

September 14, 2020

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue,
NW Washington, DC 20580

Re: MUSA Rulemaking, Matter No. P074204; released for public comment July 16, 2020

Dear Chairman Simons and Members of the Commission:

On behalf of South Dakota's largest agriculture advocacy organization, the South Dakota Farmers Union (SDFU), I am honored to submit comments to the Federal Trade Commission (FTC) regarding 'Made in USA' (MUSA) and other unqualified U.S.-origin claims on product labels. Our membership of nearly 19,000 family farmers and ranchers stand in support of the proposed rulemaking that would prohibit marketers from making unqualified MUSA claims by incorporating established FTC guidance on U.S. origin claims on labels and allowing the FTC to seek civil penalties for violations.

It is with great pride and resilience that our members run their family-scale livestock operations. These operations are often times handed down from one generation to the next. Several existing MUSA claims being made in the U.S. marketplace with respect to livestock products are harming these farms and ranches and decreasing the likelihood that these operations will survive to be handed down to the next generation. American consumers overwhelmingly express the desire to know where their food comes from and to ensure the long-time sustainability of family-scale livestock operations we must make this desire reality.

As they stand now, MUSA claims in respect to livestock products are misleading. American consumers commonly indicate understanding MUSA claims to mean that all parts of a product originated within the U.S. Thus, SDFU supports FTC's standard that, with respect to livestock, a product must be derived from an animal born, raised, and harvested in the U.S. in order to be labeled "Made in USA" or "Product of USA."

In respect to non-livestock products, SDFU supports the standard called for in the FTC proposed rule to "prohibit marketers from making unqualified MUSA claims on labels unless: (1) Final assembly or processing of the product occurs in the United States; (2) All significant processing that goes into the product occurs in the United States; and

(3) All or virtually all ingredients or components of the product are made and sourced in the United States.”¹ FTC’s MUSA standard applies to “all products advertised or sold in the U.S.,” including agricultural and food products.² Finalizing the rule can help prevent and deter the mislabeling of products and set an example for agencies with primary oversight and enforcement of agriculture and food labeling.

Mislabeling of agricultural products is harming farmers and ranchers, and misleading consumers

SDFU’s membership body has demonstrated unwavering support for U.S. origin labeling laws and the reinstatement of mandatory Country of Origin Labeling (COOL) for meat. SDFU’s grassroots, member-curated policy urges “that USDA and Congress reinstate mandatory COOL.”³

The current misuse of voluntary product label claims, including “Product of the USA” and “made in the USA,” are all too common in the meat industry. These claims purposefully mislead the consumer and endanger the livelihoods of family-scale livestock producers. Currently, the U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS) Food Standards and Labeling Policy Book presents standards that do not require a meat product to be born, raised, and slaughtered in the U.S. to be labeled “Product of USA.”⁴ The standard permits imported animals that are processed in the U.S. at USDA-inspected slaughter facilities to be labeled as “Product of USA.” Due to the significant number of cattle imported from Canada and Mexico, many beef products of foreign origin are being represented with some variation of a MUSA claim.

In response to a petition submitted by U.S. Cattlemen’s Association in October 2019, FSIS stated that:

“permitting imported meat products that are further processed in a federally-inspected establishment to be labeled ‘Product of USA’ may be misleading to consumers and may not meet consumer expectations of what ‘Product of USA’ signifies.

¹16 CFR Part 323: Made in USA Labeling Rule; Request for Public Comment. <https://www.ftc.gov/policy/federal-register-notices/16-cfr-part-323-made-usa-labeling-rule-request-public-comment>

²FTC. *Complying with the Made in USA Standard*. December 1998.

³ South Dakota Farmers Union, Policy of the South Dakota Farmers Union, December 2019.

⁴ USDA-FSIS, Office of Policy, Program and Employee Development. *Food Standards and Labeling Policy Book*. August 2005. <https://www.fsis.usda.gov/wps/wcm/connect/7c48be3e-e516-4ccf-a2d5-b95a128f04ae/Labeling-Policy-Book.pdf?MOD=AJPERES>

FSIS also agrees that to address these issues, the Agency needs to establish clear parameters that prescribe which meat product may voluntarily be labeled with U.S. origin statements, such as ‘Product of USA’ or ‘Made in USA.’⁵

The current standard used by USDA-FSIS to regulate the labeling of meat products is clearly and unfairly insufficient.

