

PART 180—RAYON, NYLON AND SILK CONVERTING INDUSTRY

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AUTHORITY §§ 180 0 to 180 107 issued under sec 6 38 Stat 721 15 U S C 46 Interpret or apply sec 5 38 Stat 719 as amended 15 U S C 45

SOURCE §§ 180 0 to 180 107 appear at 14 F R 624 Feb 11 1949

DEFINITIONS

§ 180 0 The industry and its products

(a) The products of the industry include textile fabrics known as broad goods which are composed wholly or predominantly of one or more of the following fibers rayon nylon, other man-made textile fibers or silk

(b) Members of the industry are persons and concerns who operate as converters with respect to such fabrics including so-called integrated producers The business of the members is that of acquiring by purchase or production these fabrics in the grey, unfinished or semi-finished state, having the goods dyed printed or finished in accordance

with their own specifications or those of their customers and marketing such finished or processed fabrics to cutters-ups to manufacturers of garments or of other products and to the distributing trades

GROUP I

§ 180 1 Misrepresentation of industry products

It is an unfair trade practice to make or publish or cause to be made or published directly or indirectly, any false, misleading or deceptive statement or representation, by way of advertisement or otherwise concerning the grade quality freedom from defects or imperfections quantity use size material content thread count origin shrinkage properties colorfastness washability, production manufacture or distribution of any product of the industry or concerning any component of such product or in any other material respect

§ 180 2 Misbranding

The false or deceptive labeling, marking, or branding of fabrics or products of the industry in any manner which is false misleading or deceptive in respect to the grade quality, freedom from defects or imperfections, quantity use size material, content thread count origin, shrinkage properties colorfastness, washability production, manufacture or distribution of such products or in any other material respect is an unfair trade practice

§ 180 3 False invoicing

Withholding from or inserting in invoices any statement or information by reason of which omission or insertion a false record is made, wholly or in part of the transactions represented on the face of such invoices, with the effect of thereby misleading or deceiving purchasers prospective purchasers or the consuming public, is an unfair trade practice

§ 180 4 Deception as to origin

With respect to any fabrics of the following types Fabrics which have been woven or fabricated in a foreign country and imported in the grey or other unfinished state and dyed or finished in the United States and fabrics which have been imported in the finished state and dyed redyed or refinished in the United States, it is an unfair trade practice

(a) To offer for sale sell or distribute any such fabrics under marks stamps brands labels or representations which have the capacity and tendency or effect of misleading or deceiving purchasers prospective purchasers or the consuming public into the belief (1) that such fabrics were woven or fabricated in the United States when such is not the fact, or (2) that they were dyed finished re-dyed, or refinished elsewhere than in the United States when such is not true, or

(b) To offer for sale sell or distribute any such fabrics without the same being marked stamped branded or labeled so as to indicate clearly and nondeceptively (1) the country of origin of the fabrics and (2) that such fabrics were woven or fabricated in said country and were dyed or finished or re-dyed or re-finished in the United States as the case may be the failure refusal or omission so to mark stamp brand or label such fabrics having the tendency and capacity or result of thereby promoting abetting or effectuating the marketing of such products under conditions which are misleading or deceptive to purchasers prospective purchasers or the consuming public

NOTE Nothing in this section shall be construed as relieving any member of the industry or other party of the necessity of complying with requirements of the customs laws or regulations or other applicable provisions of law or regulations relating to the marking of imported articles

CROSS REFERENCE For regulations of the Bureau of Customs see 19 CFR Chapter I

§ 180 5 Identification and disclosure of fiber or material content

(a) In the sale offering for sale, or distribution of industry products it is an unfair trade practice to misrepresent or deceptively conceal the fiber or material content of any such product

(b) Fabrics containing rayon silk or linen shall be identified as to their fiber and material content in labels invoices and advertisements in accordance with the requirements of trade practice rules heretofore promulgated by the Commission for the rayon industry, linen industry, and silk industry *Provided* That products containing purporting to contain or in any way represented as containing wool reprocessed wool or reused wool shall be labeled in accordance with the requirements of the Wool Products Labeling Act of 1939 and the rules and regulations issued thereunder

