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60-Day Notice of Proposed Information Collection: Reporting Requirements for Responsible Investment in Burma

Comment On: DOS-2012-0046-0001

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Reporting Requirements for Responsible Investment in Burma

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General Comment

See attached file(s)

Attachments

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NGO Comment on Responsible Investment in Burma Reporting Requirements

Our non-profit film and research organization respectfully submits this comment on behalf of a rapidly increasing number of conscious consumers across America. These citizens are part of a movement that recognizes the power of the consumer in global supply chains and want to ensure that their purchases do not contribute to human rights violations elsewhere in the world. The recent outcry over labor conditions in Chinese factories that produce electronics supplied to the United States is but one example of the growing awareness of economic interconnectedness and the demand that supply chains respect human rights at every step.¹

It is clear that “social and psychological values, beliefs, and attitudes play an important role in determining individual consumer behaviors” and there is no question now that consumers are demanding ethical options.² In 2011, Nielsen surveyed more than 28,000 people from 56 countries to gauge the “global, socially-conscious consumer” and found that that nearly half of respondents (46%) were willing to pay *more* for products made by socially responsible companies.³ As such, clear, accurate and strict reporting requirements benefit both conscious consumers *and* the ethical companies they will support.

Thanks to sources such as the Department of Labor’s List of Goods Produced by Child or Forced Labor, consumers know that Burma has “a high number of goods made by forced labor.” But the American public needs clear information about specific products in order to determine whether to support the companies that produce them. We recognize that certain complexities are inherent to reporting requirements but urge you to implement regulations that come as close as possible to providing conscious consumers with: **1) apples-to-apples comparisons; and 2) reality-based information, such that 3) consumers can make thumbs up/thumbs down assessments.**

¹ The episode of *This American Life*, a program that reaches over 1.8 million listeners weekly and is often the most popular podcast in the country, addressing the monologue by Mike Daisey regarding poor conditions in China was “the most listened-to episode in the show’s online history.” See Phelps, Andrew, “This American Life’s Retraction of the Mike Daisey Story Set an Online Listening Record,” Nieman Foundation at Harvard, March 26, 2012, available at: <http://www.niemanlab.org/2012/03/this-american-lifes-retraction-of-the-mike-daisey-story-set-an-online-listening-record>; see also <http://www.thisamericanlife.org/blog/2012/03/retracting-mr-daisey-and-the-apple-factory> (noting “the single most popular podcast in This American Life’s history,” with 888,000 downloads and 206,000 streams as of March 2012. “After hearing the broadcast, listener Mark Shields started a petition calling for better working conditions for Apple’s Chinese workers, and soon delivered almost a quarter-million signatures to Apple. The same month the episode aired, *The New York Times* ran a front-page investigative series about Apple’s overseas manufacturing, and there were news reports about Foxconn workers threatening group suicide in a protest over their treatment. Faced with all this scrutiny of its manufacturing practices, Apple announced that for the first time it will allow an outside third party to audit working conditions at those factories and – for the first time ever – it released a list of its suppliers.”) Though Mike Daisey later amended his monologue to correct for factual inaccuracies, the impact of the original monologue was tremendous.

² Lyle Scruggs, Shareen Hertel, Samuel J. Best, & Christopher Jeffords, “Information, Choice and Political Consumption: Human Rights in the Checkout Lane,” *Human Rights Quarterly* 33, no. 4 (November 2011): 1092-1121, 1096.

³ “The Global, Socially-Conscious Consumer” Nielsen Media Research. March 27, 2012, available at: <http://blog.nielsen.com/nielsenwire/consumer/the-global-socially-conscious-consumer/>.

The Requirements Should Allow Apples-to-Apples Comparisons

In order to make an informed choice among companies' products, a conscious consumer must be able to easily compare companies' practices. To do so, he requires clear information that is consistent across companies and down their entire supply chains. Rather than add yet another set of standards for consumers to contemplate, we ask that the requirements use existing international and industry standards and best practice guidance such that consumers may more easily conduct apples-to-apples comparisons of company reports.

Further, the reporting requirements must apply to subsidiaries, contractors or other entities with which a company has a business relationship. Conscious consumers recognize that minimal ownership of a company does not minimize the harm of the human rights violations to which it may contribute; a supply chain is either free of human rights violations or it is not. Consumers deserve to have the information necessary to choose an ethical company over others engaging in unethical practices, and the only way to make such a comparison is to have a complete picture of entire companies and their suppliers.

Consumers Require Information about Actual Practices

Secondly, consumers deserve to know what a company is *actually* doing, not just what it promises to do. To meet this need, the reporting requirements should both include and distinguish between a company's promises ("policies") and actual practices ("procedures"). Naturally, this requirement and distinction must extend through the entire supply chain if the consumer is to know that the final product is free of forced labor and/or child labor; if human rights are being violated, those abuses must not be contracted out or obfuscated by business relationships.

Further, all information regarding policies and practices should be made public to the greatest extent possible. With regard to Items 1-8 in the reporting requirements, for example, a company should not be able to freely remove information from public reports on the unexamined, self-designated assertion that such information constitutes a "business secret." Whether a company undertakes due diligence assessments of potential threats to human rights is extremely important to the conscious consumer. Even more important is whether and how the company then addresses negative impacts on human rights; the responsible companies that conscious consumers want to support both look for problems and demonstrate the ways they fix each one they find. As such, all disclosures under the reporting requirements should be made public so that conscious consumers, and the civil society organizations on which they rely, have access to sufficient information to assess whether a company is meeting ethical standards in its policies and practices. Information should be withheld only if, in the judgment of the Department of State, stringent criteria are met.

Consumers Must Make Thumbs Up/Thumbs Down Determinations

Ultimately, the reporting requirements must enable consumers to determine whether they will purchase a particular good from a particular company. Conscious consumers are stakeholders and, while many rely on the assessments of various civil society organizations, they must make their own determination as to what businesses they want to support. Without sufficient information to assure them that their purchases of a company's products do not support human rights violations, conscious consumers have no choice but to forego all products from that company. So while some may argue that providing information is burdensome, it pales to the burden of an eroding customer base.

In sum, while the American public enjoys the end product of many global supply chains, from technology, to precious gems, to oil, gas and other products, American consumers do not want their purchases to contribute to human rights violations in the supply chains of those products. The American public deserves to know with certainty what products are tainted by such violations and to have the ability to select products with confidence that they come from clean supply chains. The average consumer should have clear, accurate information readily available so that she may know that her purchases are in keeping with her values.