

FTC Care Labeling Rule Roundtable  
March 28, 2014  
Segment 1  
Transcript

SPEAKER 1: Welcome to the Commission's Care Labeling Rule Roundtable. My name is Robert Frisbee. I work in the FTC's Bureau of Consumer Protection Division of Enforcement. I'd like to thank everyone for being here today. As you know, we have two presentations on wet cleaning issues and three discussion groups scheduled, Wet Cleaning starting at 10:20, Care Symbol starting at 1 o'clock, and Reasonable Basis and Other Issues starting at 2:30.

I would like to make a few announcements before we turn to our first presenter on wet cleaning issues. Anyone that goes outside the building without an FTC badge will be required to go through security prior to re-entry into the conference area. In the event of a fire or an evacuation of the building, please leave the building in an orderly fashion. Once outside of the building, you need to orient yourself to New Jersey Avenue. Across from the FTC is the Georgetown Law Center.

Look to the right front sidewalk. That as our rallying point. Everyone will rally by floors. And we need to check-in-- we need to have you check-in with a person accounting for everyone in the conference area. In the event it is safer to remain inside, you will be told where to go inside the building. And if you spot suspicious activity, please alert security.

OK this will be webcast and transcribed for the rule making record, and may be photographed, videotaped, or otherwise recorded. By participating in this event, you are agreeing that your image and anything you say or submit may be posted indefinitely at [FTC.gov](http://FTC.gov) or one of the Commission's publicly available social media sites. The restrooms are located near the elevators to the left of the guard desk.

OK, moving on to the substance of today. For each of our three discussion groups, we plan to allow at least 15 minutes for questions from the audience, including people viewing webcasts of the roundtable. We will provide a microphone to audience members who wish to comment or pose questions.

We will provide-- please identify yourself and your affiliation before posing a question or making a comment. We will do our best to accommodate everyone who wishes to ask questions. However, it is possible that we will not have enough time for everyone to ask their questions.

We do intend to follow the schedule set forth in the agenda, and to start it and end each presentation and discussion group on time. I have to apologize in advance if we need to cut you off so that we can follow our schedule, provide others with a chance to speak, and to cover the many important topics on our agenda. The comment period for this stage of the rule making closes on April 11, 2014. Thus, everyone will have an opportunity to comment, in writing, on the roundtable discussions, and to provide evidence that they believe the commission should consider, even if they do not have a chance to ask a question today.

When the commission published its notice of proposed rulemaking, it advised that interested parties could request an opportunity to present their views orally. Only one commenter, Peter Sinsheimer, requested such an opportunity. And, accordingly, we now turn to floor over to him for his presentation on wet cleaning.

PETER SINSHEIMER: Well, good morning, and I accept the responsibility of being the troublemaker for today. So I'm happy that the federal government is back up and running, and is able now to host this roundtable. So this first session, this morning session, focuses on should the FTC allow or require the use of a professional wet cleaning care label.

The FTC has developed clear criteria for determining whether a care label could be required. So my presentation is designed to give background context at the beginning, and then go into kind of the criteria and evidence associated with it. And I do have a slide presentation that's maybe-- if I-- there, OK. So I think I can move this here. Does this work? [INAUDIBLE] Oh, this clicker-- [INAUDIBLE] like this-- perfect, much easier. [INAUDIBLE] Thank you. Very good.

So, in terms of context-- so, it's always good to start with a definition. So here, these are the definitions that the FTC has for dry cleaning professional wet cleaning. And if you look at the definition for dry cleaning, it's a process for cleaning apparel using any solvent excluding water.

And professional wet cleaning is a commercial process of cleaning apparel in water. So clearly there's-- this is a clear distinction of the different technologies here. And professional wet cleaning is not dry cleaning, which kind of justifies why we're here today.

So in terms of environmental benefits, or wet cleaning being considered to be environmentally friendly, clearly professional wet cleaning-- it's been-- was actually brought to the United States by the EPA in order to-- because it was non-toxic non-- zero emission, presents no fire hazards, has been shown to be energy efficient. So this is just a chart rank ordering different apparel cleaning technologies by environmental friendliness. So now you may ask, well what is professional wet cleaning.

