



October 26, 2015

Federal Trade Commission
Office of the Secretary
Constitution Center
400 7th Street SW., 5th Floor, Suite 5610 (Annex C)
Washington, DC 20024

**Comments of Consumers Union
Eyeglass Rule
16 CFR Part 456, Project No. R511996**

Consumers Union, the policy and advocacy division of Consumer Reports, appreciates the opportunity to comment on the Commissions' review of the Eyeglass Rule. We strongly support the Rule. We believe it has significantly benefitted consumers by enabling them to comparison shop for eyewear at lower cost and greater convenience for a necessity that can be a significant budget expense.

Although consumers now generally take it for granted that their eye doctor will provide them with a copy of their vision correction prescription, at no additional cost, this was not always the case. Before the Eyeglass Rule was issued in 1978, eye doctors often neglected or even refused to provide the prescription, steering their patients to their own in-house or designated supplier. Consumers effectively had no choice in where they could purchase their prescription eyewear. By requiring the eye doctor to give the patient a copy of the prescription immediately following completion of the eye exam, the Eyeglass Rule prevents eye doctors from tying the medical service to the product sale, enabling effective competition and meaningful consumer choice.

We strongly believe there is a continuing need for the Rule, that it imposes no significant burden on eye doctors or others, and that it provides important benefits to consumers. We recommend that the Commission consider the following clarifications and improvements, in light of technological and market developments and experience under the analogous Contact Lens Rule, to strengthen the Eyeglass Rule and help ensure that it achieves its intended benefits for consumers:

Including Measurement of Pupillary Distance

The Commission asks whether the definition of “prescription” should be modified to include the pupillary distance. We strongly believe it should. This measurement is an essential part of a proper vision correction prescription for eyeglasses. When the Rule was initially issued almost 40 years ago, and the primary options for purchasing eyewear were brick-and-mortar locations where the consumer would go personally to purchase and be fitted for eyewear, this may have been less important, as the optician on location could take the measurement. But in the current marketplace, consumers have the option of ordering eyewear by phone or online from a remote seller, where in-person measurement is not an option. This measurement is simple for the eye doctor to take during the examination, and there is no reason not to include it in the written prescription. Many eye doctors may already include it. But the Rule should be clarified so that this is part of the requirement.

Providing Duplicate Copy of Prescription

The Commission also asks whether the Rule should be modified to require the eye doctor to provide a duplicate copy of the prescription when the consumer cannot locate or does not have access to the original copy. We strongly believe it should. This can be done at nominal or no cost by the eye doctor, and helps fulfill the purpose of the Rule. It is not reasonable to require the consumer to undergo a new eye exam to obtain the same prescription.

Concerns that the prescription may be outdated are a separate issue; that issue arises independently of whether the consumer still has the original prescription. That issue better addressed, as it is in the Contact Lens Rule, by allowing a reasonable, medically-based expiration period, such as in the Contact Lens Rule.

Providing or Verifying Prescription to Authorized Representative

The Commission also asks whether the Rule should require that the eye doctor provide a copy of the prescription, or verify its accuracy, to an authorized representative of the consumer, such as the retailer. We strongly believe it should. This requirement is part of the Contact Lens Rule, and provides an efficient means of ensuring that the retailer is providing the correct eyewear. It can be a more efficient alternative to having the consumer contact the eye doctor, or return to the eye doctor’s office, to obtain a duplicate copy. The cost to the eye doctor, as with the other changes we recommend, would be nominal at most. And the benefit to consumers would be significant. We recommend adopting a requirement similar to the one in the Contact Lens Rule.

Minimum Effective Period for Prescriptions

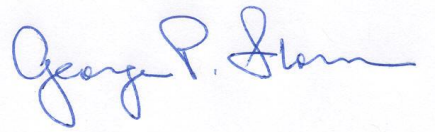
We also believe the Rule should clarify that a prescription be valid for a reasonable period of time, such as the one-year-or-longer period specified in the Contact Lens Rule. The period of validity should be based on medical experience with how long a prescription typically lasts before it may need further correction. The Contact Lens Rule sets a one-year minimum. We believe the Commission should consider a longer period, based on sound medical experience

about how often a reexamination is warranted in the best interests of the consumer. There can be, as there is with the Contract Lens Rule, an exception for special medically-based circumstances, as documented in the records kept by the eye doctor.

Ensuring Effective Monitoring and Enforcement

This Rule has been in effect for almost 40 years, and all eye doctors should be well familiar with it. The Commission should actively monitor complaints, and follow up with warning letters and enforcement as appropriate to ensure that the Rule is working effectively.

Respectfully submitted,

A handwritten signature in blue ink that reads "George P. Slover". The signature is fluid and cursive, with the first name being the most prominent.

George P. Slover
Senior Policy Counsel
Consumers Union