

Preliminary Review of Industry Compliance with the Fairness to Contact Lens Consumers Act and Other Trade Practices

November 8th, 2005

On October 13th 2005, 1-800 CONTACTS received a letter from the Federal Trade Commission (FTC) notifying 1-800 CONTACTS that the FTC had received numerous complaints from eye care providers about 1-800 CONTACTS' inbound fax system. Copies of the FTC letter and 1-800 CONTACTS reply are available on our website at www.1800contacts.com/compliance. The FTC letter states that "specifically, complaints allege that its fax lines are often busy, and that prescribers are therefore unavailable to communicate with it regarding verification requests."

In response to this letter from the FTC, 1-800 CONTACTS conducted a thorough review of its verification systems and found that its inbound fax system (provided by a third party with capacity to receive more than a hundred simultaneous faxes) has maintained 99.96% availability to date in 2005. However, 1-800 CONTACTS points out in its reply to the FTC that with millions of orders processed each year by 1-800 CONTACTS, even this near perfect uptime could result in instances where a small number of prescribers find the system unavailable for a brief period of time. 1-800 CONTACTS suspends shipping during a verification system outage. 1-800 CONTACTS does not take advantage of any system outages to reduce the eight business hours available to prescribers to respond to verification requests as required by the Fairness to Contact Lens Consumers Act and the Contact Lens Rule (FCLCA)

1-800 CONTACTS also notes in its reply to FTC that "many prescribers perceive that 1-800 CONTACTS is the sole or primary online seller of contact lenses. We have encountered numerous instances in which complaints about another company are incorrectly attributed to 1-800 CONTACTS. We have had eye care providers call us to complain about improper shipment of lenses only to discover, once the details of the incident were shared, that the order was shipped by another online company and not 1-800 CONTACTS."

With this in mind, and after a thorough review of its own compliance with the prescription verification requirements of the FCLCA, 1-800 CONTACTS tested the practices of the second and third largest online contact lens sellers (Vision Direct and Coastal Contacts). 1-800 CONTACTS enlisted 100 test shoppers in states around the country to place orders with these retailers.

Based on our testing, Vision Direct, a subsidiary of Drugstore.com and the second largest online seller, appears to maintain the necessary systems to verify prescriptions consistent with the requirements of the FCLCA. Test orders placed with Vision Direct received verification requests, were held the required eight business hours, only Monday through Friday 9am to 5pm hours were counted, and every verification reply noting that the prescription was expired or invalid resulted in the order being canceled.

The test orders placed with Coastal Contacts (Coastal), the third largest online seller, revealed very different results. 1-800 CONTACTS has kept detailed records of every order placed, every call and fax made and received, every email, and every invoice. None of the 96 orders placed had a valid prescription. All orders should have been canceled. The results are as follows:

- 70% of orders received no prescription verification request (67 of 96 orders placed) as required by the FCLCA.
- 30% of orders received a verification request (29 of 96 orders). All 29 requests were promptly sent a return fax, well within the required eight hour delay, notifying Coastal that the prescription was expired. Coastal proceeded with 59% (17 of 29) of these invalid orders despite timely written notification that the prescription was expired.
- Eye Care Provider (ECP) information provided by customers was not validated. One test shopper input a pet store for their ECP and the order shipped. A review of the ECPs offered by Coastal on its website for New York City revealed that 211 of 680, 31%, were not valid ECP locations. These included residences, cell phone numbers, and other unrelated businesses.
- Verification faxes (sample attached) from Coastal indicated that Coastal incorrectly counted business hours as Monday through Saturday 8am to 6pm. The FTC rule clearly states that business hours are Monday through Friday 9am to 5pm and actual verified hours on Saturday. Regardless, Coastal does not appear to wait the required eight hours even on the minority of orders where verification is attempted. In some cases, orders received shipping confirmation emails within a few business hours after the orders were placed (with no reply from the prescriber authorizing shipment).
- Only 12 of 96 orders were correctly verified and held by Coastal.
- Some of these 12 customers, whose orders were held, received an email offering what appears to be an online eye exam (sample attached). The email states “in lieu of getting your exam right now, you may extend your prescription for 3 months by consulting one of our licensed eye care professionals. This will allow you to purchase and wear clean lenses until you have time to complete your next eye exam.”

