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Secretary of the Commission  
Federal Trade Commission  
600 Pennsylvania Ave., NW  
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April 11, 2014

**RE: Additional Comment on September 20, 2012 Notice of Proposed Rulemaking for Care Labeling Rule, 16 CFR Part 423, Project No. R511915**

Dear Commissioners:

The purpose of this letter is to voice support for an alternative amendment to the 2012 Notice of Proposed Rulemaking (NPR) to require the use of a 'Professional Wetclean' label when there is a reasonable basis for the label and where the manufacturer believes that the item needs professional cleaning, or recommends professional cleaning, or any other instances in which a 'Dryclean' or 'Dryclean Only' label is also listed on the label.

Our support for requiring the use of the new 'Professional Wetclean' label stems from our analysis of reliable evidence related to the criteria developed by the Federal Trade Commission (FTC) and used to determine when the Commission should require the use of a care label.

This letter first provides the background context for the development of the new 'Professional Wetclean' label, the history of the FTC's development of a 'Professional Wetclean' label, and the evidence specific to the criteria related to whether a care label should be required.

**A. Background Regarding Professional Wetcleaning and Dry Cleaning**

In the 2012 NPR, the FTC provided definitions for both dry cleaning and professional wetcleaning. Dry cleaning is defined as:

A commercial process by which soil is removed from products or specimens in a machine which uses any solvent excluding water (e.g., petroleum, perchloroethylene, silicone, glycol ether, carbon dioxide, or aldehyde). The process also may involve adding moisture to the solvent, up to 75% relative humidity, hot tumble drying up to 160 degrees F (71 degrees C) and restoration by steam press or steam-air finishing.<sup>1</sup>

<sup>1</sup> 2012 NPR, p.58352.

Professional wetcleaning is defined as:

A commercial process for cleaning products or specimens in water carried out by professionals using special technology (cleaning, rinsing, and spinning), detergents, and additives to minimize adverse effects, followed by appropriate drying and restorative finishing procedures.

While the two processes share a good deal in common – both are commercial processes designed to first clean apparel using a solvent and detergents, followed by a drying processes, and ending with finishing procedures – the essential difference between professional wetcleaning and dry cleaning is that the solvent used in professional wetcleaning is water and the solvent used in dry cleaning is any chemical other than water.

### **1. Professional Wetcleaning as an Environmentally Preferable Technology**

Since the early 1990s the United States Environmental Protection Agency (USEPA) has promoted the use of professional wetcleaning as an environmentally preferable commercial apparel cleaning process, preventing emissions of regulated pollutants including hazardous air pollutants and volatile organic compounds.<sup>2</sup>

Most cleaners in the United States operate machines which use the solvent perchloroethylene (PCE), a toxic chemical regulated by many of the leading federal environmental laws such as – the Clean Air Act, the Clean Water Act, the Conservation and Recovery Act.<sup>3</sup> A recent USEPA risk assessment reconfirmed the toxicity of PCE.<sup>4</sup>

The second leading dry clean solvent, commonly referred to as hydrocarbon, is a petroleum-based chemical that emits volatile organic compound pollutants and is also a fire hazard.<sup>5</sup> Professional wetcleaning is an environmentally benign process, exhibiting none of the concerns associated with dry cleaning.

Beyond the emission reduction benefits of professional wetcleaning compared to traditional solvent-based dry cleaning, professional wetcleaning is extremely energy efficient. The energy efficiency of professional wet cleaning is due primarily to the fact that traditional dry clean solvent systems require the use of energy-intensive pollution control equipment to capture the release of regulated pollutants during the drying process and an energy-intensive distillation process for cleaning contaminated solvents; neither energy-intensive process is needed in professional wet cleaning.<sup>6</sup>

<sup>2</sup> <http://www.epa.gov/dfe/pubs/garment/wsgc/wetclean.htm>, (access date: September 20, 2013).

<sup>3</sup> <http://www.epa.gov/oagps001/community/details/drycleaning.html> (access date: September 20, 2013).

<sup>4</sup> USEPA. Cleaner Technologies Substitutes Assessment for Professional Fabricare Processes. EPA 744-B-98-001, June 1998.

<sup>5</sup> USEPA. Toxicological Review of Tetrochloroethylene (Perchloroethylene) - CAS No. 127-18-4. In Support of Summary Information on the Integrated Risk Information System (IRIS). February 2012.

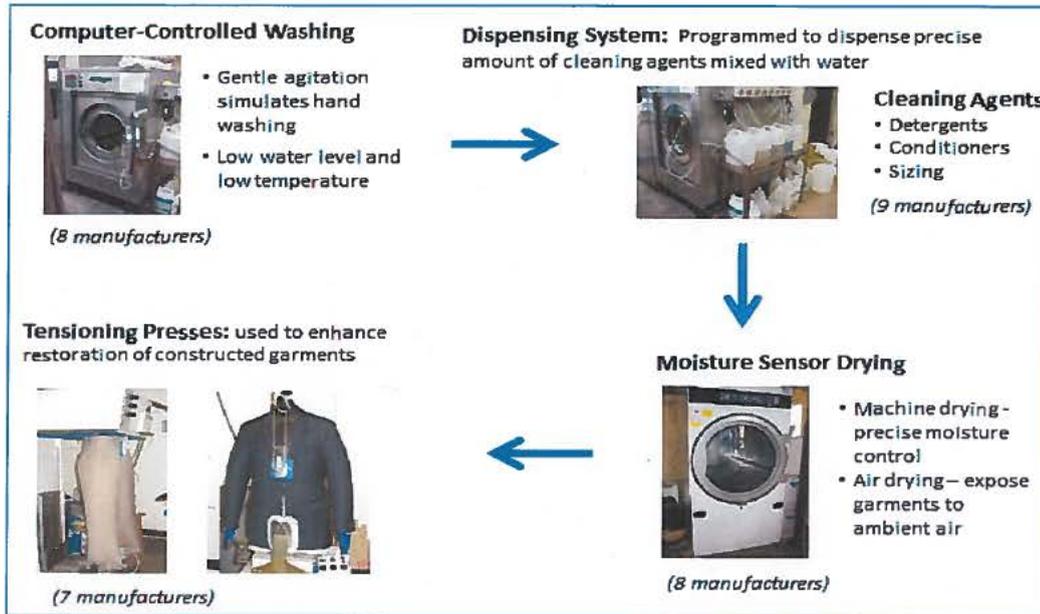
<sup>6</sup> USEPA. Fact Sheet: List of Major Federal Regulations and Standards Affecting Petroleum Cleaners. EPA 744-F-99-005, May 1999.

<sup>7</sup> Sinsheimer P. Comparison of Electricity and Natural Gas Use of Five Garment Care Technologies. Southern California Edison Design & Engineering Services, ET 05.11. <http://www.srpnet.com/energy/powerwise/business/pdfx/sws/wetcleaning.pdf>, 2009.

## 2. The Professional Wetcleaning System

As illustrated in Figure 1, the professional wetcleaning process is composed of five essential equipment and system components.

**Figure 1: Professional Wetclean Equipment and System Components**



**Computer-Controlled Washers:** Like many modern inventions, the essential innovation in professional wet cleaning involves the use of a computer. In professional wetcleaning, a computer controller integrated in an industrial laundry washer is programmed to mimic gentle hand washing at an industrial scale by minimizing water temperature, water level, and mechanical action. Different programs can be developed by the computer controller depending on the type of delicate apparel being cleaned. Almost all industrial laundry machine manufacturers have a line of PWC washers.<sup>7</sup> In addition, well over 50% of existing dry cleaners own industrial laundry washers capable of being used as a professional wetclean washer.<sup>8</sup>

**Detergent Dispensing:** In a typical professional wetclean process, the computer controller on the washer is linked to an automatic detergent dispensing system which dispenses different amounts and types of cleaning agents depending on the specific professional wetclean wash program. While automatic detergent dispensing increases the efficiency of the professional wetcleaning process, which is particularly important for dedicated professional wetclean operations or apparel cleaners cleaning a substantial percentage of items in professional wetcleaning, professional wetclean detergents can also be dispensed manually.

**Professional Wetclean Cleaning Agents:** The second major technological development in professional wetcleaning is a green chemistry innovation. As washers were being modified, detergent manufacturers

<sup>7</sup> UCLA Sustainable Technology & Policy Program. Equipment Report: Professional Wet Cleaning. [http://www.aqmd.gov/business/pdf/Professional\\_Wet\\_Cleaning\\_Equipment\\_Report.pdf](http://www.aqmd.gov/business/pdf/Professional_Wet_Cleaning_Equipment_Report.pdf). January 2013.

<sup>8</sup> Personal Communication. Kim Shady. Wascomat. August 2013.

began developing cleaning agents designed to clean delicate garments, typically labeled 'Dry Clean' or 'Dry Clean Only' in a commercial water-based process. These cleaning agents are biodegradable and can be released directly into the wastewater stream. Currently, many laundry detergent companies have a line of professional wetcleaning cleaning agents.

*Professional Wetclean Drying:* Like any cleaning process, once soils and stains are removed in the cleaning process, the material needs to dry. Advanced professional wetclean dryers are equipped with a sensor that detects moisture on items in the cleaning drum. Many professional wetcleaners use a simple time dry cycle and allow garments to air dry. While air drying is a particular good method for reducing mechanical action as well as preventing over drying, air drying is typically not permitted in dry cleaning due to solvent toxicity.<sup>9</sup>

*Professional Wetclean Finishing:* Once dried, most items need to be pressed. In professional wetcleaning, standard commercial presses can be used for many garments washed and dried in a professional wetclean process. Tensioning presses are required in professional wet cleaning when finishing tailored items.

