

Federal Trade Commission

§ 250.1

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AUTHORITY: 38 Stat. 717, as amended (15 U.S.C. 41-58).

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§ 250.0 Definitions.

(a) *Industry member.* Any person, firm, corporation or organization engaged in the manufacture, offering for sale, sale or distribution of industry products as such products are hereinafter defined.

(b) *Industry products.* Articles of utility, convenience or decoration which are suitable for use as furniture in a house, apartment, or other dwelling place. Such articles include, but are not limited to, all kinds and types of chairs, tables, cabinets, desks, sofas, bedsteads, chests and mirror frames. The following products, covered by sets of trade practice rules heretofore promulgated, are not to be considered as coming within the purview of this definition: bed mattresses, bedsprings, metal cots, cedar chests, mirror glass, musical instruments, radio and television receiving sets and venetian blinds. Also excluded from the purview of this part are pictures, lamps, clocks, rugs, draperies as well as appliances and fixtures such as refrigerators and air conditioners.

(c) *Exposed surfaces.* Those parts and surfaces exposed to view when furniture is placed in the generally accepted position for use. Included in this definition are visible backs of such items of furniture as open bookcases, hutches, etc.

§ 250.1 Avoiding deception and making disclosures.

(a) *In general.* Industry members should not sell, offer for sale, or distribute any industry product under any

representation or circumstance, including failure to disclose material facts, that has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers with respect to its utility, construction, composition, durability, design, style, quality, quantity or number of items, model, origin, manufacture, price, grade, or in any other material respect.

(b) *Affirmative disclosures.* Material facts concerning merchandise which, if known to prospective purchasers, would influence their decision of whether or not to purchase should be disclosed. This includes situations where deception may result from the appearance alone which in the absence of affirmative disclosures, could have the capacity and tendency or effect of misleading or deceiving. For example, veneered construction, use of plastic with simulated wood appearance, use of materials or products that simulate other materials or products used in the manufacture of furniture, or use of simulated finish or grain design, are considered to be material facts and a failure to disclose such information may be an unfair trade practice violative of section 5 of the Federal Trade Commission Act.

(1) *Where disclosures should be made.* Unless otherwise provided, any affirmative disclosure which should be made under this part, should be on the industry product, or on a tag or label prominently attached thereto, and should be of such permanency as to remain on or attached to the product until consummation of sale to the consumer. Also, affirmative disclosures should appear in all advertising relating to industry products, irrespective of the media used, whenever statements, representations or depictions are used which could create an impression that the furniture is of a certain construction or composition and which, in the absence of such disclosures, could have the capacity to mislead purchasers or prospective purchasers.

(2) *The manner of disclosure.* In all cases in which the disclosure is necessary, it should be made in *close conjunction* with the representation or depiction to be qualified and should be of sufficient clarity, conspicuousness, and

audibility (when spoken), as to be noted by prospective purchasers. The number of times a disclosure should be made will depend entirely upon the format and context in which it appears. As a general proposition, in catalogs and brochures advertising a suite or line of furniture it will be sufficient to make appropriately conspicuous disclosures once at the outset; however, additional disclosures should be made on any page where additional descriptive words are used which should be qualified under this part.

(3) *The form of disclosure with respect to composition.* Whenever an affirmative disclosure regarding composition should be made under this part, it may be accomplished by either describing the true composition of the product or parts thereof ("plastic", "vinyl", "marble particles with binder") or by stating that the material is not what it appears to be ("simulated wood", "imitation leather", "simulated marble"). Terms such as "molded components", "walnut plastic" or "carved effect" will not suffice to disclose that exposed surfaces are plastic, or that they are not wood.

(4)(i) *Trade names, coined names, trademarks, etc. suggestive of composition.* Any trade name, coined name, trademark, depiction, symbol or other word or term which is susceptible of more than one interpretation, one or more of which could be misleading, should be immediately qualified to remove clearly and conspicuously the misleading implication(s). For instance, a trade name such as "Durahyde", if used to describe a fabric-backed vinyl upholstery covering which simulates leather, should be immediately qualified to disclose (A) the true composition of the product (e.g., "fabric-backed vinyl") or (B) that the product is not leather (e.g., "simulated leather", "not leather" or "imitation leather").

(ii) Trade designations or other representations which cannot be qualified without the qualification amounting to a contradiction should not be used. A trade designation consisting in whole or in part of a word which denotes a kind or type of material of which the product is not in fact composed should not be used. For example, the words "hide", "skin" and "leather" should

not be used in trade names denoting nonleather products, although homophones of those words such as "hyde" may be used if qualified as provided above. Similarly, the word "wood" should not be used in a trade name of a product which does not contain wood.

(iii) Also, ambiguous or imprecise trade designations will not be sufficient to satisfy the disclosure provisions of this part. For example, the coined name "Hardiclad" used to describe molded plastic drawer fronts having the appearance of wood, is not sufficient to disclose that such parts are plastic or that they are not wood.

