
**THE WOOL PRODUCTS
LABELING ACT OF 1939**

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By ROBERT E. FREER *

The Wool Products Labeling Act of 1939,¹ popularly known as the "truth in fabrics law," is the first instance of comprehensive Federal legislation specifically requiring the informative labeling of merchandise to show its fiber content, though the Act is limited to those products "which contain, purport to contain, or in any way are represented" as containing woolen fiber of any kind, with the exception of carpets, rugs, mats, and upholsteries.²

This law, administered by the Federal Trade Commission, represents another chapter in the departure from the common law principle of *caveat emptor* and is not dissimilar in many respects from other labeling laws passed by the Congress. In respect to the evils sought to be corrected by such legislation, and in relation to the products covered thereby, there is a similarity to other measures which today are accepted as essential to the public welfare such as our Federal Food, Drug and Cosmetic Act.³ This legislation was a logical and necessary part of the growing body of legislation to protect the consuming public in the field of food, drugs, meat inspection and honest weights and measures.

It is interesting to study the history of this legislation. As far back as 1902 a bill was introduced in the 57th Congress to require a distinction between "shoddy" and "virgin wool."⁴ Similar measures were introduced at nearly every session of Congress until the enactment by the 76th Congress of the present law in October, 1940.⁵

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The views expressed are personal and not necessarily those of the Federal Trade Commission. Acknowledgment is made of assistance by Wayne H. Threlkeld, Karl Stecher and Henry D. Stringer, of the Federal Trade Commission's staff.

1. 54 Stat. 1128; 15 U. S. C. A. Sec. 68. Approved Oct. 14, 1940, to become effective nine months later.

2. Section 14.

3. 52 Stat. 1040; 21 U. S. C. A. Sec. 301 *et seq.*

4. H. R. 14488, 57th Cong., 1st Sess.

5. E. g., eight bills involving the labeling of wool products were introduced in the 75th Congress.

PRIOR LEGAL STATUS OF MISBRANDING OF WOOL PRODUCTS

Matters involving the advertising of wool products, including descriptive labels and pictorial material, early came to the attention of the Federal Trade Commission, which was created in 1914, with power to prohibit unfair methods of competition in commerce.

In the fall of 1918 the Commission issued a number of complaints against manufacturers of garments which were represented as being made of wool, but which its investigation had indicated to be made only partially of wool.

The difficulties confronting a person who desired to purchase an "all-wool" undergarment, for instance, may be seen by referring to one of these cases as an example. The Commission's complaint alleged that a manufacturer of underwear had labeled, advertised, and branded certain lines of underwear as wool when in fact this underwear contained but a small amount of wool, and that this constituted an unfair method of competition in violation of Section 5 of the Federal Trade Commission Act.

The chaotic condition existing in the wool garment industry at the time is set forth lucidly in the following paragraph from the findings of the Commission:

"That for the past 20 years it has been a general custom and practice in the underwear business to label and brand underwear as 'natural merino,' 'wool,' 'natural wool,' 'natural worsted,' and 'Australian wool,' when in fact such underwear so described is not composed wholly of wool [the expressions used by respondent on labels for cartons in which its underwear was sold]; that this custom and practice is general in the underwear trade throughout the United States; that there are a few manufacturers of underwear whose products are composed wholly of wool and are branded and labeled by them as such."⁶

The Commission issued a cease and desist order.⁷ In reversing the order, the United States Circuit Court of Appeals invited attention to the fact that considerable testimony established that the trade was not misled

6. *F. T. C. v. Winsted Hosiery Co.*, 2 F. T. C. 202, 206 (1920); also 3 F. T. C. 189 (1921). The findings recited that the percentage of wool in the garments varied from 20% to 80%.

