

July 8, 2013

Federal Trade Commission
Office of the Secretary
Room H-113 (Annex G)
600 Pennsylvania Ave., NW
Washington, DC 20580

Re: Textile Rules, 16 CFR Part 303, Project No. P948404

Pursuant to a request published by the Federal Trade Commission (Commission) in the Federal Register (78 Fed. Reg. 29263) on May 20, 2013, the National Retail Federation (NRF) is submitting the following comments on behalf its member companies in the U.S. retail industry that sell textile and apparel products regarding the Commission's rules and regulations pursuant to the Textile Fiber Products Identification Act (Textile Act).¹ NRF previously submitted comments on the Textile Rule² and we appreciate the Commission's consideration of those comments.

As the world's largest retail trade association and the voice of retail worldwide, NRF represents retailers of all types and sizes, including chain restaurants and industry partners, from the United States and more than 45 countries abroad. Retailers operate more than 3.6 million U.S. establishments that support one in four U.S. jobs – 42 million working Americans. Contributing \$2.5 trillion to annual GDP, retail is a daily barometer for the nation's economy. NRF's This is Retail campaign highlights the industry's opportunities for life-long careers, how retailers strengthen communities, and the critical role that retail plays in driving innovation.

Introduction

The Commission's recognition of the global textile manufacturing and supply business is welcomed by NRF and its member companies. U.S. textile and apparel retailers, brands, and manufacturers rely on their suppliers and vendors, many of them in foreign countries, to comply with the Textile Act so that products available in U.S. stores are properly labeled and advertised. In response to the Commission's request for comment regarding the Notice of Proposed Rulemaking (NPR), we respectfully submit the following comments for consideration by the Commission to reflect the language and modern practices of modern retailing.

E-Commerce and Textile Guaranties

NRF and its member companies support the Commission's proposed replacement of the "penalty of perjury" language on the guaranty forms with acknowledgement and certification language. However, NRF is opposed to the following proposed rule that would require annual renewal of "continuing guaranties."

¹ 15 U.S.C. 70-70k.

² Available at <http://www.ftc.gov/os/comments/textilerulesanpr/index.shtm>.

As the Commission outlined in the NPR, the acknowledgment and certification language provides sufficient indicia of reliability to permit buyers to rely on them on an ongoing basis and facilitate enforcement action against those who provide false guaranties.³ The proposed requirement of requiring continuing guaranties to be renewed annually only adds administrative costs for buyers and guarantors. There is no additional reliability added to a continuing guaranty by adding the proposed annual renewal requirement. Currently, guaranties are valid until revoked and NRF believes this rule appropriately balances enforceability and compliance costs.

Further, adopting the annual renewal requirement would create a major compliance burden for retailers, and the rest of the textile manufacturing supply chain. For retailers, the act of accepting a guaranty crosses departments and categories from legal and compliance departments to vendor relations teams and includes information technology, recording keeping, hiring, and training costs—this creates an issue with determining the exact economic impact of this rule. Over the course of a retailer’s relationship with a large network of vendors, even the addition of a one-page form to an annual workload, as the Commission suggests, is a major commitment which will have a significant impact on the textile supply chain, including retailers.

Alternative to Textile Act Guaranty

NRF appreciates the Commission’s acknowledgment of global supply chain related issues U.S. retailers face, including the situation where businesses that buy from manufacturers or suppliers that have no representative residing in the U.S. cannot obtain a guaranty. NRF also believes that the rulemaking process is an appropriate vehicle to create certainty for U.S. businesses given the current non-binding enforcement policy. NRF incorporates our previous comments on the importance of a rulemaking regarding alternatives to Textile Act guaranties.⁴

Hang Tags and Fiber Identification

NRF has signed on to a separate set of joint comments with several other associations that address the issue of hang tags and fiber identification.

Conclusion

NRF appreciates the opportunity to submit these comments to the FTC and looks forward to participating further in this rulemaking process. Any questions should be directed to Melissa Froelich by email at froelichm@nrf.com.

Respectfully submitted,

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David French
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³ The Textile Act provides that furnishing a false guaranty “is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice” under the FTC Act. 15 U.S.C. 70h(b).

⁴ *Id.* 2.