AAFA american apparel & footwear association

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February 2, 2012

Secretary Donald S. Clark
Federal Trade Commission
Room H-113 (Annex A)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Mr. Clark:

RE: Advance notice of proposed rulemaking; request for public Comment: Rules and Regulations Under the Textile Fiber Products Identification Act (16 CFR PART 303, No. P948404; November 7, 2011)

On behalf of the American Apparel & Footwear Association (AAFA), we are submitting the following comments in response to the advance notice of proposed rulemaking and request for public comment in regards to the Federal Trade Commission's (FTC) rules and regulations under the Textile Fiber Products Identification Act as posted in the *Federal Register* November 7, 2011.

AAFA is the national trade association representing U.S. apparel, footwear and other sewn products companies and their suppliers, which compete in the global market. Our mission is to promote and enhance our members' competitiveness, productivity and profitability in the global market by minimizing regulatory, legal, commercial, political, and trade restraints. Our member companies manufacture all types of apparel and footwear and are located in virtually every state in the US. They source and distribute products worldwide.

The use of labels on textiles and apparel is beneficial to consumers, manufacturers, and business in general as it allows for the necessary flow of information along the commodity chain. Proper identification of the fiber content of an item may help in a consumer's decision to purchase the item. In addition, it allows manufacturers to clearly and honestly display information relating to the quality of the product they are making and selling. However, some of the regulations on labeling apparel sold in the United States make the process challenging and unnecessarily complicated. AAFA values the partnership we have had with the FTC in the past and have supported efforts to clarify regulations including the publication of *Threading Your Way Through the Labeling Requirements Under the Textile and Wool Acts*. We applaud the FTC for examining these regulations and appreciate the opportunity to voice the concerns of our members and of our industry.

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These comments will specifically address issues 1, 2, 3, and 8 as laid out in section III of the *Federal Register* Notice, Specific Issues of Interest to the Commission.

FTC Issue 1: *The International Standards Organization developed ISO 2076: 2010, an updated version of ISO 2076: 1999(E), "Textiles—Man-made fibres— Generic Names," referenced in Section 303.7. This development may warrant modifying Section 303.7 to incorporate the updated version of ISO 2076.*

AAFA strongly encourages amendment of the Textile Fiber Rules to incorporate changes in the international standard as published in ISO 2076:2010. The FTC should be an agency that not only regulates trade but encourages it as well. The use of generic fiber names that are established on universal science-based terminology facilitates a worldwide consensus and eliminates the need for divisive debates linked to national language preferences. It puts all participating countries on the same page, smoothes the way for trade, and eases customs challenges.

As is the case of many AAFA members, some textile and apparel companies have manufacturing plants in multiple countries. The universal standardization of generic fiber names removes the threat of miscommunication among manufacturers and thus between manufacturers and consumers. ISO 2076:2010[1] includes some technical revisions on the last (1999) version, and provides the most up-to-date information on generic fibers used in textiles. As the United States often serves as a guide for the rest of the world, it is imperative that we remain on top of the science and technology used to determine such guidelines and embrace them within our own regulations.

FTC Issue 2*: Inquiries regarding the disclosure requirements for products containing elastic material and trimmings suggest a possible need to clarify Sections 303.10 and 303.12 of the Rules. For example, Section 303.10 requires disclosure of elastic material fiber content, yet Section 303.12 states that trimmings (for which the disclosure requirements do not apply) may include elastic material added to a product in minor proportion for holding, reinforcing or similar structural purposes. The Rules do not define or elaborate on the term "minor proportion." In addition, Section 303.12 lists product components or parts that may qualify as trim without otherwise defining the term "trimmings."*

We agree that several of these sections, particularly Section 303.12 (Trimmings) and Section 303.26 (Ornamentation) can be confusing. The *Threading Your Way…* Guide states "There is some overlap between the definitions of "ornamentation" and "trimmings." There also appears to be overlap in the treatment of ornamentation or decoration. We have often forwarded such questions to the FTC and have found staff responses to be quick, responsive, well-informed, and well-sourced. While we have no pending questions that merit a specific response, nor do we recommend any changes to the regulations, we always welcome additional material from the FTC, particularly in the form of examples, which can elucidate a scenario that does not seem easily resolved by the resources. In this respect, we might suggest that the FTC consider publishing and frequently updating a list of frequently asked questions that can provide additional details in such areas. Recognizing that this area of textile labeling law is particularly confusing, we also encourage the FTC to afford companies some level of discretion and judgment in making the right decision, especially if there is no effort to deceive.

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[1] International Organization for Standardization, *Textiles – Man-made Fibres – Generic Names, ISO 2076:2010,* http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=50346 (2010).

FTC Issue 3: *Inquiries regarding the disclosure of fiber content percentages in multiple languages also suggest a possible need to clarify the Rules. Section 303.4 requires label disclosures in English. Labels may include disclosures in other languages; however, Section 303.16(c) provides that such "non-required" information "shall not minimize, detract from, or conflict with required information and shall not be false, deceptive, or misleading." Commission staff have received reports that some labels provide fiber content information in English plus other languages. The Commission seeks comment on the voluntary practice of disclosing required information in multiple languages. In particular, the Commission seeks comment on whether voluntary multilingual labeling practices cause consumer confusion, and if so, how to avoid such confusion while providing the benefits of disclosures in multiple languages.*

AAFA members source and distribute products around the globe. For this reason, it is of the utmost importance that the information placed on labels be accessible for consumers in any market. Unfortunately, the process of having to apply region-specific labels to products is time-consuming and costly and the cost is usually passed on to the consumer. Although an international standard would be an ideal solution to this problem, we understand the obstacles that must be faced before this is achieved. Until that time, allowing such information as fiber percentages to appear in multiple languages on a label provides a suitable compromise and makes it possible for one product to have a variety of ultimate destinations, or to be understood by consumers in the United States where English is not the first language.