7. The modified order to cease and desist is in the following language:

"It is now ordered, That the respondent, * * * its officers, agents, * * * do cease and desist from employing or using as labels or brands on underwear or other knit goods not composed wholly of wool, or on the wrappers, boxes, or other containers in which they are delivered to customers, the word 'Merino', 'Wool', or 'Worsted', alone or in combination with any other word or words, unless accompanied by a word or words designating the substance, fiber, or material, other than wool, of which the garments are composed in part (e. g. 'Merino, Wool, and Cotton'; 'Wool and Cotton'; 'Worsted, Wool and Cotton'; 'Wool, Cotton and Silk'), or by a word or words otherwise clearly indicating that such underwear or other goods is not made wholly of wool (e. g., part wool)." (3 F. T. C. 189, 197-198.) The Commission also issued orders to cease and desist in 18 similar cases. (Reported in 2 F. T. C.)

in any respect by the label, although it took cognizance of other testimony in the record to the effect that the consuming public was being misled into thinking the underwear so described was pure wool. Asserting that the Commission was not a censor of commercial morals, generally, the Court stated:

"The labels were thoroughly established and understood in the trade* * *. Assuming that some customers are misled because they do not understand the trade signification of the labels, or because some retailers deliberately deceive them as to its meaning, the result is in no way connected with unfair competition but is like any other misdescription or misbranding of products. Conscientious manufacturers may prefer not to use a label which is capable of misleading, and it may be that it will be desirable to prevent the use of the particular labels, but it is in our opinion not within the province of the Federal Trade Commission to do so." 7^a

In upholding the Commission's order to cease and desist and reversing the Circuit Court of Appeals, the Supreme Court of the United States observed that there was no doubt that the Commission's findings as to the facts were supported by evidence. The labels in question, it declared, "are literally false * * * palpably so," and then continued:

"The facts show that it is to the interest of the public that a proceeding to stop the practice be brought. And they show also that the practice constitutes an unfair method of competition as against manufacturers of all wool knit underwear and as against those manufacturers of mixed wool and cotton underwear who brand their product truthfully. For when misbranded goods attract customers by means of the fraud which they perpetrate, trade is diverted from the producer of truthfully marked goods. That these honest manufacturers might protect their trade by also resorting to deceptive labels is no defense in this proceeding brought * * * in the public interest.

"The fact that misrepresentation and misdescription have become so common in the knit underwear trade that most dealers no longer accept labels at their face value, does not prevent their use being an unfair method of competition. A method inherently unfair does not cease to be so because those competed against have become aware of the wrongful practice. Nor does it cease to be unfair because the falsity of the manufacturer's representation has become so well known to the trade that dealers, as distinguished from consumers, are no longer deceived. The honest manufacturer's business may suffer, not merely through a competitor's deceiving his direct customer, the retailer, but also through the competitor's putting into the hands of the retailer an unlawful instrument, which enables the retailer to increase his own sales of the dishonest goods, thereby lessening the market for the honest product." 8

7a. 272 Fed. 957 (C. C. A. 2d, 1921).

8. Federal Trade Commission v. Winsted Hosiery Company, 258 U. S. 483, 42 Sup. Ct. 384 (1922).

In another case⁹ in which complaint was issued and the Commission's decision rendered before passage of the Wool Products Labeling Act, the Circuit Court of Appeals reviewed an order to cease and desist requiring the respondent to discontinue the use of the words "wool" or "woolens" in connection with the advertising and sale of fabrics composed only in part of wool. The order further provided that if the fabrics were composed in part of wool, then words connoting wool might be used in such advertising if in immediate conjunction therewith in equal conspicuousness and size letters, words truthfully describing the other constituent fiber or fibers be set forth, all in the order of their predominance by weight. Still another requirement was that if any of the fibers were not present in substantial weight the percentage thereof should be stated. The Circuit Court of Appeals modified the Commission's order but affirmed the first two requirements therein, i. e., the outright proscription against the use of the word "wool" if none of that fiber were present, and the provision that if composed in part of wool that word or its equivalent might be used when and if the presence of other fibers was disclosed in letters of equal size and conspicuousness.

The Commission had found upon the testimony adduced that the wool content of the mixed goods so advertised by the respondent, a *retailer*, was 30% in some samples tested and up to 60% in others.

