

<b>COMPLAINT NUMBER</b>	20/087
<b>COMPLAINT ON BEHALF OF</b>	Direct Action Everywhere New Zealand (DxE NZ)
<b>ADVERTISER</b>	Inghams Enterprises (NZ) Pty.Ltd
<b>ADVERTISEMENT</b>	Waitoa Free Range Chicken, Website
<b>DATE OF MEETING</b>	7 April 2020
<b>OUTCOME</b>	Not Upheld No Further Action Required

### Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a website advertisement for Waitoa free range chicken. The Complaints Board said the claims made in the advertisement were not misleading and the statements were substantiated.

### Description of Advertisement

The website for Inghams Waitoa free range chicken contained three statements about their commitment to animal welfare in broiler chickens that are the subject of this complaint:

*“Our team of dedicated farmers are committed to raising healthy, free range chickens with Waitoa’s farmers working daylight-till-dusk to ensure every aspect of the chickens’ care is provided for.”*

*“The birds are kept in the exact environment they need to be in to thrive”.*

*“This means, when choosing Waitoa, customers can be assured the products they are buying have been farmed to the high animal standards of the SPCA Blue tick.”*

### Summary of the Complaint

The Complainant is concerned the advertisement is making the following misleading claims:

- Claims of healthy chickens incorrect as meat chickens are top heavy Ross & Cobb breeds which often have skeletal lameness and heart issues.
- Claims the birds are thriving when they are lame, in pain and constantly hungry are untrue.
- The Blue Tick certification does not provide assurance the birds are not in pain as it allows the fast-growing breeds to be used so is therefore no guarantee.

### Issues Raised:

- Truthful Presentation

### Summary of the Advertiser’s Response

The Advertiser stands by the statements made on the website and is proud to carry the SPCA Blue tick which is an independent accreditation that goes beyond animal welfare code requirements. The Advertiser said the company meets all appropriate New Zealand animal welfare laws and regulations as well as additional obligations in connection with the use of the SPCA tick.

## Relevant ASA Codes of Practice

The 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.

### Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 20/076 which was ruled No Grounds to proceed and Decision 18/351 which was Not Upheld.

The full versions of decisions since 2015 can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

**Decision 20/076** concerned a website advertisement for Waitoa free range chickens. The Chair of the Complaints Board said the advertisement was a positioning statement about animal welfare and contained no specific welfare claims about the chickens. The Chair ruled there were no grounds for the complaint to proceed.

**Decision 18/351** concerned a television advertisement for Tegal Foods which promoted the quality of life the chickens has while being raised. The majority of the Complaints Board took into account the Advertiser's compliance with the NZ Animal Code of Welfare and AsureQuality independent auditing and ruled the advertisement had not met the threshold to mislead or deceive consumers.

### Complaints Board Discussion

#### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement is Waitoa free range chickens are subject to the New Zealand animal welfare standards and independently audited by the SPCA's Blue Tick accreditation scheme.

#### *Extent of jurisdiction*

The Complaints Board noted the Complainant's concerns stemmed from the particular genetic make-up of the breeds used for chicken meat production and what the Complainant considered to be failures in the current animal welfare code and an animal welfare accreditation scheme in New Zealand.

The Complaints Board confirmed these matters are outside its jurisdiction. Its role is to consider the likely consumer takeout of an advertisement, taking into account context, medium, audience and product.

*Is the advertisement misleading?*

The Complaints Board considered each aspect of the complaint in turn to consider whether the advertisement was misleading.

**“Our team of dedicated farmers are committed to raising healthy, free range chickens with Waitoa’s farmers working daylight-till-dusk to ensure every aspect of the chickens’ care is provided for.”**

The Complaints Board said this statement was not misleading. The Complaints Board agreed it was a positioning statement from the Advertiser and it accepted the Advertiser’s response that “Ingham’s meets all appropriate New Zealand animal welfare laws and regulations as well as additional obligations in connection with the use of the SPCA tick.”

**“The birds are kept in the exact environment they need to be in to thrive”.**

The Complaints Board said this statement was not misleading. The Complaints Board agreed the likely consumer takeout of this statement was a comparison between free range birds and caged alternatives. The Board noted the Advertiser was exceeding the current New Zealand welfare standards by meeting the additional requirements under the SPCA Blue Tick certification.

**“This means, when choosing Waitoa, customers can be assured the products they are buying have been farmed to the high animal standards of the SPCA Blue tick.”**

The Complaints Board said this statement was not misleading. The Board said this statement on the Advertiser’s website promoted its engagement with the SPCA Blue Tick. The Advertiser had confirmed it met the additional obligations required under the programme which is independently audited to support animal welfare standards.

The Complaints Board unanimously ruled the website advertisement was not likely to mislead consumers, taking into account context, medium, audience and product and was not in breach of Principle 2 or Rule 2(b) of the Advertising Standards Code.

**Outcome**

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

No further action required.

**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 calendar days of receipt of this decision.

## APPENDICES

1. Complaint
  2. Response from Advertiser
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### Appendix 1

#### COMPLAINT

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

Rule 2(b) of Advertising standards code

“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.”

