



September 20, 2021

VIA EMAIL

Samuel Levine, Acting Director, Bureau of Consumer Protection
James Kohm, Associate Director, Division of Enforcement
Federal Trade Commission
600 Pennsylvania Ave. N.W.
Washington, D.C. 20580
slevine1@ftc.gov
jkohm@ftc.gov

Re: New Balance Athletics, Inc.'s Violations of Made in USA Laws

Dear Mr. Levine and Mr. Kohm:

We write to file a complaint with the Federal Trade Commission against New Balance Athletics, Inc. for its use of Made in USA marketing that violates the agency's Made in USA Labeling Rule, 16 CFR Part 323, and Section 5 of the FTC Act, 15 U.S.C. § 45.

Specifically, for more than a decade,¹ the multibillion-dollar company has mislead consumers by making unqualified claims that certain of its sneakers are Made in the USA when a substantial portion of these shoes, including the soles, are imported.² However, this fact is neither clearly nor conspicuously disclosed in any of New Balance's Made in USA marketing materials or on its labels as is required by law.



Such longstanding and pervasive deception not only harms consumers, but honest American companies trying to compete with one of the world's largest manufacturers of athletic shoes.³

History

The Made in USA Labeling Rule prohibits New Balance from labeling:

any product as Made in the United States unless 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.⁴

This rule applies to physical labels, as well as digital seals, marks, tags, or stamps labeling a product as Made in the United States.⁵ Further, Section 5 of the FTC Act, as explained in the FTC’s Enforcement Policy Statement on U.S. Origin Claims, requires that for a product to qualify as Made in the USA, it must be all or virtually all made in the United States.⁶ “In other words, where a product is labeled or otherwise advertised with an unqualified ‘Made in USA’ claim, it should contain only a *de minimis*, or negligible, amount of foreign content.”⁷

While the labeling rule, which became law in August 2021, is new, the standard for marketing products as made in the USA has been in effect – with New Balance’s full knowledge – for decades.⁸ In fact, the “all or virtually all” language was first used in joint cases filed by the FTC against New Balance and another sneaker manufacturer, Hyde Athletic Industries 25 years ago.⁹

At that time, the FTC dropped its claims against New Balance regarding the company’s unqualified Made in USA marketing for products assembled in the U.S. with foreign and domestic components – which one Commissioner, in his dissent, called “the most important allegation” in the case¹⁰ – such that New Balance’s deceptive U.S.-origin advertising was never fully addressed. Since then, the company has knowingly flouted the FTC’s Made in USA standard,¹¹ and deceptively capitalized on consumers’ preferences to buy American-made products.¹²

New Balance’s Made in USA Labeling

On the heels, sides, and tongues of shoes, boxes and tissue paper that shoes are packaged in, tags attached to the shoes, and on webpages and social media posts that advertise New Balance shoes, the company labels at least a dozen models (not accounting for different sizes, genders, and colors) in its “MADE in the US” line¹³ as made in the United States without properly disclosing that a substantial portion of the sneakers are imported, as the below examples show.

Example of labels on and accompanying a pair of 990v5 New Balance sneakers, as photographed by TINA.org:



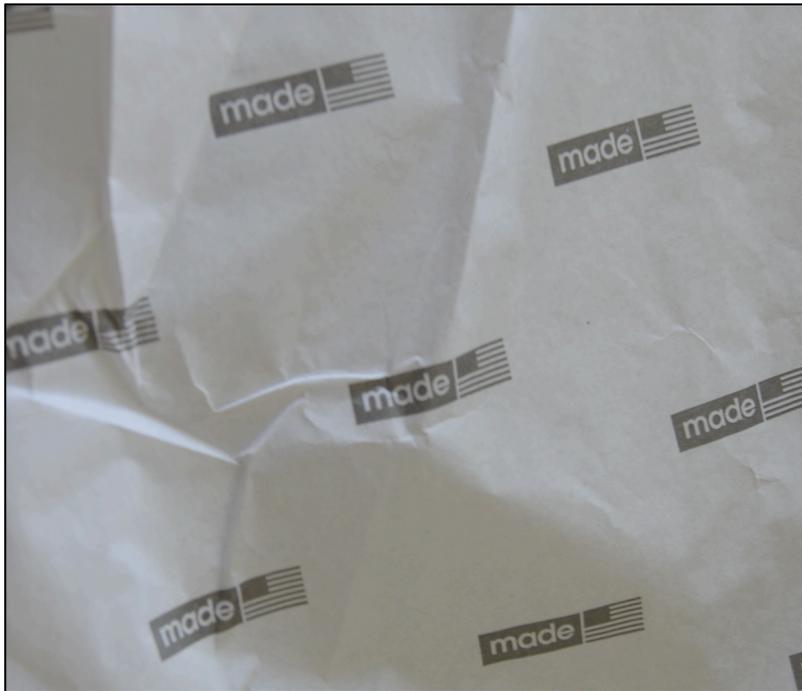
Made in USA labels on and inside tongue of 990v5 shoe



Tag attached to shoe with the word “made.” on an American flag background



Box 990v5 is packaged in, bearing the “made” and American flag stamp, phrase “made in the u.s. for over 75 years,” and narrative “WITH OVER 75 YEARS OF AUTHENTIC AMERICAN CRAFTSMANSHIP, NEW BALANCE MADE IS DESIGNED WITHOUT COMPROMISE. THIS PAIR REPRESENTS OUR UNWAVERING COMMITMENT TO THOSE WHO WALK THEIR OWN PATH.”



