



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

Bureau of Consumer Protection
Division of Enforcement

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VIA EMAIL

Jeffery P. Langer, Ph.D., J.D.
General Counsel
Zoeller Pump Company, LLC
3649 Cane Run Rd.
Louisville, KY 40211

Dear Dr. Langer

We received your submission on behalf of Zoeller Pump Company, LLC¹ ("ZPC" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which all of ZPC's products are made in the United States. Specifically, although some ZPC products are "all or virtually all" made in the United States, many more incorporate more than de minimis imported content, and some are wholly imported.

Unqualified U.S. origin claims in marketing materials – including claims that products are "Made," "Built," or "Manufactured" in the USA – likely suggest to consumers that all products advertised in those materials are "all or virtually all" made in the United States.² Moreover, as the Commission has explained, marketers should not represent, either expressly or by implication, that a whole product line is of U.S. origin (e.g., our products are Made in USA).

¹ Zoeller Pump Company, LLC, also d/b/a Zoeller Engineered Products and Clarus Environmental, is a division of Zoeller Company. Other U.S. divisions of Zoeller Company include Flint & Walling, Inc., also d/b/a Star Water Systems, Wolf Pump, Inc., and Lincoln Industries, Inc.

² The Commission may analyze a number of different factors to determine whether a product is "all or virtually all" made in the United States, including the proportion of the product's total manufacturing costs attributable to U.S. parts and processing, how far removed any foreign content is from the finished product, and the importance of the foreign content or processing to the overall function of the product. See Federal Trade Commission, Issuance of Enforcement Policy Statement on "Made in USA" and Other U.S. Origin Claims, 62 Fed. Reg. 63756, 63768 (Dec. 2, 1997) ("Policy Statement").


when only some products in the product line are, in fact, made in the United States.


To avoid deceiving consumers, ZPC should take steps to qualify its representations where needed. This plan included: (1) introducing qualified claims to ZPC's marketing materials, where appropriate; (2) concealing or omitting claims, including by sticker over claims on product packaging, until the packaging is removed; (3) training and related-company staffs; and (4) implementing enhanced processes to ensure the accuracy of dealer/distributor claims, including implementing a quarterly audit process.

As discussed, it is appropriate for ZPC to promote the fact that it employs workers and it makes and assembles products in the United States. ZPC's marketing materials should not convey the impression that its products are made in the United States. ZPC's marketing materials should not contain any implied or explicit statements that its products are made in the United States. ZPC should take steps to ensure that its marketing materials are conveying non-deceptive information to consumers in the United States.

Based on ZPC's actions and other factors, the staff has decided not to pursue this investigation as a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. The Commission reserves the right to take such further action as it may deem appropriate.

Sincerely,


Stan
Staff Attorney


Federal Trade Investigator

³ *Id.* at 1111.