

**FEDERAL TRADE COMMISSION  
16 CFR Part 24**

**Guides for Select Leather and Imitation Leather Products**

**AGENCY:** Federal Trade Commission.

**ACTION:** Confirmation of guides.

**SUMMARY:** The Federal Trade Commission (“FTC” or “Commission”) has completed the regulatory review of its Guides for Select Leather and Imitation Leather Products (“Leather Guides” or “Guides”) as part of its systematic review of all current Commission regulations and guides, and has decided to retain the Guides in their current form.

**DATES:** This action is effective as of [**date of publication in the Federal Register**].

**ADDRESSES:** Requests for copies of this notice should be sent to the Consumer Response Center, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The notice also is available on the Internet at the Commission’s Web site,

<http://www.ftc.gov>.

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**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The Commission has determined, as part of its oversight responsibilities, to review all Commission rules and guides periodically. These reviews seek information about the costs and benefits of the Commission’s rules and guides and their regulatory and economic impact. The

information obtained during the reviews assists the Commission in determining whether rules and guides should be confirmed, amended, or rescinded.

## **II. Background**

The Commission's Leather Guides address misrepresentations regarding the composition and characteristics of specific leather and imitation leather products.<sup>1</sup> The Guides apply to the manufacture, sale, distribution, marketing, or advertising of leather or simulated leather purses, luggage, wallets, footwear, and other similar products. Importantly, the Guides state that disclosure of non-leather content should be made for material which has the appearance of leather but is not leather.

The Commission adopted the Leather Guides in 1996, as part of its periodic review of its rules and guides.<sup>2</sup> The Leather Guides consolidated portions of the Guides for the Luggage and Related Products Industry ("Luggage Guides"), the Guides for Shoe Content Labeling and Advertising ("Shoe Guides"), and the Guides for the Ladies' Handbag Industry ("Handbag Guides").<sup>3</sup> The Leather Guides also include provisions previously contained in the Commission's Trade Regulation Rule Concerning Misbranding and Deception as to Leather Content of Waist Belts ("Waist Belt Rule").<sup>4</sup>

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<sup>1</sup> The Leather Guides "are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. They provide the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry." 16 C.F.R. 1.5. Conduct inconsistent with the Guides may result in corrective action by the Commission under applicable statutory provisions.

<sup>2</sup> 61 Fed. Reg. 51577 (October 3, 1996).

<sup>3</sup> The Luggage Guides, the Shoe Guides, and the Handbag Guides were repealed in 1995. 60 Fed. Reg. 48027 (September 18, 1995). On the same day, the Commission requested public comment regarding proposed Leather Guides. 60 Fed. Reg. 48056 (September 18, 1995).

<sup>4</sup> The Commission repealed the Waist Belt Rule earlier in 1996. 61 Fed. Reg. 25560 (May 22, 1996).

The language of the Luggage Guides, the Shoe Guides, the Handbag Guides, and the Waist Belt Rule was updated and clarified in the Leather Guides, and unnecessary provisions were deleted. Further, the Leather Guides modified a number of provisions from the older guides and rule. Among these modifications were an expansion of the scope of the Guides to include misrepresentations in marketing and advertising, the removal of the limitation that only top grain leather should be called “leather” without qualification, and the addition of a provision regarding the disclosure of the percentage of non-leather and leather material contained in bonded leather.

On May 23, 2007, the Commission published a Federal Register notice (“FRN”) seeking public comment on the Leather Guides.<sup>5</sup> The FRN sought comment concerning the continuing need for the Leather Guides; industry adoption of the Guides; costs and benefits of the Guides; effects of the modifications to the provisions previously contained in the Luggage Guides, the Shoe Guides, the Handbag Guides, and the Waist Belt Rule; any changes that should be made to the Guides; conflicts or overlap between the Guides and other laws or regulations; changes in consumer perceptions and preferences; and the effect that changes in technology, economic conditions, or environmental conditions have had on the Guides.

### **III. Regulatory Review Comments**

The Commission received four comments in response to the FRN.<sup>6</sup> The comments were submitted by the Footwear Distributors and Retailers of America (“FDRA”), an association of retailers, distributors, importers, and manufacturers of footwear; the Leather Industries of

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<sup>5</sup> 72 Fed. Reg. 28906 (May 23, 2007).

