

June 15, 2017

An Open Letter to Congress: Reject Special-Interest Protectionism, Preserve Choice and Competition for Contact Lens Consumers!

Dear Member of Congress:

The undersigned organizations from across the ideological spectrum encourage you to uphold competition and choice in the contact lens marketplace, which is exemplified by the Federal Trade Commission's (FTC) recently updated final contact lens rule. While we may have different reasons for holding our views, we all believe that public officials should reject any attempt through legislation or other means, to turn back the clock on this vital progress for consumers and taxpayers. Conservatives can support the contact lens rule because it promotes more competition and less market distortion, leading to lower costs. Progressives can support the rule because it protects vulnerable consumers, especially those in underserved communities.

Because of the unique nature of the contact lens marketplace, in which optometrists both write a prescription and then immediately seek to sell products, federal laws and rulemakings have sought to protect 40 million contact wearers' freedom to choose. Thanks to the Fairness to Contact Lens Consumers Act (FCLCA) of 2003, contact lens prescribers are required to give a copy of the prescription free of charge to every patient after a fitting. In addition, prescribers are also required to verify the patient's prescription to any entity authorized by the patient.

The result is less market distortion and more competition, leading to lower prices for consumers. Taxpayers have a stake in this beneficial process as well. As a November 2016 coalition statement signed by many conservative and free market groups noted, if "civilian government employees or military service people pay higher costs or lose productivity because of new purchasing regulations that restrict their choices, pressure would increase on taxpayer-backed insurance programs to cover them." The "ripple effects" could extend to telemedicine and other approaches that ease costs in programs such as Medicaid.

In an early 2017 review of its Contact Lens Rule, the Federal Trade Commission has proposed adding a requirement for optometrists to obtain a signed acknowledgement after providing a prescription to a consumer, thereby addressing the primary deficiency of the current system. We believe what the FTC is proposing is a common sense, minimally-burdensome rule change that optometrists, consumers, and lawmakers can and should support. In its proposed rulemaking, the FTC accurately noted that the proposed change "is likely to spur more competition and innovation among contact lens sellers and manufacturers."



Despite protests from the American Optometric Association (AOA), the FTC's rule review process found no increased risk from buying contact lenses from alternative retailers, stating "the Commission has not seen reliable empirical evidence to support a finding that such sales are contributing to an increased incidence, or increased risk, of contact lens-related eye problems." This FTC conclusion is consistent with numerous medical studies.

For progressives and consumer advocates especially, the FTC's updated rulemaking is relevant in light of an early 2017 poll of 685 contact lens consumers commissioned by Consumer Action, one of the signers this letter:

- 60% of all respondents were unaware that under federal law, a doctor or exam provider is required to automatically provide their patient with a copy of their prescription after they get their contact lens exam.
- Close to one-third of respondents (31%) were not given a copy of their prescription after getting their contact lens exams at the eye doctors.
- The problems were even more acute among Hispanic and African-American respondents.

These results demonstrate in disturbing detail that the original intent of the FCLCA continues to be undermined today – a fact the FTC is wisely attempting to rectify. Special-interest legislation, such as that advocated by AOA during its "fly-in" this month, would only make matters worse.

Taxpayers, consumers, and the economy benefit from a vibrant contact lens marketplace that rewards innovation and provides choice. We urge you to say "no" to re-regulation that would drag Americans back into the last century, and force them to suffer higher prices, less convenience, and heavier costs for government programs. Don't mess with success!

Sincerely,

Pete Sepp, President
National Taxpayers Union

Grover Norquist, President
Americans for Tax Reform

Andrew F. Quinlan, President
Center for Freedom and Prosperity

Chuck Muth, President
Citizen Outreach

Ken McEldowney, Executive Director
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Brent Wilkes, Chief Executive Officer
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David Williams, President
Taxpayers Protection Alliance