



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Division of Enforcement  
Bureau of Consumer Protection

September 26, 2000

Mr. Ron Vega  
Director of Customs Compliance  
Fruit of the Loom  
One Fruit of the Loom Drive  
P.O. Box 90015  
Bowling Green, KY 42102-9015

Dear Mr. Vega:

This is in reply to your letter requesting a ruling from the Commission's Division of Enforcement regarding the application of 16 C.F.R. § 303.28 of the Rules and Regulations Under the Textile Fiber Products Identification Act. Please be advised that the Federal Trade Commission and its staff do not issue "rulings" in response to requests for advice. However, the Commission has authorized its staff to respond to requests for advisory opinions when appropriate. *See* 16 C.F.R. § 1.3.

In your letter, you state that Fruit of the Loom distributes wearing apparel items in polyethylene bags (packages) with a "flip-top" opening at one end of each bag. Multiple garments are folded and packed into these bags in such a manner that the labels bearing the country of origin, fiber content, identity of the company, and care instructions are not necessarily visible to the consumer through the packaging prior to purchase. You supplied staff with samples of such garments in their bags. This staff opinion pertains to garments sold at retail stores and does not address the packaging of products sold via mail order catalogs or over the Internet.<sup>1</sup>

In 1984, Congress amended the Textile and Wool Products Acts to require that a package containing a textile product intended for sale to the ultimate consumer bear the information also required to appear on the label of the product (*i.e.*, fiber content, country of origin, and identity of manufacturer or other dealer), unless the package is transparent and allows for a clear reading of the label information. 15 U.S.C. §§ 70b(e) and 68c(c). The Commission implemented the statutory requirement by adopting 16 C.F.R. § 303.28, which states:

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<sup>1</sup> For information about the packaging and labeling of textile products sold via mail order and over the Internet, see the Commission staff opinion letter, dated August 18, 2000, to the Land's End company, as posted on the Textile, Wool & Fur page of the Commission's Internet website.

**Products contained in packages.**

When textile products are marketed and delivered in a package which is intended to remain unbroken and intact until after delivery to the ultimate consumer, each textile product in the package, except hosiery, and the package shall be labeled with the required information. If the package is transparent to the extent it allows for a clear reading of the required information on the textile product, the package is not required to be labeled.

A similar requirement was adopted for wool products sold in packages. 16 C.F.R. § 300.15. Also, the Commission's Care Labeling Rule states that if the product is packaged, displayed, or folded so that customers cannot see or easily find the label, the care information must also appear on the outside of the package or on a hang tag fastened to the product. 16 C.F.R. § 423.6(a).

You ask whether the flip-top polyethylene bags used by Fruit of the Loom for textile products sold at retail stores are considered packages "intended to remain unbroken and intact until after delivery to the ultimate consumer," and therefore must be labeled in accordance with 16 C.F.R. § 303.28. Based on inspection of the sample packages that you provided, it is my opinion that the flip-top bags may easily be opened to inspect the labels on the garments. Therefore, I believe that it is not necessary to repeat the required label information on the bags.

You further inquire whether, pursuant to 16 C.F.R. § 303.16(c), certain "non-required" statements about country of origin and fiber content may be placed on packages that are not covered by the marking requirements of section 303.28. Section 303.16(c) of the Rules states that "...any non-required information or representations placed on the product shall not minimize, detract from, or conflict with required information and shall not be false, deceptive, or misleading." In particular, you ask whether statements such as, "Imported articles, see garment for country of origin" or "See garment for country of origin," may be placed on packages containing items of varied origin. In general, package statements referring the consumer to garment labels for origin information would not be misleading or conflict with required information. However, under certain circumstances, consumers could be misled concerning country of origin of packaged products. This could occur, for example, if multiple items were packaged together so that the label of one of them, stating "Made in USA," could be seen through the package, while other labels, obscured by the first item, indicate foreign origin. (Obviously, this situation also could occur if no origin information is placed on the package.)

In addition, you ask whether a package label may indicate that items in the package have different fiber content, provided that it clearly indicates which items are made of each particular fiber or fiber blend. Such label information would be appropriate provided that it is not deceptive or misleading.

I wish to emphasize that care must be taken to avoid deception in each of the situations outlined in your letter. Pursuant to the FTC Act, 15 U.S.C. § 41 *et seq.*, the Commission has been directed by Congress to act in the interest of all consumers to prevent deceptive or unfair acts or practices. Under Section 5 of that statute, 15 U.S.C. § 45, the Commission has determined that a representation, omission, or practice is *deceptive* if (1) it is likely to mislead

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consumers acting reasonably under the circumstances; and (2) it is material, that is, likely to affect consumers' conduct or decisions with respect to the product at issue. For your convenience, I have enclosed a copy of the Commission's Policy Statement on Deception.

If you have not already done so, you may wish to obtain a ruling from the United States Customs Service as to whether poly-bags containing imported products must be marked with the country of origin pursuant to the Tariff Act.

In accordance with Section 1.3(c) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 1.3(c), this is a staff opinion only and has not been reviewed or approved by the Commission or by any individual Commissioner, and is given without prejudice to the right of the Commission later to rescind the advice and, where appropriate, to commence an enforcement action.

In accordance with Section 1.4 of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 1.4, your request for advice, along with this response, will be placed on the public record.

I hope this information has been helpful.

Sincerely,



Elaine D. Kolish  
Associate Director for Enforcement

Enclosure