



Competition Bureau
Canada

Bureau de la concurrence
Canada

DISCUSSION PAPER

AMENDING THE TEXTILE LABELLING AND ADVERTISING REGULATIONS

January 2007

Canada

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Introduction

The *Textile Labelling and Advertising Regulations* C.R.C., c. 1551 (TLAR) contribute to the Competition Bureau's role in promoting a fair, efficient and competitive marketplace in Canada. The *Textile Labelling Act* R.S., c. 46 (1st. Supp.), s.1 (TLA) and the TLAR were created to provide uniformity and accuracy in marking and advertising of consumer textile articles and textile fibre products sold in Canada. The Act and programs of compliance are the sole responsibility of the Bureau. Consumers benefit by using the prescribed information, and relying on its accuracy, to make informed purchasing decisions.

Regulatory authorities weigh the benefits of alternatives to regulation, adhere to international obligations where applicable, and use available international standards where these would fulfil regulatory objectives. In addition, the proposed amendments respond to concerns expressed by the Standing Joint Committee for the Scrutiny of Regulations (SJCSR)¹ that certain sections may be *ultra vires*² or redundant.

Consultation Process

The Competition Bureau is seeking public comments on the following proposed amendments to the *Textile Labelling and Advertising Regulations*. Comments from interested parties are requested by April 18, 2007 and can be submitted by e-mail, fax or regular mail. All submissions will be made available to the public and will be posted on the Competition Bureau Web site, except where confidentiality is specifically requested.

A copy of the *Textile Labelling Act* and the *Textile Labelling and Advertising Regulations* can be accessed through the Competition Bureau Web site at www.competitionbureau.gc.ca by clicking on the name of the Act.

To submit commentary, send to:
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¹The Standing Joint Committee for the Scrutiny of Regulations is a Parliamentary Committee that reviews all regulations. It can recommend changes to regulations, report to Parliament on problems, and propose that regulations be repealed.

²*Ultra vires* means to exceed the legal power or authority.

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REGULATORY PROPOSALS

1. Representation Labels (section 5)

Proposal

That paragraph 5(2)(d) of the TLAR be removed. The requirement is already covered under section 5 of the TLA.

Paragraph 5(2)(d) prohibits representation labels from contravening section 5 of the TLA. Section 5 of the TLA prohibits a dealer from applying to a consumer textile article a label, or selling, or importing into Canada, or advertising a consumer textile article that has applied to it a label containing any false or misleading representation that relates to or may reasonably be regarded as relating to the article. A “label” is defined in section 2 of the TLA as any label, mark, sign, device, imprint, stamp, brand or ticket. The prohibition under section 5 of the TLA would include representation labels as well as disclosure labels, therefore paragraph 5(2)(d) in the TLAR is redundant.

Question:

1a) Should paragraph 5(2)(d) be revoked? Why or why not?

2. Exemption from Section 3 of the TLA (subsection 6(b))

Proposal

That subsection 6(b), which exempts consumer textile articles produced prior to December 1, 1972, be revoked.

Subsection 6(b) exempts consumer textile articles produced prior to December 1, 1972. This is the date when the TLAR became effective. It is unlikely that any product produced prior to this date is still available for sale in the marketplace. It is recommended that this subsection be revoked.

Question:

2a) Should the exemption in subsection 6(b) be revoked? Why or why not?

3. Exemption - Custom Made Articles and Floor Coverings (section 7)

Proposal

To revoke the partial exemption for custom made articles and floor coverings and require these articles to be labelled along with other prescribed consumer textile articles.

To ensure consistent terminology in the French text.

Section 7 provides that a prescribed consumer textile article that is made up for the use of an individual or, if the article is a floor covering, cut for the use of an individual, is exempt from the application of subsection 3(a) of the TLA if:

- a) an individual has an opportunity to examine the textile fibre product, or a sample or swatch;
- b) the sample or swatch is labelled in accordance with the TLA; and
- c) the information required to be shown on the label is shown on the bill of sale, or any other document delivered to the individual at the time of sale.

The SJCSR is of the opinion that paragraph 11(1)(c) of the TLA allows for exemptions, but does not allow to confer conditions on the exemption and, therefore, it is *ultra vires*. The Bureau is contemplating a response that would see the removal of the entire exemption. The articles would then be labelled as any other consumer textile article.

An amendment to the French version of section 7 is also needed in order to conform to the definition of “prescribed” in section 2 of the TLAR and to be consistent with the terminology used elsewhere in the French version. The words “désigné par l’article 4” of section 7 should be replaced with “désigné”.

Question:

3a) Should this exemption be removed? Why or why not?

3b) Should the French terminology change? Why or why not?

4. Imported Consumer Textile Articles (subsections 8(1) to (3))

Proposal

That the partial exemption for unlabelled imported consumer textile articles be revoked, thus requiring all imported consumer textile articles to be properly labelled at time of entry.

These provisions allow unlabelled imports to enter into Canada if the importer agrees to provide notification of entry, applies a label in the prescribed manner, and notifies the Bureau when the label has been applied.

