FEDERAL TRADE COMMISSION

16 CFR Part 432

Trade Regulation Rule Relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''Commission'' or ''FTC''), has completed its regulatory review of the Rule relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products (the ''Amplifier Rule'' or the ''Rule''). Pursuant to that review, the Commission concludes that the Amplifier Rule continues to be valuable both to consumers and firms and that certain substantive amendments to the Rule may be appropriate. The Commission publishes the results of the regulatory review and an Advance Notice of Proposed Rulemaking (''ANPR'') in a separate document elsewhere in this **Federal Register.** The regulatory review record suggests that a non-substantive technical amendment be made to the Rule to clarify the Rule's applicability to self-powered loudspeakers for use in the home. This document sets forth that amendment.

DATES: The effective date of this amendment is July 9, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Murphy, Economist, Division of Consumer Protection, Bureau of Economics, (202) 326–3524 or Robert E. Easton, Esq., Special Assistant, Division of Enforcement, Bureau of Consumer Protection, (202) 326–3029, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The Commission is publishing this document pursuant to Section 18 of the FTC Act, 15 U.S.C. 57a *et seq.*, the provisions of Part 1, Subpart B of the Commission's Rules of Practice, 16 CFR 1.7 *et seq.*, and 5 U.S.C. 551 *et seq.* This authority permits the Commission to make a non-substantive amendment to a rule by seeking comment and announcing the amendment in the **Federal Register**.

The Amplifier Rule was promulgated on May 3, 1974 (39 FR 15387), to assist consumers in purchasing ''sound power amplification equipment manufactured or sold for home entertainment purposes'' by standardizing the measurement and disclosure of various performance characteristics of the equipment.[1] As examples of covered equipment, the Rule lists radios, record and tape players, radio-phonograph and/or tape combinations, component audio amplifiers ''and the like.''[2]

On April 7, 1997, the Commission published a **Federal Register** Notice (''FRN'') seeking comment on the Rule as part of a continuing review of its trade regulation rules to determine their current effectiveness and impact (62 FR 16500). This FRN sought comment on issues relating to the costs and benefits of the Rule, what changes in the Rule would increase its benefits to purchasers and how those changes would affect compliance costs, and whether technological or marketplace changes have affected the Rule. The FRN also sought comment on the Rule's coverage of self-powered speakers for home use. Specifically, the Commission announced its tentative conclusion that the Rule covers self-powered speakers for use with home computers, home sound systems, home multimedia systems and other sound power amplification equipment for home computers.[3] The FRN noted that, although there were few self-amplified home entertainment speakers when the Rule was promulgated in 1974, self-powered speakers fit within the Rule's definition of covered products and are very similar to the examples given in the Rule. The Commission also solicited comment on additional issues related to coverage of self-powered speakers under the Rule, including whether the standard test conditions set out in the Rule are appropriate for such equipment.[4]

The FRN elicited six written comments,[5] four of which addressed the issue of the rule's coverage of self-powered speakers. Two manufacturers of self-powered loudspeakers for use with home sound systems expressed unqualified support for including such equipment within the Rule's coverage. One of these commenters stated that there is a great deal of consumer confusion regarding amplifier performance in self-powered speakers and that manufacturers ''are now engaging in the same type of misleading practices that led to the creation of the Amplifier Rule in 1974.''[6] One additional commenter appeared to support including such equipment under the Rule, but expressed concern that the Rule's current testing format and disclosures are not compatible with combination speaker systems consisting of two or more amplifiers.[7] The principal trade association of the U.S. consumer electronics industry supported applying the Rule to self-powered speakers and including such products in the scope of the Rule.[8]

On the basis of the plain language and intent of the Rule, as supplemented by record comments, the Commission has concluded that self-powered speaker systems for use with home computers, home multimedia systems, and home sound systems are within the coverage of the Rule. Self-powered speakers are ''sound power amplification equipment'' which can be ''manufacture or sold for home entertainment purposes.'' These speakers perform the same functions as the other amplification equipment listed in the examples cited in the Rule. Consequently, the Commission has determined to adopt a clarifying non-

[1] 16 CFR 432.1(a).

[2] *Id.*

[3] 62 FR 16500.

