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### Textile labelling

*A concern for the EU consumer?*

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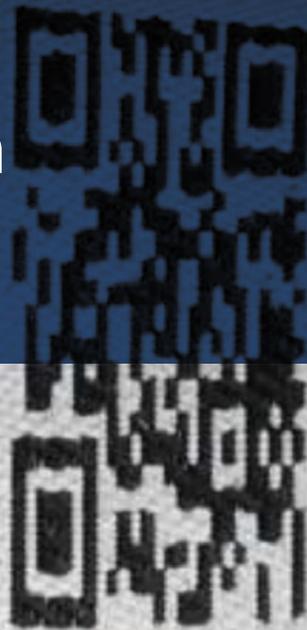
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# Chapter 1

## Introduction



## 1.1 Subject

The Textile and Clothing (T&C) industry constitutes an important segment of the European manufacturing sector and as such plays a major role in the EU economy and EU consumer social well-being. The T&C industry accounts for 6% of employment in the EU manufacturing sector and 3.1% of total product exports<sup>1</sup>. The European Commission (EC) deems the T&C industry to be diverse and heterogeneous as it covers a wide variety of products<sup>2</sup>. One of the main regulatory issues in the T&C industry concerns labelling.

First and foremost, labels aim to facilitate consumer decision-making by providing consumers with adequate information. This information is conventionally presented in text and graphics (i.e. symbols), but may vary in terms of explicitness and may include various third-party certifications or logos, all of which may shape consumer responses to products and brands<sup>3</sup>. The textile labelling area covers the specific disclosure of information on:

1. Fibre composition
2. Care
3. Chemical substance
4. Corporate Social Responsibility
5. Size
6. Country of origin
7. Traceability
8. Identification of the manufacturer
9. Flammability

In addition, sewn in, attached or embedded modern electronic labels, such as Radio Frequency Identification Devices (RFID) and Quick Response codes (QR code), often provide consumers with additional product information, such as matching collection products.

The increasing importance of textile markets and the development of new uses and applications for textile fibres and textile products highlighted the potential need for harmonised legislation within the EU with regard to labelling of T&C products. In the past, the EU regulated textile fibre names and related labelling and marking of the fibre composition of textile products in several legal acts that were very technical in their content, with enumerated provisions that needed to be updated regularly<sup>4</sup>. The complexity of this regulatory system often caused confusion among both

<sup>1</sup> See Euratex.eu, Key data 2015, < <http://euratex.eu/pages/key-data> > last viewed on 17 January 2017.

<sup>2</sup> Verbeke, A., van Tulder, R. & Voinea, L. 'New policy challenges for European multinationals: A resource bundling perspective', *New Policy Challenges for European Multinationals* (2012), p. 1.

<sup>3</sup> Hyllegard, K.H., et al. 'Socially responsible labeling the impact of hangtags on consumers' attitudes and patronage intentions toward an apparel brand', *Clothing and Textiles Research Journal* (2012-1), p. 51-66.

<sup>4</sup> Council Directive 73/44/EEC of 26 February 1973 on the approximation of the laws of the Member States relating to the quantitative analysis of ternary fibre mixtures, *OJ L 16/83*, 30.03.1973; Directive 96/73/EC of the European Parliament and of the Council of 16 December 1996 on certain methods for the quantitative analysis of binary textile fibre mixtures *OJ L 32/42*, 16.12.1996; Directive 2008/121/EC of the European Parliament and of the Council of 14 January 2009 on textile names, *OJ L 19/52*, 14.01.2009.

the T&C industry and its consumers. As such, on 27 September 2011, the European Parliament and the Council adopted Regulation EU 1007/2011 on textile fibre names and related labelling and marking of the fibre composition of textile products (Textile Regulation)<sup>5</sup>. This Regulation provides harmonised provisions related to certain aspects of textile labelling and marking, in particular to textile fibre names<sup>6</sup>. At this moment, the Textile Regulation is the sole industry-specific EU legislation applicable to labelling of T&C products.

Notwithstanding the need for a specific, harmonised European legislation in the area of labelling of T&C products, the EU and the EU Member States have progressively developed other, general measures to safeguard consumer interests, which could also impact the rules on labelling of these products. Key issues guiding European consumer policy are the safeguarding of fair competition in the Internal Market and facilitating the exchange of information between businesses and consumers<sup>7</sup>.

One of the prime objectives of the EU's consumer policy is to protect the European consumer from unfair commercial practices, which can encompass labelling practices, be they misleading or aggressive<sup>8</sup>. The Unfair Commercial Practices Directive (UCPD)<sup>9</sup>, the relevant EU legislation on this subject, addresses well-informed and confident consumers who are well able to make their choices based on (accurate) product information. Typically, information duties contained in other EU and national legislation require such product information to be transparent to enable the average consumer to understand the information and on the basis thereof to make a decision regarding the conclusion of a contract. This product information is often provided through labels.

<sup>5</sup> As from 8 May 2012, Regulation (EU) no. 1007/2011 on textile fibre names and related labelling and marking of the fibre composition of textile products repeals and replaces Directives 2008/121/EC on textile names, 96/73/EC on certain methods for the quantitative analysis of binary textile fibre mixtures and 73/44/EEC on the approximation of the laws of the Member States relating to the quantitative analysis of ternary fibre mixtures. OJ L 272, 18.10.2011, p. 1–64.

<sup>6</sup> Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council, OJ 2011, L 272/1, 18.10.2011.

<sup>7</sup> Howells, G., Micklitz, H. W., & Wilhelmsson, T. *European fair trading law: The unfair commercial practices directive*. Routledge (2016), p. 4-17.

<sup>8</sup> Collins H. 'The unfair commercial practices directive', *European Review of Contract Law* (2005-4), p. 417-441.

Mak, V. 'Standards of Protection: In Search of the 'Average Consumer' of EU Law in the Proposal for a Consumer Rights Directive', *European Review of Private Law* (2010), p. 27-29; Duivenvoorde, B.B. *The consumer benchmarks in the Unfair Commercial Practices Directive* (2014), p. 13-27;

Directive 2005/29 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive'), OJ L 149, 11.06.2005, p. 22-39.

Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council, OJ L 272/1, 18.10.2011.

<sup>9</sup> OJ L 149, 11.06.2005, p. 22-39.

The UCPD describes a misleading practice as one that:

*“... contains false information and is therefore untruthful or in any way, including overall presentation, deceives or is likely to deceive the average consumer, even if the information is factually correct, in relation to one or more of the following elements, and in either case causes or is likely to cause him to take a transactional decision that he would not have taken otherwise”<sup>10</sup>.*

Although the UCPD includes in Annex II a non-exhaustive list of the existing Directives that impose information requirements in the context of advertising and marketing, the Directive does not include a list of all material information consumers need to be offered in order to make rational transactional choices, and which the consumer could then expect to be placed on a product's label<sup>11</sup>. This means that it is up to consumer protection authorities and courts to determine what information is to be considered material<sup>12</sup>, and therefore provided on a textile label or hangtag, in order for the average consumer to be able to consider that information in the context of the transaction.

## 1.2 Aim, Research questions & Chapter design

In the EU debate<sup>13</sup> on the introduction of new labelling requirements for T&C products which preceded the adoption of the 2011 Textile Regulation, the European Parliament was of the opinion that consumers should be provided with accurate, relevant, intelligible and comparable information regarding T&C products. In this regard, data should be available to consumers on the fibre composition, care instruction, sizing, country of origin, chemical substances and social and environmental aspects of the T&C products.

Studies<sup>14</sup> carried out on behalf of the Commission and consultations with a large range of stakeholders strongly advised a new initiative in order to establish new labelling requirements for textile products as this was in the interests of consumers.

<sup>10</sup> Art 6 (1) UCPD, OJ L 149, 11.06.2005, p. 22–39. The provision continues by listing some of the factors that are to be taken into account, e.g. the nature and characteristics of the product, the price, the nature and attributes of the trader, the legal rights of the consumer, and the extent of the trader's commitments, the motives for the commercial practice and the nature of the sales process, and claims regarding sponsorship of the trader or the product.

<sup>11</sup> Articles 2 (i) and 7 UCPD, OJ L 149, 11.06.2005, p. 22–39. See also Collins, H. 'The unfair commercial practices directive' (2005) 1(4) European Review of Contract Law, p. 417–441.

<sup>12</sup> Howells, G., Micklitz, H. W. & Wilhelmsson, T. *European fair trading law: The unfair commercial practices directive*. Routledge (2016), p. 109.

<sup>13</sup> Interview Toine Manders, European Parliament, Member of the Committee on the Internal Market and Consumer Protection. Brussels, December 2012, see Appendix IV. See also Report from the Commission to the European Parliament and the Council regarding possible new labelling requirements of textile products and on a study on allergenic substances in textile products, Brussels 25 September 2013. COM (2013) 656 final.

<sup>14</sup> Kidmose Rytz, B., Sylvest, J. & Brown, A. 'Study on labelling of textile products' (2010). <<http://www.europarl.europa.eu/document/activities/cont/201108/20110825ATT25276/20110825ATT25276EN.pdf>> last viewed on 15 March 2017.

European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products', (2013). <[https://ec.europa.eu/growth/sectors/fashion/textiles-clothing/publications\\_en](https://ec.europa.eu/growth/sectors/fashion/textiles-clothing/publications_en)> last viewed on 17 March 2017. De Wolf, K, Devaere, S. & Albrecht, E. 'Study on the Link Between Allergic Reactions and Chemicals in Textile Products' (2013), <<http://ec.europa.eu/DocsRoom/documents/10481/attachments/1/translations>> last viewed on 17 March 2017.

