

COMPLAINT NUMBER	20/083
COMPLAINT ON BEHALF OF	Direct Action Everywhere New Zealand (DxENZ)
ADVERTISER	Wendco (NZ) Ltd.
ADVERTISEMENT	Wendy's Hamburgers website
DATE OF MEETING	21 July 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 Wendy's Hamburgers. The Board said the claims made in the advertisement were not misleading and the statements made were substantiated.

Advertisement

The website advertisement for Wendy's Hamburgers (Wendy's) included the following text:

"WENDY'S ANIMAL WELFARE PROGRAM

Wendy's continues to lead the industry in setting and maintaining animal welfare programs. Their robust supplier requirements and auditing program are of the highest caliber in the industry. The Company's commitment to the humane treatment of animals is evidenced by semiannual audits of each meat packing facility they utilize."

- Temple Grandin, Ph.D., Associate Professor, Department of Animal Science, Colorado State University

When Wendy's began routinely auditing the animal handling practices, we hired outside experts to review supplier performance and recommend improvements. In 1998, we strengthened our existing program by adopting the comprehensive American Meat Institute animal welfare guidelines for beef and pork. These guidelines were developed by Dr. Temple Grandin of Colorado State University, a noted expert in the field of animal behavior, who is a consultant to Wendy's. We established an Animal Welfare Council to review the effectiveness of company and supplier efforts on an ongoing basis."

Summary of the Complaint

The Complainant, representing Direct Action Everywhere New Zealand (DxENZ), was concerned the advertisement was misleading regarding Wendy's commitment to high standards of animal welfare.

Issues Raised:

- Truthful presentation

Summary of the Advertiser's Response

The Advertiser defended the advertisement and said: "Our statement regarding Animal Welfare is not misleading for the following reasons:

- It is a direct quote from Dr Temple Grandin and is referenced so. It is Dr Grandin's personal opinion.
- The paragraph following the quote explicitly refers to animal welfare guidelines for meat and pork.

Aside from this, our chicken supplier must meet both the New Zealand animal welfare laws and regulations as well as Wendy's Company animal welfare requirements."

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 20/077 which was ruled No Grounds to Proceed and 20/087, which was Not Upheld.

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

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

Decision 20/077 concerned a website advertisement for The Poultry Industry Association of New Zealand which described the Association's "exacting standards in animal welfare". The Chair noted the Complainant's concerns stemmed from what they considered flaws in the current animal welfare code. However, she said the statements by the Poultry Industry Association on what they consider to be exacting standards and their working relationship with Government did not meet the threshold to mislead or deceive consumers.

Decision 20/087 concerned a website advertisement for Waitoa free range chicken which contained statements about their commitment to animal welfare in broiler chickens. The Complaints Board said the claims made in the advertisement were not misleading and the statements were substantiated. 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.

The Complainant appealed the decision on the basis that the evidence provided had been misinterpreted to the extent that it affected the decision. The Chairperson of the Appeal Board said there were no grounds on which the appeal could proceed, and the application was declined. This appeal decision, **20/087 Appeal 20/008**, is also on the ASA website.

Complaints Board Discussion

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 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.

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement which was the subject of this complaint had two parts:

- Wendy's supports high standards of animal welfare and here's an endorsement from an expert to substantiate that.
- Wendy's routinely audits their animal welfare practices, with a view to making improvements.

Is the advertisement misleading?

The Complaints Board said the advertisement was not misleading. The Board said the Advertiser had provided factual information about their animal welfare programme, which applies to beef and pork meat, and the standards they comply with. The Advertiser had also acknowledged that their "chicken supplier must meet both the New Zealand animal welfare laws and regulations as well as Wendy's Company animal welfare requirements."

The Complaints Board noted the acknowledgement by the Complainant that the chicken meat used by Wendy's is required to meet the standards set by the New Zealand animal welfare laws and regulations.

The Complaints Board said that as with precedent decision 20/087, the Complainant's concerns about the issues relating to the genetic make-up of the breeds used for chicken meat production are outside its jurisdiction. The issues raised by the Complainant relating to the use of farrowing crates for pigs and cow animal husbandry are also outside the jurisdiction of the ASA.

The Complaints Board said 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. 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

Appendix 1

COMPLAINT

Name of Complainant: Direct Action Everywhere New Zealand (DxE NZ).

Name of Respondent: Wendco (NZ) Ltd.

Nature of advertisement:

Corporate website. (<https://www.wendys.co.nz/our-food/animalwelfare>)

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.”

Wendy’s have made claims about their commitment to animal welfare that are misleading
In particular, we refer to the following:

WENDY’S CLAIM

"Wendy's continues to lead the industry in setting and maintaining animal welfare programs. Their robust supplier requirements and auditing program are of the highest caliber in the industry. The Company's commitment to the humane treatment of animals is evidenced by semiannual audits of each meat packing facility they utilize."