For cleaners purchasing new equipment, the cost of a professional wet clean system – washer, dryer, dispensing system, tensioning form finisher for jackets and tensioning pants topper – is comparable in price to a solvent-based dry clean machine – where washing and drying are done in the same cleaning drum.<sup>10</sup>

In sum, advancements in computer controls and advancements in chemistry have created a system for efficiently and effectively processing delicate garments currently labelled 'Dry Clean' or 'Dry Clean Only' in water.

This system is flexible enough to allow professional cleaners, most of who already own industrial laundry washers and dryers, to begin professional wetcleaning apparel that in the future could be labeled 'Professional Wetclean.'

In addition, the fact that dry cleaners can add individual components of the professional wet clean system separately, allows cleaners to incrementally increasing the percentage of items processed in professional wetcleaning. This makes transitioning to this technology particularly cost-effective. In fact, before converting to dedicated professional wetcleaning, almost all dry cleaners in California converting to professional wetcleaning test the limits of what they could professionally wetclean using their industrial laundry equipment with professional wetclean cleaning agents.<sup>11</sup>

### **3. Viability of Professional Wetcleaning**

In 2000, to test the commercial limits of professional wetcleaning, our program was asked by the South Coast Air Quality Management District to convert the first set of PCE dry cleaners to professional wet cleaning. The objective of this research was to see what percentage of garments could be successfully wetcleaned cost effectively. The results of this initial study

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<sup>9</sup> USEPA. Toxicological Review of Tetrachloroethylene (Perchloroethylene) - CAS No. 127-18-4. In Support of Summary Information on the Integrated Risk Information System (IRIS). February 2012.

<sup>10</sup> Ibid.

<sup>11</sup> Personal communication with dry cleaners converting to professional wet cleaning as part of our Program's Environmental Garment Care Demonstration Project.

found that dry cleaners switching to professional wet cleaning were able to successfully wetclean over 99% of 'Dry Clean' and 'Dry Clean Only' labeled garments. Operating costs and electricity use were significantly lower after cleaners switched from dry cleaning to professional wetcleaning.<sup>12</sup>

Beginning in 2005, our program was asked to administer a California state demonstration project for non-toxic and non-smog forming apparel cleaning technologies – including CO<sub>2</sub> dry cleaning and professional wet cleaning. As part of this project, we created professional wetclean demonstration sites throughout California by converting a series of dry cleaners in every metropolitan region in the state to professional wetcleaning. We also assisted other academic programs in other states interested in the development of similar demonstration programs.<sup>13</sup>

As a consequence of this work, a series of additional studies have shown a high level of validity, consistency, and generalizability of the initial results with respect to performance (cleaners able to wet clean the full range of garments they previously dry cleaned) and cost (lower overall operating cost), across a wide range of equipment models and detergents, geography, neighborhood income levels, and over time.<sup>14</sup>

### Professionalization of Professional Wetcleaning

The process of converting dry cleaners to dedicated professional wetcleaning resulted in the development of the *profession* of professional wetcleaning. Characteristics of this profession include:

- The skill set of using the professional wetclean system to successfully process the full range of 'Dry Clean' or 'Dry Clean Only' garments.
- Quality control systems to optimize performance and cost of cleaning.
- Experience and expertise to accurately predict the success or failure of new items in a professional wetclean system.
- Implementing training programs to successfully train dry cleaners switching to professional wetcleaning.

A natural outcome of this professionalization process was the development of the Professional Wetcleaning Association, created by and composed of dedicated professional wet cleaners.

The experience and expertise of practicing professional wetcleaners, who are able to accurately predict whether an item can be successfully processed in professional wetcleaning, is ideally suited to serve as a cornerstone for developing the reasonable basis for a new 'Professional Wetclean' care label.

### **B. FTC Development of a 'Professional Wetclean' Care Label**

In the mid-1990s, as the FTC was considering amendments to the care label rule, the USEPA encouraged the FTC to create a new 'Professional Wetclean' care label, given the pollution prevention benefits of this technology.<sup>15</sup>

<sup>12</sup> Sinsheimer P, Grout C, et al. (2007) The Viability of Professional Wet Cleaning as a Pollution Prevention Alternative to Perchloroethylene Dry Cleaning *Journal of the Air & Waste Management Association* 57:172-178;

<sup>13</sup> Assistance provided to University of Massachusetts, Lowell and Rochester Institute of Technology.

<sup>14</sup> Onasch, J. "A feasibility and cost comparison of perchloroethylene dry cleaning to professional wet cleaning: case study of Silver Hanger Cleaners, Bellingham, Massachusetts." *Journal of Cleaner Production* 19(5): 477-482; Sinsheimer, P., Saveri, G, Namkoong, A. Commercialization of Environmental Technologies in the Garment Care Industry. January 31, 2008. Final Report to the United States Environmental Protection Agency and the Bay Area Air Quality Management District.

<sup>15</sup> FTC. Advanced Notice of Proposed Rulemaking. Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods, Federal Register/ Vol. 60, No. 249 / Thursday, December 28, 1995.

In 2000, the last time the FTC amended the care label rule, the Commission considered creating the professional wetcleaning instruction, but deferred moving forward until both a standardized definition had been developed and until a standardized methodology for testing was established. In 2007, the International Standardization Organization (ISO) finalized a professional wetclean care label instruction, which includes a definition of professional wet cleaning, standardized test procedures for professional wet cleaning, and a symbol system corresponding to the test procedures.<sup>16</sup>

The 2011 Advanced Notice of Proposed Rulemaking (ANPR) asked for comments on an amendment to the care label rule including whether the FTC should proceed with a 'Professional Wetclean' care label. The overwhelming majority of comments that referenced wetcleaning supported developing a professional wet cleaning label. And, of those specifically commenting on whether to allow or require its use, the vast majority supported a requirement.

The 2012 Notice of Proposed Rulemaking (NPR) recommended adopting the ISO professional wet clean instruction, seeing a specific societal benefit – “a professional wetcleaning instruction would provide consumers with useful information regarding the care of the apparel they purchase.”<sup>17</sup> On the question of whether to simply permit the use of the 'Professional Wetclean' label or to require its use, the NPR states the following: “None of the comments provided evidence that the absence of a wetcleaning instruction for products that can be wetcleaned would result in deception or unfairness under the FTC Act. Nor did they provide evidence that the benefits of requiring a wetcleaning instruction would exceed the costs such a requirement would impose on manufacturers and importers. Thus, the Commission declines to propose amending the Rule to require a wetcleaning instruction.”<sup>18</sup>

The NPR next suggests that the benefits of the new 'Professional Wetclean' label could be generated through customer demand for the label: “If consumers prefer wetcleaning to drycleaning and make their purchase decisions accordingly, manufacturers and importers will have an incentive to provide a wetcleaning instruction either in addition to, or in lieu of, a drycleaning instruction.”<sup>19</sup> While the NPR did acknowledge the current unfair advantage of the 'Dry Clean' label over the new “Professional Wetclean” label, the FTC suggests that the market mechanism will correct this, stating: “Furthermore, by treating drycleaning and wetcleaning in a similar fashion—as care procedures that manufacturers and importers can disclose to comply with the Rule—the Rule as proposed would help level the playing field for the drycleaning and wetcleaning industries.”<sup>20</sup>

### **FTC Legal Standard for Requiring Use of a Particular Care Label**

The Rule was initially promulgated by the FTC in 1971, making it an “unfair or deceptive practice” for textile importers and manufacturers to sell certain textile wearing apparel and piece goods without a care label stating the regular care necessary for a product in the course of its ordinary use.<sup>21</sup> Further, the Rule requires that there be a reasonable basis for those care instructions provided by the manufacture or importer.<sup>22</sup> The Commission amended the Rule in 1983 to clarify its disclosure requirements for washing and drycleaning information.<sup>23</sup> Section 423.5 of Title 16 of the Code of Federal Regulations governs

<sup>16</sup> ISO 3175-4:2003(E). (2003) *Procedure for testing performance when cleaning and finishing using simulated wetcleaning*. ISO 3758:2005(E). (2005) *Textiles -- Care labelling code using symbols*.

<sup>17</sup> 2012 NPR, p.58345.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> 16 CFR 423.5 and 423.6(a) and (b).

<sup>22</sup> 16 CFR 423.6(c).

<sup>23</sup> Federal Trade Commission: Care Labeling of Textile Wearing Apparel: Promulgation of Trade Rule and Statement of Basis and Purpose, 36 FR 23883 (Dec. 16, 1971).

unfair or deceptive acts or practices with regards to textile wearing apparel and certain piece goods. With regards to the sale of these items, it is considered unfair or deceptive for an importer or manufacturer to, among other things, “[f]ail to disclose to a purchaser, prior to sale, instructions which prescribe a regular care procedure necessary for the ordinary use and enjoyment of the product.”<sup>24</sup> Under standards developed by the FTC, a care method must be listed where reliable evidence demonstrates that three criteria are met. Listing would be required where:

- (1) The failure to list the method is prevalent.
- (2) The failure to list the method is deceptive or unfair.
- (3) The response of requiring a label is an appropriate and cost effective measure to address unfair or deceptive practice.

The balance of this letter sets out the reliable evidence for each criterion.

### **1. Is the Failure to List a Method Prevalent?**

When evaluating whether there is reliable evidence for this criteria, it is important to consider the context of this rulemaking. The FTC is considering whether to allow or require listing of wet cleaning as an appropriate method on care labels. Because reference to wet cleaning is currently prohibited, the failure to list is of course prevalent by operation of law. The relevant question here, however, is whether the failure to list is likely to persist even after that prohibition is lifted. In other words, is it likely that manufacturers will add wet cleaning, where that method is appropriate, to care label along with dry cleaning instructions?

