

**FEDERAL TRADE COMMISSION
16 CFR Part 410**

**Deceptive Advertising as to Sizes of Viewable Pictures
Shown by Television Receiving Sets**

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) requests public comment on the overall costs, benefits, and regulatory and economic impact of its Rule concerning Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets (“Rule” or “Picture Tube Rule”), as part of the Commission’s systematic review of all current Commission regulations and guides.

DATES: Written comments will be accepted until Monday, June 6, 2005.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to “Picture Tube Rule Regulatory Review, Matter No. P924214” to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-159 (Annex B), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments containing confidential material must be filed in paper form and the first page of the document must be clearly labeled “Confidential.” The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments filed in electronic form should be submitted by clicking on the following: <https://secure.commentworks.com/ftc-picture> and following the instructions on the web-based form. To ensure that the Commission considers an electronic

comment, you must file it on the web-based form at <https://secure.commentworks.com/ftc-picture>.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

FOR FURTHER INFORMATION CONTACT: Neil Blickman, (202) 326-3038, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission's Picture Tube Rule, like the other trade regulation rules issued by the Commission, "define[s] with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce. Such rules may include requirements prescribed for the purpose of preventing such acts or practices. A violation of a rule shall constitute an unfair or deceptive act or practice in violation of section 5(a)(1) of the [Federal Trade Commission] Act, unless the Commission otherwise expressly provides in its rule." 16 CFR 1.8.

The Picture Tube Rule, promulgated in 1966, sets forth the appropriate means for disclosing the method by which the dimensions of television screens are measured, when this

measurement is included in any advertisement or promotional material for the television set. The purpose of the Rule is to establish uniformity in measuring television screens, and advise consumers of this method, thereby aiding comparison shopping for televisions. Under the Rule, any representation of the screen size must be based on the horizontal dimension of the actual, viewable picture area. Using any other measurement is unfair and deceptive, unless the method of measurement is clearly and conspicuously disclosed in close proximity to the size designation. The Rule notes that the horizontal measurement must not take into account any curvature of the tube. Further, disclosing the method of measurement in a footnote rather than in the body of the advertisement does not constitute a disclosure in close proximity to the measurement. The Rule includes examples of both proper and improper representations of size descriptions.

In 1994, the Rule was amended to clarify some of the Rule's compliance illustrations, provide metric equivalents for the measurements stated in inches in the Rule's examples, and add a new Note 3 to the Rule to explain that the inclusion of metric figures is for information purposes only and does not impose a requirement on the industry to use metric measurements. 59 FR 54809 (Nov. 2, 1994).

Since the Rule was last subject to regulatory review and amended in 1994, broadcasting and television technology have advanced significantly, and an array of new types of televisions are available in the marketplace for consumers. The technological change with the closest nexus to the Rule is the introduction of digital television, including high definition television, and the advent of new wider screen televisions to display these enhanced digital pictures. New television display technologies available today include thin, flat panel televisions with either liquid crystal displays or plasma display panels. In addition, there have been advances in the quality and popularity of front and rear, big screen, projection televisions. Accordingly, the

Commission seeks comment on the effect, if any, that advances in television technology have had on the Rule.

II. Regulatory Review Program

The Commission has determined to review all Commission rules and guides periodically. These reviews seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Therefore, the Commission solicits comment on, among other things, the economic impact of its Picture Tube Rule; possible conflict between the Rule and state, local, or other federal laws; and the effect on the Rule of any technological, economic, or other industry changes.

III. Request For Comment

The Commission solicits written public comment on the following questions:

- (1) Is there a continuing need for the Rule as currently promulgated?
- (2) Has the television industry adopted the Rule's disclosure requirements as part of its routine business practice? If so, how, and what effect, if any, does this have on the continuing need for the Rule?
- (3) What benefits has the Rule provided to purchasers of the products or services affected by the Rule?
- (4) Has the Rule imposed costs on purchasers?
- (5) What changes, if any, should be made to the Rule to increase the benefits of the Rule to purchasers? How would these changes affect the costs the Rule imposes on firms subject to its requirements? How would these changes affect the benefits to purchasers?

(6) What significant burdens or costs, including costs of compliance, has the Rule imposed on businesses, whether large or small, subject to its requirements? Has the Rule provided benefits to such businesses? If so, what benefits?

(7) What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on firms subject to its requirements? How would these changes affect the benefits provided by the Rule?

(8) Does the Rule overlap or conflict with other federal, state, or local laws or regulations?

(9) Since the Rule was issued, what effects, if any, have changes in relevant television technology, such as the 16:9 aspect ratio for high definition television displays, marketing methods, such as online sales, or economic conditions had on the Rule?

List of Subjects in 16 CFR Part 410

Advertising, Picture tubes, Television sets, Trade practices.

Authority: 15 U.S.C. 41-58.

By direction of the Commission.

Donald S. Clark
Secretary