<sup>6</sup> The comments are cited in this notice by the name of the commenter. All comments are on the public record and available for public inspection in the Consumer Response Center, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. The comments are also available on the Internet at the Commission’s Web site, <http://www.ftc.gov>.

America (“LIA”), which represents a number of companies engaged in the tanning and/or marketing of leather and related companies; the Sponge and Chamois Institute (“SCI”), an organization comprised of producers and distributors of sponges and chamois products in the United States; and Design Resources, Inc. (“DRI”), a company engaged in the leather products business.

*A. Comments Concerning the Usefulness of the Guides*

Three of the comments support continuing the Guides, and the other commenter asks that its products be removed from the coverage of the Guides. LIA comments that the FTC should retain the Guides and expand them in a number of respects.<sup>7</sup> DRI also supports continuation of the Guides.<sup>8</sup> SCI’s request that the Guides be expanded to include chamois indicates support for continuation of the Guides.<sup>9</sup> FDRA requests that the Commission abandon the Guides as they relate to footwear, but does not comment on the general need for the Guides in other industries.<sup>10</sup>

In addressing industry adoption of the Guides, LIA comments that it is frequently asked to help members apply the Guides to consumer products.<sup>11</sup> DRI says that the industry follows and embraces the Guides and their current labeling disclosure requirements,<sup>12</sup> and that

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<sup>7</sup> LIA at 5.

<sup>8</sup> DRI at 1, 2, 6, and 11.

<sup>9</sup> SCI at 1 and 5.

<sup>10</sup> FDRA at 1-2.

<sup>11</sup> LIA at 5.

<sup>12</sup> DRI at 2.

companies “rely on the Guides and factor them into their investment and critical business decisions regarding product development.”<sup>13</sup>

Two comments address the Guides’ benefits to consumers. DRI states that the Guides have a theme of avoiding deception.<sup>14</sup> In LIA’s comment, the association says the Guides have “fundamental importance” as a reference point for consumers.<sup>15</sup>

In response to the FRN questions regarding costs and benefits of the Guides for businesses, LIA comments that “the Guides provide a framework for communicating truthful and non-misleading messages to consumers” concerning industry products,<sup>16</sup> inhibit advertisers from making deceptive claims, promote honest business practices, and have “fundamental importance” as a reference point for U.S. businesses.<sup>17</sup> LIA states that several specific provisions are helpful to industry because they encourage companies to communicate information that consumers may not be able to determine on their own prior to purchase.<sup>18</sup> DRI also addressed this issue, saying that the Guides provide voluntary guidelines for the marketing and sale of leather and imitation leather products to members of the leather industry that are promoting truthful, non-misleading advertising to consumers.<sup>19</sup> Additionally, DRI explains that leather businesses look to the Guides to understand their disclosure obligations for labels, tags,

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<sup>13</sup> *Id.* at 11.

<sup>14</sup> *Id.* at 10.

<sup>15</sup> LIA at 5.

<sup>16</sup> *Id.* at 2.

<sup>17</sup> *Id.* at 5.

<sup>18</sup> *Id.* at 5-6.

<sup>19</sup> DRI at 1.

and advertising, and to ensure that they accurately represent their products to consumers.<sup>20</sup> With regard to bonded leather and composition disclosures, DRI's comment says that the Guides help businesses understand their disclosure obligations and avoid consumer deception and confusion.<sup>21</sup> According to DRI, with regard to bonded leather, the Guides "have worked well for the past ten years and continue to do so."<sup>22</sup>

*B. Suggested Changes to the Guides*

LIA suggests that the Commission make numerous changes to the Guides. LIA says that the Guides "require expansion to make them more comprehensive and consistent with global industry practice."<sup>23</sup> LIA comments that the absence of the information incorporated in its suggested modifications will facilitate "an escalating trend of deceptive practice" within the United States.<sup>24</sup> SCI's sole recommendation is that the Commission add one definition to the Guides.<sup>25</sup> The comment from DRI primarily relates to one of the changes proposed by LIA and urges the Commission to refuse to make that requested change.<sup>26</sup> FDRA asks that the Guides be abandoned as they related to footwear.<sup>27</sup>

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<sup>20</sup> *Id.* at 11.