This is a flow chart of professional wet cleaning. Essentially, like many modern innovations, it all starts with a computer and adopting a computer to control an operation, this case, industrial laundry, being able to control water temperature, water level, mechanical action, in such a way as to kind of mimic hand washing, but at a commercial scale. So almost every industrial laundry manufacturer has equipment that can be-- designated as a wet cleaning washer.

Over 50 percent of existing cleaners have industrial washers that can be used for professional wet cleaning. So-- also detergent dispensing is the second step here. So there's automatic detergent dispensing that happens in wet cleaning You can also manually dispense detergent in a professional wet cleaning process.

The second innovation in wet cleaning is really about chemistry in green chemistry, the development of surfactants able to clean delicate garments in water. And so there's a number of types of cleaning agents that have been developed. So once garments are cleaned, they need to be dried.

So in wet cleaning, there's been innovation with respect to moisture sensors that have been put into dryers to read the amount of moisture on the garment itself. Many wet cleaners also just use a simple time dry, and then take it out, and air dry the remaining level, something you cannot do in dry cleaning, but it's normally something you can do in a water-based process. So finally, finishing standard finishing equipments used in professional wet cleaning, in addition, there's tensioning presses that block structure garments back into form. These are used if you're going to be using this process as a dedicated process.

So in terms of kind of an overview of commercial viability, in the year 2000, I was asked to evaluate the first set of [INAUDIBLE] cleaners to convert to a professional wet cleaning. The results of this evaluation were that these dry cleaners who switched to professional wet cleaning were able to clean the full range of garments that they had previously dry clean in wet cleaning. Over 99% of those garments they previously dry cleaned were effectively wet cleaned. They were able to do it at operating costs that were actually lower than they had when they were dry cleaning. And it was extremely energy efficient.

So these findings have been validated in additional studies. They've been shown to be consistent and generalizable with respect to different kinds of equipment, models of-- models and different detergents across geography, across time. So we've been doing a lot of work since the FTC last considered this in 1999.

Along the way, we've actually-- what's been developed is the profession of professional wet cleaning, a set of skills that go along with being able to clean these garments, quality control systems, expertise, this knowledge is easily transferred. Today we have a number of professional wet cleaners who have been able to actually train other cleaners effectively in a switch. So this experience and expertise that has been developed can be used for-- by apparel manufacturers in developing the reasonable basis for a new professional wet cleaning care label.

So with this kind of context, the question is should the FTC require or allow the use of a new professional wet cleaning label. That's the talk for this morning. The FTC has developed a legal standard for this particular question about whether to require a care label. And they have three criteria that they've listed here. And we're going to go over each of these three criteria and see what kind of reliable evidence there is to support each of these three.

So the first criteria is the failure to list the method prevalent. So just by way of kind of-- important to note here is that over 99 percent of garments are effectively-- that are the labeled dry clean or dry clean only are effectively wet cleaned. And also it's important that, in the United States, professional wet cleaning labels are not legal.

So then we would have to ask the question is, what if the FTC allows-- that doesn't require these [INAUDIBLE] wet cleaning label. So fortunately, we can answer that question through a natural experiment, and that ISO developed the wet cleaning care label in 2007, six years ago. So we can look into countries that have adopted this, which is throughout most of Europe, and ask the question, so how prevalent is the wet cleaning care label on the kind of garments that we're talking about here.

So we did an online survey of this. And we've looked at companies that sell online. We looked at 10 companies in Great Britain, and looked at all of the garments that they listed there. And as you can see, at least there's a whole bunch that had a dry clean label.

And nine of the 10 companies showed no labeling of a professional wet cleaning label. One did, but that was only for apparel that said, do not dry clean. So they were being very selective in how they were using that label. So that's the first criteria, is how prevalent is the lack of label going to be.

