

COMPLAINT NUMBER	20/075
COMPLAINT ON BEHALF OF	Direct Action Everywhere New Zealand (Dxe Nz)
ADVERTISER	Tegel Foods
ADVERTISEMENT	Tegel website
DATE OF MEETING	12 May 2020
OUTCOME	Not Upheld No further action required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about the website advertisement for Tegel. The Board said the Advertiser had substantiated the claims about animal welfare made in the advertisement. This is because Tegel farms are independently audited by AsureQuality to ensure they meet or exceed the New Zealand Animal Code of Welfare minimum standards.

Description of Advertisement

The Tegel website advertisement contains the following 3 statements:

- “When you choose a Tegel product, you can be assured that the utmost care has been taken to ensure we have raised happy and healthy chickens and turkeys.”
- “Tegel’s farming practices always adhere to the “Five Freedoms” of animal welfare; Freedom from hunger and thirst, freedom from discomfort, freedom from pain, injury or disease, freedom to express normal behaviour, freedom from fear and distress”
- “We’ve always been committed to producing food in a way that protects the welfare of all animals in our care by meeting or exceeding the requirements of the New Zealand Animal Welfare Code”.

Summary of the Complaint

The Complainant was concerned the advertisement was misleading. This is because 38% of meat chickens suffer from lameness. The Cobb and Ross breed of bird used in the industry is top heavy, fast growing and has other genetic issues.

Issues Raised:

- Truthful Presentation

Summary of the Advertiser’s Response

The Advertiser defended the advertisement. The Advertiser said Tegel complies with the regulations and legislation regarding the operation of poultry farms and bird welfare. Tegel is independently audited by AsureQuality to ensure that it meets or exceeds the NZ Animal Code of Welfare minimum standards.

The Advertiser said “If the Complainant is concerned with the content of the regulations and legislation regarding poultry operations in New Zealand, this concern should be addressed to the authorities that govern these, rather than companies like Tegel who comply with those regulations.”

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 18/351 and 20/087, both of which were Not Upheld.

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

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

Decision 18/351 concerned a television advertisement for Tegel free-range chicken which has a cartoon of a chicken running around in a grass field and interacting with a tree, a Tegel sign, and the camera. The Complainant said the claims made in the advertisement about the quality of life for chickens were grossly exaggerated and misleading. ...

A majority of the Complaints Board said the advertisement was not misleading. The majority said the cartoon depiction of a free-range farm with one chicken performing unrealistic human-like actions was clearly hyperbolic. It was unlikely consumers would believe this represented a real-life farm. The majority 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.

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.

Decision 20/087 concerned a website advertisement for Waitoa free range chicken. The Complainant was concerned the advertisement was 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.

The Complaints Board said the claims made in the advertisement were not misleading and the statements had been substantiated.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the consumer takeout of the advertisement was Tegel has a commitment to animal welfare and this is independently audited.

Relevant Precedent Decision

The Complaints Board referred to a precedent decision, 20/087, and said it applies directly to this complaint.

The Complaints Board said in that case too, the Complainant's concerns stemmed from the particular genetic make-up of the breeds used for chicken meat production, and what the Complainant considers to be failures in the current animal welfare code and 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 of the three statements in the advertisement in turn and said overall the advertisement was not misleading.

Statement 1

"When you choose a Tegel product, you can be assured that the utmost care has been taken to ensure we have raised happy and healthy chickens and turkeys."

The Complaints Board said that the focus of the claim was on the actions of Tegel in taking the utmost care in looking after the birds' welfare. The Complaints Board agreed the Advertiser had substantiated the claim because Tegel farms are independently audited by AsureQuality to ensure they meet or exceed the NZ Animal Code of Welfare minimum standards.

The Complaints Board discussed the use of the word "happy" and agreed it is difficult to ascertain if animals are "happy", or even whether they are capable of experiencing happiness, in the way humans do, so the claim could also be seen as hyperbolic.

Statement 2

"Tegel's farming practices always adhere to the "Five Freedoms" of animal welfare; Freedom from hunger and thirst, freedom from discomfort, freedom from pain, injury or disease, freedom to express normal behaviour, freedom from fear and distress"

The Complaints Board said the Advertiser had substantiated the above claim because Tegel farms are independently audited by AsureQuality to ensure they meet the minimum requirements of the Animal Products Act 1999 and the associated Codes of Welfare.

Statement 3

"We've always been committed to producing food in a way that protects the welfare of all animals in our care by meeting or exceeding the requirements of the New Zealand Animal Welfare Code".

