



May 16, 2011

The Honorable Jon Leibowitz
Chairman
U.S. Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580

Re: Fur Rules Review, Matter No. P074201

Dear Chairman Leibowitz:

Pursuant to the request by the U.S. Federal Trade Commission ("FTC") published in the Federal Register (76 Fed. Reg. 13,550) on March 14, 2011, the National Retail Federation ("NRF") is submitting the following comments on behalf of its member companies in the U.S. retail industry on the FTC's proposed rules to implement the Truth in Fur Labeling Act (TFLA) of 2010.¹

As the world's largest retail trade association and the voice of retail worldwide, the National Retail Federation's global membership includes retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the U.S. and more than 45 countries abroad. In the U.S., NRF represents the breadth and diversity of an industry with more than 1.6 million American companies that employ nearly 25 million workers and generated 2009 sales of \$2.3 trillion.

1. Labeling Requirements

Congress passed and the President signed to law the TFLA in December 2010. The TFLA amends the previous Fur Products Labeling Act (Fur Act),² and now requires all garments made entirely or partly of fur to disclose the following information on a label (as well as invoices and advertising):

- The animal name as listed in the Fur Products Name Guide (Name Guide);
- The name or Registered Identification Number (RN) of the manufacturer, importer or other seller, marketer or distributor of the fur;
- The country of origin of imported fur products;
- Whether the fur is "natural," or pointed, dyed, bleached, or artificially colored;
- If the fur product is composed in whole or substantial part of pieces, such as paws or tails;
- If the fur is used or damaged; and

¹ Pub. L. no. 111–113, 124 Stat. 3326.

² 15 U.S.C. §§ 69 *et seq.*

- The textile or wool content of the product, and the country of origin and manufacturer or dealer of any textile or wool component.

The current FTC fur labeling regulations also mandate that the label: be of specific dimensions (1 ¾ inches x 2 ¾ inches; 4.5 cm x 7 cm); be durable enough to remain on the fur until delivered to the customer; contain lettering of a specified minimum font size; and list the required information in a specified order.³

Elimination under the TFLA of the labeling exemption for fur products with a component value of \$150 or less, means that labels must now be placed on many smaller, lesser value garments, such as gloves, hats, belts, and shawls, than was the case prior to enactment of the law. Thus, specific label requirements that may have been appropriate for larger, more valuable garments, such as a coat or jacket, may not be practicable for smaller garments, either because of the lack of surface area, or because it will diminish the design, aesthetic quality, or functionality of the garment. To address this problem, NRF proposes the following changes to the label requirements under the current regulations, which would provide consumers the necessary information in a manner that would be least burdensome to retail and consumer brand companies.

First, we recommend eliminating the label dimension requirements. These requirements are simply not appropriate for the range of smaller garments that are now subject to this law, and would increase costs to retailers and consumers. Specific requirements on label dimensions also limit a retailer's ability to make a label with a dimension that is suitable to the product, for example narrow belts and gloves where anything larger than 14mm wide would not be practical. Moreover, consumers are not likely to want large, permanent labels on these small products. Therefore, the regulations should simply require that the label be "conspicuous, legible, and durable." This definition is well understood in the industry, and would be consistent with other labeling regulations – *e.g.*, the Textile Fiber Products Labeling Act,⁴ the Wool Products Labeling Act,⁵ and the Care Labeling Rule⁶ – which have worked very well in providing consumers required information.

Second, we recommend that retailers and brands be allowed several options regarding the type of fur content/origin labels they use, based on what would be most appropriate to a particular garment (and assuming the requirements of conspicuousness, legibility, and durability are met):

- The fur content/origin information may be listed on the front or back of the main (content/care) label.
- The fur content/origin information may be listed on a separate sewn-in label.

³ 16 C.F.R. §§ 301.27, 301.29, 301.30.

⁴ Textile Fiber Products Identification Act of 1960, 15 U.S.C. § 70b; *see*, 16 C.F.R. § 303.15.

⁵ Wool Products Labeling Act of 1939, 15 U.S.C. § 68b; *see*, 16 C.F.R. § 300.5.

⁶ 16 C.F.R. § 423.6.

- The fur content/origin information may be listed on a hangtag.

The availability of the first option is particularly important to NRF members who report that the requirement of a separate label is an even bigger compliance issue than the label size requirements. Typically, the content label is the first place a customer looks to determine fiber content. Thus, it would be logical also to permit inclusion of fur type and origin information on this one single label. This option is also consistent with current FTC regulations with respect to the identification of fur products containing material other than fur. In such cases, the regulations allow for information to be printed on the same side of the label and in immediate conjunction with other information required by the FTC.⁷ These requirements provide examples of how such information might appear on single labels:

100% Wool
Interlining: 100% Recycled Wool
Trim: Dyed Muskrat
Fur Origin: Canada

Or

Body: 100% cotton
Lining: 100% Nylon
Collar: Dyed Mouton Lamb
Fur Origin: Argentina

While it is important also to allow the last two labeling options, it is important to note that they would be more costly than a single tag. Higher cost is an especially important consideration with smaller items selling at lower retail prices. On this point, hang tags may actually be the most costly option as they are the most labor intensive to attach.

Our final recommendation on labeling is to reduce redundant information by not requiring a separate statement identifying the origin of the fur product if the label already lists the adjective form of the country name along with the animal name (e.g., “Russian Mink”; “Canadian Lynx”, “Australian Shearling Lamb”). It is our view that the adjectival name is sufficient to inform the consumer of the country of origin of the fur product.

2. Fur Products Name Guide

The FTC has also asked in question 12 for comments whether the Name Guide should be altered to include additional fur names or to eliminate certain names already listed. We expect that questions regarding changes to the Name Guide may arise with respect to one animal in particular, the Asiatic/Finn Raccoon (*Nyctereutes procyonoides*). Animal rights groups have sought legislative

⁷ See, 16 C.F.R. § 301.32(a).

changes to have this animal designated a type of dog so that it would fall under the current ban on commerce in dog and cat fur under the Dog and Cat Protection Act of 2000.⁸

While this animal is also known as the “Raccoon Dog” and is part of the *Canidae* family of carnivorous mammals, it is a basal canid within the genus *Nyctereutes*, and not a true-dog or dog-like canine within the genus *Canis*, which includes the domestic dog (*Canis familiaris*). Other canids, even those within the genus *Canis*, such as wolves, coyotes, and jackals, are much more closely related to domestic dogs, yet are neither considered to be, nor are called dogs. Therefore, we have argued that it would be inappropriate to add unrelated animals to a provision intended to prohibit commerce solely in dog and cat fur. Accordingly, we would oppose any such legerdemain with the Names Guide that would misinform and confuse consumers by changing the current designation of “Asiatic Raccoon” to “Raccoon Dog.”

Nevertheless, it should also be acknowledged that the Asiatic Raccoon, indigenous to East Asia, is also not closely related to the North American Raccoon (*Procyon lotor*). Therefore, if any clarification is necessary in the Names Guide with respect to the designation of this animal, we would suggest the names “Tanuki” and “Magnut,” by which the animal is also commonly known.

NRF appreciates the opportunity to comment on the FTC’s proposed rules for implementation of the TFLA. Any questions should be directed to me at (202) 626-8104 or by email at autore@nrf.com.

Respectfully submitted,

Erik O. Autor
Vice President, International Trade Counsel

⁸ 19 U.S.C. § 1308.