

PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION

on

Legislative Hearing on H.R. 2480 and H.R. 4501

Before the

COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION
UNITED STATES HOUSE OF REPRESENTATIVES

Washington, D.C.
May 13, 2010

II. The Truth in Fur Labeling Act

The FTC promulgates and enforces regulations pursuant to the Fur Products Labeling Act.² The FTC's Rules and Regulations under the Fur Products Labeling Act ("Fur Rules")³ require manufacturers, importers, and sellers of fur garments to attach accurate labels to their products. These labels must disclose the animal name,⁴ the country of origin, information about the treatment of the fur (e.g., bleached or colored), a Registered Identification Number, and other information that is material to purchasing decisions.⁵ The Fur Rules also set standards for the size and durability of the labels, the lettering to be used, and the order in which information is presented.⁶

When the FTC first promulgated the Fur Rules in 1952, it exercised its discretion under the Fur Products Labeling Act.⁷

² 15 U.S.C. §§ 69 *et seq.* (1951).

³ 16 C.F.R. Part 301, Rules and Regulations under the Fur Products Labeling Act.

⁴ Some animal fur is illegal to sell because the animal is on the endangered species list. 16 U.S.C. § 1538. In addition, the Dog and Cat Protection Act of 2000 prohibits importing, exporting, selling, trading, advertising, transporting, or distributing any products made with dog or cat fur. 19 U.S.C. § 1308.

⁵ 16 C.F.R. §§ 301.2, 301.5-6, 301.12, and 301.26.

⁶ 16 C.F.R. §§ 301.27-30.

⁷ 15 U.S.C. § 69(d).

⁸ The Commission did not exempt the following garments, even if the value of the fur was less than five dollars: any garment that contained used fur; any garment that was, or purported to be, the whole skin of an animal with the head, ears, paws and tail and any garment that had marking or labeling that contained any false, deceptive, or misleading statements about the fur.

increased the amount of the exemption to account for inflation, most recently to \$150 in 1998. The Commission determined this increase would ensure that only items substantially made of fur would be subject to the Fur Rules.¹⁰ No comment opposed the exemption.

Historically, the Fur Rules served to provide valuable information to help consumers compare fur garments. The purchase of a fur garment can require a substantial investment, and the fur of some animals is more valuable than others. However, most consumers lack the expertise to independently assess the relative value of fur garments. Therefore, accurate labeling is needed to help consumers make informed purchasing decisions. To the extent that the value of fur contained in garments is relatively

16 C.F.R. § 301.39; 17 Fed. Reg. 6075 (July 8, 1952).

⁹ During the FTC's 1998 review of the Fur Rules, the Fur Information Council of America submitted the only comment regarding the exemption, and proposed an increase from \$20 to \$145 to account for inflation.

¹⁰ 63 Fed. Reg. 7508, 7514 (Feb. 13, 1998). In 2000, the Fur Rules were further amended pursuant to the Dog and Cat Protection Act of 2000, 19 U.S.C. § 1308, to clarify that the exemption does not apply if the garment contains dog or cat fur. 65 Fed. Reg. 82269 (Dec. 28, 2000).

Given these apparent changes in the marketplace, and their impact upon consumers, the Commission plans to explore eliminating the *de minimis* exemption during its currently scheduled 2011 review of the Fur Rules. Of course, the Commission would eliminate the exemption through a rulemaking proceeding only if the record establishes that currently exempted information is material to consumers, and after weighing the benefits of extending the Fur Rules to cover currently exempted garments against any corresponding burden on industry.

The proposed Truth in Fur Labeling Act would revise the statutory definition of “fur product” in the Fur Products Labeling Act by removing the Commission’s discretion to exempt garments with a “relatively small quantity of the fur or used fur contained therein.”¹¹ As discussed above, such a provision appears to benefit those consumers who wish to avoid fur products, or certain types of fur products, but currently have no means to distinguish between low-cost fur and synthetics, or between types of fur trim. However, a new labeling require

¹¹ H.R. 2480 § 2(a) (which would amend 15 U.S.C. § 69(d)).

¹² In addition to aggressive law enforcement actions, the Commission also has launched consumer educational campaigns and created new consumer educational materials to provide consumers with the resources necessary to detect a

consumers to ship jewelry and other items to be melted and sold for its precious metal content is not inherently deceptive or unfair. However, it can be exploited by unscrupulous marketers. In fact, a growing number of consumers have complained about companies that offer these services. The majority of these complaints concern telephone calls to consumers who are on the National Do Not Call Registry, but the FTC also is receiving complaints about problems with shipping and about the amount of money consumers have received in exchange for their jewelry and other items. As a general matter, absent deception, the Commission does not intervene in disputes about price but the manner in which these sales are conducted raises significant consumer protection concerns.

According to consumer complaints, some online purchasers of precious metals only provide a quote or other indication of the amount that they are willing to pay for consumers' precious metal items if specifically requested to do so by the consumer. In many instances, consumers submit their items and receive payment after the purchasing company has already melted their items into their raw form.¹⁵ In such instances, where the item no longer exists, consumers who are not satisfied with the sales price paid by the online purchasers of their precious metals have limited recourse. Similarly because it would be difficult for the Commission to determine the actual value of a submitted precious metal item after it has been melted, the Commission might have difficulty proving consumer injury in an enforcement action.

¹⁵ To the extent that online merchants do not adequately disclose this policy or misrepresent the price that they will pay consumers, such practices are deceptive and violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a)

¹⁶ Some consumers have complained that items shipped to online purchasers of precious metals have been lost in shipment, and that the insurance routinely provided for s s
