

July 23, 2013

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

Re: Fur Rules Review, 16 CFR Part 301, Project No. P074201

Pursuant to a request published by the Federal Trade Commission (Commission) in the Federal Register (78 Fed. Reg. 36693) on June 19, 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 labeling requirements under the Fur Products Labeling Act ("Fur Act").<sup>1</sup>

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.

NRF previously submitted comments on the Fur Rules Review<sup>2</sup> and we appreciate the Commission's consideration of those comments. Additionally, NRF submitted comments in early July 2013 to the Commission in regard to the Textile Fiber Products Identification Act ("Textile Act") which addressed the annual renewal guaranty processes proposed in the Fur Rules.<sup>3</sup> Given the serious impact of the proposed rules under the Fur Act and Textile Act, NRF's comments to the Commission will reflect aligned principles and reiterate our members concern about the impact of the proposed annual renewal requirement for "continuing" guaranties. NRF appreciates the opportunity to provide this comment and looks forward to being part of the discussion regarding these issues.

### **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 Fur 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

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<sup>1</sup> 15 U.S.C. § 69 et seq.

<sup>2</sup> Available at <http://ftc.gov/os/comments/furrulesreview/index.shtm> (last accessed July 17, 2013).

<sup>3</sup> Available at <http://ftc.gov/os/comments/textilesrulenprm/index.shtm> (last accessed July 17, 2013).

respectfully submit the following comments for consideration by the Commission to reflect the language and modern practices of modern retailing.

### **E-Commerce and 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, and thank the Commission for its consideration of NRF's proposal. However, NRF is opposed to the proposed rule that would require annual renewal of "continuing guaranties."

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.<sup>4</sup> The proposed requirement of requiring continuing guaranties to be renewed annually only adds administrative costs for buyers and guarantors. 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. One national retailer has estimated that at least three divisions within their organization would be financially impacted by this specific area of the proposed Rule<sup>5</sup>, and the annual renewal requirement would cost around \$60,000 per year for the most impacted of the three divisions. 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 concerns and compliance costs.

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. NRF urges the Commission to take into consideration the significant costs for retailers in adding the annual renewal requirement for continuing guaranties, along with the Commissions' stated interest in aligning the Fur Act Rules with the Textile Act Rules, and maintain the current "valid until revoked" status of continuing guaranties.

### **Alternative to Fur 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

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<sup>4</sup> The Fur Act provides that furnishing a false guaranty "is unlawful...[and] an unfair method of competition, and an unfair and deceptive act or practice" under the FTC Act. 15 U.S.C. 69h(b).

<sup>5</sup> The financial impact of the proposed amendment to require annual renewal of continuing guaranties in the Fur Act NPRM is also proposed in the Textile Act NPRM, 16 CFR Part 303, Project No. P948404. The financial impact of the proposed annual renewal is not separable as a business function and will have a significant impact if in either case the Commission decides to finalize the annual renewal requirement.

non-binding enforcement policy. NRF incorporates our previous comments on the importance of a rulemaking regarding alternatives to Textile Act guaranties.<sup>6</sup>

### **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](mailto:froelichm@nrf.com).

Respectfully submitted,

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Government Relations

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<sup>6</sup> *Id.* 3.