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[Proposed Rules]

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Proposed Rules

Federal Register

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FEDERAL TRADE COMMISSION

16 CFR Part 432

Trade Regulation Rule Relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products

AGENCY: Federal Trade Commission.

ACTION: Request for public comment.

SUMMARY: The Federal Trade Commission ('`FTC'' or ``Commission'') requests public comment on its Trade Regulation Rule Relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products ('`Amplifier Rule'' or ``Rule''). The Commission solicits comment as part of its systematic review of all current FTC rules and guides.

DATES: Written comments relating to the Amplifier Rule review must be received by May 12, 2008.

ADDRESSES: Interested parties are invited to submit written comments

relating to the Amplifier Rule review. To facilitate organization of comments, comments should refer to ``Amplifier Rule Regulatory Review, 16 CFR Part 432, Comment, Project No. P974222.'' A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex E), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ``Confidential,' and must comply with Commission Rule 4.9(c).\1\ The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

\1\ The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

Comments filed in electronic form should be submitted by following the instructions on the web-based form at <https://secure.commentworks.com/ftc-AmplifierRuleReview>. To ensure that the Commission considers an electronic comment, you must file it on that web-based form. You may also visit <http://www.regulations.gov> to read this notice, and may file an electronic comment through that website. The Commission will consider all comments that www.regulations.gov forwards to it.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove individuals' home contact information from the public comments it receives before placing those comments on the FTC website. To read our policy on how we handle the information you submit--including routine uses permitted by the Privacy Act--please review the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.shtm>.

FOR FURTHER INFORMATION CONTACT: Jock Chung, Attorney, 202-326-2984,

Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission.

SUPPLEMENTARY INFORMATION:

I. Background

In response to misleading or confusing power distortion and other performance claims, the Commission issued the Amplifier Rule in 1974 to assist consumers purchasing power amplification equipment for home entertainment purposes by standardizing the measurement and disclosure of various amplifier performance characteristics (39 FR 15387). The Rule establishes uniform test standards and disclosures to aid consumers in making meaningful comparisons of amplifier performance attributes.

II. Regulatory Review of the Amplifier Rule

The Commission reviews each of its rules and guides periodically to assess the rule's or guide's efficacy, costs, and benefits; and to determine whether to retain, modify, or rescind it. This notice commences the Commission's review of the Amplifier Rule.

A. General Areas of Interest for FTC Review

As part of its review, the Commission seeks comment on a number of general issues, including the continuing need for the Rule and its economic impact. The Commission believes that this review is important to ensure that the Rule is appropriately responsive to changes in the marketplace.

B. Specific Areas of Interest for FTC Review

After its last revisions to the Rule in 2000, the Commission issued a Supplemental Notice of Proposed Rulemaking ('`SNPR'') soliciting comment on Commission proposals to amend the definition of ``associated channels'' in connection with the power rating testing of multichannel ``home theater'' amplifiers (65 FR 80798 (2000)). Multichannel amplifiers incorporate five or more amplification channels and are designed to decode and/or amplify digitally encoded multichannel movie soundtracks or music. Section 432.2(a) of the Rule requires an amplifier's continuous power output per channel to be ``[m]easured with all associated channels fully driven to rated per channel power.''\2\ Thus, manufacturers of multichannel audio/video receivers and amplifiers must decide which of the five or more discrete channels of amplification are ``associated'' and, therefore, subject to simultaneous operation at full rated power. In its SNPR, the Commission

solicited public comment on three alternative designations of ``associated channels'' for such audio amplifiers.\3\

\2\ This continuous measurement represents the maximum per-channel power an amplifier can deliver over a five minute period.

\3\ The three proposed alternatives were: (1) all channels associated as one group; (2) the front right and left channels and the center channel associated as one group, and the surround channels associated as a second group; and (3) the front stereo channels associated as one group, the center channel treated as a second group, and the surround channels associated as a third group.