NOTE A copy of the above-mentioned trade practice rules and of the Wool Products Labeling Act of 1939 and the rules and regulations issued thereunder may be obtained from the Commission by any industry member making request therefor

§ 180 6 Substitution of products

The practice of shipping or delivering products which do not conform to samples submitted to specifications upon which the sale is consummated or to representations made prior to securing the order without the consent of the purchasers to such substitutions and with the tendency, capacity, or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public is an unfair trade practice

§ 180 7 Inducing breach of contract

Inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever or interfering with or obstructing the performance of any such contractual duties or services by any such means with the purpose and effect of unduly hampering injuring or prejudicing competitors in their business, is an unfair trade practice

§ 180 8 Commercial bribery

It is an unfair trade practice for a member of the industry directly or indirectly to give, or offer to give or permit or cause to be given money or anything of value to agents employees or representatives of customers or prospective customers or to agents employees or representatives of competitors' customers or prospective customers without the knowledge of their employers or principals as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors

§ 180 9 Imitation of trade-marks, etc

The practice of imitating or causing to be imitated or directly or indirectly promoting or aiding the imitation of the trade-marks trade names other exclusively owned symbols or marks of identification of competitors or the exclusively owned patterns of competitors

which have not been directly or by operation of law dedicated to the public having the capacity tendency or effect of misleading or deceiving purchasers prospective purchasers or the consuming public is an unfair trade practice

§ 180 10 Defamation of competitors or disparagement of their products

The defamation of competitors by falsely imputing to them dishonorable conduct inability to perform contracts, questionable credit standing, or by other false representations or the false disparagement of the grade quality or manufacture of the products of competitors or of their business methods selling prices values credit terms, policies services or conditions of employment is an unfair trade practice

§ 180 11 Fictitious price lists

The publishing or circulating by any member of the industry of false or misleading price quotations price lists, terms or conditions of sale or reports as to production or sales with the tendency and capacity or effect of misleading or deceiving purchasers prospective purchasers suppliers or the consuming public is an unfair trade practice

§ 180 12 Use of lottery schemes

The offering or giving of prizes, premiums or gifts in connection with the sale of industry products or as an inducement thereto by any scheme which involves lottery or scheme of chance is an unfair trade practice

§ 180 13 Prohibited discrimination in terms of purchase and sale¹

(a) *Prohibited discriminatory prices, or discounts rebates refunds credits, etc which effect unlawful price discrimination* It is an unfair trade practice for any member of the industry engaged in commerce in the course of such com-

¹ As used throughout this section the word commerce means trade or commerce among the several States and with foreign nations or between the District of Columbia or any Territory of the United States and any State Territory or foreign nation or between any insular possessions or other places under the jurisdiction of the United States or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States

merce, to grant or allow directly or indirectly secretly or openly any discount rebate refund credit or other price differential in the guise of transportation costs or of samples or otherwise where such discount rebate refund credit or price differential effects a discrimination in price between different purchasers of goods of like grade and quality where either or any of the purchases involved therein are in commerce and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce or to injure destroy or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them *Provided, however*

(1) That the goods involved in any such transaction are sold for use consumption or resale within any place under the jurisdiction of the United States

(2) That nothing contained in this paragraph shall prevent differentials which make only due allowance for differences in the cost of manufacture sale or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered

(3) That nothing contained in this paragraph shall prevent persons engaged in selling goods wares or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade

(4) That nothing contained in this paragraph shall prevent price changes from time to time were made in response to changing conditions affecting either (i) the market for the goods concerned or (ii) the marketability of the goods such as but not limited to actual or imminent deterioration of perishable goods obsolescence of seasonal goods distress sales under court process or sales in good faith in discontinuance of business in the goods concerned

(b) *Prohibited brokerage and commissions* It is an unfair trade practice for any member of the industry engaged in commerce in the course of such commerce to pay or grant or to receive or accept anything of value as a commission brokerage or other compensation or any allowance or discount in lieu thereof except for services rendered in connection with the sale or purchase of goods wares or merchandise either to the other party to such transaction or to

an agent, representative or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control of any party to such transaction other than the person by whom such compensation is so granted or paid

