

<b>COMPLAINT NUMBER</b>	19/035
<b>COMPLAINANTS</b>	J Graham & others
<b>ADVERTISER</b>	Greenpeace NZ
<b>ADVERTISEMENT</b>	Greenpeace NZ Out of Home
<b>DATE OF MEETING</b>	26 February 2019
<b>OUTCOME</b>	Upheld

## SUMMARY

The billboard advertisement for Greenpeace said “Ravensdown and Balance Pollute Rivers”. Below this, to the left of the billboard and in smaller letters, was “#TooManyCows”. To the right of the billboard was the Greenpeace logo. All of the text was in white, on a black background.

There were three complaints about this billboard. All three said the billboard is making a false claim. One of the Complainants said it is the farmers who are polluting the rivers, not the fertiliser producers. One of the Complainants said: the scientific evidence that fertiliser runoff pollutes is scant to non-existent, nitrogen in waterways comes from cows urinating, fertiliser is not classified as a pollutant, ‘some water bodies are in a good state but others have been significantly compromised by agricultural intensification, urban expansion, industrial pollution, hydro-electric development or the effects of drought, and, the tag ‘toomanycows’ is Greenpeace opinion only and ignores the fact only 15% of waterways run through dairy farming areas.

The Advertiser said it believes intensive dairy farming and the use of synthetic nitrogen fertilisers are having a severe negative impact on the health of waterways in New Zealand. The Advertiser said the environmental impacts of synthetic nitrogen fertiliser are both direct and indirect. The direct impact occurs from the application of the fertiliser itself, the indirect impact occurs from the intensification of farming that is enabled by the application of synthetic nitrogen. The Advertiser said Ravensdown and Balance sell 98% of all fertilisers used in New Zealand. Balance manufactures synthetic nitrogen and both Ravensdown and Balance (via their fully-owned subsidiaries) apply synthetic nitrogen fertilisers, both on the ground and by air.

A majority of the Complaints Board said the advertisement was misleading. This is because the message is over-simplified and potentially unclear. It gives the impression individual fertiliser companies, Ravensdown and Ballance, are responsible for the pollution of New Zealand waterways. The majority said the font for the text “#TooManyCows” was much smaller and harder to read than the main message “Ravensdown and Balance Pollute Rivers”, and this additional text could easily be missed, thereby distorting the message.

A minority of the Complaints Board disagreed and said the advertisement was not misleading. This is because, in the context of advocacy advertising, Greenpeace had provided sufficient substantiation to support its view that the use of fertiliser has enabled greater use of the land. Consequently, there is a greater number of cows and more pollution is occurring in New Zealand waterways, as a result. According to Greenpeace, Ravensdown

& Ballance sell 98% of all fertilisers in NZ so therefore it can be said they contribute to this pollution.

In accordance with the majority, the Complaints Board ruled the complaint was Upheld.

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 complaint with reference to Principle 2 and Rule 2(b) Truthful Presentation, Rule 2(e) Advocacy Advertising and Rule 2 (h) Environmental Claims of the Advertising Standards Code.

Principle 2 required the Board to consider whether the advertisement was truthful, balanced and not misleading.

Rule 2(b) required the Board to consider whether the advertisement was misleading or likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

Rule 2(e) required the Board to consider whether the advertisement was advocacy advertising, and, if so, whether the identity and position of the advertiser was clearly stated. Opinion in support of the advertiser's position must be clearly distinguishable from factual information. Factual information must be able to be substantiated.

Rule 2(h) required the Board to consider whether the advertisement was making any environmental claims, and, if so, whether those claims are accurate and able to be substantiated by evidence that reflects scientific and technological developments.

The Complaints Board said the advertisement before it fell into the category of advocacy advertising. The Advocacy Principles developed by the Complaints Board in previous decisions considered under rule 11 of the Code of Ethics remain relevant. They say:

1. That section 14 of the Bill of Rights Act 1990, in granting the right of freedom of expression, allows advertisers to impart information and opinions but that in exercising that right what was factual information and what was opinion, should be clearly distinguishable.
2. That the right of freedom of expression as stated in section 14 is not absolute as there could be an infringement of other people's rights. Care should be taken to ensure that this does not occur.
3. That the Codes fetter the rights granted by section 14 to ensure there is fair play between all parties on controversial issues. Therefore, in advocacy advertising and particularly on political matters the spirit of the Code is more important than technical breaches. People have the right to express their views and this right should not be unduly or unreasonably restricted by Rules.
4. That robust debate in a democratic society is to be encouraged by the media and advertisers and that the Codes should be interpreted liberally to ensure fair play by the contestants.

5. That it is essential in all advocacy advertisements that the identity of the advertiser is clear.

### **The Complaints Board ruled the complaint was Upheld.**

#### **The Complaint**

There were three complaints about this billboard. All three said the billboard is making a false claim. One of the Complainants said it is the farmers who are polluting the rivers, not the fertiliser producers. One of the Complainants said:

- the scientific evidence that fertiliser runoff pollutes is scant to non-existent.
- nitrogen in waterways comes from cows urinating
- fertiliser is not classified as a pollutant, it is classified as plant food.
- According to the Prime Ministers' Science Advisor, Sir Peter Gluckman 'some water bodies are in a good state but others have been significantly compromised by agricultural intensification, urban expansion, industrial pollution, hydro-electric development or the effects of drought.
- The tag 'toomanycows' is Greenpeace opinion only and ignores the fact only 15% of waterways run through dairy farming areas. (Dairy NZ).

#### **The Advertiser's response**

The Advertiser said it believes intensive dairy farming and the use of synthetic nitrogen fertilisers are having a severe negative impact on the health of waterways in New Zealand. The Advertiser said Greenpeace is an environmental advocacy organisation and in this context, it believes the advertisement complies with the relevant Code.

The Advertiser said the environmental impacts of synthetic nitrogen fertiliser are both direct and indirect. The direct impact occurs from the application of the fertiliser itself, the indirect impact occurs from the intensification of farming that is enabled by the application of synthetic nitrogen.

