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November 16, 2012

By Electronic Filing

Federal Trade Commission
Office of the Secretary
Room H-113 (Annex O)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Fur Rules Review, Matter No. P074201

Dear Sir or Madam:

Enclosed are the comments of Fur Information Council of America's ("FICA") in response to the Federal Trade Commission's request for comments on the topic of the Fur Rules Review Matter No. P074201.

We appreciate the work the Commission is doing and its attention to this matter.

Sincerely,

/ s /

Laurence J. Lasoff

Counsel
Fur Information Council of America

**Comments of the Fur Information Council of America in Response to the
Federal Trade Commission Request for Comments on
Fur Rules Review Matter No. P074201**

The Fur Information Council of America (“FICA”) is pleased to provide these comments for the record in response to the Federal Trade Commission’s (“FTC” or “Commission”) request for public comment on the Fur Rules Review Matter No. P074201.¹

FICA was founded in 1987 and is the largest fur industry trade association representing fur retailers and manufacturers across the U.S. FICA members collectively account for over 80% of U.S. retail fur sales. FICA’s 35 member board of directors includes the CEOs of the nation’s largest fur retailers, manufacturers, and auction houses, as well as wildlife management and agricultural experts. FICA provides the public with information on the fur industry, wildlife conservation and responsible animal care to which the fur industry is committed.

FICA is committed to assisting the FTC in its efforts to update the Fur Products Name Guide and believes there will be substantial value for all concerned by the Commission undertaking this review. To this end, FICA submitted comments in May 2011 in response to the Commission’s request during its initial Fur Rules regulatory review² and looks forward to providing further comment on the Commission’s proposals.

FICA applauds the Commission on its work in effectively synthesizing industry’s written comments and discussions at the Name Guide hearing. The FTC has developed useful proposals that reflect a careful analysis of complex issues.

FICA agrees with the Commission’s analysis on a number of topics. Most importantly, we agree with the FTC’s decision to decline replacing “Asiatic Raccoon” with the colloquial and inaccurate term, “raccoon dog.” As we noted in our last comment on the Fur Rules review, the term “raccoon dog” is deceptive and likely to create immense consumer confusion because it implies that the Asiatic Raccoon is related to the domestic dog. After carefully reviewing the written comments as well as the comments shared at the hearing, the FTC correctly concluded that the long-standing common name, “Asiatic Raccoon,” should remain unchanged because (a) it describes the animal in a way that consumers can properly identify it; (b) consumers likely have become familiar with the name through fur labels;³ and (c) it is the best name among all those proposed.⁴ In addition to supporting the rejection of “raccoon dog,” FICA also supports the FTC’s decision to provide greater flexibility to place smaller, more practical labels on small items.

¹ Federal Trade Commission, Fur Products Labeling Act; Notice of Proposed Rulemaking Request for Comment, 77 Fed. Reg. 57,043 (Sept. 17, 2012).

² See Comment 00014.

³ For products of the *nyctereutes procyonoides* species originating in Finland, the name Finnracon has extensive recognition in the global consumer market place. Currently, most of the high-end fur garments sold in the U.S. and containing the *nyctereutes procyonoides* species are produced in Finland and are exclusively marketed under the nomenclature Finnracon. FICA supports the use of the name Finnracon, as an alternative to Asiatic Raccoon for products of the *nyctereutes procyonoides* species originating in Finland.

⁴ 77 Fed. Reg. at 57,048.

FTC's Proposal to Retain "Asiatic Raccoon" Instead of "Raccoon Dog"

FICA applauds the FTC's decision not to replace "Asiatic Raccoon" with "raccoon dog." The common name, "Asiatic Raccoon," has been used on labels for fifty years. As the FTC noted in its federal register notice, "[b]ecause 'Asiatic Raccoon' is the name that consumers have used to identify the animal since 1961, consumers likely understand this term."⁵ Importantly, no evidence of consumer confusion around this term exists. That is because the name "Asiatic Raccoon" accurately describes the animal. As Sharon Lynn from the Fish and Wildlife Service ("FWS") noted at the hearing, "Asiatic Raccoon" accurately describes an animal that originated in Asia that has raccoon-like characteristics.⁶ Specifically, much like a raccoon, it has rings around its eyes and it climbs trees.