(c) *Prohibited advertising or promotional allowances, etc* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member, in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling sale or offering for sale of any products or commodities manufactured sold or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities

(d) *Prohibited discriminatory services or facilities* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale with or without processing by contracting to furnish or furnishing or by contributing to the furnishing of any services or facilities connected with the processing handling sale or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms

(e) *Inducing or receiving an illegal discrimination in price* It is an unfair trade practice for any member of the industry engaged in commerce in the course of such commerce knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this section

(f) *Prohibited discriminatory returns* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one customer-purchaser against another customer-purchaser of fabrics bought from such member of the industry for resale by contracting to furnish or furnishing in connection therewith upon terms not accorded to all competing customer-purchasers on proportionally equal terms

the service or facility whereby such favored purchaser is accorded the privilege of returning all or part of the fabric so purchased and receiving therefor credit or refund of purchase price *Provided, however* Nothing in the provisions in §§ 180 1 to 180 16 shall prohibit or be used to prevent the return of merchandise by purchaser for credit or refund of purchase price when and because such merchandise has been falsely or deceptively labeled or represented or when and because such merchandise is defective in material workmanship or in other respect is contrary to guarantee warranty or purchase contract

(g) *Exemptions* The inhibitions of this section shall not apply to purchases of their supplies for their own use by schools, colleges universities public libraries churches, hospitals and charitable institutions not operated for profit

§ 180 14 Unlawful combinations in restraint of trade

It is an unfair trade practice for a member of the industry, or other person engaged in commerce

(a) To use directly or indirectly any form of threat intimidation, or coercion against any member of the industry or other person unlawfully to fix maintain or enhance prices suppress competition or restrain trade or

(b) To enter into or take part directly or indirectly in any agreement understanding combination, conspiracy or concerted action with one or more members of the industry or with one or more other persons unlawfully to fix maintain or enhance prices suppress competition or restrain trade

§ 180 15 Consignment distribution or delivery "on memorandum"

(a) It is an unfair trade practice for any member of the industry to employ the practice of shipping goods on consignment pretended consignment or for delivery "on memorandum"

(1) When such practice is so used or the terms and conditions thereof so varied or arranged as to effectuate a discrimination contrary to the provisions of § 180 13, or

(2) When such consignment pretended consignment or delivery 'on memorandum' is used for the purpose and with the effect of artificially clogging trade outlets and unduly restricting competitors' use of said outlets in getting

their products to purchasers or consumers through regular channels of distribution and thereby injuring destroying or preventing competition tending to create a monopoly or unreasonably restraining trade

(b) Nothing in this section shall be construed as restricting or preventing consignment shipping or marketing on memorandum when carried out in good faith and without illegal discrimination suppression of competition or undue interference with competitors use of the usual channels of distribution

§ 180 16 Aiding or abetting use of unfair trade practices

It is an unfair trade practice for any person firm, or corporation to aid abet coerce or induce another directly or indirectly to use or promote the use of any unfair trade practice specified in §§ 180 1 to 180 15

GROUP II

§ 180 101 Saturday and Sunday closings

In the interest of the public and of itself the industry urges all members of the industry to adhere to the practice of not opening their sales offices on Saturdays and Sundays for the transaction of business

§ 180 102 Repudiation of contracts

Lawful contracts are business obligations which should be performed in letter and in spirit The repudiation of contracts by sellers on a rising market or by buyers on a declining market is condemned by the industry

§ 180 103 Use of written sales contracts

(a) In order to avoid ambiguity and misunderstanding between buyers and sellers all purchases and sales of products of the industry exceeding one piece regardless of the total value thereof should be made by written contract signed by the buyer and seller Such written contract should set forth the actual terms and conditions of the sale involved

(b) Wherever practicable the delivery of all merchandise of any quantity should be made against a written receipt signed by the purchaser or a qualified agent or employee of the purchaser