The Advertiser said Ravensdown and Balance sell 98% of all fertilisers used in New Zealand. Balance manufactures synthetic nitrogen and both Ravensdown and Balance (via their fully-owned subsidiaries) apply synthetic nitrogen fertilisers, both on the ground and by air.

The Advertiser referred to evidence obtained from the Ministry for the Environment, The National Institute of Water and Atmospheric research (NIWA) the Parliamentary Commissioner for the Environment and a range of other sources.

#### **The Media's response**

The Media, APN, said an independent body is required to make a ruling about this complaint.

#### **Precedent**

The Complaints Board referred to a precedent decision, Decision 18/291 Appeal 18/018, regarding a complaint about a newspaper advertisement for advocacy group Fluoride Free New Zealand. The advertisement contained the statement "Fluoride is a Neurotoxin that reduces Children's IQ". This view was further qualified by the sentence "International Experts share latest research linking fluoride to neurological damage and other harms".

In the decision the Appeal Board ruled the complaint was Not Upheld. It said the advertisement did not reach the threshold to be socially irresponsible and unjustifiably play on fear because it offered wider context, to support the view put forward by the advertiser.

This wider context was provided by an invitation to a public lecture explaining recent research on the risks of fluoride.

### **Complaints Board Discussion**

#### *Consumer Takeout*

The Complaints Board agreed there were at least two possible consumer takeouts of the advertisement. A majority of the Complaints Board said the consumer takeout was: It's Greenpeace's view that Ravensdown and Ballance are polluting the rivers, and it's something to do with intensive dairying, the use of fertiliser and too many cows. A minority of the Complaints Board said the consumer takeout for some people could be: Greenpeace is claiming that Ravensdown and Ballance are putting pollutants directly into the rivers, as part of the fertiliser manufacturing process. The Complaints Board noted that the Ravensdown and Ballance brands are not household names, and a significant number of viewers might not be familiar with them.

#### *Is it an advocacy advertisement?*

The Complaints Board agreed the advertisement fitted the definition of an advocacy advertisement. The Complaints Board said the identity of the Advertiser, Greenpeace, was sufficiently clear, and Greenpeace is a well-known organisation.

The Complaints Board referred to the Advocacy Advertising Guidance Note in the Advertising Standards Code which says: "The identity of the advertiser must be obvious and easily recognised. Where an advertiser is not well known, additional information such as a physical address, website address or phone number may be appropriate to include."

#### *Is the advertisement making environmental claims?*

The Complaints Board agreed the advertisement was making strong environmental claims.

#### *Is the advertisement misleading?*

The Complaints Board said there are at least two possible consumer takeouts for the advertisement, as explained above. The Complaints Board noted the Advertiser had provided a large amount of information to substantiate the claim that the use of fertiliser has contributed to the pollution of New Zealand waterways.

The Complaints Board acknowledged the increased use of fertiliser has played a part in the intensification of dairying in New Zealand, and there has been increased pollution as a result. The Complaints Board said the cause of the pollution of New Zealand waterways is a complex problem and cannot be easily summarised on a billboard.

A majority of the Complaints Board said the advertisement was misleading. This is because the message is over-simplified and potentially unclear. It gives the impression two individual fertiliser companies, Ravensdown and Ballance, are responsible for the pollution of New Zealand waterways. The majority said targeting individual companies is provocative and taking advocacy a step further than is necessary. The majority said the font for the text "#TooManyCows" was much smaller and harder to read than the main message "Ravensdown and Balance Pollute Rivers", and, as a result, this additional text could easily be missed, thereby distorting the message.

The majority said the message would have been easier to understand if the advertisement had provided a "clearer pathway" to the substantiation of the claim being made, for example, by providing more context or by including a direct link to the relevant part of the Greenpeace website.

A minority of the Complaints Board disagreed and said the advertisement was not misleading. This is because, in the context of advocacy advertising, Greenpeace had

provided sufficient substantiation to support its view that the use of fertiliser has enabled greater use of the land, and there is a greater number of cows and therefore more pollution occurring in New Zealand waterways, as a result. According to Greenpeace, Ravensdown & Ballance sell 98% of all fertilisers in NZ so therefore it can be said they contribute to this pollution. The inclusion of the Greenpeace logo on the billboard is enough to indicate to viewers that they can go to the Greenpeace website and find out more information about this subject if they wish.

In accordance with the majority the Complaints Board ruled the advertisement, which was making environmental claims, was misleading and in breach of Principle 2, Rule 2(b) and Rule 2(h) of the Advertising Standards Code.

Accordingly, the Complaints Board ruled the complaint was Upheld.

### **DESCRIPTION OF ADVERTISEMENT**

The billboard advertisement for Greenpeace said "Ravensdown and Balance Pollute Rivers". Below this, to the left of the billboard and in smaller letters, was "#TooManyCows". To the right of the billboard was the Greenpeace logo. All of the text was in white, with a black background.

### **COMPLAINT FROM J GRAHAM**

Billboard statement is not true. It is a false claim. Farmers who use fertilizer products from these companies may be polluting our rivers, but the producers of the fertilizers are not.

### **COMPLAINT FROM K SAES**

The ad reads ' ravensdown and fonterra pollute waterways '  
I believe this to be a factually incorrect statement and a form of propaganda.

### **COMPLAINT FROM A EMERSON**

My issues are:

- 1 ballance and ravendown make fertilisers, they don't pollute rivers. The billboard is wrong in fact
- 2 the scientific evidence that fertiliser runoff pollutes is scant to non-existent. The current greenpeace campaign is about nitrogen in waterways, that comes from cows urinating. It has nothing to do with ballance or ravensdown.
- 3 fertiliser is not classified as a pollutant.
- 4 both companies are members of the fertmark quality control standard. Their products are independently audited and don't contain pollutants.
- 5 last year there were 379 sewerage overflows into waterways from local government. That was polluting but had nothing to do with either ravensdown or ballance.
- 6 fertiliser is classified as plant food. Without it american research suggests that world food production would be halved. Nz soils aren't naturally fertile and need fertiliser. It is an essential ingredient in the food chain. I could go on but the greenpeace billboard is wrong in fact. I would also suggest it is derogatory to farmers who own ballance and ravensdown.

