

United States Senate

WASHINGTON, DC 20510

February 19, 2019

The Honorable Joseph J. Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

The Honorable Rebecca Kelly Slaughter
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

The Honorable Noah Joshua Phillips
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

The Honorable Christine S. Wilson
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

The Honorable Rohit Chopra
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: “Made in the USA” labeling enforcement

Dear Commissioners:

We write to follow up on our letter dated October 12, 2018 in the matters of Nectar Sleep, Sandpaper/Piper Gear USA, and Patriot Puck to request additional information regarding the Commission’s enforcement actions against companies that commit “Made in the USA” labeling violations. The Commission is responsible for defending the integrity of “Made in the USA” labels, and we are concerned that companies too often use the label fraudulently but without penalty. Stronger enforcement of our laws and increased transparency into the Commission’s actions are necessary to crack down on these violators, and we call on the Commission to do more to protect American manufacturers and consumers.

In our October letter, we expressed our concerns that the Commission pursued “no-fault, no-money” settlements in the case of Nectar Sleep, Sandpaper/Piper Gear USA, and Patriot Puck. Under a “no-fault, no money” settlement, the Commission issues no findings of liability, and the perpetrators make no admission of guilt. We are hopeful your forthcoming response will provide specific insights about the Commission’s decision to seek no consequences in these brazen instances of fraudulently labeling goods as “Made in the USA.” These cases raise the larger question of whether the Commission’s “Made in the USA” enforcement actions adequately respond to labeling infractions and provide sufficient deterrence for companies who may seek to mislabel in the future.

In addition, we are troubled by the Commission's apparent frequent use of "closing letters" in response to "Made in the USA" label violations. There are 134 so-called "closing letters" for "Made in the USA" cases on the Commission's website. In 2018, the Commission sent these letters to 20 companies who had agreed to take remedial action to address the violations but suffered no further consequences for their misuse of the "Made in the USA" label. Taken alone, one of these closing letters might seem appropriate for an innocent mistake, but taken collectively they – like the "no-fault, no-money" decisions – imply a bigger pattern of weak "Made in the USA" enforcement.

To help us better understand the Commission's "Made in the USA" enforcement record, we ask you to provide an analysis of the Commission's actions against labeling violators over the last five years. Specifically, we request a breakdown of the number of "Made in the USA" cases that were filed with the Commission in that timeframe and in how many of these cases "no-fault, no-money" settlements were reached with the companies. We also ask for the number of cases in which the Commission sent a "closing letter" and an analysis of any other enforcement actions taken against "Made in the USA" labeling cases over the timeframe. Please send us your response to this information request by March 8.

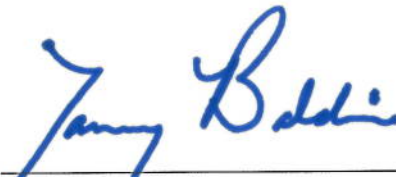
Furthermore, we call on the Commission to improve transparency and public participation in "Made in the USA" labeling cases. American consumers and manufacturers deserve more visibility into the Commission's efforts to protect "Made in the USA." Specifically, we urge you to provide advanced notice to the public of the Commission's "Made in the USA" hearings and votes and to make the public aware of the outcomes of those hearings and votes. In addition, we ask you to solicit public comments about the Commission's approaches in "Made in the USA" labeling cases. Improved transparency and public participation will ensure American stakeholders are informed about the threats to the "Made in the USA" label and the actions taken by the Commission to defend it.

We are strong proponents of American manufacturing. American consumers and producers are harmed when the "Made in the USA" label does not mean a product was made in the USA. Absent adequate action and deterrence, these violations will continue, often with impunity. The Commission is the sole defender of the "Made in the USA" label on manufactured goods, and we ask for the above-requested information to help us determine whether you are meeting your obligations fully.

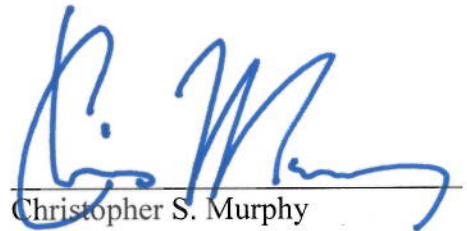
Sincerely,



Sherrod Brown
United States Senator



Tammy Baldwin
United States Senator



Christopher S. Murphy
United States Senator