The 9 “yes or no” questions contained in the email are all defaulted to “yes” and include questions like:

“do you see clearly out of your contact lenses”

“are you free of any discomfort...”

“are you free of any unusual discharge...”

“will you schedule an appointment to see your eye care provider...”

No eye care provider information is listed on the questionnaire. After completing the online questionnaire, our test shoppers received emails confirming that their orders, which had previously been canceled for expired prescriptions, would now ship.

- Some orders placed months ago which were held by Coastal due to invalid prescriptions were recently released for shipment at the end of October. It appears that even some of the few orders that Coastal properly cancels may be held in a queue for later release.
- Coastal has sold its own line of “Clearly” brand corrective contact lenses without prescriptions as if they were over-the-counter items. 6 of 6 orders placed by test shoppers for “Clearly” brand lenses (without a valid prescription and with no exam or fitting for “Clearly” brand lenses) have received no prescription verification. Four orders have already been received.

In addition to these apparent lapses in prescription verification, tests revealed the following:

- Coastal added a “tax” of approximately 6.5% on all 96 test orders (sample invoice attached). When asked by callers, Coastal claimed that this was a “fuel tax” and that the company was simply passing through price increases from the contact lens manufacturers to its customers. It appears from the invoices received that Coastal originally referred to this as a “tax” and at some point changed its invoices to refer to this charge as a “fuel tax.” A Coastal Contacts customer service representative indicated that Coastal keeps this “tax” and does not remit the funds to any tax authority. Coastal’s service representative did not offer to refund the charge.
- Coastal charged credit cards for more than the invoice amount. A number of test shoppers discovered higher charges on their credit card statements than their invoices (10 of 63 who have checked both invoices and credit card statements). The average overcharge was approximately 10%. Coastal did offer refunds to customers who called to complain about this overcharge.
- Coastal has kept funds on orders which have never shipped. Some customers who had orders held by Coastal months ago were charged at the time of the order and have still not been credited.

Coastal Contacts is a publicly traded company, currently shipping the annual equivalent of an estimated half a million orders per year. The cumulative effect of these practices gives Coastal an unfair advantage over other sellers that do not engage in these practices.

1-800 CONTACTS has long been an advocate of a level playing field. Whether dealing with eye care providers, vendors, or other alternative sellers, 1-800 CONTACTS has consistently supported a level playing field on which industry participants operate under the same set of rules. 1-800 CONTACTS will not stand by while other companies attempt to leverage an unfair advantage – in particular when that unfair advantage appears to involve violations of the Fairness to Contact Lens Consumers Act and mistreating consumers. 1-800 CONTACTS is expanding this review to include numerous other online sellers. In addition, 1-800 CONTACTS will be working with other leading companies in the industry to form an FCLCA compliance board to establish best practices for the industry and to conduct future reviews.



PRESCRIPTION VERIFICATION REQUEST

Please assist us in filling your patient's contact lens prescription by completing this form and faxing it back to us using our toll free number at 1-866-690-3282.

09/ /2005

Dear ,

The customer below has indicated that they are a patient of yours and has authorized Coastal Contacts Inc to act on his/her behalf in order to obtain his/her contact lens prescription. We ask for your assistance in completing this form to ensure that we fill their order promptly and accurately. If the prescription is correct, no action is required on your part. If it is incorrect, please provide the appropriate details within **8 business hours*** of receiving this fax and we will hold your patient's order and provide a copy of this form back to your patient.

Patient:

Item:

OD: Power: Base Curve :
OS: Power: Base Curve :

IF THIS ORDER MATCHES THE PATIENT'S PRESCRIPTION, NO ACTION IS REQUIRED.

Prescription is Incorrect:
Correct OD: _____
Correct OS: _____

Prescription is Expired:
RX Issue Date**: _____
Exam Date: _____
RX Expiration Date: _____

Not A Patient at this Office

There is a medical reason that this Rx cannot be used for the manufacturer's color line.

