

May 17, 2006

Federal Trade Commission/
Office of the Secretary
Room H-135 (Annex O)
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

**Re: Energy Labeling Workshop – Comment, Project No. P064201
Comments of the Association of Home Appliance Manufacturers**

Dear FTC:

On behalf of the Association of Home Appliance Manufacturers, I am pleased to provide our comments to the Federal Trade Commission (FTC) on the above referenced matter. The Association of Home Appliance Manufacturers (AHAM) is the trade association representing the manufacturers of major, portable and floor care home appliances, and suppliers to the industry.

Our comments below address questions posed by the FTC in its workshop and March 15th Federal Register Notice.¹

I. THE ENERGYGUIDE LABEL SHOULD NOT ADOPT THE *CATEGORICAL-STYLE* FORMAT

A. The *Energyguide* Label's Purpose Is To Provide Energy Usage Information To Consumers To Inform Not Dictate Their Purchasing Decisions

The purpose of the *EnergyGuide* label is to provide useful information to consumers on the energy usage of home appliance products. The Appliance Labeling Rule was adopted in an era in which the concern was a market failure in providing full and comparative consumer information on the after-purchase costs of energy-using products. Full and fair disclosure was required and the FTC was chosen for this task because of its competency and experience in full and comparative labeling programs and countering deceptive practices. The FTC was not chosen because of its expertise in energy efficiency or in selecting energy efficient products because it had and has no such expertise.

¹ 71 Fed. Reg. 13,398 (March 15, 2006)

This mission has been carried out well. The current label design for home appliances provides consumers with information on the energy usage of a particular home appliance in a *continuous-scale* format that compares the energy use or efficiency rating of a particular model with that of other similar appliances offered in the marketplace. The label employs a horizontal scale that is bounded by the energy values of those products in the marketplace that use the most and the least amount of energy. This is commonly known as the “Range of Comparability.” With it, consumers get accurate, useful and comparative information.

The FTC *EnergyGuide* Label was created to provide consumers with information that would assist them in determining the energy usage of appliances (and operating costs) thereby assisting them in their purchasing decision. There are serious implications for changing the current label to a different design type. One of the variations that is advocated by the American Council for an Energy Efficient Economy (ACEEE) is the *categorical-style* label. This type of label rates a particular product on a scale that the AHAM Research² found provides confusing and misleading information on energy usage and efficiency to consumers that conflicts with the Energy Star program. Moreover, consumers may see this label as providing information related to the quality or performance of an appliance rather than providing the required energy usage information. This is directly counter to the FTC mandate to provide consumers with information to assist them in making educated decisions on energy usage of particular appliances.

B. The *Categorical-Style* Format Would Add Onerous Program Requirements on the FTC That it is Not Suited to Perform

The fatal problem with the *categorical-style* label is the fact that by its very nature there must be a break point between different rating levels (i.e. between 2 and 3 stars, etc...) in which the FTC would have to make judgmental decisions as to whether a product would be one rating or another. And, importantly, the difference in energy use between one rating and another would be miniscule. For instance, in today’s marketplace, dishwashers are so energy efficient that the differences in energy usage from the most to the least efficient products could be as little as \$10 per year. Under a categorical approach, however, the FTC would be required to establish a categorical rating system that would rate dishwashers that are essentially the same in energy efficiency into different brackets. Therefore, differences in dishwashers of only \$10.00 per year savings would mean that the models labeled from a one star to five stars would only have a dollar or two difference in annual energy consumption, giving a false impression to the consumer of energy savings. This type of label clearly overemphasizes very small differences in energy use simply for the sake of differentiation.

² Comments of AHAM to the FTC on its Appliance Labeling Rule, January 13, 2006 referencing EnergyGuide Label Study, Synovate, January 2006 (the “AHAM Research”).

More to the point, it is essential that the federal government have consistent policies and regulations in this area. Consumers must have confidence that the standards, specifications and ratings are authoritative and meaningful. Once agencies start to diverge, the credibility of the efficiency standards program would suffer.

