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Legal & Regulatory Group



July 23, 2007

Federal Trade Commission (FTC)/Office of the Secretary
Room H-135 (Annex M)
600 Pennsylvania Avenue, NW.
Washington, DC 20580

Re: Guide Concerning Fuel Economy Advertising for New Automobiles; 16 CFR Part 259; Fuel Economy Guide Review, Matter No. R711008; FTC-2007-0043

Ladies and Gentlemen:

The National Automobile Dealers Association (NADA) represents approximately 20,000 franchised automobile and truck dealers who sell new and used motor vehicles and engage in service, repair and parts sales. Together they employ in excess of 1,300,000 people nationwide yet a significant number are small businesses as defined by the Small Business Administration.

Last spring, the FTC initiated a review of its Guide Concerning Fuel Economy Advertising for New Automobiles (the Guide). 72 Fed. Reg. 26328-9 (May 9, 2007). In response, NADA offers the following specific comments and suggestions.

I. The Continuing Need For The Guide

The Guide should continue to be published as it serves to assure prospective new vehicle purchasers that fuel economy claims consistently will be advertised in an understandable manner. The Guide requires manufacturer or dealer new vehicle fuel economy advertising to disclose applicable Environmental Protection Agency (EPA) fuel economy estimates in a clear and conspicuous manner. By specifically detailing how and what information must be disclosed, the Guide helps ensure that prospective purchasers receive objective, uniform information, and that manufacturers and dealers fairly and even-handedly advertise the fuel economy of the new vehicles they sell.

II. Deletion Of 49 CFR §259.2(c)

The FTC should delete 49 CFR §259.2(c). This section currently allows advertisers to refer to non-EPA fuel economy estimates, so long as specific references to appropriate EPA estimates for the same vehicle also are made. The benefit of being able to advertise non-EPA fuel economy estimates is outweighed by the need for uniformity, clarity, and fairness. This section only should be retained in the Guide if the FTC can show that manufacturers and/or dealers have regularly advertised non-EPA fuel economy estimates, and are expected to conduct similar advertising in the future.

III. New Technology and Alternate-Fuel Vehicles

Manufacturers are introducing new technology, alternative fuel, and dual- and flex-fuel vehicles at an ever-increasing rate. These include hybrid vehicles designed to run on electricity, on a liquid fuel, or on a combination of the two, dedicated alternative fuel vehicles, and dual- or flex-fuel vehicles. In light of this trend, the Guide should be amended to require disclosure of:

1. All fuel(s) advertised vehicle(s) are designed to use.
2. The fuels actually used to generate advertised EPA estimates.
3. Such information from the *FTC's Labeling Requirements For Alternative Fuels and Alternative Fueled Vehicles* as may be appropriate. 16 CFR Part 309. For example, vehicles that run on alternative fuels and gasoline should indicate the estimated range for each type of fuel.

Additional information of this sort will enable consumers to better compare vehicles using the same fuel and/or technology and to better compare new technology and alternative fuel vehicles to their gasoline counterparts. This is of particular importance during times when gasoline prices increase significantly, resulting in a heightened awareness of fuel economy and a commensurate increase in fuel economy advertising.

IV. Conformity With EPA's Fuel Economy Testing and Labeling Requirements

EPA recently revised its fuel economy testing and labeling requirements. 72 FR 77872, *et seq.* (December 27, 2006). In order that the Guide better conform with EPA's new rule, the following changes should be made:

1. The Section 259.1(a) definition of *new automobile* should be amended to include vehicles that are defined as medium duty passenger vehicles, and which are manufactured during the 2011 model year or thereafter.
2. Section 259.1(b) and (c) should be amended to substitute the term *fuel economy* for *gasoline and alternative fuel consumption or mileage*, and to replace 40 CFR 600.210 with the more generic 40 CFR Part 600.
3. The Guide should allow for the advertisement of combined fuel economy estimates. EPA defines *Combined fuel economy* as:
 - (i) The fuel economy value determined for a vehicle (or vehicles) by harmonically averaging the city and highway fuel economy values, weighted 0.55 and 0.45 respectively.
 - (ii) For electric vehicles, the term means the equivalent petroleum-based fuel economy value as determined by the calculation procedure promulgated by the Secretary of Energy.

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3. Advertisements should specify the vehicle's model year (MY). Given that the 2006 revisions to EPA's fuel economy standards take effect in MY 2008, it is important that prospective purchasers clearly understand which MY automobile is being advertised in order to enable appropriate comparisons.

On behalf of NADA I thank the FTC for the opportunity to comment on this matter.

Respectfully Submitted,

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Director, Environment, Health & Safety