

COMPLAINT NUMBER	21/042
ADVERTISER	Empire Chicken
ADVERTISEMENT	Empire Chicken, Radio
DATE OF MEETING	9 February 2021
OUTCOME	No Grounds to Proceed

Advertisement: The Empire Chicken restaurant's radio advertisement refers to "listening to your inner chicken". The voiceover at the end said "... local, happy, sustainable, delicious, that's Empire Chicken!"

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

Complaint: Advert says there chickens are local, happy chickens. The farming of chickens is anything but happy for the chickens. Chickens are probably the worst treated animals in the food industry and to mislead people into thinking these chickens are somehow happy chickens is a disgrace

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 was concerned the advertisement was misleading to say chickens destined for the food industry are happy.

In considering the complaint, the Chair referred to precedent Decision 20/075, a Tegel Chicken advertisement which considered the use of the word 'happy' and was not upheld by the Complaints Board. That decision said in part:

"...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. “

Turning to the complaint before her, the Chair said the precedent decision raised a similar issue to the Complainant’s concerns. The Chair said the claim was hyperbolic, given that it is hard to ascertain the happiness of chickens.

While acknowledging the genuine concerns of the Complainant, the Chair said the advertisement was unlikely to mislead or confuse consumers and did not reach the threshold to 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 calendar days of receipt of this decision.