

Advertising + Marketing

Are Your Aspirations Attainable? New York Attorney General Challenges “Net Zero” Claims

The Bottom Line

- The New York AG is challenging JBS’s claim that it can reach net zero carbon emissions while increasing the production of beef products.
- Don’t underestimate self-regulation – the New York AG’s lawsuit is hot on the heels of a NAD decision.
- Aspirational environmental benefit claims should be based on a feasible plan to achieve an environmental goal. While some courts may take a different view (as we [previously discussed](#)), these claims remain an enforcement priority of regulators and self-regulators.

63% of Americans are influenced by a corporation’s environmental reputation when making purchasing decisions – and 48% of Americans “have either chosen one product over another or stopped purchasing a product based on the environmental record” of the product’s manufacturer.

Citing this statistic, the New York Attorney General filed a lawsuit against the world’s largest producer of beef products, JBS USA Food Company and JBS USA Food Company Holdings (JBS). The AG alleges that JBS deceptively touted its goal to achieve net zero greenhouse gas emissions by 2040, despite documented plans to increase production – and by extension, increase its carbon footprint.

NAD and NARB Decision

As we [previously discussed](#), the National Advertising Division (NAD) determined that JBS’s “net zero by 2040” claims were not substantiated. While JBS demonstrated that it had taken several steps to plan and prepare for its net zero goal, NAD, however, found that these “substantial preliminary efforts” were not sufficient to support the broad implied message that JBS had a plan it was implementing today to achieve its net zero operational impact goal.

The National Advertising Review Board (NARB) affirmed this decision, finding that JBS was in the “exploratory stage of its effort,” as opposed to already in the process of implementing a documented plan that was evaluated and found to have a reasonable expectation of achieving “net zero” by the year 2040. Given the nature, size and scope of JBS’s worldwide business, NARB determined that JBS failed to provide sufficient scientific support to show that its goal was feasible.

NY AG Complaint

The AG’s lawsuit against JBS cites the NAD challenge, alleging that “despite these industry admonishments, [JBS] has continued to make the same or similar claims to consumers, all the while emitting massive amounts of greenhouse gases to the atmosphere and continuing supply chain practices with outsized climate impacts, further contributing to climate change harms.”

The complaint focuses on JBS’s “net zero” claims, including:

- “Net Zero by 2040.”
- “We are the first major global company in our industry to commit to net zero by 2040. Can it actually be done? We think so and we’re taking real actions to achieve our goal.”
- “Agriculture can be part of the climate solution. Bacon, chicken wings, and steak with net zero emissions. It’s possible.”
- “We will cut our own emissions by 30% in 2030 and eliminate Amazon deforestation from our supply chain within five years.”
- “JBS will achieve net zero greenhouse gas emissions, reducing its direct and indirect emissions and offsetting all residual emissions.”

The complaint alleges that JBS had not calculated the company’s total greenhouse gas emissions, and therefore had no way of knowing whether it could successfully reduce those emissions to net zero by 2040. In fact, according to the complaint, this goal is not feasible given the JBS Group’s current levels of livestock production and the company’s plans to grow global demand for its products.

Interestingly, the complaint notes that JBS cannot feasibly reach its “Net Zero by 2040” goal without the purchase of carbon credits. Despite JBS CEO’s statements to the contrary, the AG

challenges JBS's plan to rely on regenerative agricultural techniques and methane mitigation strategies, as science regarding the use and effectiveness of these strategies is still developing.

The AG is seeking to prohibit JBS from continuing its alleged false and misleading "Net Zero by 2040" advertising campaign, conduct a third-party audit of its compliance with New York's consumer protection statutes, pay disgorgement of all ill-gotten gains earned by misleading the public about its business practices and pay penalties of at least \$5,000 per violation (the total number of violations to be determined at trial).

For More Information

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