It is a far reach to say that American consumers would be confused by multilingual labeling practices. To the contrary, we believe voluntary multi-lingual labels can facilitate understanding among some consumers. In fact, many products regulated within the United States have allowed the option of offering information in additional languages other than English for decades. The *Nutritional Labeling and Education Act of 1990*[2] permits for food nutrition labeling to be relayed in multiple languages as long as an English translation is provided. The *Cosmetic Labeling Guide*[3] created by the U.S. Food and Drug Administration in 1991 does the same thing. Furthermore, according to U.S. Census Bureau[4], in 2007 19.7 percent of all Americans, or approximately 55.4 million people, spoke a language other than English at home. Allowing for additional languages helps create a product and an economy that is inviting to all Americans.

In the opinion of AAFA members, it would be detrimental to a company, big or small, if the FTC did not allow additional languages on apparel labels. It would result in an increase of costs for producing labels, and a decrease in efficiency as the lost time from additional label submittals and approvals for companies that sell in a global market would slow down productivity.

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[2] United States Food and Drug Administration, *Guide to the Nutritional Labeling and Education Act Requirements,* http://www.fda.gov/ICECI/Inspections/InspectionGuides/ucm074948.htm (August 1994).
[3] United States Food and Drug Administration, *Cosmetic Labeling Guide,* http://www.fda.gov/Cosmetics/CosmeticLabelingLabelClaims/CosmeticLabelingManual/ucm126444.htm (October 1991).
[4] United States Census Bureau, Language Use in the United States: 2007, http://www.census.gov/prod/2010pubs/acs-12.pdf (April 2010).

FTC Issue 8. ***T****he Commission seeks comment on the benefits and costs of the Textile Act requirement that businesses identify themselves on labels using either their names or identifiers issued by the FTC (i.e., RN numbers). Specifically, the Commission seeks comment on whether allowing alternative identifiers, such as numbers issued by other nations (e.g., Canadian CA numbers), would benefit businesses without imposing costs on consumers and law enforcement that outweigh those benefits.*

We strongly support the FTC adopting a rule allowing it to recognize the identification systems – such as the "CA" system in use in Canada – that other nations maintain. Under current rules, if a company is selling the same product in both the U.S. and Canadian market, it would need both an RN – the identifier maintained by the FTC – and a CA identifier. The requirement of dual identifiers creates additional costs and liabilities for businesses as well as confusion for consumers (by adding to the information that is contained on an already crowded label). Recognizing identifiers of other countries, especially if other countries simultaneously recognize the FTC identifier system, would reduce these costs and confusion. Such a move would also advance harmonization of parallel but conflicting regulatory regimes that seek to achieve the same ends – providing information to consumers on the company that is responsible for the article. We note that such a goal was explicitly approved by the U.S. Congress when it approved the implementing law for the *North American Free Trade Agreement* (NAFTA), which contained provisions found in Annex 913.5.a-4 (Subcommittee on Labelling of Textile and Apparel Goods) that stated:

> *The Subcommittee shall develop and pursue a work program on the harmonization of labelling requirements to facilitate trade in textile and apparel goods between the Parties through the adoption of uniform labelling provisions. The work program should include the following matters:*
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> .....
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> *(e) use in the territory of the other Parties of each Party's national registration numbers for manufacturers or importers of textile and apparel goods.*[5]

We note further that the Commission has also identified this change in previous communications with Congress as a way to reduce paperwork burdens. In a May 12, 2000 letter, then Chairman Robert Pitofsky told Congress that authority for the Commission to recognize identifiers from other countries would mean that "industry members would be spared the paperwork burdens of submitting multiple applications and placing several identifying numbers on product labels."[6]

We have one final concern that is necessary to point out, but does not fit neatly within the organization of your specific issues of interest. There is a discrepancy between the long-standing rules defined in section 303.17 of the Rules and Regulations under the *Textile Fiber Products Identification Act* and the current commercial practice within the industry. Section 303.17 requires fiber percentages to be noted on apparel hang tags and related materials meant to inform the purchaser of significant performance attributes; however that information is usually not available until the end of the assembly process. In contemporary supply lines the final composition of generic fibers is typically determined downstream by fabric manufacturers and apparel assemblers, by which point it is already necessary to have available hang tags to advertise product. In practice, requiring fiber percentages on hang tags is also unnecessarily redundant since the information is mandated on permanently attached labels.

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[5] NAFTA Secretariat, North American Free Trade Agreement, Part Three: Technical Barriers to Trade, Annex 913.5.a-4 Subcommittee on Labelling of Textile and Apparel Goods, http://www.nafta-sec-alena.org/en/view.aspx?x=343&mtpiID=134#A913 (1993).

[6] Chairman Robert Pitofsky, Letter to Representatives McIntosh and Kucinich on ways to eliminate unnecessary or overly burdensome paperwork requirements, (May 2000).

To remedy this situation, AAFA recommends the FTC exempts hang tags and other point-of-sale material from requiring this information. It is unnecessary, unachievable, and provides no additional benefits to American consumers. The hang tags would of course still be accountable under the "no-deception" guidelines. For further details on this issue please reference the accompanying comments submitted by a group of textile, apparel, and retail associations, including AAFA.

Again, we thank the Commission for the opportunity to comment on this issue and hope a positive solution may soon be reached. If you have any questions regarding these comments, please feel free to contact myself or my staff at mdavignon@wewear.org. Please do not hesitate to let us know if we can be of any help in the coming process.

Sincerely,

Kevin Burke
President & CEO
American Apparel & Footwear Association