Fortunately, there is an excellent method to address this question. In 2007, ISO developed a ‘Professional Wetclean care label. The ‘Professional Wetclean’ label is permitted to be used in eighteen countries and territories, including most of Western Europe.<sup>25</sup> Thus, it is possible to examine how prevalent the ‘Professional Wetclean label is for garments sold in these countries and territories.

To answer this question, we conducted an internet search of apparel company web sites in Great Britain, where the ISO ‘Professional Wetclean’ label is permitted. The search was conducted in September 2013. We selected ten apparel companies with online websites marketed specifically to consumers in Great Britain. These ten companies include high-end and non-high end brands that manufacture garments which frequently carry a ‘Dry Clean’ or ‘Dry Clean Only’ label. Each website displayed a picture of each item for sale, the fiber type, as well as provided the specific care instruction for each item.

For these ten companies, the online search identified 1,836 items with a professional clean label and represented a broad range of garment types -- including men’s and women’s suits, jackets, dresses, skirts, and sweaters as well as fiber types -- including wool, wool blends, silk, silk blends, cotton, cotton blends, polyester, etc.

Table 1 shows the results from the survey with respect to the care label associated with each item. Of the 1,836 items with a professional clean label, 99.4% (n=1,825) were labeled ‘Dry Clean’ and 0.6% (n=11) were labeled ‘Wet Clean.’ In all 11 cases where a wetclean label was found, the garments carried a label warning against dry cleaning.

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<sup>24</sup> 16 CFR 423.5.

<sup>25</sup> <http://www.ginetex.net/ginetex/country-members/>. The eighteen countries and territories include Austria, Belgium, Brazil, the Czech Republic, Denmark, Finland, France, Germany, Great Britain, Greece, Italy, the Netherlands, Portugal, Slovenia, Spain, Switzerland, Tunisia, Turkey.

**Table 1: On-line search of apparel company web sites where ISO ‘Professional Wetclean’ label is permitted**

<b>Great Britain</b>					
<b>Brand</b>	<b>Professional Clean Label</b>			<b>Distribution</b>	
	<b>Dry Clean</b>	<b>Clean</b>	<b>Total</b>	<b>DC %</b>	<b>WC %</b>
1. Thomas Pink	23	0	23	100.00	0.00
2. Givenchy	16	0	16	100.00	0.00
3. Donna Karan	74	0	74	100.00	0.00
4. Balenciaga	37	0	37	100.00	0.00
5. Stella Mc Cartney	147	0	147	100.00	0.00
6. Hugo Boss	1,093	11	1,104	99.00	1.00
7. Forever 21	84	0	84	100.00	0.00
8. H&M	35	0	35	100.00	0.00
9. Tommy Hilfiger	181	0	181	100.00	0.00
10. J. Crew	135	0	135	100.00	0.00
<b>Total</b>	<b>1,825</b>	<b>11</b>	<b>1,836</b>	<b>99.40</b>	<b>0.60</b>

Additional research on the prevalence of the ‘Professional Wetclean’ care label in Europe was conducted by Jurgen Shaeffer from Miele – the company who developed the first professional wetclean washer and dryer system. Mr. Shaeffer conducted a search of the men’s and women’s apparel sections in eight major department stores in Germany and Belgium – two countries where the ISO ‘Professional Wetclean’ label is permitted. The results of this search revealed many items with a ‘Dry Clean’ label but only one manufacturer using a ‘Professional Wetclean’ care symbol.<sup>26</sup> In addition, Mr. Shaeffer included in his comment correspondence with Miele managers from Italy and Portugal reporting on the prevalence of the ‘Professional Wetclean’ label in these two countries, which both recognize the ISO ‘Professional Wetclean’ label. Both managers surveyed cleaners using the Miele professional wetcleaning equipment in their respective countries about the presence of a ‘Professional Wetclean’ label. The Italy manager reported no such labeling from his survey of 300 wet cleaners and the Portugal manager report less than 1% of apparel with the professional wetclean label from the 15 dedicated professional wetcleaners surveyed.

In sum, there appears to be extremely strong reliable evidence that in countries and territories where a ‘Professional Wetclean’ label is permitted but not required, apparel manufacturers have systematically failed to use the ‘Professional Wetclean’ label for garments labeled ‘Dry Clean’. Thus, this evidence strongly suggests that if the FTC allows but does not require the use of a ‘Professional Wetclean’ label there will be a very high likelihood of failure to list a ‘Professional Wetclean’ label for apparel labeled ‘Dry Clean’.

<sup>26</sup> Shaefer, Jurgen. Miele. Comment on Care Labeling Rule. [http://www.ftc.gov/sites/default/files/documents/public\\_comments/16-cfr-part-423-trade-regulation-rule-care-labeling-textile-wearing-apparel-and-certain-piece-goods-r511915-00072%C2%A0/00072-85184.pdf](http://www.ftc.gov/sites/default/files/documents/public_comments/16-cfr-part-423-trade-regulation-rule-care-labeling-textile-wearing-apparel-and-certain-piece-goods-r511915-00072%C2%A0/00072-85184.pdf), November 16, 2012.

## 2. Is Failure to List a Method Deceptive or Unfair?

Because a core mission of the FTC is to guard against deceptive and unfair practices, the agency has developed very clear criteria for what constitutes a deceptive practice and what constitutes an unfair practice.<sup>27</sup>

The FTC criteria for determining a deceptive practice under the FTC Act is as follows:

- Likely to mislead,
- a reasonable consumer,
- about material information.

In determining the reliable evidence that should be developed and analyzed to determine a deceptive practice in this case, it is important to note that a key issue in FTC cases of deception is whether the practice or act at issue is likely to mislead-- not whether the deception of a consumer was actually caused by the act or practice. In addition, the Commission examines the act or practice from a reasonable consumer's perspective, or the perspective of a particular group acting reasonably, given the circumstances.<sup>28</sup> Finally with respect to materiality, information is material if it is likely to affect the consumer's conduct or decision with regard to a product or service. Information pertaining to safety, cost, efficacy, or purpose of a product or service has been found to be material.<sup>29</sup>

As with deceptive practice, the FTC has developed a set of three criteria used to determine whether a practice is unfair:

- Substantial injury to consumers or violation of established public policy
- not "outweighed by any countervailing benefits to consumers or competition that the practice produces," and
- an injury that "consumers themselves could not reasonably have avoided."<sup>30</sup>

Here again, in determining the reliable evidence that should be developed and analyzed to determine an unfair practice in this case, it is important to understand how the FTC interprets each of these criteria. Often an injury that is considered to be substantial will involve monetary harm or unwarranted health and safety risks.<sup>31</sup> Importantly, the latter may include harm to the environment that the consumer wished to avoid.<sup>32</sup> The FTC may also take into account whether the practice undermines established public policy, although the finding of unfairness cannot be the primary reason for that finding.<sup>33</sup>

The second and third elements of unfairness are relatively straight forward -- whether there are any trade-off benefits to consumers or benefits to competition that counterbalance the injury or violation of public policy as well as whether the consumer could have avoided the injury.

With respect to both the deceptive practice and unfair practice criteria, it is important to note that both focus on impacts to consumers. Thus, conducting a consumer survey appeared to be the best way to

<sup>27</sup> FTC Policy Statement on Deception, Appended to *Cliffdale Associates, Inc.*, 103 F.T.C. 110, 174 (1984); FTC Policy Statement On Unfairness, Appended to *International Harvester Co.*, 104 F.T.C. 949, 1070 (1984).

<sup>28</sup> *Id.*

<sup>29</sup> *American Home Products*, 98 F.T.C. 136, 369 (1981), *aff'd*, 695 F.2d 681 (3d Cir. 1982); *E.g. J.B. Williams Co.*, 68 F.T.C. 481, 546 (1965), *aff'd*, 381 F.2d 884 (6th Cir. 1967) (finding materiality where a product was effective in only a small minority of cases); FTC Policy Statement on Deception, Appended to *Cliffdale Associates, Inc.*, 103 F.T.C. 110, 174 (1984). The policy was modified by statute in 1994, codifying certain elements of the policy, and modifying the role of public policy. See 15 U.S.C. Section 45(n).

<sup>30</sup> FTC Policy Statement On Unfairness, Appended to *International Harvester Co.*, 104 F.T.C. 949, 1070 (1984).

<sup>31</sup> *Id.*

<sup>32</sup> 60 Fed. Reg. 67102, 67104-5 (December 28, 1995).

<sup>33</sup> 15 U.S.C. Section 45(n).

generate reliable evidence with respect to a characterizing the impacts on consumers of the failure to list a label.

### *Development and Evaluation of Reliable Evidence*

Our Program (the UCLA Sustainable Technology & Policy Program -STPP) commissioned Harris Interactive to conduct an online survey of consumers in the United States. The survey was conducted by Harris Interactive, via its Quick Query omnibus product, between September 18-20, 2013 among 2,000 adults (aged 18 and over). Figures for age, sex, race/ethnicity, education, region and household income were weighted where necessary to bring them into line with their actual proportions in the population. Propensity score weighting was used to adjust for respondents' propensity to be online.<sup>34</sup>

Survey questions were drafted by STPP to generate reliable evidence with respect to three criteria for determining a deceptive practice – whether or not the failure to use a 'Professional Wetclean' label was misleading to a reasonable consumer that was material – as well as the three criteria for determining an unfair practice – whether or not the failure to use a 'Professional Wetclean' label would cause substantial injury to consumers, not outweighed by any countervailing benefits to consumers or competition that the practice produces, and an injury that consumers themselves could not reasonably have avoided.