The SJCSR believes that a simple power to exempt by regulation will not support regulations making an exemption subject to the fulfilment of certain terms and conditions as set out in subsections 8(1) to (3).

Question:

4a) Should this exemption be removed? Why or why not?

5. Exemption - Second-Hand Articles (section 9)

Proposal

That second-hand consumer textile articles be exempt from the Act.

Section 9 exempts second-hand articles which have been previously owned or used by another providing that the articles are clearly identified as such.

The SJCSR is of the opinion that the exemption is conditional on articles being labelled as “second-hand” but paragraph 11(1)(b) of the TLA only provides for simple exemptions, without conditions.

Question:

5a) Should second-hand articles be exempt from the labelling requirements under the TLA? Why or why not?

6. Exemption - Piece Goods Sold by Mail Order (section 9.1)

Proposal

That piece goods sold by mail order be labelled in the same manner as other consumer textile articles that are sold by mail order.

Section 9.1 of the TLAR exempts from the application of subsection 3(a) of the TLA, consumer textile articles which are piece goods, including narrow fabrics that are sold by mail order if the prescribed information is shown at the time the article is ordered, in the mail order catalogue.

The SJCSR is of the opinion that paragraph 11(1)(c) of the TLA allows exemption of certain transactions but does not extend to the imposition of conditions to which such exemptions are subject. By removing this exemption, piece goods and narrow fabrics sold to the consumer by mail order catalogue would be required to be advertised, and labelled in the same manner as any other consumer textile article.

Question:

6a) Should piece goods and narrow fabrics be labelled and advertised in the same manner as other consumer textile articles that are sold by mail order? Why or why not?

7. Bilingual Labelling (subsections 11(4) and (5))

Proposal

That the current exemptions from bilingual labelling be removed, as recommended by the SJCSR, so that the textile fibre content and any information directly relating to the fibre content, as prescribed, will always be shown in both official languages.

This subsection allows dealers an exemption from providing bilingual information on the label of a consumer textile article if the article is, or is to be, sold to the public in an area where only one official language is used continuously for the purpose of making consumer purchases. Similar exemptions are common in other federal labelling regulations such as the Bureau's *Consumer Packaging and Labelling Regulations* (section 6) and Health Canada's *Food and Drugs Act*. The SJCSR has expressed a policy opinion that labelling requirements pertaining to safety, health and consumer protection should be that such information appear in both French and English with no exceptions.

Question:

7a) Do you agree with the SJCSR's recommendation to remove exemptions from bilingual labelling? Why or why not?

8. Identification Number (CA Number) - (section 12)

Proposal

To revoke regulations that define the terms under which a CA Number can be changed or revoked and to replace them with administrative guidelines. In addition, to revoke paragraph 12(2)(c) which requires a fee of \$100 to accompany an application for a CA Number.

Section 12 of the TLAR establishes a regime under which a Canadian dealer may elect to use a registered identification number on a disclosure label in place of the dealer's full name and postal address.

Subsections 12(1) to (4) describe who is eligible for an identification number, set out the manner in which an application for an identification number is to be made, and prescribe an application fee of \$100. Subsections 12(5) to 12(9) impose obligations and confer powers on the Minister in the alteration or revocation of a CA number.

The SJCSR is of the opinion that the TLA does not give the authority to impose a fee for a CA Number or to define the terms under which a CA Number can be changed or revoked, and therefore recommends that paragraph 12(2)(c) and subsections 12(5) to 12(9) inclusive be revoked.

If revoked, subsections 12(5) to 12(9) would be replaced by administrative guidelines. With

regard to the revocation of paragraph 12(2)(c), the fee of \$100 would remain intact under the authority of the *Financial Administration Act* and/or the *Department of Industry Act*.

Question:

8a) Do you agree with the proposal to replace subsections 12(5) to 12(9) with administrative guidelines? Do you agree to revoke paragraph 12(2)(c) with the understanding that the *Financial Administration Act* and the *Department of Industry Act* provide express authority to prescribe such fees?

9. Delegation of Authorities (Subsections 12(1) to (3) and Section 27)

Proposal

That the regulations be amended to authorize the Commissioner of Competition to carry out the duties and functions of the Minister of Industry set out in subsections 12(1) to (3) and section 27 of the TLAR.

The Minister of Industry has agreed to proposing amendments that would authorize the Commissioner of Competition, on his behalf, to issue registration numbers (CA numbers), and process applications for new generic names for man-made fibres and advise applicants on appropriate names to use until amendments are made to the TLAR.

Question:

9a) As proposed by the Minister of Industry, do you agree that these duties and functions be carried out by the Commissioner of Competition? Why or why not?

10. Recognition of Equivalent Identification Number Systems (Section 12 -New)

Proposal

That the regulations be amended to accept foreign dealer registration number identity systems that are substantially equivalent to the CA number registration system.

The amendment would allow for the acceptance of registration numbers from all foreign countries provided that, in the Competition Bureau's opinion, the registration system in that country is substantially equivalent to the system defined in section 12 of the TLAR.

