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

(Filed electronically at <https://secure.commentworks.com/ftc-energylabelingworkshop>)

Re: Energy Labeling, Project Number R511994

Dear Secretary Clark:

Whirlpool Corporation appreciates the opportunity to provide comments in this matter. We also appreciate our on-going dialog with the FTC on matters such as this.

Our comments follow.

Sincerely,

Comments of Whirlpool Corporation Regarding EnergyGuide Labeling Submitted May 17, 2006

As the leading manufacturer and marketer of home appliances, we have considerable experience in the development and use of these labels along with consumer reactions to these labels.

The assessment of the EnergyGuide label is about providing meaningful, helpful information to consumers to assist them in the purchase decision; it is not about creating a means of saving energy. Energy savings is the purview of efficiency standards as promulgated by the Department of Energy and of market transformational incentives such as those created through the ENERGY STAR[®] program. The role of the FTC is solely to provide clear, fair, and unbiased disclosure in labeling.

Continuous vs. Categorical Labels

Whirlpool remains resolute in our view that the continuous-style label is the only label that can meet the needs of this program. In our comments of January 13, 2006, we provided a detailed explanation in support of a continuous-style label. That document also cited the results of a nationally representative consumer survey conducted by the Association of Home Appliance Manufacturers that supported Whirlpool's position. This is the only quantitative, nationally representative survey we have seen in regard to this matter. Following are key points from the January 13 comments:

- Continuous label was preferred by consumers
- Continuous label was not confusing, whereas the categorical label implied criteria beyond energy consumption (quality, performance, etc)
- Categorical label created confusion with the ENERGY STAR program

Use of a categorical-style label would require the FTC to develop energy efficiency ratings for each category (i.e. determine the energy efficiency for 1-star, 2-star ratings, etc.) and then make subjective judgments as to where particular products should be categorized. Such subjectivity would become a target for criticism from parties on both sides of the debate. Further, these categorical ratings would require regular updates to reflect new product introductions and other changes in the marketplace. This responsibility is clearly beyond the scope of the current program and current expertise of the Commission.

Finally, a categorical label can mislead consumers. For products with a small range of comparable models, the subjective difference between star ratings (e.g. 2-star to 3-star) may be a matter of less than one dollar per year in operating cost. This categorical label could drive the consumer to purchase a more costly model where there were no corresponding operating cost savings.

Simplified Label Design

At the May Workshop, the Commission expressed interest in other means of providing clear guidance to consumers regarding annual operating costs. This led to some further

idea generation. Attached, as Exhibit 1, is a possible simplified design. It prominently displays the dollar operating cost. This would allow the consumer to do a comparison of the operating cost among the models they were considering for purchase. The advantages: familiar terms (dollars), straightforward comparison, and a large font. One possible disadvantage is that the cost shown in large font is based on electric hot water only (gas is still shown below and direct comparisons are still valid), actual kWh not shown to reduce clutter, but could be added.

Whirlpool has conducted only limited, qualitative consumer research on this concept. We offer it for your consideration as a means to clarify and simplify the consumer communication. If the Commission wishes to pursue this concept, appropriate market research should be conducted.

Whirlpool Experience With the European Label

- As one of the largest appliance companies in Europe, Whirlpool has experience with the European label. That label (which categorizes models from A++ through G) is subjective in nature. As such, it creates great opportunity for fraud, confusion, misuse and misinterpretation.
- There may be little meaningful difference between one grade (say “B”) and the next one (say “C”), but the label does nothing to help the consumer discern the degree of difference. Thus, the consumer may pay considerably more for the “B”-rated model, yet only save pennies per year in energy costs.
- The European label indicates or implies non-energy product characteristics such as noise, product quality and product performance as well as energy efficiency.
- Use of a label such as this would require development of extensive test criteria and procedures around noise, quality, performance and other characteristics. The FTC would be put in the position of monitoring and enforcing compliance with these technical aspects of appliance products. Today, the Commission does not have such expertise, nor do we believe that this is an appropriate role for the Commission.

Importance of Market Transformation Efforts

Existing market transformation efforts (ENERGY STAR and state/utility rebates) are working. ENERGY STAR is very effective in encouraging manufacturers to produce more highly efficient products and in creating awareness of such products among consumers. One only need see the number of models offered at or just above the ENERGY STAR levels to see how manufacturers are reacting to this program. The corresponding growth in the volume of ENERGY STAR product sold similarly indicates the consumer awareness and acceptance of market transformation programs. State and/or utility rebate programs have a similar impact. Market transformation programs provide another significant benefit that standards do not. These programs create an awareness of energy efficiency options in the mind of the consumer that transfer to other products, even ones not part of a transformation program.

Enforcement Remains an Issue

Regardless of the label design, if that label is not readily visible to the consumer during the purchase decision it serves no purpose. For example, some manufacturers of dishwashers are placing the label in a plastic bag with the use and care guide, warranty

information, etc. Such a location violates the spirit and likely the letter of the law. A few manufacturers do place the label on the outside of the unit or locate the label as a hangtag inside the dishwasher attached to the dish rack. These manufacturers spend a bit more time and money to fully comply with the law. The Commission must become more diligent in tracking whether manufacturers comply with the law, to assure that label information is current and that the labels are properly displayed on the appliance in a manner that is fully visible during the purchase decision process.