- Temple Grandin, Ph.D., Associate Professor, Department of Animal Science, Colorado State University

When Wendy's began routinely auditing the animal handling practices, we hired outside experts to review supplier performance and recommend improvements. In 1998, we strengthened our existing program by adopting the comprehensive American Meat Institute animal welfare guidelines for beef and pork. These guidelines were developed by Dr. Temple Grandin of Colorado State University, a noted expert in the field of animal behavior, who is a consultant to Wendy's. We established an Animal Welfare Council to review the effectiveness of company and supplier efforts on an ongoing basis.

DxENZ RESPONSE

In the above statement, Wendy’s are using an animal welfare expert’s testimony, that of Dr Temple Grandin, as evidence that they are committed to high animal welfare standards. This endorsement is misleading on several levels.

Firstly, Temple Grandin is an expert solely on ‘humane’ slaughter of large animals, particularly cattle. Her expertise does not extend to the way animals are reared before they are sent to slaughter. Nor does it extend to pigs and chickens, whose flesh is also sold by Wendy’s.

The North American Meat Institute Guidelines cited by Wendy's likewise refer only to cattle slaughter. They do not apply to the slaughtered pigs and chickens supplied to Wendy's. Temple Grandin herself admits [1] that only 90% of cattle operators audited by the North American Meat Institute achieve a clean kill after one shot with a captive bolt pistol. This means that 10% of the cattle from slaughterhouses audited by the NAMI under Dr Grandin's supervision would have suffered. New Zealand slaughterhouses are not supervised by Dr Grandin or the NAMI, so there is no guarantee they meet any sort of humane standards. Standard slaughterhouse practice in New Zealand's closest neighbour can be seen on the documentary 'Dominion' (www.dominionmovement.com).

Wendy's sells flesh from chickens. The Cobb and Ross breeds used in the industry world wide (including New Zealand [2]) are genetic freaks. Modern meat chickens are bred to be top heavy and fast growing, so they can come to maturity in 6 weeks. 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 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 [5].

It is no wonder that Dr John Webster, 'international animal welfare expert' and 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. [6]"

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. This means that the use of the top heavy Cobb and Ross breeds are legal and widespread in New Zealand [2].

Wendy's also sell flesh from pigs. Sows used to produce pig flesh products can be legally confined in farrowing crates in New Zealand. The Code of Welfare for Pigs also allows them to be confined in sow stalls for 7 days in any breeding cycle. Furthermore, a high proportion of pig flesh sold in New Zealand is imported from countries such as China that still allow sow stalls for the entire breeding cycle. Severe confinement of intelligent pigs is aversive. Pigs show stereotypical behaviour indicating that they are being driven insane [7]. Mutilations that the Ministry of Primary Industries describes as 'Painful Husbandry' such as castration, tail docking and tooth clipping are legal under the Code of Welfare for Pigs.

Wendy's sell flesh from cows. These are not kept in severe confinement in New Zealand, but the Code of Welfare still allows 'Painful Husbandry' procedures such as tail docking and dehorning without pain relief.

In conclusion, animals used for Wendy's products suffer. Wendy's are misleading consumers into thinking they are an ethical company that cares about animal welfare when they are not. The terms 'whitewash' and 'greenwash' have been used to describe this kind of misleading advertising. Since this concerns pigs and other animals, the term 'hogwash' may be an appropriate description of Wendy's advertising practises.

Relief sought Immediate removal and retraction of all offending statements, and any other similar or misleading statements on all advertising literature providing misleading implications that animals used in any flesh products sold by Wendy's do not suffer.

References:

- [1] Grandin, T. (2020) Interpretation of the North American Meat Institute (NAMI) Animal Handling Guidelines for auditing the welfare of cattle, pigs, and sheep at slaughter plants. <https://www.grandin.com/interpreting.ami.guidelines.html>
- [2] 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] 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
- [6] Webster, J. (2004). *Animal welfare: A cool eye towards Eden*. Oxford: Blackwell.
- [7] 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

Appendix 2**RESPONSE FROM ADVERTISER, WENDYS HAMBURGERS, WENDCO (NZ) LTD**

Our statement regarding Animal Welfare is not misleading for the following reasons:

- It is a direct quote from Dr Temple Grandin and is referenced so. It is Dr Grandin's personal opinion.
- The paragraph following the quote explicitly refers to animal welfare guidelines for meat and pork.

Aside from this, our chicken supplier must meet both the New Zealand animal welfare laws and regulations as well as Wendy's Company animal welfare requirements.