



Case Report

1	Case Number	0035/16
2	Advertiser	Milne Agri Group (Mt Barker)
3	Product	Food and Beverages
4	Type of Advertisement / media	Cinema
5	Date of Determination	24/02/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive

DESCRIPTION OF THE ADVERTISEMENT

This cinema advertisement was filmed in Mt Barker and shows free range chickens in humorous scenarios throughout the town, accompanied by the music track 'free as a bird'. The scenarios include at a bowling club, catching public transport, in a school classroom and in a pub. The final scene shows the chickens returning home after their owner calls the publican to ask him to tell them to return.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

This advert sets out to completely mislead the public with regard to the real nature of the conditions under which "free range chicken" are raised. I accept that there is a degree of "poetic licence" in all advertising, but feel that this advert is nothing more than a complete lie.

If the chickens that are supplied as "free range chicken" to the public are to be portrayed in an advertising campaign showing how they are raised - then this should be factual - not a "Disneyfied" myth which does not bear any resemblance to the real circumstances.

This advertisement sets out to deliberately mislead members of the public and I object to this strongly. Advertising should be truthful.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

The Complainant acknowledges that the chickens portrayed in the advertisement are shown in circumstances of 'poetic licence' that does not represent the conditions under which our chickens are grown. We acknowledge that our chickens do not go to school, watch basketball or go to the pub nor do they understand instructions from the publican for them to return home. We do not believe a member of the public would reasonably believe that the depiction of the chickens in these scenes was anything other than poetic licence. Given this the complaint is in essence that we have not depicted the chickens in an environment such as the complainant envisages is reality.

We describe the growing conditions on our website as follows:

Our idea of free-range farming is simple: the chickens are left to roam freely and forage outdoors during the day on an area not less than three times the area of the coop or shed and are sheltered from predation and inclement weather at night.

Standards (RSPCA-approved) for the size of the free-range area for the chickens are 1.5 x of indoor area for new farms or 1 x indoor area for existing farms. At Mt Barker we apply 3x the indoor area, meaning our chickens have 3 times more space than required by the RSPCA approved scheme. We also require our free-range area to have year-round vegetation cover and reticulation when water is available.

Contrary to the complainant's allegation our chickens are free to roam outside their coops during the day – there would clearly be no point in showing chickens sleeping at night or sheltering in inclement weather – which is when the sheds or coops are relevant.

The complainant makes assumptions as what is 'reality' in order to justify an allegation of false and misleading advertising. The claimant's view of reality is not substantiated and not correct. We might add that Mt Barker Free Range farms were the first (and one of only a few) farms in Australia to be certified by the RSPCA as free range and we have not changed our growing system since then.

Furthermore, this ad has been airing in various mediums, including TV, for over 12 years. It should be noted that we have never received a single complaint regarding any aspect of this ad, which would seem to indicate that the concern about it being misleading is isolated.

THE DETERMINATION

The Advertising Standards Board ("the Board?") considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the "Food Code?").

The Board noted the complainant's concerns that the advertisement is misleading its

suggestion that the conditions in which the chickens were shown to live within the advertisement were not a true reflection of their actual conditions.

The Board viewed the advertisement and noted the advertiser's response.

The Board noted that the product advertised is food and therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply.

In particular the Board considered Section 2.1 of the Food Code which provides: 'Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.'

The Board noted this cinema advertisement features Mt Barker chickens in various locations around a town before the owner calls a publican to ask him to send the chickens back home.

The Board noted the advertiser's response that whilst they did employ poetic licence by showing the chickens participating in activities not normally associated with chickens this depiction was to highlight the 'free-range' aspect of their chicken rearing and was not intended to be an accurate reflection of their chickens' normal conditions.

The Board noted that most members of the community would understand that chickens do not usually catch public transport, attend school or hang out in public bars and considered that whilst the extent of the freedom enjoyed by Mt Barker chickens has clearly been exaggerated in the advertisement for comedic effect in the Board's view this exaggeration is fanciful and unrealistic. The Board considered there is no actual clear suggestion or depiction of how the free range chickens are actually kept and so in the Board's view there was no misleading representation of the actual conditions the Mt Barker chickens are kept in.

The Board considered overall that the advertisement did not make any claims about the free-range conditions enjoyed by its chickens which were misleading or deceptive and determined that the advertisement did not breach Section 2.1 of the Food Code.

Finding that the advertisement did not breach the Food Code the Board dismissed the complaint.