(c) The provisions of this section shall not be construed as sanctioning or approving any agreement among competi-

tors or any planned common course of action among competitors to agree upon or to fix specify or determine the prices discounts terms or conditions of sale to be covered in any sales contract or transaction but these shall be open to individual negotiation between the seller and buyer subject to the requirements of §§ 180 1 to 180 16 and applicable provisions of law

§ 180 104 Use of samples

The industry disapproves the giving of samples without charge except in sufficient quantity necessary to acquaint purchasers or prospective purchasers with the grade or quality of the product offered for sale However the furnishing of any samples shall not be carried out in a manner involving discrimination contrary to the provisions of § 180 13

§ 180 105 Arbitration of disputes

The industry approves and recommends the use of commercial arbitration for the speedy and efficient disposition of disputes arising out of the sale processing, or distribution of the industry's fabrics

§ 180 106 Registration of original and novel designs

The industry recommends that all members should register their original and novel designs not directly or by operation of law dedicated to the public, with an accepted industry design registration bureau to the end that unauthorized copying of designs and the resultant confusion and misunderstanding be eliminated and appropriate information as to designs in use be fully available to the industry

§ 180 107 Use of uniform standards for examination of finished piece goods

For the visual examination of finished piece goods the industry recommends that uniform standards which are equitable as between buyer and seller and fair to the trade and purchasing public be used in the settlement of disputes concerning the quality of the industry's goods Nothing in this section however shall be construed as warranting classification of any fabric of the industry as a 'first' when not fully qualified for such designation and in this connection industry members recognize it as their obligation to in no wise contribute to any misrepresentation or deception as

to grade, quality, or otherwise in the further marketing of the fabric or products made therefrom

PART 181—HANDKERCHIEF INDUSTRY

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COMMITTEE ON TRADE PRACTICES

181 201	Industry committee
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AUTHORITY §§ 181 0 to 181 201 issued under sec 6 38 Stat 721 15 U S C 46 Interpret or apply sec 5 38 Stat 719 as amended 15 U S C 45

SOURCE §§ 181 0 to 181 201 appear at 14 F R 734 Feb 18 1949 except as otherwise noted

§ 181 0 Definition

Handkerchiefs, as referred to in this part include all types and kinds of handkerchiefs for men women and children made in whole or in part of cotton linen rayon silk nylon, wool or other textile fiber

NOTE Paper products including facial tissue made of paper or the manufacture and marketing thereof are not to be considered as coming within the scope of these rules Such exclusion however shall not be regarded as a determination express or implied of the propriety or impropriety of the application of the word handkerchief to any paper product nor shall such exclusion from these rules be construed as relieving any one of the necessity of avoiding the use of unfair trade practices of the type herein referred to and falling within the inhibitions of the law as applied to paper tissues or other products

GROUP I

§ 181 1 Fiber identification

(a) In the sale offering for sale or distribution of handkerchiefs it is an unfair trade practice to misrepresent or deceptively conceal the fiber or material content of any such product

(b) Handkerchiefs containing rayon silk or linen shall be identified as to their fiber and material content in labels invoices and advertisements in accordance with the requirements of trade practice rules heretofore promulgated by the Commission for the rayon industry linen industry and silk industry also handkerchiefs containing purporting to contain or in any way represented as containing wool reprocessed wool or reused wool shall be labeled in accordance with the requirements of the Wool Products Labeling Act of 1939 and the rules and regulations issued thereunder (Part 300 of this chapter)

NOTE A copy of the above-mentioned trade practice rules and of the Wool Products Labeling Act of 1939 and regulations issued thereunder will be sent by the Commission to any industry member making request therefor

§ 181 2 Fictitious prices

It is an unfair trade practice to sell or offer for sale handkerchiefs at prices purported to be reduced from what are in fact fictitious prices or to sell or offer to sell such handkerchiefs at a purported reduction in price when such purported reduction is in fact fictitious or is otherwise misleading or deceptive

§ 181 3 Exclusive dealing arrangements to exclude sale of competitors' products

It is an unfair trade practice to sell or contract for the sale of handkerchiefs, or to fix a price charged therefor, or to