The second criterion is failure to list a label deceptive or unfair. Here there's a series of criteria that the FTC has developed for what constitutes a deceptive practice and what constitutes an unfair practice. And as you can see, both-- I think the underlying word is consumer in both those-- that this is really a question about deception or unfairness to consumers.

So we felt that the best way to get that answer to that question was through a survey. So we commissioned Harris to provide a-- to conduct a survey of consumers in the United States. 2000 respondents, a representative sample of US consumers using professional cleaning services. And so the results of the survey-- this is the first question.

So we asked-- the first question was, when you see a garment that is labeled dry clean, what do you think it means. So we gave four options. The least option that it was chosen the least by people was don't know. So half a percentage of people said they didn't know. So this gives a sense of-- people thought they really knew the answer to this question.

So what answer did they actually give? So 44 percent said that it was the only method for cleaning the garment. So that was synonymous with dry clean only. Half said that they thought that a garment labelled dry clean meant that it was the recommended method. And 6 percent said that it meant that dry clean was one reliable method for cleaning the garment.

But other methods may also be appropriate. The FTC defines a dry cleaned label as one reliable method for cleaning the garment. But the other methods maybe appropriate. This means that 6 percent of consumers have the same understanding as the FTC. And 93 percent had a different understanding.

So put differently, a care label that says, dry clean is clearly misleading to 93 percent of the consumer respondents who we surveyed who use professional cleaning services. So this means that the first two criteria for what constituted a deceptive practice, so failure to list a professional wet cleaning label on a garment labeled dry clean is very likely to mislead a reasonable consumer. It kind of has been at least demonstrated through the survey. You know, the question, therefore, is important. It's this material. That's the third criteria for deceptive practices.

So the next question we asked is, have ever heard of professional wet cleaning. Four out of five said they hadn't, not surprising in that there's no professional wet cleaning care label, and how else would they get their-- that information. So anticipating that, we provided them with a number of facts around professional wet cleaning. So we defined it as we defined it before, that the US EPA considers wet cleaning to be a non-toxic process, and they encourage cleaners to

switch to this, that University research has shown that cleaners can successfully clean the same range of garments at comparable cost, and that the FTC was considering developing a new care label considering wet cleaning to be environmentally friendly.

So these are all facts that we had already discussed. And the question then was, imagine you owned a garment labeled dry clean or professionally wet clean and the quality and the cost of the two cleaning methods were the same, which of the two professional cleaning methods would you prefer using for this garment. So the answer to this question was that 55 percent said professional wet clean. 18 percent said dry clean.

And the remainder of weren't sure. So three times greater than preference for wet cleaning over dry cleaning. That's material. That's important. That's consumer's interest in this technology and the label-- and the meaning of the label.

So the question is, OK why, which is-- we have to establish the why here. So we asked the question is, how significant, if anything if at all is avoiding environmental or human health impacts of dry cleaning is your preference for wet cleaning. Here 98 percent said that avoiding environmental and human health impacts was somewhat to very significant. So this shows actually that the, again, the material importance of the deception-- the deceptive practice.

We then asked, if your cleaner doesn't have a service that does wet cleaning, we'd be willing to switch to a cleaner. And here, over half said they would be very willing. And another 35 percent said that they'd be somewhat willing to switch to a cleaner who can professional wet clean a garment. Again, [INAUDIBLE] people not only have a preference, but are actually willing to act on the preference.

Finally, we asked, we wanted to know were the words important on the label. So which of the following-- so we asked the question-- these are to the people that said that they'd prefer wet cleaning, so which of the following garment care labels would you more likely to want to professionally wet clean a garment. And here 70 percent of consumer respondents expressed-- expressing a preference for professional wet cleaning.

Adding the words professionally wet clean to a dry clean care label would make them more likely to professionally wet clean the garment. Or put different 70 percent of consumers would be less likely to professionally wet clean a garment if the words professionally wet clean were not on the care label. And that's really what is at stake in terms of-- with respect to the impact of a deceptive practice.

