public dockets identified above, by submitting written comments for EPA's consideration. EPA requests public comments on all aspects of the draft CAG. In particular, EPA requests the public's views on the following questions: (1) Does the draft CAG clearly describe EPA's expectations of a complete application? (2) Are there areas where you believe the CAG may exceed the requirements of the proposed 40 CFR part 194? Please provide examples. (3) How can the guidance be improved? Please provide examples.

The draft CAG is based upon the proposed compliance criteria. The CAG, as revised, will not establish new compliance criteria or standards and will not establish binding rights or duties but will be a non-binding guide for EPA's completeness assessment. This notice is not inviting comments on the proposed compliance criteria. The request for public comments is limited to the contents of the draft CAG and its consistency with the proposed compliance criteria.

The draft CAG will be revised and made available to the public after the final compliance criteria are issued. Because it is a non-binding, interpretive document, the CAG is not subject to the notice-and-comment rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553. Thus, EPA does not plan to provide written responses to the public comments submitted. Nevertheless, EPA will fully consider public comments in developing the revised CAG and will make any revisions necessary to reflect modifications to the final compliance criteria.

As noted, the CAG will guide EPA's assessment of whether DOE's compliance certification application is complete. Subsequently, EPA will determine, by rule, whether the WIPP facility is in compliance with the EPA's radioactive waste disposal standards. See section 8(d) of the WIPP Land Withdrawal Act. EPA's certification decision will be made only after EPA reviews DOE's compliance certification application based on the final compliance criteria, and conducts a WIPP certification proceeding in accordance with the Administrative Procedure Act rulemaking requirements at 5 U.S.C. 553. Thus, before the Administrator of EPA makes any final WIPP certification decision, EPA will issue a proposed decision in the Federal Register and provide an opportunity for public comment on the proposal. The subsequent final certification decision by the Administrator will consider the comments received in response to the proposal and be accompanied with a reply to significant public comments.

Mary D. Nichols,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 95–25774 Filed 10–17–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Notice of Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Thursday, November 2, 1995. The meeting, held pursuant to 15 USC 1691(b) and 12 CFR 267.5, will take place in Terrace Room E of the Martin Building. The meeting, which will be open to public observation, is expected to begin at 9:00 a.m. and to continue until 4:00 p.m., with a lunch break from 1:00 p.m. until 2:00 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

Community Reinvestment Act Reform. Discussion led by the Bank Regulation Committee on issues related to agency examinations of institutions' compliance with the new regulations under the Community Reinvestment Act.

Consumer Leasing Disclosures. Discussion led by the Consumer Credit Committee on

(1) proposed amendments to the Board's Regulation M (Consumer Leasing) and

(2) suggestions for actions that could further assist consumers in understanding lease transactions and effectively using lease disclosures as shopping tools.

Truth in Lending Act Amendments of 1995. Discussion led by the Consumer Credit Committee

(1) on recent amendments to the Truth in Lending Act, focusing on whether it is feasible to disclose in the TILA finance charge all charges imposed by creditors as an incident to an extension of credit, including charges currently excluded; and

(2) on whether creditors engage in abusive refinancing practices to avoid the consumer's right of rescission.

Regulatory Coverage for Stored-Value Cards. Discussion led by the Depository and Delivery Systems Committee on whether and how the Board should amend Regulation E (Electronic Fund Transfers) to govern technologically advanced electronic products, such as smart cards, prepaid cards, and electronic purses.

Impact of Technology on Consumer Banking. Presentation by the Depository and Delivery Systems Committee on electronic technologies being introduced in the banking area and possible changes in the ways in which consumers will conduct their banking business as a result.

Governor's Report. Report by Federal Reserve Board Member Lawrence B. Lindsey on economic conditions, recent Board initiatives, and issues of concern, with an opportunity for questions from Council members.

Members Forum. Presentation of individual Council members' views on the economic conditions present within their industries or local economies.

Committee Reports. Reports from Council committees on their work.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ann Marie Bray, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received no later than close of business Wednesday, October 25, 1995, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Ann Marie Bray, 202-452-6470. Telecommunications Device for the Deaf (TDD) users may contact Dorothea Thompson, 202-452-3544.

Board of Governors of the Federal Reserve System, October 12, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–25777 Filed 10–17–95; 8:45am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Request for Public Comment in Preparation for Public Workshop Regarding ''Made in USA'' Claims in Product Advertising and Labeling

AGENCY: Federal Trade Commission.

ACTION: Request for public comment in preparation for proposed Federal Trade Commission workshop on the use of ''Made in USA'' claims in product advertising and labeling.

SUMMARY: On July 11, 1995, the Federal Trade Commission announced that it will conduct a comprehensive review of consumers' perceptions of ''Made in USA'' claims in product advertising and labeling. As part of this review, the Commission will invite representatives of consumers, industry, government agencies, and other groups to attend a public workshop to exchange views on the issues. Among other things, the Commission will be determining (i) whether it should alter its legal standard regarding the use of unqualified ''Made in USA'' claims, and (ii) how domestic content should be measured under any future standard.

The Commission plans to hold the workshop in Washington, D.C., in February or March 1996, and has undertaken a consumer perception study for use in that workshop. Today's notice seeks written comment on the issues that will be addressed at the workshop.

The Commission will consider comments of all persons, including non-participants in the workshop. However, any person who expects to apply for participation in the workshop must file a written comment at this time. The Commission will issue a second Federal Register notice setting the date and specific location of the workshop and requesting applications for participation, once a projected finish date for the study is established.

DATES: Written comments must be submitted on or before January 16, 1996.

ADDRESSES: Six paper copies of each written comment should be submitted to the Office of the Secretary, Federal Trade Commission, Room 159, Sixth and Pennsylvania Avenue, N.W., Washington, D.C. 20580. To encourage prompt and efficient review and dissemination of the comments to the public, all comments also should be submitted, if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a label on the disk stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS are preferred. Files from other operating systems should be submitted in ASCII text format to be accepted.) Individuals filing comments need not submit multiple copies or comments in electronic form. Submissions should be captioned: ''Made in USA Policy Comment,'' FTC File No. P894219.

FOR FURTHER INFORMATION CONTACT: Robert Easton, Special Assistant, Division of Enforcement, Federal Trade Commission, Washington, DC 20580, telephone 202–326–2823.

SUPPLEMENTARY INFORMATION:

Introduction

The Commission is directed to prevent ''unfair or deceptive acts and practices'' under section 5 of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 45. A deceptive act or practice is one that is likely to mislead consumers acting reasonably under the circumstances.[1] It is under this general authority to prevent deceptive acts or practices that the Commission addresses ''Made in USA''[2] claims in product advertising and labeling.