Tissue paper inside shoebox, bearing the “made” and American flag stamp

Example of labels on a pair of 993 New Balance sneakers on the company's website:¹⁴

Made in US 993

Women's \$184.99

Color: Grey with white

Select size Size & fit guide

5	5.5	6	6.5	7	7.5
8	8.5	9	9.5	10	10.5
11	12	13			

Example of label on the company's social media platforms:¹⁵

New Balance Grey Day 2019

New Balance ✓
September 6, 2019 · 🌐

Grey is timeless. Grey is simple. Grey runs in the family. #NBGreyDay
Shop the Made in US 997 shoe: <http://newbal.co/V493tI>

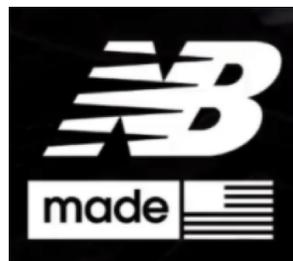
Example of label in social media story by New Balance-sponsored athlete (this one by Olympic runner Emma Coburn):¹⁶



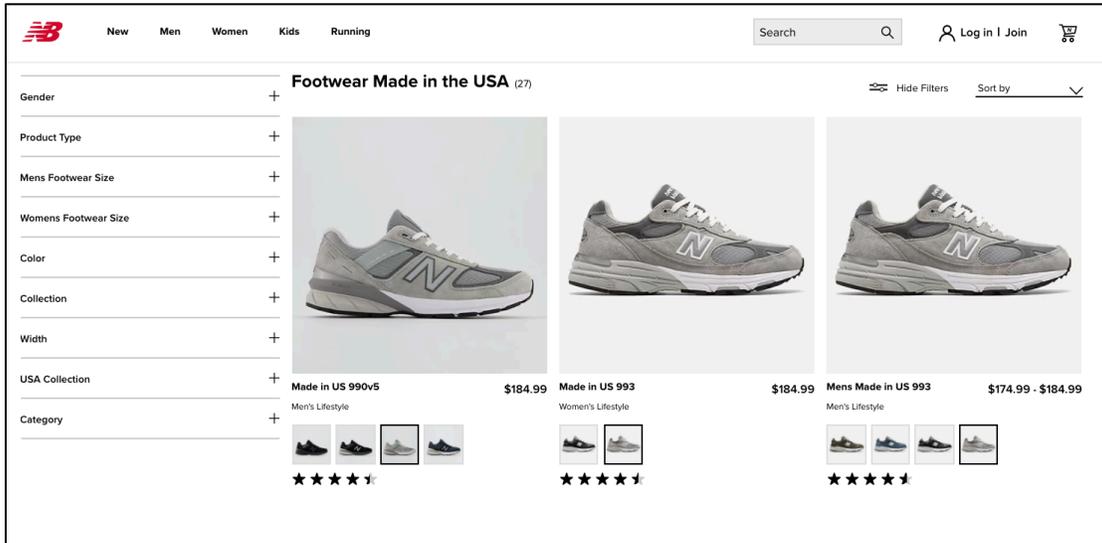
A larger sampling of New Balance’s deceptive Made in USA labeling is available at <https://www.truthinadvertising.org/new-balance-musa-label-database/>.

Other Labels and Made in USA Marketing

The company’s deceptive labeling is further amplified by its other Made in USA marketing. Not only does the company use labels that imply the advertised product(s) are Made in the USA, as shown below,¹⁷ the New Balance website has an entire webpage – www.newbalance.com/made-in-the-usa/ – devoted to “Made in the USA” footwear, where the company lists numerous shoes that incorporate the phrase “Made in US” or “Made in USA” in the actual shoe name.

