

FTC Care Labeling Rule Roundtable  
March 28, 2014  
Segment 5  
Transcript

FRANK GORMAN: OK.

ROBERT FRISBY: Do you want me to switch the chairs?

FRANK GORMAN: Thank you all. We're--

NORA NEALIS: I can sit here. I'll be anybody. I don't care.

FRANK GORMAN: We're going to start now on our third and final panel. We're going to talk about the reasonable basis and some other assorted issues. And if there's time left at the end, this panel runs until 3:40. If there's time at the end, we'll open up the floor to questions on any issues, including ones we've already covered.

I'd like to welcome our panelists. We have Mr. Augustine Chang for Nature's Best Cleaners, Marie D'Avignon from American Apparel and Footwear Association, Richard Fitzpatrick from Kreussler Inc., Adam Mansell from Wulff Consultancy, Seemanta Mitra from Intertek, Nora Nealis from the National Cleaners Association, Mr. Dart Poach from Don's Leather Cleaners, Mir Quddus from Whirlpool, Charles Riggs from Texas Women's University, Mary Scalco from Drycleaning and Laundry Institute and Stacy Sopcich from GreenEarth Cleaning. I'm Frank Gorman with the FTC up here with Robert Frisby, who has been here all day.

The first thing we'd like to talk about is the proposed changes-- the changes that we proposed to the reasonable basis standard. And these are non-substantive changes. They're, rather, clarifications by providing examples of situations in which you have to have-- test the entire garment, where it's reasonable to test the entire garment. GreenEarth came back with some additional proposed language just sort of fleshing out the examples go further. And I guess I'd just like to go-- we'll start with Mr. Chang.

Do you think that it's appropriate, either the proposal that the FTC made to provide some examples-- for example, the color of one part often bleeds into another, where you have to test the entire garment? Or, also situations where you don't need to test the entire garment. Are these illustrations helpful and would you expand them along the lines that GreenEarth proposed?

AUGUSTINE CHANG: Hello. My name is Augustine Chang. I'm the owner and operator of Natures Best Cleaners. And for the past 25 years I worked as a percholoroethylene operator. And then for the past five years, I did give myself as a 100% wet cleaner.

To answer the question, yes, it is necessary to test a garment to make sure that it satisfies the needs of the consumer so that what they really pay for is the garment that they should get. So therefore, testing is required, of course.

MARIE D'AVIGNON: Excuse me. I think clarification is always a good thing. Certainly, couldn't hurt to have a little clearer idea of what we're looking for. But I think the current rules where it says, testing isn't necessarily always required, if you have experience in this product or industry expertise you don't necessarily need to test. So to that point, I think that the rules that we have now for reasonable basis are reasonable. And it's a good name. But clarification can never hurt.

FRANK GORMAN: Right. And the clarification are those situations where you really can't just rely on your experience, where you really do need to test the garment. I guess would be one way to characterize that. Do you think that's appropriate?

MARIE D'AVIGNON: So I'm not sure exactly what--

FRANK GORMAN: That's all right.

MARIE D'AVIGNON: --says, but if, I mean, there's specific cases where you absolutely need to-- I don't know what exactly it says for the examples-- but I usually don't ever push for more testing than is necessary. And if it's something that is a testing requirement just to have a testing requirement, I don't agree with that.

RICHARD FITZPATRICK: So I think it's fairly obvious that we're getting a lot of garments coming into the service providers that have not been tested adequately. And that the first time they're being tested is when that dry cleaner or processing organization gets the garment. So I think additional-- some additional clarification and instructions on reasonable basis and improving that testing would probably be a good thing for the industry. And certainly, the examples you gave-- garments that are mixed colors, applique that's added after the fact by jobbers-- those are examples of when a garment should probably be reexamined and some additional testing be done.

ADAM MANSELL: I'm going to agree with the two previous speakers. I think giving examples is a very useful thing to do.

SEEMANTA MITRA: I definitely agree to that. Basically, the purpose of all this regulations is how the consumer-- the consumer is the ultimate receiver of the product and how the consumer is going to view things from the perspective of the product. So when we test, we need to test the final product that would ultimately go to the consumer at the point of sale. So there should be more examples or specifications to say that. And if there are parts in the products that will cause bleeding, that definitely needs to be verified, A, either by historical evidence or by testing, would be the other option.

And I would agree with Marie that you don't have to necessarily test to test, because there are things, for example, protein fibers, they never pass bleach test. It's obvious. History, historically, have shown that protein fibers would, like wool and silk do not pass the bleach test. So if you keep on testing that it's redundant testing, you wouldn't add value to your material.

| in essence, I would agree with the speakers here that there should be a reasonable basis, and the reasonable basis can be based on either experience, research, records or testing.

FRANK GORMAN: I think everybody whose addressed the question so far would have hit on this already, but just for the rest of the panel, if there are any examples given, either in our proposal or in the sort of additional proposals by GreenEarth that you think are objectionable, please flag those. Or if there are additional examples you think that we should consider throwing as well-- but thank you.

NORA NEALIS: I think we need a reasonable basis and I think examples are a good way since people don't necessarily comprehend the same message when they read the same instruction. So an example is always a fine way to highlight to them what they may not have thought applied to the situation. It's a good way to try and solve a final problem for the consumer.

FRANK GORMAN: And these are, of course-- this is a reasonable basis for the labeling. Mr. Poach?

DART POACH: I represent the Professional Leather Cleaners Association. The PLCA recommends that the whole garment be taken into consideration for care label instructions. We recommend that any item containing suede, leather, fur, be considered to have a professional leather cleaned only label on it.

MIR QUDDUS: What I have heard about-- I haven't read it myself-- about the examples that is given for a full garment, I would think that's really appropriate for us to have that to avoid confusion and also avoid problems with the product.

FRANK GORMAN: OK. Thank you.

CHARLES RIGGS: My interest on this topic was mainly with regards to the reasonable basis for the do not St. Andrews Cross provision. But I have learned, in terms of dealing with students, that once you start listing examples, if you don't include the one that comes to their mind, then that's not covered.

FRANK GORMAN: Are there others? Well, I mean that is the risk. The longer the list of non-exhaustive examples you give, the more people think that that's an exclusive list.

CHARLES RIGGS: Yes. Yeah. And anything else is allowed.

FRANK GORMAN: Right. And that is not the intent.

