



October 17, 2023

VIA EMAIL

Samuel A.A. Levine, Director, Bureau of Consumer Protection
James A. Kohm, Associate Director, Division of Enforcement
Julia Solomon Ensor, Attorney, Division of Enforcement
Federal Trade Commission
600 Pennsylvania Ave. N.W.
Washington, D.C. 20580
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Re: BMW's Deceptive Made in USA Marketing

Dear Mr. Levine, Mr. Kohm and Ms. Ensor:

A Truth in Advertising, Inc. ("TINA.org") investigation into BMW has revealed that the automaker is marketing its 2023 X range vehicles as "built" and "manufactured" in the United States when, in reality, the vehicles are either wholly imported from other countries or are made with a substantial amount of imported parts, in violation of Section 5 of the FTC Act, 15 U.S.C. § 45.¹

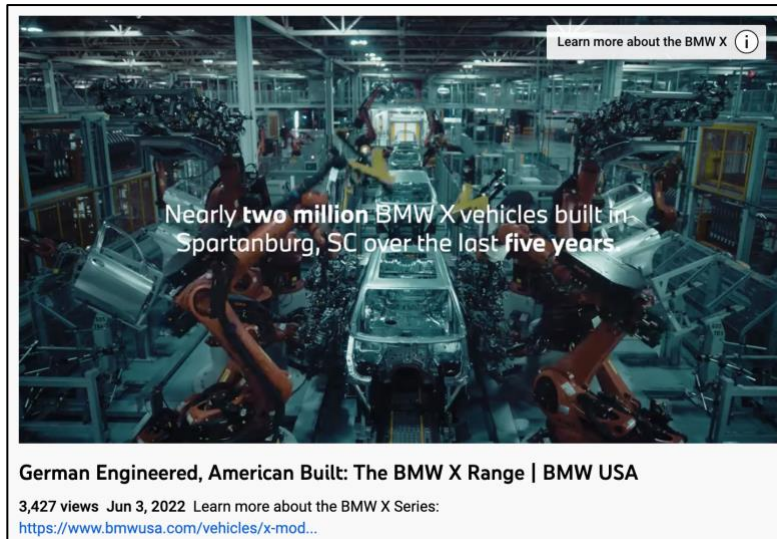
Specifically, BMW states in a television commercial that has been airing on numerous major broadcast networks for over a year that its 2023 X range vehicles are manufactured in South Carolina.²



"That's why our most versatile BMW X range vehicles are proudly manufactured right here in Spartanburg, South Carolina."³

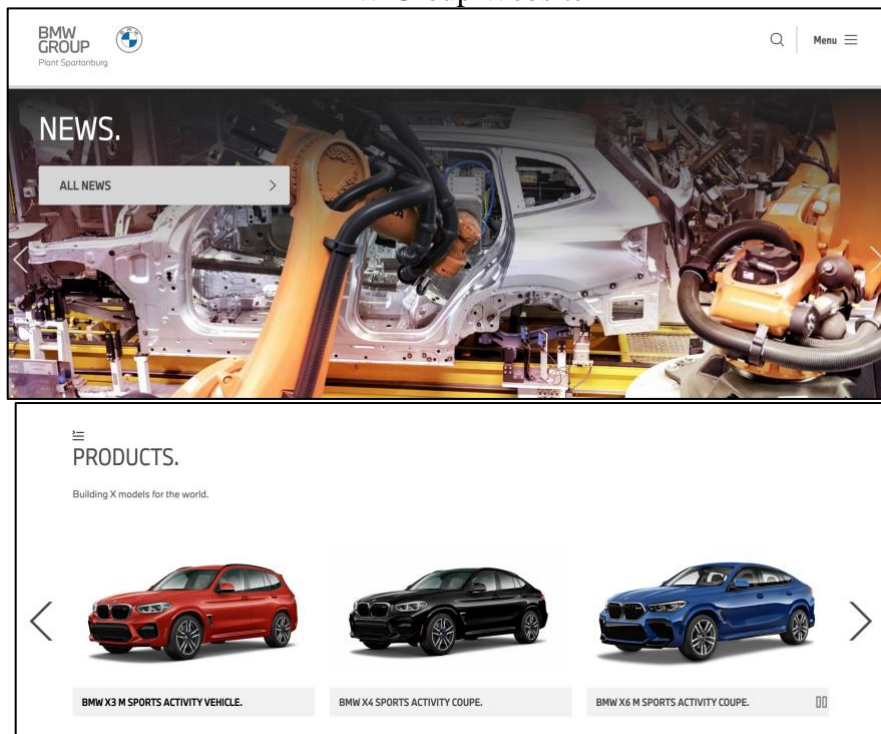
This message is reiterated in other national BMW marketing materials as well.