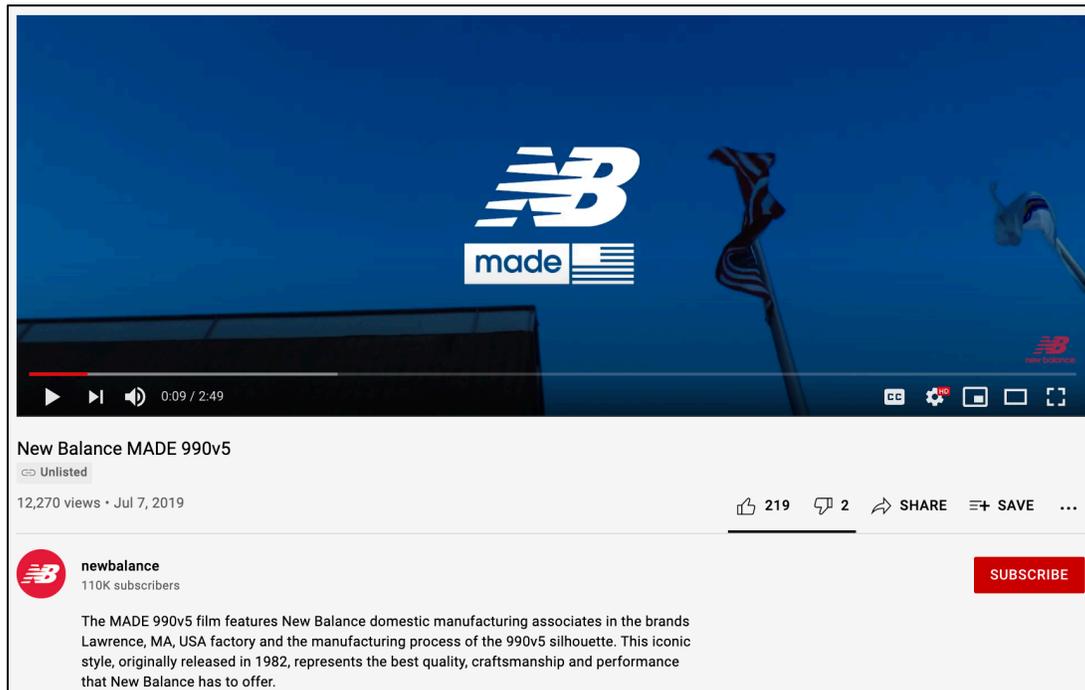


Digital Stamp Logo

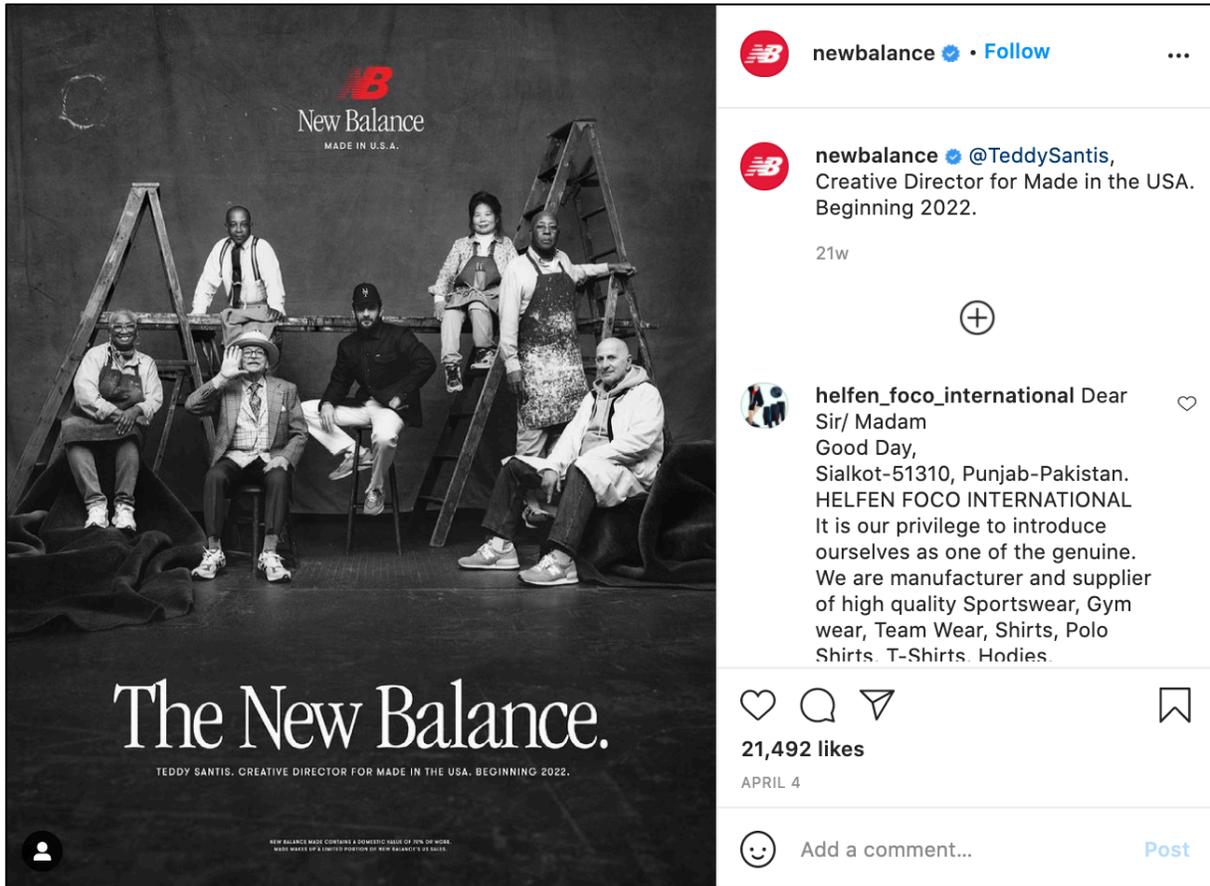


New Balance Made in the USA webpage

This deceptive Made in USA message is continued on the company's social media pages. For example, in one YouTube video, New Balance takes viewers inside its American flag-speckled factory in Lawrence, Massachusetts to show its "domestic manufacturing."¹⁸

