Insights: Alert

New York Attorney General Has Beef With Meat Company's Aspirational Green Advertising Claims

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New York Attorney General Letitia James has filed a lawsuit against JBS USA Food Company and JBS USA Food Company Holdings ("JBS"), subsidiaries of a Brazilian company, the world's largest beef and poultry producers, for deceptive environmental marketing. Despite a pledge to achieve net zero greenhouse gas emissions by 2040, James asserts that JBS has no viable plan to reach net zero greenhouse emissions and is flipping the truth like a burger on a grill.

This is not JBS's first rodeo trying to defend its aspirational green advertising claims. In 2023, JBS faced scrutiny from the Better Business Bureau's National Advertising Division (NAD) after a non-profit, Institute for Agriculture and Trade Policy, challenged JBS's claim of "net zero by 2040." Despite initial investments to reduce climate pollution, NAD found no evidence of a concrete plan to achieve this target.

A review panel, National Advertising Review Board ("NARB"), upheld the finding on appeal. The NARB panel determined that the challenged claims – net zero by 2040 – communicated to reasonable consumers that JBS was already in the process of implementing a documented plan that had been evaluated and had a reasonable expectation of achieving 'net zero' by the year 2040. In reality, NARB found that JBS's plans were raw and merely in the exploratory stage of its effort directed toward the net zero 2040 goal.

The NARB panel recommended that JBS discontinue the challenged "'net zero" claims, including that:

- "JBS is committing to be net zero by 2040";
- "Global Commitment to Achieve Net-Zero Greenhouse Emissions by 2040";
- "Bacon, chicken wings and steak with net zero emissions. It's possible";
- "Leading change across the food industry and achieving our goal of net zero by 2040 will be a challenge. Anything less is not an option"; and
- "The SBTi recognized the net zero commitment of JBS."

This new lawsuit by the New York Attorney General serves as a reminder that advertising claims can be challenged by a host of potential plaintiffs, including private citizens, non-profits, state governments, and competitors through various channels—federal court, state court, and the NAD. When evaluating any advertising claim, even future-focused claims, companies should avoid winging it and instead closely evaluate the veracity and viability of any environmental claims. The State of New York, at least, is not clucking around.

If you have any questions or concerns about making environmental benefit claims, or any advertising claims, please feel free to contact us. Kilpatrick's Advertising and Marketing team

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