

**TAXPAYERS
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July 29, 2019

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, NW Room CC-5610 (Annex C)
Washington, DC 20580

RE: Contact Lens Rule, 16 CFR Part 315, Project No. R511995

Dear FTC Commissioners and Staff,

The Taxpayers Protection Alliance (TPA) submits the following comments in support of the Federal Trade Commission's (FTC) Notice of Proposed Rulemaking on the Contact Lens Rule (16 CFR Part 315, Project No. R511995) and in response to the questions laid out in the SNPRM that the FTC issued on May 28, 2019.

TPA is a non-profit non-partisan organization dedicated to educating the public through the research, analysis and dissemination of information on the government's effects on the economy. Through blogs, commentaries, and special spending alerts, TPA publishes timely exposés of government waste, fraud, and abuse.

TPA has submitted several letters to the FTC and to Congress over the past few years both individually and as part of larger groups and coalitions. Although we are often critical of government overreach and work hard to make government smaller, we believe that the FTC's proposed Contact Lens rule is a government rule that works for taxpayers and consumers and creates an open transparent contact lens market in the US where taxpayers have real choice and there is real competition in the marketplace.

There has been a great deal of talk over the past year by the American Optometric Association and others that requiring prescribers to obtain a signed acknowledgment from patients that they were told their rights and given a copy of their prescription is "unfair to prescribers and creates too much of a burden to them." We strongly disagree with this point of view.

It is important to keep in mind that the contact lens marketplace is unique. Unlike medical doctors, who are prohibited from selling anything they prescribe to their patients, optometrists, who are not MDs, are exempt from this prohibition (despite their financial conflict of interest). Because of the special nature of this marketplace, in which optometrists write prescriptions for contact lenses and then immediately seek to sell those lenses to that same patient, Congress passed the bipartisan The Fairness to Contact Lens Consumers Act to protect contact wearers. The result was less market distortion and more competition, leading to more choices and lower prices for consumers.

Also, under the current system, prescribers have a strong financial interest in not releasing prescriptions to patients, with optometrists receiving roughly 60 percent of their revenue from the

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sale of contact lenses and glasses, instead of from providing vision care. It's no wonder that a leading consumer group, Consumer Action, found in a 2017 survey that at least 30 percent of patients are not provided with a copy of their prescription following a contact lens fitting.

As we have pointed out in past letters, it is clear from reading the proposed rule that the FTC carefully considered this question of burden on optometrists and determined that "any recordkeeping burden would be relatively minimal and outweighed by the benefit of having more patients in possession of their prescriptions...."

As the FTC has correctly found, the signature requirement would "not take more than a few seconds of time, and an inconsequential, or de minimis, amount of record space" for optometrists. And the proposed three-year record-keeping requirement also does not represent a substantial new burden, because a majority of state laws already require maintenance of eye exam records. Indeed, the FTC has gone out of its way in the SNPRM to offer a variety of ways for prescribers to ensure patient acknowledgment.

We would also note that the FTC estimates that the rule could cost the optometric industry roughly \$13 million each year. This represents a tiny fraction of the industry's overall revenue, which reached \$16 billion in 2018. We fully agree with the FTC's conclusion that the overall burden of the new requirement would be minimal and outweighed by the substantial benefit of having significantly more patients in possession of their prescription. We also agree with the agency's finding that the expected reduction in prescription verification requests could be sufficient to offset the entire cost of the proposal and is in fact "likely to spur more competition and innovation among contact lens sellers and manufacturers."

Choice, competition and commitment to protecting taxpayer rights are the core values that the Taxpayers Protection Alliance strives for in our policy work. We are glad to see the FTC shares those values when it comes to the Contact Lens Rule. We urge you to finalize your balanced pro-taxpayer rule as soon as possible.

Sincerely,



David Williams
President