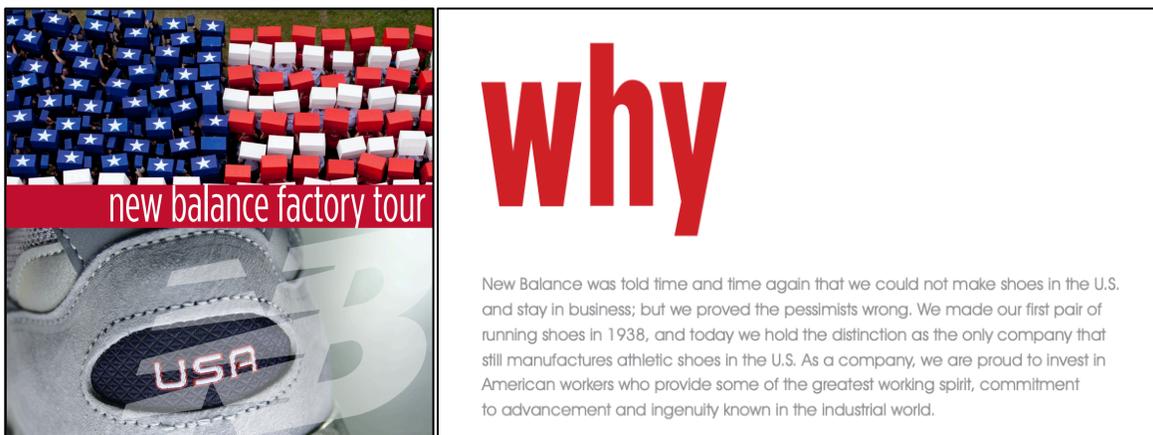


And on Instagram, New Balance advertises its brand as Made in the USA.¹⁹



The image shows an Instagram post from the account 'newbalance'. The main image is a black and white photograph of seven people of various ethnicities sitting on ladders in a workshop-like setting. The New Balance logo and 'MADE IN U.S.A.' are visible in the top left of the image. Below the photo, the text reads 'The New Balance.' and 'TEDDY SANTIS. CREATIVE DIRECTOR FOR MADE IN THE USA. BEGINNING 2022.' At the bottom left of the image, there is a small icon of a person. At the bottom right, there is a small text box that reads 'NEW BALANCE MADE CONTAINS A DOMESTIC SHARE OF 70% OF WORK. WITH 99% OF A LIMITED PORTION OF NEW BALANCE'S US SALES.' The Instagram interface shows the post was made 21 weeks ago, has 21,492 likes, and was posted on April 4. A comment from 'helfen_foco_international' is visible, addressed to 'Sir/ Madam' and mentioning 'HELFEN FOCO INTERNATIONAL' as a manufacturer and supplier of high quality sportswear.

In addition, New Balance’s Factory Tour Book not only displays a “USA” shoe label but also proudly boasts that it “hold[s] the distinction as the only company that still manufacturers athletic shoes in the U.S.”²⁰



The image is a promotional graphic for a 'new balance factory tour'. It features a close-up of a shoe's interior with a 'USA' label. The background is a collage of red, white, and blue stars and stripes. The word 'why' is written in large, bold, red lowercase letters. Below it, a paragraph of text reads: 'New Balance was told time and time again that we could not make shoes in the U.S. and stay in business; but we proved the pessimists wrong. We made our first pair of running shoes in 1938, and today we hold the distinction as the only company that still manufactures athletic shoes in the U.S. As a company, we are proud to invest in American workers who provide some of the greatest working spirit, commitment to advancement and ingenuity known in the industrial world.'

Such deceptive marketing, a larger sampling of which is available at <https://www.truthinadvertising.org/nb-musa-other-labels-marketing>, is part of New

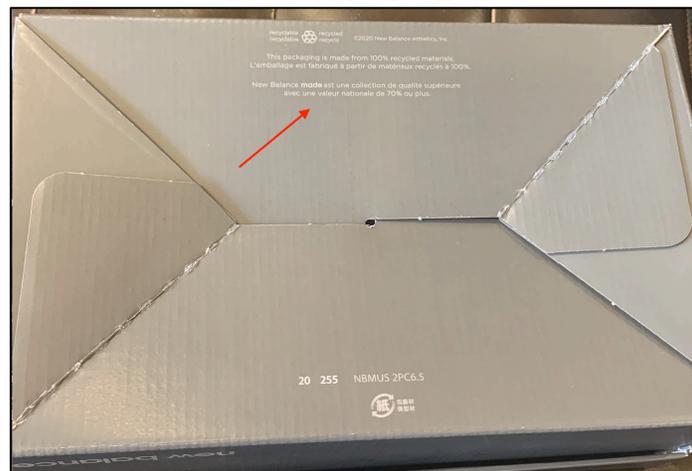
Balance’s marketing mosaic and adds weight to the violative labels, further driving home the misleading message that New Balance is, as one national media company described it, the “Heart & ‘Sole’ of America.”²¹

