

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

<p>ENVIRONMENTAL WORKING GROUP, 1250 I Street NW, Suite 1000, Washington, DC 20005,</p> <p style="text-align:center">Plaintiff,</p> <p>v.</p> <p>TYSON FOODS, INC., 2200 W. Don Tyson Parkway, Springdale, AR 72762,</p> <p style="text-align:center"><i>Serve on:</i></p> <p>United Agent Group, Inc. 1629 K Street NW, #300 Washington DC, 20006,</p> <p style="text-align:center">Defendant.</p>	<p>Case No. _____</p> <p>COMPLAINT</p> <p>DEMAND FOR JURY TRIAL</p>
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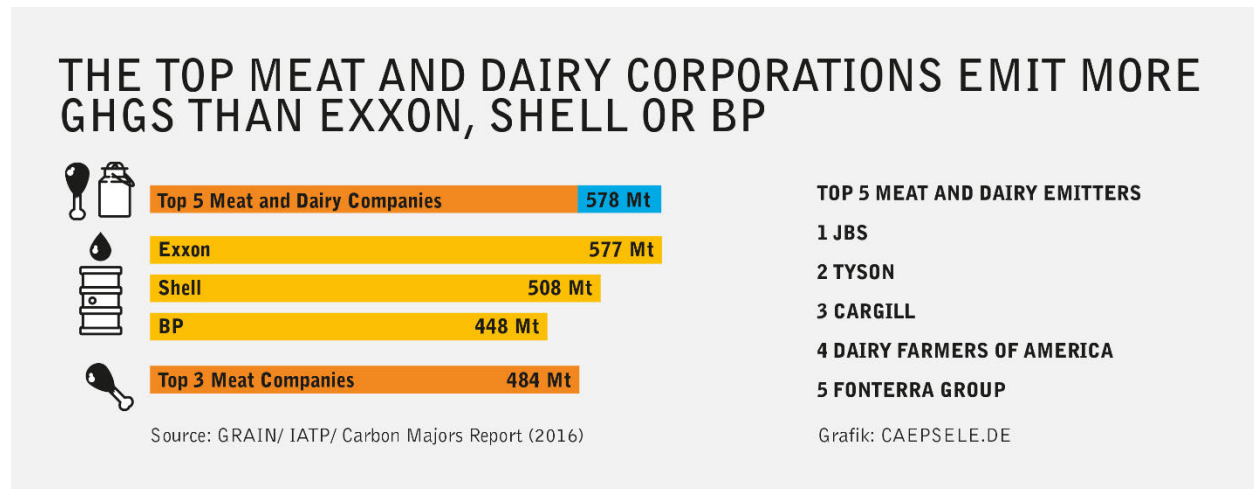
COMPLAINT

1. On behalf of consumers in the District of Columbia, the Environmental Working Group (“EWG”) brings this action against Tyson Foods, Inc. (“Tyson”), the second largest meat company in the United States and the world, asking the Court to enjoin Tyson’s false or misleading marketing claims under the D.C. Consumer Protection Procedures Act (“CPPA”), D.C. Code § 28-3901, *et seq.* Consumers increasingly want to purchase foods that do less harm to the environment, yet they cannot independently determine which foods qualify. Tyson knowingly capitalizes on these well-intentioned preferences by advertising in numerous outlets a pledge to achieve “net-zero” climate emissions by 2050 and marketing “climate-smart” beef. But, unbeknownst to consumers, Tyson—which produces tremendous volumes of climate-warming emissions at every stage of its industrial meat production process—has no plan to

achieve these goals and is taking no meaningful steps to do so. These false or misleading advertisements and representations thus violate the D.C. CPPA and must be enjoined.

NATURE OF THE ACTION

2. The climate footprint of industrial animal agriculture is unparalleled in the food system. In fact, the top five animal protein companies combined (including Tyson) are estimated to produce more annual greenhouse gas (“GHG”) emissions than ExxonMobil, Shell, or BP.



3. Industrialized beef production in particular has an enormous climate impact and is responsible for more GHG emissions than any other major food product.

4. Tyson produces approximately 20 percent of this country’s beef, chicken, and pork combined, and its GHG emissions are greater than those of entire industrialized countries, including Austria, Belgium, Greece, or New Zealand.

5. The vast majority of Tyson’s emissions come from its beef production. According to a 2022 study by the Institute for Agriculture and Trade Policy, 7 percent of Tyson’s emissions come from chicken, 8 percent from pork, and 85 percent from beef.

6. In large part due to the climate crisis that threatens increasing catastrophic harm to the planet, as well as growing awareness of the food industry’s tremendous contribution to

harmful climate pollution, consumers have recently shown more interest in, and willingness to pay more for, climate-friendlier foods.

7. Tyson fears that if consumers believe its meat products are unsustainable, they might buy other food products instead of its meat. In response, for over three years, across multiple marketing platforms, including throughout its website, press releases, sustainability reports, and promotional articles that are available online and are accessible to District of Columbia consumers, Tyson has boasted that it will achieve net-zero emissions by 2050. And for over a year, Tyson has told consumers that it is producing “climate-smart” beef.

8. Tyson has tried to capitalize on consumer concerns about the climate crisis with representations like the following:



Our Path to Climate-Smart Beef

As we look down the long road to more sustainable food systems, we recognize that the majority of emissions in Tyson Foods' value chain are from beef production. So that's why we've decided to make the most consequential investment of our sustainability journey. Many beef producers have been working to make beef more sustainable for decades. Through transparency of practices and impact, we hope to accelerate our collective efforts to work towards a more sustainable food system. Today, the cow calf sector accounts for about 70% of GHG (greenhouse gas) emissions in beef production.

9. However, Tyson's GHG emissions are enormous and varied. Tyson itself does not appear to know their full extent; it has never shown any meaningful effort to fully measure them. It has no adequate plan or any intention to substantially reduce, let alone eliminate, its emissions, and any actions Tyson is currently taking are fundamentally inadequate to reach or even approach net zero on *any* timeframe. Tyson's net zero by 2050 claims are thus deceptive.

10. Similarly, Tyson's claims about "climate-smart" beef are false and misleading to consumers. Beef produced through industrialized processes, like that produced by Tyson, has a higher climate impact than almost any other food, so even if a slight reduction in emissions associated with Tyson's beef production were possible, Tyson would still be producing one of the most climate-intense foods on the market. Its beef is thus not a "climate-smart" choice.

