



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Bureau of Consumer Protection  
Division of Enforcement

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June 24, 2020

**VIA EMAIL**

Maxine Nordmeyer, CEO  
Bihler of America, Inc., also d/b/a Bihlerflex, LLC, Perfect Bungee, and Jersey Dog Co.  
85 Industrial Drive, Bldg. B  
Phillipsburg, NJ 08865

Dear Ms. Nordmeyer:

We received your submissions on behalf of Bihler of America, Inc., also d/b/a Bihlerflex, LLC, Perfect Bungee, and Jersey Dog Co. (“Bihlerflex” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which all products advertised on Company websites are made in the United States. Specifically, although Bihlerflex sells some U.S.-origin bungee and pet products, it also sells other products, including the ShockStrap, that incorporate significant imported parts.

Unqualified U.S.-origin claims in marketing materials – including claims that products are “Made,” “Built,” or “Manufactured” in the USA – likely suggest to consumers that all products advertised in those materials are “all or virtually all” made in the United States.<sup>1</sup> As the Commission has explained, “marketers should not represent, either expressly or by implication, that a whole product line is of U.S. origin (e.g., ‘Our products are Made in USA’) when only some products in the product line are, in fact, made in the United States.”<sup>2</sup>

To avoid deceiving consumers, Bihlerflex implemented a remedial action plan to update and qualify its representations where needed. This plan included: (1) revising websites and

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<sup>1</sup> The Commission may analyze a number of different factors to determine whether a product is “all or virtually all” made in the United States, including the proportion of the product’s total manufacturing costs attributable to U.S. parts and processing, how far removed any foreign content is from the finished product, and the importance of the foreign content or processing to the overall function of the product. *See* Federal Trade Commission, *Issuance of Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims*, 62 Fed. Reg. 63756, 63768 (Dec. 2, 1997) (“Policy Statement”).

<sup>2</sup> *Id.* at n.111.

social media accounts to clarify that not all products advertised are “all or virtually all” made in the United States; (2) updating printed materials; (3) updating tradeshow materials; and (4) circulating a memo to Bihlerflex staff providing guidance on Company claims.

As discussed, it is appropriate for Bihlerflex to promote the fact that it employs workers and makes certain products in the United States. However, marketing materials should not convey that all the products sold through Company websites are “all or virtually all” made in the United States (unless that becomes the case), or overstate the U.S. content of products that contain significant imported inputs. As you know, FTC staff members are available to work with companies to craft qualified claims that serve the dual purposes of conveying non-deceptive information to consumers and highlighting work done in the United States.

Based on Bihlerflex’s actions and other factors, the staff has decided not to pursue this investigation any further. This action should not be construed as a determination that there was no violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. The Commission reserves the right to take such further action as the public interest may require. If you have any questions, please feel free to call.

Sincerely,



Julia Solomon Ensor  
Staff Attorney



Lashanda Freeman  
Federal Trade Investigator