The Complaints Board said the Advertiser had substantiated the above claim confirming it is a legal requirement for Tegel farmers to meet or exceed the requirements of the NZ Animal Welfare Code.

In Summary

The Complaints Board said the advertisement was not misleading, 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. 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 FROM DIRECT ACTION EVERYWHERE NEW ZEALAND (DXE NZ)

Nature of advertisement: Corporate website. (<https://www.tegel.co.nz>)

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

Tegel have made claims that are blatantly untrue, and others which are technically true, but are misleading.

In particular, we refer to the following:

CLAIM 1: from <https://www.tegel.co.nz/our-story/>.
Screen shots attached in the file 'TEGEL AD1'

CLAIM 2: From the FAQ tab (<https://www.tegel.co.nz/contact-us/>)
Screen shot attached in the file 'TEGEL AD2'

Reasons why these claims are untrue and misleading statements are detailed below:

STATEMENT 1: FALSE

Tegel statement: "When you choose a Tegel product, you can be assured that the utmost care has been taken to ensure we have raised happy and healthy chickens and turkeys."

DxE NZ response: 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. The modern Cobb and Ross bird used in the industry world wide (including at Tegel) is a genetic freak. It is bred to be top heavy and fast growing, so it can come to maturity in 6 weeks. Tegel chickens are still immature [1].1.

World wide studies have shown that lameness is a problem 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. A government report found that up to 38% of meat chickens suffered from lameness [3].

Other issues directly arising from the top heavy Cobb and Ross 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 [4].

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.

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

In conclusion, any claim that Tegel birds are 'Happy and Healthy' is blatantly false.

STATEMENT 2: FALSE

Tegel Statement: "Tegel's farming practices always adhere to the "Five Freedoms" of animal welfare; Freedom from hunger and thirst, freedom from discomfort, freedom from pain, injury or disease, freedom to express normal behaviour, freedom from fear and distress"

DxENZ response: The Five Freedoms described above were adopted by the 1979 UK Farm Animal Welfare Council following the publication of Ruth Harrison's Animal Machines in 1964, an expose of factory farming. They therefore have regulatory status and are supposed to be adhered to under the Animal Welfare Act. The associated Codes of Welfare however often ignore these in favour of increasing production [6].

The description above of lame, hungry and overweight birds shows that any claims that chickens have freedom from hunger and thirst; freedom from discomfort; freedom from pain injury and disease; and freedom from fear and distress, are blatantly false.

Chickens also have no freedom to express normal patterns of behaviour. The Code of Welfare allows a stocking density of 38kg of birds per square metre. A six week old meat chicken weighs approximately 2kg, so around 19 of these are legally allowed to be crammed in a square metre. There is no way that sick, lame and overweight birds crammed together so tightly can express any normal behaviour. The Code of Welfare describes 'normal behaviour' for chicken as including "feeding, drinking, sleeping, preening, walking, scratching, ground pecking, leg stretching, and vocalising."

Chickens that are collapsed in agony on the floor of an ammonia-riddled barn, and getting hock burn as a result, can express none of these behaviours.

The Code of Welfare for meat chickens makes no mention of the suffering caused by choice of breeds, and it doesn't cover breeding stock. But even the Ministry of Primary Industries cannot ignore the effect that high stocking density has on ability of chickens to express normal behaviour, stating.

"Fully-housed production systems risk producing birds that are unable to develop and display normal behaviours. The industry needs to take steps to ensure these trends do not create future welfare problems that will be ethically unacceptable to New Zealanders. "

In conclusion, any claim that Tegel adhere to the Five Freedoms is totally untrue. None of the Five Freedoms are adhered to.

STATEMENT 3: MISLEADING

Tegel Statement: "[Tegel is] meeting or exceeding the requirements of the New Zealand Animal Welfare Code".

This may or may not be true. However, it is misleading. The Code of Welfare places no restrictions on the breeds used. This means it is not concerned with disorders, lameness and other suffering associated with the choice of fast-growing top heavy genetic stock. It also allows high stocking density, in spite of comments that this may compromise ability to express normal patterns of behaviour. Any statement that Tegel complies with a flawed Code of Welfare or that it is independently audited to ensure compliance with this flawed Code is misleading the public into believing the chickens are well looked after, when their lives and deaths are nothing but misery.

Relief sought

Immediate removal and retraction of all offending statements, and any other similar untrue or misleading statements on all advertising literature providing misleading implications that chickens and turkeys do not suffer in Tegel production facilities.