<sup>21</sup> *Id.* at 1.

<sup>22</sup> *Id.* at 11.

<sup>23</sup> LIA at 6.

<sup>24</sup> *Id.* at 6-7.

<sup>25</sup> SCI at 1 and 5.

<sup>26</sup> DRI at 1-12.

<sup>27</sup> FDRA at 1-2.

1. Suggested Definitions and Disclosures

LIA proposes adding definitions for the following terms to the Guides: (1) top grain or full grain leather, (2) corrected grain leather, (3) semi-aniline leather, (4) leather, (5) coated leather, (6) laminated leather, (7) split leather, (8) leatherette, (9) bonded leather, and (10) chamois.<sup>28</sup> SCI asks that the Commission add a definition of the term “chamois.”<sup>29</sup> DRI’s comment primarily concerns its opposition to LIA’s proposed definition of the term “bonded leather,”<sup>30</sup> but DRI also states that LIA is asking the FTC to make the Guides “even more complex by adopting a number of complicated definitions that are shrouded in industry jargon and terminology.”<sup>31</sup>

The definitions that LIA suggests for the terms “top grain” or “full grain” leather, “corrected grain” leather, “split leather,” and “semi-aniline” leather are based on the presence or absence of grain surface and the finishes used on the material. These definitions are not needed, as the Guides apply to all types of leather, as well as non-leather material with the appearance of leather. Further, the record contains no evidence regarding consumer understanding of these terms, several of which may be unfamiliar to many consumers. Absent evidence as to how consumers would understand these suggested terms, it is difficult to determine whether adoption of the definitions would assist or hinder consumers. For these reasons, the Commission is not adding these suggested definitions. However, if industry members desire to label their products with these terms, they may do so provided that the terms used are truthful and non-deceptive.

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<sup>28</sup> LIA at 3-4 and 7-21.

<sup>29</sup> SCI at 1.

<sup>30</sup> DRI at 1.

<sup>31</sup> *Id.* at 7.

LIA also recommends that the Commission modify the Guides to include a lengthy definition of the term “leather.”<sup>32</sup> Like the proposed definitions discussed above, there are portions of this definition that are not needed because of the Guides’ broad coverage of all types of leather, as well as non-leather material with the appearance of leather. A portion of the suggested definition dealing with disintegrated hide or skin is not needed because Section 24.2(f) of the Guides already provides guidance relating to ground leather and similar materials.

Also included within LIA’s proposed definition of the term “leather” is a provision that would allow use of the term without qualification for leather with a finish if the thickness of the finish is 0.15 mm or less. According to LIA, a “finish comprising a pigmented polyurethane, acrylic resin, or other polymer-based paint protects the grain surface of most types of leather.”<sup>33</sup> LIA further explains that the thickness of the finish depends upon the desired aesthetics and intended use of the leather. The comment describes the differences in performance and quality of material with various thicknesses of coatings, cites the British Standards Institution as support for LIA’s position, and states that the threshold is commonly understood by most leather producers.<sup>34</sup> However, the record developed during this review contains no information regarding whether, or to what extent, consumers expect that coatings have been applied to products labeled as “leather” without qualification. Without such information, it is difficult to determine whether adoption of the proposed definition would result in consumer deception or confusion. Therefore, the Commission is not adopting the provision proposed by LIA. For similar reasons, the Commission is not adding LIA’s proposed definitions of “coated leather” and “laminated leather” to the Guides, nor are those terms being added as examples of

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<sup>32</sup> LIA at 3 and 12.

<sup>33</sup> *Id.* at 10.

<sup>34</sup> *Id.* at 10-12.



appropriate disclosures in Section 24.2(e) of the Guides (dealing with misrepresentations that a product is wholly of a particular composition) as recommended by LIA.