Consumers want to know where their food comes from

Research has consistently demonstrated that consumers desire to know the origin of their food. A 2017 poll demonstrates that 89 percent of a representative sample of American adults favored requiring food sellers to indicate on the package label the country of origin of fresh meat they sell.⁶ Furthermore, 88 percent of adults favored requiring food sellers to indicate on the package label the country or countries in which animals were born, raised, and processed.⁷ More recently, a survey of a representative sample of American adults showed that 87 percent of American think that beef and pork should have a label listing its country of origin, with fairly consistent support across age groups, party identification, and areas of residence (rural, suburban, and urban).⁸

Additionally, a 2013 survey found that 57 percent of Americans agree that “Made in America” means that all parts of a product, including any natural resources contained in it, originated in the United States.⁹ Thus, FSIS’s current “Product of USA” standard fails to provide consumers sufficient information about the food they purchase, and may mislead more than half of consumers about the origin of those products.

Current labeling standards and enforcement put U.S. family-scale livestock producers at an unfair disadvantage in the marketplace. The standards allow multinational corporations and foreign interests to take advantage of market opportunities that should be reserved solely for

⁵ USDA-FSIS Final Response to Petition. March 26, 2020. <https://www.fsis.usda.gov/wps/wcm/connect/dba58453-e931-4c1d-9b4e-fb36417049ce/19-05-fsis-final-response-032620.pdf?MOD=AJPERES>

⁶ Consumer Federation of America. “Large Majority of American Strongly Support Requiring Origin Information on Fresh Meat.” July 24, 2017 https://consumerfed.org/press_release/large-majority-of-americans-strongly-support-requiring-origin-information-on-fresh-meat/

⁷ Ibid.

⁸ Lake Research Partners. “Results from a National Online Survey Around Rural and Agricultural Issues.” Designed by Lake Research Partners, administered by CARAVAN in a national online omnibus survey. Conducted July 20-31, 2020 using a demographically representative sample of Americans 18 years of age or older.

⁹ FTC. *Made in the USA, An FTC Workshop: Staff Report of the Bureau of Consumer Protection*. June 19, 2020. https://www.ftc.gov/system/files/documents/reports/made-usa-ftc-workshop/p074204_-_musa_workshop_report_-_final.pdf

U.S family farmers and ranchers. In the case of beef, farmers face an oligopolistic marketplace; in 2017, just four companies controlled 83% of packing and processing for beef.¹⁰ These same four companies, Tyson Foods, JBS SA, Cargill, and National Beef/Marfrig, all rely heavily on imported meat and meat products.

FTC should finalize the proposed rule to protect U.S. family farmers, ranches, and consumers

Family farmers and ranchers in SDFU's membership body rely on fair, transparent, and competitive markets to keep their operations afloat. Mislabeling of agricultural products reduces the financial return to farmers when consumers prefer products of U.S. origin. Mislabeling also reduces consumer confidence and trust in the products they purchase. The FTC proposed rule on MUSA and other unqualified U.S.-origin claims on product labels is a welcome development. We urge FTC to finalize this rule and vigorously enforce it.

Lastly, we urge USDA-FSIS to swiftly amend its labeling standards with respect to beef to reflect the "all or virtually all" standard as articulated in this proposed rule. We would also encourage collaboration between FTC and USDA regarding an update to the FSIS standards.

The future of South Dakota farm and ranch families relies solely on access to a fair marketplace that empowers consumers to make educated buying decisions. Thank you again for this important opportunity to submit comments. If you have any questions or would like to further discuss SDFU's position, please contact Doug Sombke, SDFU President, via e-mail at dsombke@sdfu.org or by phone at (605)350-4211. Thank you for your consideration.

Respectfully,



Doug Sombke
President, South Dakota Farmers Union

¹⁰USDA-AMS, Packers and Stockyards Division. *Packers and Stockyards Report, 2018*. <https://www.ams.usda.gov/sites/default/files/media/PSDAnnualReport2018.pdf>