



[BILLING CODE: 6750-01-S]

FEDERAL TRADE COMMISSION

16 CFR Part 20

Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry, Request for Comments

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Request for public comments.

SUMMARY: As part of the Commission's systematic review of all current FTC rules and guides, the Commission requests public comment on the costs, benefits, necessity for, and regulatory and economic impact of the FTC's "Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry."

DATES: Comments must be received on or before August 3, 2012.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Used Auto Parts Guides Review, 16 CFR Part 20, Project No. P127702" on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/usedautopartsguide>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex B), 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Jonathan L. Kessler, Attorney, East Central Region, Federal Trade Commission, 1111 Superior Avenue, Suite 200, Cleveland, Ohio 44114, 216-263-3436.

SUPPLEMENTARY INFORMATION:

I Background

The Used Auto Parts Guides seek to prevent unfair or deceptive acts or practices in the advertisement and sale (including installation) of previously used motor vehicle parts and assemblies of parts containing previously used parts (*e.g.*, engines and transmissions). The Commission first addressed the used automobile parts market in 1962, when it issued its Trade Practice Rules for the Rebuilt, Reconditioned and Other Used Automotive Parts Industry. In 1979 these rules were rescinded and replaced with the “Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry” (Used Auto Parts Guides or Guides). The Guides have been in place since that time, but were revised in 2002 to make minor language changes and to update the list of commonly rebuilt or reused parts and assemblies.

In their current form, the Guides apply to “used parts and assemblies containing used parts designed for use in automobiles, trucks, motorcycles, tractors, or similar self-propelled vehicles whether or not such parts or assemblies have been reconstructed in any way” (Industry Product or Products). 16 CFR Part 20. The Guides prohibit both misrepresentations that an Industry Product is new and misrepresentations of “the current condition, or extent of previous use, reconstruction, or repair of” an Industry Product. 16 CFR 20.1(a). Industry Products must be clearly and conspicuously identified as such in advertisements, on packaging, and, if the product appears new, on the product itself. Further, the Guides prohibit misrepresenting the

identity of an Industry Product rebuilder. 16 CFR 20.2. The Guides describe the treatment an Industry Product must receive before it can be described as “rebuilt” or “remanufactured,” and limit use of the term “factory rebuilt” to Industry Products rebuilt “at a factory generally engaged in the rebuilding of such products.” 16 CFR 20.3.

The Used Auto Parts Guides, like other industry guides issued by the Commission, are “administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements.” 16 CFR 1.5. Conduct inconsistent with the Guides “may result in corrective action by the Commission under applicable statutory provisions.” 16 CFR 1.5.

II Regulatory Review Program

The Commission reviews all of its rules and guides periodically. These reviews seek information about the costs, benefits, and regulatory and economic impact of each rule and guide. The information obtained assists the Commission in identifying rules and guides that should be changed or eliminated. Accordingly, this Notice requests comments addressing whether the Used Auto Parts Guides are still needed, their costs and benefits to consumers and businesses, and whether any changes are needed.

III Request for Comments

Please provide any comments you have related to the Used Auto Parts Guides.

Particularly helpful would be comments that respond to all or some of the following questions:

- 1 Are the Guides still needed? Why or why not?
- 2 What benefits do the Guides provide to consumers? What evidence do you have or know of that shows these benefits?

- 3 What changes, if any, should the Commission make to the Guides to increase their benefits to consumers?
 - a How would the changes affect the costs and benefits of the Guides for consumers?
 - b How would the changes affect the costs and benefits of the Guides for businesses, particularly small businesses?
 - c What evidence do you have or know of that supports these changes?
- 4 What costs have the Guides imposed on consumers? What evidence do you have or know of that shows these costs?
- 5 What changes, if any, would reduce the costs the Guides impose on consumers?
 - a How would the changes affect the costs and benefits of the Guides for consumers?
 - b How would the changes affect the costs and benefits of the Guides for businesses, particularly small businesses?
 - c What evidence do you have or know of that supports these changes?
- 6 What benefits, if any, have the Guides provided to businesses, and in particular to small businesses? What evidence do you have or know of that supports these benefits?
- 7 What changes, if any, should be made to the Guides to increase their benefits to businesses, particularly small businesses?
 - a How would the changes affect the costs and benefits of the Guides for consumers?

b How would the changes affect the costs and benefits of the Guides for businesses, particularly small businesses?

c What evidence do you have or know of that supports these changes?

8 What costs, including costs of compliance, have the Guides imposed on businesses, especially small businesses? What evidence do you have or know of that supports these costs?

