

**Statement of
Mark C. Bean, Owner, Director, President, Match Division
Petitioner D.D. Bean & Sons Co.**

My name is Mark Bean and I am one of the family owners and directors of D.D. Bean & Sons Co. I also am the president of the Match Division of the company. In my remarks today I would like to address the issue of domestic like product, particularly as it relates to the distinction between commodity matchbooks and promotional matchbooks, and then speak to the matter of injury and threat of injury that our company has experienced since the dumped and subsidized commodity matchbooks from India first entered our market.

When we first began the process of drafting the petition well over a year ago, we struggled, as we were told most petitioners do, with the language of the scope of the investigation and accordingly, the definition of the domestic like industry. The challenge was to articulate an accurate definition of the product that was causing the injury in the context of how this industry actually works. We came to understand the inherent challenge in defining any scope to be neither too broad nor too narrow but we also realized we had a unique challenge because there would be a natural tendency for people unfamiliar with the industry to see all matches, whether paper matchbooks or wooden box matches, as one big category or, if not that, to at least see all matchbooks, whether commodity or promotional, as a single product.

Within our industry we are intimately familiar with these distinctions as they are the foundations of our individual business models but we have a different focus when we think about them and we use different terminology to describe them. So we worked on trying to make the concept understandable right up to and even beyond the filing of the petition and I think we eventually did a pretty good job getting it right.

Separating paper book matches from wooden box matches or other types of matches or ignition devices such as lighters was not difficult at all. The physical characteristics and uses, channels of distribution, interchangeability, customer and

producer perceptions, manufacturing facilities, production processes, and pricing are all substantially different, and we have been able to document these differences in our petition, in our questionnaire responses and in our briefs quite extensively.

As I said, however, we realized that explaining the distinctions between the two different categories of paper matchbooks was not going to be as easy. There have been some changes to the descriptive language used in the draft petition and we concede there are some gray areas on the fringes of the definitions but the fundamental distinctions are very clear. I believe that in our final questionnaire responses, in our pre-hearing brief and in our presentations today we make the case quite persuasively that commodity matchbooks and promotional matchbooks are very different products and do not comprise a single domestic like industry.

In the Commission's Staff Report, there is reference made to a study commissioned by the U.S. Consumer Product Safety Commission in the development of their safety standard for matchbooks. This study, conducted by the Battelle Columbus Laboratories in 1975, comprised the most extensive analysis of the industry that has ever been done. As the Staff Report points out, the study concluded that not all matchbooks are the same. Although they used slightly different terminology – "special reproduction" instead of "promotional" and "resale" rather than "commodity"- the study drew a very sharp line between the two by concluding that "matchbooks are divided into two basic categories: resale matchbooks and special reproduction matchbooks. Special reproduction matchbooks, characterized by their distinctive and unique cover designs, are purchased and distributed for promotional purposes by hotels, restaurants, financial institutions, and other business enterprises, and are given free to users."

The point I want to make is not only that this study reached the same conclusion that we are asking the Commission to reach, that promotional matchbooks and commodity matchbooks are not interchangeable; that there are differences in the production process and machinery used; that producers' and purchasers' perceptions of commodity and promotional matchbooks differ; and that there are significant differences in price between the two types of matchbooks; but also, that when this study was conducted it was at the peak of the U.S. matchbook industry in the 1970's. At that time, there were thirteen independent companies operating eighteen separate manufacturing

facilities. This was a much larger industry to study with differing business models and a vast array of diverse equipment being utilized, but even then the Battelle Columbus Laboratories concluded there were fundamental differences between “resale” matchbooks and “special reproduction” matchbooks that had to be taken into consideration in analyzing the impact of the proposed safety standard. And when you look at the developments that have occurred in this industry since that time, it is important to note that no company who tried to produce both types of matchbooks on the same equipment is in business today. Equipment that was designed to produce promotional matchbooks was not efficient enough to compete for commodity business and equipment designed to produce commodity matchbooks was not flexible enough to accommodate the demands of the promotional business. This ability to look back in hindsight to see how events have unfolded strongly supports the point that, despite the natural tendency to see the products as being similar, they are not.