FTC deception law does not require manufacturers to disclose the degree of domestic content in their products.[3] If manufacturers choose to advertise the domestic origin or content of their products, however, the claims must be truthful and substantiated. Thus, FTC law prohibits sellers from making affirmative claims that exaggerate the domestic content of their products. As a result, manufacturers whose products are not entirely domestic and who claim their products are Made in USA may be required to qualify the Made in USA claims. An example of a qualified claim would be ''Made in USA of foreign and domestic components.''

Historically, the Commission has treated unqualified Made in USA claims as implying that products are ''wholly of domestic origin.''[4] In recent years, the Commission also has taken action against firms that allegedly deceived consumers by concealing the fact that their goods were manufactured in foreign countries.[5] Over the last few decades, however, the Commission has not, until recently, brought enforcement actions against those making Made in USA claims for products assembled in the United States. Nonetheless, older Commission cases and advisory opinions clearly required these products also be wholly domestic in origin.[6]

On September 20, 1994, the Commission published for comment a consent agreement subject to final approval in *Hyde Athletic Industries, Inc.* (F.T.C. File No. 922–3236).[7] On the same day, the Commission issued a complaint in *New Balance Athletic Shoe, Inc.* (F.T.C. Docket No. 9268).[8] In both matters, the proposed complaint alleged that the sellers represented that their goods are ''made in the United States, *i.e.*, that all, or virtually all, of the component parts of the [goods] are made in the United States, and that all, or virtually all, of the labor in assembling the [goods] is performed in the United States.'' The representations were alleged to be false because (1) a substantial portion of the firms' product lines was assembled overseas of foreign parts, and (2) a substantial portion of the products assembled in the U.S. was composed of foreign components. In its announcement of the *Hyde* consent agreement, the Commission noted that its decision was based in part on ''extrinsic evidence obtained by the Commission regarding consumer perceptions of 'Made in USA' claims,'' and invited commenters to submit their own consumer perception evidence.[9]

Over 150 commenters responded to this request for comment. Many commenters objected to the ''all or virtually all'' standard as being too stringent. Commenters argued that, with increased globalization of production, most consumers today do not assume that ''Made in USA'' products contain ''all or virtually all'' U.S. parts and labor. Commenters also argued, among other things, that the Commission's standard was inconsistent with other government standards (*e.g.*, U.S. Customs Service requirements), could not be met by many sellers today, and would make it difficult for sellers to promote the use of United States labor in products.

Recognizing the public interest in these issues, the Commission on July 11, 1995 announced it would conduct a comprehensive review of consumers' perceptions of Made in USA advertising claims. The Commission also announced it would hold a public workshop to allow a variety of interested parties to exchange views on relevant issues.[10]

Commission staff are conducting a research project to help determine how consumers currently view Made in USA and related claims. The Commission will place the results on the public record for use by workshop participants and the general public. Once the project is sufficiently advanced to allow a prediction of its completion date, the Commission will announce the date, specific location, and details of the workshop in a new Federal Register notice. At that time, the Commission also will solicit applications for participation in the workshop. No applications should be submitted except in response to that later notice. Notwithstanding the later date for applications, interested parties must submit written comments in response to today's Federal Register notice in order to participate in the workshop.

A summary of the subjects on which the FTC is soliciting comments appears in Part V of this notice. As discussed further in Part V, all written comments, including those from non-participants, will be made available to the public, both through the FTC's Public Reference Room and over the Internet, and will be

considered by the Commission in formulating its future policy regarding Made in USA claims.

The issues on which the Commission desires comment are as follows.

I. Consumer Perception of Made in USA Claims and the New Global Economy

A. Direct Evidence of Consumer Perception

A primary objective of the Commission's consumer protection mission is to enhance consumer choice. In exercising its authority to prohibit deceptive acts or practices, the Commission seeks to ensure that consumers can choose products on the basis of accurate information.[11] This policy applies to claims regarding the country of origin of products.

In determining whether a representation is deceptive, the Commission first must determine what that representation (whether in an advertisement or a label) expressly states or implies to consumers. Claims may be made expressly, through direct representations, or they may be implied. With respect to implied claims, the Commission often is able to conclude that an advertisement (or label) contains an implied claim by evaluating the content of the ad and the circumstances surrounding it. When the Commission cannot do so, the Commission will not find the advertisement to have made an implied claim unless extrinsic evidence allows it to conclude that such a reading of the advertisement is reasonable. Such evidence can include such sources as reliable results from methodologically sound consumer surveys, evidence respecting the common usage of terms, generally accepted principles drawn from market research, and expert opinion.[12]

Whether an unqualified Made in USA claim means ''all or virtually all'' domestic content or some lesser proportion depends on the implied message in the advertisement or label. Thus, direct or extrinsic evidence of how consumers view Made in USA claims can contribute significantly to the Commission's analysis.

The Commission already possesses some extrinsic evidence regarding Made in USA claims. In 1991, the Commission performed a consumer perception study that asked consumers general questions about Made in USA claims, as well as questions about the use of such claims in specific advertisements. The results of that study suggest that many consumers view ''Made in USA'' claims as representing that products possess high domestic content. For example, approximately 77% of the consumers stated that, in general, Made in USA references mean ''all or nearly all'' parts and labor are domestic.[13]

The Commission placed this consumer perception study on the public record on July 11, 1995, and now invites comment on the study. The Commission also invites the public to submit any other direct evidence of consumer perception of Made in USA claims for placement on the record and discussion at the workshop.

B. The Impact of Increased Globalization of Production on Consumer Perception

Some commenters in *Hyde* offered circumstantial evidence in support of a more lenient standard for Made in USA claims. They noted that the world economy has changed significantly since the Commission's standard was first adopted. Consumers now recognize that many products are no longer made wholly in the United States. Thus, it was argued, many consumers no longer believe that a Made in USA claim means the product is ''all or virtually all'' domestic in origin.

The Commission recognizes that substantial changes in the domestic production of goods have occurred since the time that the Commission's first Made in USA cases were brought. For many products, the globalization of production is so advanced that it is difficult to identify any one unique country of origin for the product. There also is little question that some consumers are aware that many goods assembled here have foreign parts.