11. Given the enormous scale of Tyson's GHG emissions, achieving these net-zero emissions and "climate-smart" beef commitments would require radical changes to the company's production systems and products. Yet there is no credible evidence that Tyson intends to significantly innovate, alter, or diversify its current activities to achieve its "net zero" goal or produce truly "climate-smart" beef, even if such a radical shift in Tyson's business model were possible.

12. To date, Tyson has failed to articulate a plan to eliminate the vast emissions associated with the many stages of its beef, chicken, and pork production, including feed production, and has offered no details on how its industrially produced beef is a "climate-smart" choice.

13. Even if Tyson did have a plan to substantially reduce its overall GHG emissions and to change the way it produces meat, Tyson could not possibly fulfill its commitments to achieve net-zero emissions or make its beef products "climate-smart." There is no proven or

anticipated way to do so at Tyson’s current enormous scale of production, and the offsets required to zero out Tyson’s meat production emissions are both unfathomable and unavailable.

14. Despite these realities, Tyson continues to market itself and its products to consumers—including consumers in the District of Columbia, in particular those who care deeply about environmental issues—using its unsubstantiated and unattainable net-zero commitment and its “climate-smart” beef program.

15. Because Tyson’s marketing and advertising tend to mislead and are materially deceptive about the true nature and quality of its products and business, Tyson’s false and misleading representations and omissions violate the CPPA. EWG brings this case on behalf of the interests of District of Columbia consumers pursuant to the CPPA to stop these unfair and deceptive trade practices.

PARTIES

Plaintiff

16. Plaintiff EWG is a 501(c)(3) nonprofit, public-interest organization whose mission is to empower the public with breakthrough research to make informed choices and live a healthy life in a healthy environment.

17. EWG is based in Washington, D.C. and performs work throughout the United States.

18. Since 1993, EWG has used scientific research, public education, and media and policy advocacy to highlight policies and industry practices that pose a threat to public health and to the environment. It works to educate consumers about the public health and environmental impacts of their purchases, using education to inspire consumer demand for safer

products. EWG thus has a strong interest in truth-in-advertising regarding environmental concerns.

19. As part of its work, EWG educates consumers on the carbon footprint of their food choices and helps them make informed decisions by translating climate science and providing accessible, science-backed information. Through its website, public education efforts, and the Healthy Living app, EWG offers valuable resources to consumers and community activists. These resources include detailed guides on food, personal care products, and cleaning supplies, such as the Skin Deep® Cosmetics Database, Guide to Healthy Cleaning, Food Scores, and Shopper's Guide to Pesticides in Produce™.

20. EWG's Healthy Living app is a free tool that allows users to access ratings and ingredient information for over 120,000 products, helping them understand the health and environmental impacts of their choices. By offering transparency and empowering consumers with knowledge, EWG encourages demand for safer, healthier products and promotes more sustainable practices in the marketplace. EWG is a public-interest organization pursuant to D.C. Code § 28-3901(a)(15) because it operates to promote the interests and rights of consumers.

21. EWG is acting on behalf of the interests of consumers pursuant to D.C. Code § 28-3905(k)(1)(D).

22. EWG's mission includes educating consumers, including in the District of Columbia, about environmental issues in general and the climate impact of consumer choices in particular. Thus, EWG has a sufficient nexus to District of Columbia consumers who are targeted by, and have been or will be misled by, Tyson's sustainability claims to adequately represent those consumers' interests.

Defendant

23. Defendant Tyson is a publicly traded corporation incorporated in Delaware with headquarters in Springdale, Arkansas.

24. Tyson is the second largest meat company in the United States and in the world. It markets and sells its products throughout the United States, including in the District of Columbia.

25. Tyson regularly conducts business within the District of Columbia and with District of Columbia consumers. Tyson markets and sells its products in the District of Columbia under different brand names including Tyson[®], Jimmy Dean[®], Hillshire Farm[®], Ball Park[®], Wright[®], Aidells[®], and State Fair[®].

26. Each of those brands maintains websites through which they directly market their products to District of Columbia consumers. Consumers who access the website of one of these brands can purchase the brand's products online through retailers such as Instacart and Amazon Fresh. Customers can also purchase Tyson brands directly from retail outlets located in the District of Columbia, including Safeway, Harris Teeter, Giant, Target, Family Dollar, Streets Market, and Walgreens.

27. Tyson has directed its "net zero" and "climate-smart beef" representations to District of Columbia consumers through its websites, sustainability reports, and direct marketing, including but not limited to publishing a two-part series in the Wall Street Journal in June and August 2023 about Tyson's purported efforts to produce lower-emissions beef.

JURISDICTION AND VENUE

28. This Court has subject matter jurisdiction over this action pursuant to D.C. Code § 28-3905(k)(1)(D) & (k)(2).

29. This Court has personal jurisdiction over Defendant Tyson pursuant to D.C. Code § 13-423. Defendant has sufficient minimum contacts with the District of Columbia to establish this Court’s personal jurisdiction over it because, *inter alia*, Tyson is engaged in deceptive schemes and acts directed at persons residing in, located in, or doing business in the District of Columbia, or otherwise purposefully avails itself of the laws of the District through its marketing and sales of its products in the District.

30. Venue is proper in this Court because Tyson transacts business in the District and its false or misleading online statements are accessible in the District.

LEGAL BACKGROUND

31. EWG brings this action under the D.C. CPPA, D.C. Code § 28-3901, *et seq.*

32. The CPPA makes it a violation for “any person” to, *inter alia*:

represent that goods or services have . . . characteristics, . . . uses, [or] benefits . . . that they do not have;

represent that goods or services are of particular standard, quality, [or] grade . . . if in fact they are of another;

misrepresent as to a material fact which has a tendency to mislead;

fail to state a material fact if such failure tends to mislead;

use innuendo or ambiguity as to a material fact, which has a tendency to mislead; or

advertise or offer goods or services without the intent to sell them or without the intent to sell them as advertised or offered.

D.C. Code § 28-3904.

33. Under the CPPA, people and businesses are precluded from “misrepresent[ing]” any “material fact which has a tendency to mislead,” and this prohibition extends beyond literal falsehoods and includes any omissions, “innuendo[s],” or “ambiguit[ies]” that have a tendency to mislead reasonable consumers. *Id.*

34. A matter is “material” if a reasonable person would attach importance to it when deciding whether to make a transaction. A matter is also “material” if the representor knows or should know that the matter is likely to be important to the message recipient’s choice of action.

