

“Made in USA” Labeling Could be Costly for Businesses

Following a public comment period, the Federal Trade Commission (FTC) recently approved a consent order resolving a complaint alleging deceptive “Made in USA” labeling and advertising practices against Chemence, Inc., a glue manufacturer and its president, James Cooke. The FTC had alleged that the packaging and promotional materials describing products as “Made in USA” were deceptive, as foreign materials accounted for more than 80 percent of the material costs and 50 percent of the manufacturing costs of Chemence products. The FTC also alleged that Chemence’s deceptive advertising violated a 2016 settlement involving similar claims.

Under the settlement, Chemence was required to pay a \$1.2 million fine and is prohibited from describing its products as “Made in USA” unless:

1. For an unqualified claim (“Made in the USA”) — 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; or
2. For a qualified claim (e.g., “Made in the USA from foreign components”) — 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.

The order requires Chemence not to make any misleading claims and to have a reasonable basis for its claims. Chemence was also required to give notice of the settlement to customers and to keep detailed records evidencing its compliance with the terms of the settlement.

The Chemence matter involves the largest fine ever imposed for a “Made in USA” FTC case and also demonstrates that the FTC will seek to impose individual liability on insiders under some circumstances. This case is a powerful reminder of the importance of technical compliance with “Made in USA” labeling rules. A copy of the consent order is [available here](#).



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