Waitoa (Inghams) have made claims about their commitment to animal welfare in broiler chickens that are false and/or misleading

In particular, we refer to the following

WAITOA (INGHAMS) CLAIM 1 (attached advertisement 1, top)

“Our team of dedicated farmers are committed to raising healthy, free range chickens with Waitoa’s farmers working daylight-till-dusk to ensure every aspect of the chickens’ care is provided for. ... All Waitoa free range chickens carry the SPCA Blue Tick showing they have been independently audited and meet the highest animal welfare standards in New Zealand. By purchasing Waitoa, consumers support Kiwi farmers who provide their animals with a better quality of life.”

DxE NZ Response

This advertisement states that the chickens are ‘healthy’. To the layperson, ‘healthy’ would include skeletal and heart health, yet these are invariably compromised in commercial broiler production.

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 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 [1].

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 [2].

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 [3].

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 [1,2].

Since chicken welfare compromises are problems with genetics, they cannot be mitigated by giving the birds more space or by any other rearing conditions. "Free range" meat chickens use the same top-heavy and fast growing breeds. Their suffering is just as intense [1,2].

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." [4].

WAITOA (INGHAMS) CLAIM 2 (attached advertisement 1, bottom)

The birds are kept in the exact environment they need to be in to thrive.

DxE NZ response

The birds' genetic environment is not sufficient for them to 'thrive'. Being lame, in pain and constantly hungry could not be described as 'thriving' under any definition of the word.

WAITOA (INGHAMS) CLAIM 3 (attached advertisement 2)

"The SPCA Blue Tick is an Accreditation Scheme independent from the food and farm industry and is the only 100 percent independent animal welfare accreditation in New Zealand. Find out more on their website. This accreditation is more stringent than the free range standards under the Government's Code of Welfare minimum standards. This means, when choosing Waitoa, customers can be assured the products they are buying have been farmed to the high animal standards of the SPCA Blue tick.

To be assured you have purchased a quality free range chicken, look for the Waitoa free range labelling with the SPCA Blue Tick certification logo - a third party trusted certification mark you can trust. All Waitoa free range chickens carry the SPCA Blue Tick, and we are extremely proud to be part of this programme and highly trusted New Zealand brand."

DxE NZ Response

Waitoa (Inghams) are claiming that the SPCA Blue Tick accreditation somehow provides assurance that the birds are healthy and not in pain. However, the Blue Tick accreditation still allows the fast growing Cobb and Ross breeds to be used [5]. It therefore provides no guarantee whatsoever that the birds are healthy or free from pain, hunger and other conditions common to the breed. DxE NZ have a separate complaint against the SPCA Blue Tick accreditation scheme under consideration by the Advertising Standards Authority.

The public are being deceived into paying a higher price for so-called 'high welfare' chickens that are only marginally better off than the non-certified alternatives.

In conclusion, hens that are in continual pain from skeletal deformities, including lameness, cannot be described as having 'high welfare' or being 'healthy' or 'thriving'. Waitoa (Inghams') claims, and their accredited Blue Tick are designed to mislead consumers into paying a premium price for a chicken that they believe did not suffer.

Waitoa (Ingham's) chickens do not meet any of the 'Five Freedoms' required in sections 4 and 10 of the Animal Welfare Act. Claims of high welfare are therefore false and misleading.

Relief sought

All erroneous claims of high welfare, including the use of the Blue Tick accreditation must be retracted and removed.

## References:

- [1] 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.
- [2] 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.
- [3] Bagshaw, C. S., Matthews, L. R., & Rogers, A. (2006). Key indicators of poultry welfare in New Zealand. Unpublished client report to MAF policy.
- [4] Webster, J. (2004). *Animal welfare: A cool eye towards Eden*. Oxford: Blackwell.
- [5] The Blue Tick Welfare Standards for Free Range Poultry, covering broiler chickens, can be found at <http://spcabluetick.org.nz/Portals/0/Documents/SPCA%20Blue%20Tick%20Free%20Range%20Chicken%20Standards.pdf?ver=2015-11-07-062634-987>

**Appendix 2****RESPONSE FROM ADVERTISER, INGHAMS ENTERPRISES**

Inghams Enterprises (NZ) Pty Limited (“Ingham’s): Complaint 20/087

Thank you for your letter dated 10 March 2020 attaching Complaint 20/087. Ingham’s is defending the complaint regarding content on the Waitoa website.

Ingham’s stands by the statements on the Waitoa website referred to in the complaint and is proud to carry the SPCA Blue tick which is an independent accreditation that goes beyond animal welfare code requirements.

We do not accept the comments made by the Complainant that Waitoa’s commitment to animal welfare is false and/or misleading.

The Complainant has not provided evidence to substantiate that the claims are false or misleading. Ingham’s meets all appropriate New Zealand animal welfare laws and regulations as well as additional obligations in connection with the use of the SPCA tick.

These animal welfare standards reflect the general prevailing community standards in relation to animal welfare.

Ingham’s has not received any consumer complaints about the material referred to in the complaint. Based on this, and without any other evidence to support the complaint we believe the Waitoa website content is acceptable, is not false or misleading and that consumers are satisfied that the statements are appropriate.

Previous decisions of the ASA, including in relation to a similar Complaint number 20/076 found no grounds to proceed. Ingham’s would submit that this complaint is similar in nature, and there are no grounds on which it should proceed.

In relation to information which may be required by the ASA in order to consider Ingham’s response it is noted that:

1. The copy of the relevant material is attached to the complaint.
2. The material is still accessible on the Waitoa website.
3. The target audience are users of the Waitoa website who may be interested in further information on the manner in which Waitoa chickens are raised, and on the SPCA Blue Tick in connection with Waitoa chickens.