35. A violation occurs regardless of “whether or not any consumer is in fact misled, deceived, or damaged thereby.” *Id.*

36. The CPPA “establishes an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia.” *Id.* § 28-3901(c). It “shall be construed and applied liberally to promote its purpose.” *Id.*

37. Under the CPPA, a “public interest organization” is defined as a “nonprofit organization that is organized and operating, in whole or in part, for the purpose of promoting interests or rights of consumers.” *Id.* § 28-3901(a)(15).

38. A public interest organization may act on behalf of a consumer or a group of consumers and bring “an action seeking relief from the use...of a trade practice in violation of a law of the District” if an individual consumer would be entitled to bring such an action for relief from that trade practice and the organization has a “sufficient nexus to the interests involved of the consumer or class to adequately represent those interests.” *Id.* § 28-3905(k)(1)(D).

FACTUAL BACKGROUND

A. Tyson’s Industrial Meat—and Especially Beef—Production Emits Tremendous Volumes of GHGs and Is a Major Driver of Climate Change.

39. The U.S. Environmental Protection Agency (“EPA”) has found that six greenhouse gases, including carbon dioxide, methane, and nitrous oxide, endanger the public health and welfare by contributing to global climate change. Methane is a GHG that is approximately 84–87 times more potent than carbon dioxide on a 20-year timescale. Nitrous

oxide is a GHG that is almost 300 times more potent than carbon dioxide on a 100-year timescale and is now the principal cause of depletion of the stratospheric ozone layer.

40. Agriculture, forestry, and other land use release nearly half of global anthropogenic methane emissions, 81 percent of nitrous oxide emissions, and around 13 percent of carbon dioxide emissions.

41. According to the United Nations, animal agriculture in particular is currently responsible for 14.5 to 20 percent of global GHG emissions. And animal agriculture's contribution to climate change is expected to grow over the coming decades. The production of meat, milk, and major grains is expected to increase by up to 80 percent by 2050 compared to today's levels, and meat consumption is expected to grow by 70 percent. Such growth would result in an increase in agriculture-related emissions of 38 percent from 2020 levels.

42. Industrial animal agriculture—Tyson's business—is by far the biggest source of agriculture's climate footprint, emitting tremendous volumes of GHGs from the animals themselves, the management of their manure, crop production for their feed, and the land use required for grazing and feed production.

43. Animal agriculture contributes about 80 percent of all U.S. agricultural emissions.

44. According to EPA, animal agriculture accounts for 36 percent of all U.S. methane emissions. However, direct measurements of emissions from animal agriculture facilities indicate that these estimates may be vastly undercounting the true scale of the problem.

45. Meat production releases methane in two principal ways. First, the guts of ruminant animals, such as cattle and sheep, produce methane as the animals digest food, and then the animals release this methane through their belches and exhalation. These enteric fermentation emissions are responsible for the lion's share of ruminant animals' methane emissions.

46. Second, the management of the vast amount of animal wastes releases large amounts of methane. Each year in the U.S., industrially raised livestock animals produce over one billion tons of waste. Companies—in particular, pork producers, including Tyson—often store this waste in liquid form in huge (and often unlined) pits, euphemistically called lagoons, where it decomposes under anaerobic conditions and releases methane. This waste is then often spread on fields where it releases additional methane.

47. According to EPA, industrial animal agriculture practices such as Tyson’s are also one of the largest contributors of nitrous oxide emissions. These emissions result from excess fertilizer used to grow crops for animal feed, as well as from manure management at large industrial livestock facilities.

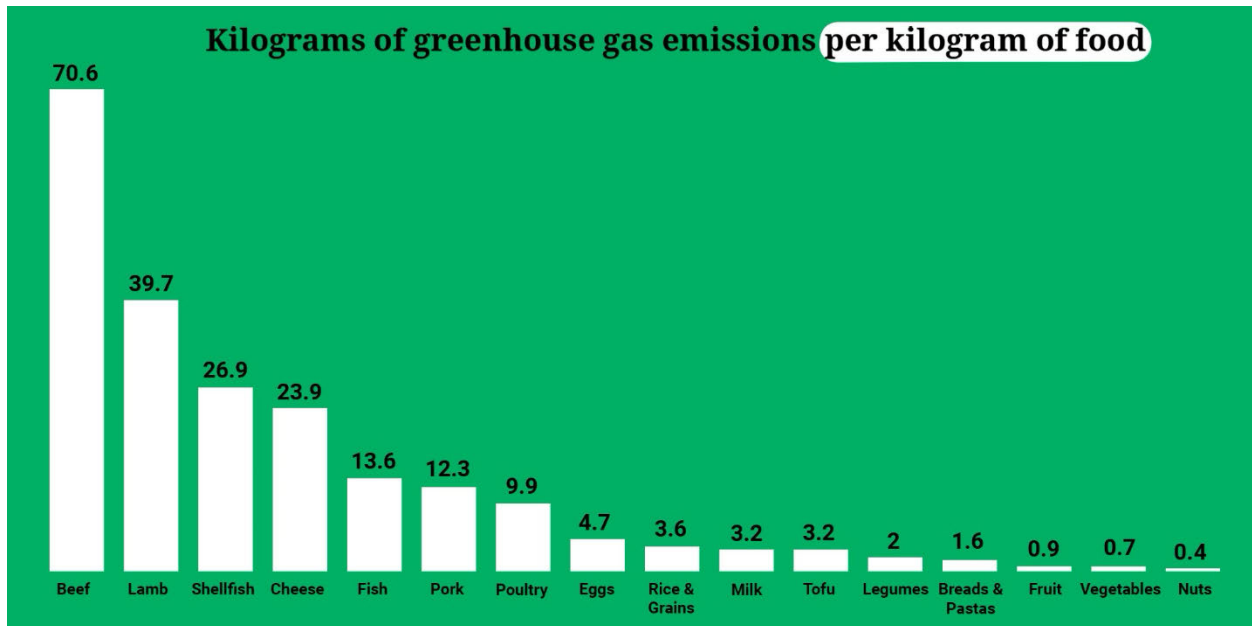
48. Numerous studies, including by the United Nation’s Intergovernmental Panel on Climate Change (“IPCC”), indicate that methane and nitrous oxide emitted by Tyson’s and similar industrial producers’ intensive beef production cannot be eliminated with existing or anticipated technology. Further, these studies indicate that it would be extremely difficult—and in fact is currently impossible—for Tyson to eliminate enteric emissions without eliminating the cattle themselves, because enteric fermentation in the guts of cattle is a fundamental part of ruminant biology. It is also currently impossible to eliminate nitrous oxide emissions from feed production.

