



March 13, 2019

The Hon. Joseph J. Simons, Chairman
The Hon. Noah Phillips, Commissioner
The Hon. Rebecca Kelly Slaughter, Commissioner
The Hon. Rohit Chopra, Commissioner
The Hon. Christine Wilson, Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: FTC 16 CFR Part 315: Proposed Changes to the Contact Lens Rule

Dear Chairman Simons, Commissioner Phillips, Commissioner Slaughter, Commissioner Chopra and Commissioner Wilson:

On behalf of the 41 million Americans who wear contact lenses, the [Coalition for Contact Lens Consumer Choice](#) writes today to respectfully urge the Federal Trade Commission (FTC) to finalize the agency's proposed update to the Contact Lens Rule as soon as possible.

Our Coalition represents retailers, contact lens wearers, consumer and taxpayers groups, good government advocacy organizations, optometrists and other eye care and medical professionals. We have members on both sides of the political aisle and companies who compete against each other in the marketplace. The Coalition's member organizations currently include: 1-800 Contacts, Americans for Tax Reform, Consumer Action, Citizen Outreach, Costco Wholesale, FreedomWorks, Institute for Liberty, Lens.com, the Latino Coalition, LULAC, the National Taxpayers Union, the National Hispanic Medical Association, the Progressive Policy Institute, R Street Institute, and the Taxpayers Protection Alliance.

We support legislative and regulatory proposals at the federal and state levels that protect the ability of consumers to purchase contact lenses from the retailer of their choice, whether online, in stores or over the phone and strongly support competition in the marketplace, because it helps both consumers and taxpayers.

After more than four years of careful deliberative work on the agency's proposed update to the original 2004 Contact Lens Rule, including an FTC Workshop in 2018 and multiple opportunities for organizations, associations, companies and consumers to offer comment, we believe it is time for the FTC to finish the job and issue the final rule, clarifying, strengthening and enhancing the rights of contact lens wearing consumers.

Until your final rule is issued, the balance of power between contact lens consumers and optometrists is still not balanced or fair to consumers. Too much power still resides with optometrists who can prescribe and sell contact lenses at the same time, without any meaningful choice by the patient. In the absence of a strong FTC rule, there is no incentive for a prescriber to ever willingly give a patient their prescription.

The talented FTC professional staff have been conducting an exhaustive, transparent and detailed look at all of the issues and aspects facing consumers and eye care providers when it comes to contact lenses. Our Coalition has been actively engaged in the process every step of the way, supporting the agency's work by providing industry information, evidence of non-compliance by optometrists and the perspective of consumers and taxpayers.

The key change proposed by the FTC in its proposed update to the Contact Lens Rule – the addition of a requirement for optometrists to obtain a signed acknowledgement after providing a prescription to a consumer, and to keep that acknowledgement on file for three years – would help address the primary deficiency of the current system, that many optometrists routinely fail to automatically provide patients with a copy of their contact lens prescription.

This signed acknowledgement form would give the FTC a means to track those who are failing to follow the prescription release requirement under FCLCA and to take action on behalf of consumers' rights when a case warrants. The signed acknowledgement would add little additional burden on optometrists, many of whom must already meet state requirements to maintain records of eye exams for at least three years.

The FTC appropriately notes that saving the form would “not take more than a few seconds of time, and an inconsequential, or de minimis, amount of record space.” What the FTC is proposing is a common sense, minimally-burdensome rule change that both optometrists and consumers can and should support.

The American Optometric Association (AOA), the lobbying group representing optometrists, has been working overtime to portray these consumer-centric reforms as overly-burdensome. Its claims about the proposed change are self-interested and false.

Notably, replacing the proposed signed acknowledgement with a requirement to post signs in optometrist offices (a position being advocated by the AOA), as is required now under California law, simply won't work as an alternative, as the FTC found in its own informal survey of California optometrist offices. Consumer Action conducted a similar [survey](#) and also found almost no compliance with the law in the California optometrist offices it visited.

The FTC has also appropriately rejected the health claims made by the AOA and some contact lens manufacturers, noting that these claims were not supported by reliable empirical evidence. Many of these rejected arguments were trotted out again by these groups at the FTC's 2018 Workshop and in comments submitted for the record. The FTC has consistently found no increased risk from buying contact lenses from alternative retailers, which is consistent with numerous medical studies that have found no connection between eye health problems and the location where contact lenses are purchased.

America's contact lens consumers and taxpayers deserve action in this area as soon as possible. Every day that the FTC delays in issuing its proposed update to Contact Lens Rule is another day that a consumer doesn't learn about their rights or is denied the ability to shop around for the best deal for them and their families.

Thank you for your consideration and your prompt action on this important matter.

Sincerely,

The Coalition for Contact Lens Consumer Choice