References:

[1] 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] Weeks, C. A., & Butterworth, A. (2004). *Measuring and auditing broiler welfare*. Wallingford: CABI Publishing.
- [5] Webster, J. (2004). *Animal welfare: A cool eye towards Eden*. Oxford: Blackwell.
- [6] Morris, M.C. (2011). The use of animals in New Zealand: regulation and practice. *Society and Animals* 19, 366-380.

Appendix 2

RESPONSE FROM ADVERTISER, TEGEL

Is the advertisement still accessible – where and until when?	Yes, wording is still on the Tegel website www.tegel.co.nz . It is the standard wording on the website. ie. not an advertising campaign
List all media where advertisement is placed	This is only on website
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	www.tegel.co.nz
Who is the product / brand target audience?	Consumers and people who purchase or consume chicken
What tools and/or data were used to target this audience?	None

Before we address each of the points raised in the complaint, Tegel would stress that:

Animal welfare in New Zealand is governed legislatively by the Animal Welfare Act 1999. The Act details obligations of care that either owners and/or the person in charge have towards the animals under their control. The person in charge includes a person who has the animal in that person's possession or custody or under than persons care, control or supervision.

The Act places obligations on persons in charge or owners of animals to meet the physical, behavioural and health needs of the animals.

Codes of welfare are required and are defined as regulations under the Act. They have a legal standing. Minimum standards within the various codes are the legal requirements. Recommended practices within the codes are advisory and educational.

The codes that relate to welfare issues in broiler chickens are:

- Code of Welfare Meat Chickens 2018
- Code of Welfare Commercial Slaughter 2018
- Code of Welfare Transport within New Zealand 2018

Independent Audits

Tegel Barn Raised and Free Range farms and manufacturing plants are independently audited

annually by a Recognised Conformity Assessment Body (CAB) AsureQuality. The Animal Welfare Assured Standard that Tegel are audited against was developed by an internationally recognised panel of experts and accredited by JAS-ANZ. The programme encompasses and goes beyond the MPI Minimum Codes of Welfare standards.

<u>Tegel Claim</u>	<u>Complainants Comments</u>	<u>Tegel Response</u>
<p>“When you choose a Tegel product, you can be assured that the utmost care has been taken to ensure we have raised happy and healthy chickens and turkeys.”</p>	<p><u>False Claim</u> 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. The modern Cobb and Ross bird used in the industry world-wide (including at Tegel) is a genetic freak. It is bred to be top heavy and fast growing, so it can come to maturity in 6 weeks. Tegel chickens are still immature [1].1.</p> <p>World-wide studies have shown that lameness is a problem 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].</p> <p>In New Zealand, a government report found that the proportion of lame birds was even higher. A government report found that up to 38% of meat chickens suffered from lameness [3].</p> <p>Other issues directly arising from the top heavy Cobb and Ross 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</p>	<p>The Tegel statement is about raising the birds Tegel follows supplier guidelines for raising healthy birds</p> <p>As outlined above, Tegel complies with regulations and legislation regarding the operation of poultry farms and bird welfare. Tegel is independently audited by AsureQuality to ensure that it meets or exceeds the NZ Animal Code of Welfare</p>