49. In addition, Tyson’s industrial animal production uses vast amounts of land for cattle grazing and the production of animal feed—land that could otherwise sequester and store carbon. Grazing and crop production for animal feed account for approximately 50 percent of land use in the contiguous United States, totaling almost one billion acres.

50. The use of large amounts of land for grazing cattle and feed production for cattle, pigs, and chicken has led to the conversion of grasslands and deforestation, with huge swaths of the Amazon and other forests and grasslands razed and burned for cattle ranching and crop production. This conversion releases enormous amounts of GHG into the atmosphere while also eliminating critical sources of carbon sequestration.

51. In addition, industrial animal production like Tyson's requires significant on- and off-site energy, such as for irrigation pumps, ventilation fans at confined animal facilities (without which the animals would suffocate in their own fumes), and tractors and other machinery, which contribute to carbon dioxide emissions. The manufacture of fertilizers and pesticides and other agricultural chemicals to grow animal feedstock is energy-intensive and releases additional carbon dioxide. And the slaughtering of animals and the rendering, packaging, and storing of meat use energy and otherwise release additional GHG emissions.

52. For these reasons, industrially produced meat has tremendous climate emissions, and beef, such as Tyson's, has far greater emissions than all other major food products.



53. Tyson itself has acknowledged the enormous climate impact of its beef production, stating in its response to a Climate Disclosure Project (“CDP”) questionnaire: “As the largest GHG-emitting protein type in the agriculture sector and a significant contributor to our carbon footprint, beef is a key emission source in our value chain.”

54. The IPCC categorizes GHG emissions into three scopes. Scope 1 emissions are direct emissions from sources that are owned or controlled by the company. Scope 2 emissions are indirect emissions associated with the production of electricity, heat, or steam purchased by the company. Scope 3 emissions include all other upstream and downstream supply chain emissions.

55. Up to 90 percent of emissions from industrial animal agriculture—including from Tyson’s production—are “Scope 3” emissions. For Tyson, these Scope 3 emissions include those from the animals used for slaughter, the production of their feed, and the land use for grazing and growing feed crops.

B. Climate and Sustainability Marketing Claims Are Material to Consumers.

56. Recent studies show that consumers increasingly care about the climate and environmental impact of the products they purchase, including food, yet they cannot verify the truth of environmental advertising claims. This creates a market ripe for corporate greenwashing.

57. Consumers feel a responsibility to change their purchasing habits to reduce their environmental impact and are willing to pay more for products they believe are better for the climate. Studies show that some consumers will pay up to 30 percent more for products that are marketed as having a lower carbon footprint, i.e., suggesting their net climate emissions are zero.

58. In a 2018 study by Shelton Group, 63 percent of those surveyed were influenced by a corporation’s environmental reputation when making purchasing decisions, while 48 percent have made a purchasing decision based on a product manufacturer’s environmental record. A

2024 survey by PwC found that 43 percent of respondents are trying to reduce their impact on climate change by buying what they perceive to be more sustainable food products, while 32 percent are eating different foods to reduce their climate impact. And a 2021 study of 750 American consumers showed that 80 percent of those surveyed thought it was important to consider sustainability when shopping for food and beverages.

59. In response to consumer demand for more sustainable products, companies market environmental benefits of their products, as well as their corporate sustainability goals, on their websites, in advertising campaigns, and through other means.

60. Because consumers lack the information necessary to verify whether sustainability claims are true when making purchasing decisions, consumers have to trust the environmental marketing claims corporations make.

61. For these reasons, when companies make false, misleading, or unsubstantiated net-zero or climate-friendly marketing claims, they cheat climate-minded consumers who want to purchase more sustainable products, and who are willing to and do pay more for products claiming to be climate-friendly or sustainable. Such companies also harm competitors that are accurately advertising their products.

C. Tyson Knows That Consumers Are Concerned About Sustainability.

62. Tyson is well aware that consumers care about sustainability and thus knows the value of marketing its products as net-zero or climate-smart.

63. In a presentation to ranchers last year on KRTV, Tyson explained: “A growing number of consumers are willing to pay a premium to eat beef and other foods with lower GHG [greenhouse gas] emissions,” and “[c]onsumers would be willing to pay at least 24% more for environmentally friendly sustainable options in retail.”

64. Tyson also knows that consumer demand for its meat products will likely decrease if consumers believe these products are harmful to the climate or the environment. In its 2023 response to a CDP questionnaire, Tyson admitted that “[i]ncreasing concern over climate change also may adversely impact demand for our products due to changes in consumer preferences.”

65. Therefore, Tyson has made it a business imperative to tell consumers, corporate customers, and investors that it has a plan for drastically reducing its emissions. As the company states in its CDP response, its “customers demand that Tyson is a leader in climate ambition,” which has led Tyson to “set emissions reduction goals” and “commit[] to ambitious reduction pathways to ensure that we can retain customer demand.”

66. Tyson recognizes that convincing consumers of its sustainability is necessary to maintain consumer demand for its products: “if we fail to achieve or improperly report on our progress toward achieving our carbon emissions reduction goals and commitments,” it will result in “negative publicity” which “could adversely affect consumer preference for our products,” Tyson warned in its 2023 annual report to the U.S. Securities and Exchange Commission (“SEC”), the most recent report publicly available.

D. Tyson Has Repeatedly Represented to Consumers that It Will Be Net Zero by 2050, and These Representations Are False and Misleading.

i. Tyson Has Made Numerous Representations to Consumers Through Various Channels Stating that It Will Be Net Zero by 2050.

67. Beginning in June 2021, and continuing today, Tyson has repeatedly told consumers on its website and in news releases that by 2050 it is committed to achieving “net-zero greenhouse gas (GHG) emissions across its global operations and supply chain . . . including scopes 1, 2, and 3” emissions, leading consumers to believe it has a realistic plan to achieve that goal.