### **Rule 2 (b)**

Neither Ballance nor Ravensdown pollute rivers. They are ethical fertiliser manufacturers who make and sell fertiliser to farmers, end of story.

For example a billboard reading 'Toyota and Ford kill people' would be deemed unacceptable yet cars do kill and last year our road toll was 379.

Toyota and Ford obviously have no control of what their vehicles do when they are sold and neither does Ballance or Ravensdown with their fertilisers.

Further there is no proof that fertilisers are polluters of rivers. Animals can and last year sewerage outflows by local government increased 379% according to a survey by Water NZ. In addition 35 out of 40 councils had sewerage overflowing into rivers and streams whenever there was high rainfall.

According to the Prime Ministers' Science Advisor, Sir Peter Gluckman 'some water bodies are in a good state but others have been significantly compromised by agricultural intensification, urban expansion, industrial pollution, hydro-electric development or the effects of drought.

Neither fertiliser or Ballance and Ravensdown are mentioned.

Sir Peter goes on to say that our most polluted waterways are in urban, not rural areas. Ballance and Ravensdown have no control over that.

The NIWA report to the Ministry for the Environment makes the point that the impact of rainfall means 'storm water picks up sediment, rubbish, contaminants and dog and bird droppings'.

Nothing to do with the rural sector.

Both companies support the Fertmark quality control standard and the Spreadmark spreading standard where operators know exactly where fertiliser is applied. The bottom line is there is no profit putting fertiliser in rivers and there is the technology and training to prevent that happening.

Fertiliser is classified as a plant food, not a pollutant. American research, (MIT) has shown that internationally food production would halve if fertiliser wasn't applied with the resultant mass starvation that would encourage. New Zealand soils aren't naturally fertile; they need fertiliser, an essential ingredient in the food chain.

My submission, therefore, is that the billboards are untrue, gross exaggeration, puffery and deliberate hyperbole that are designed to mislead.

Rule 2(e)

Greenpeace opinion is presented as fact. It is unsubstantiated.

Rule 2 (h)

The billboards are not accurate and totally unsubstantiated. Also the tag 'toomanycows' is Greenpeace opinion only and ignores the fact only 15% of waterways run through dairy farming areas. (Dairy NZ).

Conclusion

Ballance and Ravensdown don't pollute rivers. The Greenpeace billboard both aggressive and completely wrong in fact. It is also cheap shot at farmers through the two farmer owned co-operatives.

## CODES OF PRACTICE

### ADVERTISING STANDARDS CODE

**Principle 2: Truthful Presentation:** Advertisements must be truthful, balanced and not misleading.

**Rule 2(b): Truthful Presentation:** Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

**Rule 2(e): Advocacy Advertising:** Advocacy advertising must clearly state the identity and position of the advertiser. Opinion in support of the advertiser's position must be clearly distinguishable from factual information. Factual information must be able to be substantiated.

**Rule 2 (h): Environmental Claims:** Environmental claims must be accurate and able to be substantiated by evidence that reflects scientific and technological developments.

### **RESPONSE FROM ADVERTISER, GREENPEACE NZ**

Greenpeace believes the advertisement in question complies with the Advertising Code of Ethics (Code). The advertisement in question is a series of billboards that read “Ravensdown and Ballance pollute rivers - #TooManyCows - Greenpeace.”

The context of this advertisement is that there is an ongoing national debate of significant public interest around the management, regulation, and pollution of water. One of the major issues is the harmful impact of intensive dairy farming on water quality and how that impact may be managed and reduced. Synthetic nitrogen fertiliser is an integral part of intensive dairying and has both indirect and direct impacts on waterways.

Ravensdown and Ballance sell 98% of all fertilisers used in New Zealand as well as undertake many other commercial activities in regards to these fertilisers, including manufacturing synthetic nitrogen fertilisers (Ballance), and applying synthetic nitrogen fertilisers on the ground or aurally (Ravensdown and Ballance, via their fully-owned subsidiaries).

Greenpeace prepared the advocacy advertisement with a due sense of social responsibility to consumers and society. Greenpeace believes that the advertisement serves the public interest by raising public awareness and generating discourse on water pollution, while offering a critique of the impacts of the powerful and influential New Zealand fertiliser and dairy industries.

Greenpeace is an environmental advocacy organisation, funded by private donations from individuals and receives no government or industry funding. Based on substantive publically available scientific information, Greenpeace holds the view that intensive dairy farming and the use of synthetic nitrogen fertilisers are having a severe and widespread negative impact on the health of waterways in New Zealand.

### **The complaints**

This series of complaints allege breaches of Principle 2 of the Code. It reads:

**2 Truthful Presentation** - Advertisements must be truthful, balanced and not misleading.

The complaint by Alan Emerson alleges breaches to the following rules of Principle 2. They read:

**Rule 2 (b)** Truthful presentation

**Rule 2 (e)** Advocacy advertising

**Rule 2 (h)** Environmental Claims.

### **Context of the advertisement**

#### *Background company profile and activities of Ravensdown and Ballance*

Ravensdown and Ballance supply 98% of all the fertiliser used in New Zealand.<sup>1</sup> Ballance manufactures and imports synthetic nitrogen<sup>2</sup> Ravensdown imports synthetic nitrogen.<sup>3</sup>

<sup>1</sup> Fertiliser Association NZ 2018: Submission To New Zealand Productivity Commission on Draft Report on Low-Emissions Economy. <https://www.productivity.govt.nz/sites/default/files/sub-low-emissions-322-the-fertiliser-association-of-new-zealand-346Kb.pdf>

They both also fully own subsidiary companies that apply fertilisers via air or ground spreaders. Super Air is a fully owned subsidiary of Balance which applies fertiliser aerially.<sup>4</sup> Aerowork is a fully owned subsidiary of Ravensdown which applies fertiliser aerially.<sup>5</sup> Ravensdown also fully owns and has joint ventures in several ground spreading companies.<sup>6</sup>

Ravensdown also has a soil lab and a team of consultants who recommend to farmers how much synthetic nitrogen fertiliser the farmer “needs” to apply.<sup>7</sup>