(c) *Illustrative examples of affirmative disclosure of composition or appearance.* The following examples are among those which, if factually correct, will meet the provisions of this section with respect to affirmative disclosures:

(1) *Disclosure of veneered construction.* "Veneered construction", "[wood name] solids and veneers", "[wood name] veneered tops, fronts and end panels" or "[wood name] veneered 5-ply construction with solid parts of [wood name]";

(2) *Disclosure of the use of plastics or other materials having the appearance of wood.* "High impact polystyrene", "door panels of polystyrene", "legs of rigid polyurethane", "walnut grained plastic tops", "parts of the exposed surfaces are of simulated wood" (to describe minor parts of the exposed surfaces of furniture), "imitation wood", "carved effects of simulated wood", "simulated wood components", "wood grained vinyl veneer", "walnut grained hardboard" or "simulated wood effect on plastic";

(3) *Simulated leather, slate, or marble.* "Vinyl", "leather look on vinyl", "simulated leather", "slate effect on plastic tops", "simulated slate", "simulated marble" or "marble dust and polyester binder";

(4) *Simulated wood grain design.* "Simulated wood grain design", "cherry grained maple", "simulated mahogany crotch on mahogany veneer", "Simulated Carpathian Elm burl" or "engraved cathedral walnut grain on hardboard";

(5) *Simulated carvings.* "Carved effect in plastic", "simulated wood carvings"

or “molded polystyrene with carved look”;

(6) *Hang tags or labels disclosing the use of veneers, plastic simulating wood, or simulated wood grain.* “Veneered construction, heat and stain resistant plastic tops, drawer fronts and decorative parts of rigid polyurethane”, or “This furniture is made of selected hardwoods and veneers with matching plastic tops and decorative carved effects of polystyrene in dark oak finish”, or “This suite is constructed of selected walnut veneers and solid pecan, and has simulated wood panels on drawers, doors, and headboards”, or “Walnut veneer end panels and tops, polystyrene drawer and door fronts, and selected solid hardwood”, or “This furniture is constructed of selected hardwood solids and veneers, with certain veneered surfaces having simulated grain finish to enhance their appearance” or “Solid and Veneered hardwoods with carved effects in simulated wood and simulated grain design on veneered tops in matching pecan finish”.

(d) *Removal of tags or labels.* Members of the industry should not:

(1) Remove, obliterate, deface, change, alter, conceal, or make illegible any information this part provides be disclosed on industry products, such as on tags or labels attached thereto, without replacing the same with a proper disclosure meeting the provisions of this part before offering for sale, sale, or distribution; or

(2) Sell, resell, distribute, or offer for sale an industry product without it being marked, tagged, or labeled and described in accordance with the provisions of this part. [Guide 1]

§ 250.2 Describing wood and wood imitations.

(a) *Solid wood construction.* Industry members should not use unqualified wood names to describe furniture unless all of the exposed surfaces are constructed of solid wood of the type named. If more than one type of solid wood is used and one of the woods is named, then all of the principal woods should be disclosed, or the extent of the use of the wood named should be indicated. In lieu of naming the specific woods, a general designation of

the type of wood, such as “hardwood” or “softwood” may be used. For example, the following representations, if factually correct, will be acceptable: “solid maple”, “solid African mahogany”, “walnut and pecan”, “solid oak fronts”, “walnut”, “maple and other selected hardwoods”, “fine hardwoods” and “selected hardwoods”.

(b) *Wood veneers.* (1) When the exposed surfaces of furniture are of veneered and solid construction, and wood names are used to describe such furniture, the wood names should be qualified to disclose the fact of veneered construction. For example, “walnut solids and veneers” or “mahogany veneered construction” may be used when all the exposed surfaces of furniture are constructed of solid and veneered wood of the type named. When such terms as “walnut veneered construction” or “oak veneered construction” are used, it is understood that the exposed solid parts are composed of the same wood.

(2) When solid parts of furniture are of woods other than those used in veneered surfaces, either the use of such other woods should be disclosed or the location of the veneers stated. Examples: “walnut veneers and pecan solids”, “mahogany veneers and African mahogany solids”, “walnut veneered tops, fronts and end panels”, “table tops of mahogany veneers” or “cherry veneers and selected solid hardwoods”.

(c) *Wood products.* Wood names or names suggesting wood should not be used to refer to materials which, while produced from wood particles or fibers, do not possess a natural wood growth structure. Such materials, however, may be referred to by their generally accepted names, if otherwise nondeceptive, such as “hardboard”, “particleboard”, “chipcore” or “fiberboard”, or may be referred to as “wood products”.

(d) *Color or grain design finish.* When wood names are used merely to describe a color of a stain finish and/or grain design or other simulated finish applied to the exposed surfaces of furniture that is composed of something other than solid wood of the types named, *it must be made clear* that the wood names are merely descriptive of the color and/or grain design or other