68. As part of its “Net Zero by 2050” announcement, Tyson described its “commitment to help combat the urgency of the growing climate change crisis,” and described its “move to net zero” as “an expansion of the company’s current science-based target of achieving a 30% GHG emissions reduction by 2030,” and a step “toward realizing our aspiration to become the most transparent and sustainable food company in the world.”

69. In the years since its 2021 announcement, Tyson has amplified and repeated its net zero by 2050 claim, featuring it prominently on the company’s website, mentioning it in company sustainability reports, and publishing videos touting it.

70. Examples of Tyson’s direct and indirect marketing of its net zero by 2050 claim include the following:

- a. In a video published in 2022 that remains on Tyson’s website, “Feeding the Future,” narrator John R. Tyson, a Tyson scion and the company’s former chief sustainability officer, states:
 - i. “We can’t ignore the realities of climate change.” The future food system “has to be good for the planet,” which is “why Tyson Foods is making it our ambition to achieve Net Zero greenhouse gas emissions by 2050.”
 - ii. Tyson is “reimagin[ing] the entire supply chain from farm to plate,” including “working with farmers and ranchers on new solutions.”
 - iii. “[P]icture it: the protein people need, the kinds of protein people want, while preserving the planet. Beef, pork, chicken, plants. We can keep it all on the table. It’ll be difficult. But we are up for the challenge and diving in headfirst, because it must be done.”
- b. In this same video, Tyson flashes “Net Zero 2050” across the screen:



- c. Tyson’s website tells consumers that it is “[g]rowing a more sustainable future,” including “working towards sustaining natural resources and achieving net zero greenhouse gas emissions (GHGs).”
- d. Numerous Tyson web pages and graphics, like the below, repeat its net-zero commitment:

Working Toward Sustaining Natural Resources and Achieving Net Zero

To feed a growing world, we need to build a more sustainable food system.

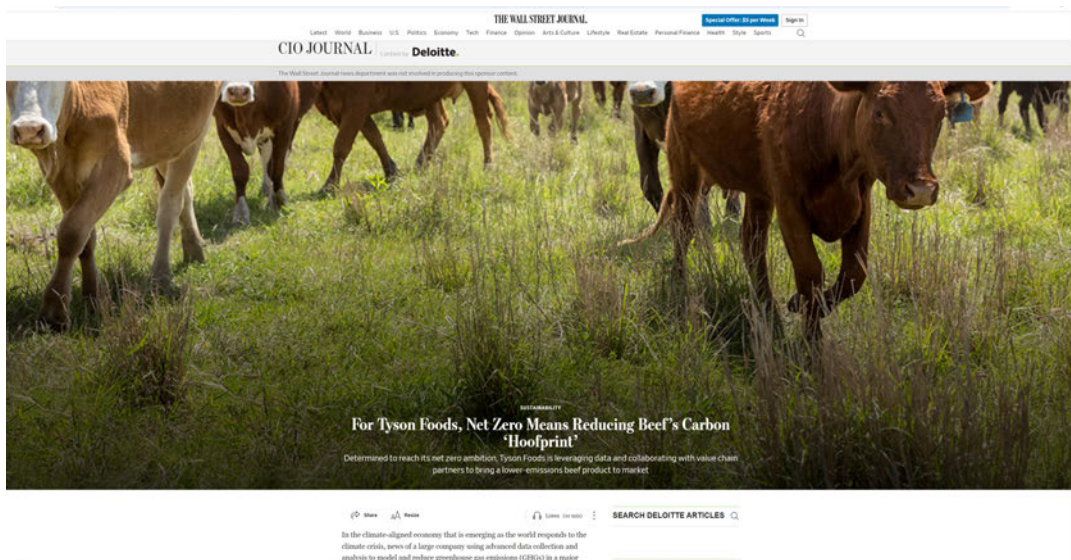
Tyson Foods works directly with independent farmers, ranchers and producers to improve the resilience of our food systems and conserve natural resources for generations to come. Across our operations and supply chain, we're focused on minimizing waste and being good stewards of water and land, and mapping out a plan that prioritizes renewable energy. Through strategic partnerships with advocacy groups, nonprofit organizations, and independent farmers and ranchers, we continue to pilot and scale programs aimed at reducing environmental risks and sustainable growth. These efforts are part of our global aspiration to achieve net-zero GHG emissions, which we were proud to announce in 2021.



71. Tyson’s 2022 Sustainability Report (the company’s most recent at the time of this filing) also includes its net zero by 2050 claims: “We continually aspire to achieve net-zero emissions for Scope 1, 2, and 3 by 2050.”



72. Tyson repeated its net zero by 2050 claim in a 2023 Wall Street Journal advertisement sponsored by Deloitte, including a statement that Tyson “focused on decarbonizing beef as a first step to making its announced ambition to achieve net-zero emissions across its global operations and supply chain by 2050 a reality”:



73. During an interview with American Ag Network in April 2023, Tyson Foods Senior Director of Sustainable Food Strategy and Vice President of Cattle Procurement repeated the company’s “science-based [] net zero target.”

74. Tyson also markets its net zero by 2050 claims by including them in promotional articles about other subjects, for example, including a statement about its “goal to achieve net-zero Scope 1, 2, and 3 greenhouse gas emissions by 2050” in an article about using upcycling to meet its sustainability goals.

ii. Tyson’s Net-Zero Representations Are False or Misleading to Consumers.

75. Tyson’s representations in its marketing and other materials aimed directly and indirectly at consumers reasonably create the impression that Tyson has a plan in place to zero out emissions throughout its entire supply chain, that this plan is realistic and achievable, and that Tyson is working to actualize the plan.

76. These representations are false or misleading, for several reasons.

77. First, according to publicly available data, Tyson does not even have complete baseline emissions information. The company cannot credibly have a plan to cancel out emissions the magnitude of which it does not know.

78. In its 2022 SEC annual report, Tyson acknowledged that its “progress towards” its “commitments to reduce our carbon footprint . . . may be based on standards for measuring progress that are still developing,” as well as “internal controls and processes that continue to evolve.”

79. Tyson has publicly expressed uncertainty over its ability to gather the data necessary for it to accurately estimate its complete supply chain emissions. For example, in its most recent response to a CDP questionnaire, Tyson notes that “farmer collaboration” will be key to account for Tyson’s ability to calculate its emissions and yet it has only just begun voluntary enrollment into its Local Grain Services (“LGS”) Sustain Program.