They are both co-operatives that are 100% owned by farmer shareholders. Their owner shareholders are those who buy and use fertiliser and/or other products supplied by the companies.<sup>8 9</sup>

### *Synthetic Nitrogen fertiliser*

Synthetic nitrogen fertiliser is applied onto farmland to boost plant growth. It is mostly sold as ‘urea’ but it’s also mixed in with other fertilisers and sold under various brand names. Over 600,000 tonnes of synthetic nitrogen fertiliser is applied onto New Zealand farmland annually.<sup>10</sup>

The main plant growth it enables in New Zealand is grass. This provides more food for cows and enables more cows to be farmed per hectare of land.<sup>11</sup> The dairy industry is the largest user of synthetic nitrogen, using 70% of all the urea used in New Zealand.<sup>12</sup>

According to the OECD, New Zealand has had the highest percentage increase in synthetic nitrogen fertiliser use out of all of the OECD countries since 1990.<sup>13</sup>

### *The link between dairy farming, synthetic nitrogen fertiliser and water pollution*

<sup>2</sup> Ballance 2017: Submission on New Zealand Productivity Commission (2017) Low-emissions economy: Issues paper. <https://www.productivity.govt.nz/sites/default/files/sub-low-emissions-97-auckland-council-1196Kb.pdf>

<sup>3</sup> Ravensdown 2018: Consultation on the Zero Carbon Bill Ravensdown Submission to the Ministry for the Environment. [https://www.mfe.govt.nz/sites/default/files/Organisations\\_2/11963\\_Ravensdown\\_Redacted.pdf](https://www.mfe.govt.nz/sites/default/files/Organisations_2/11963_Ravensdown_Redacted.pdf)

<sup>4</sup> Ballance 2018: About SuperAir. Accessed 13/2/19 <https://ballance.co.nz/About-Super-Air>

<sup>5</sup> Ravensdown 2018: Aerowork Aerial Spreading Accessed 13/2/19 <https://www.ravensdown.co.nz/services/spreading/aerowork-aerial-spreading>

<sup>6</sup> Ravensdown 2018: Ground-spreading Accessed 13/2/19 <https://www.ravensdown.co.nz/services/spreading/ground-spreading>

<sup>7</sup> Ravensdown 2018: Consultation on the Zero Carbon Bill Ravensdown Submission to the Ministry for the Environment. [https://www.mfe.govt.nz/sites/default/files/Organisations\\_2/11963\\_Ravensdown\\_Redacted.pdf](https://www.mfe.govt.nz/sites/default/files/Organisations_2/11963_Ravensdown_Redacted.pdf)

<sup>8</sup> Ibid.

<sup>9</sup> Ballance 2018: Our Business and History Accessed 13/2/19 <https://ballance.co.nz/Our-Business-and-History>

<sup>10</sup> Statistics NZ, Infoshare LookUp tables. <http://archive.stats.govt.nz/infoshare/ViewTable.aspx?pxID=e4b2f308-e80b-4157-931a-810effedd3a0>

<sup>11</sup> Parliamentary Commissioner for the Environment 2013: Water quality in New Zealand: Land use and nutrient pollution

<sup>12</sup> Statistics NZ 2017 Agricultural Census Tables <https://www.stats.govt.nz/information-releases/agricultural-production-statistics-june-2017-final> Note: The NZ Government does not specifically measure all the use of all synthetic N fertilisers, only Urea.

<sup>13</sup> OECD 2008 Environment Performance of Agriculture in OECD countries

The link between intensive dairy, synthetic nitrogen fertiliser and water pollution is well documented. Many of the relevant reports are publically available.

In essence, the research shows that:

(a) Nitrogen pollution has a significant negative impact on water quality in New Zealand and this pollution is worsening, overall.<sup>14</sup>

(b) The largest sources of nitrogen pollution into New Zealand's rivers, in order of magnitude, are; urine from dairy cattle, urine from sheep and synthetic nitrogen fertiliser (directly).<sup>15</sup>

(c) The use of synthetic nitrogen fertiliser has enabled the intensification of dairy farming, and led to higher stocking rates. This has increased diffuse nitrogen pollution from bovine urine.<sup>16</sup>

(d) Dairy intensification has significantly contributed to the decline in the health of New Zealand's waterways.<sup>17</sup>

#### *A summary of the state of New Zealand's freshwater*

More than two thirds of monitored rivers are unswimmable.<sup>18</sup> 44% of monitored lakes are in heavily polluted (eutrophic) states.<sup>19</sup> 72% of native freshwater fish are threatened with extinction.<sup>20</sup> Nitrate pollution is worsening in over half of the country's monitored rivers.<sup>21</sup>

#### *Impact of nitrogen pollution on waterways*

In the latest State of the Environment Report, the Ministry for the Environment (**MFE**) explained the impact of nitrogen pollution on waterways as follows:

*“Once in the soil, excess nitrogen travels through soil and rock layers, ending up in groundwater, rivers, and lakes.... The greatest impact of excessive nitrogen levels in New Zealand rivers is nuisance slime and algae (periphyton) growth. This growth can reduce oxygen levels in the water, impede river flows, and smother the riverbed*

<sup>14</sup> Ministry for the Environment & Stats NZ 2017a: New Zealand's Environmental Reporting Series: Our fresh water 2017

<sup>15</sup> Ministry for the Environment & Stats NZ 2017b: New Zealand's Environmental reporting series : Freshwater and nitrogen leaching. [http://archive.stats.govt.nz/browse\\_for\\_stats/environment/environmental-reporting-series/environmental-indicators/Home/Fresh%20water/nitrogen-leaching-agriculture.aspx](http://archive.stats.govt.nz/browse_for_stats/environment/environmental-reporting-series/environmental-indicators/Home/Fresh%20water/nitrogen-leaching-agriculture.aspx)

<sup>16</sup> Parliamentary Commissioner for the Environment 2013: Water quality in New Zealand: Land use and nutrient pollution

<sup>17</sup> National Institute of Water and Atmospheric 2010, How clean are our rivers? Water & Atmosphere July 2010 <http://docs.niwa.co.nz/library/public/W&A2010-1.pdf>