In the workshop, an important issue will be how this increased awareness of foreign sourcing affects consumer perceptions when consumers are confronted with specific Made in USA claims in advertising or product labeling. On the one hand, it may be that consumers today more readily ''discount'' or take alternative meanings from unqualified Made in USA claims. For example, there may be product categories where consumers know through the media that most product parts come from other countries. At the same time, there is reason to question whether consumers now view Made in USA claims differently than in the past. Consumers may have a generalized knowledge of product origin, but not enough information about specific brands to assess a particular seller's country-of-origin claims.[14] In addition, to the extent that consumers are generally aware of increased foreign manufacture, this may, in some circumstances, actually strengthen the appeal of a Made in USA claim. An aggressive Made in USA claim for a product of a kind known typically to be made abroad may suggest to consumers not only that the advertised product is domestically manufactured, but that it is unusual in this respect.[15]

The Commission invites commenters to submit any circumstantial evidence or other arguments addressing how consumers currently view Made in USA claims. In particular, the Commission is interested in how the following factors might affect such perceptions: (1) The type or complexity of the product; (2) general consumer knowledge of the foreign sourcing for the type of product; (3) the frequency or prominence of the claim (*e.g.*, an aggressive advertising campaign versus an inconspicuous claim); and (4) the presence of express or implied claims that the seller is superior or unique with respect to the domestic content of its product.

II. The Costs and Benefits of an ''All or Virtually All'' Standard Compared to Other Standards

A. Impact on Domestic Commerce

Some commenters in *Hyde* contended that the ''all or virtually all'' standard set forth initially in the proposed *Hyde* consent agreement is unattainable and deprives manufacturers of a selling tool that could help preserve American jobs. Many of these commenters argued that few sellers today have products with high domestic content. One solution offered by such commenters was for the Commission to permit Made in USA claims when the products are made with at least 50% domestic parts and labor.

Firms that wish to retain or increase American labor content in the face of possibly lower foreign labor costs may need an effective advertising message to compete. ''Made in America'' and similar phrases have a cachet and simplicity that may make them effective tools in advertising and product labeling. However, a much smaller percentage of products assembled in the United States today is comprised of all or virtually all U.S. parts and labor, compared to previous decades, and this trend is likely to continue.

At the same time, there is reason for caution in adopting a substantially lower threshold of domestic content for Made in USA claims. A lower threshold could permit deceptive claims if consumers still believe that Made in USA claims imply high domestic content.[16] In this regard, the Commission seeks comment on the relative costs and benefits of an ''all or virtually all'' standard and a lower threshold, such as 50%.

Implicit in the above arguments for a lower domestic content standard is the assumption that sellers of products with relatively high domestic content cannot tout this advantage with qualified claims, because it is impractical to convey such qualifications or because they lack commercial appeal. Accordingly, the Commission also invites comment on the costs and benefits to business of using qualified, rather than unqualified, Made in USA claims. Commission doctrine permits sellers to make truthful and nonmisleading claims concerning the amount of domestic content in their products, in both absolute and comparative terms. The Commission requests comment on whether and to what extent qualified Made in USA claims—*e.g.*, ''Made in USA of domestic and imported parts,'' ''Made in USA with at least 70% U.S. parts and labor,'' or ''The most U.S. content of any leading brand''—unduly burden an advertiser's domestic content message. The Commission also requests comment on the practical considerations in using qualified claims, including the problem of space limitations. In particular, do even relatively short qualifications—*e.g.*, ''80% US parts''—present practical problems in fashioning advertisements or labels, and would such problems inhibit the use of domestic content claims?[17]

In addition, the Commission seeks comment on specific domestic origin phrases or messages that might adequately convey the amount or presence of foreign content in products, yet address practical concerns. For example, one alternative claim that has been suggested is ''Assembled in USA.'' The Commission is interested in receiving information as to what meaning consumers take from this phrase and whether use of the term would avoid undue inferences of domestic content.[18]

B. Impact on International Trade

Some commenters in *Hyde* have suggested that strict FTC standards for unqualified Made in USA claims could lead to conflicting requirements (and thus manufacturing inefficiencies) for U.S. companies that sell their goods both here and abroad. For example, some commenters claimed that foreign customs officials permit (or even require) simple Made in USA labels in circumstances where the FTC would require qualified claims. Where such labels are permanently affixed to or incorporated in the item, the manufacturer may have to run separate production runs for the same product, one for foreign sales (''Made in USA'') and one for domestic sales (''Made in USA from foreign and domestic parts'').

In this regard, the Commission invites comment on consumers' and businesses' experience with foreign customs laws and practices with respect to qualified Made in USA claims. The Commission also wishes to explore alternatives for granting sellers the flexibility to comply with both FTC law and foreign customs, while avoiding deceptive labeling practices. One possible option would be to permit sellers to place unqualified labels on products (*e.g.*, ''USA'') to be shipped to both foreign markets and within the United States, as long as sellers disclose foreign content to U.S. consumers by other means, such as packaging or hangtags.[19]

C. The Costs and Benefits of Adopting the Country-of-Origin Rules of Other U.S. Government Agencies

U.S. Customs Service. The Tariff Act requires, specifically for purposes of quotas and duties, that products entering the United States bear ''the English name of the country of origin of the article,'' and that *one foreign country* be designated as the country of origin.[20] Generally speaking, Customs law requires a foreign origin marking on the imported article unless the imported item will be ''substantially transformed'' in the United States.[21] Although Customs law imposes no requirements regarding the disclosure of *domestic* content and therefore does not address preconditions for Made in USA claims,[22] some commenters in *Hyde* urged the Commission to apply the substantial transformation test to Made in USA claims.[23]

The latter approach would have the benefit of applying one set of rules to both claims of domestic origin and claims of foreign origin. However, the substantial transformation test is principally aimed at determining a country of origin for purposes of tariffs and quotas, not anticipating the degree of domestic content that consumers would attach to affirmative Made in USA claims. Products substantially transformed in the United States could still contain higher foreign content than consumers might be led to believe by affirmative Made in USA labels or advertisements.

Other Laws and Regulations. Other statutes and regulations involve country-of-origin determinations as well. For example, the Buy American Act requires that federal agencies purchase only such products as were mined or produced in the United States, or are at least 50% domestic in value.[24] However, the law does not deal with advertising or labeling, and its definition does not appear to be tailored to consumer perception of Made in USA claims. Another example of a law involving country-of-origin determinations is the American Automobile Labeling Act,[25] which requires that each automobile manufactured on or after October 1, 1994 for sale in the United States bear a label disclosing, among other things, where the car was assembled, the percentage of equipment which originated in the United States and Canada, the country of origin of the engine, and the country of origin of the transmission. The Commission invites comment on whether, and in what respect, any aspect of these laws or other laws are relevant to the development of the Commission's Made in USA advertising and labeling policy.