The court characterized both the percentage disclosure requirement if the fiber was present in unsubstantial quantities and the requirement that fibers be described in order of their predominance by weight as outside the scope of the charges of the complaint. The court, however, further observed:

"To require each constituent element to be described in the order of its predominance or in percentages would seem to require the retailer to make a laboratory test of each piece of goods put on sale. The petitioner's competitors are not required to describe mixed woolens in any such detail."¹⁰

In another case¹¹ arising under the Federal Trade Commission Act which involved another textile in which the Commission's complaint and decision were both issued before the Wool Products Labeling Act became effective the Circuit Court of Appeals upon review entered a decree upon joint motion of the respondent and the Commission modifying the order to cease and desist in respects not pertinent to this discussion but otherwise

9. *F. T. C. v. Gimbel Bros., Inc.*, 30 F. T. C. 328, 116 F. (2d) 578 (C. C. A. 2d, 1941).

10. 116 F. (2d) 578, 579 (C. C. A. 2d, 1941). Although the Act now requires quantitative disclosure, the Act and the Commission's Rules and Regulations provide that a *retailer* or distributor may be relieved of liability if he has obtained in good faith a guaranty from his source of supply as to the accuracy of the latter's content statement (*infra* notes 37 and 38).

11. (32 F. T. C. 788, Docket No. 3619) (*Rabhor Company, Inc. v. F. T. C.* No. 17711 [C. C. A. 2d, 1942] not reported in Federal Reporter, Vol. 3, F. T. C. Statutes and Decisions 477).

affirming it. Under such order respondent was directed to cease and desist from representing products composed of rayon as silk and from advertising, offering for sale, or selling fabrics or garments composed in whole or in part of rayon without clearly disclosing by use of the word "rayon" the fact that such fabrics or products are composed of rayon, and further, when such fabrics or products are composed in part of rayon and in part of other fibers, such fibers shall be designated in immediate connection or conjunction with the word "rayon" in letters of at least equal size and conspicuousness which shall truthfully describe and designate each constituent fiber or material thereof.

The theory upon which the Commission based its findings as to the facts and order in that case was that rayon having the appearance and feel of silk and being practically indistinguishable therefrom, a duty rests on the advertiser to disclose the rayon content in order to prevent confusion and deception likely to arise from his silence. This is but an extension of the familiar doctrine of deceit in the law of torts.¹²

The Commission's jurisdiction over false and misleading labeling of textile products, including wool, as an element of false and misleading advertising in connection with the sale of such products in commerce was firmly established prior to the passage of the Wool Products Labeling Act. Hence, the Commission's sanctions were applicable to affirmative misrepresentations respecting either qualitative or quantitative factors; its power to require full quantitative disclosure in the absence of such misrepresentation was in doubt. Respecting those textiles, the feel or appearance of which simulated other generically different textiles, a duty of qualitative disclosure existed wherever deception might flow from silence relative to its fiber content in the face of its simulation of another fabric.

OBJECTIVE OF THE ACT

The avowed purpose of the Wool Products Labeling Act is "to protect producers, manufacturers, distributors, and consumers from the unrevealed presence of substitutes and mixtures in spun, woven, knitted, felted, or otherwise manufactured wool products, and for other purposes." (Sec. 1.) Some of the classes sought to be protected were the most vehement opponents of the bill, and as shown by the similar history of the pure food and drug legislation, great support came from the consumer groups of the nation.

One of the greatest evils sought to be reached by this legislation was the unrevealed presence of reworked wool, cotton and rayon in products which simulated wool in appearance and which were represented as being

12. *Laidlaw v. Organ*, 15 U. S. 177, 4 L. Ed. 214 (1817); *Stewart v. Wyoming Cattle Rancho Co.*, 128 U. S. 383, 9 Sup. Ct. 101 (1888).

wool.¹³ It was estimated that approximately 50% of the fiber used by the woolen manufacturers of the country was reworked wool, cotton and rayon, as distinguished from virgin or new wool. In this day of synthetic fibers there are many fabrics and products which cannot be distinguished from wool, even by experts, without the most painstaking and careful analysis in the laboratory. Wool was a topic of prime interest even in the medieval market place as shown by the statement of Cervantes in the 16th Century that "Many go out for wool and come home shorn themselves."¹⁴

The purpose of the law was not to prevent the use of reworked wool and non-woolen fibers, but simply to correct the unfair trade advantages resulting from their unrevealed presence, and to enable the consumer to know what he was buying.

