

VIA E-MAIL: tireguides@ftc.gov

October 24, 2003

Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Ave., NW
Washington, DC 20580

RE: Tire Guides, 16 CFR Part 228 – Comments

Dear Sir or Madam:

On August 25, 2003 the Federal Trade Commission (FTC) published a Proposed Rule regarding “Tire Advertising and Labeling Guides” (Guides). The FTC has requested public comments about the continuing need for its Guides as well as the costs and benefits of the Guides. On behalf of the 4,000-plus members of the Tire Industry Association (TIA) I am submitting comments.

TIA is an international association representing all segments of the tire industry, including those that manufacture, repair, recycle, sell, service or use new or retreaded tires, and also those suppliers or individuals who furnish equipment, material or services to the industry. TIA was formed by the July 2002 merger of the International Tire & Rubber Association (ITRA) and the Tire Association of North America (TANA).

TIA believes strongly that the Tire Advertising and Labeling Guides need to remain in place but need to be updated to reflect today’s tire marketplace more accurately. TIA is dedicated to more consumer education at the point-of-sale and these guides provide important information to the consumers and tire dealers alike.

Consumers rely on their tire dealers to find the proper tires for their vehicles. Consumers tend to think they own their *car*, not the tires on their car. In an in-house survey conducted by TIA (then TANA) in 2001, we asked our members, “Are your customers generally well-informed about the labeling on their tires (load index values, maximum psi, etc.)?” The results showed that our tire dealers believe that 15% of consumers are well informed, 42% are somewhat informed and 43% are not informed. In the same survey, 98% of TIA members said that their customers rely on them for information to help make the proper tire purchase.



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The FTC asked: *(1) Is there a continuing need for the Tire Guides? (a) What benefits have the Guides provided to purchasers of the products affected by the Guides? (b) Have the Guides imposed costs on purchasers? (c) How prevalent and widespread is voluntary compliance with the Guides? (d) Have other federal regulatory initiatives rendered the Guides unnecessary?*

TIA strongly urges the FTC to leave the Guides in place. The benefit of the Guides to the consumer is protection from unscrupulous business owners and more readily available information on tire labels when making a purchase. Consumers do not always understand tire information and rely heavily on their tire dealers to help them make the right choice. TIA is committed to more consumer education efforts at the point-of-sale regarding all tire safety and maintenance issues. The costs of compliance with the Guides for a tire dealer would be minimal. Compliance with the Guides is high although it may be “involuntary” compliance. Many TIA tire dealers were aware, albeit vaguely, of these Guides. The Guides have been in place so long that most of the guidelines have become standard business practice in the industry without the realization it is because of the Guides. TIA does not believe any other regulations make the Guides unnecessary.

(2) What changes, if any, should be made to the Guides to increase the benefits of the Guides to purchasers? (a) How would these changes affect the costs the Guides impose on firms following their suggestions? (b) How would these changes affect the benefits to purchasers?

The Guides need to be updated to reflect today’s tire industry. Here are TIA’s recommended changes:

- Uniform Tire Quality Grading (UTQG) needs to be addressed. In the FTC Tire Advertising and Labeling Guides 16 CFR 228.2, the Guides say, “There exists today no industry-wide, government or other accepted system of quality standards or grading of industry products.” Today this is untrue with the 1978 Uniform Tire Quality Grading (UTQG) system (49 CFR 575.104). UTQG is designed to help a consumer know which tire has better treadwear, traction and temperature compared to other tires. While the test is meant to be a tool for consumers, tire industry officials believe that UTQG becomes very subjective when going from brand to brand. Regardless of whether that is the view or not, UTQG needs to be included in the Guides to insure the regulations are current. We would recommend that the FTC consider making sure that if UTQG ratings are used in advertising, that the size and type (i.e. 205/75R15 all-season tread design, tubeless tire) of the tire for which the UTQG rating is being compared is included.
- Radial tires have taken over the marketplace so references to bias ply tires should be changed to reflect the ratio. According to *Modern Tire Dealer Magazine’s 2003 Facts Issue*, 99.6% of replacement passenger tires were radial and make up 100% of the Original Equipment (OE) passenger

market in 2002. In the light truck arena, 3.3% of replacement tires were bias ply and 1.2% of the OE light truck tire market was bias ply.

- Although bias ply tires are a small part of the market, the FTC should retain sections 228.6-7 regarding “Ply count, plies and ply rating” and “cord materials.” Any information available to consumers and dealers is useful information when choosing a tire. Terminology used within the Guides may need to be updated.
- “Tube-type” tires are almost extinct
- “Trade-ins” or “Take-offs” are usually disposed of in today’s litigious society. However, the Guides need to stay in place for those few businesses that still might sell those “slightly used” tires.
- Blemished tires are a small part of the market mainly because of liability issues. Again, TIA recommends that the Guides stay in place for those few businesses that still sell them.
- The FTC should address Internet and phone sales in their examples as those two types of sales have dramatically increased during the last decade.

