



March 1, 2018

VIA EMAIL

Julia Ensor, Attorney, Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave. N.W.
Washington, DC 20580
[REDACTED]

Re: Gillette's False and Deceptive Made in USA Marketing Campaign

Dear Ms. Ensor:

In January 2018, TINA.org notified the FTC of Gillette's deceptive Made in USA marketing campaign. The most visible part of the campaign was and remains a 30-second national television commercial that makes the implied unqualified claim – both through its narrative as well as through the various images of its Boston factory and American flags – that its entire product line is made in the U.S.

In an apparent effort to remediate the problems with this particular commercial, Gillette recently made minor changes to the ad, none of which alter the deceptive message communicated to consumers.¹

New Disclosure

First, toward the end of the commercial, Gillette added the following disclosure at the bottom of the screen:

¹ The revised commercial is available at <https://www.truthinadvertising.org/wp-content/uploads/2018/02/Gillette-edited-commercial.mp4>.



The barely legible disclosure, which appears on the screen for approximately two seconds in white fine print, states: “Founded in Boston. Where we still make all premium ProShield, ProGlide and Fusion5 cartridges.” As a matter of law, such a disclosure does not rectify Gillette’s deceptive marketing as both the content and format of the disclosure are inadequate.

With respect to the content, Gillette cannot use a disclosure as cover for a false and deceptive U.S.-origin claim. That is to say, Gillette is not permitted to falsely imply that its entire product line is made in Boston and then add a disclosure saying only three of its products – a tiny fraction of its product line – are actually made there. As the FTC has explained, “[a] disclosure...cannot cure a false claim. If a disclosure provides information that contradicts a material claim, the disclosure will not be sufficient to prevent the ad from being deceptive. In that situation, the claim itself must be modified.” See .com Disclosures: How to Make Effective Disclosures in Digital Advertising, <https://www.ftc.gov/system/files/documents/plain-language/bus41-dot-com-disclosures-information-about-online-advertising.pdf>. In other words, “what the headline giveth, the fine print cannot taketh away.” See Leslie Fair, *What the Headline Giveth*, <https://www.ftc.gov/news-events/blogs/business-blog/2011/06/what-headline-giveth>.

With regard to the format of the added disclosure, its placement and size are such that consumers are not likely to read it or understand it. As the Commission has stated, “[i]f the disclosure of information is necessary to prevent an ad from being deceptive, the disclosure has to be clear and conspicuous.” Lesley Fair, *Full Disclosure*, <https://www.ftc.gov/news-events/blogs/business-blog/2014/09/full-disclosure>. There can be no dispute that thin, white fine print that appears at the bottom of the screen for approximately two seconds near the end of the commercial falls well short of meeting the clear and conspicuous standard.

Replaced Screenshot

Second, Gillette replaced the screenshot in the commercial that originally showed three razors with foreign-made handles with a screenshot of three blades it claims are made in Boston:



Screenshot from original version



Screenshot from edited version

Like the added disclosure, this screenshot is only visible on screen for approximately two seconds, and the accompanying voiceover, which only refers to Gillette products as a whole and never specifically names the few products that are actually made in Boston, has not been changed. Further, the product names that appear on the razor cartridge packaging are so small – and disappear so quickly – that consumers are not likely to read them. Thus, this minor edit does not change the overall deceptive message that all Gillette products are made in Boston, when, in reality, less than 10% of its products are made in the U.S.

In short, Gillette continues to deceive consumers and is seemingly trying to avoid regulatory action by making insignificant and inadequate changes to its campaign. As such, we strongly urge that action be taken immediately in order to protect consumers from Gillette's ongoing false and deceptive Made in the USA claims.

Sincerely,

A handwritten signature in blue ink that reads "Smith".

Laura Smith, Esq.
Legal Director
Truth in Advertising, Inc.

A handwritten signature in blue ink that reads "B-Patten".

Bonnie Patten, Esq.
Executive Director
Truth in Advertising, Inc.

Cc: Deborah P. Majoras, General Counsel, Procter & Gamble
Ronald Sia, Senior Counsel, Gillette at Procter & Gamble