Moreover, in an open discussion with all the relevant EU stakeholders, e.g., industry organisations, public authorities, the textile industry and consumer organisations, the stakeholders stated that the labelling criteria should be substantiated by scientific and empirical evidence in order to be viewed as reliable and credible by consumers<sup>15</sup>. Consumer confidence and reliability of information are also frequently the subject of discussion on the UCPD<sup>16</sup> and have been part of a discussion according to a report submitted by the EC regarding possible new labelling requirements for textile products to be introduced at Union level<sup>17</sup>.

Despite the above facts, the Commission concluded that no other labelling requirements than the fibre composition of textile products and the names of fibres needed to be addressed in the Textile Regulation given that, according to the Commission, additional labelling requirements are currently in place or being developed under regulatory and non-regulatory (voluntary) frameworks<sup>18</sup>.

### 1.2.1 Aim

The aim of this thesis is to critically analyse how the use of information duties as a means of consumer protection is implemented in the development of EU consumer policy related to T&C labels. This research thus aims to contribute to the aforementioned discussion in the EU regarding the introduction of new and the maintenance of existing labelling requirements at the EU level in an effort to harmonise, standardise and simplify the labelling of textile products.

Initially, the EU policymakers considered that consumers should be provided with accurate, relevant, intelligible and comparable information on T&C products<sup>19</sup>. The Commission's later conclusion that the issue of labelling requirements does not need to be addressed in the legislation at an EU level appears to contradict studies carried out on behalf of the Commission and the consultations with stakeholders<sup>20</sup>. The Commission's conclusion would suggest that

<sup>15</sup> European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products' (2013), <<http://www.industrial-europe.eu/Sectors/TCL/2013/Study%20labelling%20textile%20products%20-%20final%20report%20Matrix.pdf>> last viewed on 17 March 2017.

<sup>16</sup> Stuyck J., Terry, E., & Van Dyck, T. 'Confidence through Fairness-The New Directive on Unfair Business-to-Consumer Commercial Practices in the Internal Market', *Common Market Law Review* (2006), p. 107-152. Incardona, R., & Poncibò, C. 'The average consumer, the unfair commercial practices directive and the cognitive revolution', *Journal of Consumer Policy* (2007-1), p. 21-38. Duivenvoorde, B. B. *The consumer benchmarks in the Unfair Commercial Practices Directive* (2014), p. 104.

<sup>17</sup> European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products', (2013), p. 27. <<http://www.industrial-europe.eu/Sectors/TCL/2013/Study%20labelling%20textile%20products%20-%20final%20report%20Matrix.pdf>> last viewed on 17 March 2017.

<sup>18</sup> Report from the Commission to the European Parliament and the Council regarding possible new labelling requirements of textile products and on a study on allergenic substances in textile products. Brussels 25.12. 2013. COM(2013) 656 final.

<sup>19</sup> European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products', (2013), p. 26-27. <<http://www.industrial-europe.eu/Sectors/TCL/2013/Study%20labelling%20textile%20products%20-%20final%20report%20Matrix.pdf>> last viewed on 17 March 2017.

<sup>20</sup> Report from the Commission to the European Parliament and the Council regarding possible new labelling requirements of textile products and on a study on allergenic substances in textile products, Brussels 25 September 2013. COM (2013) 656 final, p. 5-9.

See also Kidmose Rytz, B., Sylvest, J. & Brown, A. 'Study on labelling of textile products' (2010), p. 6. <<http://www.europarl.europa.eu/document/activities/cont/201108/20110825ATT25276/20110825ATT25276EN.pdf>> last viewed on 15 March 2017.

European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products', (2013), p. 6-19. <[https://ec.europa.eu/growth/sectors/fashion/textiles-clothing/publications\\_en](https://ec.europa.eu/growth/sectors/fashion/textiles-clothing/publications_en)> last viewed on 17 March 2017.

– notwithstanding these studies and consultations – the T&C industry in the EU already offers accurate, relevant, comparable and correct information to consumers which enable them to make an informed purchase decision. The objective of this research is to explore to what extent this assumption is correct. To test this assumption, this research additionally assesses the textile labelling requirements in regulatory and/or non-regulatory frameworks.

### 1.2.2 Research question

Over the years, the EU has developed a wide body of consumer protection law. This encompasses policy instruments designed to ensure the safety of products placed on the consumer market<sup>21</sup>, instruments that protect consumers from unfair commercial practices<sup>22</sup>, as well as instruments which seek to guarantee that consumers are provided with clear and correct information before they enter into a contract<sup>23</sup>. Conveying accurate information on labels can limit the scope of misleading or even fraudulent marketing of goods by the industry<sup>24</sup>.

In view of the studies carried out on behalf of the Commission and the stakeholder consultations mentioned above, and despite the applicable general and specific rules on labelling on an EU level, it is doubtful whether these rules in fact protect EU consumers. This leads to the following main question:

*To what extent does European consumer policy protect consumers against inaccurate or misleading information on textile & clothing labels?*

This research assesses whether the Textile Regulation, self-regulatory instruments and/or horizontal legislation together adequately safeguard consumers against inaccurate or misleading information on textile labels. The assessment includes the labelling policy of the T&C industry that operates within the European consumer market. The assessment is particularly important as this study aims to contribute useful arguments to the discussion on textile labelling on a European level.

The need to establish whether or not EU consumers are adequately protected against inaccurate or misleading information is an issue that logically stems from the above main question. This should be done by looking into the original motives for the development of the legislation adopted by the EC, specifically in the area of T&C labelling.

<sup>21</sup> The General Product Safety Directive 2001/95/EC, OJ L 11, 15.01.2002.

<sup>22</sup> The Unfair Commercial Practices Directive 2005/29/EC, OJ L 149/22, 11.06.2005.

<sup>23</sup> The Directive on Consumer Rights 2011/83/EC, OJ L 304/64, 22.11.2011.

<sup>24</sup> European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products' (2013), p. 110. <<http://www.industrial-europe.eu/Sectors/TCL/2013/Study%20labelling%20textile%20products%20-%20final%20report%20Matrix.pdf>> last viewed on 17 March 2017.

### 1.2.3 Sub-questions & Chapter design

Chapter 2 is an introductory one and contains preliminaries, elaborates on the relevance and the rationale of this study, and explores different textile labelling requirements. The sub-question that will be answered in this chapter is:

*How has European consumer policy evolved with regard to textile and clothing labelling?*

The preliminary remarks in Chapter 2 set the scene for discussing T&C labelling requirements, presenting various arguments expressed on this topic in the scholarship, as well as sketching the supply chain of the T&C industry in order to facilitate better understanding of the research issues for the reader. Chapter 2 also illustrates European consumer policy in the area of T&C labelling in a historical context. The principal themes of European consumer policy are set out by means of a comparative analysis of the consumer policy strategy from 1975 until 2020, specifically in the field of textile labelling. Additionally, this chapter includes the studies conducted by the EC, which assess consumer views on labelling of textile products as these consumer survey findings are used to draw conclusions regarding the potential implications of the policy option on consumers<sup>25</sup>, and thus may guide policymaking in this area.

Moreover, the interrelation between the UCPD and the Textile Regulation is presented in order to examine whether general consumer law provisions could influence T&C labelling. The interrelation is signalled in the Textile Regulation's preamble, which refers to the prohibition of misleading commercial practices in the UCPD. This prohibition pertains to the provision of false information that would result in consumers making a transactional decision that they would not have made otherwise, or to the absence of information that consumers actually require for such a decision.

Another general consumer protection measure that will be presented as it may influence policymaking on T&C labelling is the General Product Safety Directive (GPSD)<sup>26</sup>. In essence, the GPSD touches on matters related to the country of origin label and traceability of the product, and establishes rules to ensure the safety of consumer products which are not covered by specific sectorial legislation<sup>27</sup>. The GPSD obliges distributors to keep and make available the documentation necessary for tracing the origin of their products and is primarily intended to provide consumers with all relevant safety information for the safe use of products<sup>28</sup>.

After the introduction in Chapter 2 of the framework of consumer policy measures that could regulate T&C labelling, Chapter 3 presents an analysis of the UCPD and GPSD provisions, with special emphasis on the labelling doctrine as introduced in case law.

The sub-question discussed in this chapter is:

<sup>25</sup> European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products', (2013), p. 75. <<http://www.industrial-europe.eu/Sectors/TCL/2013/Study%20labelling%20textile%20products%20-%20final%20report%20Matrix.pdf>> last viewed on 16 March 2017.

<sup>26</sup> The General Product Safety Directive 2001/95/EC. OJ L 011, 15.01.2002.

<sup>27</sup> See Article 1 of the GPSD, OJ L 11, 15.01.2002.

<sup>28</sup> See preamble 19 of the GPSD, OJ L 11, 15.01.2002.

*In what way does textile and horizontal legislation safeguard consumers' rights to accurate information on textile and clothing labels?*

In addition to a broad open clause on 'unfair' commercial practices and smaller open clauses pertaining to misleading and aggressive commercial practices, the UCPD contains an annex of quite closely-defined practices that are considered to be unfair under all circumstances. However, at the same time, there is still much scope left for interpretation on a national level. Under the smaller open clauses, courts need to interpret the notions of an 'informed decision', 'freedom of choice', 'material information', 'relationship of power' etc<sup>29</sup>.