MARY SCALCO: Certainly we support that. For the garments that are outlined in the FTC ruling, GreenEarth's comments as well, those are all types of apparel that have come in where we have had problem on the professional level. So they should be highlighted that they need to be tested in the entire garment rather than components.

FRANK GORMAN: And what I think I'm hearing is this would not impose any additional burden because this is how people understood the reasonable basis anyway. That if you had a garment where one part often bleeds into another, you would test the whole garment, you wouldn't just rely on the separately. The testing for each type of fabric separately. So this is not imposing any new burdens. It's just clarifying in case somebody doesn't understand that.

STACY SOPCICH: Well, you're asking the wrong person. I'm not a garment manufacturer. But I would ask a garment manufacturer if that was their understanding. I'm not sure it is.

MIR QUDDUS: I can support that because I used to work for a testing company and where-- not only people-- the manufacturers ask for you to test it on a specific part of the garment, but they also ask you to look at the overall garment, how changes takes place. Because it is important. They are not the same all the time.

FRANK GORMAN: Stacy?

STACY SOPCICH: I think, referring to the GreenEarth recommendations, it was really for the good of the industry. I mean, all we were trying to do is say, these are-- what the Commission is proposing are excellent. We heartily endorse. And to the degree that examples provide better clarification, we just think the list could be more inclusive of some of the known problem items. And it really relates to the process being used and the solubility of the material. So there are solvent soluble dyes and water soluble dyes. There are-- any plasticizers that are being used that help a garment stay soft, cleaned and perk. It's going to be a serious problem.

So because we know this already and it's a known issue, I think that it makes just useful sense for everybody collectively to have a better reference point in the law of things that might require a clear reasonable basis for the recommendation. I'm not sure that we as a company understood that it was the whole garment always being tested so much as problem items that require reasonable basis.

The only thing that we're really acutely aware of is a need for a whole garment testing that seems to be irrefutable, is the current issue with black and white Spandex, poly Spandex specifically. It's really not an issue except for poly Spandex where it's a very dark color sewn adjacent to a light color.

The AATCC is already adding a note to all of their laundering test methods to say that the test methods can't predict dye bleed and it's going to be looked at on the dry cleaning side too. And so these are known issues. Seems reasonable that Spandex, in particular-- all elastanes-- be tested as a whole garment because there's no solution right now that would predict it with a test method.

FRANK GORMAN: Thank you. I guess if there are any manufacturers in the audience, representatives of manufactures in the audience, who think that this-- only if you think that this would create a problem or oppose additional burdens.

AUDIENCE: I think I would.

FRANK GORMAN: You would?

AUDIENCE: [INAUDIBLE]

FRANK GORMAN: Well, the proposal is that-- let me see-- reliable evidence for each component part of the product in conjunction with reliable evidence for the garment as a whole-- that you can rely on that-- provided the test results showing that a whole garment can be cleaned as recommended may be required where, for example, the color of one part often bleeds on to another when the finished garment is washed, a dye that is known to bleed, or beads, buttons or sequins-- and the GreenEarth proposal added some additional things that-- that are known to be damaged often in dry cleaning are used or a garment contains several fibers, fabrics or components not previously used together.

And then GreenEarth added-- its proposal-- added that a garment containing water soluble dyes, wool, natural fiber, or skins when wet cleaning is the recommended cleaning method. So if you're proposing wet cleaning for those things, then you would need to test the whole garment. In that context, you see that that imposes-- I don't know that everybody actually had looked at this for this panel so--

AUDIENCE: I didn't get to-- I'm just hearing the wording now. So just basing my knowledge on what my company does, we typically test fabrics, not finished garments. Unless it's children's garments because we have to test it for CPSC. So it could add an unnecessary burden in-- for our cost side because to test a whole garment is going to cost more money. And I know our testing people down there could probably fill you in on that part versus testing the fabrics.

But when we do have a garment that is, like you said, mixed colors, it is tested together. So the exceptions that you're giving, we will make an exception to our normal testing protocols for those type of garments. As for the trim, to test a whole garment with a trim on it, no. We'll find out from the trim supplier how it reacts to certain chemicals, and we'll use that in our care labeling.

FRANK GORMAN: I guess what I would suggest is that if people haven't focused on this particular proposal-- the record is open until--

ROBERT FRISBY: April 11.

FRANK GORMAN: April 11. So if you want to get-- if you want to go back and talk with your testing people, anybody out there, and put in some additional evidence, we would appreciate that. But I think right now we'll move on to the next issue on our mop-up panel. And was there something else on that?

Water temperature and home washing-- we did not have a proposal on changing our rule in any way regarding water temperature. But it was brought to our attention that our temperature ranges are different than the recent AATCC ranges proposals. And there's also a big difference between European washing machines, which have water heaters built into them and really control the temperature, and the washing machine I have at home where the hot water barely comes in at all

and-- it just depends on what the temperature of your hot water is, what the relative flows of your hot and cold feeds are. And there's really very little control.

And my broad question for the panel, to the extent that you have something to say on this-- you don't have to respond to something if it's not relevant to your particular industry-- is, does this create real problems for consumers, for industry or for cleaners? This discrepancy between the ranges that we have in our rule and the ranges that kind of exist out there? And there's some overlap. Right? So-- Augustine.

AUGUSTINE CHANG: OK. Water temperature. I think it has a lot to do with what you do with it. You can launder dark colors in certain hotter temperatures it ruins the dye. And like you said earlier, how long does it take for water to fill up and how cold does it get? Does it really get warmed up and what kind of soap does it also use? These things makes a lot of differences when you're doing actual home laundry.

Like I said, I've been doing this for 20 some odd years as a chemical and then five years as wet cleaners. When you go a wet cleaning any kind of garments, temperature is very sensitive. So we usually work plus minus a few degrees. So if that threshold is not there then garment doesn't clean as well. So earlier on, I think the professor said, you would have to assert the right temperature, otherwise it won't clean. And I believe that's true. And putting some sort of a range of temperatures important to get the maximum cleaning on this that you need for your garments.

FRANK GORMAN: Right. And what we're talking about here is for home washing where, again, the home washing machines for our hot, warm and cold instruction, and people's home washing machines, in the United States at least, have really broad ranges. And our rule ranges-- and I guess the question is, is a fix needed for that and what would that fix be?

AUGUSTINE CHANG: In home washes, everything is different so you can't really put a temperature on it because you can't really measure the temperature at home unless you have a thermometer and it actually measures it.