BMW USA YouTube video⁴



“To celebrate nearly two million BMW X vehicles built in Spartanburg, South Carolina, for the last five years, we asked our team to deliver a special message . . . Here’s to two million more BMWs built right here in Spartanburg, South Carolina.”

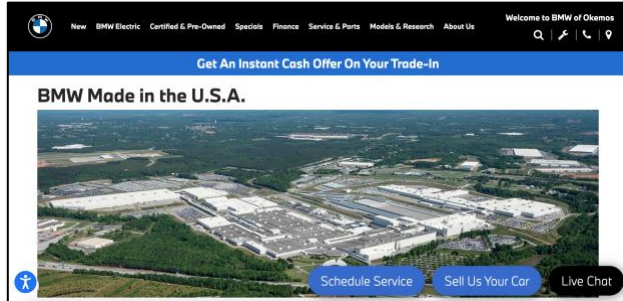
BMW Group Website⁵



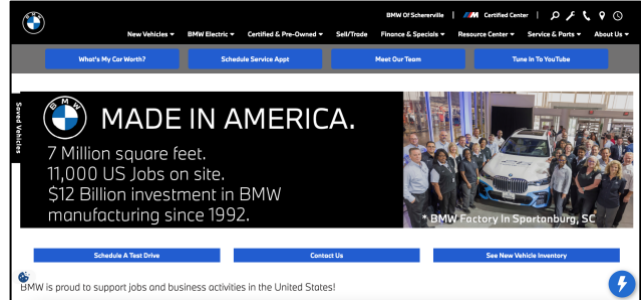
“Plant Spartanburg . . . PRODUCTS. Building X models for the world.”

This national marketing campaign, which has been running for BMW X models for years,⁶ has prompted local dealerships to follow suit, further spreading the deceptive U.S.-origin marketing message. Below are a few examples.

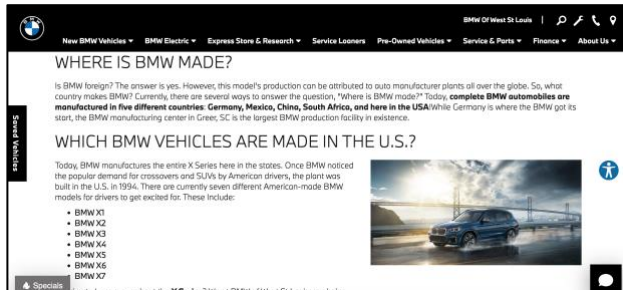
BMW of Okemos⁷



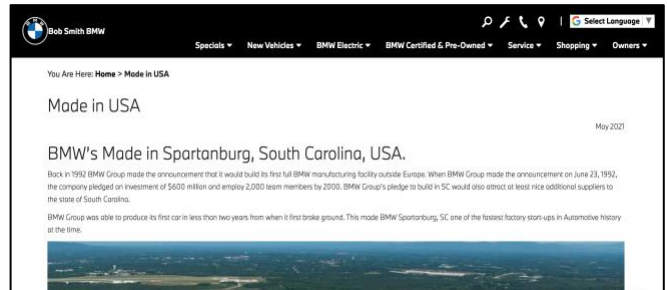
BMW of Schererville⁸



BMW of West St. Louis⁹



Bob Smith BMW¹⁰



Additional examples of marketing materials that deceptively promote BMW's 2023 X range vehicles as made in the USA are available at <https://truthinadvertising.org/evidence/2023-bmw-x-range-made-in-usa-database>.¹¹

It is clear that BMW's marketing is deceptive because data from the United States Department of Transportation National Highway Traffic Safety Administration indicates that BMW's 2023 X range vehicles are, at most, comprised of only 40 percent U.S. content.¹² Moreover, data collected by TINA.org shows that many 2023 X range vehicles are imported. TINA.org collected a sampling of more than 500 BMW 2023 X range vehicles for sale throughout the United States that are imported from plants located either in Germany or South Africa.¹³ In fact, TINA.org found imported 2023 BMW X models in every single state that has a BMW dealership.¹⁴ As such, BMW's 2023 X models do not meet the FTC's "all or virtually all" standard for products marketed as made, built or manufactured in the USA.¹⁵