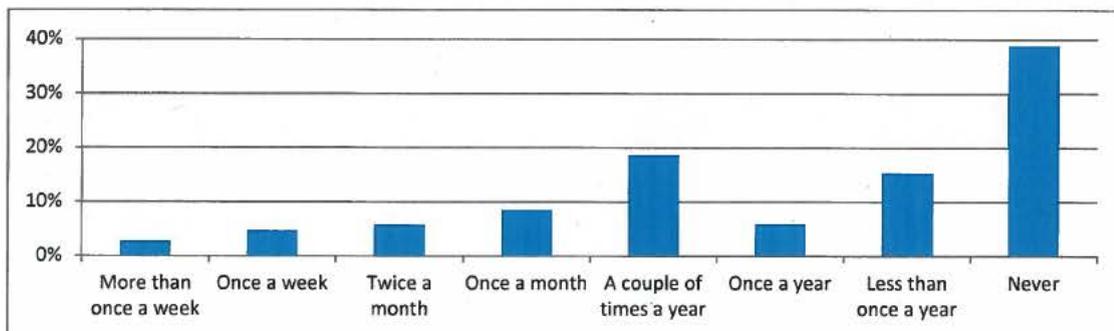
Draft survey question were then integrated into a questionnaire format by Harris. In addition, Harris adjusted questions and potential responses to increase their clarity and reduce unintended bias.

The first question was used to identify consumers who used professional cleaning services. This question asked:

(Q1): How frequently do you take garments typically labeled 'Dry Clean' to a professional cleaner?

Respondents were provided eight options – see Figure 2. A total of 38.7% reported never using professional apparel cleaning services while 61.3% reported using a professional cleaner. For the purpose of our analysis, respondents who never use professional apparel cleaning services were excluded from the definition of “consumers” of this service and were dropped from the analysis of the remaining survey questions. The remaining respondents were then referred to as “consumer respondents.” Given the large initial size of the sample, the remaining consumer respondents in the survey were considered ample to represent the population of United States consumers of professional cleaning services.

**Figure 2: Frequency of Taking Garments Typically Labeled 'Dry Clean' to a Professional Cleaner**



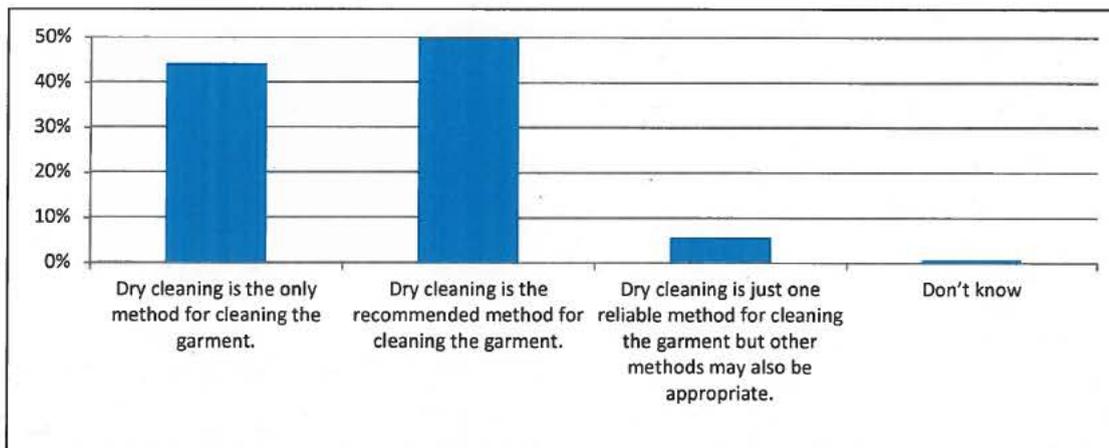
<sup>34</sup> See UCLA Appendix submission, which includes a series of documents related to the Harris Survey including: Harris Survey Methodology, Harris Questionnaire, Total Sample Frequency Tables, Consumer Respondent Frequency Tables.

The second survey question was worded as follows:

(Q2): The “care label” on a garment provides information about how the garment can be cleaned. When you see a garment with a care label that says ‘Dry Clean’ what do you think it means?

Respondents were provided four options – see Figure 3.

**Figure 3: Consumer Respondent Understanding of ‘Dry Clean’ Care Label**



The least chosen option was “Don’t know”; selected by less than 1%.

Of the 99% of consumer respondents who thought they know the answer, 44% said that a ‘Dry Clean’ label meant that dry cleaning was the only method for cleaning the garment, nearly half (49.6%) believed a ‘Dry Clean’ label meant dry cleaning was the recommended method, while 6% said that a ‘Dry Clean’ label meant dry cleaning was just one reliable method for cleaning the garment but other methods may also be appropriate.

The FTC defines the meaning of a ‘Dry Clean’ label as one reliable method of cleaning a garment but other methods may also be appropriate. This means only 6% of consumer respondents had the same understanding as the FTC and over 93% had a different understanding – specifically that dry cleaning was either the only or the recommended method for cleaning the garment.

Put differently, a care label that says ‘Dry Clean’ was misleading to 93% of consumer respondents who used professional cleaning services, biasing them towards believing that dry cleaning was the recommended or only method for caring for the garment.

The results from this question appear to meet the first two conditions required to show a practice is deceptive – failure to list ‘Professional Wetclean’ care label on a garment labeled ‘Dry Clean’ is very likely to mislead a reasonable consumer towards the belief the dry cleaning is the only or recommended method for caring for the garment and away from the belief that professional wetcleaning may be another professional apparel cleaning method.

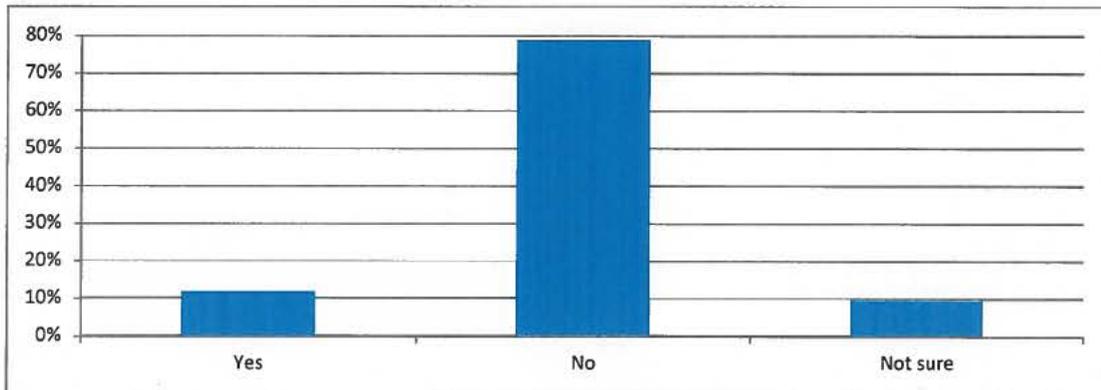
We were next interested in understanding consumer awareness of professional wetcleaning.

The third question respondents were asked was:

(Q3): Have you ever heard of “professional wet cleaning”?

Figure 4 shows that 8 out of 10 consumer respondents had never heard of professional wet cleaning, 1 in 10 were not sure, and 1 in 10 had heard of professional wet cleaning.

**Figure 4: Consumer Respondent Awareness of Professional Wetcleaning**



The fact that few consumers have ever heard of professional wet cleaning, coupled with the fact that the vast majority of consumers interpret a ‘Dry Clean’ label to mean that dry cleaning is the only or recommended process for cleaning a garment magnifies the deceptive impact.

Placement of the Professional Wet Clean instruction emphasizes to reasonable consumers that an alternative care method exists. As responses to subsequent survey questions illustrates, that information is material to substantial numbers of reasonable consumers.

We anticipated that consumer respondents would not have heard of professional wet cleaning. Prior to being asked the next set of questions, consumer respondents were instructed to read the information about professional wetcleaning.<sup>35</sup> This information included a definition of professional wet cleaning corresponding to the FTC definition, the fact that the USEPA encourages dry cleaners to add or switch to professional wetcleaning because it is a nontoxic process, the fact that university research shows that professional wetcleaners who switched from dry cleaning can process a full range of garments label ‘Dry Clean’ or ‘Dry Clean Only’ that they previously dry cleaned, and finally the fact that the FTC considers professional wetcleaning an ‘environmentally friendly’ alternative to dry cleaning and is proposing adding a new ‘Professional Wetclean’ care label.

The purpose of providing this information was that we wanted to know how important adding the words ‘Professional Wetclean’ to a garment labeled ‘Dry Clean’ would be to a reasonable consumer. A strong preference for wet cleaning is relevant both to the materiality of the listing (for purposes of deception), and to the magnitude of the injury (for purposes of unfairness).