MARIE D'AVIGNON: I don't think I really qualify to speak on that.

RICHARD FITZPATRICK: I wouldn't have anything to add for that.

SEEMANTA MITRA: Well, basically what we have to look at is, if you take Europe, we have different spinning conditions for the home washing machines-- agitation speeds, those are different-- that can be different from the North American or US test method-- process that we had. In terms of, the AATCC-- and Mir can speak more on that. He is the, actually, chair of the AATCC committee for that. He's going to say, AATCC is working on a monograph on the wash temperatures.

So what-- my suggestion would be to adopt something that's nationally adopted by the governing bodies here, like the AATCC, as the wash temperatures because that would prevent inconsistency between what the FTC propose and what the AATCC proposes. How significant would be that, we can only see after we do the testing to find it out. But in terms of very dark

colors maybe, or in terms of colors that are considered color block items-- like you have a dark thing with a white body-- it might be a significant that difference in temperature. So, in general, what we have always done, whether it's a CPS regulation or an FTC regulation, if there are no government test standards, we automatically deployed to the ASTM or the AATCC standards for testing.

NORA NEALIS: I'm a wash and fold girl.

FRANK GORMAN: OK.

MIR QUDDUS: OK. Basically this was kind of like highlighted by us because AATCC has been working on the test standard for testing the color fastness and multiple other testings where we rely on a monograph to define what the washing condition, the washing parameter should be. And we look at the washing machine that can be a consistent tool for looking at the performance. And this is a performance that would be insured of not only just North America, but also globally because this test standard that we formulate is used globally to test the garments that are coming in or the government's that'll be produced for export to US.

So AATCC came up with temperatures that are in line with the temperatures, or within the range that FTC guideline provides, FTC 16 CFR provides, which is the cold-- we have a temperature for cold. We have a temperature that falls within that range of the warm, and we have a temperature that falls within the range of hot. So that's-- the labs, without having to look for which temperature to wash their garments-- and I kind of piggy back on the statement that Mr. Chang made-- is that you need to find the temperature within a given small range. So AATCC range, you know-- just one example would be that cold that FTC defines has the range of 54 degree Fahrenheit, whereas AATCC has a 15 degree Fahrenheit. Basically, you can now test something with some consistency and reasonable basis that we're talking about that with repeat performance that can be compared globally and it can be something that Seemanta was talking about, that you can put a grade of 3.5 or 4 and can be reliable about it.

So what we assisting now, FTC, is a route to implement this protocol where there is no route right now. Because if you go to a consumer laundering machine that is used in North America that you cannot find this temperature if you don't know how to find. The labs used-- the AATCC recommended test machines-- but there is no way of putting this. So we came up with a programmable cycle that you can now find the temperature which, Mr. Chang said, you cannot find it in the washing machine. And it's true that you cannot find it unless it's programmed.

So this is a way, if we refer like a sentence saying that in terms-- like, I have looked at the website. There's some statement or disclaimer about the care symbols. There we can add this term. Like, the terms can be washed-- sorry, the items can be washed by following the washing protocol recommended by American Association of Textile Chemists and Colorists Monograph N6. That should give the labs to go where to find this washing protocol and you don't have to do much of anything.

FRANK GORMAN: Right. I mean, we can't, obviously, change the shape of the washing machines that are in consumer's home, and they need to get-- this is really about the testing labs

knowing what temperature to test out so when a consumer uses a typical washing machine and they wash it on cold, it'll--

MIR QUDDUS: Correct.

FRANK GORMAN: --or warm-- OK. Thank you. That was very helpful.

CHARLES RIGGS: I've been involved long enough I remember some of the history. For testing purposes, you have to control the temperature. That's a given. But when you start comparing our testing temperatures to home washing machine temperatures, there's always been a big disconnect, especially when it comes to cold. The testing range that we have currently for cold is 65 to 85 degrees Fahrenheit.

And those numbers came from, historically, the detergent manufacturers gave us the lower range. Below 65 there were activity, solubility products with their detergents. And 85 was the upper range because there are many parts of the country-- I live in one of them-- where cold water in the summer times is, in fact, 85 degrees. But at the consumer level, cold water is what they get out of the cold water pipe depending on the season, and it changes greatly. The hot water is limited by the hot water heater and where it's at. And then for warm, you get a mix of the two.

Used to be the machines were manufactured to give you a 50/50 mix. Now they've cut that to a 60/40 mix to try to save some energy. So unless the machine has temperature control or a cold guard, you only get those mixing ratios based upon what is the water supply temperature hot and cold. And it's all over the place.

FRANK GORMAN: So do you--

CHARLES RIGGS: But for testing you've got a narrow it down. And I think this cold one, below 65, is probably not a good temperature to wash. Regardless. If your cold water is 65, you probably should set the machine to warm.

FRANK GORMAN: Is-- do you see a need to change our rule process?

CHARLES RIGGS: I think you should probably have the temperature specified in the rule matching the temperatures that are specified for testing, even though these may not be the temperatures in any given consumer's laundry.

FRANK GORMAN: And you would agree with that?

MIR QUDDUS: No. What we have come up with, what Charles mentioned, that the temperatures range is, for cold, is FTC has 32 to 86, with a range of 54. And AATCC has a cold that is a ranges 52.5 to 67.5, which falls within the range of FTC. So that's-- you don't have to go overhaul because we fall within your range.

Then it goes to the warm. The warm is 87 to 11 for FTC, with a range of 24. And AATCC has a warm of 78.5 to 93.5 with a range of 15, all within the range of warm as well. Then we have a

cycle that we call extra hot-- but the nomenclature is not a big deal. The FTC hot is 112 to 145, and our hot is 122.5 to 137.5. Now, this cannot be done just by going to the machine and say, cold, hot and warm. There's no such thing. So this is programmed and the cycle is consistent from machine to machine, year to year. So basically, the performance is now consistent on a wash cycle but the temperatures changing. So that gives the consumer touch and feel and everything, but with the control of temperature. So that's-- we can provide that.

CHARLES RIGGS: There are temperatures specified on both the ASTM care symbols and the ISO. And I think they're the same. And the ranges are a little different, but I think you've got a match. Either your symbols range, test condition range-- I don't think FTC should try to redefine these things that are so vague anyway, and work from the testing requirements. Because we could always have an explanation back to the consumer that your water is too cold to be cold wash. Which is probably the case in Minnesota in the winter time.