Another challenge legal scholars identify is posed by the core notion of the 'average consumer'<sup>30</sup>. The law as it stands requires courts to assess whether a given practice distorts the choice pattern of the (unitary) average consumer<sup>31</sup>. Hence, the Directive's provisions leave scope for interpretation and therefore for differences between the Member States, which in turn affects the textile industry as companies may be faced with different application of the provisions of the UCPD on a national level. However, although it would be useful to examine national variations for the sake of completeness, doing so goes beyond the scope of this thesis. Consequently, only the judgments of the Court of Justice will be considered when establishing the meaning and scope of the concepts used in horizontal EU legislation. In this, it should be kept in mind that the UCPD and GPSD are elaborated insofar as the provision concerns certain requirements of T&C labelling. Moreover, the UCPD is presented in order to provide a legal basis for evaluating whether textile labels (or any commercial labelling) are inaccurate or misleading, moreover, to assess whether unfair labelling practices are combated.

Chapter 4 discusses the labelling requirements that are currently implemented or being developed under non-regulatory frameworks. The Textile Regulation does not deal with care, size and corporate social responsibility (CSR) labelling. Instead, such labelling is addressed by voluntary standards schemes on both an EU and international level. The related sub-question is:

*In what way do self-regulatory (voluntary) labelling schemes safeguard the rights of consumers to accurate and clear information on textile and clothing labels?*

Chapter 4 thus analyses whether existing and developing self-regulatory labelling schemes safeguard consumers' right to accurate and reliable information about the properties of textile

<sup>29</sup> Willett, C. 'Fairness and consumer decision making under the unfair commercial practices directive.' *Journal of consumer policy* 33.3 (2010), p. 250-253.

<sup>30</sup> See Collins, H. 'The unfair commercial practices directive', *European Review of Contract Law* (2005-4), p. 417-441; Incardona, R., & Poncibò, C., 'The average consumer, the unfair commercial practices directive, and the cognitive revolution', *Journal of Consumer Policy* (2007-1), p. 26-30.

Howells, G. The scope of European consumer law. *European review of contract law*, 1(3) 2005, 365-367; Howells, G., Micklitz, H-W. & Wilhelmsson, T. *European fair trading law: The unfair commercial practices directive*. Routledge (2016), p. 1-12; Duivenvoorde, B. B. *The consumer benchmarks in the Unfair Commercial Practices Directive* (2014), p. 20-27.

<sup>31</sup> See CJEU 6 July 1995, C-470/93, EU:C:1995:224 (Mars); CJEU 16 July 1998, Case C-210/96, EU:C:1998:369 (Gut Springenheide). CJEU 22 June 1999, Case C-342/97, EU:C:1999:323 (Lloyd Schuhfabrik).

products. Correct labelling can compensate for the information hiatus and inefficiencies in the textile and clothing market. Moreover, conveying accurate information on labels can limit the scope of misleading or even fraudulent marketing of goods by the industry<sup>32</sup>. The standard of protection is in principle set at the average consumer who is assumed to be reasonably informed, observant and circumspect<sup>33</sup>.

Chapter 5 illustrates the results of the field research. This chapter revolves around the sub-question:

*In what way does the textile and clothing industry provide information about the textile product in textile and clothing labelling?*

The T&C industry is analysed to review the labelling policy of the T&C companies and to explore how EU textile and clothing companies have adopted and adhere to voluntary labelling schemes in their company policy (labelling) systems. As mentioned earlier, currently only fibre composition labelling is mandatory at an EU level but other, more general rules and codes of conduct presented in Chapters 2 and 3 may provide certain standards as to what could be considered a misleading or false information/label.

Additionally, voluntary labelling schemes as presented in Chapter 4 may provide for certain additional standards for labelling actors in the textile industry to follow. In order to answer the main research question and to evaluate the level of consumer protection granted against unclear and misleading labels in this industry, it is important to not only look into black-letter law, soft law and voluntary self-regulation but also to examine every-day practice of the T&C industry.

This chapter therefore assesses the effect of interactions between voluntary self-regulation, soft law and hard law on the practice of T&C labelling. Moreover, it aims to determine to what extent the T&C industry furnishes its consumers with clear and accurate information through a simple and unambiguous communication tool, such as textile & clothing labels, thus fulfilling the UCPD's requirements.

Chapter 6 offers an assessment and conclusion on the subject of T&C labelling. This study will show that the retailers involved in the case studies disclose certain inaccurate and unreliable information on labels in order for the consumer to make a positive transactional decision. Whether this implies that European consumer policy insufficiently protects consumers against inaccurate or misleading information on textile & clothing labels for consumers to be able to make an informed choice on the purchase of textile products is a matter which will be discussed in Chapter 6.

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<sup>32</sup> European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products', (2013), <<http://www.industrial-europe.eu/Sectors/TCL/2013/Study%20labelling%20textile%20products%20-%20final%20report%20Matrix.pdf>> last viewed on 17 March 2017.

<sup>33</sup> Willett, C. 'Fairness and consumer decision making under the unfair commercial practices directive.' *Journal of consumer policy* 33.3 (2010), p. 269.

Finally, Chapter 7 contains recommendations. It should be emphasised that this epilogue provides a basis for further discussion for the textile industry and the organisations operating on behalf of that industry, consumer organisations and policymakers rather than conclusions drawn from the findings reported in the previous chapters.

In addition, the findings of the empirical research conducted in this thesis reveal the need for the harmonisation of textile labelling requirements throughout the EU as, according to the interviewed retailers from the T&C industry, harmonisation of the labelling requirements would enhance cross-border shopping and enable consumers to face the same labelling requirements within the Union. Whether these views are supported by the objective of my research is a question that is also addressed in my recommendations.

## 1.3 Research methodology & Scope

This section first gives a detailed description of the applied research methodology, including the rationale for the various research methodology choices, such as interviews, surveys and case studies. This is followed by a detailed description of the scope of this study.

### 1.3.1 Research methodology & methods

Chapters 2, 3 and 4 of the thesis primarily have a legal, doctrinal character and constitute the theoretical background. These allow the illustration and discussion of issues of textile labelling and the related provisions of the UCPD. They draw on the EU directives and regulations that either directly or indirectly concerns the use of information duties as a means of consumer protection in the area of textile labelling. Chapter 5 presents field research findings, which introduces empirical methodology into this thesis.

Hereinafter, the contents of these chapters are set out insofar as this allows justifying the choice for the research methodology applied in them to be justified.

### Chapter 1

This introductory chapter is descriptive, elaborates on the relevance and rationale of this study and leads into the different textile labelling requirements. In an effort to address the research question, the chapter includes an overview of the discussion on labelling requirements and illustrates the working of the supply chain of the T&C industry. The theories and definitions fleshed out in this chapter describe the analytical tools used for the empirical research that is then presented in Chapter 5.

## Chapter 2

Chapter 2 is descriptive as the emergence of the EU labelling policy in its historical context is elaborated on. While this chapter is primarily doctrinal, the historical overview presented therein is followed by empirical, exploratory research on the textile labelling systems. Doctrinal, desk research includes a review of academic publications as well as information provided by the EC. This chapter is essentially based on EU policy documents and legislation. However, the views expressed therein are further elaborated on through the conducted empirical research, i.e. the outcomes of the interviews conducted with EU policymakers. These interviews clarify certain points of view of European policymakers on T&C labelling as well as allow a better understanding of the development of this policy and obstacles therein.

This chapter also addresses the aforementioned sub-question on how European consumer policy has evolved with regard to T&C labelling. Hence, the second chapter gives a comprehensive overview of the development of European consumer policy from 1975 until 2020. The main themes on the topic of consumer protection are set out in general but the focus will be more specifically on the policy regarding T&C labelling.

As the EU<sup>34</sup> conducted its own studies regarding labelling of textile products, which shows where the interests of policymakers lie, these studies will also be included in the analysis of this chapter. The studies conducted by the EU are:

1. 'Study on labelling of textile products'<sup>35</sup>.
2. 'Study of the need for new labelling requirements of textile and clothing products'<sup>36</sup>.
3. 'Study on the causal link between allergic reactions and chemical substances or mixtures used in textiles'<sup>37</sup>.

The aim of the 'Study on labelling of textile products' and the 'Study of the need for new labelling requirements of textile and clothing products' was to investigate the feasibility of providing consumers with additional information about country of origin, care, size, etc. using innovative technologies (electronic labelling, language independent symbols or codes). The studies reviewed the existing labelling systems in the EU and internationally by interviewing stakeholders and conducting consumer surveys with more than 3,500 respondents from seven Member States. The 'Study on the causal link between allergic reactions and chemical substances or mixtures used in textiles' was designed to investigate the link between allergic reactions and chemicals used and remaining on finished textile products. This study reviewed existing relevant EU regulations/

<sup>34</sup> Article 24 and Article 25 of the Regulation 1007/2011/EU requires the Commission to carry of studies.

<sup>35</sup> Kidmose Rytz, B., Sylvest, J. & Brown, A. 'Study on labelling of textile products' (2010). <[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/429992/IPOL-IMCO\\_ET\(2010\)429992\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/429992/IPOL-IMCO_ET(2010)429992_EN.pdf)> last viewed on 15 March 2017.

<sup>36</sup> European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products', (2013), <<http://www.industrial-europe.eu/Sectors/TCL/2013/Study%20labelling%20textile%20products%20-%20final%20report%20Matrix.pdf>> last viewed on 15 March 2017.

<sup>37</sup> De Wolf, K, Devaere, S. & Albrecht, E. 'Study on the Link Between Allergic Reactions and Chemicals in Textile Products'(2013). <<http://ec.europa.eu/DocsRoom/documents/10481/attachments/1/translations>> last viewed on 15 March 2017.

directives and the voluntary textile standards (i.e. Oeko-Tex Standard 100), as well as relevant reports and documents.