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The SNPR elicited one comment, submitted by the Consumer Electronics Association (``CEA''). CEA noted that there was no industry consensus on testing, measuring, and specifying the power output of multichannel amplifier products. Consequently, CEA formed an industry working group to establish a voluntary industry standard.

On January 15, 2002, at the request of CEA, the Commission deferred action on the proposed rule to allow a consensus procedure for the testing of multichannel amplifiers to develop (67 FR 1915). Although CEA subsequently issued a standard, designated CEA-490-A, ``Test Methods of Measurement for Audio Amplifiers,''\4\ the Commission's review did not find widespread adoption of this standard in advertisements or product specifications.

\4\ Copies of the test procedures may be obtained for a fee from IHS Inc., 15 Inverness Way East, Englewood, CO 80112, or online from http://global.ihs.com/doc_detail.cfm?item--s--key=00033449&item--key--date=970530&rid=CEA.

With no universally adopted power rating standard for multichannel amplifiers, the Commission was faced with the prospect of making a regulatory decision affecting a growing market for ``home theaters'' based on an outdated record. Consequently, the Commission terminated its rulemaking on March 20, 2007, stating that the rulemaking record was insufficient for further regulatory decisions (72 FR 13052).

However, when it terminated the rulemaking, the Commission stated that it would place the Amplifier Rule on its regulatory review schedule for 2008, during which it would solicit comments to determine what, if any amendments are appropriate to address the testing of

multichannel amplifiers. Some of the questions included in this notice, therefore, address issues regarding the usage of multichannel ``home theater'' amplifiers by consumers, and the costs and benefits of requiring different methodologies for rating the power output of multichannel ``home theater'' amplifiers. By including these issues, the Commission intends to facilitate comment, and the inclusion, or exclusion, of any issue is no indication of the Commission's intent to make any specific modifications to the Rule.

III. Issues for Comment

The Commission requests written comment on any or all of the following questions. Please make your responses as specific as possible, including a reference to the question being answered, and reference to empirical data or other evidence wherever available and appropriate.

A. General Issues

- (1) Is there a continuing need for the Rule? Why or why not?
- (2) What benefits has the Rule provided to consumers? What evidence supports the asserted benefits?
- (3) What modifications, if any, should be made to the Rule to increase its benefits to consumers?
 - (a) What evidence supports your proposed modifications?
 - (b) How would these modifications affect the costs and benefits of the Rule for consumers?
 - (c) How would these modifications affect the costs and benefits of the Rule for businesses, and in particular small businesses?
- (4) What impact has the Rule had on the flow of truthful information to consumers and on the flow of deceptive information to consumers?
- (5) What significant costs has the Rule imposed on consumers? What evidence supports the asserted costs?
- (6) What modifications, if any, should be made to the Rule to reduce the costs imposed on consumers?
 - (a) What evidence supports your proposed modifications?
 - (b) How would these modifications affect the costs and benefits of the Rule for consumers?
 - (c) How would these modifications affect the costs and benefits of the Rule for businesses, and in particular small businesses?
- (7) Please provide any evidence that has become available since 2000 concerning consumer perception of home entertainment amplifier power rating claims, including claims not currently covered by the Rule. Does this new information indicate that the Rule should be modified? If so, why, and how? If not, why not?
- (8) Please provide any evidence that has become available since 2000 concerning consumer interest in particular home entertainment amplifier

power rating issues. Does this new information indicate that the Rule should be modified? If so, why, and how? If not, why not?

(9) What benefits, if any, has the Rule provided to businesses, and in particular to small businesses? What evidence supports the asserted benefits?

(10) What modifications, if any, should be made to the Rule to increase its benefits to businesses, and in particular to small businesses?

(a) What evidence supports your proposed modifications?

(b) How would these modifications affect the costs and benefits of the Rule for consumers?

(c) How would these modifications affect the costs and benefits of the Rule for businesses?

(11) What significant costs, including costs of compliance, has the Rule imposed on businesses, and in particular on small businesses? What evidence supports the asserted costs?

