

Before the
FEDERAL TRADE COMMISSION
Washington, DC 20580

In the Matter of:)
)
Amending Warranty Rules Pursuant to the) Matter No. P044403
E-Warranty Act)

**COMMENTS OF THE
CONSUMER TECHNOLOGY ASSOCIATION F/K/A
THE CONSUMER ELECTRONICS ASSOCIATION**

The Consumer Technology Association (“CTA”)¹ applauds the Commission’s efforts to implement the E-Warranty Act (the “Act”),² and respectfully comments on the notice of proposed rulemaking (“*Notice*”) recently published in the Federal Register.³

I. CTA SUPPORTS THE COMMISSION’S EFFORTS IN THE *NOTICE*

CTA supported the Act in the legislative process and believes that it will benefit consumers and warrantors alike.⁴ The Act seeks to expand consumer access to relevant

¹ The Consumer Technology Association (“CTA”)TM, formerly known as the Consumer Electronics Association (“CEA”), is the trade association representing the \$287 billion U.S. consumer technology industry. More than 2,200 companies – 80 percent are small businesses and startups; others are among the world’s best known brands – enjoy the benefits of CTA membership including policy advocacy, market research, technical education, industry promotion, standards development, and the fostering of business and strategic relationships. CTA also owns and produces CES[®] – the world’s gathering place for all who thrive on the business of consumer technology. Profits from CES are reinvested into CTA’s industry services.

² E-Warranty Act of 2015, Pub. Law 114–51, 129 Stat. 494 (Sept. 24, 2015) (“Act”).

³ See *Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions; Rule Governing Pre-Sale Availability of Written Warranty Term*, Notice of Proposed Rulemaking; Request for Public Comment, 81 Fed. Reg. 32,680 (proposed May 24, 2016) (to be codified at 16 C.F.R. Pts. 701 and 702) (“*Notice*”).

⁴ See, e.g., *CEA Commends House for Speedy Passage of E-Warranty Act* (Sept. 9, 2015), <https://www.cta.tech/News/News-Releases/Press-Releases/2015-Press-Releases/CEA-Commends-House-for-Speedy-Passage-of-E-Warrant.aspx>.

consumer information in a flexible and environmentally friendly way. It is widely recognized that many consumers prefer having the option to provide or receive warranty information online.

As the trade association for the U.S. consumer technology industry, including many affected manufacturers and similar warrantors, CTA is particularly interested in ensuring a smooth introduction of online warranty information (“e-warranties”). CTA supports the Commission’s comprehensive approach in proposing to implement the Act. As discussed below, we also request that the Commission clarify a few aspects of the proposed implementation.

II. THE COMMISSION SHOULD CLARIFY A FEW IMPLEMENTATION ISSUES

Accessible Digital Format: The term “accessible digital format” is not defined in the Act, its history, or in the rules proposed in the *Notice*.⁵ The Commission should provide common-sense guidance, such as through a note to the rule, that “accessible digital format” means that the e-warranty should be readily available to consumers on the website of the warrantor and that the e-warranty page functions with common screen reader software and screen magnification software. Through such guidance, the Commission will provide clarity for warrantors as they implement the Act without compromising their ability to deploy flexible and innovative websites that include e-warranties.

Remain Accessible: The Commission should not interpret the proposed requirement that warrantors “[e]nsure that warranty terms...remain accessible” to create a strict liability standard, but rather account for practical issues associated with maintaining e-warranties.⁶ For example, web pages may be temporarily offline or could undergo reorganization. Additionally, the

⁵ See *Notice*, 81 Fed. Reg. at 32,685 (proposing new 16 C.F.R. § 702.3(b)(2): “As an alternative method of compliance with paragraph (b)(1) of this section, a warrantor may provide the warranty terms in an accessible digital format on the warrantor’s Internet Web site...”).

⁶ See *id.* (proposing new 16 C.F.R. § 702.3(b)(2)(iii): “Ensure that warranty terms are posted in a clear and conspicuous manner and remain accessible to the consumer on the Internet Web site of the warrantor...”).

Commission reasonably should allow warrantors to take down obsolete or expired e-warranty pages.

Providing a Hard Copy: The proposed requirement that warrantors “provide a hard copy of the warranty terms promptly and free of charge upon request by a consumer or seller”⁷ should be interpreted reasonably. Warrantors have every incentive to gain or retain customers by promptly responding to requests for warranty, without charge. As an example, mailing a hard copy of the warranty terms free of charge within five business days by first-class mail should satisfy the rule.

Identification of E-Warranty Terms: The Commission should permit warrantors to use flexible means to meet the requirement to:

Provide information with the consumer product or on the Internet Web site of the warrantor sufficient to allow the consumer to readily identify on such Internet Web sites the warranty terms that apply to the specific product purchased by the consumer.⁸

Because warrantors’ product packaging, websites, and their designs will vary greatly, there will be different means of implementing this requirement. Warrantors fully recognize the importance of this information and, as with other customer service information, will provide easy means for consumers to access warranties. For example, besides providing URLs, warrantors should be able to place machine-readable symbols such as bar codes⁹ or QR codes¹⁰ on their packaging or

⁷ See *id.* (proposing new 16 C.F.R. § 702.3(b)(2)(ii): “Provide a hard copy of the warranty terms promptly and free of charge upon request by a consumer or seller....”).

⁸ See *id.* (proposing new 16 C.F.R. § 702.3(b)(2)(iv)).

⁹ Mobile devices and apps for mobile devices can read bar codes and other symbols and direct consumers to websites in a way that many consumers find to be quicker and more user-friendly than plain-text URLs.

¹⁰ A QR Code, a trademark of Denso Wave, Inc. and meaning “Quick Response Code”, is a matrix symbol type that conforms to ISO/IEC 18004 and is a recognized method “to allow for accessing interactive information with mobile electronic devices.” See 40 C.F.R. § 600.002 (defining “QR Code”); 40 C.F.R. § 600.011 (incorporating by reference the international standard for QR Codes); 40 C.F.R. § 600.302-12 (explaining how to incorporate QR Codes into a fuel economy label).

in their manuals to point consumers to the relevant e-warranty. There should not be standardization of the means of providing this information with products or on websites.

III. CONCLUSION

CTA applauds the Commission's efforts in the *Notice* and urges it to clarify its rules consistent with the foregoing.

Respectfully submitted,

CONSUMER TECHNOLOGY ASSOCIATION
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