III. Issues Regarding the Computation of Domestic Content

The Commission's advertising substantiation doctrine requires that any objective claim be supported by a ''reasonable basis'' [26]—commonly defined in Commission orders as ''competent and reliable evidence'' that substantiates the representation.[27] Thus, whatever threshold for domestic content is adopted, an advertiser making a Made in USA claim must have substantiation that its product in fact meets that threshold.

Some commenters in the *Hyde* matter, however, stated that the Commission's current standard gives little guidance as to how domestic content is to be computed. Commission staff also routinely receive inquiries on this subject from consumers and businesses seeking guidance. Therefore, the Commission solicits comment on alternative methods of calculating domestic content.

A. A Proposed Formula for Measuring Domestic Content

In defining the appropriate method of measuring domestic content, whether the threshold for Made in USA claims is ''all or virtually all'' or some lesser proportion, several approaches are possible. For example, it might be possible to measure the proportion of labor hours, proportion of total labor cost (wages), or to impose separate requirements for minimum labor and minimum parts costs.

For discussion purposes, one possible formula for computing domestic content is as follows:

Before making Made in USA claims, sellers must demonstrate that their products contain X percent domestic content. This percentage shall be computed by (i) dividing DOMESTIC CONTENT (purchase cost [28] of U.S. parts +

cost of U.S. labor and direct overhead in final assembly) by (ii) TOTAL PRODUCT COST.

The Commission invites comment on this formula, and any alternative approaches.

In addition, whatever approach is adopted, it is likely to require resolution of the following issues.

1. The ''Domestic Content'' Determination: Identifying ''U.S. Parts'' at the Component and Subcomponent Level

A central issue in calculating domestic content is determining how far back in the production process to search. May the seller simply determine the origin of product parts ''one step back'' in the production process? What if a large number of subcomponents within the supposedly U.S. parts are made in foreign countries?

Below, the Commission offers for discussion a number of options for measuring ''U.S. parts.'' The Commission requests comment on the reasonableness of each approach and any alternatives.

a. *Computation at All Stages of Production:* Under this approach, the manufacturer of the final product would need to find out from parts suppliers, or through other reliable evidence, where the component parts of the product were made and where the subcomponents of these parts were made. A seller who wished to make an unqualified Made in USA claim would need to proceed with this inquiry as far back in the production process as necessary to determine whether the threshold for domestic content (whether 100%, 50%, or something else) was met.

Although this may appear a formidable task, the ease of applying this rule likely will depend on the type of product and the necessary threshold. Through experience, many manufacturers know the origin of the components and subcomponents in their products.[29] The simpler the product, the simpler the determination. The most difficult circumstance may be where the company manufactures a complex product with many tiers of production and it appears that the product is close to meeting the domestic content threshold. Manufacturers who frequently change from domestic to foreign parts suppliers also may find it difficult to make these determinations.[30]

b. ''*One or Two Steps Back*'': Another approach would be to require specific determination of the country of origin of all parts and subcomponents, but only one or two steps back in the production process. Under a one step back approach, for example, a lawn mower manufacturer would determine whether the basic parts in final assembly—*e.g.*, engine, wheels, platform, handle—were assembled in plants in the United States.[31] This approach may result in reasonable determinations of domestic content, if consumers only take Made in USA claims as meaning ''basic parts were made here.'' This approach is already used in the textile area.[32] In many circumstances, it may also have the advantage of ease of application—although some difficulties may arise in determining what constitutes a single ''step'' (or two ''steps'') back in the manufacturing process.[33]

If, however, consumers are concerned with the true proportion of labor or profit that can be attributed to U.S. workers and firms, then the approach of looking only ''one step back'' may open the door to misleading Made in USA claims. Automobiles (although separately regulated by the American Automobile Labeling Act) provide an obvious example. Examining only the basic parts put together in the final stage of assembly—*e.g.*, assembled engine, transmission, etc.—would mask enormous added foreign value in some instances. The same could be said of many complex products.

2. Adding ''Domestic Content'' at the Final Stage of Assembly

The cost of parts is not the only measure of domestic value. At final assembly, there is the addition of labor on the assembly line, packaging, and other direct costs of producing the particular item (*e.g.*, energy use).

One issue is whether domestic content can be further amplified by allocating any portion of general overhead to the manufacture of the product. Another issue is whether sellers can make Made in USA claims for products that have high domestic content, but do not undergo final assembly in the United States.[34] Such products may sufficiently contribute to U.S. wealth and labor creation to satisfy consumer expectations of Made in USA claims. However, consumers also may find it material whether final assembly took place in the United States.[35]

3. The Definition of ''Total Product Cost''

The final step in the formula is to divide the domestic content figure into ''total product cost.'' The latter obviously will be a higher figure than ''domestic cost'' when the product contains foreign components. On the simplest level, total product cost would be the total purchase price of foreign parts plus all the domestic costs added previously. However, the Commission invites comment on whether any additional elements should be added to the total cost of the product.

B. ''Reasonable Basis'': an Alternative Approach

Rather than, as suggested above, adopting a particular formula for calculating domestic content, one alternative would be simply to require that advertisers possess a ''reasonable basis'' for an express or implied claim that their products contain a proportion of domestic content, as required generally by the Commission's substantiation doctrine. Such an approach would permit advertisers greater flexibility in determining how to substantiate their claims, and might be less restrictive of truthful Made in USA claims. However, a ''reasonable basis'' standard, unelaborated upon, also provides less certain guidance to businesses and consumers. The Commission invites comment on the costs and benefits of utilizing a reasonable basis standard versus specifying a particular method for calculating domestic content.

IV. Form of Guidance

At the conclusion of the workshop, the Commission will have several options for giving guidance to the public on Made in USA claims. Possible options include, among others, case-by-case enforcement, an enforcement policy statement, interpretive guides, or a rulemaking under the Crime Bill. The Commission seeks comment on the form of guidance that would be most useful.

One question is whether it would be preferable for the Commission to state a general rule (*e.g.*, ''all or virtually all,'' ''substantial domestic content'') or a bright-line percentage threshold for Made in USA claims.[36] A related question is whether the Commission, were it to adopt a non-numeric rule, should also provide for safe harbors for firms whose products meet some minimum percentage threshold for domestic content. The Commission requests comment on the foregoing issues.

