

“Puerto Rico’s Favorite Pasta” Is Not NARB’s “Favorite” Claim Without Substantiation

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The National Advertising Review Board (“NARB”) recently upheld an NAD decision regarding Goya Foods, Inc.’s claim, “*La Pasta Favorita de Puerto Rico*” or “Puerto Rico’s Favorite Pasta,” finding that the claim was not puffery and that it required substantiation. As we summarized [here](#), NAD previously determined that use of the term “favorite” in this context was an objective claim that required sales data or consumer survey data as support. NARB agreed.

Although Goya did not have sales or survey data, the company argued that “favorite” was “subjective and immeasurable,” especially in light of the other fanciful claims present on the label such as “delicious.” Goya also pointed to an Eighth Circuit case that found that the word “favorite” was puffery in the context of the claim, “America’s Favorite Pasta.”

NARB was not convinced, determining that here, “favorite” conveys an objective preference message that requires substantiation. NARB noted that the Spanish definitions of “favorite,” like the English definitions, convey a message of preference. Although consumers may have different reasons for identifying a pasta as their favorite, they could easily determine which product was their “favorite” if given a survey.

NARB also noted that as a self-regulatory body, neither NAD nor NARB is bound by the Eighth Circuit ruling. Still, NARB did not think its decision conflicted with the Eighth Circuit case, as evaluating whether something is puffery is a fact-specific determination that depends on the context of the claim. In this context, “favorite” was an objectively provable claim. Thus, NARB upheld NAD’s suggestion that Goya discontinue use of the “favorite” claim.

Companies considering a “favorite,” “first,” or “best” claim should not assume that the terms are automatically puffery. Instead, advertisers should consider the context of the claim and whether that context conveys a message that requires substantiation.