FRANK GORMAN: Mary, do you have--

MARY SCALCO: I have nothing to add.

FRANK GORMAN: Stacy?

STACY SOPCICH: It only makes sense to defer to the technical experts who are providing this missing link to the testing believed to be universal. That makes sense to us.

FRANK GORMAN: The one thing that strikes me as being problematic from a consumer viewpoint, we're talking about the language on the label. There's not an extra hot. People don't have an extra hot setting on their machine, so an extra hot care label wouldn't be particularly valuable. If we were to match specifically, if you were to line up perfectly with your--

MIR QUDDUS: No. Actually, the way-- I would not worry about this part. This extra hot. It's a terminology. Because we also have one, two and three-- like, one, two, three, four. Those are the test symbols that we also-- like, we have nomenclatures that we say, one, two, three, four. Up to four. So those are like Roman numerals. So it really doesn't matter how we call it, the cycle means, per se.

But all it is temperature, because when it is referred for FTC, we definitely would have each of the FTC temperatures will be tested based on this. Cold would be this temperature, hot would be this, and that would be referred to within our AATCC website. So it will give you a reasonable basis to test these things with what you're talking about, examples that-- we will have the very good--

FRANK GORMAN: But no one's proposing that we have an extra hot wash instruction.

MIR QUDDUS: No. No. No.

CHARLES RIGGS: I think the extra hot that's on the labels was a concession to the European market where washing temperatures are typically quite a bit hotter than they are in the US. If we

had an extra hot, you can do that at a consumer level by cranking up the hot water heater, but I don't think that's a recommendation that we would want to pursue. And probably would be of little benefit to the types of laundry that the average American consumer does at home. European situation is somewhat different.

FRANK GORMAN: Does anybody have anything further on water temperature? No? OK. Also, and I think we'll start with you, Dart, on leather care issues. As you stated earlier, that your organization favors labelling leather goods with an instruction for leather clean and refinish by professional leather cleaner only. And that would include garments with trim, leather trim. I guess-- can you flesh that out what you envision, and then we'll get comments from the panel.

DART POACH: Sure. We'd love to have the proper care label on all leather garments. But in this case, it would be under appendix eight, number eight. As you stated, right now it says, have cleaned only by a professional cleaner who uses special leather or suede care methods. And that's-- I think most of the manufacturers are putting the professional clean by a leather expert already. So it may not be an issue.

But the big thing that's missing is the refinishing part. It's one thing to clean it, but most of these products need to go over to the refinishing department where dyes and oils and waxes and shines and water repellencies and of that nature needs to be done, so we can make that garment as new looking as when it was bought. And that's the reason why we wanted to have it changed to, very simply, leather clean and refinish by a professional leather cleaner only. Whether that's trimmed with leather, suede or fur, or all leather or suede garments.

FRANK GORMAN: OK. And--

SEEMANTA MITRA: I do have a question because under the Federal Trade Commission textile care labeling rule, leather is not considered a textile material so it really doesn't come under the scope of the regulations. So what-- are you proposing that leather labeling be included as part of the care labeling rule under the--

FRANK GORMAN: To be clear here, we haven't made this proposal. This is a proposal that--

SEEMANTA MITRA: No, no. I'm not asking-- I'm asking--

FRANK GORMAN: Oh, sorry.

DART POACH: Yeah. We understand that the non-textile isn't required, but under textiles that have trim, there is a requirement.

SEEMANTA MITRA: Well, the clarification, at least that we have got, is that if the majority part is textiles, you don't have to worry about the non-textile part of it in terms of care labeling.

DART POACH: Where does the FTC stand on that? You wrote the appendix A number eight that states have cleaned only by a professional cleaner who uses special leather or suede care methods.

FRANK GORMAN: I'll defer to you.

ROBERT FRISBY: The rule provision itself doesn't really address leather directly referring to the appendix. But for a textile garment, which would include-- could include some leather, the instruction should cover the entire product. so--

DART POACH: That's the basis we're going on. What he just said.

FRANK GORMAN: Any comments?

SEEMANTA MITRA: No comments.

MARIE D'AVIGNON: I want to say, I've never heard a manufacturer complain to me about this, nor a consumer, and I get a lot of very strange consumer complaints because we have an open dialogue on our website. So I don't necessarily see a need to change the rule. And, as was mentioned, it doesn't necessarily fall under textiles so we don't normally look at it in the care labeling sense. I would say, I don't necessarily agree with adding or changing the language as he recommended.

DART POACH: It seems to us at the PLCA that most of the manufacturers understand and show that understanding by the care label that they put on there now. Because I would guess that most of the labels do state have cleaned by a professional leather cleaner if it's a textile and has the leather or suede trim. We see a lot of them coming through the dry cleaner who I will pick up and deliver to, or that most of the members of the PLCA does. So it may not be an issue.

We had just, when we got invited to make comments, we could see that the way that it's read now that the key word is the word refinish. Because that is definitely an art that an additional layer of professionalism that the typical well-meaning dry cleaner does not have at their disposal, except through a wholesale leather professional leather cleaner.

FRANK GORMAN: Maybe I should ask the question of the panel this way, including you, is there evidence that, as things stand now-- and I think you already spoke to this, Marie-- that there's a problem. That, in fact, leather trim garments are not being referred to appropriate professionals and garments are being damaged? Has anybody seen any evidence of that?

AUGUSTINE CHANG: Can I comment on that?

FRANK GORMAN: Please.

AUGUSTINE CHANG: Sometimes leather trimmers comes with different colors. So in order for, at least our provider, want us to sign off a release saying, if it gets ruined then it's your fault because you haven't signed it off. So this is where the consumer gets lost. Its attractive to wear, nice to look at, but then it's not serviceable. Pay \$300 or whatever and can't service them unless they sign a release saying, go ahead and ruin my garments.

So those are the little issues that most of the dry cleaners will face on a regular basis. And we are actually a front line between the manufacturer and the consumers. In many cases, doesn't actually go through to the manufacturer because, one, we're just too busy working, number two, sometimes it's not worth it because we can't find a manufacturer to send these garments back to. See?

So usually, wet cleaner or the day cleaners, issue what are called store credits or end up giving refunds or reject the item. So the consumer would go to another local cleaners for this garment to be serviced. Same issue because they're serviced by the same leather providers.

FRANK GORMAN: Anyone else? Richard?

