/or the difference in mileage from one year to the next may be negligible.

BBB agrees with Broward County that consumer education about the new EPA standards would be helpful. Additionally, as cited earlier, the introduction of alternate energy vehicles is also changing the type of information consumers will have to understand to compare automotive advertising claims. Moreover, BBB believes that once the Guides are finalized, creating business education materials with easy-to-follow illustrations to educate car dealerships on the Guides’ requirements would

be very useful in promoting dealer compliance. This in turn will help ensure consumers receive accurate mileage or fuel economy information.

Thank you for the opportunity to share our marketplace observations and to provide comments. If you have any questions about these comments, please feel free to contact C. Lee Peeler, Executive Vice President, at [lpeeler@council.bbb.org](mailto:lpeeler@council.bbb.org) or Rodney Davis, Vice President, BBB Programs and Services.

Sincerely yours,



Charles I. Underhill  
Executive Vice President and COO