

EXECUTIVE SUMMARY

Johnson & Johnson Vision Care, Inc. Comments to the FTC’s Notice of Proposed Rulemaking to the Contact Lens Rule, 16 CFR Part 315

On November 10, 2016, the Federal Trade Commission (FTC) released [proposed changes](#) to the Contact Lens Rule as part of its scheduled 10 year review. The Contact Lens Rule was published in 2004 to help promote consumer choice and competition in the contact lens marketplace.

As the manufacturers of ACUVUE® Brand Contact Lenses, Johnson & Johnson Vision Care, Inc. (JJVCI) remains committed to promoting patient eye health and vision safety. As part of that commitment, JJVCI submitted [comments](#) which included the following key points:

Private Label Lenses and Unauthorized Alterations of Prescriptions

JJVCI strongly agreed with the Commission’s commitment to preserving and enforcing the Rule’s prohibition of sellers substituting contact lenses, unless the substitution involves private label lenses made by the same manufacturer, but sold under the labels of other sellers.

- Maintaining the current prohibition on contact lens brand substitution is vital to the sustainability of competition and innovation. It’s also highly valued by consumers—in fact, 94% of online contact lens purchasers say it’s important they receive the exact brand of lenses they order.¹

JJVCI raised concerns whether the Commission’s proposal to remove the term “private label” from Section 315.5(e) is the best approach to addressing the potential misinterpretation of the Rule to limit vendors from selling their own private lenses.

- Currently, FTC has cited no specific reports from vendors or other stakeholders having issues understanding the term “private label” as part of the existing Rule’s language on substitution.
- Continued use of the term “private label” is an important clarification on the only specific instance in which the alteration of a prescription or substitution of lenses other than those expressly listed on a prescription is acceptable.
 - Removing this term may result in unnecessary confusion amongst vendors and potentially increase the risk to patients’ eye health and vision safety.
- If the FTC finalizes its decision to remove the term “private label,” it should explicitly clarify that such a removal is not intended to allow for substitution now or in the future beyond the scope of private label lenses.

Minimum One-Year Expiration Limit

JJVCI strongly agreed with the Commission’s rationale that maintaining the Rule’s minimum one-year contact lens expiration date provides a “safeguard against the improper dispensing of contact lenses.”²

- The current minimum one-year contact lens expiration date ensures that patients receive the vital professional oversight necessary to limit certain avoidable risks associated with contact lens wear, and increases patient access to the latest contact lens technologies.
- Today, 97% of consumers agree that it is important to regularly visit the eye doctor to ensure they have the right lenses to meet their specific needs.³

Consumer Access to Lenses

JJVCI supported the Commission’s ongoing efforts to ensure consumer access to their prescribed lenses from a range of vendor options—from online to chain retailers to eye care professionals. 96% of contact lens consumers express satisfaction with the diverse options available to them today in where and how they can purchase their lenses.

¹ APCO Insight September 24 – October 2, 2015 online survey among adult contact lens consumers 18 years of age or older who have purchased contacts online in the last six months on behalf of Johnson & Johnson Vision Care, Inc.

² NPRM, C. Section 315.3(a)(2)—Provide or Verify the Contact Lens Prescription, I. Sellers Designated to Act on Behalf of Patients

³ APCO Insight August 2015 telephone survey among adult contact lens consumers 18 years and older on behalf of Johnson & Johnson Vision Care, Inc.