

<b>COMPLAINT NUMBER</b>	18/351
<b>COMPLAINANT</b>	R Holland
<b>ADVERTISER</b>	Tegel Foods
<b>ADVERTISEMENT</b>	Tegel, Television
<b>DATE OF MEETING</b>	27 November 2018
<b>OUTCOME</b>	Not Upheld

## **SUMMARY**

The television advertisement for Tegel free-range chicken is a cartoon of a chicken running around in a grass field and interacting with a tree, a Tegel sign, and the camera. The accompanying song says the chicken loves to run around and play in the sun.

The Complainant said the claims made in the advertisement about the quality of life for chickens is grossly exaggerated and misleading. The Complainant referred to the access to outdoor space, physical space allocation, quality or range and mobility of meat chickens.

The Advertiser said the advertisement is a humorous and light-hearted cartoon which contains a level of hyperbole. The Advertiser confirmed its free-range farms are audited annually by an independent third party, AsureQuality, as part of its animal welfare standards and its farming operations meet or exceed the minimum standards required by the NZ Animal Code of Welfare that pertains to meat chickens.

The majority of the Complaints Board noted the lack of a standard definition of the term 'free-range' and took into account the substantiation provided by the Advertiser about compliance with the NZ Animal Code of Welfare and AsureQuality independent auditing. The majority of the Board said the advertisement had not met the threshold to mislead or deceive consumers nor breach Principles 1 or 2 of the Code for Advertising Food.

A minority of the Complaints Board disagreed and said the advertisement exaggerates the quality of life for free-range chickens and is not saved by the use of animation and hyperbole. The advertisement is misleading and in breach of Principles 1 and 2 of the Code for Advertising Food.

However, in accordance with the majority, the Complaints Board ruled the complaint was Not Upheld.

### **[No further action required]**

Please note this headnote does not form part of the Decision.

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## **COMPLAINTS BOARD DECISION**

The Chair directed the Complaints Board to consider the advertisement with reference to Principle 1 and Principle 2 of the Code for Advertising Food.

Principle 1 required the board to consider whether the advertisement had been prepared with a due sense of social responsibility to consumers and to society.

Principle 2 required the Complaints Board to consider whether the advertisement had by implication, omission, ambiguity or exaggerated claim misled or deceived or was likely to mislead or deceive consumers, abuse the trust of or exploit the lack of knowledge of consumers, exploit the superstitious or without justifiable reason play on fear.

### **The Complaints Board ruled the complaint was Not Upheld.**

#### **The Complaint**

The Complainant said the claims made in the advertisement about the quality of life for chickens is grossly exaggerated and misleading. The Complainant referred to concerns about chicken's meaningful access to outdoor space, physical space allocation, quality of range and mobility of meat chickens.

#### **The Advertiser's Response**

The Advertiser said the advertisement was an artistic representation of the way chickens are raised and said the fictional, humorous and light-hearted cartoon contained a level of hyperbole. The Advertiser said it adhered to the monitoring system put in place by the Ministry of Primary Industries to ensure it meets robust animal welfare requirements and food safety standards. The Advertiser also confirmed its free-range farms are audited annually by an independent third party,ASUREQuality, as part of its animal welfare standard and its farming operations meet or exceed the minimum standards required by the NZ Animal Code of Welfare that pertains to meat chickens.

#### **The Media Response**

The Commercial Approvals Bureau said the advertisement is classified GXC (General Except Children), and therefore cannot air in young children's airtime. It said that Tegal farms comply with all the requirements necessary to meet accepted thresholds of well-being for their chickens.

#### **Precedent**

The Complaints Board reviewed a precedent decision: Complaint 18/103, which was Not Upheld.

This decision was for a television advertisement for Purex toilet paper which made environmental claims about the Kawerau paper mill. In its decision, the Complaints Board agreed the advertisement was making an environmental claim but said the Advertiser had provided sufficient substantiation for the general claim being made in the advertisement by demonstrating it had met the Regional Council requirements together with the voluntary ECNZ manufacturing standards.

### **The Complaints Board Discussion**

#### *Consumer takeout*

Turning to the complaint before it, the Complaints Board discussed the consumer takeout of the advertisement. The Board said it was aimed at adults and showed one free-range chicken running around playing in a carton like manner. The Board said consumers were likely to conclude that free-range chickens have a happier life than chickens raised in cages or barns.

#### *Is the advertisement misleading?*

The Complaints Board discussed the lack of a standard definition of 'free-range'. It noted debate within the industry means there is a wide range of farming conditions which could fall under the banner of 'free-range'.

The Complaints Board took into account the Advertiser's response and information on the monitoring and assessment of farms along with confirmation that fully feathered chickens have access to outdoors containing trees and long grass via monitored pop-holes. It also noted compliance with the NZ Animal Code of Welfare and AsureQuality independent auditing

The majority of the Complaints Board agreed the cartoon depiction of a free-range farm with one chicken performing unrealistic human-like actions was clearly hyperbolic. The majority Board said it was unlikely consumers would believe this represented a real-life farm.

