

Contact Lens Rule's Evolution Steers FTC Guidance Program

By **Maureen Ohlhausen** and **Austin Del Priore** (October 6, 2026)

On Sept. 10, the Federal Trade Commission's Bureau of Consumer Protection announced a new guidance program, inviting businesses and other stakeholders to petition the commission to resolve ambiguities in its existing rules, conflicts between a rule and statute, or other significant interpretive issues, without waiting for a full notice-and-comment rulemaking process.[1]

The FTC explained that the goal of this new program is to "enhance transparency, strengthen understanding of Commission requirements, and equip businesses and industry groups with additional tools to comply with the law." [2]

The laudable goal of this program is to close interpretive gaps quickly, and the consumer benefits of such regulatory responsiveness are illustrated by the history of the FTC's Contact Lens Rule.

The FTC's core role is to protect U.S. consumers and safeguard competition, which helps to lower prices, improve quality, foster innovation and improve consumer access. In pursuing this mandate, the commission has prioritized competition and consumer choice in healthcare, the largest sector of the economy and a top financial worry for Americans.

In addition to policing mergers, challenging anticompetitive conduct and stopping health scams, the FTC has a long history of advocacy and rulemaking to encourage a regulatory environment that fosters competition and innovation in healthcare.

Almost 50 years ago, the FTC issued the Ophthalmic Practices Rule, or the Eyeglass Rule, a 1978 trade regulation rule that requires doctors to provide patients, at no extra cost, a copy of their eyeglass prescription after an eye exam, allowing patients to shop around for the glasses that best flatter their faces and their wallets.[3]

Modeled in part on the FTC's Eyeglass Rule, Congress passed the Fairness to Contact Lens Consumers Act, or FCLCA, in 2003 to address concerns that contact lens prescribers were undermining consumer choice by withholding prescriptions or conditioning their release on purchasing lenses from the prescriber.[4]

The goal of the legislation was to enhance consumer choice and competition among contact lens sellers for the benefit of the nearly 36 million Americans who wore contact lenses at the time. Congress recognized that more competition enhances consumer choice and leads to lower prices, benefiting consumers' health and their budgets.

The FCLCA required prescribers to provide patients with a copy of their contact lens prescription at the end of a contact lens fitting, even if the patient does not ask for it, so they can choose the price and convenience that best fit their needs when purchasing their contact lenses.

It also safeguarded consumer health by requiring contact lens sellers to obtain a copy of a



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valid prescription or verify the prescription information with the prescriber before providing the lenses.

The law established a nationwide framework for prescription verification. In particular, if a consumer does not have or cannot provide the seller with a copy of their prescription, the seller is required to verify the prescription through direct communication with the prescriber by phone, fax or email.

The prescriber then has the opportunity to confirm, reject or correct the prescription.

The FCLCA specifies that if the prescriber does not respond to a verification request within eight business hours, the prescription is deemed verified, which lessens the burden on prescribers in verifying valid prescriptions and prevents prescribers from blocking verification by refusing to respond to legitimate requests.

Congress directed the FTC to write and enforce rules to implement the FCLCA and to treat failure to comply with those rules as a violation of the FTC Act. In 2004, the FTC unanimously voted to issue the Contact Lens Rule after carefully weighing its costs and benefits.

The FTC sought input from the public throughout the rulemaking process and considered over 8,000 comments submitted by individual consumers, regulators, prescribers, and sellers.[5]

The original rule hewed closely to the text of the FCLCA, adding definitions and filling minor technical gaps necessary to enable enforcement, such as the definition of a business hour.

Shortly after embarking on the rulemaking process, the FTC released a staff report concluding that online sellers provide consumers with greater choices and more convenience in the contact lens market.[6]

In the report, the FTC staff found that nontraditional contact lens sellers, such as internet providers, offer consumers a combination of price and convenience that they highly value. The FTC also carefully considered potential health and safety concerns presented by online contact lens sales.

After careful review of comments and industry input, the FTC staff recommended enforcing prescription release and verification requirements to ensure that both consumers' health and consumers' economic interests were protected. Since the rule went into effect, the FTC has enforced the rule against noncompliant prescribers and sellers.[7]

A decade after the rule was first issued, the FTC went through a five-year review process, which involved multiple rounds of public comment, a public workshop that included a panel on health and safety, and a supplemental notice.