V. Information for Interested Persons

A. Invitation to Comment

Interested persons, including those who may wish to participate in the public workshop, are requested to submit written comments on any issue of fact, law or policy that may have bearing upon the Commission's policy on Made in USA claims. Although the Commission welcomes comments on any aspect of its policy regarding Made in USA claims, the Commission is particularly interested in comments on

the issues discussed above. Specifically, the Commission wishes comment on the following questions:

1. When consumers see product advertisements or labels stating or implying that products are ''Made in USA,'' ''Made in America,'' or the equivalent, what amount of U.S. parts and labor do they assume are in the products?

a. Are there surveys, copytests, or other direct evidence of consumer perception that will aid the analysis?

b. How has increased consumer knowledge of foreign imports or foreign components affected such perceptions? How much knowledge of foreign sourcing of components do consumers have?

c. How much, if at all, is consumer perception of Made in USA claims affected by the type of product, complexity of the product, or other factors?

d. Do consumers attach higher domestic content to products claimed to be Made in USA when the claims are presented with greater prominence or frequency? When they are featured in advertising, as opposed to merely on labels?

2. What are the costs and benefits of an ''all or virtually all'' threshold for Made in USA claims, versus a lower threshold (*e.g.*, 50%)?

a. What are the precise benefits of being able to make unqualified Made in USA claims for lower domestic-content products? What impact would this have on firms that now meet the higher standard? On firms that might be able to raise their domestic content to meet a lowered threshold?

b. What difficulties are there in making truthful comparative or qualified claims that reveal that the product is not wholly domestic? Is qualifying claims more difficult in this context than in other advertising or labeling contexts (*e.g.*, ''30% lower in fat than the leading brand'')? Do advertising and labeling pose the same considerations?

c. What are the costs and benefits of alternative thresholds (*e.g.*, 50%, 75%, products ''substantially transformed'' in the United States)?

d. What are the costs to consumers, when the actual domestic content in ''Made in USA'' products is lower than consumers are led to believe?

e. If adding qualifications to Made in USA claims sometimes is impractical or costly due to space limitations, are there alternative phrases that meet this concern and also adequately inform consumers of foreign content? Do such formulations as ''USA 80%,'' ''Made in USA (80%),'' or similar formulations satisfy these concerns?

f. What do consumers understand the phrase ''Assembled in USA'' to mean? Would consumers view such terms as ''Assembled in USA'' as suggesting that the product may have substantial foreign content? How much foreign content? What are the costs and benefits of allowing such a claim for a product where there is only minimal domestic assembly?

3. What are the costs and benefits of using the same tests for Made in USA claims as those imposed by U.S. Customs requirements (''substantial transformation''), the Buy America Act (50% cost), and other domestic content statutes or rules?

4. Do foreign customs officials prohibit the addition of qualifying phrases on Made in USA labels? If so, does the traditional FTC requirement that labels make disclosures of substantial foreign content add significant manufacturing costs where sellers wish to sell a single item in domestic and foreign markets? Would an option of stating qualifying disclosures only on packages, hangtags, etc. at time of sale in the U.S. market significantly reduce such costs?

5. How should the proportion of domestic content be measured with respect to Made in USA claims?

a. In determining the U.S. value added by parts and components, is it sufficient to determine the purchase cost of parts and components made in U.S. plants? Do other measures better measure the U.S. content from the consumer's perspective?

b. Should the determination of U.S. value added by parts and components exclude raw materials? If so, what should be the definition of raw materials?

c. What are the costs and benefits of requiring sellers to determine the source of all components and subcomponents before making Made in USA claims?

d. What are the costs and benefits of permitting Made in USA claims where the seller has determined that a sufficient percentage of parts and components ''one step back'' in the manufacturing process were made in U.S. plants? Two steps back? At some other stage in production?

e. What types of costs, other than direct labor costs, should be added to the domestic content measure at the stage of final assembly? Only direct overhead? If general overhead (*e.g.*, real estate taxes, administrative costs), how can the measure be defined to avoid sellers from artificially inflating the domestic content of products for this purpose?

f. Should the profit to the final U.S. assembler of the product be counted toward domestic content?

g. What are the costs and benefits of a case-by-case determination that requires sellers to have a ''reasonable basis'' for their Made in USA claims, rather than requiring a particular method of computing domestic content? Would this lesser certainty provide insufficient guidance or fail to deter misleading Made in USA claims?

6. What form of guidance should the Commission offer with respect to Made in USA claims?

a. Should the form of guidance be case-by-case enforcement, an enforcement policy statement, guides, or a rulemaking? Are there other forms of guidance that would be more useful or cost efficient?

b. Should the Commission offer a bright-line test whereby sellers can make Made in USA claims only if the product contains a specific percentage of domestic cost? If a non-numerical threshold for permitted claims is adopted, would it be helpful to establish safe harbors within that threshold to establish what types of claims always would be permitted?

The Commission requests that commenters provide representative factual data in support of their comments. Individual firms' experiences are relevant to the extent they typify industry experience in general or the experience of similar-sized firms. Comments should, if possible, suggest specific alternatives to various proposals and include reasons and data that indicate why the alternatives would better serve the Commission's statutory mandate of protecting consumers against deception.

Written comments submitted will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission regulations, on normal business days between the hours of 8:30 a.m. to 5:00 p.m. at the Public Reference Room 130, Federal Trade Commission, 6th and Pennsylvania Ave., N.W., Washington, D.C. 20580.

In addition, the FTC will make this notice and, to the extent technically possible, all comments received in response to this notice available to the public through the Internet. To access this notice and the comments filed in response to this notice, access the World Wide Web at the following address: http://www.ftc.gov.

At this time, the FTC cannot receive comments made in response to this notice over the Internet.

B. Public Workshop

The Commission's staff will conduct a public workshop to afford Commission staff and interested parties an opportunity to discuss the foregoing issues and other relevant issues raised in the written comments.

As stated previously, the Commission is conducting a consumer research project regarding consumer perception of Made in USA claims. Although the Commission has commenced work on this project, it is not yet clear when the results will be available. However, the Commission's goal is to have the work finished in time so that the workshop could be held in Washington, D.C., in February or March 1996. The Commission will issue a new Federal Register notice announcing the date and specific location of the workshop once staff has a projected finish date for the study.

The Commission recognizes that interested parties may not be able to determine whether they can participate in the workshop until they are informed of the specific dates. Therefore, the Commission will not solicit applications for participation at this time. However, the Commission will only accept applications for participation from parties who also have submitted written comments in advance of the proceeding. Accordingly, any party who expects to submit an application for a workshop should submit a written comment in response to this Federal Register Notice.