The majority of the Complaints Board said the advertisement did not meet the threshold to mislead or deceive consumers about Tegel's free-range chicken and had not breached Principles 1 or 2 of the Code for Advertising Food.

A minority of the Complaints Board disagreed and said the advertisement exaggerates the quality of life for free-range chickens and it is not saved by the animated hyperbolic style of the advertisement. It said the advertisement makes claims beyond the standards which currently exist and which farms are assessed against. The minority of the Complaints Board said the advertisement is misleading and in breach of Principle 1 and Principle 2 of the Code for Advertising Food.

However, in accordance with the majority, the Complaints Board ruled the complaint was Not Upheld.

## **DESCRIPTION OF ADVERTISEMENT**

The television advertisement for Tegel Free range Chicken shows a cartoon chicken running around grassy field, interacting with a tree, a Tegel sign, and the camera. It contains the lyrics and voice over:

"Free range chooks can go outside Free to roam around and hide Enjoying the outdoors and sun She's head out for some chicken fun They love to play, and flap, and peck I wish she'd just hold still a sec There got her, that'll do Tegel has free range for you Tegel free range, get yours now."

## **COMPLAINT FROM R HOLLAND**

Tegel has been running this above advertisement on prime time television for the past few months. It contains cartoon imagery of a chicken running around in a grassed field and interacting with a tree, a Tegel sign, and the camera. It contains the lyrics and voice over:

"Free range chooks can go outside Free to roam around and hide Enjoying the outdoors and sun She's head out for some chicken fun They love to play, and flap, and peck I wish she'd just hold still a sec There got her, that'll do Tegel has free range for you Tegel free range, get yours now."

I consider this advertisement to be grossly misleading in the implied quality of life experienced by Tegel free range chickens in four key areas: meaningful access to outdoor space, physical space allocation, quality of range, and mobility of meat chickens.

**Meaningful access to outdoor space** There is no official or industry definition of free-range<sup>1</sup>, which leaves operators who do not seek a third party verification (such as SPCA blue tick) to set their own definition. Access to, and use of, a range is heavily influenced by the number and size of shed exits (pop holes), as well as size and quality of the range.

Studies investigating the proportion of a commercially raised chicken flock that will access an outdoor area vary widely in their observations, finding that anywhere from 2%-69% of chickens will use the outdoor area<sup>2</sup>. This means at best 31% of chickens are not using the outdoor area at all. However, the real proportions are likely to be significantly higher than 31%. Operations where 69% of birds accessed the range were those that provided the highest quality environments (large numbers of pop holes, large areas of range, and high quality ranges). Poorer quality operations will result in a significantly lower proportion of the birds utilising the outdoor space<sup>2</sup>.

An additional misleading factor is that the chickens are usually confined in the sheds for the first 2-3 weeks of life. The pop holes are only opened for the last three weeks of these birds' lives. This is not what is implied by this misleading advert.

**Physical space allocation** The maximum stocking density for indoor meat chickens in New Zealand is 38kg per square metre<sup>3</sup>, which is around 19 birds per square metre. As there is no official definition of free-range, a free-range claim could be applied to a system stocked to the maximum allowable density that provides a single small exit to a small, poor quality, outdoor area. The imagery in the advertisement very clearly implies that all free range chickens farmed by Tegel are provided with an area that is large enough for them all to run around unimpeded. Without an official minimum stocking density for free-range, or a third party definition, and with the marketing benefits that the free-range claim provides, the implication that all chickens in the system are able to access so much space is likely to be inaccurate in the vast majority of cases, and is therefore misleading.

**Quality of range** One of the primary drivers of range use is the amount of cover available<sup>2</sup>. The imagery and lyrics ('free to roam around and hide') imply that Tegel free-range chickens have the opportunity to hide. As with range size, range quality is not officially defined by industry and poor quality range is a common issue. Without meaningful definitions and/or third party certifications, range quality is likely to be poor on many farms and consequently many chickens on these farms will not experience the outdoors. The implied access to hiding places, such as trees, and the meaningful opportunity for each chicken to enjoy the range is misleading.

**Mobility** All chickens farmed for meat in NZ are either Ross or Cobb breeds<sup>4</sup>. These are highly genetically selected animals who have been bred for very rapid muscle growth. Due to their abnormal growth these birds suffer a range of very severe mobility problems. The most mildly affected birds have abnormal gaits, with severely affected birds suffering significant limb deformities which leave them unable to walk, and in chronic pain.