ANALYSIS OF THE ACT¹⁵

Three classifications of wools are named and defined: to wit, "wool," "reprocessed wool" and "reused wool."¹⁶

"Wool" is defined as the fiber from the fleece of the sheep or lamb or hair of the Angora or Cashmere goat (and may include the so-called specialty fibers from the hair of the camel, alpaca, llama and vicuna) which has never been reclaimed from any woven or felted wool product.

The term "reprocessed wool" means wool which has been woven or felted into a wool product and subsequently reduced to a fibrous state without having been used by the ultimate consumer.

The term "reused wool" means the resulting fiber when wool or reprocessed wool has been spun, woven, knitted or felted into a wool product and subsequently reduced to a fibrous state after having been used by the ultimate consumer.

MISBRANDING DECLARED UNLAWFUL¹⁷

The introduction, or manufacture for introduction into commerce, or the sale, transportation, or distribution, in commerce, of any wool product which is misbranded is declared to be unlawful and an unfair method of competition and an unfair and deceptive act or practice; and any person who shall manufacture or deliver for shipment or ship or sell or offer for sale in commerce, any wool product which is misbranded, is declared to be

13. " * * * the testimony shows that of some 500,000,000 pounds of wool fabricated into garments annually nearly one-third of it comes under the heading of re-used wool." 76th Congress, 1st Sess., House Report No. 907, p. 6.

14. Don Quixote, Part 2, Chapter 37.

15. Section 1 titles the legislation the "Wool Products Labeling Act of 1939."

16. Section 2.

17. Section 3.

guilty of an unfair method of competition and an unfair and deceptive act or practice under the Federal Trade Commission Act.¹⁸

It is interesting to compare the language of this Section with Section 5 of the Federal Trade Commission Act which provides: "The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations . . . from using unfair methods of competition *in commerce* and unfair or deceptive acts or practices *in commerce*" (italics supplied).¹⁹ The Supreme Court of the United States has held that this language limits the operation of this statute to those business practices employed in interstate commerce as contradistinguished from those "affecting" interstate commerce.²⁰

The language of Section 3 of the Wool Products Labeling Act, quoted *supra*, it will be noted, is broader, particularly the phrases "manufacture for introduction" and "offer for sale" in commerce.

The Fair Labor Standards Act of 1938²¹ is directed to those "engaged in commerce or in the production of goods for commerce."²² While no case has arisen in the courts construing the language of Section 3, its similarity to that used in the Fair Labor Standards Act, *supra*, is such that it appears to come within the scope of the decision of the Supreme Court in *United States v. Darby*,²³ in which the Court held that the regulation of hours and wages in industries producing goods for interstate commerce was a valid exercise of the power given Congress to regulate interstate commerce, and this even though the exigencies of business required that all of the production did not actually enter interstate commerce.

WHAT CONSTITUTES MISBRANDING²⁴

A wool product is declared to be misbranded if it is falsely or deceptively labeled or if the label does not show—

(A) The percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per cent of said total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other

18. The section excludes common and contract carriers and manufacturers, persons delivering for shipment, shipping, selling or offering for sale, wool products for exportation from the United States to any foreign country if branded in accordance with the specifications of the purchaser and in accordance with the laws of such country.

19. 15 U. S. C. A. Sec. 45 (a). Prior to the amendment of 1938 the Act covered only "unfair methods of competition."

20. *F. T. C. v. Bunte Bros.*, 312 U. S. 349, 61 Sup. Ct. 580 (1941). But see *Ford Motor v. F. T. C.*, 120 F. (2d) 175 (C. C. A. 6th, 1941), *certiorari denied*, 314 U. S. 668, 62 Sup. Ct. 130 (1941); *F. T. C. v. Pacific States Paper Trade Association et al.*, 273 U. S. 52, 47 Sup. Ct. 255 (1927); and *Chamber of Commerce of Minneapolis et al. v. F. T. C.*, 13 F. (2d) 673 (C. C. A. 8th, 1926).