In addition to these publicly available sources, interviews were conducted with representatives from the EU who at the time of the interviews were active in the field of textile labelling regulation. The interviews were conducted during the research period from 2011 until 2015. The interviews were held by means of an unstructured questionnaire with open questions. The interviews lasted between 60 and 120 minutes and were conducted in Dutch and English. Currently, DG Enterprise and Industry is responsible for product legislation in a number of sectors to ensure a well-functioning Internal Market. For that reason, the following policy officers were interviewed<sup>38</sup>:

- Mrs. Agniesz Wojdyr, a Policy Officer for the Textile, Fashion, Design and Creative Industries, European Commission Enterprise and Industry Directorate General. Mrs Wojdyr is responsible for developing a policy for the competitiveness of the creative industries.
- Mr. Julio Cardoso, a Policy Officer for the Textile, Fashion, Design and Creative Industries, European Commission Enterprise and Industry Directorate General. Mr. Cardoso is responsible for creating requirements for the classification of new fibres. He submitted a review of present and planned activities connected with Regulation (EU) No. 1007/2011 on textile fibre names and related labelling of the fibre composition of textile products, which came in force from 8 May 2012.
- Mrs. Katarzyna Kuske, a Policy Officer for the Textile, Fashion, Design and Creative Industries, European Commission Enterprise and Industry Directorate General. Mrs Kuske is responsible for creating a 'Labelling System for Authenticity of Leather' at EU level.

In addition, Mr. Toine Manders, a former Member of the Committee on the Internal Market and Consumer Protection of the European Parliament, was interviewed. The debate regarding the revision of the Directive on Textile Names<sup>39</sup> and the possible new textile and clothing labelling requirements was started by Manders in his capacity as a member of this Committee. He was appointed as the Rapporteur regarding the revision of this Directive on 14 September 2009, working as a member of the European Parliament until his retirement from the European Parliament on 30 June 2014<sup>40</sup>.

### Chapter 3

The central piece of legislation in the T&C industry is the Textile Regulation. This sets out the requirements for the labelling and marking of fibre composition of textile products. The scope of the Textile Regulation is to eliminate possible obstacles to the proper functioning of the Internal Market<sup>41</sup>. Besides industry-specific requirements for labelling of textile and clothing products, the

<sup>38</sup> Interview on 24 November 2014 and 30 April 2015, see Appendix IV Experts interview.

<sup>39</sup> Directive 2008/121/EC on textile names (recast) requires the labelling of the fibre composition of textile products using only the harmonised names listed in Annex I to the Directive. Directives 96/73/EC and 73/44/EEC specify the methods of analysis to be used to check whether the composition of textile products is in conformity with the information supplied on the label.

<sup>40</sup> See <[http://www.europarl.europa.eu/meps/en/4560/TOINE\\_MANDERS\\_home.html](http://www.europarl.europa.eu/meps/en/4560/TOINE_MANDERS_home.html)> last viewed on 14 January 2017.

<sup>41</sup> OJ L 272, 18.10.2011, p. 1-3.

development of which is illustrated in Chapter 2, horizontal legislation such as the UCPD and the GPSD also apply to the labelling of products. The aforementioned Directives are critically analysed in Chapter 3 through the use of the doctrinal methodology in order to establish the relevance of their provisions for answering the main research question.

This chapter is descriptive. First, a brief summary of the Textile Regulation, the UCPD and GPSD is given, with their background and objectives. This summary includes a description of the findings of a report of the Commission on the application of the Textile Regulation, which covers the period since the onset of the Textile Regulation until June 2014<sup>42</sup>. The main questions raised in the case law of the CJEU are then addressed. The main provisions of the directives and the related case law are set out insofar as these concern the information provision of (textile) labels. This description is accompanied by the critical analysis that is based on scholarly commentary.

In 2009, the Commission issued its 'Guidance on the Implementation of Directive 2005/29 on Unfair Commercial Practices'<sup>43</sup>. Pursuant to Article 18 UCPD, the Commission had reviewed the UCPD with a view to its potential amendment by 12 June 2011. The report was presented on 14 March 2013<sup>44</sup>. Since then, no amendments to the UCPD have been proposed. However, a new Guidance document was issued in 2016<sup>45</sup>. While the Guidance document is not formally binding law, the Court has frequently referred to it when interpreting provisions of the UCPD. As such, the Guidance document is a relevant source which to consult for this research. Furthermore, on 13 February 2013 the Commission proposed a Product Safety and Market Surveillance Package including a new Product Safety Regulation<sup>46</sup>. According to the EC (DG Health and Consumers), recurrent product safety alerts have signalled the need for more effective product safety rules. Improving traceability of consumer products throughout the supply chain and enabling a swift and effective response to safety problems (e.g. recalls of textile products) is essential. Accordingly, provisions of this regulation will be analysed alongside the GPSD.

Finally, on 29 October 2014, the EC published a report on the application of Regulation 1007/2011 on textile fibre names and on related labelling and marking of the fibre composition of textile products. The Commission's report, which covers the period since the Textile Regulation's application (2012) until June 2014, provides an overview of the Regulation's core provisions and sets out how the Regulation has functioned. It also identifies areas that are of most concern and states that the majority of Member States observed an increase in the number of requests for

<sup>42</sup> The application of Regulation 1007/2011 on textile fibre names, and on related labelling and marking of the fibre composition of textile product. COM (2014) 633 final, p. 6-8, OJ L 175, 14.06.2014.

<sup>43</sup> Commission Staff working document. Guidance on the Implementation/application of Directive 2005/29/EC on Unfair Commercial Practices, Brussels, 3 December 2009 SEC(2009) 1666.

<sup>44</sup> Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Brussels, 14.03.2013, COM (2013) 139 final.

<sup>45</sup> Guidance Document of 25 May 2016, SWD (2016) 163 final, p. 60. <[http://ec.europa.eu/justice/consumer-marketing/files/ucp\\_guidance\\_en.pdf](http://ec.europa.eu/justice/consumer-marketing/files/ucp_guidance_en.pdf)> last viewed on 15 January 2017.

<sup>46</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee more Product Safety and better Market Surveillance in the Single Market for Products, Brussels 13.02.2013. COM (2013) 74 final.

information – mainly from businesses – following the adoption of the Regulation. This chapter includes an analysis of the outcome of the report as well.

## Chapter 4

Chapter 4 introduces different types of labels that are used in the T&C industry. The main focus is on the regulatory framework and voluntary labelling schemes for textile products. For this chapter, an exploratory, qualitative approach was adopted to examine the existing labelling requirements and systems in the EU, which allows to look beyond their wording and to uncover the objectives they aim to achieve.

This chapter consists of the critical analysis of studies regarding textile labelling conducted by the EC and European consumer organisations. In order to shed light on the labelling policy of the European T&C industry, a number of interviews were conducted with representatives from organisations.

These representatives were:

- **Mrs. Marieke Weemaes**, a CSR Labelling Consultant at MODINT, the trade association of manufacturers, importers, agents and wholesalers of clothing, fashion accessories, carpet and (interior) textiles in the Netherlands. Mrs. Weemaes worked in this capacity at the time of this interview (until June 2014);
- **Mr. Antonio de Barberio**, a Labelling Consultant at MODINT;
- **Mr. Enzo Blonk**, the Director for the Industry Engagement of GS1 in Brussels, Belgium. GS1 develops industry-driven standards for the Electronic Product Code™ (EPC) to support the use of RFID<sup>47</sup>. GS1 aims to increase visibility and efficiency throughout the supply chain and to ensure the flow of information between companies, trading partners and consumers<sup>48</sup>.

Lincoln et al. argue that refining one's own research results in the light of feedback from academic peers and other research participants can increase the validity and reliability of findings<sup>49</sup>. This essentially involves debating preliminary findings with colleagues who are not directly involved in the study in order to reveal possible sources of misinterpretation or suppressed aspects of the inquiry<sup>50</sup>. My academic colleagues from the European Fashion Business School and the Amsterdam Fashion Institute of the Amsterdam University of Applied Sciences were used for peer debriefing. The interview questions discussed in this chapter (prior to the interviews taking place) and the results of these interviews were extensively discussed with the aforementioned colleagues. In order to cross-validate the preliminary findings and the outcome of my field research, the focus group method<sup>51</sup> (informal discussion) was used.

<sup>47</sup> Interview in November 2014, Brussels Belgium, see Appendix IV.

<sup>48</sup> See <[www.gs1.org](http://www.gs1.org)> last viewed on 16.12.2016.

<sup>49</sup> Lincoln, Y. S., et. al. 'Paradigmatic controversies, contradictions and emerging confluences revisited', *The Sage Handbook of Qualitative Research* (2011), p. 97-128.

<sup>50</sup> Ibidem.

<sup>51</sup> Silverman, D., *Doing qualitative research: A practical handbook*. SAGE Publications (2013), p. 211-214.

Finally, this chapter also includes the presentation and analysis of the points of view of EU stakeholders (consumers, consumer organisations, textile industry and textile industry organisations) that have been collected in desk research on the subject of textile labels.

## Chapter 5

This chapter addresses the sub-question of how the T&C industry provides information about the textile products via T&C labelling. This chapter mainly presents the findings obtained from field research within the T&C industry. Moreover, it aims to explore to what extent the T&C industry in the EU has adopted voluntary labelling schemes in its company policy systems accordingly.

