ASSOCIATION OF HOME APPLIANCE MANUFACTURERS

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Via Online Comment Portal

Mr. Hampton Newsome
Attorney
Division of Enforcement, Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, D.C. 20580

https://ftcpublic.commentworks.com/ftc/labelranges

Re: Energy Label Ranges, Matter R611004

Dear Mr. Newsome:

The Association of Home Appliance Manufacturers (AHAM) respectfully submits the following comments to the Federal Trade Commission (FTC or Commission) on its proposed Energy Label Ranges, Matter R611004, 82 Fed. Reg. 52024 (Nov. 9, 2017).

AHAM represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM's more than 150 members employ tens of thousands of people in the U.S. and produce more than 95% of the household appliances shipped for sale within the U.S. The factory shipment value of these products is more than $30 billion annually. The home appliance industry, through its products and innovation, is essential to U.S. consumer lifestyle, health, safety and convenience. Through its technology, employees and productivity, the industry contributes significantly to U.S. jobs and economic security. Home appliances also are a success story in terms of energy efficiency and environmental protection. New appliances often represent the most effective choice a consumer can make to reduce home energy use and costs.

AHAM supports the FTC and Department of Energy (DOE) in efforts to help consumers make purchase decisions that are informed by energy use and efficiency. We recognize that an integral part of the appliance program is appliance labeling. We appreciate the Commission's work to update the ranges where needed and not to impose unnecessary burden or cause consumer confusion in cases where ranges have been recently updated. We also appreciate the Commission's waiting until Canada changed its rules for room air conditioner labeling to announce an effective date for new room air conditioner labeling requirements, and ask that FTC not require compliance with that requirement until October 2019. Finally, we ask that the Commission make minor clarifications to some of the sample labels and/or associated regulatory text to ensure consistency in the rule.

I. Room Air Conditioner Labels on Packages

FTC proposed to implement the changes it finalized in 2015 that would require labels on room air conditioner boxes and replace the Energy Efficiency Ratio (EER) with the Combined Energy Efficiency Ratio (CEER).

AHAM thanks the Commission for working with Natural Resources Canada (NRCan) and waiting to announce a compliance date until NRCan could implement similar changes. As FTC indicated, NRCan published amendments that allow manufacturers to print the EnerGuide label on packaging instead of affixing it on the product. Alignment between the U.S. and Canada is critical for this product, which is identical on both sides of the border and sold in a truly North American marketplace.

AHAM also supports FTC's proposal to replace EER with CEER. DOE has long required measurement and reporting of CEER as the new metric for energy conservation standards and it makes sense that the labels reflect the current metric.

The Commission proposes an effective date of October 1, 2018, which is less than a year from the date of the proposed rule. In AHAM's previous comments on the Commission's proposal, we indicated that two years would be a reasonable implementation period for such a significant change.[1] This change will require manufacturers to totally redesign their packaging to accommodate the label. Moreover, it is unclear how much lead-time will be provided for manufacturers from the date of a final rule announcing the compliance date. Accordingly, we respectfully request that FTC not require labels to appear on room air conditioner boxes until October 1, 2019.

II. Comparability Ranges

The Commission proposed to revise comparability ranges for dishwashers and room air conditioners (among other products) according to its five year revision schedule. FTC did not propose changes to the refrigerator/freezer or clothes washer labels as those were updated recently.

AHAM agrees that changes are not needed to the refrigerator/freezer or clothes washer ranges of comparability because they were recently changed and we appreciate the Commission's care not to unnecessarily burden manufacturers or confuse consumers by introducing new label information in the marketplace so soon after recent changes.

III. Labels

FTC included proposed minor clarifying language to section 305.10(c) regarding the placement of energy cost information on the labels for certain models that have energy costs falling outside of the current ranges. Specifically, the language clarifies how manufacturers should label

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[1] AHAM Comments; Supplementary Notice of Proposed Rulemaking on Energy Labeling Rule Regulatory Review (16 CFR Part 305) (Project No. R611004) (Aug. 18, 2014).

products with energy costs that fall outside of either or both ranges on the label. AHAM appreciates these clarifications which are consistent with our understanding of current industry practice.

AHAM notes that 305.10(c)(2) states that, for products with operating costs outside the current range, the label must state "The estimated yearly operating cost of this model was not available at the time the range was published." The sample label showing this example (i.e., costs outside the current range) is the dishwasher label. That label uses the language "energy cost" instead of "operating cost." Industry practice has been to use the term "energy cost" for consistency with the sample label. AHAM requests that FTC clarify the regulatory text and sample labels to be clear as to whether "operating cost" or "energy cost" should be used.

Similarly, the clothes washer sample label uses the term "operating cost" in the third bullet point at the bottom of the label, "Estimated operating cost based on six wash loads. . . ." Although the other labels were changed to use the term "energy cost" and "energy cost" is used in the estimated yearly energy cost, the clothes washer sample label seems to have been overlooked despite the change in the regulatory text. AHAM's understanding is that manufacturers have continued to use the language on the sample label. AHAM asks that FTC correct this discrepancy and allow manufacturers sufficient time to change labels should they need to do so. In addition, given that manufacturers likely have labels printed based on the current discrepancy, should FTC require different language than what is currently on the sample label, AHAM requests that manufacturers be permitted to use their full supply of labels to avoid waste and unnecessary cost. Given that these changes are not substantive, it does not seem that continuing to use old labels would confuse consumers.

Finally, there is currently some confusion about the text required for the through-the-door-ice feature on refrigerator/freezer labels. The sample label and the applicable regulatory text do not match. The sample label uses "no through-the-door ice" whereas the regulatory text in Appendix A says "without through-the-door-ice." Also, Appendix A capitalizes Through-the-Door-Ice, whereas the sample label does not. AHAM respectfully requests that FTC correct these discrepancies and ensure the regulatory text and the sample labels match and allow manufacturers sufficient time to change labels should they need to do so. In addition, given that manufacturers likely have labels printed based on the current discrepancies, AHAM requests that, should manufacturers have been labeling differently than what the Commission requires, manufacturers be permitted to use their full supply of labels to avoid waste and unnecessary cost. Given that the differences are not substantive, AHAM does not anticipate any consumer confusion that would result.

AHAM appreciates the opportunity to submit these comments on the Commission's proposed Energy Label Ranges and would be glad to discuss these matters in more detail should you so request.

Respectfully Submitted,

Jennifer Cleary
Senior Director, Regulatory Affairs