21. 52 Stat. 1060; 15 U. S. C. A. Sec. 201 *et seq.*

22. Section 202.

23. 312 U. S. 100, 61 Sup. Ct. 451 (1941).

24. Section 4.

than wool if said percentage by weight of such fiber is 5 per cent or more; (5) the aggregate of all other fibers. The percentages must be shown on the label in words and figures plainly legible. Deviations between actual content and the percentages shown representing unavoidable variations in manufacture, despite the use of due care, are allowed and provided for;

(B) The maximum percentage of the total weight of non-fibrous loading, filling or adulterating matter;

(C) The name of the manufacturer of the wool product or the name of one or more persons subject to Section 3, the section which prohibits misbranding.

This section carries a provision that it shall not be construed as requiring designation on garments or articles of apparel of fiber content of any linings, paddings, stiffening, trimmings, or facings, (except those concerning which express or implied representations are customarily made) or products with an insignificant or inconsequential textile content with the further proviso that if any article purports to contain or is represented as containing wool that the section shall be applicable and the required information shall be set forth in segregated form on the content label.²⁵

It is to be noted that the misbranding of a wool product not only consists of false labeling; i. e., representation of content not according with truth or reality, but also includes deceptive labeling, i. e., that having power to mislead or impress with false opinion. Also in such category is outright failure to affix any label at all or the affixing of a deficient label.²⁶ Cases hereunder include dual labeling with inconsistent or conflicting information. For example, a label was affixed to a coat at one point describing the fiber content as "all wool" and elsewhere on the coat another label was affixed and printed with pictures of a camel and an alpaca together with the label "camel hair and wool." The Commission after due hearing held that the information on these labels confused and deceived the purchasing public as to the fiber content thereof and was in violation of the Act and the Rules and Regulations promulgated thereunder.²⁷

AFFIXING OF STAMP, TAG, LABEL, OR OTHER IDENTIFICATION ²⁸

The person manufacturing or first introducing into commerce a wool product shall affix the label, and the same or an authorized substitute con-

25. Rule 24 of the Regulations (16 Code Federal Regulations Section 300.24) implements this section with respect to the labeling of linings, paddings, etc. Upon proper application being made, the Commission has had occasion to exempt some articles from operation of the statute by reason of the inconsequential or insignificant textile content.

26. Since the effective date of the Federal Trade Commission Act the Commission has issued 18 orders to cease and desist from violating the provisions of the Act or the Rules and Regulations promulgated thereunder. As of February 27, 1946, 21 formal complaints were pending.

27. Docket No. 5073.

28. Section 5.

taining identical information must remain affixed to the product "until sold to the consumer," which phrase is expressly definitive of the legislative intent. This objective is further implemented by the provisions declaring removal or mutilation of the label with intent to violate the provisions of the Act to be an unfair method of competition and an unfair and deceptive act or practice, within the meaning of the Federal Trade Commission Act.²⁹

This proscription against mutilation or removal is similar to a provision of the Tariff Act of 1930³⁰ making it a criminal offense to deface, destroy, remove, alter, cover or obscure markings of foreign origin required to be affixed to goods imported into this country. An information alleging violation of this section has been held to charge a criminal offense even though it was not charged that the article from which the mark of foreign origin was removed was then in commerce.³¹

ENFORCEMENT OF THE ACT³²

The Federal Trade Commission is invested with jurisdiction of the Act and is given the power to make rules and regulations and prescribe procedure. The Commission is authorized and directed to prevent violations of the Act in the same manner, by the same means, and with the same powers it possesses under the Federal Trade Commission Act. Persons violating the Act are subject to the penalties and are entitled to the privileges and immunities of the Federal Trade Commission Act.

The Commission is authorized to cause inspections, analyses, tests, and examinations to be made of any wool products subject to the Act and to cooperate with any department or agency of federal or local government or with any person in the enforcement of the law.

The manufacturer is required to maintain proper records showing the fiber content of all wool products and to preserve such records for at least three years. Neglect or refusal subjects the manufacturer to a forfeiture of \$100 for each day of such failure.

