



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of the Secretary

April 12, 2018

Rick Helfenbein
American Apparel & Footwear Association

RE: *In the Matter of Bollman Hat Company and SaveAnAmericanJob, LLC,*
RE: p Helfenbein

The Policy Statement provides guidance on how the Commission applies Section 5 to the use of “Made in USA” and other U.S.-origin claims in advertising and labeling. In particular, the Policy Statement provides that when a marketer makes an unqualified “Made in USA” claim, the marketer should – at the time of the representation – possess and rely upon a reasonable basis establishing that the product is in fact “all or virtually all” made in the United States. A representation may be either express (*e.g.*, “Made in USA” or “our products are American-made”) or implied.

The Policy Statement further explains that, for a product to be considered “all or virtually all” made in the United States, the final assembly or processing of the item must take place in the U.S. Beyond this minimum threshold, the Commission may consider other factors, such as “the portion of the product’s total manufacturing costs attributable to U.S. parts and processing; and how far removed from the finished product any foreign content is.”⁴ Because, as you note, the Policy Statement is tied to consumer perception, it does not specify a particular percentage of costs that must be attributable to U.S. parts or processing to substantiate an unqualified claim. Specifically, as the Commission has noted, even when only a small portion of total manufacturing costs is attributable to foreign processing or foreign parts, if that processing or those parts are significant to the overall product, “foreign content is more than negligible, and, as a result, unqualified claims are inappropriate.”⁵

The Commission based the Policy Statement on thousands of comments it received in 1997, as well as a survey conducted in 1995. The 1995 survey found that roughly 30% of consumers would find an unqualified “Made in USA” claim for a product with 70% domestic origin misleading. For a product with 50% domestic origin, 46% of consumers disagreed with an unqualified claim. Recent nonpublic

the dual purposes of conveying non-deceptive information to consumers and highlighting work done in the U.S.

In your comment, you do not propose any revisions to the draft complaint or the consent agreement. Therefore, after considering your comment, the Commission has determined that the relief set forth in the consent agreement is appropriate and sufficient to remedy the violations alleged in the complaint. At this time, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. The final Decision and Order and other relevant materials are available on the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary