

**Before the
UNITED STATES FEDERAL TRADE COMMISSION
Washington, D.C. 20580**

In the Matter of

Rule Concerning Disclosures)	
Regarding Energy Consumption and)	
Water Use of Certain Home Appliances)	
and Other Products Required Under)	
the Energy Policy and Conservation)	16 CFR Part 305
Act [“Appliance Labeling Rule”];)	
Advance Notice of Proposed Rulemaking)	
)	
Consumer Electronics Labeling)	
Project No. P094201)	

**COMMENTS OF THE
CONSUMER ELECTRONICS RETAILERS COALITION**

INTRODUCTION

The Consumer Electronics Retailers Coalition (CERC) is a public policy organization consisting of the major retailers of consumer electronics products and the leading retail industry trade associations. Our members represent America’s favorite places to shop for televisions, audio and video gear, computers, appliances, and all the electronic devices that make our lives more enjoyable and productive.

We appreciate the opportunity to offer a retail perspective to the Federal Trade Commission’s (FTC) efforts to study the need to implement new energy disclosures for a larger array of consumer electronics products.

CERC urges the FTC to proceed carefully and ensure that its actions do not frustrate already successful energy efficiency efforts and that the FTC take into full account Congressional concerns that the FTC not impose rules which are technologically or economically infeasible or would not likely assist consumers in making their purchasing decisions. Should the FTC act to impose new rules, CERC urges the FTC to “fill the field” to ensure that State efforts to impose competing disclosures or regulations do not confuse, mislead or overwhelm consumers with contradictory information and false comparisons.

Energy disclosures, properly implemented and executed can help consumers make educated purchasing decisions, but the FTC should recognize that disclosure

requirements should be consistent with America's modern and incredibly diverse retail marketplace as well as consumers often complex and diverse needs. Consumer education and information is preferable and more effective than efforts to regulate retail product mix. Armed with fair, objective and useful information consumers can balance competing needs. As retailers, we attest to the old adage that the customer is always right!

ENERGY STAR – A PROVEN MODEL THAT WORKS

Energy Efficiency is an important value to CERC members and our customers. All our members have on-going efforts to help educate our customers on the importance of choosing products which are energy efficient.

We have entered a new and exciting era of energy efficient products. With new greener consumer electronics and a host of products to make existing electronic equipment operate more efficiently, CERC urges the FTC to look to the ENERGY STAR program. Our members are also working with policymakers to re-invigorate and expand this very successful initiative. This public-private partnership is a model for an even more exciting effort to encourage consumers to make energy efficient choices. The FTC needs to take full notice of the current ENERGY STAR program and Congressional and regulatory efforts to build on its success. The FTC should take no action which would undermine confidence in the ENERGY STAR brand.

Recent market research by the Environmental Protection Agency (EPA) and the Consumer Electronics Association (CEA) demonstrate that not only is ENERGY STAR among the most recognizable 'green labels' it is among the most recognized brands in all retailing. Like other successful branding efforts, ENERGY STAR works because in an instant it conveys to consumers a value they seek and represents a source of information they trust.

HARMONIZATION WITH ENERGY STAR

Any new requirements imposed by the FTC should be completely harmonized with the ENERGY STAR program. The measurement, evaluation and testing standards which define any disclosure must compliment and support not confuse or undermine the ENERGY STAR program. The FTC should also fill the field to preclude States from adopting competing energy disclosure schemes. The EPA, the Energy Department (DoE), the FTC and the States should not have competing programs. The ENERGY STAR program which has been successfully embraced by consumers, manufacturers, government and retailers should be the foundation of federal energy disclosure efforts.

MANUFACTURER RESPONSIBILITY

Any labeling requirement that the FTC would consider should take into account the realities of the modern retail environment and the nature and use of the affected products.

Any label required by the FTC should be affixed by the manufacturer to the product and its packaging in a manner that is consistent with the product's use and display. Unlike refrigerators, washing machines, and autos, consumer electronics have smaller surface spaces and a number of products that the FTC have under consideration for new disclosures must be displayed and operated to give consumers a fair opportunity to compare competing product features. A labeling requirement, for example, which obscures a screen, deprives the consumer of the opportunity to make an informed choice based on performance.

Manufacturer responsibility is also consistent with the ENERGY STAR program where manufacturers identify their product with the program's well recognized logo. Attaching the disclosure to the product makes sense. As almost every shopper has experienced, in any high traffic retail setting, products and signage get moved around by customers and staff and occasionally separated from their display elements.

Retail environments where affected products are sold are very diverse, from large national multi-department retailers to small businesses to single product kiosks to general and specialized on-line and catalog retailers. Display, storage, and staffing resources are very different from retailer to retailer. A retail mandate would simply not work. A manufacturer's requirement ensures that the information follows the product.

Retailers will use energy efficiency data to position products and appeal to customer needs. Like ENERGY STAR, a public private voluntary partnership would be the most effective method of informing consumers of the relevance of manufacturer attached disclosures.

Affixing labels at the manufacturing site will assure that consumers know with certainty that the information matches the product. It is not unusual for a retailer to order even the same product from multiple vendors. Those vendors may change product components depending on availability. The retailer has no way of knowing of those changes and can not be expected to ensure that labels match product performance. If the FTC were to act, the disclosures should be tied to the product at the factory and the validity of the information should be the responsibility of the manufacturer.. Manufacturers could place meaningful disclosures on product packaging, manuals, on non-screen product surfaces and on their product websites. Such a system would also protect manufacturers from human error at the retail level.

The FTC needs to work closely with retailers and manufactures to ensure that when products are displayed in an operating fashion that any required label does not interfere with the product's performance, display or safety. For example, it is not unusual for

televisions to run for hours in a retail display. Label placement should not compromise the safe performance of those products.

INCENTIVE PROGRAMS

The federal government, States and electric utilities are either conducting or considering incentive programs to encourage consumers to make green choices. These programs have been very successful in the large appliance sector and could work to incent consumer choice in a larger array of products. To the greatest extent possible, the FTC, should work with the DoE, EPA and the states harmonize the standards for these programs so they work in harmony with the ENERGY STAR program and any FTC required disclosure.

MANUFACTURED BY DATE

If the FTC imposes new disclosure requirements, it should be based on a “manufactured by” date. If new regulations are to be imposed on products, retailers should have a full opportunity to “sell through” their existing stock of products. The FTC should recognize that product cycles and supply chains do not turn on a dime. Retailers need at least a year to turn over their existing stock of products.

MORE RESEARCH NEEDED

Retailers and manufacturers all have their own proprietary research. That information is competitively sensitive and valuable. For successful retailers that research is often right on the money for unsuccessful firms, their research is often wrong. The FTC’s inquiry would benefit from scientific research on consumer behavior that could be placed, reviewed, debated and considered in the public domain. The FTC should also consider implementing any new disclosure requirements first on a pilot basis with voluntary participation to ensure that final regulations are feasible and effective.

CERC welcomes the opportunity to work the FTC and its staff to help the Commission understand the complexities and realities of the modern consumer electronics retail environment.

Respectfully submitted,

**CONSUMER ELECTRONICS
RETAILERS COALITION**

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