Although the Asiatic Raccoon is part of the Canidae family, like many other animals (*e.g.*, fox, wolves, coyotes), it is completely dissimilar from a domestic dog and should not be confused with a dog or referenced as a dog. The FTC acknowledged this in its federal register notice, stating that "'Raccoon Dog' could significantly mislead consumers about the animal's relationship to domestic dog."⁷ Eric Autor from the International Trade Council of the National Retail Federation also noted that just because the "Asiatic Raccoon" is a member of the Canidae family does not mean it is a dog.⁸ The fox and the wolf are also members of the Canidae family and they have never been identified as dogs. In addition, Alfred Gardner from USGS questioned the name "raccoon dog" since the animal is neither a dog nor a raccoon.⁹ Mr. Gardner, who is the primary expert on the *nyctereutes procyonoides* species on the Integrated Taxonomic Information System, concluded that Asiatic Raccoon is the best alternative, noting among other things, that the name does not carry any political baggage or bias.¹⁰

Clearly, the media campaign aimed at spotlighting the Asiatic Raccoon as a dog is for political reasons only and not based on any actual evidence showing that consumers are unfamiliar with the term "Asiatic Raccoon" – but familiar with "raccoon dog" – to describe the fur from the *nyctereutes procyonoides* species.¹¹ This media campaign around the term "raccoon dog," which was initiated by the Humane Society of the United States ("HSUS"), has diminished sales of the fur. Because of the consumer confusion caused by its campaign – specifically, the perception that Asiatic Raccoon fur is actually dog fur – many companies have stopped selling garments containing this product, regardless of the country of origin of the fur. If the common name were changed to "raccoon dog," there would no longer be a market for Asiatic Raccoon fur, and garments with this type of fur would be eliminated.

⁵ 77 Fed. Reg. at 57,048.

⁶ Hearing Transcript at 38, ln. 22-23.

⁷ 77 Fed. Reg. at 57,048.

⁸ Hearing Transcript at 53, ln. 23-25.

⁹ *Id.* at 93, ln. 21-22.

¹⁰ *Id.* at 40, ln. 5-18.

¹¹ See HSUS webpage entitled, "Don't Let the Fur Industry Use a Fake Name for Raccoon Dog," available at <https://secure.humanesociety.org/site/Advocacy?cmd=display&page=UserAction&id=5765>.

FTC's Proposal to Permit Flexibility with Respect to the Technical Requirements

FICA supports the FTC's decision to provide greater flexibility regarding the size and text of labels. As the FTC described in its federal register notice, the size prescribed by the current Rules is impractical for smaller items, especially in light of the elimination of the small values exemption.¹² Likewise, the current requirements for the text of the label are overly burdensome and have forced companies to use multiple labels to comply with the FTC, state, and international fur regulations.¹³ FICA agrees that these proposed amendments provide greater flexibility to place smaller, more practical labels on small items.¹⁴

FICA also suggests that the Commission provide greater flexibility with respect to separate and continuing guarantees. The Fur Rules only allow for guarantees provided by residents of the United States. Many fur retailers source their products from overseas, however. The Commission should update the regulations to reflect modern retailing practices and provide a mechanism for retailers to obtain the protection of a guaranty from a foreign vendor. Further, FICA suggests that the Commission also update the regulations to include an electronic separate guaranty option, which could be implemented in the electronic purchase order/invoice process used by most vendors and retailers.

* * *

FICA appreciates this opportunity to share its views and stands ready to participate in continued work of the FTC staff.

¹² 77 Fed. Reg. at 57,050.

¹³ *Id.*

¹⁴ *Id.* at 57,051.