

**FEDERAL TRADE COMMISSION
Washington, DC 20580**

In the Matter of)
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Picture Tube Rule Regulatory Review) Matter No. P924214
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To: The Commission

**COMMENTS OF THE
CONSUMER ELECTRONICS ASSOCIATION**

The Consumer Electronics Association (“CEA”), respectfully files these Comments in response to the Commission’s request for public comments in the above-captioned proceeding.¹ For the reasons discussed herein, CEA recommends that the Commission should revise the Picture Tube Rule by: (1) changing the default measurement standard from the “horizontal” measurement method to the “diagonal” measurement method, which reflects the television industry’s standard for measuring screen sizes; and (2) addressing the issue of rounding to whole numbers. All other provisions, including the viewable area, should remain.

CEA is the principal U.S. trade association of the consumer electronics and information technologies industries. Our members design, manufacture, distribute and sell digital and analog television receivers and monitors and associated electronics, digital video recorders (“DVRs”), video cassette recorders (“VCRs”), direct broadcast satellite radios (“DARS”) and television receivers (“DBS”, “DCR”, and terrestrial broadcast),

¹ *Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets*, Request for Public Comments, Matter No., P924214, 70 Fed. Reg. 17623 (2005) (“Picture Tube Rule Regulatory Review”).

broadcast AM and FM radios, and similar equipment. Our members also design and manufacture unlicensed devices such as Wi-Fi network devices that connect personal computers, personal digital assistants (“PDAs”) and laptops to peripheral devices and networks, cordless phones, baby monitors, and wireless headsets. CEA’s more than 2,000 member companies include the world’s leading consumer electronics manufacturers.

The Commission poses several questions regarding the Picture Tube Rule as it currently is written in 16 C.F.R. Part 410.² CEA hereby responds to these questions, as follows:

(1) Is there a continuing need for the Rule as currently promulgated?

Based on current practice in the television manufacturing industry, the Rule as it currently is written poses an unnecessary burden on industry. Standard industry practice is to market televisions based on the **diagonal** screen size. To our knowledge, there are no existing manufacturers that market television screen sizes based on the Rule’s default³ “horizontal” measurement specifications.

(2) Has the television industry adopted the Rule’s disclosure requirements as part of its routine business practice? If so, how, and what effect, if any, does this have on the continuing need for the Rule?

The television industry is highly competitive. In order to compete in the marketplace, all television manufacturers must market their televisions based on the diagonal screen size in accordance with current industry practice. In order to comply

² See 16 C.F.R. Part 410 (2005).

³ Under the Rule, the current “default” measurement is “horizontal”, thus, there is no further requirement to disclose how the screen size was measured. Any other measurement method requires disclosure. In Question 5, CEA recommends that the Commission change the default measurement from “horizontal” to “diagonal”, thus, any horizontal measurement would require disclosure.

with the Rule as written, the word "diagonally" or similar language must be used any time the screen size is identified in advertisements, promotions, product descriptions, or otherwise. As diagonal measurement of the screen size is the industry standard measurement, this requirement does not serve a useful purpose and should be modified to reflect current industry norms.

(3) *What benefits has the Rule provided to purchasers of the products or services affected by the Rule?*

In a marketplace where manufacturers can utilize a variety of horizontal, diagonal, or other measurement methods to identify the viewable picture size of a television, the Rule requires manufacturers to provide useful information to the consumer by allowing a fair comparison of different television products. Likewise, the current definition of size as the "viewable area" is useful.

However, as all televisions available in the current marketplace use a diagonal measurement to identify the screen size, the Rule should be updated to reflect current industry practice.

(4) *Has the Rule imposed costs on purchasers?*

As currently written, the Rule imposes some additional costs to manufacturers, although small. These costs are related primarily to additional printing in product literature or advertising.

(5) *What changes, if any, should be made to the Rule to increase the benefits of the Rule to purchasers? How would these changes affect the costs the Rule imposes on firms subject to its requirements? How would these changes affect the benefits to purchasers?*

The Rule's current default "horizontal" measurement method should be changed to the "diagonal" measurement method, which is the industry standard. If the Rule is modified to reflect this current standard, then it is imperative that the new language reflect this current industry practice and not impose any additional requirements. Revision of the Rule likely would impose no additional costs on manufacturers, and consumers could benefit from slightly reduced costs – costs that currently are included in manufacturing costs. CEA recommends specific changes to the Rule in Appendix B.

