



September 7, 2016

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

Re: Guide Concerning Fuel Economy Advertising for New Automobiles; Amendments (Fuel Economy Guide or the Guide), 16 CFR Part 259; R711008

Ladies and Gentlemen:

The National Automobile Dealers Association (NADA) represents more than 16,000 franchised automobile and truck dealers who sell new and used motor vehicles and engage in service, repair and parts sales. Together they employ over 1,000,000 people nationwide yet most are small businesses as defined by the Small Business Administration.

Earlier this year, the FTC formally proposed to amend its Fuel Economy Guide, which since 1975 has sought to prevent deceptive and to promote uniform and informative light-duty new vehicle fuel economy advertising. 81 Fed. Reg. 36216, *et seq.* (June 6, 2016). The proposal follows up on a notice issued in 2014. 79 Fed. Reg. 27820-4 (May 15, 2014). The following comments and suggestions supplement those filed by NADA in response to the 2014 notice.

I. Consumer Research

In its 2014 comments, NADA stressed the potential benefits of research aimed at a better understanding of how prospective new vehicle purchasers relate to fuel economy advertising, and urged the FTC to consider the wealth of consumer research conducted by the Environmental Protection Agency (EPA), the National Highway Traffic Safety Administration (NHTSA), the U.S. Department of Energy (DOE), and others. The results of the FTC's additional targeted consumer research lend support to several of the proposed changes to the Guide.

II. Guide Benefits

The Guide assists advertisers interested in making consistent and objective fuel economy disclosures to prospective light-duty new vehicle purchasers. The FTC should continue to maintain the Guide, but should redesign it to facilitate the adoption and incorporation of any future changes to EPA fuel economy label information requirements, and to allow for reasonable flexibility as to what and how accurate fuel economy disclosures should be made.

III. Proposed Guide Revisions

A. Guide Format

NADA supports the Guide's modernization to include general principles and useful illustrations.

B. Definitions

NADA applauds the FTC for its key *Definitions* list in 16 CFR §259.2 and for modifying and adding to that list to comport with the EPA/NHTSA label regulations.

C. Regulatory Citations

NADA supports a general reference to "EPA regulations," if defined to mean *EPA regulatory requirements for fuel economy labeling set forth in 40 CFR part 600, subpart D*.

D. Types of Fuel Economy Claims

1. General Fuel Economy Claims

The FTC's Guide should continue its long-time suggestion that, if and when general fuel economy disclosures are made, they be accompanied by specific fuel economy ratings. Virtually all commenters and the FTC's own research support likewise.

2. The Combined EPA MPG Rating Default Disclosure

The combined EPA MPG rating should serve as the default disclosure for unspecified fuel economy claims, with disclosure of *both* the city and highway numbers as an alternative default disclosure. Since fuel economy advertisements are *not* inherently unfair or deceptive simply because they contain only one fuel economy rating, advertisers should continue to have the time-honored flexibility of providing only a single clearly identified fuel economy label rating.

3. "Up to" Claims

The FTC's research raised significant concerns regarding "up to" disclosures, suggesting that such disclosures warrant caution. However, "up to" disclosures can be appropriate in advertisements covering multiple models or sub-models (*e.g.*, when an advertised model type offers several engine and/or transmission options). Alternatively, it can be appropriate to set out a range of EPA fuel economy label ratings in such advertisements.

4. Non-Linear Relationship Between MPG and Fuel Costs

Given that the relationship between fuel economy and fuel costs or savings is not linear, advertisements suggesting otherwise should be avoided. However, given the scarcity of such advertisements, reference to the issue in the Guide is unwarranted.

5. EPA as The Estimate Source

The Guide should continue to require that EPA be referenced as the primary source of advertised light-duty vehicle fuel economy ratings.

6. Additional Guidance on Ratings as Estimates

The FTC appropriately recognizes the potential value of disclosing label ratings as “estimates,” of referring prospective purchasers to [www.fueleconomy.gov](http://www.fueleconomy.gov), and of noting that “ratings are for comparison purposes only; actual mileage may vary.”

7. Claims Related to Model Types

The term “unique nameplate” should be replaced with “model type.” Ratings applicable to one version of a model type may not be appropriate in advertisements for different versions of that model type.

8. Claims Based on Non-EPA Estimates

For purposes of uniformity and clarity, EPA estimates are preferred for advertisements involving light-duty vehicles. However, there are circumstances, such as where no EPA estimates yet exist, where a manufacturer or dealer advertisement may need or prefer to refer to a non-EPA estimate.

9. Claims for Alternative Fueled Vehicles (AFVs)

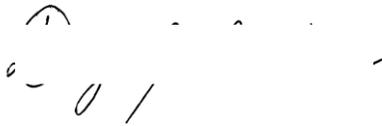
Appropriate EPA fuel economy label ratings and ranges should be used in light-duty new AFV (including flexible fuel and new technology vehicle) advertisements. For dual-fueled capable vehicles, advertisers should be allowed to disclose only the rating (or range) for one fuel, as long as it clearly identifies which fuel in non-deceptive manner.

10. Fuel Economy Range Claims

The FTC should delete 16 CFR §259.2(b)(1).

On behalf of NADA, I thank the FTC for the opportunity to comment on this matter.

Respectfully submitted,

  
Douglas I Greenhaus  
Chief Regulatory Counsel, Environment,  
Health, and Safety