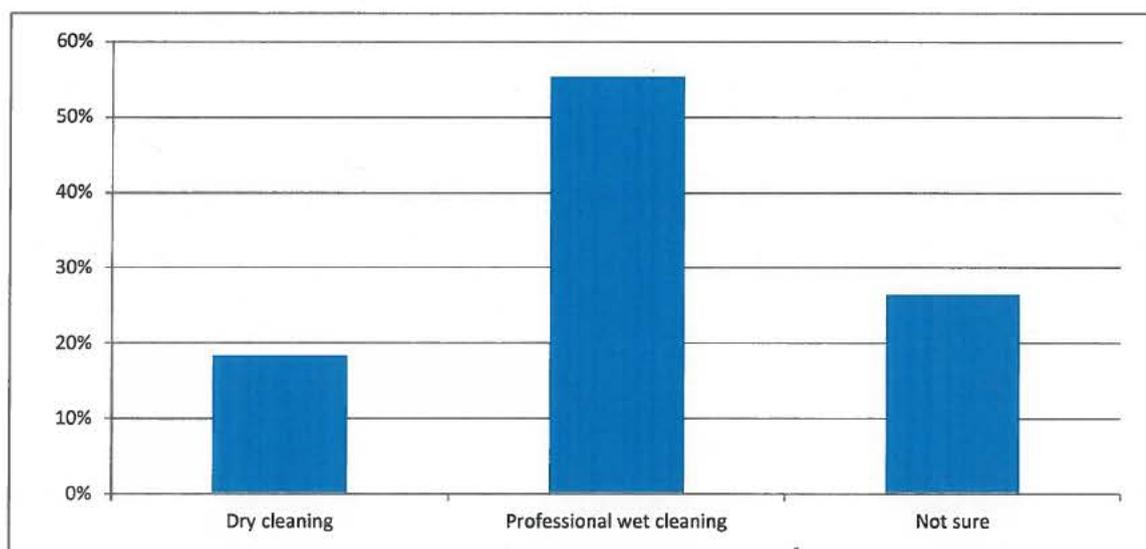
<sup>35</sup> See UCLA Appendix submission, Harris Questionnaire.

With this in mind, following the information screen on professional wet cleaning, respondents were asked the following question:

- (Q 4) Imagine you owned a garment labeled “Dry Clean or Professional Wetclean”, and the quality and cost of the two cleaning methods were the same. Which of these two professional cleaning methods would you prefer using for this garment?<sup>36</sup>

Figure 5 show that if a garment carried a ‘Dry Clean or Professional Wetclean’ label, and quality and price were comparable, 55% of consumer respondents expressed a preference for professional wetcleaning, 18% expressed a preference for dry cleaning, with the remained 27% stating that they were not sure. Excluding consumer respondents who were not sure, the absolute difference in preference is even more extreme -- 75% preferred professional wetcleaning vs. 25% preferring dry cleaning.

**Figure 5: Preference for Cleaning Method for Garment Labeled ‘Dry Clean or Professional Wet Cleaning’**



These results made it clear that adding ‘Professional Wetclean’ to garment labeled ‘Dry Clean’ not only addresses the misleading nature of a garment simply labeled ‘Dry Clean’ but, given the three-fold preference for professional wetcleaning by consumer respondents, provide strong evidence that this information is material to consumers.

Since the information provided on professional wetcleaning informed customer respondents of the environmental and human health benefits of professional wetcleaning, we wanted to know the extent to which these social values influenced a preference towards professional wet cleaning.

<sup>36</sup> We were concerned that the order of which care label option was presented first could possibly bias respondents, so the order was randomly assigned to a respondent such that half had “Dry Clean” appear first and half had “Dry Clean or Professional Wetclean” appear first.

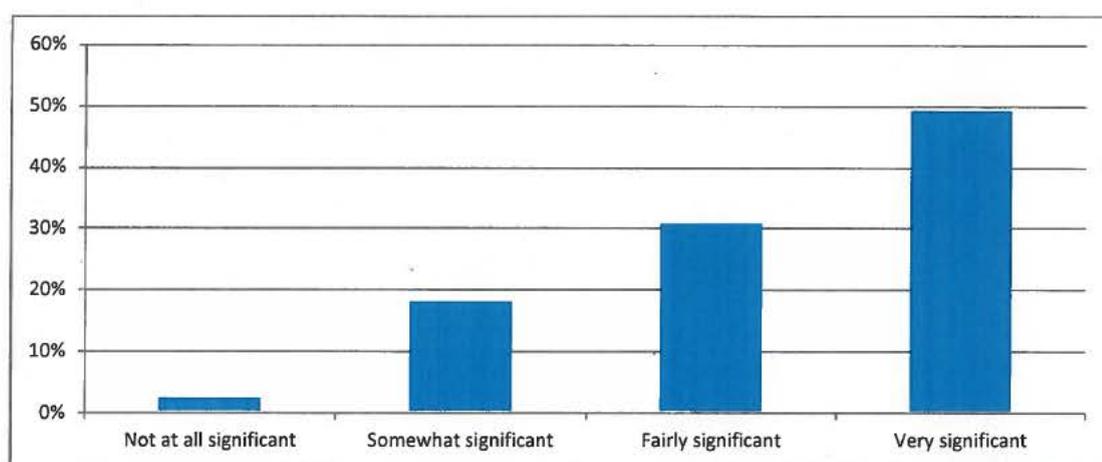
With this in mind, question five of the survey asked the following question to the 55% of consumer respondents expressing a preference for professional wet cleaning:

(Q5) How significant, if at all<sup>37</sup>, is avoiding the environmental and human health impacts of dry cleaning in your preference for professional wet cleaning?

Respondents were provided four options: “Very Significant”, “Fairly Significant”, “Somewhat Significant”, or “Not Significant at All”.

Figure 6 shows that for consumer respondents expressing a preference for professional wet cleaning, almost half said avoiding environmental and human health impacts was very significant. Overall, 98% said avoiding environmental and human health impacts were somewhat to very significant while only 2% said these were not important factors.

**Figure 6: Significance of Avoiding Environmental and Human Health Impacts of Dry Cleaning in Preference for Professional Wetcleaning**



Since, for the FTC, information regarding environmental and human health impacts can be material, these results provide strong evidence that the misleading care label is missing information that is material to a substantial portion of reasonable consumers..

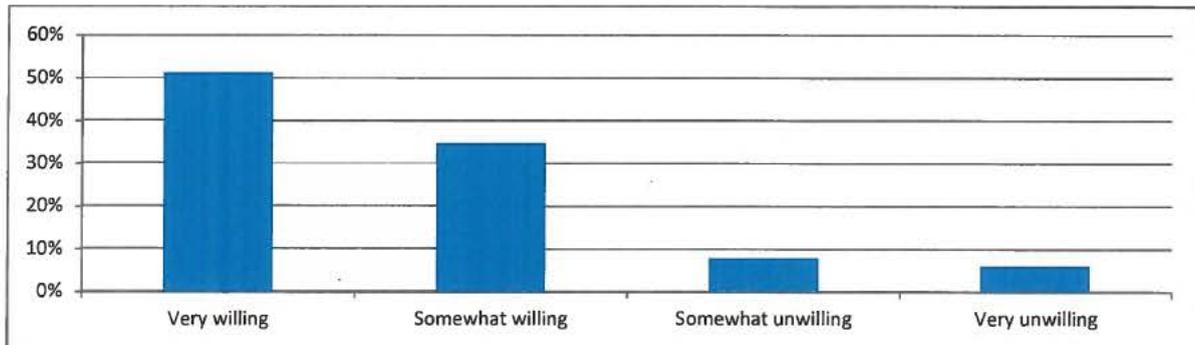
To evaluate a consumer’s willingness to act on their preference, we asked respondents who expressed a preference for professional wetcleaning whether they would be willing to switch to a cleaner who could professionally wetclean a garment if the cleaner they typically use could not do so.

(Q6) If the cleaner(s) you typically use were not able to professionally wet clean a garment you owned that was labeled ‘Dry Clean or Professional Wet Clean’, how willing, if at all, would you be to use a different cleaner which was able to professionally wet clean this garment (instead of dry cleaning it) if the price, quality, and location of this cleaner were comparable to the cleaner(s) you typically use?

<sup>37</sup> The words “...if at all...” in the question were included to make certain that a response of “Not at All Significant was considered a perfectly legitimate answer. Consumer respondent preference for professional wet cleaning could have been driven by a preference for new technologies and not at all by environmentally benefits. For this question, the response options started with “Not Significant at All” for half of the respondents the options were reversed starting with “Very Significant” to minimize any bias of the order of response options on the respondents.

Figure 7 shows that nearly half of consumer respondents expressing a preference for professional wetcleaning said they were *very* willing to switch to another cleaners and another 35% said they were somewhat willing to switch.

**Figure 7: Willingness to Switch Cleaners if Existing Cleaners Not Able to Professionally Wetclean Garment**



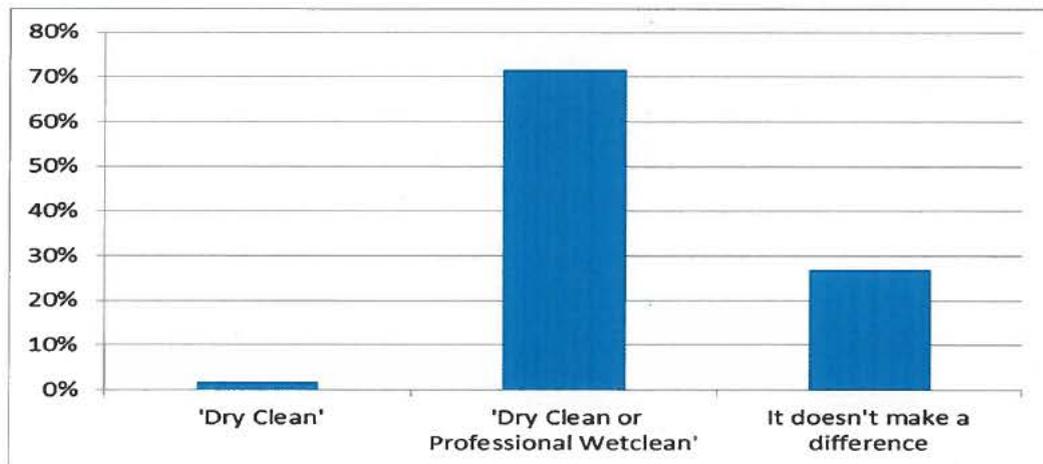
There results show that respondents expressing a preference for professional wet cleaning were willing to act on their preference by changing the cleaner they use.

