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5 KEY TAKEAWAYS

Global Compliance and Sustainability/Green Claims in Fashion Law: Kilpatrick's Fashion & Luxury Goods Team's Three-Part Series Examining Legal Issues in the Fashion Industry

As part of a three-part series on Fashion Law, Barry M. Benjamin, managing partner of Kilpatrick's New York office and chair of its Advertising and Marketing group, and Bryan Wolin, also part of Kilpatrick's Advertising and Marketing group and resident in Kilpatrick's New York office, presented a session on Global Compliance and Sustainability in Fashion. Given the rise in pro-environment advertising claims in the fashion industry, along with increasing consumer and regulatory perceptions of the negative impact that "fast fashion" has had on the environment, laws and regulations around the world have followed in force. Their session examined cross-border legal compliance challenges, including green claims, labeling standards, and advertising requirements, and provided risk mitigation counseling and legal advice on the practical realities of navigating regulatory scrutiny, inside the United States and around the globe.

Takeaways from the program include:

1

Heightened Scrutiny and Risk of "Greenwashing": Fashion brands face increasing legal and regulatory scrutiny worldwide over environmental claims, with consumer perception being the main standard for evaluating deceptive advertising. Misleading or unsubstantiated environmental claims ("greenwashing") can trigger investigations, litigation, fines, and reputational harm from regulators like the FTC, from other entities like NAD, and from their global equivalents, as well as from consumer actions and NGOs. Severe penalties exist in several jurisdictions, both within and outside the U.S.

2

Evolving and Diverse Global Sustainability Standards: There is no single global standard; instead, fashion companies must navigate a patchwork of evolving regulations across the U.S. (FTC Green Guides, state EPR laws, California's Accountability Act), Canada (Competition Act with major fines), the U.K. (ASA guidance), the EU (EmpCo Directive), Australia, India, China, and others. Many new or revised rules require specific, substantiated, and clear environmental claims, with high penalties for non-compliance.

3

Compliance Demands Specificity, Substantiation, and Transparency: Environmental claims must be specific, supported by robust, up-to-date, and verifiable data, and avoid broad or vague statements like "sustainable" or "eco-friendly." Companies should only use credible third-party certifications and disclose any material connections. All claims should be tailored to the product/service and jurisdiction(s), and aspirational or future goals must have concrete, actionable plans and documentation.

4

Key Compliance Challenges and Best Practices: To mitigate risk, brands should comply with the strictest applicable rules, stay up-to-date on changing requirements, and keep "green" claims separate from other mandatory disclosures (e.g., labeling). Regular staff training, supply chain scrutiny, internal compliance checkpoints, and early identification of relevant jurisdictions are essential. Claims should be built around existing evidence, not the other way around.

5

Enforcement Trends and Case Studies: Recent high-profile cases illustrate that regulators are enforcing against vague, unsubstantiated, or misleading environmental claims. Common pitfalls include overstating recycled content, using generic "green" imagery, and promoting aspirational goals without proof. Companies are expected to provide detailed, specific, and clear information about environmental benefits, and enforcement actions have resulted in fines, requirements to change marketing practices, and public scrutiny.

Counsel to global fashion companies and brands would do well to familiarize themselves with how to evaluate and substantiate eco-friendly green claims, as well as stay on top of legal compliance obligations in the countries and markets in which they operate and sell. Consumers are demanding genuine eco-friendly manufacturing and products, and marketing teams follow consumer demands. Legal has to keep up.

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