The next Federal Register notice will describe the workshop in more detail. In general, the Commission expects to conduct the workshop as described below.

The intent of the workshop will not be to achieve a consensus of opinion among participants, or between participants and Commission staff, with respect to any issue raised in this proceeding. However, the Commission will consider the views and suggestions made during the workshop, in addition to any written comments, in formulating its future policy regarding Made in USA claims.

If the number of parties who request to participate in the workshop is so large that including all requesters would inhibit effective discussion among the participants, then Commission staff will select as the participants a limited number of parties to represent the interests of those who submit written comments. The selections will be made on the basis of the following criteria:

1. The party submits a written comment by January 16, 1996.

2. In response to the next Federal Register notice announcing the date of the workshop, the party notifies Commission staff of its interest and authorization to represent an affected interest by the workshop notification date.

3. The party's attendance would promote a balance of interests being represented at the conference.

4. The party's attendance would promote the consideration and discussion of the issues presented in the workshop.

5. The party has expertise in issues raised in the workshop.

6. The party adequately reflects the views of the affected interest(s) which it purports to represent.

7. The party has been designated by one or more interested parties (who timely file requests to participate and written comments) as a party who shares group interests with the designator(s).

8. The number of parties selected will not be so large as to inhibit effective discussion among them.

If it is necessary to limit the number of participants, those not selected to participate, but who submit both requests to participate and written comments, will be afforded an opportunity at the end of the session to present their views during a limited time period. The time allotted for these statements will be determined on the basis of the time necessary for discussion of the issues by the selected parties, as well as by the number of persons who wish to make statements.

A neutral, third-party facilitator may be retained for the public workshop. Prior to the conference, the participants will be provided with copies of the written comments received in response to this Notice. The discussion during the workshop will be transcribed and the transcription will be placed on the public record.

Authority: 15 U.S.C. 41 *et seq.*

By direction of the Commission, Commissioner Starek dissenting.

Donald S. Clark,

Secretary.

Notes

1. *See Cliffdale Associates, Inc.*, 103 F.T.C. 110 (1984), reprinting as an appendix letter dated Oct. 14, 1983, from the Commission to The Honorable John D. Dingell, Chairman, Committee on Energy and Commerce, U.S. House of Representatives (''Deception Statement'').

Under settled Commission doctrine, claims are deemed deceptive if even a ''significant minority'' of consumers are misled. ''An interpretation may be reasonable even though it is not shared by a majority of consumers in the relevant class, or by particularly sophisticated consumers. A material practice that misleads a significant minority of reasonable consumers is deceptive.'' *Kraft, Inc.*, 114 F.T.C. 40, 122 (1991), aff'd, 970 F.2d 311 (7th Cir. 1992), *cert. denied* 113 S.Ct. 1254 (1993).

2. In this notice, ''Made in USA'' refers to any message in which the terms, text, phrases, images, or other depictions refer solely to the United States as the country of origin, without disclosing the extent or fact of foreign components or labor. ''Made in America,'' ''U.S.-Made,'' and ''All American'' are examples of equivalent terms. However, the proceeding also will address the circumstances under which other terms, *e.g.*, ''Assembled in USA,'' ''Crafted in the USA,'' etc. might convey the same message and therefore have to satisfy the same threshold of domestic content.

3. Some statutes require disclosure of domestic origin or domestic content. *See, e.g.*, Textile Products Identification Act, 15 U.S.C. 70; Wool Products Labeling Act, 15 U.S.C. 68 (both enforced by the FTC).

4. See, *e.g.*, *Windsor Pen Corp.*, 64 F.T.C. 454 (1964); *Vulcan Lamp Works, Inc.*, 32 F.T.C. 7 (1940). From the 1940's through the 1960's, Commission cases uniformly stated that such unqualified Made in USA claims implied that the product was wholly domestic. In addition, the Commission in the late 1960's and early 1970's issued numerous public advisory opinions stating that a manufacturer could claim that a product was Made in USA only if the product was comprised wholly of domestic parts and labor. *See Foreign Origin*, 3 Trade Reg. Rep. (CCH) ¶ 7551 (1988) (discussing FTC advisory opinions and cases on country-of-origin issues).

In a related line of cases, the Commission has also imposed a requirement that sellers affirmatively disclose foreign content, rather than remain silent, when the cost of the product is substantially (50 percent or more) foreign in origin and this failure to disclose would mislead consumers as to the product's origin. *See Manco Watch Strap Co.*, 60 F.T.C. 495 (1962). The Commission's different traditional threshold for Made in USA claims (requiring wholly domestic content, rather than 50%) is based on the fact that the seller, rather than remaining silent, has made an affirmative Made in USA claim suggesting high domestic content. By contrast, the seller's silence on origin may suggest a wider range of scenarios regarding foreign versus domestic content.

5. *See Nikki Fashions, Ltd.*, No. C–3404 (1992) and *Richard B. Pallack, Inc.*, No. C–3333 (1991)(alleged removal of foreign origin labels); *Manzella Productions, Inc.*, No. C–3503 (alleged substitution of Made in USA labels for foreign origin labels); *El Portal Luggage, Inc.*, No. C–3499 (alleged removal of foreign origin labels in store featuring prominent Made in USA signs).

6. In September 1994, Congress, citing instances where foreign-made goods were labeled as Made in USA, enacted a domestic origin labeling provision in section 320933 of the Violent Crime Control and Law Enforcement Act of 1994, P.L. 103–322, 108 Stat. 2135 (''Crime Bill''). Section 320933 sets no substantive standard for Made in USA labeling claims. Instead, the provision makes clear that such claims are to be consistent

with section 5 of the FTC Act, and that the Commission is free to alter its legal standard as circumstances warrant.

7. Commissioner Azcuenaga and Commissioner Owen dissenting.

8. Commissioner Azcuenaga dissenting. Because the *New Balance* matter is now the subject of an order to show cause proceeding, *see* discussion *infra* note 10, it would be inappropriate for the Commission to discuss the merits of the case in this notice.

9. 59 FR 48,892, 48,894 (1994).

10. On the same day, the Commission (Commissioner Starek dissenting) also voted to direct staff to renegotiate a revised consent agreement with *Hyde* to remove the ''all or virtually all'' allegation and corresponding consent agreement terms. In addition, the Commission (Commissioner Starek dissenting) stayed the administrative proceeding in *New Balance*, and required New Balance and FTC complaint counsel to show cause why the FTC's complaint and notice order should not be amended in similar fashion.