80. Tyson’s Scope 3 emissions constitute between 80 and 90 percent of its GHG emissions, with 70 percent of these Scope 3 emissions coming from its beef production. Yet by Tyson’s own admission in its CDP response, its calculation of its Scope 3 emissions excludes those “from land use change”—a major source of Tyson’s emissions.

81. Furthermore, in that same CDP response, Tyson promised to “refine Scope 3 estimates as supplier data becomes available,” and represented that it was “calculating a [their] first comprehensive Scope 3 emissions footprint” after it “completed a full Scope 3 emissions inventory using FY19 data.” Yet to date, Tyson has failed to explain its methodology, to disclose any updated emissions figure, or to indicate whether its calculations include emissions associated with land use change.

82. Indeed, while in its news release, Tyson framed its net zero by 2050 commitment as “expand[ing]” on its science-based emissions reduction targets, it admitted last year in its CDP response that its net zero by 2050 target is not, in fact, “science-based,” but that Tyson only “anticipate[s] setting” a science-based net zero target “in the next two years.”

83. Second, Tyson’s net zero by 2050 representations are false or misleading because even if Tyson knew what its GHG emissions were, on information and belief, it has not developed a comprehensive and actionable plan to zero them out by 2050—which reasonable consumers would expect, based on Tyson’s claims. The few details Tyson offers about its emission-reduction strategies and their expected impact suggest that, at most, Tyson has a few pilot projects that might, in a few years, reduce a tiny percentage of its GHG emissions.

84. For example, in its 2023 response to the CDP questionnaire, Tyson estimates that its emission reduction efforts to date reduced its emissions by 377,384 metric tons—less than 0.5 percent of its total annual emissions.

85. On information and belief, Tyson has no plan to reduce emissions from the production of animal feed to a degree that would make its attainment of net zero by 2050 possible. In its CDP response, it has described voluntary pilot projects aimed at advancing its “land stewardship goals” and initiatives “to help farmers to adopt climate-smart practices—such as reduced tilling and cover cropping—on row crop land.” And it claims to support “climate-smart practices” on its crop land, promising to purchase “100% of our feed from climate-smart growers” by 2030. Yet Tyson provides no detail on what it considers to be “climate-smart practices” (other than reduced tilling and cover cropping) or what anticipated GHG reductions might result from these projects and initiatives.

86. Tyson’s promise is not backed up by action: Tyson is not requiring the adoption of any “climate-smart practices” by its growers, and in fact its CDP response makes clear that it has no “plan to introduce climate-related requirements” for *any* of its suppliers “within the next two years.”

87. Tyson is only “beginning to enroll” farmers in these voluntary pilot programs. In fact, according to a Union of Concerned Scientists report, as well as news sources, though Tyson’s feed acreage in 2020 was “nearly twice the size of New Jersey”—more than 10 million acres—by June 2021, it had enrolled just 408,000 acres, or less than 5 percent of its total feed acreage, into a pilot program.

88. Furthermore, there are no agricultural practices today that eliminate nitrous oxide emissions from industrial-scale feed production. Thus, even full adoption of “climate-smart” practices will not result in significant reductions of GHG emissions.

89. Moreover, a recent scientific review of agricultural practices found that “[c]arbon sequestration in agricultural soils, even with best management practices, is only likely to offer a

small net storage of carbon.” Scientists have further determined that any “claim that ruminant systems [such as cattle production] can have a negative annual [greenhouse gas] balance via soil [carbon] sequestration is overly optimistic and could be misleading.”

90. On information and belief, Tyson does not have a plan for significantly reducing its enteric and manure management methane emissions, even though these are calculated to comprise *over half* of the company’s *total* GHG emissions.

91. Indeed, it would require significant operational changes to reduce Tyson’s enormous manure management emissions. Even if Tyson fully adopted all current and emerging strategies to manage these emissions, the result would, at best, be far from net-zero. There is no evidence that Tyson has a plan remotely commensurate with the scale of the challenge, which means Tyson is falling far short of the impression that its claims create in consumers’ minds.

92. Furthermore, Tyson also does not plan to rid its supply chain of deforestation before 2030 and offers no assurances that it will be successful even then. There is no known way to replace the carbon sequestration capacity of all the land cleared—and that will continue to be cleared—for livestock grazing and feed crops. Nor is there any known way for Tyson to continue producing meat at its current and projected rates without relying on deforested land.

93. In fact, when the Tyson board was confronted this year with a shareholder proposal to formally commit to eliminate deforestation from its supply chain by 2025, it recommended voting against the proposal. That is not what consumers would expect of a company that boasts that it is committed to reaching net zero in little over 25 years.

94. Third, Tyson’s net-zero representations are false or misleading because even if it did have a concrete and comprehensive plan to hit that target by 2050, it is not working sufficiently to *actualize* that plan, such that achievement of its goal is at all realistic.

95. In 2022, Tyson announced a \$42 million investment in promoting the adoption of climate-smart practices. Since Tyson’s annual revenues exceed \$52 billion, this GHG reduction spending represents a mere 0.08 percent of its revenue. Tyson spends approximately three times as much on advertising as it does on research.

96. Similarly, though the technology to zero out emissions from industrial agriculture does not exist, Tyson spends just \$114 million per year on *all* research and development, inclusive of research and development into climate-reducing technologies, amounting to about 0.2 percent of its revenue.

97. The plan that Tyson *does* seem to be actualizing is international growth. It is hard to square Tyson’s stated commitment to achieve net zero by 2050 with its statements that it intends to capitalize on an increase in “global demand” for beef, pork, and chicken. This will necessitate increased production of beef, pork, and chicken, with increases in their attendant emissions, putting Tyson’s net zero claims even farther out of reach.

98. Finally, Tyson’s representations are false or misleading because it cannot achieve net zero by purchasing “carbon offsets”—reductions of carbon emissions or increases in carbon sequestration elsewhere—given the scale of its own emissions.

99. Offsets of the magnitude that Tyson would require to achieve net zero would be infeasible. Even assuming Tyson can reduce its actual emissions by 75 percent (which cannot be done with currently available or anticipated technology), it would still need to offset at least 26 million metric tons of carbon dioxide equivalent each year (based on Tyson’s admittedly incomplete calculations of its 2019 GHG emissions)—or more likely, 42 million metric tons (based on independent calculations of Tyson’s emissions).