Next, we wanted to directly evaluate whether the words “Professional Wetclean” on the care label were important to consumers with a preference for professional wet cleaning. To do so, we asked the following question:

(Q7) Which of the following garment care labels would make you more likely to want to professionally wet clean a garment?

Figure 8 shows that for 70% of consumer respondents expressing a preference for professional wetcleaning, adding the words ‘Professional Wetcleaning’ to a ‘Dry Clean’ care label would make these consumers more likely to want to professionally wetclean a garment. Put differently, 70% of consumer respondents would be less likely to professionally wetclean a garment if the words ‘Professional Wetclean’ were not on the care label.

**Figure 8: Care Label That Would Make Respondent With Preference for Professional Wetcleaning More Likely to Want to Professionally Wetclean a Garment**



This result establishes that adding the words ‘Professional Wetclean’ to the care label provides essential information to consumers, allowing them to act on their preference.

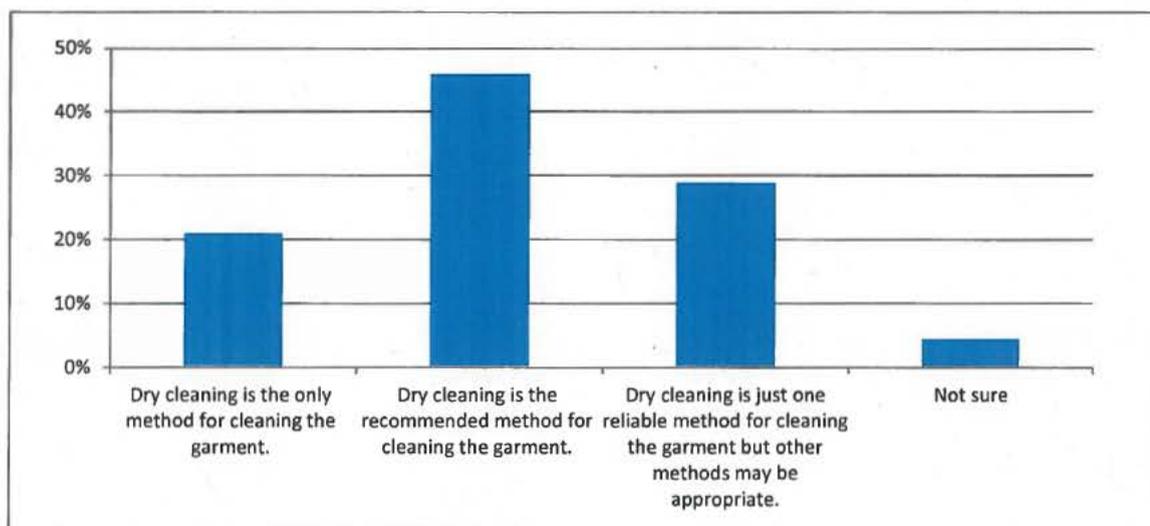
The next question was designed to evaluate the extent to which consumer respondents would adjust their definition of a ‘Dry Clean’ label given the amount of information the survey provided about professional wetcleaning.

To that end, we asked the following question:

(Q8) “In the future, you may see some garments labeled ‘Dry Clean or Professional Wetclean’ and other garments labeled ‘Dry Clean.’ If this was the case, and you saw a garment with a ‘Dry Clean’ care label, would you think it means...?”

Figure 9 shows that 21% said dry cleaning was the only method for cleaning the garment, 46% said dry cleaning was the recommended method, 29% said dry cleaning was one method and other methods may be appropriate, and 4% said they didn’t know.

**Figure 9: Consumer Respondent Understanding of ‘Dry Clean’ Care Label After Information on Professional Wetcleaning Provided**



While this response shows a greater concordance between the FTC’s definition of a ‘Dry Clean’ label and consumer respondent conception compared to when consumers were first asked this question at the beginning of the survey – before information on professional wetcleaning was provided, two-thirds of consumer respondents continued to believe that a ‘Dry Clean’ label meant dry cleaning was the only or recommended method.

These results suggest that if the FTC were to allow but not require a ‘Professional Wetclean’ label and even if some manufacturers begin to dual label garments ‘Dry Clean or Professional Wetclean’ (note the evidence from Europe suggest this is very unlikely), a garment labeled ‘Dry Clean’ would likely continue to be interpreted as meaning dry cleaning as the only or recommended cleaning method by a substantial proportion of consumers who are well informed about professional wet cleaning.

At this point in the survey we were interested in knowing whether consumer respondents believed whether a garment labeled 'Dry Clean' that could also be professionally wetcleaned was acceptable, misleading, or unfair.

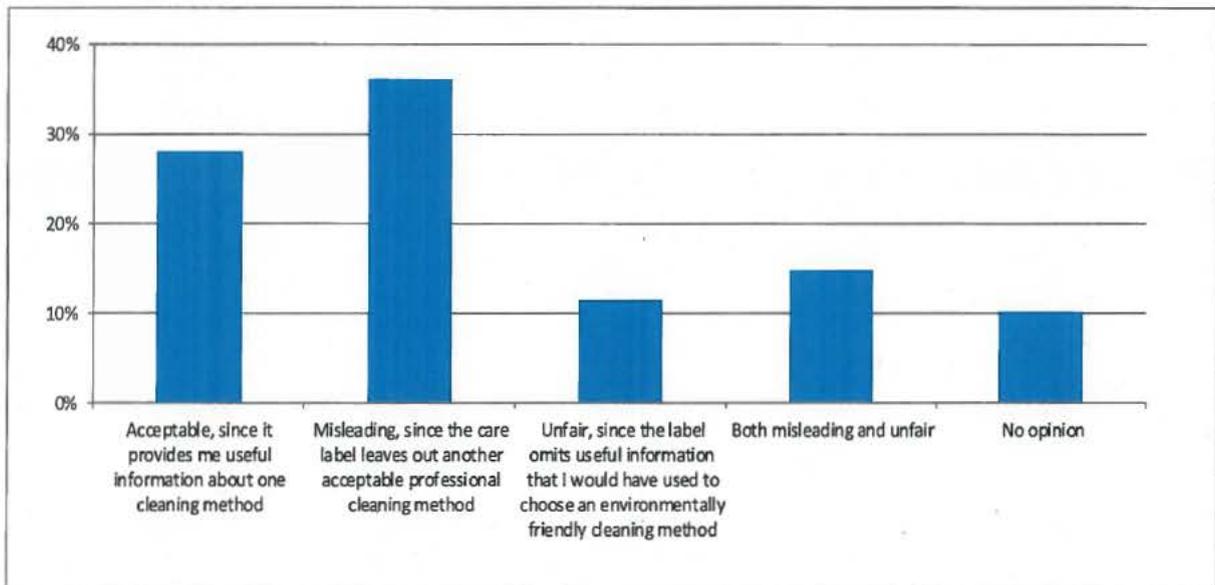
To this end, we asked for the following question:

(Q9) If a garment could be safely professionally wet cleaned or dry cleaned but the garment was only labeled 'Dry Clean', would you consider the 'Dry Clean' care label on this garment to be:

- (a) Acceptable, since it provides me useful information about one cleaning method.
- (b) Misleading, since the care label leaves out another acceptable professional cleaning method.
- (c) Unfair, since the label omits useful information that I would have used to choose an environmentally friendly cleaning method.
- (d) Both misleading and unfair.
- (e) No opinion.

Figure 10 shows that consumer respondents were twice as likely to believe that omitting useful information about professional wetcleaning from a garment labeled 'Dry Clean' was misleading and/or unfair (62%) compared to respondents who believed that this omission was acceptable because it provided useful information about one cleaning method (28%).

**Figure 10: Acceptability of 'Dry Clean' Label for Professionally Wetcleanable Garments**



Not surprisingly, consumer respondents who expressed a preference for professional wetcleaning were substantially more likely to consider the omission of a 'Professional Wetcleaning' label to be misleading and/or unfair (66%) compared with respondents with a preference for dry cleaning (39%) who believed such as omission to be misleading and/or unfair.

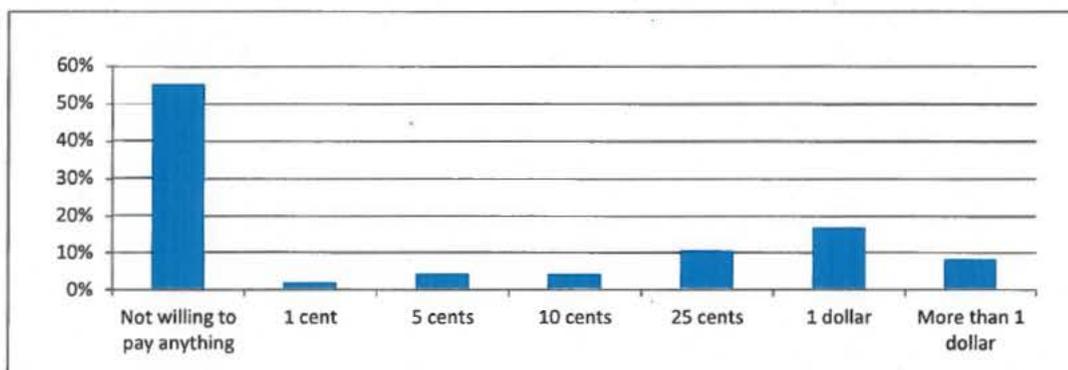
The final question in the questionnaire focused on the willingness of consumer respondents to pay more for a garment in order for a manufacturer to determine whether the garment could be professionally wetcleaned.

