

“Made in the USA” Claims Discussed in FTC Workshop

October 2, 2019

Advertising and Consumer Protection

On September 26, 2019, staff from the Bureau of Consumer Protection in the Federal Trade Commission held a workshop on the agency’s experience with “Made in the USA” claims. The program consisted of a series of panel discussions between staff and representatives from the business and consumer advocacy communities. The workshop followed the Commission’s pledge from its December 1, 1997 Enforcement Policy Statement on U.S. Origin Claims to periodically solicit public comment “to assess whether the views expressed in this statement continue to be appropriate and reflect consumer perception and opinion, and to determine whether there are areas on which the Commission could provide further guidance.”

Some highlights from the program:

1. Consumers clearly react strongly to MUSA claims, but there is mixed evidence on what those claims mean to consumers and how they affect purchasing decisions. Staff is very interested in more evidence about how consumers perceive and act on MUSA claims; for example, do consumers think MUSA products are higher quality or have other desirable attributes, or are they motivated to support the U.S. economy and workers.
2. Such consumer perception evidence may affect the Commission’s enforcement policy and interpretation of specific claims. For example, the 1997 Enforcement Policy identified several areas where “bright line” rules were not possible, in particular the issue of how much foreign content (and at what point in the production and supply chain that foreign content appears) consumers would consider to be de minimis and not inconsistent with an unqualified “Made in the USA” claim. Staff invited further evidence on such issues.
3. Staff employs a mix of enforcement strategies in this area, including general business education, consultation with individual companies, warning letters and more formal enforcement actions. Staff indicated that federal court litigation typically involves only the most “egregious offenders” who refuse to cooperate with staff or engage in fraud. Some of the consumer advocate participants complained that the Commission’s enforcement, particularly with respect to monetary recoveries, does not provide sufficient deterrence against more widespread inaccurate MUSA claims.
4. Staff asked the panelists whether the Commission should develop a formal rule for MUSA claims, pointing in particular to Section 5a of the FTC Act that would permit a rulemaking for MUSA claims on product labels. There was no clear consensus among the panelists about the merits of this idea. Some panelists suggested such a rule could

provide clearer guidance on safe harbors, the interrelationship of various federal and state requirements, and the “all or virtually all” standard.

Further comments on the topics covered in the workshop can be submitted to the agency through **October 11, 2019**.

If you have questions about “Made in the USA” claims, please contact the following members of our Advertising and Consumer Protection practice:

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Additional resources:

- Workshop agenda and panelists:
https://www.ftc.gov/system/files/documents/public_events/1531858/agenda-musa-9-26-19.pdf
- FTC Guidance, [Selling ‘American-Made Products? What Businesses Need to Know about Making Made in USA Claims](#)
- FTC’s [Guidance on Complying with Made in USA Standard](#)
- FTC [Enforcement Policy Statement on U.S. Origin Claims](#)
- [Tools for Consumers](#) on Made in USA issues (a compendium of helpful materials, including FTC cases, press releases, blog posts, and guidance)

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