Retail Council of Canada
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www.retailcouncil.org

April 12, 2007

Ms. Carole Gaetz
Competition Bureau
2000-300 West Georgia St.
Vancouver, BC V6B 6E1

Dear Ms. Gaetz:

Retail Council of Canada (RCC) is pleased to have the opportunity to provide comments on the Discussion Paper, "Amending the *Textile Labelling and Advertising Regulations*." RCC is the Voice of Retail, speaking for an industry that employs more than two million Canadians and sells $370 billion annually. We are a not-for-profit, industry-funded association representing 40,000 store fronts of all retail formats, including department, specialty, discount and independent stores, and online merchants.

As the principal channel through which textile products are sold to the final consumer, retailers have a strong interest in the regulations and any proposed changes.

This letter will provide comments structured on the 12 sets of questions in the discussion paper.

Question 1:

We agree s.5(2)(d) is covered by the Textile Labelling Act (TLA) and therefore should be revoked.

Question 2:

No comment.

Question 3 a):

Our comments on this proposed change are based on the comments you made during the teleconference of April 4, 2007. You stated that the Bureau would accomplish the intent of the current regulatory wording through administrative means. The approach you suggested was to list floor coverings in the schedule that permits a "POS label." If the effect of this listing or some other administrative measure is to continue to permit retailers not to attach a label on floor covering that is cut for the use of a customer, this change would be acceptable to RCC and its members.

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When the draft regulations are released for public comment, we would strongly recommend that the Bureau specify how it will ensure that retailers are not required to attach a label to floor covering and what the requirements will be for informing the customer.

RCC views this as a practical matter. We can see no benefit to the consumer in placing a label on a floor covering that is made up or cut for the use of a consumer. Once the floor covering is in place, in most instances the label will be effectively unavailable to the consumer. Furthermore, such a requirement would appear to run directly counter to the spirit of the promise in the 2007 Federal Budget to reduce the paper burden on small businesses. Provision of the information on the bill of sale or as part of the paperwork related to the sale would appear to be a far more effective and consumer-friendly way to communicate this information.

On the teleconference call you also stated that the Bureau did not intend to remove any products from the schedule of exemptions. This was in response to a question about the application of the labeling requirement to decorative and craft items. Again, we would suggest that when the regulatory changes are released for comment the Bureau clarify the status of this schedule and the products on it.

Question 3 b):

No comment.

Question 4:

Our comments on this proposed change are based on the assurances you provided in the teleconference of April 4, 2007. You stated that this change would not prevent retailers and other importers from bringing into Canada merchandise that had not been labeled in accordance with the Act and regulations. You stated that the Bureau would accomplish the intent of the current regulatory wording through administrative means by producing guidelines. The guidelines would permit the importation of this merchandise and require that it be labeled in accordance with the requirements of the Act before it was offered for sale. This approach is acceptable to RCC and its members.

When the regulatory changes are released for comment the Bureau should also provide a draft of the guideline that would continue this exemption. This would enable RCC and its members to provide advice on how we think the guideline might work when it is implemented, and reassure companies that the exemption was not being removed.

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As discussed on the teleconference call, the current exemption facilitates pro-competitive practices. Many retailers make "opportunity buys," especially in apparel categories. These are unplanned purchases of merchandise that becomes available on short notice. In many instances, these products may have been destined for another market or another company and thus must be re-labelled. Speed to market is often of paramount importance in making these buys successful. Retailers currently have an established process in-house or with a Canadian service supplier to do any required re-labelling. It would be awkward, time-consuming, and likely more expensive to re-label these products before they are imported. Merchants sometimes import a modest number of a product produced for another market, and after re-labelling them, test their acceptance in the Canadian market. If the product is successful, a full order may be placed, when the correct Canadian label is applied in the course of manufacture. A restriction at the border would also make it more difficult and costly to import samples and grey market goods.

If retailers were to lose their ability to import products and re-label them in Canada before they are offered for sale, Canada could experience a reduction in competition and product selection as some products become uneconomic to import .

Question 5:

RCC agrees to an exemption for second hand articles, as long as they are clearly identified as second hand.

Question 6:

No comment.