LIA also recommends that the Commission add a definition of the term “leatherette” to refer to material made of paper, cloth, or synthetic material and finished to simulate the appearance of leather.<sup>35</sup> Further, LIA asks that the Commission add the term “leatherette (not leather)” to Section 24.2(a) of the Guides, which provides examples of terms that may be used to describe non-leather material with the appearance of leather. LIA claims that the definition and disclosure are needed because the term “leatherette” is misleading and potentially deceptive to consumers.<sup>36</sup> LIA provides no evidence concerning consumer understanding of the term “leatherette.” It should be noted that when the word “leather” is included within the name or description of a non-leather material or product in a manner that indicates that the material or product is made of leather or contains leather, there is a strong possibility that use of the word may cause consumer deception. Section 24.2(d) of the Guides states that a word, term, depiction, or device should not be used if it misrepresents, directly or by implication, that an industry product is made in whole or in part from animal skin or hide, or that material in an industry product is leather or other material. Although the Commission agrees with LIA that the term “leatherette” may be deceptive, the suggested change is not being made because the Guides in their current form address non-leather material with the appearance of leather. There is no need for the specific definition endorsed by LIA. The type of material that LIA seeks to define as “leatherette” is not leather, so Section 24.2(a) provides guidance for content disclosure. Further, it should be noted that the list of examples of appropriate disclosure contained in Section 24.2(a) is not an exhaustive list, so there is no need to add additional terms.

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<sup>35</sup> *Id.* at 4, 12, and 13.

<sup>36</sup> *Id.* at 12.

LIA's next suggestion is that the Guides more specifically define the term "bonded leather."<sup>37</sup> In support of its suggestion, LIA says that it has analyzed material that it claims is erroneously labeled as bonded leather because the material is 80 percent synthetic material with an insubstantial coating of leather fibers on the underside.<sup>38</sup> LIA argues that this material is not bonded leather because the leather fibers are not bonded to each other to form an independent, continuous layer, but are merely glued to the underside of an entirely different, synthetic product. LIA asserts that leather fibers in this material offer no utility or aesthetic value, and that manufacturers would likely include minor amounts of leather fibers to give the appearance of leather when inspected from the underside, thereby deceiving purchasers. To address these concerns, LIA suggests a definition of bonded leather that states that the product is made by forming leather fragments and fibers into a single homogenous sheet or roll with the aid of adhesives, resins, or similar bonding agents.<sup>39</sup>

With regard to LIA's proposed definition of bonded leather, DRI states that consumers have not been harmed or deceived in the absence of this definition because "the Guides already require disclosure of the percentage of leather and non-leather substances found in bonded leather used in consumer products."<sup>40</sup> DRI maintains that LIA's proposed definition would drive up costs to bonded leather manufacturers and businesses without any benefit to consumers, would be confusing both to businesses and consumers, and would have significant

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<sup>37</sup> *Id.* at 4 and 13-15.

<sup>38</sup> *Id.* at 14.

<sup>39</sup> *Id.* at 15. In its comment, LIA cites the definition used by the International Union of Leather Technologists and Chemists Societies ("IULTCS") to describe "reconstituted leather." IULTCS's definition is "Made by forming leather fragments and fibres into sheet material with the aid of adhesives, resins, etc." LIA asks that the Commission further refine the IULTCS definition by adopting LIA's proposal.

<sup>40</sup> DRI at 2.

anti-competitive impacts on the bonded leather goods industry and marketplace. DRI asks that the FTC retain the Guides and their current labeling disclosure requirements.

The current Guides do not set a minimum leather fiber content for bonded leather material. Instead, Section 24.2(f) of the Guides states that if a term such as “bonded leather” is used, either a disclosure that the material is not leather or a disclosure of the percentage of leather fibers and the percentage of non-leather substances contained in the material should be made. An example of a proper disclosure provided in the Guides is “Bonded Leather Containing 60% Leather Fibers and 40% Non-leather Substances.” Such a disclosure effectively prevents deception which could be caused by the term “bonded leather.” Use of the term “bonded leather” without a truthful content disclosure is not in compliance with the Guides, regardless of the percentage of leather fiber content in the material so described. If a product is labeled in compliance with Section 24.2(f), consumers are made aware of the true composition of the product and are not deceived.