These fast-grow breeds of chicken spend more time sitting and preening and less time active, than slower growing meat breeds<sup>2</sup>. Additionally, contact dermatitis (a.k.a. hock burn), a painful inflammatory condition of the feet and hocks which occurs commonly in meat chickens, is worse in fast-grow breeds and contributes to lameness<sup>2</sup>.

The incidence of lameness varies considerably in studies and there is limited NZ data. However, a Ministry for Primary Industries report (2013) published incidences of 35% and 56% in the two years of data available<sup>5</sup>. The movement depicted in the Tegel cartoon is so grossly unattainable by a meat chicken as to be almost farcical. This type of movement is unrealistic and it is misleading to consumers to present a meat chicken in this way.

Chicken meat production accounts for by far the largest proportion of land animals killed for meat in NZ, with four out of every five animals slaughtered annually for meat being a chicken. However this is an industry that is largely hidden from consumers, with the vast majority of production happening in closed, indoor environments. By presenting such a grossly exaggerated picture of quality of life for meat chickens, Tegel is actively misleading consumers to think that free-range meat chicken welfare is much higher than it actually is. This advertisement is deceptive. It exploits the lack of knowledge of consumers of typical production systems and presents an inaccurate presentation of the life of a free-range meat chicken.

The use of the term free-range has been controversial in the egg industry, with high level concern over the risk to consumers from lack of clarity<sup>7</sup>. Tegel are currently exploiting this lack of clarity to present this misleading and inaccurate information to consumers.

Dr Roz Holland BVSc, MVM, MANZCVS

#### References

- 1) SPCA. (2015). Free-range term no guarantee of good animal welfare. <http://spcabluetick.org.nz/free-range-term-no-guarantee-of-good-animal-welfare>
- 2) Nicol, C. J., Bouwsema, J., Caplen, G., Davies, A. C., Hockenhul, J., Lambton, S. L., Lines, J. A., Mullan, S., & Weeks, C. A. (2017). Farmed Bird Welfare Science Review. Agriculture Victoria
- 3) NZ Government. (2012). Meat Chickens Animal Welfare Code of Welfare
- 4) Poultry Industry Association of New Zealand. <https://pianz.org.nz/> Accessed October 2018
- 5) Ministry for Primary Industries. (2013). Survey of Lameness in New Zealand Meat Chickens.
- 6) Statistics New Zealand. <http://archive.stats.govt.nz/infoshare/?url=/infoshare/> Accessed October 2018.
- 7) NZ Herald. (2017). Minister: clear definition of 'free-range' eggs may be needed. [https://www.nzherald.co.nz/business/news/article.cfm?c\\_id=3&objectid=11817928](https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11817928)

## CODES OF PRACTICE

### CODE FOR ADVERTISING FOOD

**Principle 1:** - All food advertisements should be prepared with a due sense of social responsibility to consumers and to society. However food advertisements containing nutrient, nutrition or health claims\*, should observe a high standard of social responsibility.

**Principle 2:** Advertisements should not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive consumers, abuse the trust of or exploit the lack of knowledge of consumers, exploit the superstitious or without justifiable reason play on fear.

### RESPONSE FROM ADVERTISER, TEGEL

Contact person for advertising complaints	Christine Cash, GM Strategy and Business Development –
Name and contact at creative agency	Luke Farmer
Name and contact at media	Luke Farmer

agency	
A basic, neutral description of the advertisement	An animated 15 second TVC which shows a chicken moving around a farm while a voice over narrates the chicken's actions. The advert then finishes by showing the range of Tegel free range products.
Date advertisement began	05 August 2018
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	TV, online on both YouTube and Tegel's corporate website, magazines, bus shelters
Is the advertisement still accessible – where and until when?	Yes, it is still on the Tegel website and Youtube
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	
Who is the product / brand target audience?	Media Target Audience Household Shopper 25-54 years old
Clear substantiation on claims that are challenged by the complainant.	<p>The 15 second TVC referred to in this complaint is an animated characterisation of a free range chicken farm.</p> <p>Tegel's current media campaign (including this TVC and other advertisements) is all animated. The advert as a whole is simply an artistic representation of the way in which the chickens are raised. The nature of an animated cartoon means that it portrays a fictional, humorous, and light-hearted representation, but one that is based on real life. As is generally typical of all animations, the TVC also contains obvious hyperbole (for example, in the way the chicken jumps onto and knocks over the Tegel sign).</p> <p>We take our commitment to free range farming very seriously. Working alongside the Ministry for Primary Industries, we have an extensive monitoring programme in place to ensure our chickens are cared for to robust animal welfare requirements and food safety standards.</p> <p>This short video ('Living the Kiwi dream', attached) shows one of Tegel's free range farms and demonstrates some of the elements of a free range farm including ground cover,</p>

