



Will Hild
8300 Boone Boulevard
Suite 500
Vienna, VA 22182
P: (202) 898 - 0542
info@consumersresearch.org

Donnie King
Chief Executive Officer
Tyson Foods, Inc.
2200 W. Don Tyson Pkwy.
Springdale, AR 72762

Dear Mr. King,

Consumers' Research represents the interests of household consumers in all areas of consumer spending. It is an independent educational 501(c)(3) nonprofit organization whose mission is to increase the knowledge and understanding of issues, policies, products, and services of concern to consumers and to promote the freedom to act on that knowledge and understanding.

Food production and food availability on store shelves are critical issues for consumers. This places a greater emphasis on a recent action taken by the New York Attorney General's office which highlighted a major risk to national grocers, food producers, and food retailers stemming from their prior Environmental, Social, and Governance (ESG) statements and net-zero commitments.

Recently, JBS USA Food Company (JBS) was sued by New York Attorney General Letitia James over public ESG statements and sustainability documents. The lawsuit alleged JBS's public statements and sustainability documents set unattainable goals regarding net-zero emissions—goals that could not be met so long as JBS continued to produce beef products—and that the JBS commitments misled consumers.

In her public statement announcing the JBS lawsuit, General James wrote:

“When companies falsely advertise their commitment to sustainability, they are misleading consumers and endangering our planet. JBS USA's greenwashing exploits the pocketbooks of everyday Americans and the promise of a healthy planet for future generations. My office will always ensure that companies do not abuse the environment and the trust of hardworking consumers for profit.”

DEFENDING CONSUMERS



Consumers' Research is concerned that it is only a matter of time before national grocers, food producers, and food retailers, including Tyson Foods, Inc., are subjected to state actions targeting their unrealistic net-zero commitments, as has happened with JBS.

Below you will find claims cited by General James in the lawsuit against JBS and similar claims made by Tyson Foods:

1) JBS Claim:

“JBS was also the first major global protein company to set a net-zero GHG emissions by 2040 target, covering our scope 1, scope 2 and scope 3 emissions.”

Tyson Foods Claim:

“In 2021, [Tyson’s] ambition is to achieve net-zero GHG emissions, including Scopes 1, 2 and 3 emissions, by 2050.”

2) JBS Claim

“The [Science Based Targets initiative] recognized the Net Zero Commitment of JBS.”

Tyson Foods Claim:

“These efforts will continue with a revalidation of [Tyson’s] targets in adherence to Science Based Targets initiative (SBTi) criteria.”

3) JBS Claim:

“JBS will achieve Net Zero greenhouse gas emissions, reducing its direct and indirect (scopes 1, 2 and 3) emissions.”

Tyson Foods Claim:

“[Tysons] understand[s] the importance of reducing GHG emissions to help keep global average temperature increases to well below 2.0°C above pre-industrial levels and to



support efforts to limit it to 1.5°C above pre-industrial levels. We continually aspire to achieve net-zero emissions for Scope 1, 2 and 3 by 2050.”

As this comparison makes plain, Tyson Foods’s statements on emissions reduction goals expose the company to the same type of litigation JBS currently faces.

Costly litigation harms the consumer. And that is doubly so when one outcome of the litigation is the removal of food products from store shelves in order to meet climate commitments that should never have been made in the first place.

Rather than continuing to mislead consumers with unrealistic goals while trying to comply with impossible-to-achieve emissions standards or trying in vain to ward off the risks of litigation by removing popular categories of product from store shelves (e.g., beef), Consumers’ Research urges Tyson Foods’s management and board of directors to reassess its ESG statements and sustainability policies, disavow the types of positions that subjected JBS to litigation, and recommit to providing affordable high-quality products to consumers.

Failure to do so not only exposes Tyson Foods to litigation risk from Attorneys General like Letitia James, it could also expose the company, its executives, and its directors to legal liability for refusing to recant these unfounded marketing claims while Tyson Foods was aware of the problem and still had the opportunity to reduce or eliminate their exposure. As we have witnessed in a number of shareholder derivative suits recently, shareholders and elected officials have become increasingly litigious in cases where corporations have put at risk or sacrificed returns in order to engage in so-called "virtue signaling."

The JBS lawsuit by General James has made plain that there is risk lurking in the ESG and sustainability commitments of countless food producers, grocers, and food retailers. There is no better time than now for Tyson Foods to course correct, remove this ESG risk, and pivot back to a pro-consumer approach to its business.

Sincerely,

Will Hild

Will Hild
Executive Director

DEFENDING CONSUMERS