Additionally, some retailers are more prone than others to remove EnergyGuide tags on the sales floor. Again, the Commission must become more diligent in monitoring and observing retailer behavior and warning/fining those who fail to comply. The design of a label is irrelevant if it is missing!

Refrigerator Label Comment

Refrigerator labels need to continue to be unique by configuration. Configuration (top-freezer vs. bottom freezer vs. side-by-side) is a primary determinant in the purchase decision along with physical size of the unit. Before the consumer even begins the shopping process, they will identify any size constraints and consider which configuration unit they want. A review of Whirlpool proprietary market research conducted over the past five years states this repeatedly. Specifically:

- Size, internal configuration and features are participants' major considerations when shopping. (May 2003)
- When asked why they are most interested in purchasing their favorite refrigerator, capacity and exterior appearance plays a large role in their decision. (June 2002)
- Most important refrigerator overall attributes: Quality, durability and storage space. (June 2002)
- Key drivers are configuration, space organization, price, aesthetics and shelf arrangements. (February 2005)
- Capacity, configuration, space, flexibility and functionality are primary drivers. (February 2005)

The current classification of labels is consistent with the classifications of Federal energy efficiency standard. That standard uses a different basis for determining the efficiency of a refrigerator for each configuration, reflecting the inherent differences in efficiency resulting from the physical design of the product. For example, a top-freezer model is more efficient than a bottom-freezer model of the same interior volume and feature level. To combine all configurations of refrigerators within a cubic foot range would be confusing for consumers as they tried to identify the relative efficiency of a particular model vs. other models they might consider purchasing.

Measures Other than Energy Consumption

At the May 3, 2006 Workshop, the Commission invited comments on the publishing of data other than kWh consumption on the EnergyGuide label. Information such as Energy Factors (EF) was mentioned. Whirlpool believes that this would add substantially to consumer confusion and should not be further considered. It is doubtful that most consumers could clearly define a kilowatt-hour; however, they likely understand that it is some measure of energy consumption and that a higher number is

indicative of higher operating costs. Conversely, EF's, Modified EF's and the like are highly complex formulaic outcomes tied to very specific tests about which the average consumer would have no understanding. They would not, for example, intuitively understand that a lower EF meant a more costly operating condition than a higher EF. The Commission should continue to publish only the kWh consumed on the labels.

Background on Market Research

Market research can serve multiple purposes. Qualitative research is primarily used to gain initial information about a subject, often as a prelude to more extensive research efforts. Quantitative market research can provide absolute data regarding the mix of opinions, preferences or outcomes regarding a particular set of questions. To be effective and meaningful, the sampling technique utilized in quantitative market research must allow the sample to be representative of the census (entire body) of the group being surveyed. In the case of appliance purchasers, the research must be "nationally representative", or represent the U.S. adult population. Qualified, professional researchers utilize techniques to assure that their work is nationally representative. Failure to develop nationally representative sampling creates authoritative-appearing numbers that are irrelevant as they fail to represent the behaviors or attitudes of the total population.

The Commission has indicated that it may conduct original research as part of its investigation into potential label re-design. If so, the Commission is encouraged to work through a nationally-known, reputable market research firm and to assure that the work done by that firm is consistent with the above principles.

Conclusion

In summary:

- Whirlpool believes a continuous-style label best meets consumer's needs and has cited consumer research in support of that view
- We have offered an alternative simplified design which may warrant in-depth consumer research
- Whirlpool's experience with the European label has shown a number of shortcomings with that approach
- Market transformation projects including ENERGY STAR and state/utility rebates have a profoundly positive impact on consumer behavior. The labeling effort must not adversely impact these initiatives
- Greater enforcement of both manufacturer and retailer practices is required
- Consolidation of refrigerator labels across configuration types offers no consumer advantages, yet will likely create consumer confusion
- Any market research contracted for by the Commission must be done by a reputable, nationally-known firm using nationally representative quantitative techniques

Whirlpool appreciates the opportunity to submit these comments and welcomes any questions that you may have.

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Exhibit 1: Simplified Label Design

Based on standard U.S. Government tests

ENERGYGUIDE

Dishwasher
Capacity: Standard

XYZ Corporation
Model(s) MR328, XI12, NAA83



**Compare the Energy Use of this Dishwasher
with Others Before You Buy.**

Annual operating cost:
(with electric hot water)

\$43

Range for comparable models is \$17 to \$46

**Dishwashers using more energy cost more to operate.
This model's estimated yearly operating cost is:**

\$43	500 kWh/year	\$31
When used with an electric water heater.		When used with a natural gas water heater.

Based on four wash loads a week using the normal cycle and a 2004 U.S. Government national average cost of 8.60¢ per kWh for electricity and 91.0¢ per therm for natural gas. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance labeling Rule (16 C.F.R. Part 305).