The research method can be characterised as exploratory, qualitative research as, among other things, data are accumulated through interviews, observations and analysis of annual reports of databases and of companies labelling manuals<sup>52</sup>. Multiple case studies of individual T&C companies are used to illustrate company policies on textile labelling. The decision to work with case studies offers the opportunity to cross-validate textile companies' strategies on the disclosure of information by means of labels.

In order to obtain a transparent overview of internal labelling policies of the T&C companies, two types of interviews were conducted, viz. semi-structured and unstructured interviews. With regard to the semi-structured interviews, the prearranged questions were discussed with colleagues from the European Fashion Business School and the Amsterdam Fashion Institute prior to the interviews taking place. In addition to these questions, the semi-structured interviews offered the opportunity to explore new issues during the conversations with the stakeholders, depending on their responses to the originally drafted questions<sup>53</sup>. As for the unstructured interview method, the questions were not prearranged, which allows relevant, sensitive information to be obtained pertaining to the truthfulness of information disclosures on the textile label, such as information pertaining to the use of child labour, under-labelling and vanity sizing. The transcripts of the retailers' interviews were added as appendices to this thesis<sup>54</sup>. The results of both types of interviews were extensively discussed with the aforementioned colleagues in accordance with the focus group method.

Before selecting companies for the case study, a database was created of T&C companies with a consumer client-base within the EU. In order to improve the validity and reliability of my research, while composing my own database for the selection of the case studies, the following databases and publications were consulted:

- **Veraart Research Group.** The Veraart Research Group is a supplier of management information on consumer markets, especially retail markets. The research group publishes information through an online database called Retail-Index<sup>55</sup>;

<sup>52</sup> Stake, R. E, *The art of case study research*, Sage (1995), p. 35-49.

<sup>53</sup> Kumar, J. C. *Research Methodology*, Balaji Offset, New Delhi (2008), Chapter 13 and 14.

<sup>54</sup> See Appendix III 'Retailers interview'.

<sup>55</sup> <<http://retail-index.com/Sectors/FashionClothingRetailersinEurope.aspx>> last viewed on 15 March 2017.

- **Bloomberg Business.** Bloomberg is a professional information service system for financial professionals with real-time data and analytics on companies and markets<sup>56</sup>;
- **Euromonitor International.** Euromonitor International is specialised in strategy research for consumer markets. The company uses a range of national and international secondary sources<sup>57</sup>;
- Publication of the *TextilWirtschaft*, 'Die größten Europäischen Bekleidungs-Lieferanten 2013'<sup>58</sup>.

Based on the abovementioned databases, 10 T&C companies were selected and subsequently invited for an interview from the top 100 leading T&C companies operating in the EU market. A number of these companies, in total 8 companies, accepted the invitation. The principal criterion for the selection of these companies was twofold; that production of these companies is rooted in ready-to-wear textile & clothing products in the European consumer market, and that they manufacture and/or sell their textile products in large volumes (annual turnover of more than 1 billion euros) in the European consumer market. Although the objective to interview the selected 10 T&C companies was not achieved, the focus on these 8 companies as 'data sources' was considered to be data rich and thus worthy of study<sup>59</sup>. An in-depth analysis was made possible based on the obtained information via interviews and the documentation made available by the companies participating in the case studies, including details of their annual reports, codes of conduct, press releases and company scripts of hangtag/textile labels. A detailed overview of the case studies and research methodology is given in Chapter 5.

## Chapters 6 and 7

The outcome of the research presented in the abovementioned chapters will take me to the final and also most prominent part of this research: the evaluation of current EU legislation pertaining to T&C labelling. In Chapter 6, I will answer the main research question: To what extent does European consumer policy protect the European consumer against inaccurate or misleading information on textile labels?

The criterion to determine the answer to this question is the extent to which the mandatory information disclosure on textile & clothing labels furnishes consumers with accurate and reliable information which allows them to make a more informed decision. Therefore, a closer look at the provisions of horizontal legislation, such as the UCPD and GPSD, is required in order to be able to comment on the present consumer policy regarding textile labelling. The assessment includes the labelling policy of the T&C industry operating within the European consumer market and includes the results of the empirical research presented in this thesis.

<sup>56</sup> <[www.bloomberg.com](http://www.bloomberg.com)> last viewed on 15 March 2017.

<sup>57</sup> <[www.euromonitor.com](http://www.euromonitor.com)> last viewed on 15 March 2017.

<sup>58</sup> See <<https://www.hs-heilbronn.de/7099714/Liste-Textilhersteller-EU-D-2013.pdf>> last viewed on 15 March 2017.

<sup>59</sup> Webley, L. 'Qualitative approaches to empirical legal research', *The Oxford Handbook of Empirical Legal Research* (2010), p. 926-950.

Further to the conclusions drawn in Chapter 6, in Chapter 7 recommendations are presented for the T&C industry as a basis for further discussion, e.g., on possible solutions in relation to the shortcomings identified in the assessment.

### 1.3.2 Scope – limitations

This study does not include a discussion on the fibre composition label. The reason for this is that mandatory rules are applicable to this label pursuant to EU Regulation EU 1007/2011 on textile fibre names and related labelling and marking of textile fibre names<sup>60</sup>.

Furthermore, the Commission Expert Group on textile names and labelling periodically evaluates the application of this Regulation within the Member States<sup>61</sup> on the basis of reports submitted to the European Parliament. The most recent report from the Commission concluded that the Regulation has been functioning well since it entered into force. Among other things, it provides for appropriate measures to achieve its objectives, namely the proper functioning of the Internal Market, giving accurate information to consumers, introducing more flexibility to adapt the legislation to technological changes, and simplifying the regulatory framework<sup>62</sup>. As such, there is no indication that there is a need to test whether fibre composition labels are misleading consumers.

Currently, new and innovative technologies and information delivery tools such as barcodes, QR codes and RFID chips can be embedded into textile products<sup>63</sup>. However, the use of these codes or chips does not in essence change the substance of information provided to consumers but rather provides for a new method to convey this information. Therefore, the subject of electronic labelling will only be touched upon insofar as it can be used as a consumer-oriented information tool to supply consumers with accurate and reliable information regarding a textile product. Finally, as the focus of the research question is on labelling that might be misleading to consumers of T&C products; the provisions on aggressive commercial practices from the UCPD are left outside of the scope of this study.

<sup>60</sup> OJ L 272, 18.10.2011. The aforementioned Textile Regulation is mandatory in the European Union and lays down harmonised provisions with regard to certain aspects of textile labelling and marking, in particular textile fibre names.

<sup>61</sup> <[http://ec.europa.eu/enterprise/sectors/textiles/documents/expert-group/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/textiles/documents/expert-group/index_en.htm)> last viewed on 15 March 2017.

<sup>62</sup> Report from the Commission to the European Parliament and the Council on the application of Regulation (EU) No 1007/2011 on textile fibre names and related labelling and marking of the fibre composition of textile products. COM (2014) 633 final.

<sup>63</sup> Interview Enzo Blonk, GS1. October 2014, see Appendix IV Expert Interviews.

## 1.4 Relevance of Research Subject

This section highlights and explains some of the main issues that are part of the labelling discussion in the context of this study. The aim is to indicate the relevance of this research subject and to illustrate the multitude of arguments that feature in the scholarship on labelling, thereby shedding light on the challenging situation for labellers regarding label disclosure. In general, the labelling discussion revolves around the fact that product labels are informational devices that signal a specific quality of a product<sup>64</sup>. Consumers are generally handicapped due to information asymmetry, which refers to their deficient knowledge of the quality and pricing of goods when compared with the knowledge thereof of producers<sup>65</sup>. Therefore, the textile and clothing companies, which own and manage such labels, are responsible for generating some form of 'simple trust' in their activities towards consumers<sup>66</sup>. Hence, a number of, sometimes, contradictory arguments can be brought up that may justify attention to this subject.

### 1. Labelling empowers consumers

Empowering consumers through information has become an important element of European consumer policy. As will be demonstrated in Chapter 2, consumer information is an important regulatory tool, which is pivotal to the strategy of empowering consumers. The theoretical arguments are that labelling reduces social harm and that the purchasing of labelled (eco-) products helps consumers to express their identities<sup>67</sup>. In Chapters 4 and 5, examples will be given regarding the reduction of social harm by setting limits to under-labelling and chemical labelling. Regarding CSR labelling, the example of the American footwear brand 'Toms' may be given. This brand is known for its 'One for One' principle, which means that it matches every pair of shoes purchased with a pair of new shoes given to a child in need. By choosing to purchase shoes of this brand, consumers may contribute to achieving its goals, namely to help improve school attendance and enrolment, combined with screenings to combat malnutrition. By operating this way *and* informing consumers thereof by way of labelling, it may be argued that the brand empowers consumers concerned with casually signalling personal authenticity through footwear<sup>68</sup>.

<sup>64</sup> Koos, S. 'Varieties of environmental labelling, market structures, and sustainable consumption across Europe: A comparative analysis of organizational and market supply determinants of environmental-labelled goods', *Journal of Consumer Policy* (2011-1), p. 127-151.

<sup>65</sup> Boström, M. & Klintman, M. *Eco-standards, product labelling and green consumerism*, Palgrave Macmillan Basingstoke (2008), p. 132-156.

<sup>66</sup> Wood, G. 'The politics of development policy labelling', *Development and Change* (1985-3), p. 347-373.

<sup>67</sup> Howells, G. 'The potential and limits of consumer empowerment by information', *Journal of Law and Society* (2005-3), p. 349-370; Klintman M. 'Ambiguous framings of political consumerism: means or end, product or process orientation?' *International Journal of Consumer Studies* (2006-5), p. 427-438.