This question read as follows:

(Q10): Because professional wet cleaning is a new professional cleaning method, it may cost more for a garment manufacturer to determine whether a garment could carry a 'Professional Wet Clean' label. When paying for a garment at a retail store, how much more would you be willing to pay for the garment to determine whether it could carry a 'Professional Wet Clean' label?

Figure 11 shows the results, which showed that 45% of all consumer respondents were willing to pay something while 55% were not willing to pay anything.

**Figure 11: Willingness to Pay for 'Professional Wetclean' Label**



Consumer respondents who preferred professional wet cleaning were substantially more willing to pay (61%) compared to respondents who preferred dry cleaning (43%).

Table 2 summarizes the evidence developed with respect to the criteria for determining that failure to list 'Professional Wetclean' on a label is deceptive. The evidence from the survey strongly supports each of the criteria that the failure to list 'Professional Wetclean' on a garment labeled 'Dry Clean' would very likely result in a deceptive practice as defined by the FTC Act.

**Table 2: Evidence that failure to list 'Professional Wetclean' on label is deceptive**

Criteria	Evidence
Likely to mislead to a reasonable consumer that is material.	<ul style="list-style-type: none"> <li>• 'Dry Clean' label extremely misleading and biased to dry cleaning.</li> <li>• Survey of US population using professional cleaning services.</li> </ul>
	<ul style="list-style-type: none"> <li>• Strong consumer preference for professional wetcleaning (55%) to dry cleaning (18%).</li> <li>• Preference based on <i>value</i> of avoiding harm to the environmental human health.</li> <li>• Preference strong enough that vast majority willing to switch cleaners.</li> <li>• Consumers with preference for professional wetcleaning less likely to act on their preference if words 'Professional Wetclean' omitted from the care label.</li> </ul>

With respect to the criteria of determining that failure to list ‘Professional Wetclean’ on a label is unfair, The Harris survey provides evidence with respect to the first criterion (i.e., Substantial injury to consumers) and the third criteria (i.e., ... which consumers themselves could not have reasonably avoided.) – See Table 3.

**Table 3: Evidence that failure to list ‘Professional Wet Clean’ on label is unfair**

Criteria	Evidence
Substantial injury to consumers,	<ul style="list-style-type: none"> <li>• Avoids harm to human health and the environment significant to virtually all consumers with preference for professional wet cleaning.</li> </ul>
not outweighed by countervailing benefits to the consumer or to competition,	<ul style="list-style-type: none"> <li>• No trade-off benefits identified in using dry cleaning.</li> <li>• No increased competition by not requiring ‘Professional Wetclean’ label</li> </ul>
which consumers themselves could not have reasonably avoided.	<ul style="list-style-type: none"> <li>• Consumers have little knowledge of ‘Professional Wetcleaning’ so likely are to get essential information from care label.</li> <li>• Consumers with preference less likely to use professional wetcleaning if words ‘Professional Wetclean’ not on care label.</li> </ul>

It is important to note here that in the 2000 amendment to the care label rule, the FTC, in their deliberation over whether to require a home wash label, acknowledged that a ‘Dry Clean’ label was likely misleading with respect to whether an item could be home laundered, yet pointed out that survey data showed that half of respondents had, at one time, home laundered a garment labeled ‘Dry Clean’ and therefore could use knowledge outside the care label to potentially overcome the misleading label.<sup>38</sup> Given that very few consumer respondents in the Harris survey ever heard of professional wetcleaning, that consumers with a preference for professional wet cleaning were less likely to use professional wetcleaning if the words were not on the care label, and the fact that professional wetcleaning is a commercial service that cannot be done at home, all support the third criteria for an unfair practice.

With respect to the second criterion for an unfair practice (e.g. ... not outweighed by countervailing benefits to the consumer or to competition), evidence for this comes primarily outside the survey. As discussed in the background section of this comment, because professional wetcleaning is considered an environmentally benign, low cost, energy-efficiency technology, there does not appear to be any countervailing benefits to the consumer from dry cleaning compared to professional wetcleaning. In terms competition, evidence from the Harris survey does suggest that a ‘Dry Clean’ label creates a substantial competitive advantage for dry cleaning given that the vast majority of consumer respondents considered a ‘Dry Clean’ label as either the *only* or the *recommended* method for cleaning the garment. Requiring a ‘Professional Wetclean’ care label would most likely result in professionally clean-labelled apparel being dual-labelled, thereby evening the playing field with respect to information provided to consumers about the two professionally clean labels. Given that both the FTC and the USEPA acknowledge professional wetcleaning as environmentally friendly, professional wetcleaners would be able to use this even playing field with respect to labeling information as a marketing advantage, spurring increased competition. This increased competition would have the advantage of educating consumers about professional wet cleaning and therefore the choice available to them.

<sup>38</sup> Federal Trade Commission: Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods, Final Amended Rule, 65 FR 47261 (Aug. 2, 2000).

### **3. Is the response of requiring a label (a) appropriate and (b) cost-effective to address unfair or deceptive practice?**

The third and final criterion requiring a label is whether that requirement is an appropriate and cost-effective response to unfair or deceptive practice.

#### *Appropriateness of Requiring a 'Professional Wetclean' Label*

Regarding the appropriateness of requiring the label, the key question here is does it address the first two criteria necessary to require a care label – that is: Does requiring a 'Professional Wetclean' care label resolve the failure to label (Criterion 1)? Does requiring a 'Professional Wetclean' care label resolve deceptive or unfair practices (Criterion 2)? As discussed above, the answer to both questions is clearly yes.

Requiring a 'Professional Wetclean' label is particularly appropriate given that the prevalence of failure is extremely high; virtually all garments labelled 'Dry Clean' or 'Dry Clean Only' can be successfully wetcleaned.

#### *Cost-Effectiveness of Requiring 'Professional Wetclean' Label to address unfair or deceptive practices*

With respect to cost-effectiveness, it is essential to characterize both the costs and the effectiveness to make this determination.

#### Effectiveness

As summarized in Table 2 and 3 above, requiring a 'Professional Wetclean' label would be extremely effective at addressing the deceptive and unfair practice of labeling a garment 'Dry Clean' when that garment could also be successfully professionally wetcleaned. The essence of the deception and unfairness here is the withholding of relevant information from the consumer. Most apparel labeled 'Dry Clean Only' or 'Dry Clean' can be successfully professionally wetcleaned. Simply allowing the use of a 'Professional Wetclean' would not result in apparel and textile manufacturers using the label, rendering a voluntary approach extremely ineffective at overcoming the deceptive and unfair practice. Requiring inclusion of professional wetcleaning on the label resolves the problem directly and simply.

#### Costs

In considering costs, it is important to understand what a rule requiring the use of a 'Professional Wetclean' care label would entail. Requiring the use of a 'Professional Wetclean' care label would essentially impose an obligation on textile and apparel manufacturers selling items in the United States to determine whether there is a reasonable basis for a 'Professional Wetclean' label.

The greatest cost associated with complying with this obligation for textile and apparel manufacturers is determining the reasonable basis for a 'Professional Wetclean' label. (Additional enforcement costs may be incurred associated with mislabeling, such as failing to label an item 'Professional Wetclean' when there is a reasonable basis for the label).

In terms of estimating the cost of developing a reasonable basis for a 'Professional Wetclean' label, there are a number of key issues to note. First, the FTC allows a number of approaches for establishing a reasonable basis, including experience, expertise, and testing. Second, for any option, it is important to identify the criteria used for making a judgment about the reasonable basis. Third, to minimize the

overall cost, the accuracy of the label is critical given that that an enforcement action can be taken if a care label can be demonstrated as inaccurate. Fourth, ultimately the accuracy of the label carrying a professional clean instruction is best judged based on the ability to successfully clean the item using the particular instruction in a commercial setting.

#### 1) Cost of Establishing a Reasonable Basis

The most knowledgeable professionals with the greatest understanding of whether an item can be successfully professionally wetcleaned in a commercial setting are trained dedicated professional wetcleaners. As discussed above, trained dedicated professional wetcleaners practice the profession of professional wetcleaning on a daily basis, having developed the experience and expertise to use expert judgment to accurately predict whether a new item brought into the cleaners by a customer can be successfully wetcleaned. Professional wetcleaners are appropriately risk averse about potentially damaging an item, given the cost of replacing the item and the potential loss of a customer whose garment was damaged. On the other hand, being too risk averse would result in a reduction in revenue due to rejecting too many items. Given their success in successfully wetcleaning over 99% of items labeled 'Dry Clean' or 'Dry Clean' only, dedicated professional wetcleaners appear to be ideally suited to provide experience and expert judgment to the textile and apparel industry with respect to determining whether an item can be successfully wetcleaned.

With this in mind, we undertook a survey of six dedicated professional wetcleaners to evaluate the criteria used when applying their experience and expert judgment in deciding whether to accept an item for professional wet cleaning, their ability to determine how to process each item, and the potential cost in providing this experience and expert judgment as well as the cost of conducting testing. A survey instrument was developed to characterize each of these factors.<sup>39</sup> An initial pool of six professional wetcleaners was selected among California and Massachusetts cleaners. All cleaners selected had experience serving as a demonstration site, hosting workshops showcasing the professional wetcleaning process to fellow cleaners. Surveys were conducted between September 9 and September 20. Because the response outcomes of this initial pool were extremely consistent, the results were deemed highly reliable and future surveying of dedicated professional wetcleaners was unnecessary.

