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<sup>1</sup> Request for Public Comments, 62 FR 15865 (Apr. 3, 1997).

<sup>2</sup> The comments have been filed on the Commission's public record as Document Nos. B21940700001, B21940700002, *et seq.* The comments are cited in this document by the name

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of the commenter, a shortened version of the comment number (the last one to three digits), and the relevant page(s) or attachments of the comment. All written comments submitted are available for public inspection at the Public Reference Room, Room 130, Federal Trade Commission, 600

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<sup>8</sup> Attorneys General, #118. The comment was submitted by the Attorneys General of Alaska, Arizona, Arkansas, California, Connecticut,

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<sup>36</sup> The Illinois Association of Ophthalmology, while supporting the rule as is, states that most consumers are aware that they are entitled to receive their eyeglass prescriptions. Illinois Association of Ophthalmology, #66 at 2.

<sup>37</sup> AOA, #111 at 2; COA, #112 at 2-3, 5.

<sup>38</sup> SEE, #82. SEE did not submit, however, and the record does not contain, any evidence indicating that automatic release of eyeglass prescriptions in

responsible for harm caused by the products they sell. For example, an eye care practitioner may state on a prescription that "the person who dispenses your eyeglasses is responsible for their accuracy." The eye care practitioner, however, may not include a waiver or disclaimer of its own liability along with such a statement.<sup>44</sup>

COA requests that the Commission amend the Rules to allow disclaimers of liability for the accuracy of the ophthalmic goods and services dispensed by another seller.<sup>45</sup> COA contends that it is unlikely under state tort law that an eye care practitioner would be held liable for the negligence or breach of warranty of an independent third party who provided ophthalmic goods to the practitioner's patients. As such, COA asserts that a disclaimer of liability provides truthful and useful information to the patient, alerting the consumer to the possibility of a dispute concerning such liability.<sup>46</sup> The AOA similarly requests that the Rule be amended to permit eye care practitioners to include on prescriptions truthful and non-misleading disclaimers of liability for the actions of sellers of ophthalmic goods and services.

OAA also argues that the Rules should be amended to require that eye care practitioners affirmatively state that

<sup>44</sup> 1989 Statement of Basis and Purpose, *supra* note 5, 54 FR at 10299. The Commission's interpretation of this provision originally was set forth at 43 FR 46296-46297 (Oct. 6, 1978).

<sup>45</sup> COA, #112 at 6.

<sup>46</sup> COA, #112 at 6.

<sup>47</sup> OAA, #120 at 13. OAA does not address the point made by the AOA and COA.

<sup>48</sup> See, e.g., OAG, #60; E. Carter, #45; D. Drake, #55; All About Vision Center, #56; Price and Wood Opticians, #72.

<sup>49</sup> OAA, #120 at 3-4.

<sup>50</sup> The Commission notes that Congress has established a minimum expiration date of one year for contact lens prescriptions, with an exception for cases in which medical reasons warrant a shorter time period. See 15 U.S.C. 7604. However, different considerations may apply to contact lenses than to eyeglasses, and, in any event, the record in this regulatory review does not indicate consumer injury that would support a rulemaking proceeding by the Commission to set an expiration date for eyeglass prescriptions.