E. International Practice Should not Guide the FTC's Decision in Changing the *EnergyGuide* Label

While we recognize that a number of other countries have adopted a *categorical-style* label, this fact should not influence the FTC in making its decision. The important fact to consider is that the U.S. experience with voluntary marketplace programs and U.S. law is vastly different. The enormously successful Energy Star program is now firmly in place in the U.S. and is widely used by manufacturers and recognized by consumers. The FTC should reject suggestions or pressure to join with other countries in their *categorical-style* label programs simply for the sake of conformity.

II. CONSUMERS UNDERSTAND THE ENERGYGUIDE'S *CONTINUOUS-STYLE* FORMAT

AHAM's research shows that consumers do understand the current *continuous-style* format of the *EnergyGuide* label and, they also understand the differences between the *categorical-style* format and the current label.

Our research found that a variation of the FTC's current *continuous-style* label was the clear favorite of those taking the survey. When respondents were asked "What information does the label provide you about this product?", respondents indicated that the current *EnergyGuide* label and a modified version of the *continuous-scale* label best provided information about energy usage. The research found that the continuous-scale design communicated energy usage to a "significantly better extent" than the categorical label.

Importantly, the *categorical-style* label was found to be less understandable to consumers in conveying energy usage for an appliance, and the AHAM research demonstrated that respondents were confused by this label and did not sufficiently understand the purpose and information conveyed especially when it was combined with an Energy Star logo. Respondents were clearly confused by the juxtaposition of a "star," which is the basis of this categorical approach, with the Energy Star logo.

AHAM's research found that over 75% of respondents rated the *continuous-style* label either a "4" or "5" on a 5-point usefulness scale, stating that it was "easy to read," and most importantly "easy to understand." For example, one respondent noted that this label was the "easiest to read" and that it made it easier to "locate" how much energy was being used by the particular product. Several respondents noted that in comparison to the *categorical-style* label, the *continuous-style* was preferable and easiest to understand

The *categorical-style* label also presents the FTC with difficulties in determining where particular products would be rated on the scale and also in establishing the boundaries between the different rating levels. In establishing those ratings the FTC would likely become embroiled in disputes involving the ratings of particular appliances of different manufacturers and would have to make subjective judgments as to which rating a particular appliance must be given. On the other hand, if the FTC were to decide to modify the current *continuous-style* design, we believe that such a change could be effectuated simply and with minimal disruption to consumers' recognition of the label and the label's purpose by discretely altering some of the current label's components.

C. A Categorical-Style Label Would Require the FTC to Make Subjective Assessments of Appliance Energy Usage

The FTC should also consider the programmatic implications of changing the current label format to the *categorical-style*. In utilizing this format type, the FTC would be expanding its responsibilities under the Appliance Labeling Rule. Instead of identifying energy usage on the *EnergyGuide* as reported by manufacturers, the FTC would instead have to develop categorical energy efficiency ratings levels (i.e. the energy efficiency for 1-star, 2-star ratings) and then make subjective judgments as to where particular products should be categorized. Such a responsibility is clearly beyond the scope of the current program and the expertise of the agency.

D. The Categorical-Style Label Would Interfere with the Energy Star Program

Furthermore, if FTC were to adopt the *categorical-style* label, they would be changing the very nature of the label to one that would identify categories or groupings of products rather than providing a continuous range of information that allows consumers to make their own judgments among similar products. Importantly, this function of categorizing products is actually the basis for the Energy Star label – it is designed to identify for consumers those products that are higher-energy efficient. These higher-efficient products are identified as distinct from other similar products in the marketplace. If the FTC were to adopt the *categorical-style* label, they would be creating a rival rating system to Energy Star's.

This point was emphasized at the May 3rd workshop by the Environmental Protection Agency (EPA) and Department of Energy (DOE) representatives of the Energy Star program. They noted that Energy Star establishes specifications for appliances through an analytical process that takes into account a number of factors that result in a level that is technologically feasible and that does not affect the utility and availability of products to consumers. If the FTC were to adopt a categorical approach, it would be nearly impossible to coordinate the star ratings with the Energy Star specifications. This is because the *EnergyGuide* star ratings would be merely based on energy usage, while the Energy Star specification would be based on its different criteria.

because the star-based label might lead some to believe that it represents an “overall rating” or a “rating system... and not an energy guide” and that the *continuous-style* label “is strictly talking about energy usage.”