After conducting this lengthy review and considering thousands of public comments, the commission voted unanimously to approve amendments to the rule to further ensure that prescribers were providing consumers with their prescriptions as required by the FCLCA and original rule, and that sellers using automated phone confirmation were leaving complete and comprehensible messages with prescribers.[8]

During this process, the FTC confirmed that automated telephone messages are a permissible method of prescription verification and consistent with congressional intent in

the FCLCA. While an improvement, the process underlying that clarification is a reminder of how much process the commission has undertaken to settle a single, open question under the rule.

As this history shows, the FTC promulgated the Contact Lens Rule after carefully considering its costs and benefits and updated it over time to ensure it was working as intended. More than 20 years later, the benefits are clear. The rule:

- Promotes competition and consumer choice by allowing consumers to choose whether they want to purchase contact lenses from their prescriber or another seller and to shop around for the best deal for them in terms of convenience and price;
- Facilitates innovation in the marketplace by encouraging contact lens sellers to offer better services, like quick delivery, to attract consumers who have increased choice;
- Promotes affordability by allowing consumers to choose to purchase contact lenses from sellers that offer the best prices, which is particularly important since consumers frequently pay for contact lenses out of pocket;
- Gives consumers access to greater convenience by enabling them to purchase contact lenses from a wide variety of sellers, including online vendors, big box stores and neighborhood sellers;
- Protects consumer health by requiring sellers to verify prescriptions before selling contact lenses to consumers and increasing patients' access to contact lenses by promoting competition in contact lens sales; and
- Currently balances the burdens placed on sellers and prescribers by allowing sellers to choose the verification method — phone, fax or email — and by not requiring prescribers to actively respond to every verification request.

The history of the FTC's Contact Lens Rule is worth keeping in mind as the commission rolls out its new guidance program. The rule works well today, in part because the FTC and its staff were willing to fill gaps left by the FCLCA's statutory text.

The guidance program embraces the idea that similar clarity can sometimes be delivered faster through a more informal request-and-response process rather than a more fulsome notice-and-comment cycle. Regardless of the timeline, the success of the Contact Lens Rule illustrates the real benefit to consumer choice and competition that comes from input from consumers, businesses, and other industry stakeholders, resulting in clearer industry guidance.

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FTC regarding enforcement of the Fairness to Contact Lens Consumer Act and the FTC's Contact Lens Rule.

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[1] See Fed. Trade Comm'n, "Announcing the Bureau of Consumer Protection's New Guidance Program" (Sept. 2026), available at <https://www.ftc.gov/business-guidance/blog/2026/09/announcing-bureau-consumer-protections-new-guidance-program>.

[2] Id.

[3] 16 C.F.R. Part 456. The FTC issued the Eyeglass Rule under Section 18 of the FTC Act, which gives the agency authority to promulgate rules defining unfair or deceptive acts or practices. 15 U.S.C. § 57a(a)(1)(B).

[4] 15 U.S.C. §§ 7601–7610.

[5] 69 Fed. Reg. 5440 (Feb. 4, 2004), 16 C.F.R. Part 315.

[6] Fed. Trade Comm'n, "Possible Anticompetitive Barriers to E-Commerce: Contact Lenses" (Mar. 2004), available at https://www.ftc.gov/sites/default/files/documents/advocacy_documents/possible-anticompetitive-barriers-e-commerce-contact-lenses-report-staff-ftc/040329clreportfinal.pdf.

[7] For example, in 2022, the FTC and the Department of Justice (DOJ) obtained a \$3.5 million settlement with Hubble Contacts to resolve allegations that it violated federal contact lens prescription verification requirements. In 2025, the FTC also issued warning letters to 37 contact lens prescribers regarding potential violations of the Contact Lens Rule's prescription release requirements. *United States v. Vision Path Inc. d/b/a Hubble Contacts*, No. 1:22-cv-00284 (D.D.C. Jan. 28, 2022); FTC, "FTC Sends Warning Letters to Prescribers Regarding Possible Violations of the Contact Lens Rule" (June 3, 2025).

[8] Press Release, Fed. Trade Comm'n, "FTC Announces Final Amendments to the Agency's Contact Lens Rule" (June 22, 2020), <https://www.ftc.gov/news-events/news/press-releases/2020/06/ftc-announces-final-amendments-agencys-contact-lens-rule>.