(12) What modifications, if any, should be made to the Rule to reduce the costs imposed on businesses, and in particular on small businesses?

(a) What evidence supports your proposed modifications?

(b) How would these modifications affect the costs and benefits of the Rule for consumers?

(c) How would these modifications affect the costs and benefits of the Rule for businesses?

(13) What evidence is available concerning the degree of industry compliance with the Rule?

(a) To what extent has there been a reduction in deceptive home entertainment amplifier power rating claims since the Rule was issued? Please provide any supporting evidence. Does this evidence indicate that the Rule should be modified? If so, why, and how? If not, why not?

(b) To what extent has the Rule reduced marketers' uncertainty about which claims might lead to FTC law enforcement actions? Please provide any supporting evidence. Does this evidence indicate that the Rule should be modified? If so, why, and how? If not, why not?

(14) Are there claims addressed in the Rule on which regulation is no longer needed? If so, explain. Please provide supporting evidence.

(15) What potentially unfair or deceptive home entertainment amplifier power rating claims, if any, are not covered by the Rule?

(a) What evidence demonstrates the existence of such claims?

(b) With reference to such claims, should the Rule be modified? If so, why, and how? If not, why not?

(16) What modifications, if any, should be made to the Rule to account for changes in relevant technology or economic conditions? What evidence supports the proposed modifications?

(17) Does the Rule overlap or conflict with other federal, state, or local laws or regulations? If so, how?

(a) What evidence supports the asserted conflicts?

(b) With reference to the asserted conflicts, should the Rule be

modified? If so, why, and how? If not, why not?

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(c) Is there evidence concerning whether the Rule has assisted in promoting national consistency with respect to the regulation of home entertainment amplifier power rating claims? If so, please provide that evidence.

(18) Are there international laws, regulations, or standards with respect to home entertainment amplifier power rating claims that the Commission should consider as it reviews the Rule? If so, what are they? Should the Rule be modified in order to harmonize with these international laws, regulations, or standards? If so, why, and how? If not, why not?

(19) Do current or impending changes in technology affect whether and how the Rule should be modified?

B. Specific Issues

(1) Should the Rule be revised to include additional guidance regarding power ratings for multichannel ``home theater'' amplifiers? If so, why, and what guidance should be provided? If not, why not? What evidence supports your answer(s)?

(2) What methods are currently used to measure the power outputs of multichannel ``home theater'' amplifiers? Does use of these methods cause consumer injury? What evidence supports your answer(s)?

(3) How often during typical usage, i.e., for what percentage of usage time, are multichannel ``home theater'' amplifiers required to produce full rated output in all channels simultaneously? What evidence supports your answer?

(4) How often during typical usage, i.e., for what percentage of usage time, are multichannel ``home theater'' amplifiers required to produce full rated output in the three front channels simultaneously? What evidence supports your answer?

(5) What are the incremental effects on power ratings for multichannel ``home theater'' amplifiers of driving two, three, four, five, six, or more channels simultaneously? What evidence supports your answers?

(6) For a given rated power output, e.g., 100 Watts per channel, what is the added cost of producing a multichannel ``home theater'' amplifier that can provide full rated power in all channels simultaneously rather than in only one channel? What evidence supports your answer?

(7) Should the Rule require that any channels be designated as associated when testing the power output of multichannel ``home theater'' amplifiers? If so, which channels should be designated as associated? What evidence supports your answer?

(8) Should Consumer Electronics Association protocol CEA-490-A be

incorporated into the Rule? Why or why not? What evidence supports your answer?

(9) Do current or impending changes in technology, such as the development of self-powered wired and wireless speakers, affect whether and how the Rule should be modified regarding power rating protocols for multichannel ``home theater'' amplifiers?

List of Subjects in 16 CFR Part 432

Amplifiers, Home entertainment products, Trade practices.

Authority: 15 U.S.C. 41-58.

By direction of the Commission.

Donald S. Clark,
Secretary

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