

COMPLAINT NUMBER	19/298
COMPLAINANT	J Simmons
ADVERTISER	Goldengrove Stud Farm
ADVERTISEMENT	Goldengrove Stud Farm Magazine
DATE OF MEETING	15 October 2019
OUTCOME	Upheld in part, Settled in part, Not Upheld in part. Advertisement to be amended.

Description of Advertisement

The four-page magazine advertisement for the Goldengrove Stud Farm provides details about four stallions available for breeding purposes. One particular stallion featured is called Holiday. The Holstein brand logo is at the top corner of each advertisement. The advertisement was published in the August/September edition of the Show Circuit Magazine.

Summary of the Complaint

The Complainant was concerned the use of the German Holstein Verband brand logo was misleading because it implied that all four stallions are licenced or approved by Holstein Verband Germany. The Complainant was also concerned the advertisement was making five incorrect statements about the stallion called Holiday. These statements were regarding Holiday's age, previous performance and pedigree.

Issues Raised:

- Truthful Presentation

Summary of the Advertiser's Response

The Advertiser said they have permission to use the Holsteiner logo and this does not mean they are claiming all their stallions are Holsteiners. The Advertiser provided evidence of this permission.

The Advertiser defended the information used in the advertisement and explained that a different system for recording the age of a horse is used in the Northern hemisphere. In the US and Europe all horses' birthdays are recorded by their age as 1 January. In New Zealand they are recorded as 1 August. The Advertiser noted this can sometimes lead to some confusion. The Advertiser said they have amended the advertisement since receiving the complaint and removed some of the original wording.

Summary of the Complaints Board Decision

The Complaints Board upheld in part, settled in part and did not uphold, in part, a complaint about a magazine advertisement for the Goldengrove Stud Farm. The Complaints Board said the Advertiser had not provided sufficient substantiation to support the statement that the horse called 'Holiday' was eleven years of age, at the time the advertisement was published. The Complaints Board acknowledged the Advertiser had made changes to the advertisement, amending some of the statements that were of concern. The Complaints Board said, based on the information provided, the use of the Holsteiner brand logo was authorised.

Relevant ASA Codes of Practice

The Acting Chair directed the Complaints Board to consider the complaint with reference to the following codes:

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.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the consumer takeout was the advertisement is about access to the stud services of the stallion horses at the Goldengrove Stud Farm, including the stallion Holiday.

The Complaints Board noted the advertisement was published in Show Circuit Magazine, a magazine which is aimed at riders and horse owners, and those with knowledge of the horse breeding industry.

The Complaints Board noted the Advertiser had amended the advertisement and it was then re-published in the October/November 2019 issue of the Show Circuit Magazine.

The Complaints Board considered the advertisement both in its original form and the amended version.

Is the advertisement misleading?

The Complaints Board said part of the advertisement was misleading, part of the complaint was settled, and part of the advertisement was not misleading.

Part of the advertisement was misleading.

The Complaints Board said part of the advertisement was misleading, the part containing the statement that Holiday was "Age:11". The Complaints Board said the Advertiser had not provided sufficient substantiation to support the statement that Holiday was eleven years of age, at the time the advertisement was published. The Complaints Board noted that according to the records cited by the Complainant ("horse telex.com, the fei horse database, FNverlag, and also the usef horse records") Holiday was twelve years of age in August 2019.

The Complaints Board discussed whether a recorded age of "11" instead of "12" was significant in the context of an advertisement for horse stud services. The Complaints Board agreed that its role was not to judge the significance of the age to specialists in the horse breeding industry, but the fact the advert appeared to convey the exact age of the horse as an important piece of information meant it was a factual claim requiring substantiation. The Complaints Board's task was to make a ruling on whether the claim had been substantiated based on the information provided.

Part of the complaint was settled.

The Complaints Board agreed that sufficient substantiation had not been provided in relation to the statements about Holiday's competition history and breeding. The Complaints Board acknowledged the Advertiser had made changes to the advertisement, amending these statements that were of concern. The new version of the advertisement says Holiday "jumped to 3* until his retirement and has very influential bloodlines". The Complaints Board noted "3*" means competing between the heights of 1.50m and 1.55m and the Advertiser had provided evidence that Holiday had competed at this level. The Complaints Board noted the amended advertisement did not include the statement "and is a ½ sister to 1.60 jumping stallions – Quasar Du Houssoit and Platini Du Houssoit."

In light of the self-regulatory action taken by the Advertiser in removing the complained about statements from this advertisement the Complaints Board agreed this part of the complaint was Settled.

Part of the advertisement was not misleading.

The Complaints Board said, based on the information provided, the use of the Holstein brand logo was authorised by Holsteiner Verband Germany, and therefore this part of the complaint was not misleading.

The Complaints Board did not uphold the part of the complaint relating to the use of the Holsteiner Verband logo.

The Complaints Board said taking into account context, medium, audience and product, the advertisement was in breach of Principle 2 and Rule 2(b) of the Advertising Standards Code because the claim that Holiday was "Age:11" was misleading.

Outcome

The Complaints Board ruled the complaint was **Upheld in part, Settled in part and Not Upheld in part.**

Advertisement to be amended.

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. Appeals must be made in writing via email or letter within 14 days of receipt of this decision.

