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Submission to the Record

**FTC Public Workshop
The Contact Lens Rule and the Evolving Contact Lens Marketplace**

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Good morning. My name is Peter Menziuso, and I am representing Johnson & Johnson Vision as the president of Johnson & Johnson Vision Care Inc., for North America. In my capacity, I am responsible for the full breadth of the company's contact lens commercial operations in the United States and Canada. As the global market leader in contact lens manufacturing, Johnson & Johnson Vision is committed to innovation through our world-leading ACUVUE® Brand Contact Lenses and our broader investments in eye health. We serve more than 60 million people across 103 countries—improving and restoring sight for patients worldwide.

I appreciate the opportunity to participate as a panelist at today's workshop. On behalf of Johnson & Johnson Vision, I'd like to offer our perspective on how the Contact Lens Rule can continue to foster growth in the contact lens category, benefiting patients while prioritizing safe use of contact lenses to ensure optimal eye health and a consistently exceptional patient experience.

At Johnson & Johnson Vision and throughout the Johnson & Johnson Family of Companies, we share a commitment to our Credo—a set of values that puts the safety of the people we serve first, at every step. Since introducing our ACUVUE® Brand Contact Lenses, and the world's first soft disposable contact lens in 1987, we have passionately pursued new technologies of the highest quality standards and innovated to meet unmet patient needs. Since

then, we have been at the forefront of eye health technology, but we know our advancements are not possible without the fundamentals of eye health and safety, which remain at the core of our business.

We recognize that satisfied contact lens consumers are first and foremost healthy patients, which is why we are committed to initiatives that promote eye health. We are a founding member of the Health Care Alliance for Patient Safety, which advocates for safe access to contact lenses and emphasizes the importance of regular eye exams. We are a leadership supporter of *Think About Your Eyes*, a proven public awareness campaign to drive more people to seek annual eye exams. These partnerships, and many others, underscore our support for regulation that preserves the patient-doctor relationship as a key contributor to innovation and patient access to contact lenses.

Today's Competitive Contact Lens Marketplace and Growth in the Category

The contact lens marketplace is working today and has seen consistent growth over the last decade. As the Commission cited in its Notice of Proposed Rulemaking—in 2006, the total U.S. market for contact lenses was \$3.3 billion dollars, with estimated online sales representing less than 13 percent of the market.ⁱ Fast forward to today, and our marketplace is estimated to be between \$4 and \$5 billion dollars annually, with over half of those sales from vendors other than independent eye doctors. Today, conventional retail chains make up 19 percent of the market, wholesalers make up 25 percent, and online sellers now make up 18 percent of the total market.^{ii iii}

Today's 40 million contact lens wearers in the U.S. benefit from the patient-doctor relationship supported by today's regulatory framework. Through several touchpoints—including through their eye doctor—patients are aware of the broad range of retail options available, and the choices they have in where and how to purchase their lenses. Thanks to this incredible

“access advantage” to over 160 brands, 85 percent of contact lens wearers say it is easy to find a brand they like, and 96 percent are satisfied with their options for purchasing the best lenses.^{iv}

Since its enactment, the Contact Lens Rule has contributed to both retaining and growing the number of patients taking advantage of vision correction with contact lenses because of the Commission’s judicious consideration of patient eye health and vision safety, alongside choice and competition. It’s this regulatory framework that supports product innovation and bolsters our consumer-friendly contact lens landscape. With an increasing number of sellers reshaping the contact lens market, I recognize that the Commission’s challenging role will become even more important in ensuring that patients continue to receive the exact lenses they were prescribed, using a valid prescription from an eye doctor, and enforcing adherence to the prescription provisions such as brand, quantity, and expiration while ensuring the highest standards of care are delivered.

Our ability to innovate and promote patient access to our latest technologies is critical to sustained competition in the marketplace and to increasing the number of people who choose to use contact lenses for vision correction and further fueling overall contact lens category growth. We know that the roles of eye health, eye doctors, and contact lens safety are essential to both retaining and attracting patients in the category and fostering manufacturer innovation, choice, and competition. I am pleased to highlight our priorities as we look at how the Contact Lens Rule can continue to facilitate the competitive environment that benefits contact lens wearers today.

Product Innovation and Investments in Eye Health

The ability for manufacturers to innovate—and the assurance that eye doctors and their patients have access to diverse contact lens technologies to address their individual eye health needs—are fundamental to a competitive marketplace. Each contact lens brand is designed

based on unique combinations of material and design properties to suit a different set of corresponding patient physiological, vision correction, and lifestyle needs—and patients' reactions to contact lens brands vary significantly.^v

Published literature has demonstrated each brand is unique in its design and is proprietary to its manufacturer. Generics would therefore result in a substitution that could negatively impact a patient's wearing experience or worse, conflict with the properties the prescriber thought important to optimize the clinical performance and safety of these medical devices, which may lead to an increase in significant adverse events. That's why it's important that eye doctors have a wide variety of lenses to choose from when they recommend and prescribe the best brand for their patients' evolving needs.

