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

Re: Review of the Fur Act Regulations of the FTC

These comments are submitted in response to the Federal Trade Commission's solicitation of comments to assist it in its impending review of its fur act regulations. The review is being undertaken in light of the recent passage of the Truth in Fur Labeling Act. This act eliminated the exemption (16 CFR 301.39) from the fur act labeling requirements for apparel that contains fur valued at \$150 or less (the \$150 exemption.) The new law brought under the purview of the regulations a wide variety of previously exempt consumer products that contain any amount of fur, including the great majority of fur-containing or trimmed gloves, shoes, garments, hats, scarves and wearing apparel accessories sold in this country.

We are submitting these comments as attorneys who have had long experience in the administration of labeling laws and regulations required under various acts of Congress. We have and continue to represent clients who import and distribute products that contain fur. Most of their products were exempt from the fur products labeling rules because the value of the fur in their lines was not over \$150. These comments are also submitted as an individual who has had considerable experience with the labeling laws and is interested, as a citizen, in their sound and efficient administration.

The FTC requested comments on a number of questions, including

- what modifications, if any should be made to the rules to increase its benefits to businesses, particularly small businesses,
- what modifications should be made to reduce costs on businesses,
- whether any rules are no longer needed,

- whether products sold in pairs must be firmly attached to each other when delivered to the consumer, or else be individually labeled, and
- whether the rules overlap or conflict with other laws or regulations.

These comments address these issues.

The legislative history of the Act makes it clear that it was intended to provide the consumer with accurate information on the products they are buying. As stated by Rep. Henry C. Johnson in his House speech of July 28, 2010, “The legislation guarantees transparency so that shoppers can make informed decisions . . .” In his speech of the same day, Rep. Sam Far echoed this sentiment and made clear that the legislation was not intended to “ . . . affect the trade in any animal fur”

However, unless certain of the fur labeling regulations are revised, they will adversely impact the trade in the multitude of products previously covered by the \$150 exemption. Further, it will be inconsistent with the uniform labeling approach under the Wool and Textile Products Labeling Acts and regulations, the Care Products Labeling Act and regulations, and the country of origin marking requirements administered by US Customs and Border Protection.

1. The Label

a. Size of label and its lettering:

Under 16 CFR Section 301.27, the required label must measure at minimum 1¾” by 2¾”. The lettering must be of uniform size and be no smaller than pica or 12 point type and the size of the lettering of required information must be uniform. 16 CFR 301.29.

While the label size and the size of its lettering may be is proportional for such items as fur coats, it is disproportional to gloves, shoes, and most wearing apparel and accessories. The specification of a particular size for the label and its lettering is inconsistent with the labeling requirements of other acts administered by the FTC. Further, there is no requirement in other labeling regulations that all required information must be of uniform size. This is inconsistent with the common commercial practice of listing a company name or trademark most prominently. All other labeling regulation require the label and its lettering need to be clear and conspicuous but do not specify sizes. See

- 16 CFR 423.6 (care labels must be attached so that they can be easily found when merchandise is offered for sale);
- 16 CFR 423.7 (care information for piece goods must be “clear and conspicuous”;

- 16 CFR 300.5(a) and (b) (labels on wool products are to be conspicuous and the required information is to be clearly legible, conspicuous and readily accessible);
- 16 CFR 303.15 and 303.16 (labels on products covered by the textile products labeling act must be conspicuous and all required information must be “clearly legible, conspicuous and readily accessible.”)
- The country of origin labeling requirements under the Customs laws are consistent with the cited regulations. 19 USC Section 1304 requires the country of origin be legible. 19 CFR 134.4(b) requires that the label must be placed so that it can be easily found by the consumer and read without strain.

The cited statutes and regulations have been in effect for decades and there has been no issue raised as to their inadequacy. In the interests of uniformity alone, the requirement that labels and the required information be of a particular size should be eliminated. This is also justified by the fact that the products now required to be labeled under the Fur Act are often so small that the present size specifications are disproportionate. Their presence at the currently specified size would certainly detract from the look of the goods and affect the trade in such fur products, something the law was not intended to do. The only possible justification for size specification for either the label or the size of the print would be that these are entirely objective standards. Yet they are also arbitrary and government regulations cannot, under the Constitution, be arbitrary. None of the other labeling laws or regulations sees this as necessary, and in the writer’s 30 years of experience, he has had not one instance where the “clear and conspicuous” standard was in issue.

b. Required Label Information:

16 CFR Section 301.30 provides that all required information must appear on one label, even if this is redundant because the information is elsewhere provided. There is no reason to require this. Many items previously covered by the \$150 exemption, such as wearing apparel and gloves, must be labeled to set forth company name or RN number and fiber content. All imported products must be labeled as to country of origin. There is no need to require that this information be restated, as long as all labels are conspicuous. This also is consistent with the labeling requirements of other laws administered by the FTC. For example, care instructions need not be on the same label as one listing country of origin, fiber content and name or RN number. (Generally, the care label is separately attached to a side seam and the country of origin often appears on a label separate from the fiber content label.) See 16 CFR Section 303.16 (required information may appear on a “label or labels.”)

We of course recognize that required information must be readily accessible to the consumer, but it would be an undue and unnecessary burden to require information to be repeated.

2. Products Sold in Pairs.

The existing regulation, 16 CFR 301.31, requires that only one of a pair of products sold in pairs need be labeled but only if the two are firmly attached to each other when delivered to the consumer. Otherwise, both mates of a pair must be individually labeled. This is not required under the regulations covering wool products (see 16 CFR 303.29) or textile products (see 16 CFR Section 303.29.) There is no reason for fur products to be treated differently.

Further, shoes and gloves are sold in pairs only (unless marketed for some strictly specialty use.) A label on one would correctly be taken to apply to the other. Not only that, consumers can be expected to try on shoes and gloves before they buy. While it may be possible, if inconvenient, to try on gloves that are firmly attached to each other, it is impossible to do so with shoes--most commonly, consumers wish to walk in shoes before deciding to purchase. To require that articles sold in pairs be firmly attached would certainly hurt the trade. The existing regulation is unnecessary to fulfill the stated purpose of insuring the consumer be informed about the product he or she is considering purchasing.

3. Conclusion

The existing regulations were drawn up in part with an eye to a consumer product that contained a significant amount of fur. \$150 was worth considerably more when the regulations were drafted than is it now today. The requirements fit the specialty products they were intended to cover, but they do not fit the majority of products they now do. Modification of the regulations is necessary, and we believe our suggestions are proper and fitting. The consumer will be fully informed and enabled to make an informed choice without undue burden to business. The Fur Act regulations would be harmonized with the other labeling laws.

Respectfully submitted,

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