

SUMMARY OF TESTIMONY
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FEDERAL TRADE COMMISSION WORKSHOP ON E-COMMERCE
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Contact lenses are prescription medical devices regulated by the Food and Drug Administration. They can only be dispensed to patients with valid, current prescriptions. Last year, the FDA published a consumer advisory telling consumers they should not order contact lenses by mail, phone or on the internet without a current prescription, because of the health risks associated with contact lens wear. As the FTC staff pointed out in its comments to the Connecticut Board of Examiners for Opticians, there are significant health issues concerning the sale of contact lenses, primary among them being ensuring that contact lens wearers return to their doctors for regular eye examinations. This staff document correctly concludes “Customers incur health risks if they forego regular eye exams that would allow the optometrist or ophthalmologist to spot emerging health problems in their early stages.” That is the crux of the issue of contact lens sales for the American Optometric Association and its members. Not where the patient purchases replacement lenses, but that the validity of the prescription be properly verified by all sellers.

There is ample evidence to suggest that is not always the case, that sellers many times provide lenses to patients with long expired prescriptions, or no prescriptions, or sell large quantities of lenses as a prescription is set to expire. The FDA consumer advisory noted that while sellers tell consumers they will confirm the prescription with the doctor, this may not always happen. Because of the health considerations that are part of contact lens wear, as well as the history of certain practices by sellers, some states, often in the context of requiring the release of the contact lens prescription, have enacted laws seeking to regulate in various manners internet sellers of contact lenses.

Questions have been raised over whether these state regulations, and the inability of patients to obtain their prescriptions, have been an impediment to the online sale of contact lenses. Sales figures for online sellers, and studies on the release of contact lens prescriptions suggest the answer is no. Internet sellers have reported substantial growth in recent years, and the FTC’s own study of prescription release indicated that over 90 percent of patients who want their prescription receive it.

At the same time, realizing that the ultimate goal should be to allow patients the ability to choose where they purchase replacement lenses while at the same time protecting their health by assuring that the lenses are sold consistent with their status as an FDA regulated prescription device, AOA believes there is a simple answer – a federal legislative requirement that providers must release and verify prescriptions and that sellers must obtain positive verification of the prescription before lenses are shipped to patients. This strikes us as a balanced and reasonable solution that addresses both the competition and the health concerns. And, in fact, it is consistent with the current policies of a number of internet sellers.

Such a requirement would address the legitimate health concerns that led to enactment of the state regulations being questioned by some. It would then be appropriate for all states to review these laws and regulations to evaluate the need to maintain them.