CONDEMNATION AND INJUNCTION PROCEEDINGS

Any wool products are liable to be proceeded against in the District Court of the United States in the districts where found, and to be seized for confiscation by process of libel if the Commission has reasonable cause to

29. The Commission has issued orders directing sellers of wool products received in commerce to cease and desist from removing or mutilating with intent to violate the provisions of the Act, any part of the required information from the labels affixed to the product by manufacturers or others introducing them in commerce. See Docket No. 5041 (Aug. 22, 1944) and Docket No. 5138 (Apr. 6, 1945).

30. 46 Stat. 687; 19 U. S. C. A. Sec. 1304 (d).

31. *United States v. Ury*, 106 F. (2d) 28 (C. C. A. 2d, 1939).

32. Section 6. (See F. T. C. Rules, Policies and Acts, Statement Re Act, p. 29.)

believe such products are being manufactured, held for shipment, or shipped, or held for sale or exchange after shipment in commerce in violation of the Act.³³ Proceedings in such libel cases shall conform as nearly as may be to suits in rem in admiralty and may be brought by the Commission.

In the event wool products are condemned by the court they may be disposed of, in the discretion of the court, by destruction, by sale, by delivery to the owner upon payment of costs and charges and the giving of bond to observe the provisions of the Act, or by charitable distribution.

The Commission may also bring an injunction against any person violating or about to violate Sections 3, 5, 8 or 9 of the Act.

To date no occasion has arisen requiring the Commission to invoke the remedies prescribed in Section 7.

IMPORTED WOOL PRODUCTS³⁴

The Act provides for the exclusion of misbranded wool products from the United States except products made twenty years prior to importation, unless they are stamped, tagged, labeled or otherwise identified in accordance with the provisions of this Act, and all invoices of such wool products are required to set forth the information required under this Act and under the Tariff Act of 1930.³⁵

The Act also deals appropriately with falsification of invoices or failure to furnish the required information, or perjury in the consignee's declaration; and importers who have violated its provisions may be prohibited from importing any wool products except on filing with the Secretary of the Treasury a bond in double the sum of the value of the products plus the duty thereon.

A verified statement from the manufacturer or producer of the product showing its fiber content may be required by the Secretary of the Treasury.³⁶

GUARANTIES³⁷

The Act provides that no person shall be guilty under Section 3 if he establishes a guaranty received in good faith signed by and containing the name and address of the person residing in the United States by whom the wool product was manufactured or from whom it was received to the

33. " * * * and if after notice from the Commission the provisions of this Act with respect to said products are not shown to be complied with." (Section 7.)

34. Section 8.

35. 46 Stat. 719; 19 U. S. C. A. Sec. 1481.

36. Section 8. In the administration and enforcement of this section many questions arise through the Bureau of Customs relating to the clearance of wool products imported for sale in this country, requiring close cooperation between the Commission and this Bureau and calling for Commission rulings on individual cases from time to time.

37. Section 9.

effect that the wool product is not misbranded under the provisions of this Act.

The guaranty may be either a separate guaranty specifically designating the wool product guaranteed or a continuing guaranty filed with the Commission applicable to all wool products handled by the guarantor and in such form as the Commission, by regulation, may prescribe.³⁸

CRIMINAL PENALTY ³⁹

Any person who wilfully violates Sections 3, 5, 8 or 9 (b) of the Act is declared to be guilty of a misdemeanor and upon conviction shall be fined not more than \$5,000 or be imprisoned not more than one year, or both.

Whenever the Commission has reason to believe such violation exists, it is required to certify all pertinent facts to the Attorney General for appropriate proceedings.

COMMISSION RULES AND REGULATIONS

Section 6 (a) of the Act authorizes and directs the Federal Trade Commission to make rules and regulations under and in pursuance of the terms of the Act and as may be necessary and proper for administration and enforcement thereof. The Commission accordingly formulated a draft of proposed rules and regulations and on March 15, 1941, made it public. At the same time it extended to all interested or affected parties opportunity and invitation to present in writing or orally such suggestions, objections or views in respect thereto as they desired to submit. After giving consideration to the matters so presented, the Commission approved an amended draft of the rules which it published on May 24, 1941, to become effective on July 15, 1941.⁴⁰

Illustrative of some of the more important of these rules are the following in summarized form:

The right is accorded to manufacturers ⁴¹ resident in the United States to make application to the Federal Trade Commission for a registered iden-

38. The Commission in Rules 32 and 33 of the Regulations prescribes the forms of separate guaranty and continuing guaranty respectively mentioned under Section 9. At the close of the fiscal year 1945, 5,659 continuing guaranties had been duly filed with the Commission and made matters of public record.