MARY SCALCO: I guess I would have a comment unless you're going this way.

FRANK GORMAN: I don't have to.

MARY SCALCO: No, no. Please.

RICHARD FITZPATRICK: I was just going to say that, in terms of regular dry cleaners servicing these types of pieces that have small amounts of leather or fur trim, we see a lot of that. We don't see as much damage as we had when perc was such a dominant solvent. With the advent of more gentle solvents like GreenEarth, where these pieces seem to perform OK in the cleaning process-- yes, these cleaners don't have the ability to refinish a lot of this stuff, but a lot of this stuff doesn't need to be refinished. That doesn't mean that they shouldn't be using a professional leather cleaner to do it. I'm not certain it's an issue from a--

FRANK GORMAN: Do you see evidence that an instruction is needed-- additional instruction is needed?

RICHARD FITZPATRICK: I don't see evidence that there's-- that you need additional instructions, although that's up to you whether you want to put it.

SEEMANTA MITRA: It's very rare to see a leather trim. It's mostly imitation leather trims that you mostly see on those garments that occupy not a significant portion of the product. And those are covered, as you mentioned, in the overall care instructions of the product for the wearing apparel.

NORA NEALIS: We get a fair amount-- and I could defer to Alan on this-- of leather trimmed garments coming into the lab for analysis. Now, some of that could be the price point that drives it. Some of it could be that it was-- they didn't catch the trim because oftentimes the trim is not that-- doesn't jump out at you. It might be an epaulette, it might be a cuff. Oftentimes there will-- a cleaner doesn't have to be a professional leather cleaner with refinishing capabilities to handle those garments well, depending on whatever else they may have at their disposal at the plant, including maybe a good tailor that would take it off and put it back on.

And that's a professional judgment call. It probably deserves some exploration but by and large, as was said earlier, because so many of the solvents are less aggressive now, because wet cleaning offers a lot of opportunities on the leather side, the amount of reliance that cleaners put on sending stuff off to a professional leather cleaner has shifted in recent years.

FRANK GORMAN: All right. Let me-- I'll end with you, but anymore comments down this way? I know Stacy--

MARY SCALCO: Well, I think, as we've said, and I think what Don alluded to, is that the people that are making 100% leather garments--

FRANK GORMAN: They're out.

MARY SCALCO: Well, because they-- they're not covered under the care label, they have come up with our own label that says, take to a professional leather care. So those garments are covered by the professional leather care cleaner. It's the ones with the minimal-- if there's trim, if it's 100% leather trim-- which I would agree, and the majority of instances that you see with a cloth garment, it's not 100% except in very expensive items. Normally it would be the imitations. And as Rich said, with the newer solvents, they can be handled. The imitations can be done in regular dry cleaning.

FRANK GORMAN: Stacy?

STACY SOPCICH: All natural skins have a basis of natural oil and so a degreasing solvent like perc is going to strip that oil. That's understandable. But as has been said, there are alternatives. Hydrocarbon isn't a huge problem with leather, and silicone certainly isn't at all.

The real issue, as Dart said, which is when it's a grained leather that's been surface dyed or painted, then you have a problem and it needs to be addressed by a professional leather cleaner. But that doesn't mean that anything with leather on it needs to be addressed by a professional other player with a dyeing booth and all the training they need to handle it. But that would be my view.

FRANK GORMAN: And, Dart, I'll let you have the last word on this.

DART POACH: It's not only the changes that occur in the cleaning, but you also have the consumers wear and tear on it too. So some of the finishes could come off in a regular cleaning whether it's a month old-- but if it's three years old then you have the wear and tear that the professional leather cleaners can do. And that simple change of refinish and being cleaned by a professional would take care of the-- protect the consumer.

And that's not also to count the analysis, the ones that have come in to NCA and DLI, where there's been a professional dry clean, or dry clean only, with this trim on it and it bled or it took all the finish off. And it's-- the report says it's a bad label take it back to the store. Because it says dry clean only and it didn't come out and it had leather. So if we're talking consumer protection, that would be a very easy fix to cover both those.

To expect the consumer to pay for the remanufacturing of that garment by taking the leather trim off, they might as well go buy four more of those items for the cost that would take, if you could find anybody that wouldn't even do it.

FRANK GORMAN: Thank you. We're going to move on. There's one more issue then I'm going to throw it out for general comments. And that is that we're proposing to update the definition of dry cleaning to remove the reference to organic solvents and to drop the reference to fluorocarbons which are no longer used. And we're also adding additional examples of solvents. And, I guess, just one question about this, one compound question about this, and this time we're going to go this way just to mix things up. Do you support the change to the definition and why or why not? And what would you do differently?

STACY SOPCICH: Well, certainly, we do definitely support the definition. GreenEarth silicone has been available since 1999 so we heartily endorse the change in the definition to non-organic solvents. We think it's terrific and certainly in the right direction.

FRANK GORMAN: Mary?

MARY SCALCO: Support.

CHARLES RIGGS: I would strongly endorse the idea or the verdant working of non-aqueous for the solvents. And then the water process is an aqueous. So you have two extremes, aqueous and non-aqueous. You get into organic and that gets--

STACY SOPCICH: Yep. That's too much science.

CHARLES RIGGS: --confusing in terms of the molecules.

FRANK GORMAN: Let me go back to start over, add a element to the question which is, do you support Dr. Riggs proposal of having aqueous and non-aqueous as-- it's not the definition we proposed, it's a little bit different. So--

STACY SOPCICH: Well--

FRANK GORMAN: I think it solves a sort of problem.

STACY SOPCICH: Is there a distinction in the meaning between solvents other than water and non-aqueous?

FRANK GORMAN: I mean-- does our definition take care of it for you?

CHARLES RIGGS: I thought yours had-- still had the word-- what is the word that you have in there?

SEEMANTA MITRA: Organic.

FRANK GORMAN: A commercial process by which soil is removed from products or specimens in a machine which uses any solvent excluding water. And then we have examples. The process may also involve adding moisture to solvents.

CHARLES RIGGS: I think you can eliminate the examples and just say non-aqueous solvents. That excludes water itself and you don't need the examples. The examples of which we are seeing are changing. You don't have every-- the examples become open-ended.

FRANK GORMAN: Do you see a benefit to the examples?

