

**American Council for an Energy-Efficient Economy  
Center for Auto Safety  
Consumer Federation of America  
Consumers Union  
Natural Resources Defense Council  
Public Citizen  
Safe Climate Campaign  
Sierra Club  
Union of Concerned Scientists**

July 10, 2014

Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Avenue, NW  
Suite CC-5610 (Annex O)  
Washington, DC 20580

Subject: Comments on Fuel Economy Guide, R711008

We the undersigned consumer, energy efficiency, science and environmental organizations submit the following in response to the Federal Trade Commission's request for comments on the Guide Concerning Fuel Economy Advertising for New Automobiles.

We understand that the Federal Trade Commission is seeking comments on the use of fuel economy ratings in advertising that relate to deceptive or unfair claims under the FTC Act, rather than specific comments as to the benefits of mileage ratings in advertisements. The FTC's concern that mpg advertising disclosure not be deceptive is well founded.

Properly disclosing fuel economy ratings in advertising is also of critical importance to consumers. Automobile purchases are among the largest expenditures consumers make and bind them to purchase the fuel necessary to run their vehicles. So accurate information about a vehicle's mileage would be of extraordinary benefit to consumers, facilitate market functions, serve as a powerful incentive to increase fuel efficiency, and contribute significantly to the overall public good. On the other hand, the deceptive use of this information would be

very damaging to both consumers and the marketplace. We understand that some of the issues associated with avoiding deceptive fuel efficiency disclosures can be complex, but we are confident that the FTC, in its service to the public, can make reasonable requirements that prevent deceptive fuel efficiency advertising.

1. EPA Miles-Per-Gallon Claims

a. *Whether a general fuel economy claim (e.g. “XYZ car gets great mileage”) should be accompanied by a specific mpg disclosure to prevent consumer deception or unfairness.*

Anytime an advertising claim or mention is made about fuel economy (i.e., “great mileage”, “fuel efficient,” “savings at the pump,” “best in class for fuel efficiency” etc.) the EPA mpg numbers must be clearly presented. In TV and radio ads, there should also be a clear, audible representation of the mpg. The FTC, as part of its consumer research, is in an excellent position to determine the most effective way to ensure that fuel economy information in radio, print, television and the web is clearly understood, and we believe that it is FTC’s responsibility to require such information.

b. *Whether an advertisement is unfair or deceptive if it provides only one type of mileage rating (e.g., an advertisement that only provides highway mpg).*

There are three potential numbers (city, highway, and combined) which could be presented singly, or in various combinations. Presenting just the highway or city numbers (by themselves) would clearly be deceptive because few, if any, consumers drive solely on highways or local streets. While it is unlikely that an advertiser would use just the city mpg as it tends to be the lowest rating, many use just the highway in order to present their vehicle in the best light possible. Doing so is misleading and deceptive because of the unlikelihood that such fuel efficiency would be obtained on a regular basis. We believe that in order to avoid deception, mpg disclosure in advertisements must be presented in one of the following ways:

1. All Three Ratings: This is the most informative of disclosures and provides the advertising viewer/listener with the least potential to be deceived. When all three ratings are presented in print, or visually in a TV ad, the ‘combined’

should be in the largest font. In radio advertising, when all three are used, ‘combined’ should be the last number mentioned.

2. Combined Only: In certain circumstances where advertising content is limited, it would be acceptable to use just the combined number. This would be the case in certain radio and TV ads of short duration.

In either situation, the format, font and audible presentation of the information must be clearly and easily legible or audible. It is critical that the FTC’s consumer study thoroughly test various format and font requirements.

*c. Whether an unspecified mpg claim (e.g., ‘37 mpg’) is deceptive if the advertisement fails to identify whether the rating is city, highway, or combined.*

Advertisements which simply list an mpg rating with no description are clearly and intentionally deceptive. While it is expected that such disclosures would typically use the single (and higher) highway number, most consumers would not know this is a highway-only number. In addition, it would be rare that consumers could ever actually achieve this fuel economy on an average basis. Even regular highway drivers have to traverse local roads to get to a highway and highway travel must be at a moderate and steady speed. Furthermore, highway congestion can diminish fuel efficiency. In the two acceptable disclosures listed above, all must be labeled as to their nature (i.e. city, highway, combined) to avoid being deceptive.