The Rule also should address the issue of rounding fractional dimensions to a whole number to provide consistency within the industry. For example, the Worldwide Type Designation System for TV Picture Tubes and Monitor Tubes specifies the system for rounding to whole numbers as follows:

The second symbol defines the minimum viewable screen diagonal and shall consist of a two-digit number. This number shall be determined by the glass panel design-centre value in centimeters of the minimum viewable screen diagonal. A tube having its screen size within plus or minus one-half centimeter shall be assigned that integer. A tube falling exactly on a one-half centimeter shall be assigned the next larger integer.⁴

We recommend an approach identical to or consistent this current world standard.

Finally, the current definition of the size as the viewable area should be maintained.

(6) *What significant burdens or costs, including costs of compliance, has the Rule imposed on businesses, whether large or small, subject to its requirements? Has the Rule provided benefits to such businesses? If so, what benefits?*

The Rule's primary burden is compliance itself. Manufacturers must ensure that all advertisements, promotions, product descriptions, etc. comply with the Rule. The Rule as currently written has no material benefits to television manufacturers.

⁴ See Worldwide Type Designation System for TV Picture Tubes and Monitor Tubes, EIA-TEP-106. This system has been harmonized with regional standards worldwide.

- (7) *What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on firms subject to its requirements? How would these changes affect the benefits provided by the Rule?*

CEA recommends that the Rule be revised to adopt the diagonal measurement method as the standard default and to include rounding to whole numbers (as stated in Question (5)). These changes would not reduce any benefits provided by the Rule, rather, they likely would increase the Rule's benefits to producers and consumers.

- (8) *Does the Rule overlap or conflict with other federal, state, or local laws or regulations?*

The Rule does not conflict *per se*, but other Federal rules exist which apply to specific sizes of televisions (e.g., rules of the Federal Communications Commission and the United States Trade Representative). These rules specify the television screen size by diagonal measurement. A list of such rules is attached hereto as Appendix A. This list does not necessarily represent a complete list of all Federal rules related to this issue. To our knowledge, however, the Picture Tube Rule is the only rule that specifies that a television screen size should be measured "horizontally".

- (9) *Since the Rule was issued, what effects, if any, have changes in relevant television technology, such as the 16:9 aspect ratio for high definition television displays, marketing methods, such as online sales, or economic conditions had on the Rule?*

As discussed herein, standard industry practice is to measure all televisions **diagonally**. This practice applies to both 4:3 displays and 16:9 displays. CEA and its members are not aware of any television product currently available that uses a horizontal measurement method for measuring the screen size.

CONCLUSION

For the reasons discussed herein, CEA recommends that the Commission should revise the Picture Tube Rule by: (1) changing the default measurement standard from the “horizontal” measurement method to the “diagonal” measurement method, which reflects the television industry’s standard for measuring screen sizes; and (2) addressing the issue rounding to whole numbers. All other provisions, including the viewable area, should remain.

Respectfully submitted,

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APPENDIX A

A. Rules of the Federal Communications Commission (FCC)

1) 47 CFR § 15.117 TV broadcast receivers.

(i) *Digital television reception capability implementation schedule.*

(1) Responsible parties, as defined in Sec. 2.909 of this chapter, are required to equip new TV broadcast receivers that are shipped in interstate commerce or imported from any foreign country into the United States and for which they are responsible to comply with the provisions of this section in accordance with the following schedule:

Receivers with screen sizes 36" and above -- 50% of a responsible party's units must include DTV tuners effective July 1, 2004; 100% of such units must include DTV tuners effective July 1, 2005;

Receivers with screen sizes 25" to 36" -- 50% of a responsible party's units must include DTV tuners effective July 1, 2005; 100% of such units must include DTV tuners effective July 1, 2006;

Receivers with screen sizes 13" to 24" -- 100% of all such units must include DTV tuners effective July 1, 2007;

TV Interface Devices (videocassette recorders (VCRs), digital versatile disk (DVD) players/recorders, etc.) that receive broadcast television signals -- 100% of all such units must include DTV tuners effective July 1, 2007.

