



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

Bureau of Consumer Protection  
Division of Enforcement

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October 1, 2020

**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 submissions on behalf of Zoeller Pump Company, LLC<sup>1</sup> (“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.<sup>2</sup> 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’)

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<sup>1</sup> 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.

<sup>2</sup> 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.”<sup>3</sup>

To avoid deceiving consumers, ZPC implemented a remedial action plan to update and qualify its representations where needed. This plan included: (1) introducing qualified claims to ZPC marketing materials, where appropriate; (2) correcting outdated or incorrect claims, including by stickering over claims on product packaging until new packaging arrives; (3) reviewing and updating all social media accounts; (4) introduced enhanced training for ZPC and related-company staffs; and (5) implementing enhanced processes to ensure the accuracy of dealer/distributor claims, including by providing updated marketing materials and 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 certain products in the United States. However, marketing materials should not convey that all the products sold through Company websites are “all or virtually all” made in the United States (unless that becomes the case), or overstate the U.S. content of products that contain significant imported inputs. As you know, FTC staff members are available to work with companies to craft qualified claims that serve the dual purposes of conveying non-deceptive information to consumers and highlighting work done in the United States.

Based on ZPC’s actions and other factors, the staff has decided not to pursue this investigation any further. This action should not be construed as a determination that there was no 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 the public interest may require. If you have any questions, please feel free to call.

Sincerely,



Julia Solomon Ensor  
Staff Attorney



Lashanda Freeman  
Federal Trade Investigator

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<sup>3</sup> *Id.* at n.111.