With respect to identifying criteria used by professional wetcleaners in applying their experience and expert judgment when deciding whether to process an item and the criteria used to identify problems during the cleaning process, we compiled a list of criteria from the 2010 ISO document entitled "Textiles — Professional care, drycleaning and wetcleaning of fabrics and garments — Part 1: Assessment of performance after cleaning and finishing."<sup>40</sup> The criteria identified are listed in Table 4.

The cleaners interviewed were asked to focus on the assessment they use to identify specific problems from initial inspection at the time the customer brings in the item to the time it is placed into a bag at the end of the cleaning process. For each criteria listed in Table 4, the cleaners interviewed were asked which specific criteria was used at their cleaners.

Every cleaner reported that for every garment processed in professional wetcleaning, each of the criteria listed are used either during the cleaning process or at final inspection. In addition, this same set of criteria is used when applying their experience and expert judgment when deciding to accept or reject an item for professional wet cleaning.

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<sup>39</sup> See UCLA Appendix submission, Professional Wetcleaner Questionnaire.

<sup>40</sup> ISO 3175-1:2010(E).

**Table 4: Quality Control Criteria Used by Professional Wetcleaners**

Criteria	Sub Criteria	Sub-Sub Criteria	Measure (Yes/No)
Performance of component parts, etc.	Overall visual inspection		6/0
	Seam puckering		6/0
	Fraying of seams		6/0
	Surface abrasion		6/0
	Felting		6/0
	Pilling		6/0
	Creasing propensity	Creasing	6/0
		Wrinkle recovery	6/0
	Crease retention		6/0
	Adhesion of fusible interlinings and bonded fabrics	Delamination, blistering, deterioration of coated, boded, laminated or fused fabrics	6/0
Dimensional stability			6/0
	Distortion		6/0
		Bow and skew	6/0
		Puckering	6/0
		Differential shrinkage	6/0
Color fastness			6/0
Handle/hand/feel			6/0
Loss of finish			6/0

This concordance between the ISO properties and criteria used by professional wetcleaners in determining the success of the professional wetcleaning process mutually validates: (A) the ISO criteria as accurately characterizing the quality of professional wetcleaning at a commercial scale and (B) the ability of professional wetcleaners to use this list of criteria as a checklist when applying experience and expert judgment when physically inspecting an item for care labeling and/or performing testing on an item to determine its ability to be wetcleaned.

We then asked the professional wetcleaners surveyed a set of questions about their ability and willingness to use their experience and expert judgment to assist apparel manufacturers in determining a professional wetclean label.

We asked, if an apparel manufacturer sent them an item, what is their ability to:

- Inspect the item using their experience and expert judgment to determine whether the item could be wetcleaned, whether it could not be wetcleaned, or whether testing would be needed to make this judgment.
- Complete ISO checklist, based on Table 6, in making this determination.
- Complete a form specifying the professional care label care instruction to use – Professional Wetclean: Normal, Sensitive, Very Sensitive, or Do Not Professionally Wetclean
- Return the completed checklist and form to the textile or apparel manufacturer.
- Provide this service to textile and apparel manufacturers.
- Estimate cost of making this visual assessment, completing performance checklist and care label form, and returning information to textile or apparel manufacturer.

For items which require field-based testing, we asked about their ability to:

- Test an item if an apparel manufacturer wished to conduct a field-based cleaning test and evaluation.
- Develop cleaning protocol for testing each item (washing program, drying process, finishing process).
- Complete form specifying test protocol.
- Conduct repeat process test -- 3 complete processing cycles (i.e. wash, dry, finish).
- Evaluate results based on ISO checklist (compare with uncleaned garment).
- Complete a form specifying the professional care label care instruction to use – Professional Wetclean: Normal, Sensitive, or Very Sensitive, or Do Not Professionally Wetclean
- Return the completed test protocol, performance checklist and care label form to the textile or apparel manufacturer.
- Provide this service to textile and apparel manufacturers.
- Estimate cost of completing field testing, complete evaluation forms, and returning information to textile or apparel manufacturer.

Table 5 summarizes the results from this survey and shows that all six dedicated professional wetcleaners surveyed were willing to work with the textile and apparel industry to provide an experience/expert judgment evaluation as well as a testing service. Average cost of providing the experience/expert judgment evaluation was \$47/item, including completing and returning the quality checklist and care label form. The average cost of providing garment testing was \$103 including the cost of three repeat processing cycles, as well as to complete and return forms on test protocol used, the performance checklist, and the care label recommendation.

**Table 5: Dedicated Professional Wetcleaners Willingness to Provide Professional Judgment and Testing to Textile/Apparel Manufacturers for ‘Professional Wetclean’ Care Label**

	Yes/No	Average Cost
Willingness to provide experience/expert judgment evaluation	6/0	\$47
Willingness to provide testing service	6/0	\$103

The absolute cost for both the experience/expert judgment evaluation and the cost of testing were extremely low. When questioned about how the cleaners came to their estimated cost, each said it was based on time and materials. Viewed in this context, these costs appear to be extremely fair.

## 2) Cost of Rule Compliance

Given that trained dedicated professional wetcleaners use their experience and expertise to accurately predict over 99% of new items currently labeled ‘Dry Clean’ or ‘Dry Clean Only’ that can be successfully wetcleaned, the low experience/expert judgment cost can be used by the apparel and textile industry as reasonable basis evidence for the vast majority of items. Given that textile and apparel manufacturers are required to establish a reasonable basis for all care labels, and given that experience/expert judgment is a low cost way to establish a reasonable basis, the \$47/item cost is likely comparable to the current internal cost to the textile and apparel manufacturing industry when establishing a reasonable basis for a professionally clean care label.

For items in which testing is used, the \$103/items cost, while reasonable, also appears to be extremely low and likely comparable or lower than the current cost of internal testing.

While the costs shown in Table 7 are external costs to textile and apparel manufacturers, dedicated professional wetcleaners are capable of quickly transferring their knowledge to the textile and apparel firms such that these costs could then be internalized. Given the success of effectively transferring knowledge about professional wetcleaning to dry cleaners converting to dedicated professional wetcleaning, effectively transferring this knowledge to the apparel and textile industry appears to be extremely high.

### 3) Cost of Rule Enforcement

In addition to the compliance cost to apparel and textile manufacturers associated with requiring the 'Professional Wetclean' label, the cost of enforcing a rule requiring a 'Professional Wetclean' label needs to be evaluated. Here dedicated professional wetcleaning will be able to function as an effective monitor of a rule requiring a 'Professional Wetclean' care label. Currently, dedicated professional wet cleaners are able to effectively wet cleaning over 99% of items labeled 'Dry Clean' or labelled 'Dry Clean Only.' Once a required professional wetclean care label rule is in effect, the FTC could develop a process for professional wetcleaners to use to provide feedback to the Commission on any new garment brought in by customers that they were able to effectively wetclean but that was labelled 'Dry Clean Only' or labelled 'Dry Clean' that did not also carry a 'Professional Wetclean' label. This feedback could include the name of the manufacturer, a description of the item, a photo of the item after being professionally wetcleaned, an ISO checklist characterizing the quality of cleaning, etc. Because the customer is paying for the cost of the cleaning and the cleaner is voluntarily providing this feedback to the FTC, there would be no cost for this testing and evaluation report.

The FTC could then provide this feedback to the manufacturer and develop a range of enforcement actions which could include a requirement to provide the FTC the evidence for the reasonable basis for the item in question, a requirement that the manufacturer generate new third party evidence for the reasonable basis for the item, a warning notice if the item is found to be mislabeled with a fine associated with additional offenses, etc. Professional wetcleaners would be highly motivated to provide the FTC this feedback evaluation. Given that this enforcement system would be extremely low cost, highly efficient, and highly effective, this feedback mechanism would quickly accelerate the learning curve of the apparel and textile industry about the full range of items typically labeled 'Dry Clean' or 'Dry Clean Only' that could be effectively professionally wetcleaned. By accelerating the learning curve, the apparel and textile industry would more rapidly internalize their knowledge of professional wetcleaning thereby reducing the overall compliance cost.

Finally, with respect to the cost of requiring a 'Professional Wetclean' label, there are a series of cost savings that should be accounted for. First, professional wetcleaning has been shown to be less expensive than dry cleaning based on the experience of cleaners who have switched.<sup>41</sup> Given that the apparel care industry is a highly competitive market, this cost savings may very well translate into reduced cost to consumers. In addition, there are significant reduce environmental regulation enforcement costs associated with a switch to professional wetcleaning as well as reduced pollution remediation costs.<sup>42</sup>

#### Cost-Effectiveness

Given that the extremely high effectiveness of requiring a 'Professional Wetclean' label in eliminating the likelihood of deceptive and unfair practices that are likely to be extremely prevalent, and given that the costs of requiring a 'Professional Wetclean' label are likely to be relatively comparable to the existing

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<sup>41</sup> See Background section to this comment above.

<sup>42</sup> USEPA. Cleaner Technologies Substitutes Assessment for Professional Fabricare Processes. EPA 744-B-98-001, June 1998; State Coalition for Remediation of Drycleaners <http://www.drycleancoalition.org/>

costs, overall, requiring the use of 'Professional Wetclean' care label is very likely to be extremely cost-effective.

**Conclusion**

The evidence compiled in this letter was designed to produce useful information on the three criteria used by the FTC to determine whether to require the use of a care label.

Oftentimes in policy decision making there are trade-offs between criteria that make a particular decision challenging. In this case, there are no trade-offs between key criteria.

Therefore, in terms of the overall decision, it is very clear that the FTC should move forward with requiring the use of a 'Professional Wetclean' label.

Sincerely,

Peter Sinsheimer, Ph.D., MPH  
Executive Director