

COMPLAINT NUMBER	20/085
ADVERTISER	BurgerFuel
COMPLAINANT	Direct Action Everywhere New Zealand (DxE NZ)
ADVERTISEMENT	BurgerFuel Website
DATE OF MEETING	4 March 2020
OUTCOME	No Grounds to Proceed

Advertisement: The BurgerFuel website (<https://www.burgerfuel.com/nz/our-food/pure-ingredients>) has the following statement on its Pure Ingredients page: “Our chicken is the real deal - we never use fillers and it must be ethically raised. That's why we serve only 100% free range natural chicken breast, for ultimate flavour - and say no to processing, hormones additives and GMO's.

The Chair ruled there were no grounds for the complaint to proceed

Complaint on behalf of Direct Action Everywhere New Zealand (DxE NZ):

Nature of complaint: Breach of Rule 2 (b) of the Advertising Standards Code

In particular, we refer to the following:

BURGER FUEL CLAIM (attached advertisement)

<https://www.burgerfuel.com/nz/our-food/pure-ingredients>

“Our chicken is the real deal - we never use fillers and it must be ethically raised. That's why we serve only 100% free range natural chicken breast, for ultimate flavour - and say no to processing, hormones, additives and GMO's.”

DxENZ RESPONSE

Burger Fuel are claiming that their chickens are ‘ethically produced’ because they are ‘free range’. In the context in which it is written, this implies that the chickens are reared in a manner where they are free from pain, stress, hunger and thirst and able to express normal patterns of behaviour. In other words, their welfare is high.

DXE maintains that this is false and misleading.

To some extent improving husbandry techniques for layer hens and large mammals can assist producers in achieving better animal welfare outcomes[1].

This is not the case for broiler chickens, where the welfare issues are a direct result of genetics, not husbandry.

The modern vertically integrated meat chicken industry is designed to breed chickens as fast as possible to make money, and there is no consideration of animal welfare. All commercial chicken producers in New Zealand, including free range and organic producers, use the Ross and Cobb breeds. These are genetically selected to be top heavy and fast growing, so they can come to maturity in 6 weeks [2].

World wide studies have shown that lameness is a welfare issue for meat chickens. In Europe, typically anywhere from 3% to 30% of chickens are in pain from lameness for the last week of their lives [3].

In New Zealand, a government report found that the proportion of lame birds was even higher. Up to 38% of meat chickens suffered from lameness [4].

Other issues directly arising from the top heavy Ross and Cobb breeds are metabolic diseases, sudden death syndrome and skeletal disorders. This comes about because the birds' hearts cannot stand the strain. The fast growing birds are also continually hungry. The breeding stock are not fed sufficiently, to avoid them becoming too large. The massive birds also suffer a high level of broken bones when being slaughtered [2,3].

Since chicken welfare compromises are problems with genetics, they cannot be mitigated by giving the birds more space or by any other rearing conditions. "Organic" and "Free range" meat chickens use the same top-heavy and fast growing breeds. Their suffering is just as intense [2,3].

It is no wonder that Dr John Webster, international animal welfare expert and professor of animal welfare at Bristol University, describes lameness in broiler chicken production as "in both magnitude and severity, the single most severe, systematic example of man's inhumanity to another sentient animal." [5]

To put this into terms we can all understand, if you have a broken leg, feel constantly hungry and have pains in your chest from your heart working overtime, it would make very little difference to you whether you are suffering on litter close to your other suffering comrades, or if you are suffering in a relatively isolated spot of grass.

In conclusion, chickens that are in continual pain from skeletal deformities, including lameness, cannot be described as being 'ethically produced'. The claim made by Burger Fuel is therefore misleading.

Relief sought

DXE NZ request that the offending statement and any other statements implying or stating that Burger Fuel chicken products are 'ethically produced' be removed.

DXE NZ notified Burger Fuel of concerns by a telephone message on 25th January, inviting them to discuss our concerns with us, and giving them until 10 February to respond. Our invitation was ignored.

References:

- [1] Weaver, S.A. and Morris, M.C. (2004). Science, pigs and politics: a New Zealand perspective on the banning of sow stalls. *Journal of Agricultural and Environmental Ethics* 17, 51-66.
- Morris, M.C. (2006) The ethics and politics of the layer hen debate in New Zealand. *Journal of Agricultural and Environmental Ethics* 19,495-514
- [2] K.M. Hartcher & H.K. Lum (2019) Genetic selection of broilers and welfare consequences: a review, *World's Poultry Science Journal*, DOI: 10.1080/00439339.2019.1680025
- Morris, M.C. (2009). The ethics and politics of animal welfare in New Zealand. Broiler chicken production as a case study. *Journal of Agricultural and Environmental Ethics* 22, 15-30.
- [3] Scientific Committee of Animal Health and Animal Welfare (SCAHAW). (2000). The welfare of chickens kept for meat production (broilers). Brussels: European Commission.
- Sanotra, G. S., Berg, C., & Lund, J. D. (2003). A comparison between leg problems in Danish and Swedish broiler production. *Animal Welfare*, 12, 677-683.
- [4] Bagshaw, C. S., Matthews, L. R., & Rogers, A. (2006). Key indicators of poultry welfare in New Zealand. Unpublished client report to MAF policy.
- [5] Webster, J. (2004). *Animal welfare: A cool eye towards Eden*. Oxford: Blackwell.

The relevant provisions were Advertising Standards Code - Principle 2, Rule 2(b);

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

The Chair noted the Complainant's concern the website advertisement is misleading as consumers may think the term "ethically produced" means "the chickens are reared in a manner where they are free from pain, stress, hunger and thirst and able to express normal patterns of behaviour."

In considering the likely consumer takeout of the statement, the Chair said the Advertiser is confirming that it uses 100% free range chicken that meets their particular requirements.

The Chair noted the Complainant's concerns with the advertisement stem from what they consider to be flaws in the current animal welfare code and a lack of awareness about what the term "ethically produced" may mean in relation to the code. However, the Chair said the statement from the Advertiser describes its approach in sourcing chicken for its products and it was not likely to mislead or deceive consumers.

The Chair said the advertisement was not misleading and was not in breach of Principle 2 or Rule 2(b) of the Advertising Standards Code. The Chair ruled there were no grounds for the complaint to proceed.

Chair's Ruling: Complaint No Grounds to Proceed**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.