True Origin of “Made in USA” New Balance Shoes

Despite its labeling and the clear and unqualified marketing message New Balance sends consumers that many of its shoes are made in the United States, integral parts of these shoes, including the soles, are imported from other countries.²²

The only indication, however, that the shoes are not all or virtually all made in the United States is an ambiguous qualifying statement that the shoes contain “a domestic value of 70% or more,” which generally appears in inconspicuous places well removed from the Made in USA marketing messages and labels. Specifically, these fine print qualifiers can be found on the side or bottom of certain shoe boxes (sometimes in a foreign language as shown below), on the underside of tags attached to certain shoes, on product webpages below the “Add to cart” button, below the fold on select social media posts, and on a Support webpage separated from any product listings or ads.

Bottom of Shoe Box



New Balance made est une collection de qualité supérieure
avec une valeur nationale de 70% ou plus.

(Disclaimer in French)

Side of Shoe Box



New Balance **made** is a premium collection that contains a domestic value of 70% or greater.

Underside of Tag



*“Manufactured in the US for over 75 years and representing a limited portion of our U.S. sales. New Balance **made** is a premium collection that contains a domestic value of 70% or greater.”*

Product Webpage

New Men Women Kids RunningSearchLog in | Join🛒

Men / Shoes / Lifestyle



Made US 992

Men's

\$174.99



Color: Gray with silver

Select size

Size & fit guide					
3.5	4	4.5	5	5.5	6
6.5	7	7.5	8	8.5	9
9.5	10	10.5	11	11.5	12
13	14	15	16		

Select width

Standard

Add to cart

\$174.99 Or 4 payments of \$43.75 with 

★★★★☆ 4 Reviews

[Need help?](#)

[Make selections to check in-store availability](#)

[Add to wish list](#)

Free shipping on orders of \$50+

Join  **rewards** to get free shipping every day.

Our Made US 992 has heritage styling, premium materials and comfort features to elevate your off-duty look. These men's fashion sneakers have a reflective leather upper atop SBS ABZORB heel cushioning and a rubber outsole for durability and a seriously comfortable fit. The sleek look of the leather and mesh along with heritage design engineering helps you stand out as the tastemaker of your crew.

Manufactured in the US for over 75 years and representing a limited portion of our US sales, New Balance MADE is a premium collection that contains a domestic value of 70% or greater.

Product Details

Style #: M992BC

- Adjustable lace closure for customized fit
- Heritage-inspired design for a stylish look
- New Balance MADE contains a domestic value of 70% or more. MADE makes up a limited portion of New Balance's US sales
- Reflective leather and mesh upper offers a durable and sporty finish
- Rubber outsole for traction and durability
- SBS ABZORB heel cushioning delivers additional stability and comfort

Manufactured in the US for over 75 years and representing a limited portion of our US sales, New Balance MADE is a premium collection that contains a domestic value of 70% or greater.

Product Details

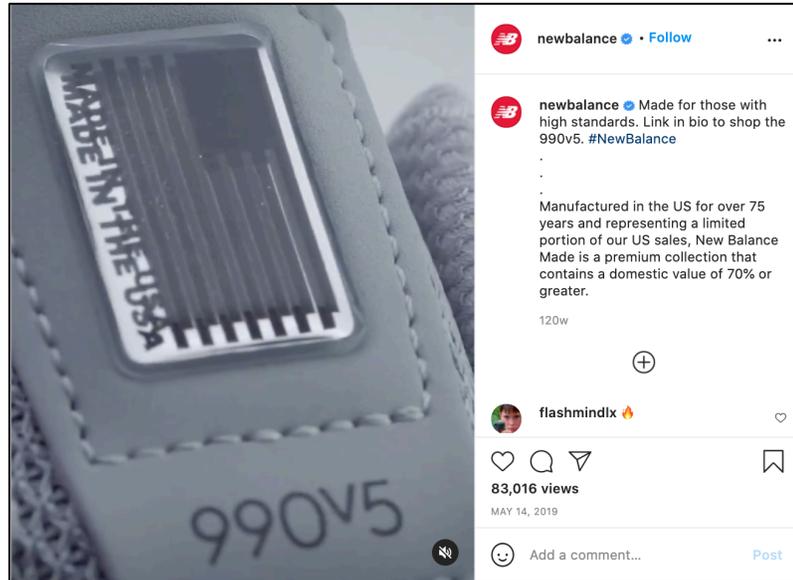
Style #: M992BC

- Adjustable lace closure for customized fit
- Heritage-inspired design for a stylish look
- New Balance MADE contains a domestic value of 70% or more. MADE makes up a limited portion of New Balance's US sales
- Reflective leather and mesh upper offers a durable and sporty finish
- Rubber outsole for traction and durability
- SBS ABZORB heel cushioning delivers additional stability and comfort