Question 7:

Retailers recognize the importance of health and safety concerns, but also believe that any changes should be based on an assessment of risk and hazard. In our view the change should be made only if there is evidence that the current exemption has been responsible for health and safety problems or presents a meaningful risk to Canadian consumers. The discussion paper provides no such evidence.

As the discussion paper notes, regulations issued under other Acts such as the Food and Drugs Act permit the same exemption. In the absence of any evidence that these exemptions (in an area where health and safety concerns are significantly more important) have led to greater health and safety problems or risks, it is hard to see why the change should be made in the *Textile Labelling and Advertising Regulations*.

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As you noted on the teleconference call, North America is increasingly a single market, with the North American Free Trade Agreement providing impetus for standardized trilingual labelling. RCC would welcome this initiative as being pro-competitive and cost-reducing. For this reason, it is important that Canadian regulations in this area be harmonized with our North American trade partners. We are concerned that the Bureau believes it must move in advance of our partners, as this will have the effect of separating the Canadian market from the other two markets on the continent. This will drive up the cost of merchandise and could well reduce the range of products offered for sale. RCC would be opposed to the proposed changes unless they are part of a harmonized North American initiative, or there is compelling evidence that the health and safety of Canadians is being compromised.

Question 8:

No comment.

Question 9:

No comment.

Question 10:

RCC's members like the concept of accepting substantially equivalent dealer registration systems. However, there is considerable uncertainty and concern about how this would operate, and members made it clear they need to know more before they can support this change. Our understanding from your comments on the teleconference call is that it is the principally U.S. RN system that the Bureau has in mind. Such a recognition would be pro-competitive, as it would facilitate the freer flow of goods within North America. It would be helpful for the Bureau to clarify the criteria that would be used to determine whether a foreign registration system was "substantially equivalent."

Retailers are also curious about how the process would work when using a number from a substantially equivalent system. Would a U.S. label be sufficient? Would there be a specific protocol regarding how a foreign registration number must appear on the product? Would the Canadian company have to register the number? Would a fee be required? Are there other requirements that the company would have to fulfill? Until these matters are clarified, it is not possible to determine whether use of a foreign number would be a realistic option.

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Will the U.S. Government allow the CA number to be used on articles sold in that country?

Question 11:

We agree. The changes will help provide clarity and consistency.

General Question on Item 12:

The labelling of items with fill falls under stuffed articles registrations for which the provinces of Ontario, Quebec and Manitoba have in place registration processes and a requirement to apply a stuffed article label on the product. Are the Federal guidelines being discussed aligned to the provincial regulations with respect to these labels? The current situation under which two levels of government impose requirements is very expensive and cumbersome for vendors located around the world. This is an area where harmonization with the requirements of the U.S. would reduce cost and open the Canadian market to a wider range of competing products.

Question 12 a):

RCC supports the objective of providing consumers with better information about the content of down products. Our members agree that current manufacturing techniques produce greater accuracy in achieving the targeted amount of down in a product. However, the nature of down means that there will still be unavoidable variations in down content between samples of the same product and even within a single article. Moreover, the measurement of down content continues to be a difficult and somewhat imprecise process. As a result, there is still a need for a liberal degree of tolerance. RCC supports providing a factual statement about the percentage of down in a product, as long as there is a tolerance of five per cent.

Question 12 b):

See our comment on 12 (a. We would support the provision of this information on the label.

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Question 12 c):

See our comment on 12 (a. RCC would suggest that the word "down" without any additional descriptors continue to be permitted for products that contain the current minimum of 75 per cent down. Descriptors such as "Pure," or "All" should not be permitted. A statement about the percentage should be permitted, so a merchant would be able to advertise "100% (or 90%, etc.) down," as long as the down content of the product was as stated, within the five per cent margin of tolerance.

Question 12 d):

As stated in our response to question 12 a) RCC would recommend a tolerance of five per cent.

RCC is grateful for the opportunity to discuss the discussion paper with you on the conference call of April 4. If you have any questions about our submission, please contact me at pwoolford@retailcouncil.org or 416-922-0553, ext. 230.

Yours sincerely,

Peter Woolford
Vice President Policy Development and Research