<sup>68</sup> <<https://fashionunited.com/v1/apparel/toms-celebrates-10-million-milestone/201307191259>> last viewed on 28 January 2017.

The lack of consumer awareness and the lack of credibility of existing labels are important limitations of effects that labels could have on consumers<sup>69</sup>. D'Souza et al.<sup>70</sup> and Iwanow<sup>71</sup> argue that consumers may often remain uncertain about what the information on labels entails, given the magnitude of labels used on the market. This also reflects on the T&C industry as, in general, consumers regard textile labels (more specifically size labelling) as confusing<sup>72</sup>.

Despite empirical evidence of consumers not benefiting fully from information rights, in European consumer law the CJEU assumes the average consumer reads the product labels and bears in mind the information provided on those labels before making a purchasing decision<sup>73</sup> ('labelling doctrine'). For example, Advocate General Fennelly stated in his opinion in the *Lifting* case that

"... the assumption is that consumers will inform themselves about the quality and price of products and will make intelligent choices"<sup>74</sup>.

The image of the average consumer as a careful decision-maker emerged most explicitly in the opinion of Advocate General Trstenjak in *Mediaprint* in which she argued that the consumer is expected to recognise the potential danger of certain trade practices and is expected to act rationally towards them<sup>75</sup>.

Labelling is thus expected to help consumers in making informed choices. It is therefore particularly important to examine whether current labelling policies facilitate provision of non-misleading information and thus may bring consumers closer to such informed decision-making.

## 2. Consumer information is essential

The need to provide consumers with essential information is one of the most basic and obvious reasons for labelling. This objective has been in line with the ideologies and framings of the European Union consumer policy since 1975<sup>76</sup>, stating that the protection of the economic interests of the consumer is to ensure the accuracy of information provided to the consumer, without refusing him access to certain information. In line with this objective, the core of the UCPD lies in the information paradigm: by assuring a flow of correct and meaningful information,

<sup>69</sup> Valor, C. 'Can consumers buy responsibly? Analysis and solutions for market failures', *Journal of Consumer Policy* (2008-3), p. 315-326.

<sup>70</sup> D'Souza, C., Taghian, M. & Lamb, P. 'An empirical study on the influence of environmental labels on consumers.' *Corporate communications: an international journal* 11.2 (2006), p.162-173.

<sup>71</sup> Iwanow, H., Mc Eachern, M.G. & Jeffrey, A. 'The influence of ethical trading policies on consumer apparel purchase decisions: A focus on The Gap Inc.' *International Journal of Retail & Distribution Management* 33.5 (2005) p. 371-387.

<sup>72</sup> European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products', (2013), p. 45. <<http://www.industrial-europe.eu/Sectors/TCL/2013/Study%20labelling%20textile%20products%20%20final%20report%20Matrix.pdf>> last viewed on 16 March 2017.

<sup>73</sup> Trzaskowski, J. 'The unfair commercial practices directive and vulnerable consumers.' In *14<sup>th</sup> Conference of the International Association of Consumer Law* (2013), p. 9.

<sup>74</sup> Paragraph 25 of the Opinion of Advocate General Fennelly in CJEU 16 September 1999, Case C-20/98, ECLI:EU:C:1999:425 (*Lifting*).

<sup>75</sup> Paragraph 103 of the opinion of Advocate General Trstenjak in CJEU 9 November 2010, Case C-540/08, ECLI:EU:C:2010:660 (*Mediaprint*).

<sup>76</sup> See Chapter 1. On 9 April 1985 the General Assembly of the United Nations unanimously adopted a set of general guidelines for consumer protection. The adoption of the Guidelines reinforces the increasing recognition in recent years that consumer policy can no longer be seen as being of purely local concern but must be seen in an international context.

transactional decisions of consumers are undistorted and can therefore be assumed to be taken in accordance with consumer preferences<sup>77</sup>, which empowers consumers. This implies that this second objective is closely related to the first but it is more than just that. For example, the consumer's right to information concerning the use of chemical substances in textile products should be helpful in resolving the controversy about the use of chemical substances that remain in the finish of the textile product. The labelling of allergenic substances remains one of the major concerns, taking into account the rapid technological progress in the T&C industry over the past years. Previous research<sup>78</sup> mentioned that consumer organisations are concerned about chemical substances in textile products as they might be insufficiently analysed and reported, consequently presenting a possible threat to human health<sup>79</sup>. For this reason, the Commission has carried out a study to evaluate whether there is a causal link between allergic reactions and chemicals used, and those that remain on finished textile products<sup>80</sup>. Clearly, if such a link is established, the duty to inform may just be the first step in adopting new policies to further protect consumers.

Van Boom et al. noted that there is a tension between on the one hand the information paradigm aiming at the responsibility of consumers and on the other hand the protection of consumers in general<sup>81</sup>. Since traders have superior knowledge at their disposal as to how consumers respond to certain commercial practices, they can, in order to meet the needs of consumers, encourage, persuade, bedazzle, overload and discourage consumers. This appears to be in contrast with the normative criterion used in case law that the consumer is reasonably well informed and reasonably observant and circumspect and therefore can be expected to make a serious effort at collecting and understanding all the available information on product labels<sup>82</sup>. This thesis addresses the question whether EU consumer policy protects consumers against inaccurate or misleading information on textile & clothing labels, thus shedding some light on the question whether the normative criterion used in CJEU case law reflects the actual practice of the provision of information through T&C labels.

<sup>77</sup> Van Boom, Willem H. 'Experiencing Unfair Commercial Practices: An Introduction', *Erasmus Law Review* (2012-4), p. 418-419.

<sup>78</sup> Kidmose Rytz, B., Sylvest, J. & Brown, A. 'Study on Labelling of Textile Products' (2010), p. 17-19. <[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/429992/IPOL-IMCO\\_ET\(2010\)429992\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/429992/IPOL-IMCO_ET(2010)429992_EN.pdf)> last viewed on 15 March 2017.

<sup>79</sup> European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products', (2013), p. 46. <<http://www.industrial-europe.eu/Sectors/TCL/2013/Study%20labelling%20textile%20products%20%20final%20report%20Matrix.pdf>> last viewed on 15 March 2017.

<sup>80</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, under its Title VIII of Restrictions on the manufacturing, placing on the market and use of certain dangerous substances and preparations and its Annex XVII of Restrictions on the manufacturing, placing on the market and use of certain dangerous substances, preparations and Articles, Brussels 30.12.2006. COM (2003) 644 final, L 396, p 1-849.

<sup>81</sup> Van Boom, W.H., Garde, A., & Akseli, O. 'Introduction to 'The European Unfair Commercial Practices Directive', *Van Boom, Garde & Akseli, the European Unfair Commercial Practices Directive-Impact, Enforcement Strategies and National Legal Systems* (Ashgate 2014), p. 6.

<sup>82</sup> CJEU 16 July 1998, C-210/96, EU:C:1998:369 (*Gut Springenheide*); CJEU 19 September 2006, C-356/04, EU:C:2006:585 (*Lidl and Colruyt*); CJEU 6 July 1995, C-470/93, EU:C:1995:224 (*Mars*).

### 3. Labelling creates confusion among consumers and barriers for traders in the Internal Market

It is essential to adequately inform consumers about the products and their characteristics in order for them to make an informed choice among the various options of textile products available on the consumer market within the EU<sup>83</sup>. In order to emphasise the diversity of legislation within the EU Member States, a table is included which gives a comprehensive overview of the national legislation of the 28 EU Member States in the field of T&C labelling. In this context, it is interesting to mention that the provision of information by means of labelling of textile products varies from one Member State to another. Note that in the table below the abbreviations 'M' and 'V' indicate mandatory and voluntary labelling.

**Box 1.1 Labelling requirements per Member State. Euratex, Worldwide labelling 2010)**<sup>84</sup>

EU-28	Language	Care	CSR	Size	Origin	Other requirements
1. Austria	V: German	V	V	V	V	Flammability labelling is voluntary
2. Belgium	V: French or/ and Dutch or / and German	V	V	V	V	National law on health care & consumer protection: flammability of children's nightwear, cords and drawstrings on children's clothing.
3. Bulgaria	V: Bulgarian	M	V	M	M	Labels must contain certification authorisation number (if any).
4. Croatia	Croatian	M	V	M	M	Name of the product/ producer/ importer.
5. Cyprus	V: Greek	M	V	V	M	–
6. Czech. Rep.	M: Czech	M	V	M	M	Name of the producer/supplier is mandatory.
7. Denmark	V: Danish	V	V	V	V	–
8. Estonia	M: Estonian	M	V	M	M	The following information is mandatory and required to be placed on the retail packaging, or otherwise marked on the product (a sticker, label, etc.): – Name of product (indicating clearly the contents of the package); – Name of the manufacturer or principal.
9. Finland	M: Finnish and Swedish	M	V	V	M	Name of manufacturer/ importer.  For textiles sold as piece goods, the mark of origin must be stamped or printed clearly and distinctly on a label attached to the inner end so it can be pulled out of the roll.

<sup>83</sup> Wilhelmsson, T. & Twigg-Flesner, C. 'Pre-contractual information duties in the Acquis Communautaire.' *European Review of Contract Law* 2.4 (2006), p. 441-470.

<sup>84</sup> <[www.textilindustrie.at/p2/doc/Worldwide\\_labelling](http://www.textilindustrie.at/p2/doc/Worldwide_labelling)> last viewed on 10 January 2017.