[4] The appropriateness of the standard test procedures for self-powered speakers is addressed as part of the ANPR appearing elsewhere in this **Federal Register**.

[5] The commenters were: Phillips Sound Labs [Phillips](1); Fultron Car Audio [Fultron](2); Klipsch Audio and Home Theater Products [Klipsch](3); Miller & Kreisel Sound Corporation [MK](4); Consumer Electronics Manufacturers Association [CEMA](5); and Labtec Multimedia Speakers [Labtec](6). The comments are cited as ''[name of commenter], Comment (designated number), p. __.'' All Rule review comments are on the public record and are available for public inspection in the Public Reference Room, Room 130, Federal Trade Commission, 6th and Pennsylvania Ave., NW, Washington, DC, from 8:30 a.m. to 5:00 p.m., Monday through Friday, except federal holidays.

[6] *See* MK, (4), P. 1; Klipsch, (3), p. 1.

[7] Labtec, (6), p.4. The commenter proposed that the Commission amend the Rule to specify a separate testing protocol and disclosure format for three-piece multimedia speaker systems comprised of a subwoofer and two or more satellite speakers that are powered by separate amplifiers that share a common power supply. This issue is addressed in the ANPR appearing elsewhere in this **Federal Register.**

[8] CEMA, (5), pp. 2, 7. This comment also recommended that the Rule be amended at a future date to incorporate a standard for measuring the volume of sound that a powered speaker can deliver into the listening environment, rather than the power that the amplifier can deliver to the speaker. This commenter stated that a voluntary industry standard for measuring the loudness of powered speakers was currently under development and could be incorporated into the Rule.

The Commission has concluded that Rule coverage of such self-powered speaker equipment should not be delayed until an industry standard is developed for measuring and disclosing the sound output of such speaker systems. The Commission lacks a sufficient basis to conclude that the as-yet unspecified testing and disclosure format would provide more useful information to consumers than would the Rule's power rating protocol. In addition, even if the industry should develop a loudness standard, some manufacturers may continue to provide power output specifications that would be covered by the current Rule. The Commission believes that the Rule's continuous power output protocol and a future industry loudness protocol could coexist in a complementary fashion should such a standard be developed.

substantive amendment to the Rule that adds self-powered speakers for use in home computer and sound systems to the list of examples of covered sound power amplification equipment provided in § 432.1(a) of the Rule.

This non-substantive amendment to the Rule does not raise any issues under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.* The amendment does not change the requirements of the Rule in any manner. It simply clarifies the scope of the Rule by naming as examples certain products that already are covered. The Commission, therefore, certifies, pursuant to section 605 of the RFA, 5 U.S.C. 605, that the amendment will not have a significant impact on a substantial number of small entities. Similarly, the amendment does not raise any issues under the Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501 *et seq.* The PRA requires government agencies, before promulgating rules or other regulations that require ''collections of information'' (i.e., record keeping, reporting, or third-party disclosure requirements), to obtain approval from the Office of Management and Budget (''OMB''), 44 U.S.C. 3502. Because the amendment does not impose any collection of information requirements, OMB approval is unnecessary.

List of Subjects in 16 CFR Part 432

Amplifiers, Electronic products, Home entertainment products, Trade practices.

For the reasons set forth in the preamble, 16 CFR Part 432 is amended as follows:

PART 432—POWER OUTPUT CLAIMS FOR AMPLIFIERS UTILIZED IN HOME ENTERTAINMENT PRODUCTS

1. The authority citation for part 432 continues to read as follows:

Authority: 38 Stat. 717, as amended; (15 U.S.C. 41–58).

2. Section 432.1(a) is revised to read as follows:

§ 432.1 Scope.

(a) Except as provided in paragraph (b) of this section, this part shall apply whenever any power output (in watts or otherwise), power band or power frequency response, or distortion capability or characteristic is represented, either expressly or by implication, in connection with the advertising, sale, or offering for sale, in commerce as ''commerce'' is defined in the Federal Trade Commission Act, of sound power amplification equipment manufactured or sold for home entertainment purposes, such as for example, radios, record and tape players, radio-phonograph and/or tape combinations, component audio amplifiers, self-powered speakers for computers, multimedia systems and sound systems, and the like.

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Benjamin I. Berman,

Acting Secretary.

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