

Enforcement Policy Statement Regarding Certain Imported Textile, Wool, and Fur Products

The Textile Fiber Products Identification Act (“Textile Act”), Wool Products Labeling Act (“Wool Act”), and the Fur Products Labeling Act (“Fur Act”) (collectively, the “Acts”) provide that a retailer can avoid liability for mislabeling or false advertising if the retailer obtains a continuing or separate guaranty from a third party certifying that products it transfers are not misbranded, falsely invoiced, or falsely advertised. Under the Acts, the guaranty protections are available only if the retailer receives the guaranty in “good faith” and from a “person residing in the United States.” Wool Act, 15 U.S.C. § 68g(a); Fur Act, 15 U.S.C. § 69h(a); Textile Act, 15 U.S.C. § 70h(a). Thus, a retailer cannot obtain a guaranty for directly imported textile, wool, and fur products.

Based on its enforcement experience, the Commission finds it in the public interest to provide protections for retailers repeating marketing claims about directly imported products when they rely in good faith on information provided solely by the products’ manufacturers.

The Commission, therefore, will not initiate an enforcement action against a retailer for violating Section 68a of the Wool Act, Section 69a of the Fur Act, Section 70a of the Textile Act, any Rule implementing those Sections, or any Commission or court order compelling compliance with those Sections or Rules, in connection with the marketing or sale of a product, where the retailer (1) cannot legally obtain a continuing or separate guaranty under the applicable Act; (2) does not embellish or misrepresent claims provided by the manufacturer related to the applicable Act or Rules; and (3) does not market the product as a private label product. Provided, however, that this policy shall not apply if the retailer knew or should have known that the marketing or sale of the product would violate the applicable Act, Rules, or order.

The policy announced here balances the importance of treating fairly retailers who directly import goods with the Commission’s responsibility to enforce the Acts and Rules. It provides greater consistency for retailers regardless of whether they directly import products or use third-party domestic importers. The policy, however, is narrowly tailored to ensure that the Commission retains authority to enforce the Acts and Rules to protect consumers. Thus, the policy does not cover retailers that embellish or misrepresent claims a manufacturer provides or those retailers that make their own claims, such as by marketing products as their own. Moreover, it excludes retailers that knew or should have known that the marketing or sale of a good violates the applicable Act. In such instances, the retailer is not reasonably relying on representations of third-party suppliers.