

BEFORE THE FEDERAL TRADE COMMISSION

16 CFR part 410—Picture Tube Rule Review, File No. P174200

Comments

I am retail consumer of this product. I do not believe there is a continuing need for this Rule.

There is No Longer an Unfair Practice

"Unfair" practices are defined as those that "cause[] or [are] likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition" (15 U.S.C. Sec. 45(n)). Injury can be avoided by carrying a tape measure to the place of purchase and measuring the product prior to purchase. This is a reasonable act a consumer can take to avoid damage.

There is No Longer a Deceptive Act

An act or practice is deceptive where

- a representation, omission, or practice misleads or is likely to mislead the consumer;
- a consumer's interpretation of the representation, omission, or practice is considered reasonable under the circumstances; and
- the misleading representation, omission, or practice is material.

Even if the representation of screen size as viewable or including nonviewable portion is a misrepresentation, the injury is not material since the product can be returned for a refund. A reasonable consumer would ask if the product can be returned for satisfaction, and most retailers will accept returns. A simple inspection prior to purchase would avoid damage anyway.

Screen Size is not As Important as Picture Quality

I recently purchased a television in 2017. The horizontal measurement was not the sole determining factor. The main factor is Picture Quality. Picture quality includes the viewing size. I list my factors when comparing products:

- Horizontal viewable dimension
- Vertical viewable dimension (Aspect ratio is ratio of Horizontal to Vertical)
- Pixels (1080i, Ultra HighDefinition)
- Material (LCD, LED, OLED)
- If LED, then is screen backlight edge or full array
- Contrast including how black is black
- Refresh rate

These factors comprise picture quality. After viewing product in the showroom, I compare these factors to determine value. I then review online (Internet) reviews of my selection. Finally, PRIOR to purchase I inspect the product, or determine I can return product to the store without reservation within 24 hours. For consumers without the Internet at home, most Public Libraries offer Internet access.

Commission Should Consider Convergence of Video Viewing Platforms

Today the same information content that is viewable on a television set is viewable on multiple platforms that traditionally were not considered televisions. However these new platforms are receiving the very same information that a traditional television set received. Television sets today can receive information over the air, cable, satellite, or Wireless either over the air broadcast or via Internet. Mobile devices can connect wirelessly to networks connected to the Internet or via mobile providers to receive the same information content. Since the rule includes television receiver sets but does not define the term, it is reasonable to conclude that any device that can receive the same content as a television would also be considered a television receiver set, for example a cell phone would be a television receiving set. This should be avoided by the Commission.

I would propose avoiding this by deleting the rule in total. The Commission in the alternative could attempt to define television receiving set but I can not determine how this could be accomplished other than designating a minimum size that would activate the rule.

Conclusion

It is 51 years since 1966 and the cathode ray tube housed in a cabinet is a relic. Screen size is one property among several defining the viewing experience and picture quality that a consumer comparison shopping considers. Specific injury from misleading screen dimension claims is easily avoidable by measurement prior to purchase, online (Internet) reviews, and inspection. For these reasons material injury is avoidable and the Rule no longer required.

Thank you for considering these comments,
Jonathan Appelbaum