

Analysis of Proposed Consent Order to Aid Public Comment

In the Matter of Nectar Brand LLC, also d/b/a Nectar Sleep; Dreamcloud, LLC; and Dreamcloud Brand LLC File No. 1823038

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from Nectar Brand LLC, also d/b/a Nectar Sleep; Dreamcloud, LLC; and Dreamcloud Brand LLC (“respondent”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter involves respondent’s marketing, sale, and distribution of mattresses with claims that the products are assembled in the United States.

According to the FTC’s complaint, respondent represented that its products are “assembled in the USA.” In fact, the respondent’s mattresses are wholly imported. Therefore, this representation was false or misleading. Based on the foregoing, the complaint alleges that respondent engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future. Consistent with the FTC’s Enforcement Policy Statement on U.S. Origin Claims, Part I prohibits respondent from making U.S.-origin claims for their products unless either: (1) the final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; (2) a clear and conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients or components, and/or processing; or (3) for a claim that a product is assembled in the United States, the product is last substantially transformed in the United States, the product’s principal assembly takes place in the United States, and United States assembly operations are substantial.

Part II prohibits respondent from making any country-of-origin claim about a product or service unless the claim is true, not misleading, and respondent has a reasonable basis substantiating the representation.

Parts III through V are reporting and compliance provisions. Part III requires the filing of compliance reports within one year after the order becomes final and within 14 days of any change that would affect compliance with the order. Part IV requires respondent to maintain certain records, including records necessary to demonstrate compliance with the order. Part V requires respondent to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview respondent’s personnel.

Finally, Part VI is a “sunset” provision, terminating the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.