BMW has been aware of this deceptive U.S.-origin marketing issue since at least November 2022 when TINA.org sent the company a letter putting it on notice of our investigative findings.¹⁶ Since then, BMW has done nothing to correct its deceptive marketing. To the contrary, the company has continued airing its "Manufactured in Spartanburg" television commercial, among other things, sending a clear message that the automaker will not stop deceiving American consumers unless forced to do so.¹⁷

As TINA.org explained to the company last November, BMW has every right to boast of its assembly plants in the United States that create American jobs and strengthen the U.S. economy, but it cannot illegally embellish the amount of manufacturing that takes place domestically in order to capitalize on American consumers' preference for American-made products.¹⁸ Rather, BMW has an obligation to ensure that its marketing messages are truthful, nondeceptive, and in compliance with the law. To date, however, BMW has failed to do so.

Accordingly, TINA.org urges the Commission to open an investigation into BMW and take appropriate enforcement action.

Sincerely,



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



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

Cc via email: Howard S. Harris, General Counsel
U.S. and Canadian BMW Group Companies

¹ To the extent similar deceptive claims are repeated in physical or digital labels, they would also be in violation of the FTC’s Made in USA Labeling Rule, 16 CFR Part 323.

² BMW TV Spot ‘America: Point X’ [T2], <https://www.ispot.tv/ad/5TWI/bmw-america-point-x-t2>; BMW TV Spot ‘America: Point X’ [T1], <https://www.ispot.tv/ad/1BeJ/bmw-america-point-x-t1>.

According to a representative of iSpot, BMW’s “Manufactured in Spartanburg” commercial has aired on ABC, FOX, NBC, NFL Network, Food Network, Animal Planet, Weather Channel, and TNT, as well as other television channels, and has been airing since May 2022.

³ BMW TV Spot ‘America: Point X’ [T2], <https://www.ispot.tv/ad/5TWI/bmw-america-point-x-t2>.

The company also features portions of this commercial, without the voiceover, on its home website. *See* BMW USA, <https://www.bmwusa.com/vehicles/x-models.html>.



⁴ German Engineered, American Built: The BMW X Range | BMW USA, YouTube, June 3, 2022, <https://www.youtube.com/watch?v=PpjoSey9LAE>.

⁵ BMW Group Plant Spartanburg, <https://www.bmwgroup-werke.com/spartanburg/en.html>.

⁶ *See, e.g.*, July 4, 2017 BMW USA Facebook post, https://www.facebook.com/BMWUSA/posts/10155405543536303?paipv=0&eav=Afb69ZopAvtkWzn_ycxJ68WAlbvtG25XJb63fLdbcsUjeHdzriw_EzKphImPaKk_Ywk; Nov. 24, 2018 BMW USA Instagram post, <https://www.instagram.com/p/BqkJgPWHckw/>.

⁷ BMW of Okemos, <https://www.bmwofokemos.com/made-in-usa.html>.

⁸ BMW of Schererville, <https://www.bmwofschererville.com/about-us/made-in-america/>.

⁹ BMW of West St. Louis, <https://www.bmwofweststlouis.com/manufacture-information/is-bmw-a-foreign-car/>.

¹⁰ Bob Smith BMW, <https://www.bobsmithbmw.com/made-in-usa/>.