*d. How consumers understand ‘up to’ mpg claims, which sometimes appear in ads (e.g., ‘up to 45 mpg’)*

“Up to” claims are deceptive and should not be allowed. Mileage ratings that appear in advertisements must be based on the vehicle configuration expected to be most popular for that year. In the case of a specific model configuration being promoted, such as the best performing configuration of the various model configurations, that model’s mpg can be presented in addition to the mpg of the model expected to be most popular. (See further comments below.)

e. *Whether the combined EPA mpg rating should serve as the default disclosure for unspecified fuel economy claims (instead of the city mpg as currently indicated in the Guide)*

Unspecified fuel economy claims should not be permitted. As indicated above, presenting all three ratings is the best way to avoid deception. However, there are cases when only the combined number may be possible. In that situation, it must be clearly labeled as both from the EPA and “Combined”.

g. *Whether fuel economy advertisements containing mpg claims should identify EPA as the source of the ratings.*

The EPA should always be listed as the source of the rating. Consumers need the assurance that these are the official numbers and not numbers created for marketing or advertising purposes. The EPA designation reinforces the official nature of the ratings and ensures that consumers are able to make true vehicle to vehicle comparisons.

## 2. Claims Based on Non-EPA Estimates –

Because of the power and potential of advertising, it is imperative the FTC prevent the use of anything but standardized EPA mpg ratings with their associated labels (i.e. city, highway, combined). In fact, the only way to avoid significant deception is to allow ONLY the EPA ratings to be used in advertising. There are many ways to measure a vehicle’s potential gas mileage and, as such, allowing alternative mileage rating systems would substantially increase deceptive advertising related to this important consumer purchase information. Not only will this prevent the deceptive use of alternative mpg rating schemes, but because the EPA numbers also appear on every vehicle sold in the U.S, these same numbers must be used in advertising to avoid consumer confusion.

The EPA ratings have become the standard on which consumers base their purchase decisions and manufacturers compete. Having one rating system enables true competition and avoids the deception associated with multiple rating systems using different methodologies. If other mileage rating systems were to be allowed, not only would those systems be subject to manipulation and skepticism, but they

could not be used in vehicle-to-vehicle comparisons with the widely used EPA numbers. No other mileage rating systems should be allowed in any form of advertising.

### 3. Claims Related to Model Groups

We understand that vehicle models have various configurations with various EPA ratings. Deception can occur when a manufacturer chooses to advertise the mpg of the very highest rated model configuration in a particular model group when, in fact, that is the least popular model configuration. In order to avoid this deception, if an advertiser wants to list the fuel economy of, say, the most fuel efficient configuration of a particular model, they must identify the specifications of that configuration and also (as noted above) provide the mileage rating of what is expected to be the model's most popular configuration, the specifications of which should also be identified. This provides the manufacturer with the opportunity to promote its most fuel efficient vehicles without deceiving consumers into believing that the most popular versions of that model will get the stated high fuel efficiency.

### 4. Claims for Alternative Fueled Vehicles/ Fuel Economy Range Claims

#### a. *FFVs*

If the availability of a flexible fuel version of a vehicle is mentioned in an advertisement, then the advertisement should be required to provide two mpg ratings, one for gasoline of the most popular model and one for the biofuel blend. If FFV availability is not mentioned, but exists, then listing just the gasoline ratings (per above comments) would be acceptable.

#### b. *Electric Vehicles-*

There is a label conversion formula to equate the energy efficiency of electric vehicles into a miles per gallon equivalent known as MPGe. Advertisements for electric vehicles should include the MPGe disclosure, as outlined above, to avoid deception. In doing so, an explanatory disclosure would be required. For example: "This vehicle does not use gasoline, the conversion from electric efficiency to miles per gallon is for comparative purposes." For plug-

in hybrid electric vehicles, the fuel economy ratings should include separate ratings for operation on gasoline (or other non-electricity combustion engine fuel) and operation on electricity, in equal prominence.

In closing, the FTC should require mpg ratings, as outlined above, in all advertising. Doing so will provide much needed and desired consumer information and help market forces drive significant improvements in fuel economy. Fuel use is one of the most expensive aspects of vehicle ownership and consumers have a right to fairly presented, non-deceptive information on the fuel efficiency of the vehicles they are considering before they buy them and thereby commit to purchasing the fuel they require. We applaud the FTC for seeking to ensure that the EPA mileage ratings, as they appear in advertisements, are not deceptive, but rather, informative. The requirements we have outlined above are critical to avoid the deceptive use of mileage ratings in advertisements and achieve the FTC's mandate to protect the public.

*Therese Langer*  
Transportation Program Director  
**American Council for an Energy-  
Efficient Economy**

*Clarence Ditlow*  
Executive Director  
**Center for Auto Safety**

*Jack Gillis*  
Director of Public Affairs  
**Consumer Federation of America**

*Shannon Baker-Branstetter*  
Policy Council  
**Consumers Union**

*Luke Tonachel*  
Director, Vehicles and Fuels Project  
**Natural Resources Defense Council**

*Robert Weissman*  
President  
**Public Citizen**

*Dan Becker*  
Director, **Safe Climate Campaign**  
Center for Auto Safety

*Jesse Prentice-Dunn*  
Representative, Beyond Oil  
Campaign  
**Sierra Club**

*Don Anair*  
Research Director, Clean Vehicles  
Program  
**Union of Concerned Scientists**