Social Media



Instagram post on mobile device without clicking “more”



Same Instagram post on a computer with full caption opened

Support Page²³

The screenshot shows the New Balance website's support page. At the top, there is a navigation bar with the New Balance logo and links for 'New', 'Men', 'Women', 'Kids', and 'Running'. A search bar is located on the right side of the page. The main content area is titled 'GENERAL' and features an article titled 'New Balance and Manufacturing in the US'. The article text states: 'We are proud to be the only major company to make or assemble more than 4 million pairs of athletic footwear per year in the USA, which represents a limited portion of our US sales. Where the domestic value is at least 70%, we label our shoes Made in the USA. Our commitment to domestic manufacturing allows New Balance to employ American workers at our five facilities in Maine and Massachusetts. Whenever possible, we purchase materials from domestic suppliers who employ more than 7,000 workers locally.' Below the article text, there are links for 'Detail' and 'To purchase Women's Made in the USA styles, please click here.' and 'To purchase Men's Made in the USA styles, please click here.' On the right side of the page, there is a 'FAQ Home' section and a 'Related Articles' list with titles like 'Does New Balance Manufacture Vegan Shoes?' and 'Where Can I Find Made in the USA Styles?'. A 'Trending Articles' section is also visible at the bottom right.

(A larger sampling of such disclosures is available at <https://www.truthinadvertising.org/newbalance-origin-information.>)

There are at least two reasons why such disclosures are legally ineffective. First, it is unclear what New Balance means by “a domestic value of 70% or greater” as the company never defines what it means by “domestic value,” never explains how it assesses the amount of such domestic value, and never clearly identifies in its marketing which parts of the shoes are imported. (And, in the case of disclosures printed in foreign languages, most U.S. consumers will not understand the text at all.)

Second, the typical placement of the disclosures, as shown above, is such that the majority of consumers will never see them. In the case of the physical disclosures that appear on the shoes and boxes, not only are they in small print separated from the U.S.-origin claims but as online shopping continues to grow, many consumers will not see them until after they have made a purchase (if at all).²⁴ As for the disclosures that appear online, they require consumers to scroll down the webpage below the “Add to cart” button, click on “more” to open up social media captions, or examine webpages that are separated from the product listings.

As the Commission has stated, disclosures must be prominent, conspicuous, and “effectively communicated to consumers before they make a purchase or incur a financial obligation.”²⁵ There can be no dispute that New Balance’s U.S.-origin disclaimers are not prominent or conspicuous, as is required by law.²⁶

Conclusion

For far too long New Balance has brazenly violated Made in USA origin laws. The FTC now has a powerful and efficient tool it can use to bring New Balance to justice, put an end to the company’s deceptive Made in USA labeling, and effectively protect consumers and honest businesses from the company’s long-running deceptive Made in USA marketing. TINA.org urges the Commission to open an investigation into New Balance and take appropriate enforcement action.

If you have any questions, please do not hesitate to contact us.

Sincerely,



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



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

Cc via email: Paul Gauron, General Counsel, New Balance Athletics, Inc.

¹ John W. Shoen, *New Balance sidesteps FTC ad rules*, NBC News, Apr. 16, 2010, <https://www.nbcnews.com/id/wbna36476797>.

² Defendant New Balance Athletics, Inc.’s First Amended Answer to the First Amended Complaint at 6, *Dashnaw et al v. New Balance Athletics, Inc.*, No. 17-cv-00159 (S.D. Cal. Apr. 20, 2017) (“certain materials used in some domestically manufactured shoes are imported from outside of the United States, including from some countries in Asia.”); *New Balance CEO on Manufacturing*, Fox Bus., May 6, 2011, <https://video.foxbusiness.com/v/934398419001#sp=show-clips>; <https://www.truthinadvertising.org/wp-content/uploads/2021/09/New-Balance-CEO-Fox.mp4> (“[Interviewer:] Are all the components of the shoe down to the laces made here in the U.S.? [New Balance CEO:] ... First of all, soles today, the bottom of the shoe, are not made domestically. The process that’s there is made overseas. We import the soles...”); Timothy Aepfel, *New Balance Acknowledges Shoe Materials Aren’t All U.S. Made*, Wall St. J., Sept. 30, 2014, <https://www.wsj.com/articles/new-balance-shoe-materials-arent-all-u-s-made-1412109111>. (“But the Boston-based company also acknowledges that only 70% of the value of its U.S.-made shoes reflects domestic content and labor. The outer soles, for instance, are imported from China.”). See also Timothy Aepfel, *New Balance Sweats Push to End U.S. Shoe Tariffs*, Wall St. J., Feb. 27, 2013, <https://www.wsj.com/articles/SB10001424127887323764804578312461184782312>.