100. Offsets of that scale do not exist. According to the EPA, an average acre of U.S. forest sequesters about 0.86 metric tons of carbon dioxide per year. Using this figure, it would require between about 30 and 48 million acres of preserved U.S. forest to sequester the equivalent of the remaining Tyson emissions. This is the equivalent to areas roughly the size of Pennsylvania or South Dakota. Even if this were possible, these increases in carbon sequestration would be unlikely to fully offset the warming impact of Tyson’s emissions, which are largely in the form of methane and nitrous oxide.

101. No consumer would think that offsets of that scale constitute “net-zero” emissions.

102. Consumers hearing a “Net Zero by 2050” pledge expect such a promise to be backed by a realistic plan that includes feasible steps to reduce absolute net emissions throughout the entire supply chain—including, for animal products, enteric emissions and those from manure management, animal feed production, and land use—to zero. That’s exactly what Tyson told consumers it was doing: “reimagin[ing] [its] entire supply chain from farm to plate.” It is not.

103. Reducing emissions on the enormous scale of Tyson’s supply chain cannot be done with current technology without dramatically reducing herd sizes, which Tyson is neither planning nor willing to do. Tyson thus has no serious intention of doing the things that could actually reduce its emissions—let alone achieve net zero. And Tyson fails to qualify its net-zero emissions statements, omitting the fact that it is simply impossible with current technology and available offsets to sufficiently eliminate the enormous scope of its emissions. This renders Tyson’s net-zero claims false or misleading, and unlawful under the CPPA.

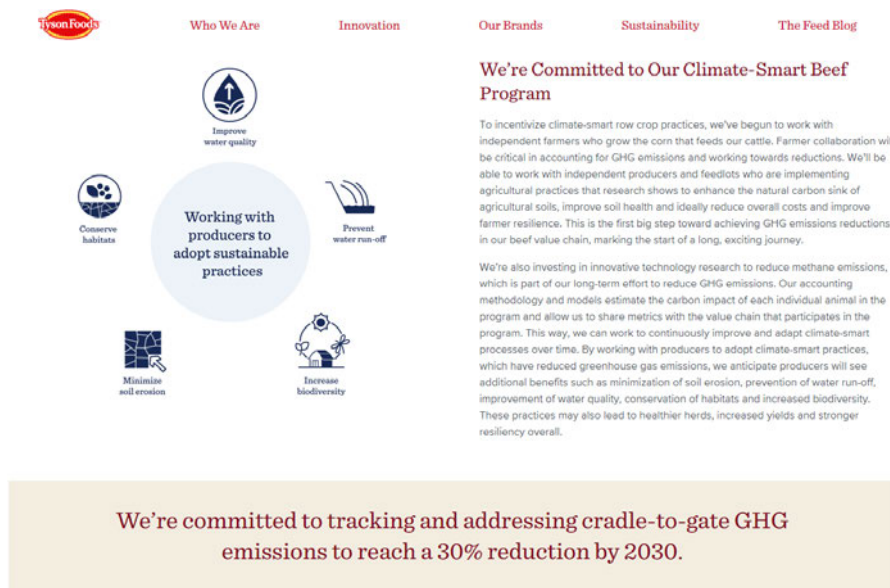
E. Tyson Has Repeatedly Represented to Consumers that It Is Producing Climate-Smart Beef, and These Representations Are False or Misleading.

i. Tyson Has Made Numerous Representations to Consumers Through Various Channels Stating that It Is Producing Climate-Smart Beef.

104. Following its widespread announcement that it aims to be Net Zero by 2050, in March 2023, Tyson unveiled what it calls a “climate-smart beef” program through which Tyson told consumers it will deploy, scale, and incentivize “climate-smart” practices “from cradle-to-gate,” with the stated goal of achieving a 30 percent reduction of GHG emissions in its beef production by 2030.

105. Tyson has repeatedly made such “climate-smart beef” claims to consumers in direct and indirect marketing materials, including on its website and in sustainability reports. These representations are active and ongoing. Examples include:

- a. Tyson tells consumers visiting its website that it is “Committed to Our Climate-Smart Beef Program” and “committed to tracking and addressing cradle-to-gate GHG emissions to reach a 30% reduction by 2030.”



- b. In a 2023 blog post, Tyson announced “[t]oday, we continue building a more sustainable beef industry by introducing the first-of-its-kind Climate-Smart Beef

Program, which combines tried-and-true rancher ingenuity with the latest data and technology.”

- c. Tyson’s post prompted industry outlets to amplify its “climate-smart beef program” claims, using imagery like the below:



- d. On its Brazen Beef website, Tyson tells consumers that “cattle used for Brazen Beef products are enrolled in Tyson Foods’ Climate-Smart Beef Program for emission reduction from pasture to production.”¹
- e. On its Brazen Beef website, Tyson also represents that “[a]nimals chosen for the program are raised with emissions reduction practices in mind. Before being fully accepted into the program, the emissions of each animal are evaluated to ensure they meet the base emissions and program qualifications.”
- f. On the Brazen Beef website, Tyson highlights to consumers that “our greenhouse gas emissions are already down by 10%.” Tyson supports this 10 percent number with a cite to Tyson Foods’ Climate-Smart Beef Program. On its website, Tyson claims it “worked with researchers, technical experts and suppliers to track and reduce emissions from pasture to production” by 10 percent “as compared to emissions for conventional beef.”

¹ Brazenmeats.com. Note that as of the date of this filing, Tyson’s Brazen Meats website is no longer available. However, the website was previously taken down and later put back online, and thus it is reasonable to believe that Tyson will republish the Brazen Meats website in the future, inclusive of the misleading statements included in this Complaint. Nevertheless, even if Tyson does not re-publish the website, similar statements about Brazen Beef are included and available in a Tyson blog, *see, e.g.*, <https://thefeed.blog/2023/03/09/tyson-foods-climate-smart-beef/>, and have been published in various other media outlets, *see, e.g.*, <https://www.washingtonpost.com/climate-environment/2024/01/22/meat-climate-impact-tyson-hopdoddys/>; <https://www.tsln.com/news/tyson-introduced-climate-smart-brazen-beef/>, and thus, Tyson continues to benefit from these misrepresentations even absent the Brazen Meats website.