The primary function of a commodity matchbook is for use as a portable ignition device, most often to light cigarettes. Commodity matchbooks are *for resale* because they always enter retail channels – meaning businesses that sell a general variety of *commodity* type merchandise, such as convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers - where they may be re-sold or given away, typically as part of the cigarette purchase transaction - like a straw with the purchase of a soda. In contrast, the primary value of a promotional matchbook is as a promotional product and their function as an ignition device is secondary. Promotional matchbooks are *not for resale* because they never enter into retail trade, and are not intended for resale. They have no real “channels of distribution” other than by direct sale to the companies who use them exclusively for promotional purposes - typically bars, restaurants, hotels and casinos.

While it may be true that after having received either a commodity or a promotional matchbook, an end user *could* use either as an ignition device, it certainly would *not* be true in *any other* sense. Even if the end user was a smoker, I think we can be fairly certain that no one would go into a bar, restaurant, hotel or casino purely with the intention of obtaining a matchbook or for that matter, any other type of ignition device. If a matchbook did happen to be obtained while at one of these establishments, it would be

purely incidental to the primary purpose of purchasing a drink, a meal, a hotel room or whatever and it would not be considered a part of that transaction. The end user would be just as likely, and in today's environment of smoking bans in public places, perhaps far more likely, to receive some other promotional item such as a pen, magnet, or notepad – even a notepad inside a matchbook.

However, businesses that sell a general variety of *commodity* type merchandise, such as convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers, would be *exactly* where one would go to purchase a pack of cigarettes and expect to receive a free matchbook as part of that transaction, again sort of like receiving a straw with the purchase of a soda. Or, if so inclined, the end user could expect to purchase a caddy of fifty matchbooks at one of these businesses but certainly not at a restaurant.

Moreover, even if the end user was a smoker, the promotional matchbook may never be used as an ignition device at all. It may be kept as a souvenir, added to a match cover collection or stored away as a reference for the phone number or address. We can assume, on the other hand, that the end user of a commodity match is most likely a smoker since the matchbook was obtained with the purchase of cigarettes and they would be very unlikely to keep a plain white matchbook or even one imprinted with a national store's logo for any purpose other than to light the cigarettes which they purchased. We are not aware of a demand for souvenirs related to a visit to these types of businesses, the covers would be too common and generic to have any value in a match cover collection and they would not contain the phone number or address of a particular business establishment so there would be no reason to store it away for future reference.

Moreover, at the first level of trade, namely the transaction between the producers and their direct customers, the gap between the two products widens even further. Since neither cigarettes nor matchbooks are available for sale at individual establishments such as restaurants, and matchbooks would never be considered an integral part of the meal purchasing transaction, the decision to purchase promotional matchbooks would have to be weighed against purchasing a myriad of other advertising specialty products including those mentioned above. If the purchaser were to be convinced matchbooks were the way to go, he or she would have to make a lot of decisions based on what image they wanted

the promotional matchbooks to convey. How many stems should the matchbook have? They could choose 20 stems per book but might opt for 30 so there would be a larger cover to provide more space for the printing. They could even choose a more novel size like a book with only 10 stems or perhaps one with forty. What color do they want the match stems to be? How about the colors of the match heads? Are colors available that match their logo? Do they want a special grade of cover stock such as foil? How about hot stamping or embossing on the cover? They could even order matchbooks die cut to be in the shape of almost anything they might imagine. All of these options are part of the spectrum of choices available from promotional matchbook producers.

The decision for the purchaser of commodity matchbooks would be infinitely less complex. Since stores such as convenience stores, supermarkets, and mass merchandisers are in the business of selling both cigarettes and matchbooks *and* matchbooks are frequently considered to be an integral part of the cigarette buying transaction, the purchaser of these matchbooks would be someone who buys other types of similar merchandise. Although these buyers might consider the use of a promotional matchbook and thus have the range of choices as mentioned above, that would not make economic sense because retail stores that sell matches and other general merchandise are primarily motivated by price. They want a product that can be sold at a competitive price and/or is priced reasonably enough that they can afford to give it away for free to their cigarette-purchasing customers. They would have one decision to make and that is whether to have the matchbooks printed with a private label or national brand at a relatively small upcharge – or to simply offer the lowest priced product, the plain white commodity matchbook.