***Business Hours are Monday through Saturday 8:00am to 6:00pm.**

**Rx Issue Date is the date on which the patient receives a copy of their prescription.
Coastal Contacts Inc. is requesting confirmation of this customer's contact lens prescription under the Fairness to Contact Lens Consumers Act of 2003, Pub. L. No. 108-164.
Thanking you now for your assistance.

The Coastal Contacts Team
www.coastalcontacts.com
verification@coastalcontacts.com
Toll Free Fax: 1-866-690-3282

Dear ,

Thank you for your recent order with Coastal Contacts Inc (order number:).

Please be aware that your order is currently on 'Hold' and can not be shipped as we have received notice from your Eye care practitioner that your prescription has expired. We must request that you obtain a new eye exam at your earliest convenience.

*****No time to go and see your Doctor? Let us help at no charge!*****

In lieu of getting your new exam right now, you may extend your prescription for 3 months by consulting one of our licensed eye care professionals. (See below.) This will allow you to purchase and wear clean lenses until you have time to complete your next eye exam.

If your email program is not html enabled and is not able to submit from this email, you can go link to this URL to submit your request:
www.coastalcontacts.com/holdingRx/dsp_htmlSubmission.cfm?rxholdnumber=1048530 If you feel that there has been an error, please feel free to contact us at verification@coastalcontacts.com.

We appreciate your business and hope to hear from you soon so that we may ship you your order.

1. Do you see clearly out of your contact lenses? Yes No
2. Are you free from any discomfort with your contact lenses, either while you are wearing them or after you take them out? Yes No
3. Do you agree that you have never been diagnosed with an ocular illness including diabetes? Yes No
4. Are you free from any increased redness with your eyes in the past 6 months? Yes No
5. Are you free from any unusual discharge or mucous from your eyes? Yes No
6. Would you agree that you are currently not taking any medication that directly or indirectly affects your eyes or vision? Yes No
7. Would you agree that you do not sleep in your contact lenses? Yes No
8. Do you replace your contact lenses at least once a month? Yes No
9. Will you schedule an appointment to see your eye care provider for a routine eye exam within the next six months? Yes No

We appreciate your business and hope to hear from you soon so that we may ship you your order.

Sincerely,

Coastal Contacts Rx Department
verification@coastalcontacts.com

Ph: 1-866-333-6888
Fax: 1-866-333-6810
International Fax: 1-604-669-6855
International Phone: 1-604-669-1555

Subj: Coastal Contacts Order
Date:
From: orders@coastalcontacts.com
To:




CoastalContacts.com
over 50 million contact lenses delivered

ORDER CONFIRMATION

> Your Order Number

Dear

Thank you for your recent order from Coastal Contacts. This message is to confirm the following order:

Order Date:	Ship To:	Payment:		
		Invoice		
Product:	Description:	Quantity:	Tax	Subtotal
	Acuvue 2 OS: Power: - Base Curve: - OD: Power: - Base Curve: -	4 Boxes \$16.89	\$4.39	\$7.00
SHP-1001	Shipping (Priority Post)			\$6.00
TOTAL				\$7.00



Your order will be processed within 2 business days. Standard delivery takes 3-5 business days. To speed up the process, you fax a copy of your prescription to 1-866-333-6810. Please be sure to include your order number on your fax.

At Coastal Contacts, we want to continue to be your number one choice for contact lenses. That's why we've always got our Low Price Guarantee and fast, friendly service! Did you know that we also carry contact lens cases and solutions to help you care for your lenses? If there is anything else we can do to be of assistance, please don't hesitate to contact us.

Thanks again for choosing Coastal Contacts - Your Vision is Our Vision!

Sincerely,

Customer Care Team
Coastal Contacts

Toll Free Phone: 1-866-333-6888
Toll Free Fax: 1-866-333-6810
Email: customerservice@coastalcontacts.com
Website: www.coastalcontacts.com



THE COASTAL CONTACTS COMMITMENT

Coastal Contacts is dedicated to delivering the highest quality eye care products at the guaranteed lowest prices anywhere on globe.