Overall our research found that respondents preferred the *continuous-style* label because of the fact that it provided useful information that could be used to compare different models and because many found the graphical format that “clear,” “simple,” “understandable,” “logical” and “illustrative.” The survey respondents most clearly understood the FTC’s goal of proving absolute and relative energy usage information when the *continuous-style* bar *EnergyGuide* label was presented. In addition, our consumer research found that they misunderstood the categorical label and that they felt that it introduced additional complexity and confusion, especially in the instances in which the Energy Star logo was included.

III. THE FTC SHOULD NOT ALTER THE CURRENT *ENERGYGUIDE* REFRIGERATOR SUB-CATEGORIES

The FTC is asking for comments on whether it should eliminate the sub-categories for refrigerator products and instead provide energy ranges of comparability across product categories. AHAM opposes this change which would lower the level of useful information and raise the level of confusion for the consumer.

The current label provides information within each product subcategory on the energy use of refrigerators, so that a consumer who is considering, for example, the purchase of a side-by-side refrigerator could determine the most efficient model in that class. Furthermore, the label provides overall energy use information that a consumer can use when comparing the energy use of a side-by-side refrigerator to other refrigerator configurations, such as top-mounts. This labeling system works very well because as our research shows when consumers enter a retail establishment to purchase a refrigerator product, their first criteria is product configuration.

A proposal to merge the different categories of products would run counter to marketplace and consumer purchase drivers. A consumer research study commissioned by AHAM and conducted by the Stevenson Company details the influential purchase factors for U.S. consumers. This study finds that consumers rank exterior dimensions, capacity and product features among the top purchase factors across all refrigerator configurations. This research supports AHAM’s position that refrigerator configurations must not be merged into one broad category. Consumers have already decided on the desired configuration prior to stepping into a retail outlet. Therefore, lumping vastly different featured refrigerators into one category would be moving one step back from any understanding and efficacy the FTC has achieved in the label. AHAM data shows that energy efficiency ranks fourth, at best, among the influential purchase factors,

whereas factors such as volume/capacity, product features, appearance etc. all rank higher in importance.

IV. IF THE FTC ENGAGES IN RESEARCH, IT SHOULD BE DONE BY AN UNBIASED, NATIONALLY RECOGNIZED FIRM.

The FTC is requesting comments on its desire to engage its own consumer research to consider the effectiveness of its label and the viability of the *categorical-style* and other labels. AHAM believes that the research conducted by *Synovate* provided the necessary data for the FTC to render its decision to retain the current *continuous-style* label, however, if the FTC finds it necessary to conduct this additional research, AHAM asks that this be done by a nationally-recognized firm that would conduct the research in an unbiased manner. AHAM would also request that we be able to participate, review proposed survey questions and provide input into the manner by which the FTC conducts its research.

V. OTHER CHANGES TO *ENERGYGUIDE* LABEL

A. Energy Descriptors vs. Total Energy Consumption

The FTC has also asked if the *EnergyGuide* label should be changed so that it includes the efficiency rating instead of total kilowatt hours in the ranges of energy efficiency ratings (i.e. MEF or EF ratings). AHAM believes that such a change would not add to consumers' understanding of the energy usage of an appliance product and could lead to more confusion. This is because of consumers' limited understanding of these ratings, and the fact that in most cases the more efficient products are those that have a higher efficiency rating or number. One could speculate that consumers would be confused when viewing ranges of comparability on which higher numbers represent more efficient products. The Kwh ratings are meaningful across product categories and allow the consumer to not only compare various models of one product category but also allows a comparison of how much energy a refrigerator uses compared to a stand-alone freezer. This type of information may be very useful to a consumer who is trying to decide between a large refrigerator/freezer or a separate freezer and smaller refrigerator/freezer.

VI. PRODUCTS PURCHASED ON THE INTERNET

The FTC requested data that shows prevalence of internet purchases for major home appliances. According to AHAM's 2005 Saturation and Marketing Factors Study research, less than 1% of all refrigerators are purchased online. The majority (i.e. 82.6%) of purchases are made at retail and remaining purchases (16.6%) are sold through the Builder/Contractor channel.

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We thank you for the opportunity to provide these comments and would welcome the opportunity to discuss them further.

Sincerely,

David B. Calabrese
Vice President
Government Relations