39. Section 10. Completing analysis of the Act:

Section 11 provides that the Act shall be in addition to and not in substitution for or limitation of other Acts;

Section 12 fixes the effective date as nine months after the date of passage;

Section 13 is the usual separability clause; and

Section 14 exempts carpets, rugs, mats or upholsteries from operation of the Act.

40. 16 Code Federal Regulations Sec. 300.1 *et seq.*

41. Rule 4 *supra*, Sec. 300.4. At the close of the fiscal year 1945 and pursuant to applications duly filed under this rule, 5,329 manufacturers had been registered and assigned identification numbers. Numbers may be cancelled when the firm goes out of business or changes its form or organization or for other sufficient reasons. At the close of the fiscal year, 1,112 identification numbers had been cancelled. See F. T. C. Annual Report (1945) p. 70.

tification number to be used in lieu of the manufacturer's name upon the label or mark of identification affixed to the product. In such case the label or mark of identification, in addition to the identification number, must bear the name of at least one person who sells the product to a reseller or purchaser-consumer. Another rule ⁴² requires, except in the case of wearing apparel sold in pairs and attached together, such as hosiery or gloves, that a label or other mark of identification be affixed upon each garment or separate piece of merchandise subject to the Act, irrespective of whether two or more garments or pieces, the trousers and coat of a suit, for example, may be sold together. When the presence of any of the specialty fibers ⁴³ named in Section 2 (b) of the Act or "mohair" ⁴⁴ or "Cashmere" is claimed, directly or by implication, then the respective percentages of such fibers must be set forth. Since some of these fibers are extremely rare and costly, possible deception by stating their presence and implying that the product may be composed entirely or in substantial part of such fibers when not in keeping with the facts is thus avoided. The terms "virgin" or "new," ⁴⁵ or words of similar import, may be used to describe a wool product or any fiber or part thereof provided the product or the part so described is composed entirely of new or virgin wool which has never been used, reclaimed, reworked, reprocessed or reused from any spun, woven, knitted, felted or manufactured or used product. Samples, swatches or specimens of wool products subject to the Act which are used to promote or effect their sale in commerce, must be labeled or marked to show the information respecting name and fiber content.⁴⁶

COMMISSION PROCEDURE UNDER THE ACT

The groundwork for securing administrative compliance with the Act is laid principally in the Commission's continuous and countrywide inspection of the labeling practices of manufacturers and distributors of wool products, authorized by Section 6 (a) of the Act. A trained staff of inspectors visits the plants which manufacture these products from the processing and spinning of wool into yarn to the making of the finished garment or other product, as well as the stores of jobbers and retailers where the wool product is on its way to the consumer. At every point in the flow of the product to the final buyer the inspector observes, in the light of the requirements of the Act, both the deficiencies in labeling and the names of the persons responsible therefor. These and other relevant facts are noted in great detail and reported to the Commission's Washington office and made the basis of correc-

42. Rule 12 *supra*, Sec. 300.2.

43. Rule 18 *supra*, Sec. 300.18.

44. Rule 19 *supra*, Sec. 300.19.

45. Rule 20 *supra*, Sec. 300.20.

46. Rule 22 *supra*, Sec. 330.28.

tive action. These field inspections in a single year involve the labeling practices of many thousands of manufacturers and dealers.⁴⁷

Certain minor infractions which appear to be unintentional and lack the element of wilfulness are administratively corrected for the most part through cooperative effort and voluntary action on the part of the concerns involved.

For more serious infractions formal proceedings may be instituted, after investigation of a respondent's practices, through issuance of a complaint setting forth the charges or relevant facts respecting the practices or methods alleged to constitute a violation of law.

