

September 7, 2016

SUBMITTED ELECTRONICALLY AT

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Federal Trade Commission
Office of the Secretary,
600 Pennsylvania Avenue NW, Suite CC-5610, (Annex B)
Washington, DC 20580

RE: Fuel Economy Guide, R711008

Dear Mr. Newsome:

Enclosed are the comments of the Association of Global Automakers, Inc.¹ (Global Automakers) regarding the Federal Trade Commission's regulatory review and request for public comment on the "Guide Concerning Fuel Economy Advertising for New Automobiles" (Guide) found at 16 CFR Part 259 [81 FR 36216, June 6, 2016]. These comments generally support the proposed changes with specific points raised related to single mileage ratings, plug-in hybrid electric vehicle (PHEV) ratings, and non-Environmental Protection Agency (EPA) estimates.

Thank you for your consideration of our comments. If you have any questions on this matter, please contact me at (202) 650-5555 or jrege@globalautomakers.org.

Sincerely,


Julia M. Rege
Director, Environment & Energy

¹ The Association of Global Automakers represents international motor vehicle manufacturers, original equipment suppliers, and other automotive-related trade associations. We work with industry leaders, legislators, regulators, and other stakeholders in the United States to create public policy that improves motor vehicle safety, encourages technological innovation and protects our planet. Our goal is to foster an open and competitive automotive marketplace that encourages investment, job growth, and development of vehicles that can enhance Americans' quality of life. For more information, visit www.globalautomakers.org.

**COMMENTS OF THE ASSOCIATION OF GLOBAL AUTOMAKERS, INC.,
ON THE FEDERAL TRADE COMMISSION'S PROPOSED AMENDMENTS
TO ITS "GUIDE CONCERNING FUEL ECONOMY
ADVERTISING FOR NEW AUTOMOBILES"
(Proposed Fuel Economy Guide Revisions – FTC File No. R711008)**

September 7, 2016

The Association of Global Automakers, Inc. (Global Automakers) appreciates the opportunity to comment on the Federal Trade Commission's (FTC or Commission) proposed amendments to its Fuel Economy Advertising Guide, as published in the Federal Register on June 6, 2016.

The Fuel Economy Guide assists advertisers in providing consumers with clear, objective information on the fuel economy performance that they should expect from their vehicles. The proposed addition of general principles to the Guide, accompanied by detailed examples to illustrate those principles, is helpful in making the Guide more specific and easily understood, and we support this amendment to the guide.

We also strongly support the Commission's undertaking internet-based research on consumer understanding of fuel economy. This research enables the Commission to better understand consumer perceptions of advertising statements, in order to assess whether particular statements could mislead consumers. The results of this research allow for better, data-based evaluation of advertising statements, rather than speculating on how consumers might interpret those statements.

Our comments on the proposed amendments to the Guide are set forth below. We also reiterate our July 10, 2014, comments in response to the Commission's Request for Public Comment on its regulatory review of the Guide.

I. Single Mileage Ratings

We support the Commission's proposed advertising guidance set forth in section 259.4(c) of the Guide, which states that "if an advertiser makes a city or a highway fuel economy claim, it should disclose the corresponding EPA-estimated city or highway fuel economy estimate." Consistent with this recommendation, section 259.4(f) states that if "an advertiser cites an EPA fuel economy estimate, it should identify the particular type of driving associated with the estimate (i.e., estimated city, highway, or combined miles per gallon or "MPG")."

With regard to the use of a single Environmental Protection Agency (EPA) rating in advertising (city, highway, or combined), the Commission states as follows:

Consistent with the current guidance, the proposed Guide does not discourage single mileage ratings in advertising tied to a particular type of driving (e.g., "This vehicle is rated at 40 MPG on the highway according to

the EPA estimate”). Such single-rating claims are not likely to be deceptive as long as the advertisement clearly identifies the type of estimate (e.g., city, highway, or combined), and the estimate matches the content of the advertised claims.²

As the Commission notes, its consumer research supports the conclusion that this policy does not lead to misleading advertising. After over 40 years of federal consumer information on vehicle fuel economy, consumers are very aware of the significance of city vs. highway fuel economy estimates. We agree with the Commission that there is no basis for changing the Guide with regard to the use of single mileage ratings in advertising.

II. Plug-In Hybrid Electric Vehicle Ratings

The proposed flexible fueled vehicle guidance as set forth in section 259.4(j) states that if “an advertisement for a flexible fueled vehicle mentions the vehicle’s flexible fuel capability and makes a fuel economy claim, it should include the EPA fuel economy estimates for both gasoline and alternative fuel operation.” However, the preamble states that the Commission “does not propose advising advertisers to always disclose MPGe in advertising for electric vehicles as some comments suggested”³ due to lack of familiarity with the concept on the part of consumers. The current regulatory text and the preamble statement are inconsistent and create confusion with respect to plug-in hybrid electric vehicle (PHEVs), since PHEVs are flexible fueled vehicles that operate on both gasoline and electricity. PHEVs are rated under EPA rules for both charge-depleting fuel economy (MPGe) and charge-sustaining fuel economy.

We understand the Commission’s intent to be that it is sufficient to include only the charge-sustaining rating in fuel economy advertising for PHEVs and not include MPGe. We would appreciate the FTC’s confirmation of this point when the final Guide is issued, by including clarifying language in the text of section 259.4(j) to explicitly address PHEVs.

III. Non-EPA Estimates

Although we do not anticipate widespread use of non-EPA fuel economy estimates, there are limited circumstances where it may be appropriate to use such estimates. These circumstances arise when a new vehicle model is introduced, but final approved EPA estimates are not yet available. The vehicle manufacturer may wish to provide information on a new vehicle’s fuel economy in advertising at the time of introduction, for example. In such situations, it should be acceptable to use ratings based on the information that manufacturers submit to EPA for certification purposes, so long as a qualifier such as “preliminary” or “manufacturer estimate” is included in the

² See 81 Fed. Reg. 36220.

³ See 81 Fed. Reg. 36224.

advertising. We request the Commission's confirmation that this approach is acceptable.

A related point involves situations in which the manufacturer may wish to include actual on-road test results from, for example, reputable organizations in order to provide additional information regarding the vehicle's fuel economy. In explaining the road test procedures and conditions, it should be sufficient to simply state that the data is generated through on-road tests and specify the organization that conducted the tests, without providing extensive details regarding the test procedures and conditions.

We appreciate the very helpful efforts of the FTC to provide guidance on fuel economy advertising. Please feel free to contact us if you have any questions on our comments or if we can be of further assistance in any way.