<sup>18</sup> National Institute of Water and Atmospheric research (2017) ) [Technical Background for 2017 MfE 'Clean Water' Swimmability Proposals for Rivers](#)

<sup>19</sup> Schallenberg, M., de Winton, M.D., Verburg, P., Kelly, D.J., Hamill, K.D. and Hamilton, D.P., 2013. Ecosystem services of lakes. *Ecosystem services in New Zealand: conditions and trends*. Manaaki Whenua Press, Lincoln, pp.203-225. [http://www.academia.edu/download/39727266/Ecosystem\\_services\\_of\\_lakes20151105-21991-soy7kg.pdf](http://www.academia.edu/download/39727266/Ecosystem_services_of_lakes20151105-21991-soy7kg.pdf)

<sup>20</sup> Ministry for the Environment & Stats NZ 2017: New Zealand's Environmental Reporting Series: Our fresh water 2017 [http://www.mfe.govt.nz/sites/default/files/media/Environmental%20reporting/our-fresh-water-2017\\_1.pdf](http://www.mfe.govt.nz/sites/default/files/media/Environmental%20reporting/our-fresh-water-2017_1.pdf)

<sup>21</sup> Ibid

*and plant life, which fish and other aquatic animals depend on for food and habitat.”*<sup>22</sup>

In high concentrations, nitrate also renders water unsafe for drinking. Over half (53%) of NZ's drinking water comes from groundwater.<sup>23</sup> There are already monitored groundwater sites (not currently used for drinking water) where nitrate concentrations breach human health standards, in many regions of NZ.<sup>24</sup>

#### *Sources of nitrogen pollution*

According to MFE dairy cows are the largest source of nitrogen pollution into New Zealand's waterways, sheep the second largest and (direct) synthetic nitrogen fertiliser pollution the third largest.<sup>25</sup> See Appendix one.

Nitrate pollution in New Zealand's rivers is worsening. The MFE 2015 State of the Environment Report records notes the cause of this increasing problem:

*“Between 1990 and 2012, the estimated amount of nitrogen that leached into soil from agriculture increased 29 percent. This increase was mainly due **to increases in dairy cattle numbers (and therefore urine which contains nitrogen) and nitrogen fertiliser use...**”*<sup>26</sup>

#### *Direct and indirect impacts of synthetic nitrogen fertiliser*

The environmental impacts of synthetic nitrogen fertiliser are considered either “indirect” or “direct”. Direct impacts are those that occur from the production and application of the synthetic nitrogen fertiliser itself. Indirect impacts are those that occur from the intensification of farming that is enabled by the application of synthetic nitrogen.

This is summarised below by Shepherd and Lucci.

*“By indirect, we mean the effects that fertiliser N application has on pasture dry matter production and consequent N consumed and N excreted per ha by the grazing animals, which will then determine the farm N losses.”*

<sup>22</sup> Ministry for the Environment & Statistics New Zealand 2015. New Zealand's Environmental Reporting Series: Environment Aotearoa 2015.  
<http://www.mfe.govt.nz/sites/default/files/media/Environmental%20reporting/Environment-Aotearoa-2015.pdf>

<sup>23</sup> Ministry for the Environment. 2018. Review of National Environmental Standard for Sources of Human Drinking Water. Wellington: Ministry for the Environment  
<http://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/Review-of-the-Drinking-Water-NES-Summary-Report-final.pdf>

<sup>24</sup> Ministry for the Environment 2009: National groundwater quality indicators update: state and trends 1995-2008  
Note: Monitored groundwater sites measured are not currently used for drinking water.  
<http://www.mfe.govt.nz/publications/fresh-water-environmental-reporting/national-groundwater-quality-indicators-update>

<sup>25</sup> Ministry for the Environment & Stats NZ 2017: New Zealand's Environmental reporting series: Freshwater and nitrogen leaching. [http://archive.stats.govt.nz/browse\\_for\\_stats/environment/environmental-reporting-series/environmental-indicators/Home/Fresh%20water/nitrogen-leaching-agriculture.aspx](http://archive.stats.govt.nz/browse_for_stats/environment/environmental-reporting-series/environmental-indicators/Home/Fresh%20water/nitrogen-leaching-agriculture.aspx)

<sup>26</sup> Ministry for the Environment & Statistics New Zealand 2015: New Zealand's Environmental Reporting Series: Environment Aotearoa 2015.  
<http://www.mfe.govt.nz/sites/default/files/media/Environmental%20reporting/Environment-Aotearoa-2015.pdf>

*“By direct, we mean losses that arise after application of the fertiliser; as ammonia volatilisation, nitrous oxide emissions (and N<sub>2</sub> gas) and by nitrate leaching.”<sup>27</sup>*

*Indirect impacts - Synthetic nitrogen fertiliser and intensification of livestock farming*

Dairy intensification and rising cow numbers have significantly contributed to the decline in the health of New Zealand’s waterways. This is extensively researched and documented.

The National Institute of Water and Atmospheric research (**NIWA**) states:

*“There is no doubt that our declining river water quality over the last 20 years is associated with intensification of pastoral farming and the conversion of drystock farmland to dairy farming, particularly in Waikato, Southland, and Canterbury.”<sup>28</sup>*

In a 2013 report, the Parliamentary Commissioner for the Environment (**PCE**) noted:

*“Unfortunately, [our] investigation has shown the clear link between expanding dairy farming and increasing stress on water quality”.*

It is also well established that synthetic nitrogen fertiliser is a key enabler of the intensification of dairy farming.

As noted, synthetic nitrogen fertiliser is used to boost grass growth which provides more food for cows and enables higher stocking rates i.e. more cows farmed per hectare of land. This results in higher amounts of urine excreted and therefore higher amounts of diffuse nitrogen pollution.