¹¹ Certain BMW marketing materials list which X models are purportedly “produced” in the U.S., and in certain of those materials, the X1 model is omitted from the list. *Compare* BMW Manufacturing Co., LLC, LinkedIn profile, <https://www.linkedin.com/company/bmw-manufacturing/about/> (“The Spartanburg plant is the BMW Group producer of the BMW X3, X3 M, X5, X5 M and X7 Sports Activity Vehicles and X4, X4 M, X6 and X6 M Sports Activity Coupes.”) and BMW of Okemos, BMW Made in the U.S.A., <https://www.bmwofokemos.com/made-in-usa.html> (“BMW makes [new BMW](#) Sports Activity Vehicles® and cars at the South Carolina plant not just for the U.S. market but also the SAV® demand across the world. BMW models made in the U.S. include: • BMW X3 & BMW X3 M (Also drive in Europe) • BMW X4 & BMW X4 M • BMW X5 & BMW X5 M (Also driven in Latin America) • BMW X6 & BMW X6 Sports Activity Coupes® (Shipped Globally) • BMW X7 (Also driven in Asia) • And More!”) to BMW of West St Louis, Is BMW a Foreign Car?, <https://www.bmwofweststlouis.com/manufacture-information/is-bmw-a-foreign-car/> (“Today, BMW manufactures the entire X Series here in the states. Once BMW noticed the popular demand for crossovers and SUVs by American drivers, the plant was built in the U.S. in 1994. There are currently seven different American-made BMW models for drivers to get excited for. These Include: • BMW X1 • BMW X2 • BMW X3 • BMW X4 • BMW X5 • BMW X6 • BMW X7”).

In short, the information that is available to consumers about which 2023 BMW X models are purportedly “produced” in the U.S. is conflicting, unclear and inconspicuous, and does not change the overall message of BMW’s Manufactured in Spartanburg campaign that all of its 2023 X models are made in Spartanburg, North Carolina. *See* FTC Policy Statement on Deception, https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf (“[I]n advertising the Commission will examine ‘the entire mosaic, rather than each tile separately.’”). Further, as this letter explains, the information that is available to consumers about which 2023 BMW X models are manufactured domestically is also false as none of the BMW X models meet the FTC’s definition of “made in USA.”

¹² *See* U.S. Department of Transportation, NHTSA, Part 583 American Automobile Labeling Act Reports, <https://www.nhtsa.gov/part-583-american-automobile-labeling-act-reports>; U.S. Department of Transportation, NHTSA, Part 583 American Automobile Labeling Act Report for 2023 makes and models, <https://www.nhtsa.gov/sites/nhtsa.gov/files/2022-10/MY2023-AALA-Alphabetical-10-6-22.pdf> (showing that, at most, 40 percent of 2023 BMW X range vehicles are of U.S. content).

¹³ TINA.org 2023 BMW X Range Origin Database, <https://truthinadvertising.org/evidence/2023-bmw-x-range-origin-database/>.

¹⁴ Only three states do not have a BMW dealership: Montana, North Dakota and Wyoming. In every other state, TINA.org found 2023 BMW X models that were imported from either Germany or South Africa.

¹⁵ FTC, Complying with the Made in USA Standard, <https://www.ftc.gov/business-guidance/resources/complying-made-usa-standard>.

As you know, the Federal Trade Commission treats the terms “built” and “manufactured” as synonymous with “made” in the U.S. *See United States v. iSpring Water Systems, LLC, et al.*, Stipulated Order for Civil Penalties, Permanent Injunction, and Other Relief, Apr. 19, 2019, https://www.ftc.gov/system/files/documents/cases/172_3033_ispring_water_systems_-_stipulated_order.pdf (“Made in the United States’ means any representation, express or implied, that a product or service, or a specified component thereof, is of U.S.-origin, including, but not

limited to, a representation that such product or service is ‘made,’ ‘manufactured,’ ‘built,’ ‘produced,’ or ‘crafted’ in the United States or in America, or any other U.S.-origin claim.”). *See also* Made in USA Labeling Rule, 16 CFR Part 323 (“The term *Made in the United States* means any unqualified representation, express or implied, that a product or service, or a specified component thereof, is of U.S. origin, including, but not limited to, a representation that such product or service is ‘made,’ ‘manufactured,’ ‘built,’ ‘produced,’ ‘created,’ or ‘crafted’ in the United States or in America, or any other unqualified U.S.-origin claim.”)

¹⁶ Nov. 1, 2022 letter from TINA.org to BMW, https://truthinadvertising.org/wp-content/uploads/2022/10/11_1_22-TINA-ltr-to-BMW-re-MUSA-claims.pdf.

¹⁷ BMW TV Spot ‘America: Point X’ [T2], <https://www.ispot.tv/ad/5TWI/bmw-america-point-x-t2> (“Published October 08, 2023”).

¹⁸ Survey Says: Americans Prefer “MADE IN USA,” Oct. 30, 2020, <https://www.prnewswire.com/news-releases/survey-says-americans-prefer-made-in-usa-301163756.html>.