

**American National Standards Institute**  
Conference on Building Consumer Confidence  
Remarks of Lydia Parnes  
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## **Introduction**

Thank you for inviting me to participate in this panel. I look forward to a robust and spirited discussion. Let me start my remarks by giving you some context about the FTC. The FTC is a law enforcement agency. Although we issue and enforce rules, we do not engage in public standard setting. While I can't address the current product safety system or its potential evolution, I do plan to discuss the FTC's extensive experience in promoting and supporting self-regulation, including voluntary standards. My hope is that my remarks can inform your discussions as you consider the feasibility of a product safety self-regulatory scheme.

The FTC frequently partners with self-regulatory bodies in order to leverage our impact. This approach is especially useful where the scope of a problem may be too widespread for an agency with limited resources to handle, or where our jurisdiction to handle particular matters may be constrained by constitutional principles. And, we have long expressed the belief that effective industry self-regulation can have significant benefits, and can, in specific instances, address problems more quickly, creatively, and flexibly than government regulation.

We tend to focus our enforcement efforts on actions that have the greatest deterrent effect on unlawful industry behavior. Self-regulatory organizations can complement these efforts by providing, among other things, complaint resolution, quality assurance, best practices, and standards. When it works, an effective self-regulatory program helps raise the level of industry compliance with the laws that the FTC enforces.

So, what are the hallmarks of the best self-regulatory programs? They clearly address the problems they seek to remedy; they are flexible and able to adapt to new developments within the industry; they are enforced and widely followed by affected industry members; they are visible and accessible to the public; they are independent from their member firms; and they objectively measure member performance and impose sanctions for noncompliance.

This is what I call "self-regulation with teeth."

There are a number of examples of effective self-regulatory programs that fit these criteria: (1) the advertising codes administered by each of the three major alcohol industry associations;<sup>1</sup> (2) the video game industry codes;<sup>2</sup> and (3) the recently organized Children's Food

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<sup>1</sup> The Beer Institute's "Advertising and Marketing Code" is available at [www.beerinstitute.org/tier.asp?bid=249](http://www.beerinstitute.org/tier.asp?bid=249); the Distilled Spirits Council of the United States'

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“Code of Responsible Practices for Beverage Alcohol Advertising and Marketing” is available at [www.discus.org/responsibility/code/read.asp](http://www.discus.org/responsibility/code/read.asp); the “Wine Institute’s Code of Advertising Standards” is available at [www.wineinstitute.org/programs/adcode/](http://www.wineinstitute.org/programs/adcode/).

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<sup>9</sup> *FTC v. Great American Products, Inc., et al.*, Civil Act. No. 3:05-CV-00170-RV-MD (N.D. Fl. May 20, 2005), available at [www.ftc.gov/os/caselist/0323247/0323247.shtm](http://www.ftc.gov/os/caselist/0323247/0323247.shtm).

<sup>10</sup> See *FTC Press Release, FTC Targets Bogus Anti-Aging Claims for Pills and Sprays Promising Human Growth Hormone Benefits: Settlement Provides Up To \$20 Million In Consumer Redress* (June 9, 2005), available at [www.ftc.gov/opa/2005/06/greatamerican.shtm](http://www.ftc.gov/opa/2005/06/greatamerican.shtm)

In order to meet their safe harbor obligations, certifying companies must have in place a dispute resolution system that will investigate and resolve individual complaints and disputes. They also must have procedures for verifying compliance. Dispute resolution bodies overseeing safe harbor participants must have the ability to impose severe enough sanctions to ensure compliance, they must publicize their findings of non-compliance, and they must have the ability to order the deletion of data in certain circumstances.<sup>13</sup>

To give the safe harbor framework its ultimate teeth, participating companies whose violations go unaddressed are subject to enforcement by the FTC or the Department of Transportation, as appropriate.<sup>14</sup>

## **Conclusion**

Private/public partnerships have the potential to yield great gains for consumer welfare. The best of them involve a combination of self-regulatory measures with strong government oversight. It is likely that the development of effective self-regulatory schemes will work well in the area of product safety; we at the FTC stand ready to provide assistance as such programs emerge.

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<sup>13</sup> *Id.*

<sup>14</sup> *Id.*