



September 11, 2020

Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Avenue NW, Suite CC-5610 (Annex C)  
Washington, D.C. 20580

Submitted Electronically

Re: MUSA Rulemaking, Matter No. P074204

Dear Chairman Simons and members of the Commission:

North Dakota Farmers Union (“NDFU”) appreciates the opportunity to comment on the MUSA Rulemaking, Matter No. P074204. NDFU, the largest general farm organization in North Dakota, represents more than 48,000 farm and ranch families, members, and their energy and agriculture supply cooperatives. NDFU’s member-developed policy positions strongly support truthful, accurate, and transparent labeling of agricultural products.

NDFU supports the Federal Trade Commission’s (“FTC”) proposed rulemaking which would prohibit marketers from making unqualified “Made in the USA” and other U.S.-origin claims (“MUSA claims”). Adoption of the proposed rule would incorporate established FTC guidance for MUSA claims on labels and strengthen the FTC’s ability to seek civil penalties for violations. NDFU believes the rule would promote transparency, protect U.S. farmers’ and ranchers’ market share, and prevent consumer confusion.

NDFU is a strong supporter of mandatory country-of-origin labeling (“COOL”). In the absence of mandatory COOL for beef, pork and several other agricultural products, existing voluntary labels can mislead consumers. While we believe that mandatory COOL is the most effective mechanism for truth-in-labeling, it is critical that voluntary labels are subject to strict standards that prevent consumer confusion.

Existing federal statutes, rules, or policies relating to voluntary COOL do not duplicate, conflict, or go as far as the FTC’s proposed MUSA claims rule. Specifically, the Food Safety and Inspection Service (“FSIS”) Food Standards and Labeling Policy Book allows a product to be labeled “Product of U.S.A.” if it is processed in the United States. This current policy, and its enforcement, put U.S. family farmers and ranchers at an unfair disadvantage in the marketplace, because they are not able to differentiate their domestically produced meat and meat products from foreign produced meat and meat products.

Under the FSIS policy, multinational corporations and foreign interests take advantage of market opportunities that should be reserved solely for U.S. family farmers and ranchers. In the case of beef, farmers face an oligopolistic marketplace; today, just four companies control more than 80% of the packing and processing for beef.<sup>i</sup> These same four companies, Tyson Foods, JBS SA, Cargill, and National Beef/Marfrig, all rely heavily on imported beef. American consumers overwhelmingly express the desire to know where their food comes from<sup>ii</sup> and most Americans indicate understanding MUSA claims to mean that all parts of a product originated within the U.S.<sup>iii</sup> The FSIS policy allows consumers to be intentionally misled.

Finalizing the FTC rule will help prevent and deter the mislabeling of products and set an example for other agencies with primary oversight and enforcement of agriculture and food labeling. Thus, NDFU supports the standard called for in the FTC's MUSA claims rulemaking which prohibits marketers from making "unqualified MUSA claims on labels unless: (1) Final assembly or processing of the product occurs in the United States, (2) all significant processing that goes into the product occurs in the United States, and (3) all or virtually all ingredients or components of the product are made and sourced in the United States."<sup>iv</sup> In addition, the FTC's standard aligns with NDFU's position that, with respect to meat and meat products, a product must be derived from an animal born, raised, and harvested in the United States in order to be labeled "Made in USA" or "Product of USA."

It is essential the FTC adopts the MUSA claims regulation to clarify the use of the "Made in USA" label. Accurate country-of-origin labeling is a valuable marketing tool for family farmers and ranchers and a key tool employed by consumers when purchasing agricultural products. Incorporating established FTC guidance for MUSA claims on labels and strengthening the FTC's ability to seek civil penalties for violations would safeguard consumers from being deceived by inaccurately labeled products and ensure family farmers and ranchers are able to distinguish their products from those of other countries, expanding opportunities to receive market premiums.

Further, we urge USDA-FSIS to follow the FTC's lead and amend its labeling standards with respect to meat and meat products to reflect the "all or virtually all" standard as articulated in this proposed rule. We would also encourage collaboration between FTC and USDA regarding an update to the FSIS standards.

Sincerely,

NORTH DAKOTA FARMERS UNION



Mark Watne  
President

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<sup>i</sup> United States Department of Agriculture, Agricultural Marketing Service (2019, August). Packers and Stockyards Division Annual Report 2018. <https://www.ams.usda.gov/sites/default/files/media/PSDAnnualReport2018.pdf>

<sup>ii</sup> Consumer Federation of America. "Large Majority of Americans Strongly Support Requiring Origin Information on Fresh Meat." July 24, 2017. [https://consumerfed.org/press\\_release/large-majority-of-americans-strongly-support-requiring-origin-information-on-fresh-meat/](https://consumerfed.org/press_release/large-majority-of-americans-strongly-support-requiring-origin-information-on-fresh-meat/)

<sup>iii</sup> FTC. *Made in the USA, an FTC Workshop: Staff Report of the Bureau of Consumer Protection*. June 19, 2020. [https://www.ftc.gov/system/files/documents/reports/made-usa-ftc-workshop/p074204\\_-\\_musa\\_workshop\\_report\\_-\\_final.pdf](https://www.ftc.gov/system/files/documents/reports/made-usa-ftc-workshop/p074204_-_musa_workshop_report_-_final.pdf)

<sup>iv</sup> 16 CFR Part 323: Made in USA Labeling Rule; Request for Public Comment. <https://www.ftc.gov/policy/federal-register-notice/16-cfr-part-323-made-usa-labeling-rule-request-public-comment>