STACY SOPCICH: Well, I don't know. I guess it's a matter of consistency. In the past, the FTC has always based the examples on what was available in the market at the time and so it referenced perc and petroleum specifically, because that was all that was available. Silicone is now available. Solon K4 is a new product that seems to be having some good traction. So I think it makes sense to widen the definition and go on record with the one that you know that are commercially available.

FRANK GORMAN: Right. The downside of that, I think, is that-- new-- as new things become-- it's not an exhaustive list, but some people may read it that way. And if you put in the examples that are extant today, by the time its published in the Federal Register, it may be out of date.

STACY SOPCICH: It's just the precedent the FTC has always had. That's it.

CHARLES RIGGS: Our last round table was 1999. So if that's our time interval, we will be out date next review.

FRANK GORMAN: I was doing something different at the FTC then.

MARY SCALCO: But I would think, using your example there, if this is for consumer education, if a consumer would think if it was not listed it would not be covered, that would not be a good thing.

FRANK GORMAN: Well, I don't think consumers read our rule. They read the label.

STACY SOPCICH: Well--

MARY SCALCO: OK.

STACY SOPCICH: Well--

MARY SCALCO: You would hope you would get there with some consumer education.

STACY SOPCICH: Right.

FRANK GORMAN: OK. Mir?

MIR QUDDUS: I would say non aqueous would be more general and examples probably would be more specific. So not generalize probably is better way to go.

FRANK GORMAN: Dart?

DART POACH: I personally agree.

NORA NEALIS: Non aqueous works.

FRANK GORMAN: You don't like examples?

NORA NEALIS: The problem with examples is they can be limiting. And while they can also be illustrative, the discussion becomes, is that an exhaustive list or is that an all-inclusive list? And it's-- I think, for our purposes, since this part, as you said, really isn't consumer driven as much as it is label writer driven and industry driven, that non-aqueous is probably a smarter choice.

SEEMANTA MITRA: I agree with what Nora said. Possibly, the examples might be a little limiting to say that specific to those types of non-aqueous solutions.

ADAM MANSELL: And I don't have a dog in this fight.

RICHARD FITZPATRICK: I don't see the examples harming the definition. But if they weren't included, I also don't think there would be any damage.

MARIA D'AVIGNON: I think updating the definitions to today's standards is certainly important to keep up with the times and technology we have. But I'll leave the aqueous discussion to the cleaners.

AUGUSTINE CHANG: I think all of us are really familiar with water. What do we do with water? I use water to clean my baby's bottom. I'm sure that you guys with kids would have done that. And it's the safest form of cleaning solvent. The reason I call it solvent is because it's a chemical composition, H<sub>2</sub>O. Very simple chemical that we use to clean everything.

And as far as garment caring process is concerned, Chinese has been cleaning silk garments for thousands of years without any issues or problems. Leathers were cleaned using water, wools were cleaned. Look at Irish with their kilt. So if you look at-- really think about what water can do, we have here representative from a K4 from silicone-based. We don't have any representatives for water here because-- I'm almost done.

FRANK GORMAN: No, I was going to say, we've had professional wet cleaners represented.

AUGUSTINE CHANG: I mean, I'm talking in terms of chemical. Water. So water is very cheap, inexpensive, we don't require any annual commitment, there's no fines to be paid, there is no EPAs to be concerned about, and there's no hazardous waste that we create. And we don't have any hazardous materials that we create to be dumped somewhere else.

As I heard everyone talking today, everyone has some sort of a sense as to imputing water cleans things very well. And there another saying that, in order to get rid of a lot of the grease stains that we have to use solvent, and talk as if we are creating some sort of a hazardous situation in our store. But if you really look at it carefully, there are many different home remedies or something that's very simple citric chemicals or fruits that you can use to get rid of l-based stains.

So if you don't use it as looking at as to how bad wet cleaning and, therefore, we are going to put it aside, that as a dry cleaning or professional wet cleaning, think the other way. Look how many people have cleaned their items using water. Thank you very much.

FRANK GORMAN: All right. Thank you. At this point we're going to open it up for questions. And I think, basically, everything is fair game right now. Well, everything to do with the care labeling rule is fair game.

AUDIENCE: Thanks. I just want--

FRANK GORMAN: Wait for the mic, please. Thanks.

AUDIENCE: This is Paul Matthai, again, from EPA. I just wondered, are you making any distinction between suede and bonded leather? Or not leather but the povis leather, or whatever it comes in?

DART POACH: Top grain.

AUDIENCE: Top grained leather? Is there a difference on the process? Because I don't think you mentioned that. And what about the processed leather that, I don't know, is probably chewed up and then re-glued back together. Is that part of that or is that something--

DART POACH: No. I was just-- the PLC represents-- well, you wouldn't say real leather, you would say genuine leather and suede. You're right.

FRANK GORMAN: OK. Anyone else? All right. Any of the panelists have any parting thoughts that they want to share. You've all been-- put in a long day. I appreciate we've gotten some really good input, we've gotten some really good evidence, and everybody has been cordial and thoughtful of each other's points of view. I think it's been an excellent panel.

RICHARD FITZPATRICK: I'd just like to-- and maybe this was clarified and I missed it-- but what is the FTC going to do, or what are they thinking about doing in order to stay current with the standards as they're published? Was that-- have you guys-- what is your position on that? Are you going to allow an automatic adoption of current standards with an ability to veto it or are you going to require that every new standard written has to be approved of through some committee?

FRANK GORMAN: I'm going to have Robert correct me here when I make a mistake. My understanding-- and first of all, not speaking for the Commission. Neither of us can speak for the Commission. We can make a recommend-- we'll eventually make a recommendation to the Commission and then they'll act. Standard disclaimer.

There is a problem, as I understand-- and this is based on my work in areas other than this rule-- there is a problem with us referencing future standards. It's a delegation problem that our general counsel's office has suggested to us that we can't refer to-- we can't just sort of peg it to something that doesn't exist yet. We can't peg our regulation to something that doesn't exist. Is that your understanding as well?

So it makes a lot of sense on a lot of levels to just say, we will peg our rule to the standards as they are updated as the ASTM standard or whatever standard as its updated over time. This is a nice reliable body and we're sure they'll get it right and this is probably what we'll end up doing anyways if we thought about it. But we can't do that. It's just not allowed. Yes?

SEEMANTA MITRA: It's a different question not related to what he has asked is, will the FTC consider in the new-- as you're revising the care labeling rule-- to provide more specifics on what is considered as the useful life of the product for a permanent care instruction?

