



July 28, 2010

BY U.S. MAIL

Andrew Cuomo
Attorney General
State of New York
120 Broadway, Suite 26C
New York, New York 10271-0332

Re: Price Fixing by the Trucking Industry

Dear Attorney General,

The American Apparel & Footwear Association (“AAFA”) is the national association of the apparel and footwear industries. Our members produce and market apparel and footwear throughout the United States and the world. In short, our members make everywhere and sell everywhere. As you know, New York is the heart of the U.S. fashion industry. AAFA members alone employ over 100,000 workers in the State of New York.

Over the course of the past year, AAFA has become concerned that the Commodity Classification Standards Board (“CCSB”)¹ may have violated the antitrust laws by collectively engaging in conduct to increase domestic shipping prices for certain commodities through the National Motor Freight Classification (“NMFC”) system. The NMFC is a classification system of less than truckload (LTL) commodities moving in domestic commerce that was developed and is maintained by the CCSB. CCSB is an affiliate of the National Motor Freight Traffic Association, Inc. (NMFTA), which is a membership organization that represents approximately 900 motor carriers. The Board members of the CCSB are full time employees of the NMFTA and are housed in NMFTA’s offices.

AAFA believes that classification under the NMFC is a determining factor in motor carriers’ setting of rates to be charged for shipping different categories of commodities. While there are certain notification procedures and rights for shippers to participate in the NMFC system, AAFA questions whether the antitrust laws allow this type of collective activity under any set of procedures. It seems to us that if the NMFC class of a commodity is increased, the signal to a motor carrier is that its competitors will be charging more to transport that commodity.

¹ CCSB is an affiliate of the National Motor Freight Traffic Association, Inc. (NMFTA), which is a membership organization that represents approximately 900 motor carriers. All CCSB Board members are full time employees of the NMFTA. More information on the CCSB is available at <http://www.nmfta.org/Pages/CCSB.aspx>.

In October 2009, the CCSB decided to change the NMFC of footwear from Class 100 to Class 150. Since this reclassification has become effective, AAFA has learned that several of its member companies have experienced material price increases from motor carriers. More such price increases are expected. CCSB also has proposed to substantially change, and in most cases increase, the NMFC of clothing, but that proposal is not yet effective.

AAFA previously referred this matter to the U.S. Department of Justice, which to our disappointment, concluded that the CCSB had not violated the antitrust laws. We are hopeful that the New York Attorney General would conduct its own investigation into CCSB's activities.

AAFA, of course, would be happy to assist the Attorney General in providing any further information that would assist in such an investigation.

Thank you for your time and consideration in this matter. Please contact Nate Herman of my staff at 703-797-9062 or nherman@apparelandfootwear.org if you have any questions or would like additional information.

Please accept my best regards,

Kevin M. Burke

A handwritten signature in cursive script that reads "Kevin M. Burke". The signature is written in black ink and is positioned above the printed name and title.

President & CEO