Work items identified by NAFTA and, more recently, the Security and Prosperity Partnership, recommend mutual acceptance of national registration numbers to facilitate trade in apparel and goods within North America.

Question:

10a) Do you agree with accepting substantially equivalent dealer registration systems? Why or why not?

11. Clarifying the Prescribed Manner in Which Information is to be Shown on a Label (subsection 13(1), paragraphs 13(1)(a) and (b), 13(2)(a) and (b), 14(3)(a) and section 31)

Proposal

That reference to subsection 11(3) in subsection 13(1) is unnecessary and should be revoked.

Subsection 13(1) - The reference to subsection 11(3) required in subsection 13(1) is unnecessary since it refers to another requirement concerning the information in paragraph 11(1)(a), not other information. It is suggested that the reference to subsection 11(3) be deleted.

Proposal

That translations and other terminology in section 13 be amended to provide more accuracy and clarity.

Paragraphs 13(1)(a) and (b) and 13(2)(a) and (b) - There is inconsistent use of French terminology for English expressions "clearly and prominently," "prominence," and "easily legible." It is suggested that paragraphs (a) and (b) in both subsections 13(1) and 13(2) be combined to simply read "easily legible and prominently shown."

Proposal

That reference to subsection 11(3) in paragraph 14(3)(a) be removed since subsection 11(3) does not require the inclusion of any information on a label and therefore is not relevant to the subsection.

Paragraph 14(3)(a) - This paragraph provides that where two representation labels are applied to an article included in Schedule III to the TLAR, “the information required by paragraph 11(1)(a) may be shown in English on one label and in French on the other label, and the information required by paragraph 11(1)(b) and subsection 11(3) may be shown on either of the two labels.” Subsection 11(3), however, does not require the inclusion of any information on a label. Rather, it simply provides that the information required by paragraph 11(1)(a) must be shown on a label in English and French. It is recommended that reference to subsection 11(3) be deleted from paragraph 14(3)(a).

Proposal

That the French version of section 31 be amended to conform with the English version.

Subparagraph 31(a)(ii) - Section 31 prescribes the manner in which the textile fibre content should be shown. Subject to section 31.1, subparagraph 31(a)(ii) requires that the fibre content be displayed in order of predominance by mass. Reference to section 31.1 is mentioned in the English version but not in the French version. For consistency, this reference needs to be added to the French version.

Question:

11a) Do you agree with the above proposals to provide clarity and consistency in translation? Why or why not?

12. Down and Feather (section 25; paragraph 26(1)(c); subsection 29(3); paragraph 30(2)(b); subsections 38.1(1) to (3) and section 45)

Proposal

That down- and/or feather-filled consumer textile articles be labelled as any other consumer textile article.

Accurate labelling of down- and feather-filled consumer textile articles is of importance to both consumers and business. It not only enhances the ability of consumers to differentiate among product choices, but protects both consumers and dealers against product misrepresentation.

Currently, a dealer is permitted to label a plumage-filled product as “down” if it meets the appropriate definition for “down” or for “commercial down”. No percentage is required on a label if the product meets the definitions. The definition of “commercial down” incorporates a certain percentage of feather and residue, which, at the time, was intended to accommodate the imprecise nature of processing and manufacturing non-homogeneous down and feather mixtures. In addition, the declaration “down”, in such products, must be accompanied by the following statement:

“Note: This product contains an amount of feathers not exceeding that allowable by law”.

The purpose of the statement is to alert the consumer that the product labelled as “down” may contain some feathers. This statement is not used on products which are a blend of down and feather.

When “down” is declared on the disclosure label of a product, there must be a minimum of 75% down, the remaining being feathers and residue resulting in a 25% tolerance for the down portion of the composition. The following chart outlines the minimum amount of down cluster required in down and/or feather products.

Label	Min. % of Down Cluster (i.e.: 90/10 blend: $\frac{90}{100} \times 75 = 67.5$)
Down (% not required)	75%
Down/Feather Blends 90/10 (% required)	67.5%
80/20 (% required)	60%
75/25 (% required)	56.25%
70/30 (% required)	52.5%

The 75% minimum down in the definition for “commercial down” was intended to accommodate the imprecise manufacturing techniques at the time the regulations were written. This may no longer be necessary since current manufacturing and modern production techniques allow manufacturers to achieve accuracy within two to five per cent of the targeted amount of down.

In summary, the regulation would mean that the TLAR would no longer define standards for down and feather but would simply require factual fibre content information as with other

consumer textile articles. As always, current industry standards and recognized test methods would be used to evaluate declarations.

Questions:

12a) Taking into consideration modern manufacturing techniques, how should down products be labelled in order to meet the objectives of the TLA in providing factual information and consumer choice?

12b) Do you agree that factual percentages should be declared on the label of down and/or feather products?

12c) Due to the imprecise nature of processing and manufacturing down and feather products - which in the case of a down product may contain small amounts of feathers, feather fibres and residue - should "100%", "All" or "Pure" be declared on a down or feather product label?

12d) What tolerance, if any, should be allowed for a down or feather product?