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ATTORNEY GENERAL

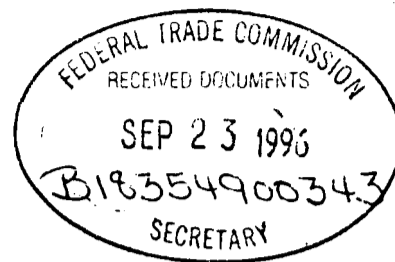


Office of The Attorney General
State of Connecticut

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Office of the Secretary
Federal Trade Commission
Room 159
Sixth Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

RE: **MADE IN U.S.A. WORKSHOP**
FTC FILE NO. P894219

Dear Secretary:

I am pleased to have the opportunity to speak on behalf of Connecticut and **18** other state attorneys general¹ in support of the FTC's current "all or virtually all" standard for unqualified *Made in the U.S.A.* claims.

Consumers who wish to purchase a product because it is purportedly *Made in the U.S.A.* are entitled to know if the product is made entirely, or only partially, in the U.S.A. Once a manufacturer uses a marketing claim that creates the impression that the consumer is purchasing an American product, that manufacturer **cannot** fairly conceal that the product consists of significant foreign component parts and labor. If it is important to a consumer that a product was made in the U. S. A., it will no doubt be important to that consumer that a significant part of that product was in fact made in China.

A review of the comments and copy tests submitted to the workshop demonstrates that consumer perception of *Made in the U.S.A.* has not changed since the FTC's **1991** copy test and that there is no reason to change the current standard. Not surprisingly, the tests have reaffirmed the power of the *Made in the U.S.A.* representation as a marketing device. Indeed, one need only look to the overwhelming reaction to the FTC's request for comment to discern the intense

¹ The other states that have joined Connecticut's written comments are: California, **Florida**, Hawaii, Iowa, Kansas, Maryland, Michigan, Missouri, Nevada, New Hampshire, New **Jersey**, New York, North Carolina, Ohio, **Pennsylvania**, Rhode Island, Tennessee, Washington and West Virginia.

interest in this issue both on behalf of consumers and manufacturers who wish to market to consumers using such claims.

The FTC's 1996 survey has also reconfirmed that consumers believe *Made in the U.S.A.* does not mean assembled in the U.S.A. of foreign component parts or made partly in the U.S.A. and partly in another country. As consumers overwhelmingly responded, *Made in the U.S.A.* means made in the U. S.A. The 1996 Survey revealed that only 26 percent of consumers felt that an unqualified *in the U.S.A* claim with respect to a product that consisted of 70 percent domestic parts and labor was wholly **truthful**. Twenty percent of consumers felt the representation was wholly **false** and the remaining consumers qualified their response with the term somewhat, indicating **confusion** as to the meaning of the phrase. The evidence of consumer deception was even stronger with respect to products that had less than 70 percent domestic content. Such data compels the conclusion that allowing manufacturers to market products as *Made in the U.S.A.* without disclosing that the product has significant foreign parts or labor would have the effect of deceiving large numbers of consumers acting reasonably. Such a result is contrary to the deception doctrine.


We do not believe that the FTC's current standard is unduly burdensome on businesses who wish to benefit from use of domestic parts and labor. The FTC's *Made in the U.S.A.* standard has never required manufacturers that use some imported parts and **labor to refrain** from making *Made in the U.S.A.* claims. Instead, the FTC has simply insisted that manufacturers who choose to market their products based on such claims disclose what the claim means. Federal disclosure requirements in the context of potentially deceptive nutritional and environmental marketing claims have benefited both consumers and companies that wish to compete in a fair environment. There is no reason for the FTC to be less demanding with respect to *Made in the U.S.A* marketing claims.

We urge the FTC to adopt a standard that is consistent with its **deception** standard, rather than one that blindly mirrors the very different "substantial transformation" standard applied by customs. These are, of course, two different standards that were constructed for very different purposes. Where every imported product must be labeled with a country of origin for tariff purposes, other products marketed in the U.S. do not. "More importantly, the consumer perception surveys consistently and unambiguously show that unqualified *Made in the U.S.A.* claims on products that were simply "substantially transformed" in the U. S.A. would have the effect of deceiving unreasonably large numbers of consumers. Such a result would be inconsistent with the FTC's deception doctrine, and contrary to sound public policy.

As a clarification of the standard, we would suggest that the FTC declare that products that receive less than 10 percent of their value from foreign sources will generally meet the "all or virtually all" standard. Because of the inherent difficulty in applying a strict numerical **formulation**, however, we suggest that the 10 percent standard serve as guidance, and not a strict enforcement standard.

In conclusion, we urge the FTC to continue its aggressive protection of consumers and to maintain its current standard. We look forward to expanding on these thoughts in the coming days.

Very truly yours,



Richard Blumenthal
Attorney General