

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of American Apparel, Inc., File No. 1423036

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, a consent agreement applicable to American Apparel, Inc. (“American Apparel”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

This matter concerns alleged false or misleading representations that American Apparel made to consumers concerning its participation in the Safe Harbor privacy frameworks agreed upon by the U.S. and the European Union (“EU”) (“U.S.-EU Safe Harbor Framework”) and the U.S. and Switzerland (“U.S.-Swiss Safe Harbor Framework”). It is among several actions the Commission is bringing to enforce the promises that companies make when they certify that they participate in the U.S.-EU Safe Harbor Framework and/or the U.S.-Swiss Safe Harbor Framework (“Safe Harbor Frameworks”). The Safe Harbor Frameworks allow U.S. companies to transfer data outside the EU and Switzerland consistent with European law. To join the Safe Harbor frameworks, a company must self-certify to the U.S. Department of Commerce (“Commerce”) that it complies with a set of principles and related requirements that have been deemed by the European Commission and Switzerland as providing “adequate” privacy protection. These principles include notice, choice, onward transfer, security, data integrity, access, and enforcement. Commerce maintains a public website, www.export.gov/safeharbor, where it posts the names of companies that have self-certified to the Safe Harbor frameworks. The listing of companies indicates whether their self-certification is “current” or “not current.” Companies are required to re-certify every year in order to retain their status as “current” members of the Safe Harbor frameworks.

American Apparel is a clothing manufacturer and retailer with more than 200 stores worldwide. According to the Commission’s complaint, since at least June 2012, American Apparel has set forth on its website, www.americanapparel.net, privacy policies and statements about its practices, including statements related to its participation in the U.S-EU Safe Harbor