In fact, it's this demand for brand choice—promoted by the FTC's Contact Lens Rule—which has encouraged strong competition that is distinct to the U.S. and supports the robust manufacturing environment that drives investment in advanced technologies. Through our portfolio of ACUVUE® Brand Contact Lenses, Johnson & Johnson Vision has a range of products to address challenging vision needs, but we know that we are not alone. We hold about 35 percent of the U.S. market share for contact lenses, demonstrating the brand diversity and, importantly, the thousands of choices available for doctors and their patients.

Moreover, we are confident in our ability to push the envelope toward greater innovation and even better options for patients because of the important role eye doctors play to ensure that our products today, and those of tomorrow, optimally perform and are used safely and appropriately.

Last year, Johnson & Johnson Vision made several exciting investments in eye health, including the acquisition of Abbott Medical Optics, TearScience, and Sightbox. For example, our acquisition of Abbott Medical Optics will allow us to invest further in eye health and touch more patients by expanding into cataract surgery and laser refractive surgery, or LASIK. Our investment in TearScience, the leading manufacturer of dry eye solutions, reflects our

commitment to innovate to address still unmet eye health needs, and is relevant to patients who may stop wearing contact lenses for vision correction because of dryness or other discomfort.

We know that as we bring forth new technologies, we can feel confident that they will be used under the supervision of an eye doctor because we know they will continue to deliver the highest standard of care. This assurance also means patients can expect to safely wear contacts throughout their lifetime, and as new products are introduced that may be better tailored to their needs, they and their doctors will have more choices in both the lenses available to them and where and how they can access their prescriptions.

Promoting Access to the Latest Contact Lens Technologies

Another key component of our U.S. regulatory framework is the critical safeguard that preserves the patient-doctor relationship and ensures patients are both aware of and have access to new technologies. This contact lens “access advantage” is unique to the U.S. market, and not only helps patients’ eyes remain healthy enough to continue to wear contact lenses, but also supports our nation’s notable patient satisfaction with the range of retail options available today.

As the Commission cited in 2016, 97 percent of consumers report that their eye doctor has been helpful to them in finding the contact lenses they like.^{vi} In global markets that support comprehensive contact lens application and removal training with eye care professionals, patients are much more likely to become and remain contact lens wearers.^{vii}

Conversely, in markets that do not require regular visits with an eye doctor in advance of purchasing contact lenses, people are generally less aware of the latest eye health advances and most appropriate lenses for their specific vision care and lifestyle needs, as well as how best to navigate the breadth of retail options available to them. Additionally, professional training with contact lenses varies by market and we know that there is a lack of market penetration of

specialty lenses—such as toric and multifocal lenses—even in some countries with similar access to the U.S., despite the prevalence of vision disorders among patients that would benefit from such lenses.

Finally, in direct to consumer OTC markets, we see higher rates of patients who stop wearing contact lenses each year. This may be due to lack of professional involvement and consumers receiving an inaccurate contact lens prescription, sub-optimal fit, or selecting contact lenses based solely on price. In short: the patient-doctor dynamic in professionally enabled and regulated markets is central to a patient’s eye health benefits, success with initial contact lens wear and more types of contact lenses, and higher patient satisfaction with use over time.

That’s why we stand behind the “access advantage” in the U.S. In fact, we are so committed to promoting access that we’ve made meaningful investments to better connect patients to both eye care services and a range of products—while keeping eye health and the crucial patient-doctor relationship at the core.

As I mentioned, one of our key investments in 2017 and part of our expansion in the eye health space was our acquisition of Sightbox, an online membership service for contact lens wearers in the U.S. Sightbox helps to put patients in contact with a doctor for an annual eye exam and contact lens evaluation, and addresses a growing consumer preference for online purchasing. We anticipate that Sightbox will result in even more patients connecting with eye doctors to find contact lenses that address their vision needs, while at the same time offering them lenses from all major manufacturers.

Closing—Support for a Strong Marketplace in the Future

When I think about our Credo and, more personally, my contact lens-wearing friends and family, I am reminded of the possibilities that keep me up at night—or the “what-ifs.” Johnson & Johnson Vision encourages the highest standard of care in every market in which we operate,

and I don't like to imagine a shift in our U.S. regulatory framework that could compromise the eye health, safety, and "access advantage" of those who use and rely upon our products each day for better vision. As the Commission considers the perspectives shared here today and works toward finalizing changes to the Contact Lens Rule, it is our hope that this framework will continue to support an "access advantage" and foster competition and innovation, while maximizing patient benefits, including to their eye health.

I'd like to thank the Commission for extending this opportunity to share comments here today. Johnson & Johnson Vision has more, specific recommendations on how we can promote choice and competition alongside patient eye health and safety—strengthening the contact lens market for patients in the U.S. We are happy to discuss those during today's panel and as the Commission considers changes in the weeks to come.

ⁱ NPRM Citation, 32

ⁱⁱ NPRM, Citation 30

ⁱⁱⁱ NPRM, Citation 31

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

^v Walline J, Morrison A, Smith M, Widmer D. "Are Contact Lenses Interchangeable"—The Ohio State University Technical Report, 2015 on behalf of Johnson & Johnson Vision Care.

^{vi} NPRM Citation 33

^{vii} Internal Data, Global Strategic Insights, Johnson & Johnson Vision