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DIRECTOR, GOVERNMENT RELATIONS

April 11, 2007

Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex A)  
600 Pennsylvania, NW  
Washington, DC 20580

Filed Electronically at: <https://secure.commentworks.com/energyguide>

Re: Appliance Labeling Rule Amendments, R511994

Whirlpool Corporation is the world's largest manufacturer and marketer of household appliances. As such, we believe that our experience with the EnergyGuide tag provides us with the basis for constructive remarks in this matter. We appreciate the opportunity to comment and participate in this rulemaking. We have arranged our comments in the same general order as the requests for comments were presented by the Commission in the *Federal Register* on February 13, 2007.

Whirlpool also appreciates that the Commission conducted extensive and comprehensive market research in this matter utilizing the services of a well-known, reputable firm. This work provides a solid fact base for reaching the recommendations cited in the *Federal Register* on this matter.

Sincerely,

**Comments of Whirlpool Corporation Regarding  
EnergyGuide Labeling  
Based on the *Federal Register* of February 13, 2007  
Submitted April 13, 2007**

Key Points

- **Continuous Scale.** Whirlpool applauds the decision of the Commission to use a continuous scale label. Both the more recent FTC research and the earlier research conducted by AHAM clearly indicate that the categorical label suffers two key shortcomings:
  - First, it frequently conveys messages to the consumer regarding product quality, sound, etc. in addition to the intended energy efficiency message.
  - Second, the opportunity for confusion with the ENERGY STAR<sup>®</sup> program is significant. ENERGY STAR is the premier example of successful voluntary market transformation and should not be adversely impacted.

By comparison, the continuous style label provides the consumer with clear, concise information as part of the product purchase decision. The annual operating cost information provided by this label is readily understandable and is not confused with performance, quality or other information.

- **Focus on Annual Operating Cost.** The Commission proposes that the focus of the revised label be on annual operating cost as the primary information displayed. We fully support this recommendation and believe that it will dramatically improve the value of the EnergyGuide tag in the eyes of the consumer. Again, the purpose of the label is to provide the consumer with relevant information during the purchase process. Estimated annual operating cost is the factor that consumers are most interested in when comparing models. To ask them to understand some other “alphabet soup” (kWh, AFUE, MEF, EF, etc.) and to know if a higher value or a lower value is better is not realistic. For the EnergyGuide tag to be the most useful, it needs to quickly and effectively answer the question: “How much does this model cost to operate versus that model?”

A related question is whether the label should show the operating cost over some period of time such as five or 10 years. We believe this would both confuse consumers and diminish the value of the EnergyGuide tag. Consumers do not necessarily think in terms of five or 10 years; annual costs are far more familiar. The consumer may or may not plan to keep the appliance for a set period of time. Use of a five or 10 year timeframe may

imply a product lifetime or even a warranty commitment—items which are not within the scope of this label (in addition to being inaccurate in this case).

- **Regional vs. National Energy Costs.** With regards to the question of using national average energy (electricity and natural gas) costs vs. regional costs, Whirlpool does not see that as a problem. Our experience has shown that the primary concern of the shopper is to identify the relative, not the absolute, operating cost. For example, consider a situation where a consumer is considering two refrigerator models, one of which consumes \$62 of electricity per year and one of which consumes \$64 per year. In this situation annual operating cost will not be a primary determinant between the two models. If, however, one model has an annual energy cost of \$62 and the other an annual energy cost of \$93, the operating cost will be much more important in the decision process.

We believe that the consumer appreciates that the energy costs shown on the EnergyGuide tags are estimates and national averages. They understand that their own experience will vary. On the other hand, to publish a variety of regional costs on the label would add confusion and damage the value of the label. Or, to require a state or market area-specific EnergyGuide tag would wreak havoc with national production and distribution systems.

- **Operating Cost Update Frequency.** Whirlpool agrees that the frequency of updating energy costs is an issue. Display models found on dealer floors are replaced at infrequent intervals; therefore, EnergyGuide tags are potentially on the sales floor for multiple years. Annual updates would lead to consumer confusion as similar products would have EnergyGuide tags from different (even multiple) years. Direct comparison of operating costs would be distorted and not be comparable. Finally, annual updates would require costly and burdensome changes to the labels and result in label obsolescence and increased manufacturing cost.

Conversely, moving to a five-year update cycle could allow for a very large change in energy costs when updated, making the EnergyGuide tag appear to be out of date. Instead, we propose a three-year update cycle. The Commission would automatically change both the range information and the underlying cost information for all products at the beginning of each three-year cycle. This would avoid the issues of either extreme.

- **Interaction With ENERGY STAR.** We believe the EnergyGuide label should complement, not detract from, the ENERGY STAR program. The combination of the FTC label and ENERGY STAR program appears to provide a sound framework for conveying energy information to consumers and promoting

energy efficiency. The FTC label displays detailed energy information about all products regardless of energy efficiency. The addition of the ENERGY STAR logo on the EnergyGuide tag provides recognition as a high-efficiency product. This system, as a whole, provides a robust source of energy efficiency information to consumers.