In New Zealand, dairy cow numbers have more than doubled<sup>29</sup> and the use of synthetic nitrogen fertiliser increased seven-fold since 1990.<sup>30</sup>

In a 2013 report, the PCE noted:

*“Fertiliser is a much smaller source of nitrogen than animal urine. However, the increased use of urea fertiliser has, along with irrigation and supplementary feed, enabled higher stocking rates, and more animals mean more urine.”<sup>31</sup>*

Williams et. al also explain the link:

*“New Zealand dairy farmers are lifting stocking rates and increasing available feed through nitrogen (N) fertiliser applications to pasture, growing maize for silage and*

<sup>27</sup> Shepherd, M. and Lucci, G., 2011. Fertiliser advice—what progress can we make?. *Adding to the knowledge base for the nutrient manager. Occasional Report*, (24).  
[https://www.massey.ac.nz/~flrc/workshops/11/Manuscripts/Shepherd\\_2\\_2011.pdf](https://www.massey.ac.nz/~flrc/workshops/11/Manuscripts/Shepherd_2_2011.pdf)

<sup>28</sup> National Institute of Water and Atmospheric research 2010, How clean are our rivers? Water & Atmosphere July 2010 <http://docs.niwa.co.nz/library/public/W&A2010-1.pdf>

<sup>29</sup> Ministry for the Environment 2017c: Environmental Reporting Series; Livestock numbers  
[http://archive.stats.govt.nz/browse\\_for\\_stats/environment/environmental-reporting-series/environmental-indicators/Home/Land/livestock-numbers.aspx](http://archive.stats.govt.nz/browse_for_stats/environment/environmental-reporting-series/environmental-indicators/Home/Land/livestock-numbers.aspx)

<sup>30</sup> Ministry for the Environment 2017: New Zealand’s Greenhouse Gas Inventory 1990-2016, Snapshot.  
[https://www.mfe.govt.nz/sites/default/files/media/Climate%20Change/final\\_greenhouse\\_gas\\_inventory\\_snapshot.pdf](https://www.mfe.govt.nz/sites/default/files/media/Climate%20Change/final_greenhouse_gas_inventory_snapshot.pdf)

<sup>31</sup> Parliamentary Commissioner for the Environment 2013: Water quality in New Zealand: Land use and nutrient pollution <https://www.pce.parliament.nz/media/1275/pce-water-quality-land-use-web-amended.pdf>

*other supplementary crops for silage or grazing on-farm, and/or procuring feed supplements off-farm.”*<sup>32</sup>

As do Carran and Clough:

*“As N inputs and production rise the amount excreta N rises and hence the quantity at risk of loss rises.”*<sup>33</sup>

Diffuse nitrogen pollution is only one of the issues for waterways created by intensive dairying. Phosphorus, sediment and pathogen pollution also occur. As noted by Howard and Williams:

*“The ‘universal’ diffuse pollutants: nutrients, fine sediments, and pathogens, all of which are mobilised by livestock, predominate in New Zealand waters”*<sup>34</sup>

Additionally, dairy is the single largest user of water for irrigation in New Zealand.<sup>35</sup> This large-scale water extraction negatively impacts on the river flows necessary to maintain the health of freshwater ecosystems.<sup>36</sup>

#### *Synthetic nitrogen fertiliser direct impacts*

As discussed, synthetic nitrogen fertiliser can also directly leach and run-off into waterways and is the third largest source of nitrogen pollution in New Zealand’s waterways.

MFE estimates 24,380 tonnes of nitrogen was leached directly from synthetic nitrogen fertiliser in 2012. See Appendix two.

Under pastoral grazing, it is estimated that direct leaching from fertiliser accounts for between 10 and 30 percent of the nitrogen leached from the farm.<sup>37</sup>

However, the amount of nitrogen directly leached from fertiliser depends on the weather conditions, soil type and amount used. Under certain conditions Shepherd and Lucci report that direct losses can be significant:

<sup>32</sup> Williams, I.D., Ledgard, S.F., Edmeades, G.O. and Densley, R.J., 2007. Comparative environmental impacts of intensive all-grass and maize silage-supplemented dairy farm systems: a review. In *Proceedings of the conference of the NZ Grassland Association* (Vol. 69, p. 137).

[https://www.grassland.org.nz/publications/nzgrassland\\_publication\\_159.pdf](https://www.grassland.org.nz/publications/nzgrassland_publication_159.pdf)

<sup>33</sup> Carran, R and Clough T, 1996. Environmental impacts of nitrogen in pastoral agriculture. Agronomy Society of New Zealand Special Publication No. 11 / Grassland Research and Practice Series No. 6 99.

[https://www.grassland.org.nz/publications/nzgrassland\\_publication\\_630.pdf](https://www.grassland.org.nz/publications/nzgrassland_publication_630.pdf)

<sup>34</sup> Howard-Williams, C., Davies-Colley, R., Rutherford, K. and Wilcock, R., 2010. Diffuse pollution and freshwater degradation: New Zealand perspectives. *Issues and Solutions to Diffuse Pollution, OECD, Paris*, pp.126-140.

[https://www.landcareresearch.co.nz/publications/researchpubs/Howard\\_williams\\_2013\\_Diffuse\\_pollution\\_and\\_freshwater\\_degradation.pdf](https://www.landcareresearch.co.nz/publications/researchpubs/Howard_williams_2013_Diffuse_pollution_and_freshwater_degradation.pdf)

<sup>35</sup> Irrigation NZ 2015 Industry Snapshot <http://irrigationnz.co.nz/wp-content/uploads/INZ-IrrigationIndustrySnapshot-4Nov15.pdf>

<sup>36</sup> National Institute of Water and Atmospheric research 2015 Predicting the effects of water abstraction and land use intensification on gravel bed rivers a Bayesian network approach [https://www.landcareresearch.co.nz/\\_data/assets/pdf\\_file/0003/109578/Predicting\\_effects\\_water\\_abstraction\\_land\\_use\\_intensification\\_gravel\\_bed\\_riversl.pdf](https://www.landcareresearch.co.nz/_data/assets/pdf_file/0003/109578/Predicting_effects_water_abstraction_land_use_intensification_gravel_bed_riversl.pdf)

<sup>37</sup> Vogeler I, Shephers, M. and Lucci, G. 2014. Effects of fertiliser nitrogen management on nitrate leaching risk from grazed dairy pasture. In *Proceedings of the New Zealand Grassland Association* (Vol. 76, pp. 211-216). [https://www.researchgate.net/publication/271507556\\_Effects\\_of\\_fertiliser\\_nitrogen\\_management\\_on\\_nitrate\\_leaching\\_risk\\_from\\_grazed\\_dairy\\_pasture](https://www.researchgate.net/publication/271507556_Effects_of_fertiliser_nitrogen_management_on_nitrate_leaching_risk_from_grazed_dairy_pasture)

*“(Direct) losses potentially can be large and reported to be as much as 30-50% of N fertiliser (Ledgard, 1989; Cookson et al., 2001) from winter applications (May-July)*

<sup>38</sup>

### **Greenpeace’s response to complaints**

The complaints allege that the advertising breaches Principle 2 of the Code, and, in particular, rules 2(b), 2(e) and 2(h).

