

A victory for dairy cows – meagre, yes, but a victory nevertheless

May 2020

A leading South African milk producer **Fair Cape Dairies** has been instructed to withdraw the use of the words/phrases ‘#happycows’ and ‘humane’ from all its advertising. In terms of a ruling dated 30 April by the Advertising Appeals Committee of the Advertising Regulatory Board (ARB), the concept of humane “means more than freedom from violence, pain and disease.”

This follows a series of complaints by concerned consumers led by Jo Fairbrother (jo@sentience.co.za) stating “there is no such thing as a happy cow in the dairy industry”.

The complainants submitted: “The truth is dairy cows lead horrible lives, filled with grief, pain and suffering”. The complainants specifically noted that cows were being forcefully impregnated repeatedly and were robbed of their calves soon after birth. Therefore, they submitted, Fair Cape’s advertising was false and breached the Code of Advertising Practice which prohibits advertising that is likely to mislead the consumer.

When the complainants first approached the ARB in 2019, their complaints were dismissed by the Directorate on the grounds, inter alia, that within the context of the dairy industry, the cows are humanely treated, and therefore as “happy” as possible; that a reasonable consumer could not expect that cow’s milk could be sold without some compromise and it was naïve of any consumer to believe otherwise. At that stage, the ARB ruled that Fair Cape’s advertising was not misleading and that the ARB could not “cater to the ignorant consumer, the uneducated consumer, or the willfully naïve consumer.”

However, Jo Fairbrother and her fellow complainants, did not accept this dismissal and set about requesting an appeal, with the help of Animal Lawyer Amy P. Wilson, director of Animal Law Reform South Africa and trustee of The Humane Education Trust. Now, their appeal has been upheld by the ARB Advertising Appeals Committee.

On 30 April 2020, the Advertising Appeals Committee ruled that the use of the terms “#happycows” and “humane” were a breach of clause 4.1 and 4.2.1 of the Code of Advertising Practice. The Advertising Appeals Committee stated that, in its view, the Directorate (of the ARB) had erred in holding that Fair Cape’s advertising must be viewed through the lens of the practices that are generally accepted in the commercial dairy industry. It continued that while Fair Cape Dairies contended that “in the context of dairy farming” the cows were “humanely” treated, it was nonetheless the view of the Advertising Appeals Committee that while this meant that no malicious or gratuitous violence was perpetrated against the cows, and as far as possible they were kept free of physical pain,



injury and disease, it did not mean that the cows experienced no physical and emotional trauma. It stated:

- “... in our view, it cannot be said that the reasonable consumer who purchases milk expects the cow to have been raped, or her babies to have been taken from her at birth so as to maximize the milk available for sale. Nor does the reasonable consumer think of the fate of the cow’s babies, or the fate of the cow herself. None of this is uppermost in the mind of the reasonable consumer when purchasing a bottle of milk.”
- *“In our view, humane treatment means more than freedom from violence, pain and disease; it means treatment characterised by tenderness, compassion, and sympathy. It does not include many of the practices complained of, such as the forced impregnation of cows, the forced separation of calves from their mothers immediately after birth, and the slaughter of male calves thereafter. It follows then, in our view, that the cows cannot be described as happy, or as humanely treated.”*

Commented Jo Fairbrother: “Fair Cape Dairies do not only directly misinform consumers, but they actively conceal many of their practices while creating an illusion of transparency. This cruelty is not an anomaly, but is standard practice inherent in the industry. We are extremely thankful to Compassion in World Farming South Africa who played an important role with their contribution of video footage exposing the suffering of boy calves discarded by the dairy industry. To be informed, is to be empowered. When we are informed we can make consumer choices that are authentic and genuinely in line with our values.”



Jo Fairbrother



Amy P. Wilson