In addition, the upper part of the shoes (known as the “uppers”) may also be imported. See *New Balance: Keeping America Running*, Harvard Business School Digital Initiative (modified Dec. 9, 2015), <https://digital.hbs.edu/platform-rctom/submission/new-balance-keeping-america-running/>.

³ New Balance, <https://www.forbes.com/companies/new-balance/?sh=19dbdaf13fd4>; *New Balance and Manufacturing in the US*, New Balance, Sept. 16, 2020, <https://support.newbalance.com/s/article/New-Balance-and-Manufacturing-in-the-US>.

⁴ 16 CFR § 323.2.

⁵ 16 CFR § 323.3.

⁶ Fed. Trade Comm’n, *Enforcement Policy Statement on U.S. Origin Claims*, Dec. 1, 1997, <https://www.ftc.gov/public-statements/1997/12/enforcement-policy-statement-us-origin-claims>.

⁷ *Id.*

⁸ For 80 years, the Commission has pursued enforcement actions that have established the principle that unqualified Made in USA claims imply no more than a *de minimis* amount of the product is of foreign origin. See, e.g., *In the Matter of Vulcan Lamp Works, Inc.*, 32 F.T.C. 7 (1940); *In the Matter of Windsor Pen Corp. et al*, 64 F.T.C. 454 (1964) (articulating this standard as a “wholly of domestic origin” standard). And in 1997, following consumer research and public comments, including from New Balance, the Commission published its Enforcement Policy Statement on U.S. Origin Claims, elaborating that a marketer making an unqualified claim for its product should, at the time of the representation, have a reasonable basis for asserting that “all or virtually all” of the product is made in the United States. Fed. Trade Comm’n, *Notice of Issuance of Enforcement Policy Statement on U.S. Origins Claims*, 62 Fed. Reg. 63756, 63766 (Dec. 2, 1997), https://www.ftc.gov/sites/default/files/documents/federal_register_notices/made-usa-and-other-u.s.origin-claims/971202madeinusa.pdf.

⁹ Hyde Athletic Industries, File No. 922–3236 (consent agreement accepted subject to public comment Sept. 20, 1994) and New Balance Athletic Shoes, Inc., Docket No. 9268 (complaint issued Sept. 20, 1994); Fed. Trade Comm’n, *Notice of Issuance of Enforcement Policy Statement on U.S. Origin Claims*, 62 Fed. Reg. 63756 (Dec. 2, 1997), https://www.ftc.gov/sites/default/files/documents/federal_register_notices/made-usa-and-other-u.s.origin-claims/971202madeinusa.pdf.

¹⁰ Dissenting Statement of Comm’r Roscoe B. Starek, III, *In the Matter of New Balance Athletic Shoes, Inc.*, No. 9268 (Fed. Trade Comm’n Sept. 6, 1996), https://www.ftc.gov/system/files/documents/public_statements/417151/960906d9268rbs.pdf.

¹¹ More than 20 years ago, New Balance actively argued against an “all or virtually all” standard advocating instead for a 50 percent U.S. content standard. *See* Fed. Trade Comm’n, *Request for Public Comment on Proposed Guides for the Use of U.S. Origin Claims*, 62 Fed. Reg. 25020 (May 7, 1997), https://www.ftc.gov/sites/default/files/documents/federal_register_notices/made-usa-request-public-comment-proposed-guides-use-u.s.origin-claims/970507requestforpubliccomment.pdf; Fed. Trade Comm’n, *Notice of Issuance of Enforcement Policy Statement on U.S. Origin Claims*, 62 Fed. Reg. 63756 (Dec. 2, 1997), https://www.ftc.gov/sites/default/files/documents/federal_register_notices/made-usa-and-other-u.s.origin-claims/971202madeinusa.pdf. However, New Balance did not get its way. Rather than abide by the FTC’s Made in USA standard, though, the company has brazenly chosen to ignore it.

¹² *See* Rosemary Coates, *Americans Say They Prefer Products Made in USA and Will Pay More For Them*, Supply Chain Management Review, Sept. 28, 2020, <https://www.scmr.com/article/americans-say-they-prefer-products-made-in-usa-and-will-pay-more-for-them>; Press Release, Boston Consulting Group, *U.S. and Chinese Consumers Willing to Pay More for Made in USA Products* (Nov. 15, 2012), <https://www.truthinadvertising.org/wp-content/uploads/2015/07/BCG-Press-Release-U...or-Made-in-USA-Products.pdf>; *Knowing Which Products are Truly Made in America: How to know which flag-waving products are true red, white, and blue*, Consumer Rep, Feb. 2013, <http://www.consumerreports.org/cro/magazine/2013/02/made-in-america/index.htm>.