So here's just a summary of where things stand with respect to the reliable evidence that the FTC uses for deceptive practices likely to mislead-- that's pretty clear with respect to the first question-- that to a reasonable consumer this is a representative sample of US consumers-- that is material. So strong preference for wet cleaning based on values of avoiding environmental harm. And so extremely strong evidence for it showing that it would be a deceptive practice.

And then there's unfair practice criteria, which is-- they lay out three particular criteria, which is a substantial injury to consumers. And that can include their desire to avoid environmental or

community health harm, not outweighed by countervailing-- this is, sorry-- so these are the criteria for unfair practices. So a substantial injury to consumers, not outweighed by countervailing benefits to the consumer, or to the customer, or competition.

Here there's no tradeoffs where dry cleaning is more beneficial, and that there's certainly not a benefit in terms of increased competition to avoid a wet cleaning care label, and which consumers themselves could not reasonably avoid. That's where that 80 percent-- they have no idea what wet cleaning is. They're going to get their information from the care label. And so that's-- they're not going to be able to use-- likely to use other information to avoid.

So the third criteria that they set out for requiring a label is that the requirement is appropriate and cost effective. So is requiring a label appropriate? Well, would it resolve the failure to label? Clearly it would if you require it.

Does it resolve deception or unfair practices? That's what I've just shown and showing it-- It certainly would be-- it overcomes deception if for garments that can be wet cleaned, the label is on-- wet clean is on the label.

So the third question is-- has to do cost effectiveness. So is it cost effective to require a label? So here the best-- the highest quality of data to determine a wet cleaning care label is going to be from the expertise, experience, and testing by trained professional wet cleaners. These are people that live and breathe wet cleaning. They're trained in doing this, and are extremely good at judging whether a garment can be successfully wet cleaned.

And so they do this every day as a daily practice. And they're able to, for around 99% of garments, able to effectively use their expert judgement to determine. I did a survey of our wet cleaners to ask how much they would charge to do that service, to provide expert judgement.

And I got figure of \$50 per garment, which is probably comparable to the current cost of expert judgement that an apparel industry has to make. I also asked if they needed to test the garment, how much they would charge. And that was around \$100 per item. And that was extremely cost effective, and probably relatively similar to their internal costs. Certainly it's lower than other estimates on external costs.

So now costs can be easily-- this knowledge can easily transfer to the apparel industry about actually judging whether a garment can be wet cleaned. And so those costs can be internalized quickly by the apparel industry. And finally cost savings are likely. So professional wet cleaning is less expensive than dry cleaning. There's a reduced enforcement cost relative to other dry cleaning technologies and reduce pollution remediation costs, which are pretty substantial in dry cleaning, where you don't have that in wet cleaning.

So in all likelihood, over time, it's actually going to be less expensive if you require a wet cleaning care label. So is it effective? Well, we just showed that it would be extremely effective with respect to eliminating deceptive practice and unfair practices. So there's a cost effective, clearly it would be extremely cost effective to require the use of a professional wet clean care label.

So finally, this-- I'm sorry. I was on one slide there-- so in sum, I mean this is the reliable evidence that we've been able to collect is that, based on the criteria that the FTC has spelled out for requiring a label, that there's-- the evidence is extremely high for the likelihood that failure to use a label will be prevalent, that failure to list the label will be deceptive and unfair, and that the-- in terms of requiring the label is appropriate, absolutely, and certainly cost effective.

So overall, the overall decision here I think-- it's pretty clear. Oftentimes in policy there's trade offs. And there are difficult decisions that have to be made with respect to one versus another.

This-- these based reliable evidence here that if-- this is actually a pretty easy decision to make. So finally the-- before we conducted this research, this question about should the FTC allow or require the use of the use of the wet clean care label was, I was looking at that as the research question, that I was-- that we were asked to address. I think after conducting this research, I think an appropriate question really is, what factors should the FTC consider in making efficient and effective transition to a rule requiring the use of a professional wet cleaning care label. Thank you.

SPEAKER 1: Thank you, Peter. That was very informative. You did finish early actually. So we'll take a short break. And Charles Riggs will be up to present at 9:50. Thanks very much.