**Box 1.1 (Continued)**

EU-28	Language	Care	CSR	Size	Origin	Other requirements
10. France	M: French	V	M	V	M	<p>Generally, all goods must be labelled to show: Name of the product; a list of all components, name and address of manufacturer or vendor, usage instructions, any required dates (i.e., date the product was made, price including all taxes, brand name or trademark, and specifications, limitations or sales conditions for the product.</p> <p>The country of origin of products must be included only in cases where provided information might be misleading regarding the real country where the product was manufactured.</p> <p>A so-called corrective mark of origin is required on all imported foreign products that bear marks, names, signs, or indications of any sort that might lead to the belief that the products originate in France or in a country other than their real country of origin.</p>
11. Germany	V: German	V	V	V	V	The German law does not set an obligation to label with the producer's name.
12. Greece	M: Greek	V	V	V	M	Name of manufacturer and registered trademark, 'Made in' compulsory for third countries.
13. Hungary	M: Hungarian	M	V	M	M	Name of the product/ producer /importer.
14. Ireland	V: Irish or / and English	V	V	V	M	The import, export, or transit of non-Irish goods, having markings, which would lead one to believe that the goods are of Irish manufacture or origin is prohibited.
15. Italy	M: Italian	V	V	V	M	Name of the producer.
16. Latvia	V: Latvian	M	V	M	M	Name of the importer.
17. Lithuania	M: Lithuanian	M	V	M	M	Name & Address of the importer.
18. Luxembourg	V: French or/ and German	V	V	V	V	–
19. Malta	V: English or/ and Maltese	V	V	V	V	–
20. Netherlands	M: Dutch	V	V	V	V	Flammability labels for children clothing.
21. Poland	M: Polish	M	V	M	M	Name & Address of the importer.
22. Portugal	V: Portuguese	V	V	V	V	–
23. Romania	V: Romanian	M	V	M	M	Name & Address of the importer.
24. Slovak Republic	M: Slovak	M	V	M	V	Name & Address of the importer.
25. Slovenia	V: Slovene	M	V	M	M	--
27. Sweden	Swedish	V	V	V	V	There are no general requirements that imports be labelled as to the country of origin; however goods carrying incorrect designations of origin are prohibited.
28. U.K.	English	V	V	V	V	Flammability labels for children clothing.

The diversity of mandatory labelling schemes within the EU may create a barrier for the free movement of goods in the Single Market. The same applies with regard to the revisions of voluntary labelling criteria that repeatedly occur in order to comply with the need of 'continuous improvement' of the quality of the textile product. It is conceivable that companies may choose not to comply with the voluntary labelling schemes and/or may not be able to meet the new voluntary standard requirements due to the additional costs involved therewith<sup>85</sup>. Such companies may therefore make a deliberate choice to leave this information out of their labels. Other companies may not place this information on their labels, as they are not aware of the voluntary standards in the first place. Either way, it is clear that many textile products are not labelled (apart from the mandatory fibre composition labels). In fact, the 'Study on labelling of textile and clothing products' estimated that between 30% and 50% of textile products within the EU are unlabelled (excluded the mandatory fibre composition labels). This general statistic masks a substantial variation among the Member States pertaining to adopted voluntary standards<sup>86</sup>. For example, within the EU a (non-mandatory) voluntary standard generally applies to care instructions on T&C products. Of all the EU Member States, only Poland and Italy have introduced mandatory requirements in this regard<sup>87</sup>.

If the plethora of labelling systems and the variety between them are perceived as confusing for consumers and as introducing barriers in the Single Market, this could incline policymakers to harmonise existing rules and further regulate T&C labelling. This research considers to what extent consumers are currently protected against inaccurate and misleading labelling and also examines the need for further regulation.

#### 4. Labelling may create and hold consumer's trust in the textile industry

According to the EC, responsible business conduct is an essential element for the T&C industry in helping it create and keep consumer trust and overall confidence in it. Notwithstanding, the T&C industry provokes much public criticism with respect to, for example, the deplorable social conditions of its workers; grave environmental issues such as polluting clean water; and the use of chemical substances in textile products that are detrimental to human health. A critical note should be added here as admittedly over the years the T&C industry has become more concerned with its CSR and invested in drafting and upholding such things as improved industry standards and codes of conduct. On 9 March 2016, the Dutch government, along with a group of trade organisations and NGOs, even announced a textile covenant. The aim of the covenant is to prevent child labour and improve poor working conditions and low wages in textile producing countries such as Bangladesh, India, Pakistan and Turkey<sup>88</sup>. It was mainly in response to the collapse of

<sup>85</sup> In-depth Assessment of the situation of the T&C sector in the EU and prospects, Final report ENTR/2010/16 October 2011.

<sup>86</sup> European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products', (2013), p. 90-111. <<http://www.industrial-europe.eu/Sectors/TCL/2013/Study%20labelling%20textile%20products%20-%20final%20report%20Matrix.pdf>> last viewed on 15 March 2017.

<sup>87</sup> Kidmose Rytz, B., Sylvest, J. & Brown, A. 'Study on Labelling of Textile Products' (2010), p. 10. <[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/429992/IPOLIMCO\\_ET\(2010\)429992\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/429992/IPOLIMCO_ET(2010)429992_EN.pdf)> last viewed on 15 March 2017.

<sup>88</sup> <<http://eu-roadmap.nl/wp-content/uploads/2016/05/Plenary-B-Garment-Covenant-Press-Release-by-Social-Economic-Council.pdf>> last viewed on 25 January 2016.

the T&C manufacturing building 'Rana Plaza'<sup>89</sup> in 2013 where worldwide attention and strong criticism of the textile industry forced traders to take action<sup>90</sup>. Another new development is the participation of the T&C industry in recycling textile fibres for new products, known as the 'circular economy for textiles'<sup>91</sup>.

Aside from the negative effect of the abovementioned social and environmental issues related to the T&C industry on public opinion, consumers' mistrust can be created by the use of inaccurate or otherwise misleading 'environmental claims' or 'green claims'. This phenomenon should be emphasised as, according to the database of the UCPD<sup>92</sup>, it refers to the practice of suggesting or otherwise creating the impression (in the context of a commercial communication, marketing or advertising) that a product is environmentally friendly or is less detrimental to the environment than competing goods. When such claims are untruthful or cannot be substantiated, the practice is also called 'green washing'. At the same time, environmental claims could be informative for consumers and effective in promoting goods with lower environmental impacts as long as they are clear, truthful, accurate and not misleading.

Therefore, an accurate and reliable CSR label could benefit the T&C industry stakeholders as adopting and upholding CSR should contribute to creating conditions favourable to sustainable growth, responsible business behaviour and durable employment, and this should be appreciated by consumers. Consumers should also be offered comprehensive and visible (transparent) information on the supply chain of textile products in order to provide them with accurate and reliable CSR information. As such, a significant part of this research focuses also on examining CSR labelling, its accuracy and non-misleading character.

## 5. Labelling creates advantages primarily for larger businesses

Within the textile industry, which consists primarily of small and medium enterprises (SMEs)<sup>93</sup>, some fears have been expressed that only the larger textile companies can afford a labelling system that displays the voluntary labelling requirements<sup>94</sup>. Nevertheless, as stated by the EC, responsible and efficient business conduct is important to textile companies as it helps them gain

<sup>89</sup> <<http://www.bbc.com/news/world-asia-22289362>> last viewed on 28 January 2017;

<sup>90</sup> A critical note should be added here as Barraud de Lagerie concluded that the 'Rana Plaza' case made clear that the Western firms prefer to limit the extent of their responsibility by insisting on their charitable bent and intent. Corporate 'social' responsibility is understood by these firms as one that goes 'beyond' the single framework of legal obligation. See De Lagerie, P.B. 'Conflicts of Responsibility in the Globalized Textile Supply Chain. Lessons of a Tragedy.' *Journal of Consumer Policy*, 39.4 (2016), p. 397-416.

<sup>91</sup> Aridov, M., et al. 'CSR in the Textile Sector: European Fashion Firms and the Bangladesh Safety Accord' (2015). See [http://ec.europa.eu/environment/ecoap/about-eco-innovation/good-practices/eu/20140318-clothing-project-to-explore-the-circular-economy-for-textiles\\_en.htm](http://ec.europa.eu/environment/ecoap/about-eco-innovation/good-practices/eu/20140318-clothing-project-to-explore-the-circular-economy-for-textiles_en.htm) last viewed on 22 January 2016.

<sup>92</sup> <<https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.keywords.keywordsDetail&keywordID=84>> last viewed on 17 January 2017.

<sup>93</sup> Euratex Annual report (2015), p. 30. <[http://consejointertextil.com/wp-content/uploads/Euratex-annual\\_report-2015-LR.pdf](http://consejointertextil.com/wp-content/uploads/Euratex-annual_report-2015-LR.pdf)> last viewed on 20 december 2016.

<sup>94</sup> See European Commission, Matrix Insight, 'Study of the need and options for the harmonisation of the labelling of textile and clothing products' (2013), p. 129. <<http://www.industriall-europe.eu/Sectors/TCL/2013/Study%20labelling%20textile%20products%20-%20final%20report%20Matrix.pdf>> last viewed on 15 March 2017. See also Kidmose Rytz, B., Sylvest, J. & Brown, A. 'Study on labelling of textile products' (2010). <[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/429992/IPOL-IMCO\\_ET\(2010\)429992\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/429992/IPOL-IMCO_ET(2010)429992_EN.pdf)> last viewed on 15 March 2017. Access to finance for SMEs has become even more difficult as a result of the economic and financial crisis. <[http://europa.eu/rapid/press-release\\_MEMO-14-549\\_en.htm](http://europa.eu/rapid/press-release_MEMO-14-549_en.htm)> last viewed on 17 January 2017.

consumer trust and increase overall confidence in the T&C industry. The Commission mentioned that the supply chain of the fashion industry is characterised by a high complexity of steps and operations (from the raw material to the point of sales), and by a high degree of dispersion among the many actors. This dispersion affects the supply chain and as such constitutes a major obstacle to the further development of the fashion industry<sup>95</sup>. Arguably, larger companies are bound to use a more complex supply chain and, therefore, through labelling they could reassure their consumers on the level of control they have over it.

