

UNITED STATES OF AMERICA

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3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

THE APPLIANCE LABELING RULE

4. Pursuant to its authority under the Energy Policy and Conservation Act (“EPCA”), 42 U.S.C. § 6294, the Commission promulgated the Appliance Labeling Rule. Among other things, the Appliance Labeling Rule requires any “retailer” that advertises a “covered product” in a “catalog” to provide in that catalog either the EnergyGuide label for the product prepared in accordance with the Appliance Labeling Rule or the following information: (a) the product’s capacity; (b) the product’s estimated annual operating costs; and (c) a conspicuously placed statement explaining that operating costs will depend on utility rates and use. 16 C.F.R. § 305.20(a). Failure to include the required information constitutes a violation of the Appliance Labeling Rule.*Id.*

RESPONDENT’S VIOLATIONS OF THE APPLIANCE LABELING RULE

5. Respondent is a “retailer” as defined in the Appliance Labeling Rule. 16 C.F.R. § 305.2(ff).

6. Respondent’s website, www.appliancebestbuys.com, consisted of printed material disseminated over the Internet, which for each covered product contained the terms of sale, retail price, and instructions for ordering, from which a retail consumer could order the covered product. Thus, the webpages for each covered product were “catalogs” as defined in the Appliance Labeling Rule.*Id.* § 305.2(h).

7. Respondent’s website, www.universallcdtv.com, consists of printed material disseminated over the Internet, which for each covered product contains the terms of sale, retail price, and instructions for ordering, from which a retail consumer can order the covered product. Thus, the webpages for each covered product are “catalogs” as defined in the Appliance Labeling Rule.*Id.* § 305.2(h).

8. Through its website, www.appliancebestbuys.com, respondent has advertised refrigerators, freezers, dishwashers, clothes washers, and room air conditioners. These appliances are “covered products” for purposes of the Appliance Labeling Rule. § 305.3(a)-(f).

9. Through its website, www.universallcdtv.com, respondent has advertised and continues to advertise refrigerators, dishwashers, and clothes washers. These appliances are “covered products” for purposes of the Appliance Labeling Rule. § 305.3(a)-(f).

10. Respondent has failed to include in its catalogs the information disclosures required by § 305.14(a) for many of its covered products. Therefore, respondent has violated and continues to violate the Appliance Labeling Rule. § 305.4(b)(5).

11. EPCA authorizes the Commission to assess a civil penalty of not more than \$110 for each violation of the Appliance Labeling Rule. 42 U.S.C. § 6303(a); FTC Rules of Practice, 16 C.F.R. §§ 1.97-1.98 Each day during which a retailer advertises a covered product on an Internet webpage but fails to provide the required information disclosures constitutes a violation with respect to that product. 42 U.S.C. §§ 6303(a), 6302(a)(4), 6296(a).

12. WHEREFORE, pursuant to 42 U.S.C. § 6303(a) and the FTC Rules of Practice, 16 C.F.R. §§ 1.97-1.98, the Commission requests monetary civil penalties for each violation of the Appliance Labeling Rule.

NOTICE

Proceedings on the charges asserted against the respondent named in this complaint will be held before an Administrative Law Judge of the Federal Trade Commission, under Part 3 of the Commission's Rules of Practice, 16 C.F.R. Part 3 (2011). A copy of Part 3 of the Commission Rules is enclosed with this complaint, and the Rules are also accessible on the Commission Website [at FTC Rules \(16 CFR 0-999\)](#)

Notice is hereby given that the first day of December, 2011, at 10:00 a.m., is hereby fixed as the time, and the Federal Trade Commission offices, 600 Pennsylvania Avenue, N.W., Room 532-H, Washington, D.C. 20580, as the place when and where a hearing will be had before an Administrative Law Judge of the Federal Trade Commission, on the charges set forth in this complaint, at which time and place you will have the right under the Federal Trade Commission Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in this complaint, and requiring you to pay monetary civil penalties for each violation of the Appliance Labeling Rule.

You are notified that the opportunity is afforded you to file with the Federal Trade Commission an answer to this complaint on or before the fourteenth (14th) day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material facts to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint and, together with the complaint, will provide a record basis on which the Commission shall issue a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding. In such answer, you may, however, reserve the right to submit proposed findings of fact and conclusions of law under § 3.46 of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings.

Failure to answer within the time above provided shall be deemed to constitute a waiver of your right to appear and contest the allegations of the complaint and to authorize the Commission, without further notice to you, to find the facts to be as alleged in the complaint and to enter a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding.

The Administrative Law Judge will schedule an initial prehearing scheduling conference to be held not later than 10 days after the answer is filed. Unless otherwise directed by the Administrative Law Judge, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Room 532-H, Washington, D.C. 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, but in any event no later than five days after the answer is filed. Rule 3.31(b) obligates counsel for each party, within five days of receiving a respondent's answer, to make certain initial disclosures without awaiting a formal discovery request.

THEREFORE, the Federal Trade Commission this first day of April, 2011, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary

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