FRANK GORMAN: Robert, can you answer that?

ROBERT FRISBY: I don't recall much in the record about that issue. But the record is open until the 11th and if you think we need to address it, please let us know.

SEEMANTA MITRA: Yeah. And these are general questions that we as a testing laboratory face and some specifics on what type of products really need ironing. Like, we wouldn't put an ironing instruction on underwear as opposed to a dress shirt, for example. But these are more specific instructions. But there are so many different garments. And I know you're representing the UK Fashion and Textile Association. Fashion is changing every season so we get some areas where we are really confused whether should we put a ironing instruction is needed or not. Because the FTC rule says, for the ordinary use and enjoyment of the product, can be interpreted in multiple ways. Or at least in two different ways.

FRANK GORMAN: I think this is another topic in which we really haven't received comment. We can't stress enough how important it is that, if you have areas of concern, that you submit comments then, and the more evidence you can submit that addresses the costs and benefits-- not just identifies an issue but also that proposes a solution and addresses the cost and benefits of the solution and of not adopting the solution, if you will. We need a record to be able to make any change.

MIR QUDDUS: What happens next? So, what we discussed, what happens next?

FRANK GORMAN: Well, at this point there's two branches we could take in the road. We could issue a staff report where we make the staff makes a final recommendation, essentially, to the Commission. It's not published by the Commission, it's published by the Bureau of Consumer Protection. And then there'd be another opportunity for comment on that staff report. And then it would go back-- a recommendation would be made to the Commission on a final rule.

The other possibility is, if there are things that come out of this roundtable and in the last round of comments that would require us to-- would lead us to propose-- staff to propose-- something

that wasn't encompassed by our previous proposal, I believe we would have to go out with another notice of proposed rulemaking to allow comment on that. And then somebody could ask for another hearing, then the staff report.

It's a long process. This is-- we have two types of rulemaking at the FTC. We have APA rule making which is a little more streamlined, where Congress specifically passes a law like they did with the Textile Act and gives us authority to promulgate a-- unless Textile's a bad example. It's not? OK. Or Congress gives us authority to promulgate rules. And that doesn't have some of these extra features like hearings and staff reports.

And then we have what we call Magnuson-Moss-- which is under an old statute-- rule making which is what we're acting on now where we're basically proposing the rule or revisiting the rule based upon our general deception of fairness authority under Section 5 of the FTC Act where we have to show prevalence and so on. The stuff that I think Professor Sinsheimer did a nice job sort of going through the standards. Whereas the APA rule making, Congress tells us what the standards are and we meet that. But you're not going to be seeing a final rule direct from this roundtable. The next step will either be a staff report or a new notice of proposed rulemaking.

MIR QUDDUS: What happens? So the staff report goes where? Like, goes--

FRANK GORMAN: It's published. It's published. I don't quite understand the reason for this extra step. But, essentially, it's not a statement of the Commission, it's a statement of the staff. But it's published in the Federal Register or at least it's put on our website and announced so that people-- and then comments are solicited to it. And then based on those comments we then would make a recommendation of a final rule to the Commission.

MIR QUDDUS: So how long is this staff report time and then the next one?

FRANK GORMAN: It depends. I'm sorry. We're leaving the-- we should be much further along than we are now but for the government close down-- shut down, for example, we're several months behind. A very serious concern came up with scheduling. The rescheduling of this meeting-- I don't know how many of you have talked to Robert during the planning of this-- that we would schedule it on a day where we'd have snow. Which was prescient because I think several of the days we were batting around ended up being government closed down snow days. So you all would be meeting on the sidewalk by yourselves again. We're not allowed to have-- we can come in and work but we're not allowed to have public events when the government is closed.

So that pushed us back a little bit. The record now is open until April 11. It takes time and we're balancing a lot of other work and other priorities, but we've taking this very seriously. But we'll have to go through all of the comments and then the recommendation will have to be made up through our chain of command and people have to be convinced and our Bureau of Economics weighs in. How long do you think it takes? Several months?

ROBERT FRISBY: It depends.

FRANK GORMAN: Yeah. Sorry.

MIR QUDDUS: OK. Got the answer.

FRANK GORMAN: I'm trying to be-- I'm trying to be as detailed and honest as I can but there are so many moving parts.

MIR QUDDUS: So would you need any more-- let's say, for the case that we are making, would you need more information, that would be a different communication going forward or is it--

FRANK GORMAN: Well, I mean, I think-- I don't have a checklist in front of me but there are a lot of really interesting points made throughout the course of a day and people have had different perspectives going back to just this sort of should dry cleaning be-- wet cleaning be permitted instruction or required instruction?

There are some data on cost, there are some consumer perception data which was very helpful which was submitted. There may be some other consumer perception testing that could be done on how to change the dry clean instruction on the tag so that people understand it to comport what the rule actually-- what it's meant to mean as opposed to how people understand it to mean.

There's all sorts of evidence that we identified-- types of useful evidence that we identified in our previous notice and then there are the things that have come up in the discussion today and in the new evidence that was submitted earlier today that could be fleshed out. So you need to decide with your organizations and the issues that are important to you and your position on that issue, how can I make the best record to support this?

We don't have a lot of discretion. There has to be evidence showing that-- especially where we're imposing-- if we're going to impose new burdens, there has to be evidence showing that it's justified, that we're curing a deceptive or unfair practice that is prevalent and that the costs don't outweigh the benefits. Essentially. That's not a very nuanced description but that's the gist of it. So if you have-- anecdotal evidence is nice but it's sort of saying, this is our position because it'd be good for our group is informative, but data is best.

STACY SOPCICH: I have question peaking back on Richard's question. Because it's understandable why the FTC would not want to change policy. That's certainly a much bigger issue than the purview of this panel. But in the specific case of the care labeling rule, where it's now clear that both the ISO and the ASTM are proposing to recognize alternative solvents in the way that they write their standards, and their definitions, and the test methods that support them, where is that in the consideration of the FTC?

I mean, I spoke earlier about the idea of keeping the rule making record open long enough to allow it to not point to a rule that can't de facto not support the-- if the rule is being modernized to say any solvent other than water, but the standards that it points to only recognize perc and petroleum, the whole effort that we've been through in the process to modernize the rule seems to be moot.

FRANK GORMAN: Does anyone know when those revised standards are due to come out? Or is that also difficult to predict.

STACY SOPCICH: Well, I mean, it'll depend on vote. I mean, Jen, you could speak to that.