These changes will not make a huge difference to consumers. They will simply update the Guides to reflect today’s market. Making more information available that is up-to-date will help tire dealers do their job at the point-of-sale more efficiently.

(3) What significant burdens or costs, including costs of compliance, have the Guides imposed on firms following their suggestions? (a) Have the Guides provided benefits to such firms? If so, what benefits?

While TIA has not studied the costs of these Guides we do not believe the Guides impose any major costs on the tire industry. The benefit of the Guides is making sure all tire businesses are on the same playing field when dealing with consumers and giving the consumers the information they need when making a tire purchase.

(4) What changes, if any, should be made to the Guides to reduce the burdens or costs imposed on firms following their suggestions? (a) How would these changes affect the benefits provided by the Guides?

TIA does not feel the Guides impose any burdens or costs to our membership.

(5) Do the Guides overlap or conflict with other federal, state, or local laws or regulations? (a) To what extent has/will NHTSA tire safety regulations and tire quality grading standards regulations [49 CFR 567, 571, 574, 575, and 597] including those required by the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000, Pub. L. 106 - 414 supersede the need for this Guide or parts of this Guide?

The FTC may want to reference the TREAD Act (particularly the Tire Labeling regulation published in the Federal Register on November 18, 2002 which refers to tire

sidewall labeling information and take the place of the Guides language), other federal laws, and state laws that overlap information in the Guides where the laws have changed. TIA believes the Guides could refer to other regulations where the current rules can be found, or delete the provisions altogether.

(b) To what extent has the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 et seq., and regulations promulgated pursuant to the Act, found at 16 CFR Parts 700-703 and Part 239, superseded the need for the Guides or parts of the Guides?

TIA does not believe there is a conflict with the Magnuson-Moss Warranty Act and the current Guides.

(c) Have state consumer protection laws or regulations governing tires, tire safety, tire price advertising, tire disposal, retreading, or snow tires affected the need for the Guides or parts of the Guides?

TIA is not aware of any state consumer protection laws or regulations that would affect the need for the Guides.

(6) Since 1968 when the main provisions of the Guides were issued, what effects, if any, have the following changes in relevant technology or economic conditions had on the Guides: (a) The recent increased sales of pickup trucks, sport utility vehicles, and similar new vehicles, the tires of which may not be covered by the Guides?

The emergence of the SUV in the marketplace has brought in a wide variety of tires as well. These tires were not around when the guides were first written. In 16 CFR 228.0 the Tire Guides state, "As used in this part, the terms *Industry Product* or *Product* shall mean pneumatic tires for use on passenger automobiles, station wagons and similar vehicles, or the materials used therein...." TIA believes this beginning statement to §228.0 can be updated to include Sport Utility Vehicles, mini-vans and light trucks to better reflect the vehicles on the roads today. Station wagons, while still available, have been replaced by mini-vans and SUVs.

(b) The shift to radial tires (as opposed to the bias-ply tires popular when the Guides were issued) in today's tire market?

The shift to radial tires has had a huge impact on the tire industry over the last three decades. Radial tires last longer than bias ply tires. The Guides need to have language that reflects that radials are now the dominant tires in the market. This change has no effect on the public, as it is something consumers have been living with for years.

(c) Changes in tire distribution or sales, including use of E-mail, the Internet, Internet advertising or CD ROM advertising.

The tire industry has seen much change in the last decade with use of the Internet and phone sales. The FTC should update their guides to cover these new technological tools and make sure they are covered under the guides and all forms of tire sales are on a level playing field.

(d) The declining market for retreaded passenger car tires.

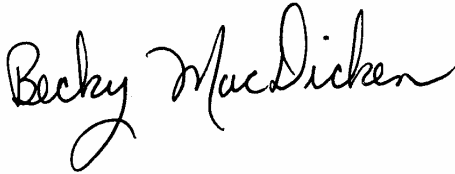
While it is true that the passenger retread market has shrunk, there are still users of such tires. (The U.S. Postal Service is one example.) The retread section of the Guides (16 CFR 228.9) addresses the needs of consumers that are purchasing retreaded tires. TIA does not believe that section needs to be updated.

(7) Are there any abuses occurring in the distribution, promotion, sale or manufacture of tires that are not addressed by the Guides? If so, what mechanisms should be explored to address such abuses (e.g., consumer education, industry self-regulation, Guide amendment)?

TIA knows of no abuses in the distribution, sale or manufacture of tires.

TIA looks forward to working with the FTC on these important guides and would be happy to assist as you move forward in this process. If you have any questions about our comments please call Becky MacDicken at 703/642-3162.

Respectfully submitted,

A handwritten signature in black ink that reads "Becky MacDicken". The signature is written in a cursive, flowing style.

Becky MacDicken
Director of Government Affairs
Tire Industry Association