If they chose private label, they would find out that they would have the same kind of choices that Henry Ford used to offer on the Model T's – you can have any color you want, as long as it's black. Seriously, they could have their corporate image printed on the matchbook covers exceedingly well but beyond that there would be only one option for the number of match stems per book – 20 - and no option to choose the color of the match stems – we offer natural brown. No choice for the matchhead – you get red. No choices in the type of cover stock used; no options for hot stamping or embossing; no individualizing segments of the order to include separate phone numbers or addresses;

and certainly no die cut customized matchbook shapes. For accepting this standardized commodity version, the buyer would be able to purchase their matchbooks at a small fraction of the price of the highly customized promotional matchbooks and that pricing difference makes perfect sense.

These types of retail stores are in the business of selling competitively priced matchbooks and they also frequently give matchbooks away as a part of the cigarette purchase transaction. Beyond basic minimum expectations regarding functionality and perhaps the quality of the printing, if any, their only real consideration is price. Individual establishments such as restaurants, hotels and casinos, on the other hand, are in the business of selling meals, rooms and entertainment, not matches or cigarettes. Their purchasing expectations are far more complex and demanding. They would consider many other promotional products as interchangeable with matchbooks and price would be a secondary consideration to achieving the desired marketing impact of any promotional program.

From the producers' perspective the two types of orders are also completely different, each requiring a distinct business model and different types of specialized equipment. First, the producer of the promotional matchbook would have a great deal of direct communication with the customer concerning the wide range of options available and would have developed a specialized method of processing customized orders to be able to develop artwork and pre-press production as efficiently as possible. They would need to have separate assembly machines for the different number of stems in the matchbooks in order to meet the potential demands of the client. They would use sheetfed printing presses so that smaller quantities can be run more economically. They would have the equipment necessary to offer hot stamping, embossing or perhaps die cutting the shape of the book itself. They would have a production system based on using a wide selection of component materials – different colors of match stems, different colored match heads, and different types of cover stock. They would produce orders in small quantities to ship in small quantities directly to the individual establishment.

The producer of the commodity matchbook would not require much communication with the customer beyond price negotiation. They would require only 20 stick assembly machines and they would want to maximize the efficiency and output

capacity of those machines above all else. They would use roll fed, high speed printing equipment that requires higher pre-press and set up costs but minimizes these expenses in direct proportion to the volume of the order. They would have a production system based on a continuous flow of standardized components to reduce material handling and permit purchasing advantages. They would produce orders in large quantities to ship by the pallet load or even truck load to centralized warehouses or regional distribution centers.

Therefore, promotional matchbooks are clearly not interchangeable with commodity matchbooks. They differ in their physical characteristics and uses. They do not share similar channels of distribution. The customer and producer perceptions at both the first and second levels of trade are fundamentally different. The manufacturing facilities and production processes are substantially different. And perhaps most notable of all, the prices for the two products are on two completely different ends of the spectrum. Commodity matchbooks are a different product than *all* other types of matches *including* promotional matchbooks and they clearly constitute a single domestic likeproduct.

Having established the domestic like product, the relevant issue before the Commission is the injury and the threat of injury to the domestic like industry. It is the domestic commodity matchbook industry that is vulnerable, as many commodity products are, to predatory attacks by a foreign producer such as Triveni who benefits from unfair subsidies and whose business plan is to sell at less than fair value to drive the domestic producers out of business. The injury to the domestic industry has been substantial and the threat of continued injury is real and present.

D.D. Bean first became acquainted with Triveni Safety Matches back in October of 2003 through a letter sent by Mr. Surendra Sharma to my attention in which Mr. Sharma introduced Triveni Safety Matches as a potential offshore supplier to us and made claims about their substantial production capacities. In this letter Mr. Sharma very respectfully offered to supply us with their product and stressed his desire be supportive to our existing business rather than enter the market independently and become our competitor. Despite the cooperative tone of the letter, however, it was quite clear to me that this offer was a thinly veiled threat. Either we would buy all or virtually all their stated capacity, which represented a huge percentage of the total commodity matchbook

market even at that time, at a very high price, or they would begin selling our customers at a very low price and we would lose all of our business.