The Guides’ provision relating to bonded leather and similar material focuses on disclosure of the percentage of leather fibers and non-leather substances contained in the material, rather than on the method used to place leather fibers into the material as urged by LIA. There is insufficient information in the record to justify a distinction based upon the method by which leather fibers are placed into the material. Truthful content information, as outlined in the Guides, gives consumers the facts they need to make an informed decision regarding bonded leather and similar materials. For these reasons, the Commission is not adopting LIA’s proposed definition of “bonded leather.”

The last of LIA’s suggested definitions is for the word “chamois.”<sup>41</sup> SCI also requests a “chamois” definition.<sup>42</sup> The LIA and SCI comments refer to an FTC advisory opinion issued in 1964 that addressed the use of the word “chamois,” stating that it was deceptive to use the word “chamois” for a product not made from (a) the skin of the Alpine antelope or (b) sheepskin fleshers which have been oil-tanned after removal of the grain layer.<sup>43</sup> The comments also discuss in detail the need for a definition, as well as the history and properties of chamois,<sup>44</sup> but do not provide specific evidence regarding current consumer understanding of the term “chamois.” The most common use of chamois as described in these comments is for drying polished surfaces, glass, and car bodywork. Such drying products are outside of the scope of these Guides. There may be instances in which chamois is used in industry products covered by the Guides, but, as discussed above, there is no need to more specifically define different types of leather because the Guides apply to all types of leather. There are already provisions in the Guides to address misrepresentations and deceptive omissions. Under Section 24.1 of the current Guides, it is unfair or deceptive to misrepresent any material aspect of an industry product. As discussed above, Section 24.2(a) provides guidance about disclosures to be made for synthetic products with the appearance of leather. Also, under Section 24.2(b) of the Guides,

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<sup>41</sup> LIA at 4, 15, and 21.

<sup>42</sup> SCI at 1.

<sup>43</sup> FTC Advisory Opinion No. 1, 66 F.T.C. 1593 (1964). A portion of this opinion relating to proper use of the term “chamois” was published in the Code of Federal Regulations (“C.F.R.”) until 1989, when the Commission deleted Part 15 of Title 16 of the C.F.R. that contained the text of advisory opinions issued from November 1965 until June 1974. At the time that the provisions were deleted, the Commission noted that it was not required to publish the materials in the C.F.R. and that more complete versions of the materials were available elsewhere. The Commission concluded that there was little, if any, public benefit to justify the costs of publication. 50 Fed. Reg. 26187 (June 22, 1989).

<sup>44</sup> LIA at 15-21; SCI at 1-5.

a disclosure should be made of the type of leather in a product that is made of leather which has been processed to simulate the appearance of a different kind of leather. The requested definition has not been added to the Guides.

In summary, the Commission has decided that it will not add the suggested definitions to the Guides. However, the Commission would encourage industry efforts to inform consumers of the meaning of many of the proposed definitions, provided that the definitions are not misleading to consumers.

## 2. Scope of the Guides

LIA suggests that the scope of the Guides be enlarged to include automotive and furniture upholstery products, stating that these products “represent a significant portion of the leather industry, and the clear majority of finished leather produced in the United States.”<sup>45</sup> LIA argues that enlarging the Guides to cover these products would reduce potential deception and confusion regarding these products.<sup>46</sup> In addressing LIA’s suggestion, the Commission notes that when the Leather Guides were adopted in 1996, it considered expansion of the Guides to cover additional products and decided that the record developed during that review did not warrant expansion of the Guides. As in the earlier review, the current record leaves unanswered questions regarding the extent of misrepresentations in other industries, consumer interpretation of the appearance of leather for products in other industries, and any special considerations for other industries. For these reasons, the Commission is not enlarging the scope of the Guides in the manner suggested by LIA. However, all members of the leather and imitation leather products industries can obtain useful guidance from the Guides. The Guides are interpretive of

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<sup>45</sup> *Id.* at 7.

<sup>46</sup> *Id.*

laws enforced by the Commission, which may take action against companies engaged in deception regardless of whether they fall within the scope of the Guides.