(2) For purposes of this implementation schedule, ***screen sizes are to be measured diagonally across the picture viewing area.*** The requirement for equipping new TV broadcast receivers with DTV reception capability does not apply to units with integrated tuners/displays that have screen sizes measuring less than 7.8 inches vertically, i.e., the vertical measurement of a screen in the 4:3 aspect ratio that measures 13[*min*] ***diagonally*** across the picture viewing area.

Appendix A, cont.

B. Rules of the United States Trade Representative (USTR)

2) Annex 3.3 - Tariff Schedule of the United States (excerpt from US Final Tariff Schedule 08.05.04)

http://www.ustr.gov/assets/Trade_Agreements/Bilateral/DR-CAFTA/DR-CAFTA_Final_Texts/asset_upload_file425_3964.pdf

85281262	Color television reception apparatus w/flat panel screen, video display diagonal n/ov 34.29 cm, incorporating a VCR or player	Free	G
85281264	Color television reception apparatus w/flat panel screen, video display diagonal over 34.29 cm, incorporating a VCR or player	3.9%	A
85281268	Color television reception apparatus w/flat panel screen, video display diagonal n/o 34.29 cm, not incorporating a VCR or player	Free	G
85281272	Color television reception apparatus w/flat panel screen, video display diagonal over 34.29 cm, not incorporating a VCR or player	5%	A
85281276	Color television reception apparatus nesoi, video display diagonal not over 34.29 cm, incorporating a VCR or player	Free	G

APPENDIX B

[Code of Federal Regulations]
[Title 16, Volume 1]
[Revised as of January 1, 2005]
From the U.S. Government Printing Office via GPO Access
[CITE: 16CFR410.1]

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TITLE 16--COMMERCIAL PRACTICES

CHAPTER I--FEDERAL TRADE COMMISSION

PART 410 DECEPTIVE ADVERTISING AS TO SIZES OF VIEWABLE PICTURES SHOWN BY TELEVISION RECEIVING SETS--Table of Contents

Sec. 410.1 The Rule.

In connection with the sale of television receiving sets, in commerce, as ``commerce'' is defined in the Federal Trade Commission Act, it is an unfair method of competition and an unfair and deceptive act or practice to use any figure or size designation to refer to the size of the picture display shown by a television receiving set or the picture tube ~~contained therein~~ unless such indicated size is the actual size of the viewable picture display area measured on a single plane basis. If the indicated size is other than the horizontal diagonal dimension of the actual viewable picture display area such size designation shall be accompanied by a statement, in close connection and conjunction therewith, clearly and conspicuously showing the manner of measurement.

Note 1: For the purposes of this part, measurement of the picture area on a single plane basis refers to a measurement of the distance between the outer extremities ~~(sides)~~ (corners) of the picture area which does not take into account the curvature of the ~~tube~~ display surface.

Note 2: Any referenced or footnote disclosure of the manner of measurement by means of the asterisk or some similar symbol does not satisfy the ``close connection and conjunction'' requirement of this part.

Examples of proper size descriptions when a television receiving set shows a 20-inch picture measured diagonally, a 19-inch picture measured horizontally, a 15-inch picture measured vertically, and a picture area of 262 square inches include:

``20 inch (50.80 cm) picture ~~measured diagonally~~'' or
``20 inch (50.80 cm) diagonal''
~~``19 inch x 15 inch (48.26 cm x 38.10 cm) picture'' or~~ ``19 inch (48.26 cm) picture
measured horizontally'' or
``19 inch (48.26 cm) horizontal'' or
``262 square inch (1,690.32 cm. sq.) ~~picture display~~.''

APPENDIX B, cont.

~~Examples of improper size descriptions of a television set showing a picture of the size described above include:~~

~~``21 inch (53.34 cm) set'' or
``21 inch (53.34 cm) diagonal set'' or
``21 inch (53.34 cm) over-all diagonal'' or
____ ``Brand Name 21.''~~

Note 3: The numbers in parentheses reflect the metric equivalent of the English measurements. They are provided for information purposes only, and are not required to be included in the disclosures.

This rule assumes a display with a 4 by 3 aspect ratio. For displays with a 16 by 9 aspect ratio, the diagonal measurement may be followed with a suffix "W".

(38 Stat. 717, as amended, 15 U.S.C. 41-58)

[36 FR 21518, Nov. 10, 1971; 36 FR 22286, Nov. 24, 1971; as amended at 59 FR 54812, Nov. 2, 1994]