

September 21, 2020

April Tabor  
Acting Secretary  
Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Avenue NW  
Suite 5610  
Washington, DC 20580

**RE: Care Labeling Rule, 16 CFR part 423, Project No. R511915**

Dear Ms. Tabor,

The undersigned consumer advocacy organizations urge the Federal Trade Commission (“FTC” or “Commission”) to terminate the above-captioned Supplemental Notice of Proposed Rulemaking (“SNPRM”) repealing the trade regulation rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods as Amended (hereinafter referred to as “the Rule”).<sup>1</sup> We do not believe that the record developed since 2011 as part of the Commission’s ongoing regulatory review supports a repeal of the Rule. Doing so would significantly shift risk and responsibility from manufacturers to consumers. This is not warranted. Consumers should have the right to be informed about how to care for the garments and other textiles covered by the Rule in order to use them for as long as they would reasonably expect. (The Rule applies to textile wearing apparel and textile products sold by the piece from bolts or rolls for the purpose of making home sewn textile wearing apparel. For ease of commenting, we will simply refer to apparel or garments from this point on.) Consumers should not have to rely on manufacturers to voluntarily provide this important information.

The typical American consumer spends more than \$1,800 on apparel and services annually.<sup>ii</sup> The average American family washes approximately 300 loads of laundry per year.<sup>iii</sup> Since it was first promulgated in 1971, the Rule has provided significant benefits to the millions of consumers who annually purchase garments.

The information provided pursuant to the Rule helps consumers care for their garments properly. A garment ruined by improper care likely represents a complete loss to the consumer. For sensitive fabrics such as cashmere, wool, or silk, such an error in care could easily cost a consumer hundreds of dollars. Consumers who do not have much experience with how to clean garments are particularly vulnerable to making costly mistakes, but with new types of fabrics being constantly introduced, it is imperative for all consumers to be able to rely on care instructions.

The Commission suggests that in the absence of Rule, garment makers “are likely to provide accurate care information to consumers as a matter of course.”<sup>iv</sup> We reject this argument. To the extent market incentives in the apparel industry exist, they tend to reward those manufacturers who can achieve the lowest production cost, not those who provide the best care information to buyers. From 1987-2017, the percentage of discretionary spending allocated to clothing has declined from 5% to 2%. Compare this to the percentage of discretionary income devoted to entertainment, dining out, alcohol, and furniture, which have remained essentially flat over the same period.<sup>v</sup> In the drive for ever-lower prices, there are substantial incentives to cut costs by eliminating care labeling. Indeed, it could even be argued that when garments are ruined through improper care, it creates a revenue opportunity for garment manufacturers when those garments are replaced. Given such incentives, the Commission should recognize the value of regulations that require proper care information be provided to consumers.

The SNPRM further suggests that if the Rule is repealed, consumers and other industry stakeholders could avail themselves of Section 5 of the FTC Act<sup>vi</sup> to correct unfairness and

deception in the marketplace.<sup>vii</sup> Such a policy would be inherently reactive and unlikely to provide sufficient consumer protection. The Commission should not shift the responsibility to consumers whose garments are ruined through improper care, or to competing manufacturers or retailers to alert the FTC to unfairness and deception. The current Rule correctly requires garment makers to provide care instructions up front to buyers. This gives consumers the information they need to decide, for example, if they wish to purchase a garment that requires professional care. The Rule also provides useful information to consumers about adequate care for the life of the garment. The SNPRM does not provide evidence that indicates that the information on these care labels is not useful for consumers.

In defending its proposal to repeal the Rule, the Commission notes that the European Union (“EU”) and Canada do not require manufacturers to include care instructions on clothing labels. We do not believe that defaulting to the EU’s or Canada’s least-common denominator approach to consumer protection in this area would be in consumers’ interest. The Australian<sup>viii</sup> and New Zealand<sup>ix</sup> governments, for example, requires care labeling on garments sold in those countries. We are unaware of any evidence that care labeling requirements hamper innovations in garment manufacturing and care in those countries, as the Commission argues is the case in the United States. Further, repealing the Rule is not necessary to spur innovation. Manufacturers can innovate within the parameters of the Rule.