	<p>shading, pop hole access and the health of chickens. This video was also part of the campaign which formed part of a digital media strategy to drive people to the website when they clicked on a shorter 15 second version.</p> <p>Before we address each of the points raised in the complaint, Tegel would stress that all Tegel farms – both barn raised and free-range – are audited annually by AsureQuality, which provides an independent, third party assessment as part of its Animal Welfare (Meat Chicken and Turkey) Standard.</p> <p>This Standard is accredited by JAS-ANZ, which also provides ongoing independent oversight of the programme. Compliance with this Standard ensures that Tegel farming operations meet or exceed the minimum standards required by the Code of Welfare that pertains to meat chickens.</p> <p>This confirms the expectations placed on the grower who has day-to-day obligations to ensure they are adhering to the Code of Welfare.</p> <p>In addition, Tegel advisors visit the farms regularly and do their own checks.</p> <p>If the ASA would like to visit one of Tegel's farms, please let us know and we would be happy to arrange it so that the ASA can see for itself that Tegel's free range practices are consistent with the rest of the poultry industry.</p> <p>Issue 1: Meaningful access to outdoor space</p> <p>Once they are fully feathered, all chickens on a Tegel free-range farm have the opportunity to spend time outdoors. The chickens have meaningful and regular access to an outdoor range during daylight hours and are free to roam and forage on the outdoor range. The range area is accessed through pop holes which are evenly spaced along the barn walls. The growers are required to keep a record of when the pop holes are opened and closed and, if they are closed, the reason (e.g. for welfare reasons due to inclement weather). Those records are checked as part of the AsureQuality audit.</p> <p>Issue 2: Physical space allocation</p> <p>As mentioned above, Tegel ensures that its practices meet, or exceed, the requirements of the Animal Welfare Standard, as audited by AsureQuality. The chickens,</p>
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	<p>therefore, have adequate physical space allocation and the pop holes allow chickens continuous and unrestricted access to an outdoor range during daylight hours (conditions permitting).</p> <p>Issue 3: Quality of range</p> <p>Ranges on established Tegel free range farms are typically planted with a variety of trees to provide shelter and areas for chickens to hide. Newer free range farms are also planted with a variety of trees which are supported with artificial cover while they develop. In addition, chickens can (and do) hide in the long grass in the range and so the ability to hide does not just depend on the presence of trees or artificial cover. See, for example, the front cover of Tegel's 2018 Annual Report (copy attached).</p> <p>Issue 4: Mobility</p> <p>All chickens in Tegel barn or free-range farms must be mobile in order to have access to food and water. With any population of farmed animals there will be a small number that don't develop as they should. Where this happens, the birds are removed. Checks on chicken welfare are made regularly during the day by farm staff.</p> <p>As mentioned above, the nature of an animated cartoon means that it portrays a fictional representation but one that is based on real life. As you can see in the video of an actual Tegel free range farm referred to above, the birds are free to (and do) move around.</p>
<p>The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.</p>	
<p><b>For Broadcast advertisements:</b></p>	
<p>A copy of the script</p>	<p>Included in PDF file: TEG0095 - Hold Still 15" Script V10</p>

	<p>Free range chooks can go outside,  Free to roam around...and hide.  Enjoying the outdoors and sun,  She's head off for some chicken fun!  They love to play and flap and peck  I wish she'd just hold still a sec  There got her, that'll do  Tegel has free range for you.  Tegel free range,  Get yours now!</p>
<p>A copy of the media schedule and spot list  (Please remove all financial information)</p>	attached
CAB key number and rating	70825054 GXC
<b>For Digital advertisements:</b>	
What platform tools have you used to target your audience?	TVNZ On Demand Top 10 Programmes, 3Now Top 10 Programs

**RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU**  
**COMPLAINT: 18/351**

**KEY: TEG 0030 0095A**

**RATING: GXC**

SAFE has questioned various aspects of this advertisement under the Code for Advertising of Food principles relating to high standard of social responsibility and misleading claims.

This bright and breezy animated commercial was first approved in August 2017. Like most food advertisements it is classified GXC so cannot air in young children's airtime. The commercial promotes a variety of free range products and emphasises the fact that the chickens have the freedom to roam and forage while also having available protection from the elements or predators. They are not penned in cages or locked in barns.

TEGEL is closely monitored by the Ministry of Primary Industries to ensure the company complies with the New Zealand Animal Welfare Code. As required by New Zealand Law,

their chickens are never given growth hormones. The company also confirms their farms are independently audited to ensure they meet the strict measures required to carry the Asure Quality Animal Welfare Standard for meat chickens and turkeys.

While it is acknowledged some chicken farms may not follow satisfactory animal welfare practice it is quite clear that TEGEL farms comply with all the requirements necessary to meet accepted thresholds of well-being for their chickens. CAB sees no basis to uphold this complaint.

**APPEAL INFORMATION**

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website [www.asa.co.nz](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 days of receipt of this decision.