AUDIENCE: [INAUDIBLE] 30 days or 60 days, or if it takes longer than that if we have to re-ballot it. But it's out to ballot right now.

NORA NEALIS: It could be six months or a year.

ROBERT FRISBY: I mean, the Commission may well decide that it's prudent to wait for those developments and to look at those standards before the next step. And the Commission might decide that this rule should be reviewed more frequently than it has been. Those aren't decisions that we would--

STACY SOPCICH: They're choices you make.

ROBERT FRISBY: --not necessarily make.

FRANK GORMAN: Well, that's-- it's actually an-- Robert raised an interesting question, and maybe as a show of hands, do people think that this rule should-- normally, a regulatory review program is-- and this isn't required by law, this is something the Commission has undertaken to do across its rules-- is we review rules every 10 years-- sort of like I take a bath every Saturday whether I need it or not. Should it be done more frequently for this rule? Show of hands. OK.

AUDIENCE: I have another proposal. How about if any significant changes have taken place--

FRANK GORMAN: Wait for the microphone, please.

AUDIENCE: I personally think time is not the focus it should be of any significant new technology or new processes or new demands come up. Because it could be a year and a half. You might have to wait 5 years if we could pick it, or 10 years. And then you're playing another catch up.

FRANK GORMAN: Well, we do have discretion to review more frequently. And certainly also, and this happens a lot in other rules-- I work on the appliance labeling rule, for example, where there's constant mini reviews underway and a lot of it's because the Department of Energy changes a standard or new technology comes out or we get a petition. Industry members can petition for specific changes. There's a provision for that as well. Yes?

CHARLES RIGGS: It was very beneficial many years ago when FTC actually had a FTC employee involved in attending ISO meetings, ASTM meetings, AATCC meetings. That kind of involvement from FTC would keep you abreast of what kinds of changes are occurring in the industry. Now, I might also come in on Stacy's question, when it comes down to looking at revising a test method to incorporate another solvent, that's an expensive process.

To come up with a test method, you have to inter-laboratory correlations using some standard fabrics, standard garments. We were fortunate in terms of ISO 3175 Part 4, the wet cleaning, that there were some funding in Europe for a AquaCarb project. We had some funding from EPA in a design for the environment project that allowed us to get involved in doing that.

But it's a very expensive process to look at a test method and determine if we add this solvent or what other material we might add, what are the testing parameters to generate inter-laboratory correlations that are reproducible. We need to have reproducible test results so we know what we're talking about in terms of how you test it.

Now, the anecdotal test of having a wet cleaner clean it is not really going to meet the test of inter-laboratory correlations. You have to get the same results in every wet cleaner throughout the country. So you need to test according to a standard test method, 3175, and those are expensive to finance. I think, and unfortunately, it'd have to come down to the solvent vendor to do a lot of the financing to get the test methods modified.

FRANK GORMAN: Going to the first thing you said about an FTC staff person attending these meetings, I think if we were the care labeling, textiles, wool, leather, fur is a small part of what the Commission does. What the Bureau of Consumer, which is only half of the mission of the Commission-- we also have an antitrust half-- does, we have about 1,000 employees and we have general jurisdiction over basically all commerce. We do a lot of anti-fraud work, we do a lot of financial sector work, we do advertising stuff. And we do these rules and we take them very seriously.

Realistically, I think we've broadened certain parts of our portfolio. We did used to have a division of privacy and information protection, which is obviously a very important issue right now which wasn't an issue 20 years ago. But we simply, probably don't have the resources to dedicates something to that.

CHARLES RIGGS: Same token. If you're going to promulgate a rule on care labels, you ought to have staff involvement in the process where AATCC, ASTM, ISO review those care label seekers.

FRANK GORMAN: We rely on the notice and comment for that. And your wise counsel. Thank you. Other?

AUGUSTINE CHANG: If I make a comment on Dr. Riggs' comment about standard and doing a testing. Like I said earlier, the dry cleaners and professional wet cleaners are actually on the front line to clean this garments on a regular basis. In a lab, everything is perfect for the testing. But in real world, things are not the same. For example, Arizona, summertime, 120 degrees. Your machine really heats up. So does your solvent.

Of course, there's a refrigeration system to cool it down. But solvent is still too hot to clean. So these are little simple examples. So in test lab, it's great. But in real world, it's not. So a lot has to do with the operator, how well they are trained, do they really understand the system. So with that in mind, thank you.

FRANK GORMAN: Yes?

NORA NEALIS: Just one other point with regard to how often it should be looked at. I think, for many years, not looking at it was a non-issue because the industry was relatively static, the technology was static. But in recent years there has been a lot of change and I would anticipate that in the coming years there will continue to be a lot of change. So-- and one of the unhappy things about change is that if you don't react quickly enough to it, by the time you get around to it, the problem has already either solved itself or become unsolvable. So I think we need to, or you guys need to, keep a close eye on this because it's-- once you declare it done, it's still not going to be done. At least not as a reflection of the real world.

FRANK GORMAN: Thank you. And that is something that we had noted amongst ourselves before which is, there has been, after a long period of not a lot of change, a lot of change. So we get a little behind the curve. And thank you all for helping us catch up. I think I have time for one or two more comments before closing remarks. And I see a hand up over here.

AUDIENCE: In regard to the earlier discussion about the reasonable testing, I know Kim mentioned that her company does not test a full garment. And I really-- we do testing for multiple retailers of brands, both people who are just selling in US and also internationally, as two of my other colleagues here. And that really is the minority.

We find that the vast majority of our clients do test at a fabric stage and at least one garment stage. We do have some that do a preproduction and also production testing. But the most common test process would be to do at a fabric stage and a full garment stage to look at the components, the seams, the fabric, all together.

FRANK GORMAN: One more? No? Well, Robert. Have any closing remarks?

ROBERT FRISBY: I think that concludes our roundtable. We want to thank everyone for coming and for sharing their expertise with us and their viewpoints. I want to remind everyone that the record-- I think we mentioned this a few times-- the record is open until April 11 and we welcome additional comments about the issues that were discussed at the roundtable or other issues of concern to you all. And we do plan to post the presentations from Peter and Charles on our web page. I'm not sure when that will happen but it will happen soon if anyone wants to get that electronically. And I think that's it.

FRANK GORMAN: Yeah. Thank you.

ROBERT FRISBY: Thank you all.