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FTC Amends Warranty Disclosure Rule and Pre-Sale Availability Rule Allowing Warranty Terms to be Communicated Online

By Katherine E. Armstrong

Effective October 17, 2016, consumer product warranties can, [under certain circumstances](#), be disclosed online. Since 1975, the Magnuson-Moss Warranty Act and two rules promulgated by the FTC have governed how and where the terms of consumer product warranties are communicated to consumers. Specifically, manufacturers and sellers of consumer products that include warranties are required to provide consumers with detailed information about the warranty coverage in writing prior to the consumer's purchase of the product. Warranties must contain certain specified information about the coverage of the warranty in a single, clear, easy-to-read document and the information must be available prior to purchase.

Until now, the methods for providing this information included posting prominent signs in a store, in a catalog, or during door-to-door sales presentations. Beginning October 17, 2016, manufacturers and sellers of consumer products with warranties can, under certain circumstances, communicate the required information online. While these amendments may seem obvious, the Commission did not have the authority to make these changes absent a statutory directive.

The 2015 E-Warranty Act amended the Magnuson-Moss Warranty Act to allow warrantors to post warranty terms online, as long as they also provide a non-Internet based method as well, and to allow certain sellers to use an electronic method to display warranty terms pre-sale. To implement these changes, the FTC commenced a Rulemaking in May 2016 seeking comments on proposed changes to the Rule.

The final amendments to the [Disclosure Rule](#) define what it means for certain disclosures to appear "on the face of" a warranty posted online. [The amended Rule](#) specifies that, for a warranty posted on an Internet website or displayed electronically, disclosures statutorily mandated must appear "on the face of the warranty" and be placed in close proximity to the location where the text of the warranty term begins.

The amended [Pre-Sale Availability Rule](#) provides for the additional option of allowing warrantors to post warranty terms on websites if they also provide a non-Internet-based method for consumers to obtain the warranty terms and satisfy certain other conditions.

The Commission rejected a suggestion from several commenters that would have allowed sellers to refer consumers to a website where the warrantor has posted warranty terms to satisfy sellers' obligations under the Pre-Sale Availability Rule. It determined that the Congressional intent in enacting the E-Warranty was not to disturb the ability of consumers to obtain the full warranty terms at the point of sale.

The final rules can be found at [16 CFR Parts 701 and 702](#).¹

If you have any questions about this alert, please contact the author or your usual Drinker Biddle contact.

¹ [Disclosure Rule](#) (16 C.F.R. Part 701, titled "Written Consumer Product Warranty Terms and Conditions") and [Pre-Sale Availability Rule](#) (16 C.F.R. Part 702, titled "Pre-Sale Availability of Written Warranty Terms").

Retail Industry Team

Primary Contact



Katherine E. Armstrong

Counsel

Washington
(202) 230-5674
Katherine.Armstrong@db.com