



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

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December 14, 2017

Donald S Stein, Esq.
Greenberg Traurig, LLP
2101 L Street, NW, Suite 1000
Washington, DC, 20037

Re: Pürlin, LLC Advisory Opinion

Dear Mr. Stein,

This is in reply to your September 14, and October 27, 2017, letters on behalf of Pürlin, LLC (“Pürlin”) requesting an opinion that Pürlin’s bedding is not a product intended for uses subject to the Textile Products Identification Act, 15 U.S.C. § 70 (the “Textile Act” or “Act”), and its implementing regulations, the Rules and Regulations Under the Textile Fiber Products Identification Act, 16 C.F.R. Part 303 (the “Textile Rules” or “Rules”). You request confirmation that the Textile Act and Rules do not require Pürlin to attach labels to its recyclable bedding at the time it provides the bedding to institutions.

As discussed below, based on the facts provided by Pürlin, staff opines that Pürlin’s recyclable bedding does not fall within the definition of “household textile article” in Section 70(g) of the Textile Act. Consequently, in our view, Pürlin’s recyclable bedding is not covered by the Textile Act or the Textile Rules, and Pürlin may provide its bedding to institutions without labels.

According to your letters and statements to me, the issues present the following facts: Pürlin offers woven recyclable bedding (sheets and pillowcases) made from polyester fiber to healthcare, hospitality, and similar institutions. It does not offer this product to individual consumers. This bedding is not washed, but after one use is disposed of through recycling. Pürlin arranges for the bedding to be recycled into pellets, which are then extruded at high temperatures into sterilized fibers to be woven into hygienic recyclable fabric. Prior to recycling, any labels on the bedding must be removed to prevent label ink from contaminating the fibers produced through recycling. According to Pürlin, consumer recycling facilities cannot recycle its bedding.

The Textile Act prohibits the introduction into commerce of any misbranded “textile fiber product,” where such a product is “any household textile article made in whole or in part of yarn

or fabric,” or fiber, yarn, or fabric to be used in a household textile article.¹ The Act defines “household textile articles” as “articles of wearing apparel, ... beddings, and other textile goods of a type customarily used in a household regardless of where used in fact.”² A product is misbranded if it is not labeled with required information prior to being produced in the form intended for sale, delivery to, or for use by the “ultimate consumer,”³ defined as “a person who obtains a textile fiber product by purchase or exchange with no intent to sell or exchange such textile fiber product in any form.”⁴

Most bedding, such as cotton bedding, is of a type customarily used in a household and consequently falls under the Textile Fiber Act, even when such bedding is used in an institution, such as a hospital. However, Pürilin’s recyclable bedding is offered exclusively to institutions, and only they have access to Pürilin’s recycling services.⁵ Consequently, in our view, Pürilin’s recyclable bedding is not a household textile article and therefore not covered by the Textile Act’s or Rules’ labeling requirements.

We base this opinion on the specific facts. If, at any time, Pürilin or any other entity, offers similar recyclable bedding for household use, its bedding would fall within the Textile Act’s definition of a household textile product and must be labeled pursuant to the Textile Act and Textile Rules.⁶

In accordance with Section 1.3(c) of the Commission’s Rules of Practice and Procedure, 16 C.F.R. § 1.3(c), this is a staff opinion only and has not been reviewed or approved by the Commission or by any individual Commissioner, and is given without prejudice to the right of the Commission later to rescind the advice and, where appropriate, to commence an enforcement action.

¹ 15 U.S.C. § 70(h). The definition excludes products covered by the Wool Products Labeling Act of 1939, 15 U.S.C. 68 et seq.

² The Act covers such articles even where they are used outside of the house. For example, the Commission has required industrial work gloves and diving wetsuits to be labeled under the Textile Act. Magid Mfg. Co., Inc., 75 F.T.C. 808 (1969); Dive N’ Surf, Inc., 114 F.T.C. 798 (1991).

³ 15 U.S.C. 70a(d)(5).

⁴ 15 U.S.C. 70(m). You also suggest that Pürilin’s bedding is not intended for sale, delivery, or for use by the “ultimate consumer,” and therefore Pürilin could comply with the Rules merely by disclosing required information in an invoice or other document, e.g., a package label, pursuant to Section 303.31. You assert that the institutions buying Pürilin’s bedding are not “ultimate consumers” because, at the time they receive it, they intend to eventually exchange it for new bedding. We disagree with this interpretation. The Act implicitly defines “ultimate consumer” as a person who obtains a textile fiber product with no intent to sell or exchange it *unused*. Under the Act, for example, a manufacturer can provide unlabeled textile fiber products to a wholesaler who intends to sell the products unused to retailers. Under Pürilin’s contention, however, stores could sell unlabeled garments to be worn by purchasers, as long as they intend to eventually sell or exchange the garments. This interpretation would obviate the Act.

⁵ In fact, because its recycling services are only available to Pürilin’s institutional customers, it would be deceptive to represent its bedding as recyclable to consumers. *See* FTC v. AJM Packaging Corp., No. 1:13-cv-1510 (D.D.C. Oct. 1, 2013); *see* Green Guides, 16 C.F.R. § 260.12 (stating it would be deceptive to advertise a product as recyclable when recycling facilities are unavailable to consumers or communities where the item is sold).

⁶ Pürilin has represented that its woven recyclable bedding is a unique product, and that it has a patent pending for this product.

In accordance with Section 1.4 of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 1.4, your request for advice, along with this response, will be placed on the public record.

Sincerely,

Jock Chung