9 What changes, if any, should be made to the Guides to reduce the costs imposed on businesses, particularly small businesses?

a How would the changes affect the costs and benefits of the Guides for consumers?

b How would the changes affect the costs and benefits of the Guides for businesses, particularly small businesses?

c What evidence do you have or know of that supports these changes?

10 What evidence, if any, has become available since 2002 concerning consumer perceptions of Industry Products (used vehicle parts and assemblies of parts, such as engines and transmissions, containing used parts)? Does this new information indicate that the Guides should be modified? If so, why does the information indicate the Guides should be modified, and how should they be modified?

11 The Guides now require that certain disclosures be clear and conspicuous. Should the Guides define “clear and conspicuous”? Why or why not? What information should be in a definition of “clear and conspicuous”? (For example, other Commission rules define “clear and conspicuous” as “reasonably understandable and designed to call attention to the nature and

significance of the information.” 16 C.F.R. 313.3 (Privacy of Consumer Financial Information), 16 C.F.R. 680.3 (Affiliate Marketing)).

12 Should the Guides be changed to specify when an installer of an Industry Product (e.g., mechanic or technician) must disclose the use of the Product to a consumer? If so:

- a What evidence, if any, do you have that shows that disclosure of the installation of an Industry Product is not being made to consumers at an appropriate time?
- b When should the installer disclose the use of an Industry Product? (E.g., when the vehicle is left for servicing; when the consumer is told that a replacement part is needed; when the consumer retrieves the vehicle after the Industry Product has been installed.)

13 How have the Guides affected the flow of truthful information to consumers? How have the Guides affected the flow of deceptive information to consumers? What evidence do you have or know of that shows the effect of the Guides on the flow of either truthful or deceptive information to consumers?

14 What evidence is available concerning the degree of compliance with the Guides? What does this evidence indicate about whether the Guides should be kept, changed, or eliminated?

15 Are any parts of the Guides no longer needed? If so, which parts? What evidence do you have or know of that supports your views?

16 What changes, if any, should be made to the Guides to account for changes in technology or economic conditions?

- a How would the changes affect the costs and benefits of the Guides for consumers?
- b How would the changes affect the costs and benefits of the Guides for businesses, particularly small businesses?
- c What evidence do you have or know of that supports these changes?

17 What acts or practices related to Industry Products do the Guides currently not address, but which they should address? What evidence do you have or know of that supports your views?

18 Is there a need for efforts to educate consumers or businesses about the Used Auto Parts Guides? If so, what types of educational activities should the Commission undertake?

19 The current Guides expressly exclude tires because when the Guides were last amended the Commission had separate guides relating to the advertising and selling of tires. These tire guides have since been eliminated. Should the Used Auto Parts Guides be changed to include tires? Why or why not? What evidence do you have or know of that supports your views?

20 The current Guides state that they apply to Industry Products “designed for use in automobiles, trucks, motorcycles, tractors, or similar self-propelled vehicles.” 16 CFR 20.0. Is this list adequate to describe the vehicles to which the Guides should apply, or should other vehicles be expressly mentioned? (*E.g.*, all-terrain vehicles, off-road construction vehicles, dune buggies or other off-road recreation vehicles.) If so, which other vehicles should be mentioned, and why? What evidence do you have or know of that supports your views?

21 Do the Used Auto Parts Guides overlap or conflict with other laws or regulations, whether federal, state, or local? If so, how?

- a What evidence do you have or know of concerning the conflicts?
- b Should the Guides be changed because of these conflicts? If so, how?
- c Have the Guides helped make the advertising and selling of Industry Products more consistent across the country? If so, how?

22 Are there foreign or international laws, regulations, or standards concerning the advertising and sale of Industry Products that the Commission should consider as it reviews the Guides? If so, what are they?

- a Should the Guides be changed to harmonize with these foreign or international laws, regulations, or standards? Why or why not?
- b How would harmonization affect the costs and benefits of the Guides for consumers?
- c How would harmonization affect the costs and benefits of the Guides for businesses, particularly small businesses?

IV Instructions for Comment Submissions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before August 3, 2012. Write "Used Auto Parts Guides Review, 16 CFR Part 20, Matter No. P12-7702" on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to

remove individuals' home contact information from comments before placing them on the Commission website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as a Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c). 16 CFR 4.9(c).¹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/usedautopartsguide>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write "Used Auto Parts Guides Review, 16 CFR Part 20, Matter No. P127702" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex B), 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that 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 on or before August 3, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

List of Subjects in 16 CFR Part 20:

Advertising, Motor vehicles, Trade Practices.

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

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. 2012-12132 Filed 05/18/2012 at 8:45 am;

Publication Date: 05/21/2012]