We engaged with them very briefly to try to understand more about their intentions but the communication soon ended and the assault began. We started to get increasing reports from customers about plain white matches from India being initially offered at prices around one third less than our published price list, which rapidly dropped to about half of our price list. Sometimes we learned of these offers before the fact and we were given a chance to meet the pricing and sometimes we learned of it after the matches had been purchased. In either event, the process of price deterioration quickly accelerated. As is often the case with price sensitive commodity products, the first distributor in any given market who had purchased matches at a lower price, whether our domestic product or the imports, would begin to sell those matches at a lower price to their customers. This would set off a chain reaction with all the other distributors in that market who demanded a lower price to stay competitive with the first distributor.

We were truly surprised that Triveni was able to sell at the prices that were being offered at the time. Although we did not know what the overall raw material costs in India might be, we were aware that one of the principal raw material components, the paperboard used to manufacture the match stems, could only be purchased in the United States. Triveni had to be paying no less than our price for the same material and would have the additional expense of the transportation to India. We figured this would balance out any other advantages in raw materials they might have and that their costs of materials should be at least equivalent to ours. Of course, we knew India has a very low cost of labor but we believed our equipment was much more efficient than theirs and we thought our high output could offset at least part of their labor advantage.

We had been challenged before. In fact our company's success from its inception has been built upon the philosophy of doing whatever is necessary to meet and beat the competition. As a fledgling start-up during the Great Depression we took on the giants of the industry and simply would not be undersold. We innovated and developed more efficient equipment. We found ways to buy less expensive materials. We tightened our belts and made do. This philosophy enabled us to become the survivors in our industry. Only a few years earlier we had successfully fended off competition from Mexican

imports and we felt we could meet this challenge from India as well. Even though as I said, we were surprised at the level of pricing they were offering, we thought they would not be able to sustain those levels and if we just continued to prevent them from making any inroads here they would shift their focus to more profitable endeavors. We thought wrong.

The next thing we knew we were being undersold in the greater New York City area, the most important market for matches in the entire country. We were well aware of certain distributors in this area who were quite capable of bringing in container loads of product and re-distributing them throughout not only New York but the entire Northeast and Mid-Atlantic regions. In fact, one distributor in particular had national reach. We knew we had to stop Triveni from selling this distributor or it would be just a matter of time before they captured the entire market. This distributor was already a long term customer of ours and we approached him to determine what it would take to win back his business. We told him we were prepared to offer the 33% discount off of our price list that we had been offering in other markets but were told that he was paying a price that was just one half of our existing lowest price. We were stunned.

On the one hand, we knew if we walked away from this customer it would only be a matter of time before we would lose so much volume that we could no longer sustain a viable operation. On the other hand, we knew that this price was below our direct costs. In other words, I am not talking about a reduction in operating profits; I am talking about a price that would make no contribution to overhead or SG&A expenses at all. There was no question that this was a price that would create huge operating losses but ultimately, we had no choice. Our only hope was to meet the price and then do whatever we could to try to survive. If we didn't, we would be out of business anyway.

So we did what we could. We cut all expenses within our control. We reduced labor costs by dramatically reducing the total workforce. Many positions were eliminated increasing the workloads for remaining workers while at the same time freezing wages and in many instances drastically reducing salaries. We began operating in an unsustainable skeleton crew environment, giving up many skilled and contributing workers just to survive. We cut and eliminated employee benefits. We shifted many maintenance positions to actual production and deferred all nonessential machinery

repairs. We eliminated capital investments and cancelled the development of all new projects. We started pressuring existing vendors for lower prices and began searching the globe for new sources of cheap raw materials even at the expense of service and quality, a decision that has brought us to the brink of being out of stock of certain materials on more than one occasion.