- **Proposed ENERGY STAR Logo Placement.** The ENERGY STAR program has had substantial success in bringing about awareness of highly efficient products and has resulted in true market transformation. As such, it is appropriate to place the ENERGY STAR logo on the EnergyGuide label. Placement should be in a consistent location on the tag from product to product—the lower right hand corner is acceptable. With that said, a one-inch square ENERGY STAR logo would be fairly small. If it is feasible to rearrange the text on the tag to accommodate a larger ENERGY STAR logo (e.g. 1.25 to 1.5-inches square), the value of the ENERGY STAR program could be better highlighted.
- **Refrigerator-Freezer Categories and Definitions.** The FTC proposes maintaining the current category designations for different styles of refrigerators. We concur. Before the consumer even begins the shopping process, they will identify any size constraints and consider which configuration unit they want. Only then do specific model attributes, including energy consumption, come into play. The Commission proposes requiring the following explanatory statement on refrigerator labels: “Size, door attributes, and ice features affect energy use – so other refrigerators may have lower or higher operating costs.” This is an appropriate education or reminder for the consumer. We do not feel that it is necessary to elaborate further and do not see the need for the following statement: “Range for models of similar capacity with automatic defrost, side-mounted freezer, and through-the-door ice.” Again, the simpler and cleaner the label appears, the more likely the consumer will be to take the time to read and absorb the information which is presented.
- **Bottom-Mount Refrigerators with Ice/Water in the Door.** The Commission asks whether this newer category is expected to grow. The bottom-mount is a relatively small portion of total refrigerator sales. It is experiencing growth due to new market entrants and increased consumer awareness. However, we do not anticipate the segment reaching the size of either the top-mount or the side-by-side business. The models with ice and water through the door are yet a subset of the overall bottom-mount category. Therefore, we recommend that the FTC not treat these models as a separate category until the Department of Energy releases a separate energy efficiency standard for these models.

- **Use of MEF on the Label; MEF Calculation.** As indicated above, we do not feel that placing MEF (or other technical results derived during the test procedures) on the EnergyGuide tag adds any value for the consumer. MEF is a technical term that is valuable for determining the overall energy efficiency of the laundry (wash and dry) process. The MEF calculation is complex; it includes the Remaining Moisture Content (RMC) information which indicates drying efficiency. Therefore, the annual operating cost of the clothes washer alone cannot be derived from the MEF value.
- **Label Posting on Products.** The Commission has modified and clarified the requirements for posting labels, indicating that: (1) labels must be posted on product as an adhesive label or a hang tag; (2) the label must be attached to the product so that it is prominent to the consumer and (3) the label may be placed on the exterior or interior of the product as long as it will not become dislodged during normal handling throughout the chain of distribution. We agree that these criteria are superior to detailed placement specifications. The decision regarding placement of the label on the exterior or interior of the product is more practically left up to the manufacturer so long as the above criteria are addressed.
- **Catalog, Internet Requirements.** The Commission proposes making catalog requirements and internet requirements consistent with the label requirements. We find that acceptable, even desirable. With the growth of the internet as a pre-purchase research tool, we find the demand for printed literature is diminishing relative to other forms of consumer communication. Indeed, on internet pages the actual EnergyGuide tag can readily be reproduced as part of the detail for each particular product. Eliminating the “range information” requirement for catalogs will reduce consumer confusion.
- **Cease Special J1 Language.** The Commission proposes dropping the special clothes washer label criteria noting the compliance with the Appendix J1 test procedure. The industry has completely adopted this procedure. Such language is not only redundant; it is likely to be confusing for the consumer.
- **Adjusted Refrigerator Volume Information.** The Commission notes that they have a need for the adjusted refrigerator volume information. Because manufacturers already report this information to the ENERGY STAR program, it does not create any additional burden for manufacturers to also provide this to the FTC.

- **Brand Name Reporting.** The Commission proposes requiring the reporting of both the manufacturer's name and the brand name (if different). We are opposed to this requirement. Manufacturers with multiple brand names market distinctly different products to different segments of consumers. Such a requirement would undermine that distinct brand differentiation. Additionally, some manufacturers sell products which are provided to another manufacturer under an OEM arrangement and/or to retailers under a private label brand name. The disclosure of the manufacturer's name is not desirable under either circumstance.
- **Formal Semi-Annual Reviews.** Some commenters have suggested that the FTC conduct formal, semi-annual reviews of the label to address changes in technology. Such a requirement would create an unnecessary burden on both the manufacturers and the Commission. We are opposed to such a review. A significant change in technology that warrants a revision to the label would be a rare event. In such a case we would proactively contact the Commission to make them aware of any concerns.
- **Third Party Testing.** One commenter suggested that the Commission require third-party testing for covered products. We believe that the current process of manufacturers periodically testing one another's products, along with the possible penalties for knowingly violating the test procedures, provides a sufficient deterrent to energy disclosure errors or omissions. We are opposed to any such mandatory testing program.

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