

1976 S.C. Op. Atty. Gen. 158 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4334, 1976 WL 22953

Office of the Attorney General

State of South Carolina

Opinion No. 4334

April 21, 1976

*1 William B. McCurdy, Jr., O.D.

President

The South Carolina Board of Examiners in Optometry & Opticianry

Post Office Box 8

Camden, South Carolina 29020

Dear Dr. McCurdy:

Your letter of February 20 inquires as to the constitutionality of certain regulations relating to the advertising of ophthalmic goods and services which were filed by the Federal Trade Commission in the month of January in the Federal Register.

We have studied this matter carefully and thoroughly and have concluded that there is no basis for attacking the validity of the regulations on the ground of improper preemption of the field by the federal government. The interstate character of the services and sale of goods is generally viewed in a light most favorable to inclusion so as to bring it within the jurisdiction of the commerce clause of the Federal Constitution. The extension of a doctrine has been carried to extremes in some instances, notably in the field of insurance and in activities subject to various federal laws, such as barbecue stands, bowling alleys and other matters which would normally seem to be intrastate in nature, *i.e.*, wholly within the state.

The best recourse would, of course, be, as I understand has already been done, to submit objections to the proposed regulations within the time specified, which is May 3, 1976. It is my information that your National Association is proceeding in this manner.

With best wishes,

Very truly yours,

Daniel R. McLeod

Attorney General

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