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CooperVision™

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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 315, Project No. R5119955

Dear Secretary Clark:

CooperVision, Inc. (“CVI”) hereby submits comments on the Federal Trade Commission’s (the “FTC” or “Commission”) review of the 2004 Final Rule (the “Contact Lens Rule” or “Rule”) implementing the Fairness to Contact Lens Consumers Act (the “Act”).

CVI is one of the world’s leading manufacturers of soft contact lenses and produces a full array of monthly, two-week and daily disposable contact lenses. Through a combination of innovative products and focused practitioner support, the company brings a refreshing perspective to the marketplace, creating real advantages for customers and wearers.

In many respects, the Contact Lens Rule (the “Rule”) and the Fairness to Contact Lens Consumers Act (the “Act”) have been successful. The Rule and the Act have not only increased the number of contact lens brands available, but they have expanded the channels through which patients can purchase their lenses. By increasing competition, one of the FTC’s chief goals has been achieved.

The increased availability of contact lenses and the aggressive marketing of some contact lens resellers, including Internet retailers, make the FTC’s oversight more important than ever. Contact lenses are regulated medical devices that patients place directly onto their eyes. A few improvements to the Rule and increased enforcement of the Rule will have a meaningful impact on protecting eye health and ensuring that patients can purchase these specialized products from reliable sources.

Paramount to good eye health is a strong and trusted relationship between patients and their eye care professional. Visits to an eye care professional help to make sure a patient has the right contact lens with the right corrective power for their eyes. Such visits can also help to detect ocular health issues such cataracts and retinal diseases, as well as other medical issues such as diabetes.¹ As such, we believe that the FTC should consider modifications to the Rule that encourage patients to receive an examination by their eye care professional on a regular basis (no less than currently required by existing state law). For example, a modification to the Rule that

¹ National Eye Institute. <https://nei.nih.gov/health/diabetic/retinopathy> (search conducted October 21, 2015).

places reasonable limits on the quantity of contact lenses a patient can purchase under a prescription (especially within a few months of a prescription expiring) will encourage patients to go to their eye care professional for routine examinations.

Through the Rule, the FTC plays an essential function in making sure that that patients can safely purchase contact lenses from reliable sources. To further these efforts, we strongly encourage the FTC to review the prescription verification rules and adopt reforms that make verification a stronger tool for patient safety. In particular, the current “passive” verification structure has been abused by some resellers who take advantage of weaknesses in the Rule that allow for verification after business hours and on weekends as well as the use of robocalls for verifying patient prescriptions. In addition, there is evidence that some sellers ignore the expiration date of prescriptions, while other sellers of lenses ignore the requirement for prescriptions altogether.

The main purpose of the verification requirement is to make sure that patients are purchasing their contact lenses with current prescriptions and that the product dispensed by a retailer is what the eye care professional determined to be the most appropriate contact lenses for the patient’s condition. Without stronger verification measures, as well as increased enforcement, the patient’s eye health can be sacrificed. In addition, modifying the prescription verification process to ensure that eye care professionals have a realistic and practical opportunity to respond to a request for verification will help ensure that a consumer is not purchasing lenses that are inappropriate or harmful.

CVI encourages the Commission to devote more resources to consider modifications to the Rule to place reasonable limits on the number of lenses that can be sold at any one time and to reform the verification process to provide a reasonable opportunity for prescribers to respond to a request for verification. CVI is a member of the Coalition for Patient Vision Care Safety (the “Coalition”), which has separately submitted more detailed recommendations for improvement. The suggestions in the Coalition’s letter reflect changes that we believe will achieve the needed reforms we have addressed in this letter.

We appreciate the opportunity to provide the Commission with comments about the Rule and the Act.

Respectfully Submitted,

Clay C. Arnold