11. In addition, the Commission, in acting against deception, seeks to protect competition in the marketplace by ensuring that firms that promote their products truthfully are not subject to unfair competition from competitors who engage in deceptive advertising.

12. *See Kraft, Inc.*, 114 F.T.C. at 121–22.

13. The consumer perception study (the ''Smith-Corona test'') involved 400 participants. The specific advertisements shown consumers advertised Smith Corona typewriters and Huffy bicycles. The Smith Corona advertisement showed a typewriter with various claims in headlines and text, plus a relatively small ''Made in USA'' reference under a company logo in the right margin. The Huffy advertisement showed a picture of bicycles with price information and claims in the upper left corner, plus a small ''Huffy, Made in USA'' reference at the bottom.

With respect to the specific advertisements, 59% of the consumers viewing Huffy bicycle advertisements thought that ''Made in USA'' meant the bicycles contained over 90% U.S. parts and labor. For typewriters, 49% of respondents viewed the claim as meaning the product contained over 90% parts and labor. Consumers held this view despite the fact that bicycle and typewriter industries have experienced substantial foreign imports for many years, and that the Made in USA references in the advertisements were quite modest and made no express uniqueness or superiority claims regarding U.S. content.

Nonetheless, the study suggests that consumer perceptions are influenced by the nature of the claims and product. Whereas 77% of participants thought that Made in USA claims, in the abstract, implied that all or almost all the product was domestic in origin, somewhat fewer took a ''90% or more'' message from the specific advertisements—and here too there was some difference in perception between the two ads. With respect to the typewriter advertisement, participants explained the lower estimate of domestic content based on such factors as the Canadian company address on the advertisement and that ''most electronic parts [are] made abroad.''

14. Many consumers do not have ready access to any specific information on component sourcing. For example, participants in the Smith-Corona test who viewed ''control'' bicycle and typewriter advertisements that lacked any Made in USA references held widely differing views regarding the foreign content of these products. Ten percent of the participants stated the products were 100% domestic; 21% said they ''do not know;'' and 45% said that at least 50% parts and labor were provided by U.S. workers. Smith-Corona Test, Tables 10 and 12.

15. In determining what claim is made in an advertisement, the Commission looks to the overall, net impression of the ad rather than to any single element. *Stouffer Foods Corp.*, Docket No. 9250, (September 26, 1994) slip op. at 4; *Kraft*, 114 F.T.C. at 790. Thus, a prominent Made in USA claim in an ad that featured American flags and references to employing American workers might convey to consumers a stronger claim of domestic content than would an ad focused on other product features that contained an inconspicuous ''Made in USA'' in the corner.

16. It is unclear whether lowering the domestic content threshold would in fact create greater incentives for American job creation. Under a new lower standard (*e.g.*, 50% domestic), any producer now having higher domestic content would have the incentive to *lower* the American labor and parts content to that new level (assuming unqualified Made in USA claims are a distinct marketing advantage and foreign production costs are lower). At the same time, there could be offsetting effects. A new class of producers having relatively low domestic content might find it advantageous to increase domestic content just enough to reach the new threshold.

17. In this regard, the Commission notes that garment manufacturers appear to have successfully adapted to the similar requirements of the Textile Labeling Rule, 16 CFR 303.33, placing qualifications on one-inch or smaller tags. The Commission also observes that sellers have fashioned commercially appealing claims in comparative terms in other contexts (*e.g.*, ''50% lower in fat than the leading brand'').

18. In this regard, the Commission cautions that literally true statements at times can carry deceptive implications. *See Kraft v. FTC*, 970 F.2d 311 (7th Cir. 1992), *cert. denied*, 113 S. Ct. 1254 (1993). Thus, the Commission invites comment on whether, for example, an ''Assembled in USA'' advertising campaign might be deceptive where the product is made almost entirely of foreign components and there is minimal domestic assembly, and whether consumers assume that an ''Assembled in USA'' product contains a minimum amount of domestic labor or parts.

19. By analogy, FTC opinions have permitted *foreign* products themselves to remain *unlabeled* (*i.e.*, thereby possibly implying domestic origin on the product itself) where space limitations prevented proper disclosures, as long as country-of-origin disclosures instead appeared on packaging. *Hoover Ball & Bearing Company*, 62 F.T.C. 1410, 1413 (1963). *See also Delaware Watch Company, Inc.*, 63 F.T.C. 473 (1963) (permitting the use of a separate tag or label on watches for disclosing foreign origin).

There are a number of constraints on this flexibility, however. Deceptive representations cannot be cured by disclosures provided substantially later in time. *Deception Statement*, 103 F.T.C. at 180. Thus, for example, the use of unqualified Made in USA claims in advertisements or store displays cannot be remedied by qualifications that the consumer may or may not detect upon receiving the package. Any disclosure also must be clear and prominent. *Id.* at 180–81.

20. 19 U.S.C. 1304(a).

21. 19 CFR 134.1(b), 134.1(d)(1), and 134.35. As construed by some courts, substantial transformation occurs when ''as a result of processes performed in that country a new article emerges with a new name, use or identity.'' *Belcrest Linens* v. *United States*, 741 F.2d 1368, 1371 (Fed. Cir. 1984).

22. The U.S. Customs Service, however, has jurisdiction to take action where a required foreign origin marking has been removed and replaced with a ''Made in USA'' marking. The Tariff Act declares it unlawful for anyone (whether importer, wholesaler, or retailer) to cover or remove a foreign-origin label that is already on a product. 19 U.S.C. 1304(i); 19 CFR 134.4.

23. Reportedly, some importers assume that whenever the U.S. Customs Service determines that an imported product will be substantially transformed in the United States and therefore need not bear a foreign marking, that the importer then is free to place a Made in USA label on that product. This view has no support in FTC doctrine or U.S. Customs law. A Made in USA label only would be permitted in that circumstance if it met the FTC's domestic content requirements for Made in USA claims.

24. The Act specifically states that the products must be made here or be ''substantially all'' from products mined or produced in the United States. 41 U.S.C. 10a. The Act does not define what ''substantially all'' means for manufactured goods. However, Executive Order 10582 (19 FR 8723 (1954)) defines ''foreign origin'' under a 50% of cost rule. *See also* 48 CFR 25.101 *et seq.* The Department of Defense and the General Services Administration are the two Federal agencies with prime responsibility for enforcing the Buy American Act.