FDRA asks that the Guides be abandoned as they relate to footwear, arguing that there is no consumer preference for leather in the current footwear market and that consumer choice is instead based upon functionality and value.<sup>47</sup> FDRA reasons that “the Guides are based on the assumption that consumers believe all parts of shoes with an ‘appearance’ of leather, are made of leather, regardless of what the distributor says or does not say in labeling or advertising about leather content.”<sup>48</sup> FDRA argues that “appearance” is not defined, and that

the Guides’ emphasis on the assumed preference for leather is so great that the effect is that any shoe which does not disclose its contents “appears” to be leather. In essence, the Guides convert silence about shoe content into a claim of leather content and then require disclosure to cure the “misrepresentation” created only by the Guides themselves.

*Id.* FDRA urges the Commission to reconsider this approach, which it claims is flawed.

In its comment, FDRA touts the enormous strides made in the development of synthetic materials, which it claims have replaced leather in many facets of footwear construction.<sup>49</sup> Further, the association states that synthetic materials, which in some instances are more expensive than leather, have been developed to be light in weight and provide strength and durability which is superior to leather. In describing today’s footwear styles, FDRA explains that such products “are typically made from a variety of materials fitted together with leather and man-made overlays, interspersed with light, breathable textile materials, combined to create the

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<sup>47</sup> FDRA at 1-2.

<sup>48</sup> *Id.* at 2.

<sup>49</sup> *Id.*

comfort, fit, and ‘breathability’ preferred by consumers.”<sup>50</sup> Additionally, FDRA states that low priced synthetic shoes are widely accepted by consumers because they have many of the same comfort and performance characteristics as leather footwear at a fraction of the price.<sup>51</sup>

The basic premise of the Guides is the Commission’s long-standing position that when a product has the appearance of leather, its appearance makes an implied representation that the product is made of leather. Clearly, a deceptive omission can arise from the physical appearance of a product, and the Guides’ disclosure provisions are designed to correct such an omission. Despite FDRA’s claims to the contrary, a product does not “appear” to be leather solely because of the absence of a content disclosure for the product. A synthetic product must first appear to be leather before the Guides’ disclosure provisions would become applicable to the product. Thus, the Guides’ disclosure provisions are limited to situations where consumers are likely to be misled as to a product’s composition.

While FDRA cites statistics regarding the percentages of leather and non-leather footwear for the U.S. footwear market and the types of footwear sold in the market,<sup>52</sup> it does not provide evidence regarding consumer expectations regarding footwear with the appearance of leather. Whether or not there have been tremendous advances in synthetic materials, the record does not support a reversal of the Commission’s long-standing position related to synthetic material with the appearance of leather.

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<sup>50</sup> *Id.* at 1.

<sup>51</sup> *Id.* at 2. FDRA claims that, because of the low price, consumers have no expectation that these items are made of leather. However, as discussed above, FDRA indicates that synthetic materials are more expensive than leather in some instances. Therefore, consumers cannot rely upon price to determine the true composition of a product.

<sup>52</sup> *Id.* at 1.

FDRA asks that, if the Guides remain applicable to footwear, the Commission make clear that the look or mere appearance of the shoe does not constitute a representation that the shoe is leather, either in whole or in part, and to make the Guides applicable only to misrepresentations of leather content.<sup>53</sup> As discussed above, the implied representation made by the appearance of leather is a fundamental premise of the Guides. FDRA's suggested changes would thwart the primary goals of the Guides. Therefore, the Commission is not making the changes suggested by FDRA.

#### **IV. Conclusion**

Based upon the review discussed above, the Commission concludes that there is a continuing need for the Leather Guides, which are beneficial to consumers and industry members, and has decided to retain the Guides in their current form.

#### **List of Subjects in 16 CFR Part 24**

Advertising, Belts, Distribution, Footwear, Imitation leather products, Labeling, Ladies' handbags, Leather and leather products industry, Luggage and related products, Shoes, Trade practices, Waist belts.

**Authority:** 15 U.S.C. 41-58.

By direction of the Commission.

Donald S. Clark  
Secretary

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<sup>53</sup> *Id.* at 2.