APPENDICES

1. Complaint
 2. Response from Advertiser
 3. Response from Media
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Appendix 1

COMPLAINT FROM J SIMMONS

There are two main areas of complaint. Firstly, all four stallions are displayed under the logo of the German Holsteiner Verband. The German Holsteiner Verband is recognisable worldwide. Using the logo over all four stallions in a stud advertisement infers that all four stallions are approved/licensed with the Holsteiner Verband. None of the four stallions are either approved or licensed with the Holsteiner Verband.

Secondly, the ad for the stallion Holiday v/d n. Ranch has five outright lies regarding him.

1. That Holiday is 11 years old. Proof can be found on horse telex.com, the FEI horse database, FN Verlag, and also the USEF horse records, that the horse is in fact 12.
2. That Holiday competed to 1.40m as a 7-year-old. Records show (on all the above sources) that the horse only competed to 1.40m as a late 9-year-old.
3. That Holiday competed to 1.55m in the USA. Proof can be found on his USEF (United States Equestrian Federation) results print out, that the horse only ever competed to 1.40m. Horsetelex and the FEI database also confirm this as they display results from the USA also.
4. That Holiday retired from a tendon injury at 9. As shown on the USEF print out, Holiday was still competing in October 2018 (at 1.20m level) as an 11-year-old. Also he didn't even go to the USA until 10 years old, as you can see from his competition results.
5. Goldengrove claim Holiday's dam (Orage B) is a half sister to 1.60 jumping stallions - Quasar du Houssoit and Platini du Houssoit. While Orage B is a half sister to these horses, both horses are in fact geldings, and Quasar only competed to 1.45m, while Platini competed to 1.30m.

These lies depict a young well-performed stallion from a prestigious family who was limited by injury early in his career, while instead he is an averagely-performed stallion, from an average family.

In summary the four pages of ads imply Goldengrove Stud's two home-bred stallions (Candyman & Quineus) and two imported stallions (Holiday & Pennsylvania) are Holsteiner approved or licensed. The majority of breeders rely on information being 100% correct when selecting stallions for their mares and breeding programmes. In many cases breeders do not physically see the stallions or have access to the various information sites (several require memberships to view content), so therefore the \$2500 + GST that they pay to Goldengrove is on the strength of the veracity of the advertisements.

Appendix 2

RESPONSE FROM ADVERTISER, GOLDENGROVE STUD FARM

The complaint has said we have used the logo of Holsteiner horses and that by doing this we have claimed that the stallions we have are all Holsteiners, this is untrue we have the Holsteiner logo as we are Holsteiner breeders and have been for over 20 years, I have a written email and WhatsApp message from the chair person at the Holsteiner Verband saying

we can use the logos and she didn't see an issue, we have never claimed the horses are holsteiners and the logo is on all our work,

The complaint also argues the age of our stallion Holiday who seems to be the brunt of this complaint, he was born in January 2007 which means he is turning 12 in January, In NZ our horses birthdays are all on the 1st August in USA and Europe it is the 1st January, so this is correct,

I have attached a screen shot of the star rating so you can see Holiday was indeed a 1.55 jumper, we worded it this way as we thought it would be easier for uneducated people to understand the heights as in USA and Europe they word them as * ratings not heights and in NZ we don't use this, so in conclusion he was a 3* horse this is between the heights of 1.50m and 1.55m I have also attached a screen shot of a show so you can see he was indeed competing at those levels,

When we researched his family extensively before sending adverts in we discovered some great horses and stallions closely related to him, a lot of the websites can be changed just by a person creating an account so we have found one old one that wasn't changed stating Holidays mothers brother is indeed a stallion, I have a screen shot also, He is from a very famous family and a very influential family in regards to famous horses that have impacted showjumping greatly,

Again the issue with his age because his birthday is in January he went to the USA as a 9 year old,

We have redone all our adverts to remove and reword some things as to upset any people however all our information was taken from websites and the old owners,

Appendix 3

RESPONSE FROM PUBLISHER, SHOW CIRCUIT

Thank you for your letter addressing concerns regarding the Golden Grove Stud Farm advertisements that ran in the August/September 2019 edition of Show Circuit Magazine.

Errors in the copy were raised to us by Mr R. Brown after the August/September 2019 edition was printed.

We then undertook measures to rectify the copy errors between the first advertisements that ran in our August/September 2019 issue and the subsequent advertisements that have run in our October/November 2019 issue.

Regarding the use of the Holstein logos:

After requesting confirmation of clearance from Germany to use the 'Holstein' logo, Golden Grove Stud Farm confirmed that Kathrin Huesmann, Chairperson Holsteiner Verband in Germany had indeed authorised the use in media advertising.

All advertised stallions show their pedigree and at no time does any advertisement state that the stallions are registered with societies (after their name, which is standard practice in this industry) or does it state that progeny can be registered. The stallion's dam/sire lines do have their society registrations listed. None of the stallions are branded with society brands in conformation shots (side shots or jumping shots, where you would see the Holstein brand on the hind quarters), also indicating that they are not registered with Holstein.

Their pedigrees have been cross-referenced.

We took the concerns/errors seriously with regards to copy inaccuracies for Holiday V/D N Ranch. and followed the matter up with Golden Grove Stud Farm directly for copy correction. The current age of the stallion was not addressed with us, only his retirement age.

The new Golden Grove Stud Farm advertisements are attached, including Holiday V/D N Ranch's advertisement which appear to be the complainants' most significant concern.

We will await your decision regarding this matter.