25. 15 U.S.C. 1950.

26. FTC Policy Statement Regarding Advertising Substantiation at 6, reprinted as appendix to *Thompson Medical Co.*, 104 F.T.C. 648 (1984) (''Substantiation Statement'').

27. Depending on the nature of the claim, the Commission may require a particular level of substantiation, such as ''competent and reliable scientific evidence,'' defined as ''tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the

profession to yield accurate and reliable results.'' *E.g., Nature's Bounty, Inc.*, F.T.C. Docket No. C–3593 (July 21, 1995); *Mattel, Inc.*, F.T.C. Docket No. C–3591 (June 23, 1995).

28. This exclusive emphasis on total ''purchase cost'' of components and subcomponents bought from U.S. plants—rather than singling out only the U.S. labor hours or labor costs upstream in production—offers a number of advantages. One is ease of measurement. Another is that measuring the total purchase cost of all components and subcomponents made in U.S. plants captures not only the total U.S. labor cost but also profit to U.S. component manufacturers. Studies have shown that many consumers have a preference for American-made goods not only out of concern for American labor, but also to increase U.S. wealth and take advantage of American quality. *See The Wirthlin Report*, February 1992 (survey); Foote, Cone & Belding, ''The Buy America Issue,'' May 1992; ''East v. West; What Americans Really Think About Imports,'' *Chain Store Age*, January 1988, pp. 13–15 (Leo J. Shapiro & Associates survey); Smith-Corona test, Tables 3, 5.

29. The total burden to industry of making these determinations will depend, in part, on where the threshold is set. If it is true that most complex products today contain substantial foreign components, then such manufacturers presumably would know that any information search would be fruitless under a high standard.

30. In determining how far back in the process to inquire, a further issue is whether *raw materials*, or only processed goods, should be counted in this or other measurement schemes. For some products, raw materials may be so removed from the final stage of production that they cease to have meaning to consumers as a cognizable product component (*e.g.*, petroleum in plastic products, iron ore in steel products). Computing domestic content down to the raw materials stage also could greatly increase the information-gathering burden for sellers. At the same time, excluding raw materials possibly could lead to anomalous results for products wherein raw materials are a high proportion of cost (*e.g.*, a diamond ring). Obviously, some amount of American labor and wealth flows from basic farming, mining, and other raw materials production. In addition, excluding raw materials from the calculation would require a workable definition of raw materials.

31. One question also is whether it is enough for the part to have been finally assembled in the United States to qualify as a ''U.S. part,'' or must have been substantially transformed here as defined by U.S. Customs rules.

32. *See* Textile Labeling Rules, 16 CFR 303.33(b). The operation of the one step back rule in the textile area can be illustrated as follows. Wool yarn is made in Australia and sold to a U.S. cloth maker. This cloth maker sells the cloth to a U.S. manufacturer of wool suits. The labels would be: *yarn* (''Made in Australia''); *cloth* (''Made in U.S. of foreign yarn''); and *garment* (''Made in USA''). The Commission notes that the textile industry is somewhat unique in that Congress has mandated the placement of Made in USA labels on all covered textile products manufactured here. Thus, there is exceptional need for administrative convenience and a bright-line rule.

33. This is not an issue in the textile context, where the governing regulation sets out the various ''steps'' in the production process. For other products, however, what constitutes one step (or two steps) back in the production process may not be so evident.

34. For example, one form of globalization is the development of ''maquiladoras'' in Mexico. These are plants primarily owned by U.S. firms that provide labor-intensive assembly of components. It is reported that 98% of the raw materials and components used in products assembled by maquiladores are produced in the United States. U.S. International Trade Commission, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexican Relations: Phase I: Recent Trade and Investment Reforms Undertaken by Mexico and Implications for the United States*, Inv. No. 332–282, USITC Pub. 2275 (April 1990), pp. 5–14.

35. An additional issue is whether not only cost, but also profit to the U.S. assembler, should be counted in determining the proportion of domestic origin of the product. Profit to *foreign* parts suppliers is implicitly counted toward foreign value, as part of total purchase price of foreign components. Including profits at final assembly also addresses consumers' concerns over U.S. wealth creation. At the same time, some profits in U.S. assembly operations might be diverted to foreign owners, and there are complications in defining profit. The Commission invites comment on the foregoing issues.

36. A minimum percentage would provide the most certain guidance. However, the evidence thus far does not suggest that consumers attach a precise percentage boundary to Made in USA claims. A bright-line percentage also might be more arbitrary for other reasons. For example, products with unchanged domestic parts and labor content could pass back and forth over the cost threshold, based merely on foreign exchange fluctuations.

Dissenting Statement of Commissioner Roscoe B. Starek, III in the Matter of Request for Public Comment in Preparation for Public Workshop Regarding ''Made In USA'' Claims in Product Advertising and Labeling, Matter No. P894219

For the reasons stated in my dissenting statement in Hyde Athletic Industries, Inc., File No. 922–3236, I oppose spending Commission resources on a broad examination of whether and how to change the Commission's standard for unqualified ''Made in USA'' claims. Case-by-case enforcement is the appropriate means to evaluate ''Made in USA'' claims. If consumer perceptions of ''Made in USA'' claims vary from industry to industry or support some other standard, the most promising way to develop that evidence is by litigating individual cases in which the particular ads at issue are copy tested.[1] The Commission regularly addresses in individual cases complex public policy concerns within the scope of its competition and consumer protection missions, with the benefit of arguments, evidence, and a record on which a fully developed opinion can be based. I find no persuasive reason—only, perhaps, some miscalculated conception of expediency—for abandoning case-by-case enforcement in favor of a resource-intensive, unnecessarily broad review more typical of a rulemaking.

As I have stated previously, in order to reduce firms' costs of making ''Made in USA'' claims in compliance with the law, I support providing guidance on the level of substantiation that the Commission will require for those claims. It is unnecessary and ill-advised, however, to drop enforcement efforts against clear violations of Section 5 of the FTC Act while such guidance is being developed.

[FR Doc. 95–25887 Filed 10–17–95; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3707–N–03]

Announcement of Funding Awards for the Youth Development Initiative under Public and Indian Housing Family Investment Centers—FY 1994

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1994 Public Housing agencies applicants under the Youth Development Initiative under the Family Investment Centers Program (Youth FIC). The purpose of this

[1] The extensive copy testing now planned in preparation for this workshop could provide the Commission with additional evidence of consumer perceptions that may be useful in the assessment of future enforcement actions against a variety of domestic content claims.