We substantially reduced our purchases under our long term supply contract with the only other domestic producer of commodity matchbooks, Bradley Industries, because we could not absorb the additional loss of production volume and we could no longer afford the purchase price of their matches. This action ultimately brought about the dramatic decision on the part of Bradley, also a multi-generational family business and a highly efficient producer, to close their factory in Frankfort, IL which had been built by the company's founder 40 years ago, forcing the termination of many long-time employees.

Meanwhile, despite all these desperate measures, D.D. Bean was forced to start selling off the assets of the business just to fund our operating losses. In the seventy-one year history of the company we had never been pushed so close to the breaking point. We lived day to day wondering how long we could survive. But one question remained. How was Triveni doing it? How could *they* continue to sell at these prices? We began to do some research on the Indian match industry and it became clear that matches are one of India's most protected and heavily subsidized industries. In the past two decades Indian match producers have leveraged this governmental support into becoming the dominant factor in the global supply of matches. The production of matches in India is identified as a Major Industry Cluster in the region of Sivakasi where most of the leading manufacturers are located. The Indian match industry employs tens of thousands of workers and is controlled by an interconnected group of family businesses known as "The Match Kings of India".

These so called Match Kings have benefitted from the policies of the Indian government designed to encourage both high employment in the domestic sector as well as the expansion of exports to build markets overseas. India has enacted varying rates of manufacturing taxes depending on the means of production. Lower tax rates support the handmade product from the so-called "cottage" sectors which supply the domestic

market, while incentives are offered to more mechanized producers to become export-only suppliers to international markets. As export-only facilities these firms enjoy many advantages which are specifically designed to encourage selling at less than fair value pricing to capture international markets and then recovering offsetting benefits from the government.

Indian match exporters' principal strategy is to expand into all potential match markets around the world, selling at government-subsidized and less-than-fair-value prices as necessary, forcing local producers out of business and then enjoying the benefits of monopoly. The pattern in our case is completely consistent with this strategy. Although Triveni is located in Mumbai, as opposed to Sivakasi where the industry cluster is located, they are an export-only unit and clearly are tied into the subsidy programs available to them. Since there is no domestic market in India for commodity matchbooks, Triveni was apparently incited to get into this business in the first place by the programs designed to encourage the development of production exclusively dedicated to export. Access to favorable financing terms and relief from certain taxes and duties enabled them to purchase automated equipment from a Japanese machinery supplier and to buy raw materials, including the stem stock paper imported from the United States.

Right from the beginning they targeted a huge percentage of the domestic commodity matchbook market and were determined to get that market through any means at their disposal. When their attempt to basically threaten us into a totally unfair supply agreement with them failed they simply used their subsidies and willingness to sell at less than fair value pricing to force us out of business. If not for the favorable Preliminary Determination of Injury by the Commission which led to the Department of Commerce investigation and ultimately to the imposition of the preliminary tariffs, they would have almost certainly succeeded.

In conclusion, D.D. Bean & Sons Co. is a multi-generational family owned company that has mastered, with the help of our dedicated employees, the efficiencies of our business and we have earned our position as the leader in this industry. However, we sincerely need our government's help if our business and this industry are to continue to survive.

The issue at hand is the unfair and predatory trade on the part of this Indian matchbook producer, Triveni Safety Matches, which the competitive strengths of the domestic producers cannot overcome. That is why we were compelled to take this action and that is the reason we seek this relief. Despite our attempts to deter the imports in the marketplace and notwithstanding all the efforts we have made to reduce our costs, it has been to little or no avail. The battle is stacked against us and these dumped and subsidized imports cannot be beaten back with any of the weapons of fair trade. The only relief we have experienced in five years has been the imposition of the preliminary tariffs. If that protection were to be removed, we have every reason to believe that both the capacity and the will for Triveni to resume its assault on our market would remain intact. If that protection were to be removed, we do not know how much longer we would be able to hold out against them.

On behalf of our company and all the employees who comprise this industry, we respectfully request that the Commission reach a final determination that a U.S. industry, the American commodity matchbook industry, has been materially injured and is threatened with material injury by reason of dumped and subsidized imports of commodity matchbooks from India.

Thank you.