Under the Commission's Rules of Practice respondents are required to make answer thereto within twenty days unless an extension of time for good cause shown has been granted.⁴⁸ Even though a respondent fails to answer, the Commission procedure is to set the case down for hearing. Motions are permitted⁴⁹ and by entertaining motions to dismiss the complaint prior to the taking of testimony an opportunity is afforded to raise questions of law. Hearings are scheduled before a Trial Examiner. The Trial Examiner has no connection whatever with any other feature of the Commission's work. Adherence to the strict letter of the rules of evidence is not required where the result would be to defeat substantial justice, and the courts have upheld the Commission's right to receive evidence or testimony which is "of the kind that usually affects fairminded men in the conduct of their daily and more important affairs."⁵⁰

At the conclusion of such testimony as may be offered in support of the allegations of the complaint and by the respondent in opposition thereto, the taking of testimony is closed. Upon the receipt of the stenographic transcript the Trial Examiner prepares and files with the Commission his report, copies of which are served upon the attorney for the Commission and upon respondents, or their attorneys if they are represented by counsel.⁵¹ This includes a report upon the facts, conclusions of fact, conclusions of law, and recommendation for appropriate action by the Commission. This report is advisory only and is not a report or finding of the Commission.

Either counsel for the Commission or for the respondent may file exceptions to the Trial Examiner's report.⁵² Briefs may be submitted.⁵³ Then oral argument before the Commission may be had if desired by re-

47. During the fiscal year ending June 30, 1945, field inspections covered in excess of 11½ million articles. F. T. C. Annual Report (1945) p. 70.

48. Rule VIII, F. T. C. Rules of Practice. (See note 32 *supra*.)

49. Rule X, *ibid*.

50. *John H. Bene & Son, Inc. v. F. T. C.*, 299 Fed. 468 (C. C. A. 2d, 1924). See to the same effect *Arkansas Wholesale Grocers Ass'n. v. F. T. C.*, 18 F. (2d) 866 (C. C. A. 8th, 1927); *F. T. C. v. Good-Grape Co.*, 45 F. (2d) 70 (C. C. A. 6th, 1930); *Phelps Dodge Refining Corp. v. F. T. C.*, 139 F. (2d) 393 (C. C. A. 2d, 1943).

51. Rule XXII, F. T. C. Rules of Practice.

52. Rule XXIII, *ibid*.

53. Rule XXIV-B, *ibid*.

spondents.⁵⁴ Following this the entire record in the case is submitted to the Commission for determination upon the merits. The Commission's decision may be either to dismiss the complaint, sometimes without prejudice, or to issue its findings as to the facts and order directing the respondent or respondents to cease and desist from such of the practices as are found to violate the law.

Orders issued under the Wool Products Labeling Act of 1939 by the Federal Trade Commission become final sixty days from the date of service unless a petition for review is filed within this period.⁵⁵

The jurisdiction to review initially Commission orders to cease and desist is vested in the Circuit Courts of Appeal. Prime questions presented on court review of Commission orders are whether the findings as to the facts are supported by the evidence (if so, the Commission's findings are conclusive), whether the practices engaged in are in violation of law and whether the scope of the order is appropriate. The court may modify, affirm, or set aside the order and direct obedience thereto to the extent to which it is affirmed.

CONCLUSION

The members of industry affected, the mills, garment manufacturers, and distributors, have on the whole been most cooperative with the Commission, and have voluntarily made many necessary corrections. This voluntary cooperation included a series of conferences between representatives of the Commission and manufacturers of wearing apparel which culminated in illustrations of acceptable labels which were issued by the Commission on September 24, 1943.⁵⁶

The Act was passed in answer to a need of the woolen industry and the consuming public and an increasing measure of benefits is to be expected therefrom by manufacturers, merchants and the purchasing public.

54. Rule XXIV-C, *ibid.*

55. 15 U. S. C. A. Sec. 45 (c).

56. "Illustrations of Certain Forms of Acceptable Tags or Labels under Wool Products Labeling Act," F. T. C. Leaflet W31.