Greenpeace denies that the advertising breaches the Code.

#### *Rule 2 (b) Truthful presentation*

This Rule requires that advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge.

Greenpeace denies that the advertisements breach Rule 2(b).

The advertisements state: “Ravensdown and Ballance pollute rivers - #TooManyCows - Greenpeace.” As is explained in detail above, there is considerable evidence that the synthetic nitrogen fertilisers that these companies import, sell, encourage the use of, apply directly, and (in Ballance’s case) manufacture, result in pollution of New Zealand’s rivers both directly, and indirectly through enabling livestock intensification.

Furthermore, Greenpeace does not accept the argument made by complainants that Ravensdown and Ballance are passive players or have no responsibility for the pollution of rivers.

It would be unreasonable to make the argument that drug dealers have no role in or responsibility for causing drug addiction and harm, and that it is solely the fault of the drug user. That is why there are penalties for the manufacture, sale and use of drugs.

As such, it is unreasonable to suggest that these two companies, with their vast portfolio of activities in regard to synthetic nitrogen fertilisers, have no responsibility for the well-documented environmental impacts that arise from their products.

#### *Rule 2 (e) Advocacy advertising*

This Rule requires that:

- (a) advocacy advertising must clearly state the identity and position of the advertiser;
- (b) opinion in support of the advertiser’s position must be clearly distinguishable from factual information; and
- (c) factual information must be able to be substantiated.

Greenpeace denies that the advertisements breach Rule 2(e).

The wider public debate around water management, regulation and pollution suggests that the advertisements should be viewed in the context of advocacy advertising and that the right to freedom of expression under s 14 of the New Zealand Bill of Rights Act 1990 should be taken into account.

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<sup>38</sup> <sup>38</sup> Shepherd, M. and Lucci, G., 2011. Fertiliser advice—what progress can we make? *Adding to the knowledge base for the nutrient manager. Occasional Repor.*  
[https://www.massey.ac.nz/~flrc/workshops/11/Manuscripts/Shepherd\\_2\\_2011.pdf](https://www.massey.ac.nz/~flrc/workshops/11/Manuscripts/Shepherd_2_2011.pdf)

The Greenpeace logo is clearly displayed on all the advertisements. Greenpeace and its position on environmental issues is well known. As is outlined above, the evidence supporting Greenpeace's claims in the advertising is extensive.

#### *Rule 2 (h) Environmental Claims.*

This Rule requires that environmental claims must be accurate and able to be substantiated by evidence that reflects scientific and technological developments.

Greenpeace denies that the advertising breaches Rule 2(h). As discussed above, the advertisement's claims are backed by substantial scientific evidence.

#### *Other points raised by complaints*

- One complaint alleges the billboard reads Ravensdown and Fonterra pollute rivers.

This is incorrect. The billboard in Mount Manganui reads Ravensdown and Ballance pollute rivers. Images of the billboards are attached.

- One complaint is that there are other sources and incidents of pollution of rivers in New Zealand that are unrelated to Ravensdown, Ballance or dairying.

Greenpeace's advertisement does not allege that Ravensdown, Ballance or dairying are *solely* responsible for polluting all rivers. No reasonable viewer would interpret the advertisement to suggest that Ravensdown, Ballance or cows are *solely* responsible for the pollution of rivers. Any reasonable viewer would understand that, in an industrial and post-industrial society, there are a variety of sources and causes of pollution.

- One complaint is that both companies are Fertmark quality control standard and the Spreadmark spreading standard.

These standards are an industry initiative. They are not independent nor do they have any oversight by any of New Zealand's regulatory bodies.<sup>39</sup>

- One complaint alleges that mass starvation would result if fertiliser was not applied.

This is not supported by credible scientific evidence. A short collection of reports on the issue are summarised below (emphasis added):

A global meta-analysis found that using nitrogen fixing plants like clover and lucerne can provide enough biologically fixed nitrogen to replace the entire amount of synthetic nitrogen fertiliser currently in use, **without reducing the amount of food produced.**<sup>40</sup>

A ten year study by DairyNZ compared a farm with no synthetic nitrogen application and a farm using 181/kg/ha/yr of urea. The study "**confirmed that profitable milk production systems can be achieved without N fertiliser applications**".<sup>41</sup>

<sup>39</sup> FertQual 2018: Accessed from <http://fertqual.co.nz/how-the-fqc-works-and-whos-involved/>

<sup>40</sup> Badgley, C., Moghtader, J., Quintero, E., Zakem, E., Chappell, M., Avilés-Vázquez, K., Perfecto, I. 2007: Organic agriculture and the global food supply. *Renewable Agriculture and Food Systems*, 22(2), 86-108. <https://beahrselp.berkeley.edu/wp-content/uploads/2010/06/Organic-Agriculture-and-the-Global-food-Supply.pdf>