## 1.5 The Supply Chain of the Textile & Clothing industry

The term supply chain has already been introduced in the Glossary of this thesis and has been mentioned a few times in this Introduction. This section gives a comprehensive overview of the fundamentals of the supply chain of the T&C industry, the sourcing processes and the actors involved in the processes. In order to clarify the use of terms throughout this study, a distinction is made between the textile and the clothing industry.

According to Forza & Vinelli<sup>96</sup> and Şen<sup>97</sup>, the T&C supply chain can be divided into three sectors: textile production, textile manufacture and distribution & sales. The textile sector encompasses such actors as fabric producers, designers, clothing manufacturers and retailers, and incorporates the flow of products, services, financing and information disclosure among suppliers, manufacturers, distributors and retailers<sup>98</sup>. The textile production sector turns natural and man-made fibres into fabrics, yarns and other textile products<sup>99</sup> that in turn are processed into clothing products by the textile manufacture sector. These two sectors (production and manufacture) together are known as the textile and clothing (or T&C) industry<sup>100</sup>.

### Fabric Mill

Raw materials are the basic materials of clothing and textile products. The fabric mill deals with the treatment of raw materials, i.e. the production of various textiles, or the manufacture of yarns (e.g., through spinning)<sup>101</sup>. In general, the operational processes in the sector of textile production involve production activities, such as turning raw materials (e.g., fibres) into finished textile products (e.g., yarns and fabrics). Colouring and finishing are additional processes applied

<sup>95</sup> Commission Staff Working Document, policy options for the competitiveness of the European fashion Industries 'Where manufacturing meets creativity', Brussels, 26 September 2012, SWD (2012) 284 final.

<sup>96</sup> Forza, C., & A. Vinelli. 'Time compression in production and distribution within the textile-apparel chain', *Integrated Manufacturing Systems*, (2000-2), p. 138-146.

<sup>97</sup> Şen, A. 'The US fashion industry: a supply chain review', *International Journal of Production Economics* (2008-2), p. 571-593.

<sup>98</sup> Candace, Y., Ngai, E.W.T. & Moon, K.L. 'Supply chain flexibility in an uncertain environment: exploratory findings from five case studies', *Supply Chain Management: An International Journal* (2011-4), p. 271-283.

<sup>99</sup> Jimenez, G. C. *Fashion Law: A Guide for Designers, Fashion Executives, and Attorneys*. A&C Black, (2014), p. 3-19.

<sup>100</sup> Pfohl, H. C., & Shen, X. 'Apparel supply chain between Europe and China.' *A Guide to Apparel Sourcing and Distribution in China. Darmstadt: Chain of Management & Logistics. Technische Universität Darmstadt* (2008), p. 4-6.

<sup>101</sup> Moon, K. & Ngai, E.W. 'R&D framework for an intelligent fabric sample management system: A design science approach', *International Journal of Operations & Production Management* (2010-7), p. 721-743.

to textile products in order to create special visual and/or tactile effects<sup>102</sup>, for example, a special effect in the finish of denim is created through a special fabric construction and wet processing<sup>103</sup>. The fabric mill furnishes the following information, which is relevant to the textile label<sup>104</sup>:

- **Fibre composition and care information:** the content of the fabric and the finishing of the fabric are important for the final care instructions of the textile product.
- **Chemical substances:** in order to export the textile product the fabric mill is obligated by law (Biocidal Products and REACH Regulation<sup>105</sup>) to test the fabrics on chemicals for consumer safety and health as the composition or the finish of the fabric may cause allergic reactions.
- **Traceability:** the fabric mill should add origin and additional information, ensuring full traceability of the textile product.
- **Social criteria:** the mill has to comply with certain criteria for the product to carry the social label. These criteria are harmonised at an international level and are developed by the ILO (International Labour Organization) Conventions<sup>106</sup>, including the United Nations' Agenda 21 recommendations<sup>107</sup>. They cover issues, such as employment conditions, checks to prevent the flow of textile dyes into rivers, drinking water systems and the protection of natural ecosystems. Currently, such criteria are developed on a product-by-product basis to enable the specific characteristics of production systems and trading patterns to be taken into account<sup>108</sup>. In this thesis, the terms CSR label and Social labels are used interchangeably.

## Textile Manufacture

Textile manufacture encompasses the processes of transforming textile products, such as fabrics and yarns, into finished clothing and accessories according to specific design requirements<sup>109</sup>. The transformation of those fabrics into products includes knitted or woven clothing (the so-called 'clothing' industry); carpets and other textile floor coverings; home textiles (such as bed linen, table linen, toilet linen, kitchen linen and curtains); and technical or 'industrial' textiles<sup>110</sup>. Since this study focuses on labelling in textile & clothing products intended to be sold to the final

<sup>102</sup> Ngai, E. W. T., et al. 'Decision support and intelligent systems in the textile and apparel Supply Chain: An academic review of research Articles.' *Expert Systems with Applications* 41.1 (2014), p. 81-91.

<sup>103</sup> Interview Tommy Hilfiger, Appendix III.

<sup>104</sup> Interview retail companies, Appendix III.

<sup>105</sup> Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of Biocidal Products, *OJ L* 167, 27.06. 2012. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of Regulation (EC) No of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC. *OJ L* 396, 30.12.2006, p. 1-849.

<sup>106</sup> An essential aspect of the ILO's work is the development of international labour standards that assist governments in establishing national legislation to regulate wages and working hours, and provide employers' and workers' representatives with a solid legal framework for collective bargaining and other forms of negotiation. See <[http://www.ilo.org/wcmsp5/groups/public/@ed\\_dialogue/@sector/documents/publication/wcms\\_300463.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@sector/documents/publication/wcms_300463.pdf)>

<sup>107</sup> Agenda 21 is a comprehensive plan of action to be taken globally, nationally and locally by organisations of the United Nations and local governments and groups in every area in which human impacts on the environment. <https://sustainabledevelopment.un.org/milestones/unced/agenda21>

<sup>108</sup> Communications from the Commission to the Council on 'Fair Trade', Commission of the European Communities, Brussels, 29.11.1999. COM (1999) 619 final.

<sup>109</sup> Tate, S. L., *Inside fashion design*, Pearson/Prentice Hall 2004, p. 40-49.

<sup>110</sup> European Commission, Enterprise and Industry, <[https://ec.europa.eu/growth/sectors/fashion/textiles-clothing/eu\\_en](https://ec.europa.eu/growth/sectors/fashion/textiles-clothing/eu_en)> last viewed on 17 January 2017.

consumer for personal use, the labelling of carpets (or other textile floor covering), home textiles and technical textiles is excluded from this study.

The operational processes in clothing manufacturing can be subcategorised into 'product design and development', 'cutting and sewing', and 'pressing, finishing and packing'.<sup>111</sup> The manufacturer adds the following information to a textile label:

- **Chemical substances:** the finish or trimmings of the textile product may cause allergic reactions to consumers. The manufacturer needs to test the textile product and trimmings for the safety of consumers.
- **Care information:** the way in which the textile product is cut and sewn may have an impact on the maintenance of the product.
- **Made-in information:** the country of origin is the country where the manufacturer finishes the textile product or adds two or more production processes e.g. affixing buttons or affixing a zip closure.
- **Name of the manufacturer:** if the manufacturer is transparent the company will provide the official name of its business.
- **Traceability and CSR information:** see the above-provided information on the fabric mill; the same applies to the manufacturer.

## Distribution & Sales

The final stage of a textile and clothing supply chain is distribution & sales, which involves moving the finished clothing products from the point of production to the point of consumption. The textile companies convey the following information on a textile label:

- **Size information:** the textile company is responsible for the sizing and the size designation of the textile product.
- **Multi-lingual:** in how many languages a label should be printed depends on the countries of sale and the legislation in the countries involved. To give an example, the multinational fashion company Tommy Hilfiger created a multi-lingual care label in all 23 official languages of the EU in order to comply with the local legislation<sup>112</sup> of the 28 Member States without having to develop separate labels for all EU markets.
- **CSR:** CSR labelling is a method of differentiating products that meet social (ethical) and ecological standards with respect to products<sup>113</sup>. The textile company adds CSR labels to indicate a better level of environmental or social performance than non-labelled products<sup>114</sup>.

<sup>111</sup> Moon et. al. 'R&D framework for an intelligent fabric sample management system: A design science approach', *International Journal of Operations & Production Management* 2010-7, p. 721-743.

<sup>112</sup> Interview Tommy Hilfiger, see Appendix III.

<sup>113</sup> Commission of the European Communities, Promoting a European framework for Corporate Social Responsibility, COM (2001) 366 final, Brussels, 18.07.2001.

<sup>114</sup> Khatun, M. M. 'Corporate Social Responsibility in Bangladesh: The Law and Practices.' *Journal of Law, Policy and Globalization* 31 (2014), p. 10-17.

The information flow of the T&C industry is set out below. Note that the details concerning the information flow on textile labels originate from interviews with textile and clothing companies.

**Box 1.2** Information Flow in the Textile and Clothing Supply Chain