- g. Tyson further claims that “[t]en percent is just the start of our journey. We’re committed to improving our emissions reduction over the next five years and beyond.”
- h. In its 2022 Sustainability Report, Tyson describes its Climate-Smart Beef Program as “a first-of-its-kind innovation for a company of our size” with the goal of “reduc[ing] GHG emissions in the beef supply chain while creating additional value and profitability for everyone involved.”

ii. Tyson’s Climate-Smart Beef Claims Are False and Misleading to Consumers.

106. Despite its repeated and widespread representations that it has a “climate-smart beef” program, Tyson nowhere defines what exactly “climate-smart beef” is, what baseline it is using for comparison, or how it is measuring any alleged GHG reductions. And by all indications, Tyson has no current ability to offer consumers “climate-smart” beef.

107. Tyson has not released any data to show that any particular product meets a “climate-smart beef” standard (whatever that standard is), or that any practices adopted by ranchers or feedlot owners in its climate-smart beef program have reduced GHG emissions from Tyson’s supply chain.

108. Tyson has pointed to a massive industrial feedlot as the source of some of its “climate-smart” beef, even though the facility is one of the country’s largest animal feeding operations—visible from space and capable of holding tens of thousands of cattle, which no reasonable consumer would view as climate-smart:



109. While Tyson has widely marketed its Brazen Beef product as part of its “climate-smart beef program,” giving the impression that consumers can purchase climate-smart beef from Tyson, on information and belief, Brazen Beef is not yet available for purchase anywhere in the United States. Nevertheless, Tyson continues to market its “climate-smart beef” program to consumers and never qualifies this marketing with a statement notifying consumers that it currently does not have a climate-smart beef product, which is a material omission.

110. Tyson’s linking Brazen Beef to Tyson’s climate-smart beef program and its marketing of both give consumers the misleading impression that available Tyson beef products are “climate-smart.”

111. Moreover, given the staggering climate footprint of Tyson’s beef, even if Tyson were to reduce emissions from a portion of its beef products by 10 or even 30 percent, it would still not be a “climate-smart” choice for consumers, any more than reducing the tobacco content of cigarettes by 10 percent would render that product “kid-friendly” or “healthier.”

112. Considering that mass-produced beef can never be a climate-smart choice, and that no beef produced pursuant to Tyson’s climate-smart beef program is yet available for sale, Tyson’s “climate-smart beef” claims mislead District of Columbia consumers into believing that Tyson’s beef products are a smart choice for the climate.

CAUSES OF ACTION

FIRST CLAIM: VIOLATION OF THE CONSUMER PROTECTION PROCEDURES ACT Net-Zero Emissions By 2050 Claims

113. The CPPA is a remedial statute that is to be liberally construed. It establishes an enforceable right to truthful information from merchants about consumer goods that are or would be purchased or received in the District of Columbia.

114. Tyson Foods is a “person” and a “merchant” under the CPPA because it is a corporation that supplies “consumer goods” in the ordinary course of its business throughout the District. D.C. Code §§ 28-3901(a)(1), (a)(3).

115. The beef, pork, and chicken products that Tyson markets and sells in the District are “goods and services” under the CPPA because they are a “part[] of the economic output of society.” D.C. Code § 28-3901(a)(7).

116. Tyson Foods is engaged in “trade practices” under the CPPA because it is engaged in “act[s] which...create,[] furnish, make available, provide information about, or...offer for or effectuate, a sale...of consumer goods.” D.C. Code § 28-3901(a)(6).

117. The CPPA prohibits unfair and deceptive trade practices in connection with the sale and supply of consumer goods, “whether or not any consumer is in fact misled, deceived, or damaged thereby[.]” D.C. Code § 28-3904.

118. As set forth in paragraphs 67–103 above regarding Tyson’s net zero by 2050 claim, Tyson has violated the CPPA by engaging in the following unfair and deceptive trade practices:

- a. representing that its goods have characteristics or benefits that they do not have, in violation of D.C. Code § 28-3904(a);
- b. misrepresenting the particular standard of Tyson’s goods, in violation of D.C. Code § 28-3904(d);
- c. making misrepresentations concerning material facts that have a tendency to mislead consumers, in violation of D.C. Code § 28-3904(e);
- d. representing that a transaction—the sale of Tyson’s goods—involves obligations—Tyson’s commitment to achieve net zero—which it does not involve, in violation of D.C. Code § 28-3904(e-1);
- e. failing to state a material fact, which has a tendency to mislead consumers, in violation of D.C. Code § 28-3904(f); and
- f. using innuendo or ambiguity as to a material fact, which has a tendency to mislead consumers, in violation of § 28-3904(f-1).

***SECOND CLAIM:
VIOLATION OF THE CONSUMER PROTECTION PROCEDURES ACT
“Climate-Smart Beef” Claims***

119. As set forth in paragraphs 104–112 regarding Tyson’s climate-smart beef claims, Tyson has violated the CPPA by engaging in the following unfair and deceptive trade practices:

- a. representing that its goods have characteristics or benefits that they do not have, in violation of D.C. Code § 28-3904(a);
- b. misrepresenting the particular standard of Tyson’s goods, in violation of D.C. Code § 28-3904(d);
- c. making misrepresentations concerning material facts that have a tendency to mislead consumers, in violation of D.C. Code § 28-3904(e);

- d. failing to state a material fact, which has a tendency to mislead consumers, in violation of D.C. Code § 28-3904(f);
- e. using innuendo or ambiguity as to a material fact which has a tendency to mislead, in violation of D.C. Code § 28-3904(f-1); and
- f. advertising goods without the intent to offer them as advertised, in violation of D.C. Code § 28-3904(h).

PRAYER FOR RELIEF

Wherefore, Plaintiff EWG prays for judgment against Defendant Tyson, and requests the following relief:

- A. A declaration that Tyson’s conduct is in violation of the CPPA;
- B. An order enjoining Tyson’s conduct found to be in violation of the CPPA and requiring redress of consumer misunderstanding about the climate impact of its industrial beef production; and
- C. An order granting Plaintiff costs and disbursements, including reasonable attorneys’ fees and expert fees, and prejudgment interest at the maximum rate allowable by law.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

DATED: September 18, 2024

Respectfully submitted,



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*Pro Hac Vice application forthcoming