We strongly oppose repealing the Rule. We do not believe that the SNPRM provides an adequate rationale for this action. Rather, the undersigned consumer organizations urge the Commission to approve the proposals from its 2012 Notice of Proposed Rulemaking<sup>x</sup> that would:

1. Permit manufacturers and importers to provide care instructions for professional wet cleaning on labels for garments and other covered items that can be wet cleaned; and
2. Permit manufacturers and importers to use updated symbol systems set forth in either ASTM Standard D5489-07, "Standard Guide for Care Symbols for Care Instructions on Textile Products," ISO 3758:2005(E), "Textiles—Care labelling code using symbols," or other labeling systems that may be approved by respected standards-setting organizations in the future.
3. Permit manufacturers to include QFR codes or other means to provide additional information on care labels.

We do not believe that regulations requiring care labels to indicate that dry cleaning or wet cleaning are acceptable care options would be unduly costly or burdensome for the garment industry. What costs exist to comply with such requirements would be outweighed by the significant benefit of increased consumer knowledge about garment care that leads to longer utility of the garment as well as a potential environmental benefit.

By adopting its 2012 proposal to allow manufacturers to use updated ASTM and ISO garment care symbols, the Commission would give them the freedom to innovate in providing care instructions for newer fabrics. We do not take a position on which standards would be better for consumers. Instead, we urge the Commission to encourage the continued development and implementation of both the ASTM Standard D5489-07 and the ISO 3758:2005(E) standards as well as newer standards, including QR codes or other labeling technology that may give consumers additional useful care information.

In conclusion, we oppose repealing the Rule because it would not benefit consumers in any significant way. Indeed, without the Rule there would be substantial incentives for

manufacturers to cut corners on care labeling, potentially imperiling the thousands of dollars that consumers invest annually in their apparel and other covered items. There is no reason to remove this safeguard for consumers, especially at a time of economic distress when individuals can ill-afford losing the money they have invested in products for their homes and families. Instead of repealing this effective Rule, the Commission should work to implement new rules that better inform consumers of care options like wet cleaning and allow innovation in labeling standards.

Sincerely,

AKPIRG (Alaska Public Interest Research Group)  
Center for California Homeowner Association Law  
Chicago Consumer Coalition  
Consumer Action  
Consumer Federation of America  
Consumer Federation of California  
Cuyahoga County (Ohio) Department of Consumer Affairs  
Empire State Consumer Project  
MASSPIRG (Massachusetts Public Interest Research Group)  
National Consumers League  
New Jersey Coalition for Financial Education  
Virginia Citizens Consumer Council

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

<sup>ii</sup> Consumer Expenditure Survey, U.S. Bureau of Labor Statistics, September, 2020. Online: <https://www.bls.gov/cex/2019/combined/age.pdf>

<sup>iii</sup> "The Way to a Wrinkle-Free Life," Consumer Reports. September 25, 2015. Online: <https://www.consumerreports.org/cro/magazine/2015/09/steam-irons-wrinkle-free-life/index.htm>

<sup>iv</sup> SNPRM. 85 FR 4491. Online: <https://www.federalregister.gov/d/2020-13919/p-150>

<sup>v</sup> Bain, Marc. "US consumer spending hasn't changed much in 30 years, with one exception," Quartz. May 30, 2019. Online: <https://qz.com/1631310/us-consumer-spending-has-remained-the-same-with-one-exception/>

<sup>vi</sup> 15 U.S.C. 45(a)

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- vii SNPRM. 85 FR 4491. Online: <https://www.federalregister.gov/d/2020-13919/p-150>
- viii Consumer Protection Notice No.25 of 2010. Online: <https://www.legislation.gov.au/Details/F2010L02290>
- ix Commerce Commission New Zealand. Consumer Information Standards (Care Labelling) Care Labelling Regulations 2000. Online: <https://comcom.govt.nz/business/your-obligations-as-a-business/consumer-information-standards/care-labelling>
- x 77 FR 58338 (Sept. 20, 2012). Online: <https://www.federalregister.gov/d/2012-22746>