Even New Balance acknowledges this preference. *See* Fed. Trade Comm’n, *Request for Public Comment on Proposed Guides for the Use of U.S. Origin Claims*, 62 Fed. Reg. 25020, 25027 (May 7, 1997), https://www.ftc.gov/sites/default/files/documents/federal_register_notices/made-usa-request-public-comment-proposed-guides-use-u.s.origin-claims/970507requestforpubliccomment.pdf (FTC quoting New Balance as stating “For industry, given that there are strong economic incentives to move offshore and dramatically reduce labor and other costs, whatever advantage might accrue from use of the “Made in USA” label provides at least some incentive to stay in the U.S. to counterbalance the clear economic benefits of locating elsewhere.”)

¹³ New Balance Footwear Made in the USA, <https://www.newbalance.com/made-in-the-usa/>. Of note, the shoes currently listed on this webpage do not include all New Balance shoes currently for sale in the U.S. that bear Made in USA labels as certain models sold in retail and/or outlet stores are not listed on the website.

¹⁴ New Balance Made in US 993, <https://www.newbalance.com/pd/made-in-us-993/WR993V1-2382-W.html>.

Such digital labels are also shown on third party sites that sell New Balance sneakers, such as Amazon.com, as the below example shows:

Visit the New Balance Store

New Balance Women's Made in Us 990 V4 Sneaker

★★★★★ 1,150 ratings
| 106 answered questions

Price: **\$137.86** ✓prime & FREE Returns

✓ True to size. Order usual size. >

prime wardrobe

Size:

5 Narrow Size Chart

Color: Grey/Pink

- 50% Pigskin, 50% Mesh
- Made in the USA
- Rubber sole

Roll over image to zoom in

New Balance Women's Made in Us 990 V4 Sneaker on Amazon, https://www.amazon.com/New-Balance-Womens-w990v4-Running/dp/B01CQVFK5K?ref_=ast_sto_dp&th=1&psc=1.

¹⁵ New Balance Grey Day 2019 Facebook Post (Sept. 6, 2019), <https://www.facebook.com/newbalanceusa/videos/439780766661091/>;
New Balance Video Instagram Post (May 14, 2019), https://www.instagram.com/p/BxchvjWFiHZ/?utm_source=ig_web_copy_link.

¹⁶ Emma Coburn Instagram story, https://www.truthinadvertising.org/wp-content/uploads/2021/09/NB_ig_emmacoburn.mp4.

¹⁷ New Balance Video Instagram Post (May 19, 2019), https://www.instagram.com/p/Bxparn8lUyj/?utm_source=ig_web_copy_link.



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- ¹⁸ New Balance MADE 990v5 YouTube Video (July 7, 2019), <https://www.youtube.com/watch?v=VOJ6lxDf4W0>.
- ¹⁹ New Balance Instagram Post (April 4, 2021), https://www.instagram.com/p/CNPulgZFd77/?utm_source=ig_web_copy_link.
- ²⁰ New Balance Factory Tour Book, http://assets.newbalance.com/nb-us/about_nb/leadership/documents/factory_tour_book.pdf.
- ²¹ *New Balance CEO on Manufacturing*, Fox Bus., May 6, 2011, <https://video.foxbusiness.com/v/934398419001#sp=show-clips>; <https://www.truthinadvertising.org/wp-content/uploads/2021/09/New-Balance-CEO-Fox.mp4>.
- ²² *See supra* note 2.
- ²³ *New Balance and Manufacturing in the US*, New Balance, Sept. 16, 2020, <https://support.newbalance.com/s/article/New-Balance-and-Manufacturing-in-the-US>.
- ²⁴ Blake Morgan, *More Customers Are Shopping Online Now Than At Height Of Pandemic, Fueling Need For Digital Transformation*, Forbes, July 27, 2020, <https://www.forbes.com/sites/blakemorgan/2020/07/27/more-customers-are-shopping-online-now-than-at-height-of-pandemic-fueling-need-for-digital-transformation/?sh=1b203b886bb9>; Peter Verry, *New Balance Closes Stores and Offices Amid Escalating Coronavirus Concerns*, Yahoo! Finance, Mar. 16, 2020, <https://finance.yahoo.com/news/balance-closes-stores-offices-amid-133938316.html>.
- ²⁵ *See* Fed. Trade Comm’n, *.com Disclosures: How to Make Effective Disclosures in Digital Advertising*, <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf> (“In reviewing their ads, advertisers should adopt the perspective of a reasonable consumer. They also should assume that consumers don’t read an entire website or online screen, just as they don’t read every word on a printed page. Disclosures should be placed as close as possible to the claim they qualify. Advertisers should keep in mind that having to scroll increases the risk that consumers will miss a disclosure. . . . Simply making the disclosure available somewhere in the ad, where some consumers might find it, does not meet the clear and conspicuous standard.”)
- ²⁶ Fed. Trade Comm’n, *.com Disclosures: How to Make Effective Disclosures in Digital Advertising*, <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf>; Fed. Trade Comm’n, *Complying with the Made In USA Standard*, <https://www.ftc.gov/system/files/documents/plain-language/bus03-complying-made-usa-standard.pdf>.