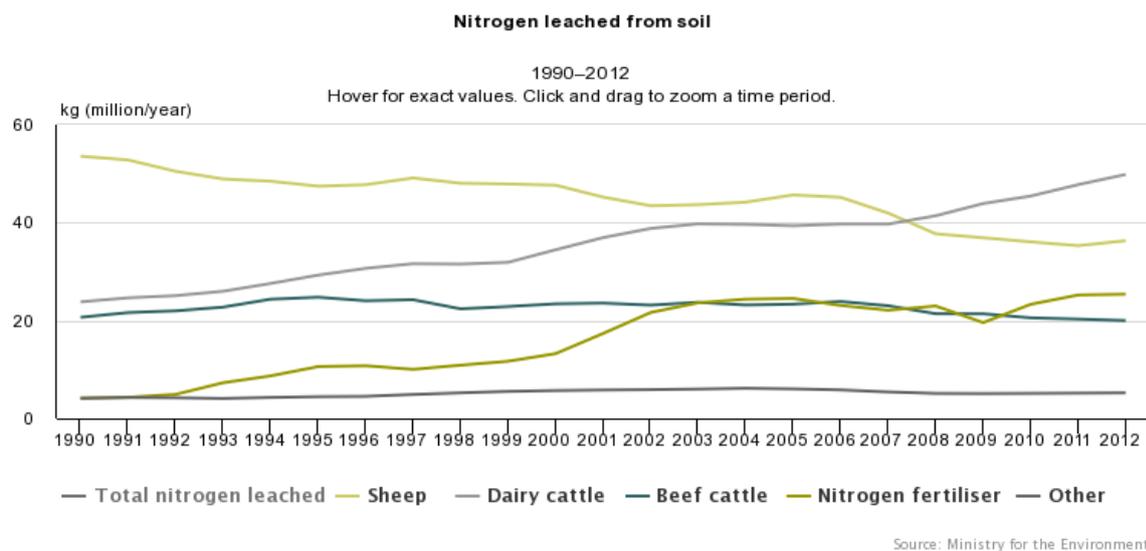
<sup>41</sup> Glassey, C.B., Roach, C.G., Lee, J.M. and Clark, D.A., 2013. The impact of farming without nitrogen fertiliser for ten years on pasture yield and composition, milksolids production and profitability; a research farmlet comparison. In *Proceedings of the New Zealand Grasslands Association* (Vol. 75, pp. 71-78) [https://www.grassland.org.nz/publications/nzgrassland\\_publication\\_2531.pdf](https://www.grassland.org.nz/publications/nzgrassland_publication_2531.pdf)

Another study found that a farm can do away with 100 kg of nitrogen fertiliser (per hectare) by simply increasing the varieties of pasture crops used in the field from 1 to 16 species, and **still produce the same amount of food.**<sup>42</sup>

ENDS

## Appendix One

*Sources of nitrogen pollution*<sup>43</sup>



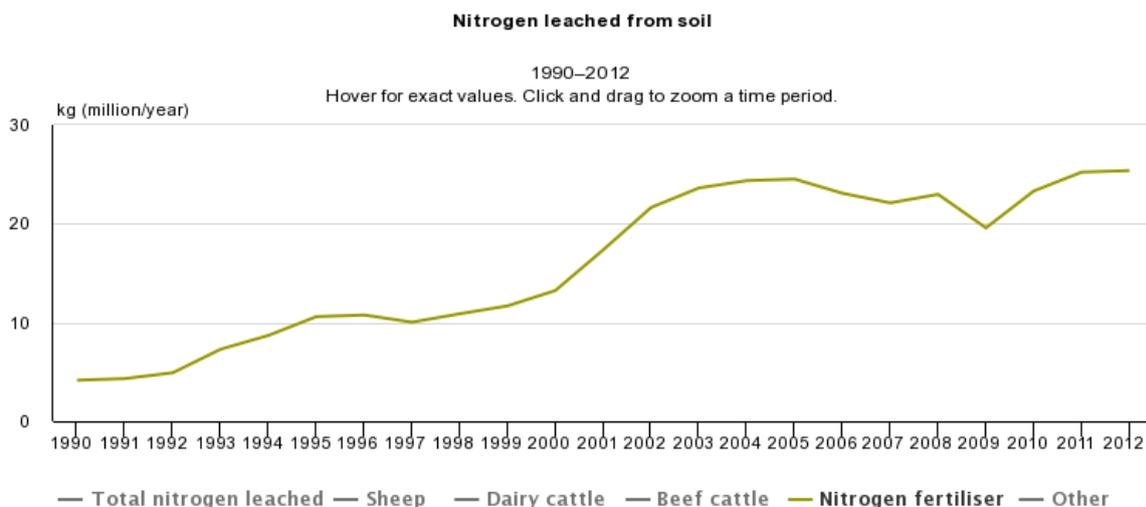
## Appendix Two

*Direct synthetic nitrogen pollution*<sup>44</sup>

<sup>42</sup> Isbell, F., Reich, P.B., Tilman, D., Hobbie, S.E., Polasky, S. and Binder, S., 2013. Nutrient enrichment, biodiversity loss, and consequent declines in ecosystem productivity. *Proceedings of the National Academy of Sciences*, 110(29), pp.11911-11916. <https://www.pnas.org/content/110/29/11911>

<sup>43</sup> Ministry for the Environment & Stats NZ 2017b: New Zealand's Environmental reporting series : Freshwater and nitrogen leaching. [http://archive.stats.govt.nz/browse\\_for\\_stats/environment/environmental-reporting-series/environmental-indicators/Home/Fresh%20water/nitrogen-leaching-agriculture.aspx](http://archive.stats.govt.nz/browse_for_stats/environment/environmental-reporting-series/environmental-indicators/Home/Fresh%20water/nitrogen-leaching-agriculture.aspx)

<sup>44</sup> Ibid



Source: Ministry for the Environment

## RESPONSE FROM MEDIA, APN

Thank you for sending through the complaints raised against this campaign.

I have included with this email the booking schedule outlining the sites booked – all of which were in market for December 2018 only. No further bookings are in place.

I also include the email correspondence with Greenpeace as we initially questioned the validity of their claim, and the corresponding evidence they provided. It was upon that information that we made the decision to run the executions. We erred on the side caution and felt the evidence presented was sufficient to proceed. We also advised the client that should there be a complaint we would uphold the decision that was handed down by the ASA.

From reading the information provided by Greenpeace and the complaints made there are two differing points of view. This requires an independent body to scientifically qualify each claim and determine what is accurate.