



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0305-21
2. Advertiser :	Milne Agri Group (Mt Barker)
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	Print
5. Date of Determination	10-Nov-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Food and Beverages Code\2.1 Truthful Honest Not Misleading or deceptive

DESCRIPTION OF ADVERTISEMENT

This print advertisement features a photo of a chicken crossing a country road, overlaid with the text "Because it could". The footer of the ad features the Mt Barker Free Range Chicken logo, the Buy West Eat Best logo and the text "The home of free range chicken".

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

The chickens are not free range. They are not free. They live in abhorrent conditions indoors, so cramped that they can't get outside. So filthy and dirty, there are chickens cannibalising, chickens with broken feet and wings, dead and dying chickens.

THE ADVERTISER'S RESPONSE

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



The ad was placed on page 3 of a “Buy West Eat Best” lift-out feature published in the West Australian newspaper on Thursday 30 September 2021. The lift-out itself focused on celebrating local produce. “The home of free-range chicken” has been Mt Barker Free Range Chicken’s tagline for c. 18 years.

The tagline “Because it could” is a light hearted reference to the classic joke “Why did the chicken cross the road?”. It uses the imagery to relay that the chickens have access to the outdoors and roam freely. It is an iconic brand ad that has been used on press, outdoor and digital ads in Western Australia for nearly 20 years without complaint.

Response to Complaint

- 1. The complainant’s characterisation of Mt Barker’s farming systems is consistent with the language used by an extreme animal rights group. This group has harassed Mt Barker with similar unjustified claims in other forums since 2017. Their characterisation of Mt Barker Chicken’s farming system is completely false and appears to be driven by an agenda of ending meat consumption.*
- 2. Mt Barker Chicken is Free Range – the ad is “truthful and honest”*
 - a. Mt Barker Chicken is a family owned and run WA business that grows only free range chicken. Chickens have access to the outdoors from the time they are feathered. Our birds are at all times treated with the utmost respect and are free from discomfort, hunger, thirst, pain, injury, disease, or distress, and are free to express normal behaviour and have a good quality of life.*
 - b. At Mt Barker Chicken animal welfare is the core of our business. We have a clear set of standards that govern how we care for our birds. Mt Barker Chicken’s standards of animal welfare and farming are independently certified by the RSPCA, which is Australia’s primary animal welfare organisation. Our farms are audited up to 4 times per year, with unscheduled audits and detailed record keeping and management requirements. Our farms were audited most recently in September 2021.*
 - c. Mt Barker was the first chicken producer ever approved by the RSPCA. Mt Barker Chicken’s most recent certificate of approval under the RSPCA Approved Standard (Outdoor Access) is attached. It is dated July 2021.*
 - d. Our farms have been visited and audited by many independent organisations, including Coles, Woolworths and other major Australian corporations.*
 - e. Our farms are also continuously monitored by independent poultry veterinarians, who survey the health and well-being of Mt Barker Chicken flocks to ensure that the safety and wellbeing of the chickens are maintained.*
 - f. Conditions at the farms, including access to the outdoors, space per chicken and the health and safety of the birds are part of our internal standards and the RSPCA Standards (which far exceed the legal requirements). The chickens are not ‘cramped’ or in any other way treated in a manner consistent with the complaint.*
 - g. Footage from Mt Barker Chicken farms which show the farming conditions of Mt Barker Chicken farms can be seen at: <https://rspcaapproved.org.au/brand/mt->*



*barker-chicken (the RSPCA's website for Mt Barker as an approved producer);
<https://www.youtube.com/watch?v=44iR1cY2dvA>*

3. *The ad is not / is not designed to be “misleading or deceptive” and does not otherwise contravene “Prevailing Community Standards”. The ad is also communicated in a manner “appropriate to the level of understanding of the target audience”.*
 - a. *The advertisement was intended to convey that Mt Barker Chicken is free range using light hearted humour and imagery. This is not misleading and deceptive, because Mt Barker Chickens are ‘free range’. As described above, all birds range outside and the system meets any accepted definition of free range farming. The farms are independently audited and confirmed to provide the access to the outdoors implied in the term “free range”.*
 - b. *The advertisement does not contravene any “prevailing community standards” that we understand.*
 - c. *The advertisement is not inappropriate in respect of the target audience.*
4. *Statement regarding advertising to children*
 - a. *The advertisement is not directed to children, and the advertised product is not primarily directed to children. The advertisement was placed in a newspaper in a food supplement directed to Adults. No nutritional claims are made in the advertisement.*

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Food and Beverages Advertising Code (the Food Code).

The Panel noted the complainant’s concern that the advertisement makes an untrue statement that the chickens are free-range.

The Panel viewed the advertisement and noted the advertiser’s response.

The Panel noted that the product advertised is food and that therefore the provisions of the Food Code apply.

Section 2.1 Advertising for Food or Beverage Products must not be misleading or deceptive or likely to mislead or deceive.

The Panel Noted the Practice Note to this section of the Food Code which provides:

“In determining whether advertising for food or beverage products is misleading or deceptive or likely to mislead or deceive, the Community Panel will consider the likely audience for the advertising, including whether the advertisement is directed at the public at large or a more targeted audience. The Community Panel will consider



whether or not an Average Consumer within the target audience would have been misled or deceived or likely to be misled or deceived by the advertisement.”

The Panel noted that the target audience for this advertisement would be anyone reading the newspaper that the advertisement appeared in.

The Panel noted the advertiser’s statement that they have been audited by major Australian corporations such as Woolworths and Coles, and that their farms are monitored by independent poultry veterinarians.

The Panel noted the advertiser had provided evidence that they are a “Producer under the RSPCA Approved Farming Scheme in relation to chicken from an outdoor system where produced according to the Standards”. The Panel noted that the advertiser complied with the RSPCA Approved Farming Standards-Meat Chickens-August 2020 and the RSPCA Approved Farming Scheme Operation Manual. The Panel noted the RSPCA website which advised that:

“RSPCA approved chickens:

- *Have good indoor environments (because even free-range chickens spend most of their time indoors)*
- *Have space and good lighting, encouraging them to be active*
- *Can perch to rest and keep their bones and muscles strong*
- *Enjoy dry litter floor covering to scratch and dust bathe”*

The Panel considered that most consumers would interpret such certification to indicate that the RSPCA approves of the farming practices conducted by the advertiser. The Panel noted that the RSPCA is a respected organisation and would be considered by most members of the community to have the best interest of animals at the forefront of their decision making.

The Panel considered that while some members of the community may disagree with the farming of animals or with the definition of free-range, the advertiser has met publicly available standards and the Panel considered that most members of the community would not find the advertisement to be misleading or deceptive.

Section 2.1 Conclusion

The Panel considered that the advertisement was not misleading or deceptive and did not breach Section 2.1 of the Food Code.

Conclusion

Finding that the advertisement did not breach any other section of the Food Code, the Panel dismissed the complaint.