	<p>too large. The massive birds also suffer a high level of broken bones when being slaughtered [4].</p> <p>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.</p> <p>It is no wonder that Dr John Webster, professor of animal welfare at Bristol University, describes broiler chicken production as "in both magnitude and severity, the single most severe, systematic example of man's inhumanity to another sentient animal. [5]"</p> <p>In conclusion, any claim that Tegel birds are 'Happy and Healthy' is blatantly false.</p>	<p>minimum standards. Tegel therefore believes it is not an exaggeration to state that "the utmost care has been taken to ensure we have raised happy and healthy chickens and turkeys"</p> <p>If the Complainant is concerned with the content of the regulations and legislation regarding poultry operations in New Zealand, this concern should be addressed to the authorities that govern these, rather than companies like Tegel who comply with those regulations. Tegel notes the following regarding the Complainant's citations:</p> <p>Citation 1) Complainant is the author of this document, Dr [...] and therefore referencing themselves.</p> <p>Citation 2) Complainant</p>
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		<p>has not included the below information from the same section of the report as cited, which clarifies important information when referring to these results.</p> <p><i>To quote the citation "Care is needed in comparing the results of these surveys. Firstly, the number of birds studied in the initial Kestin et al.(1992) survey was rather low to give an indication of the overall state of leg health in the UK broiler flock. Secondly, the gait scoring system is subjective and the results depend on the age of the birds and the ways in which the subjects were selected. The reasons for the differences between these studies need to be elucidated"</i></p> <p>Citation 3 – this document</p>
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		<p>is referred to as a government report, but based on the citation it is an “unpublished client report to MAF policy” It is unclear what this means and due to its unpublished nature are unable to review the document. Does the complainant mean it is a report written by one of his clients or by a MAF client?</p> <p>Citation 4 – it is not clear whether this is a quote or an interpretation of the content of the referenced text.</p>
<p>“Tegel’s farming practices always adhere to the “Five Freedoms” of animal welfare; Freedom from hunger and thirst, freedom from discomfort, freedom from pain, injury or disease, freedom to express normal behaviour, freedom from fear and distress”</p>	<p>False Claim The Five Freedoms described above were adopted by the 1979 UK Farm Animal Welfare Council following the publication of Ruth Harrison’s Animal machines in 1964, an expose of factory farming. They therefore have regulatory status and are supposed to be adhered to under the Animal Welfare Act. The associated Codes of Welfare however often ignore these in favour of increasing production [6].</p> <p>The description above of lame, hungry and overweight birds shows that any claims that chickens have freedom from hunger and thirst; freedom from discomfort; freedom from pain injury and disease; and freedom from fear and distress, are blatantly false.</p> <p>Chickens also have no freedom to express normal patterns of behaviour. The Code of Welfare allows a stocking density of .38kg of birds per square metre. A six week old meat chicken</p>	<p>The NZ Animal Welfare Act that Tegel complies with establishes a duty of care for animals. The Act sets out the obligations of animal owners or people in charge of animals. They have to meet an animal’s physical, health, and behavioural needs, and must alleviate</p>

	<p>weighs approximately 2kg, so around 19 of these are legally allowed to be crammed in a square metre. There is no way that sick, lame and overweight birds crammed together so tightly can express any normal behaviour. The Code of Welfare describes 'normal behaviour' for chicken as including "feeding, drinking, sleeping, preening, walking, scratching, ground pecking, leg stretching, and vocalising."</p> <p>Chickens that are collapsed in agony on the floor of an ammonia-riddled barn, and getting hock burn as a result, can express none of these behaviours.</p> <p>The Code of Welfare for meat chickens makes no mention of the suffering caused by choice of breeds, and it doesn't cover breeding stock. But even the Ministry of Primary Industries cannot ignore the effect that high stocking density has on ability of chickens to express normal behaviour, stating.</p> <p>"Fully-housed production systems risk producing birds that are unable to develop and display normal behaviours. The industry needs to take steps to ensure these trends do not create future welfare problems that will be ethically unacceptable to New Zealanders. "</p> <p>In conclusion, any claim that Tegel adhere to the Five Freedoms is totally untrue. None of the Five Freedoms are adhered to.</p>	<p>pain or distress. The Act defines 'physical, health, and behavioural needs' as:</p> <ol style="list-style-type: none"> 1) proper and sufficient food and water 2) adequate shelter 3) the opportunity to display normal patterns of behaviour 4) appropriate physical handling 5) protection from, and rapid diagnosis of, injury and disease. <p>These are commonly known as the "Five Freedoms". As outlined above, Tegel farms are independently audited by AsureQuality to ensure they meet the minimum requirements of the Animal Products Act 1999 and the associated Codes of Welfare.</p>
<p>"[Tegel is] meeting or exceeding the</p>	<p>Misleading Claim This may or may not be true. However, it is misleading. The Code of Welfare</p>	<p>The Complaint states "This</p>

<p>requirements of the New Zealand Animal Welfare Code”.</p>	<p>places no restrictions on the breeds used. This means it is not concerned with disorders, lameness and other suffering associated with the choice of fast-growing top heavy genetic stock. It also allows high stocking density, in spite of comments that this may compromise ability to express normal patterns of behaviour. Any statement that Tegel complies with a flawed Code of Welfare or that it is independently audited to ensure compliance with this flawed Code is misleading the public into believing the chickens are well looked after, when their lives and deaths are nothing but misery.</p>	<p>may or may not be true. However, it is misleading.” Tegel meets or exceeds the requirements of the NZ Animal Welfare Code. This is a legal requirement for persons in charge and owners involved in the poultry industry in New Zealand. It appears that the Complainant disagrees with the content of the NZ Animal Welfare Code. The Complainant should address these concerns with the authors of the Code. The Complainant’s belief that the Code is misleading does not make Tegel’s statement of fact, that we comply with the Code, misleading.</p>
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