

BEFORE THE UNITED STATES FEDERAL TRADE COMMISSION

PETITION SEEKING ACTION  
AGAINST KFC CORPORATION FOR  
UNFAIR AND DECEPTIVE  
REPRESENTATIONS and  
ADVERTISING

Docket No. \_\_\_\_\_

Submitted to:

Federal Trade Commission  
The Bureau of Consumer Protection  
The Division of Advertising Practices  
600 Pennsylvania Ave., N.W.  
Washington, DC 20580  
Attn: Mary K. Engle

On: April 10, 2009

Submitted by:

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*Representing more than 2 million PETA members and supporters*

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*In His Individual Capacity as a Consumer*

## **I. Citizen Petition**

Pursuant to 15 U.S.C. §§ 45 and 52 and 16 C.F.R. §§ 2.1 and 2.2, the undersigned members of the public submit this petition requesting that the Federal Trade Commission (“FTC”) take action against KFC Corporation (“KFC”) for its deceptive and unfair statements to consumers about the treatment of chickens raised and killed for KFC restaurants.<sup>1</sup>

## **II. Introduction**

On its website and in statements to media, KFC claims that it is “committed to the humane treatment of animals,” that “treating animals humanely ... is a key part of [its] quality assurance efforts,” and that “animals should be free from mistreatment at all possible times from how they are raised and cared for to how they are transported and processed.” KFC makes these statements to help it sell more than 350,000,000 chickens in the United States each year.<sup>2</sup> But KFC’s statements are false. As explained herein, chickens destined for KFC restaurants are:

- (1) bred to grow so quickly that many experience crippling deformities and broken bones;
- (2) raised in crowded, filthy sheds where feces and urine accumulate, generating ammonia, which burns their eyes, skin, throats, and feet;
- (3) gathered and transported in ways that break, maim, and kill; and
- (4) slaughtered using a process that breaks bones and causes hemorrhaging, painful mutilations, live conscious throat-cuttings, and live conscious scaldings.<sup>3</sup>

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<sup>1</sup> KFC’s corporate headquarters are located at 1441 Gardiner Lane, Louisville, Kentucky 40213.

<sup>2</sup> See Jerry Hirsch, “Animal Welfare Issue is at Boiling Point,” L.A. Times, July 9, 2007 (stating “Americans are increasingly picky about what they eat -- especially when it comes to the ways that farm animals are killed, processed, sold and served as food. And U.S. businesses are catching on.”); see also “Fast Food Embracing Animal Welfare,” CBS News, available at [www.cbsnews.com/stories/2003/11/05/eveningnews/main582028.shtml](http://www.cbsnews.com/stories/2003/11/05/eveningnews/main582028.shtml).

<sup>3</sup> PETA’s investigations on the dates below uncovered standard, but inhumane, practices at each of the following KFC suppliers:  
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These practices reflect gross mistreatment in how the chickens are selectively bred, raised, transported, and processed—not “humane” treatment of animals, as KFC advertises. The FTC should enjoin KFC from making demonstrably false and deceptive statements to consumers about the treatment of chickens killed for its restaurants and should order corrective advertising.

### **III. Legal Standard**

The FTC is authorized to prevent companies from using “[u]nfair methods of competition” as well as “unfair or deceptive acts or practices” in selling products to consumers.<sup>4</sup> In fact, the FTC is specifically charged with prohibiting companies from disseminating any “false advertisement” “which is likely to induce, directly or indirectly the purchase of food...”<sup>5</sup> “Advertisements,” deceptive or otherwise, include representations about a product which promote its purchase and use.<sup>6</sup> Explicit statements on websites and to the media about chicken intended to promote its purchase are “advertisements” which, if false, may be enjoined by the FTC, with corrective advertising ordered where appropriate.

The FTC will find deception if a seller makes a *material misrepresentation* that is likely to mislead consumers acting reasonably in the circumstances, with a resulting *injury* to consumers. “A ‘material’ misrepresentation or practice is one which is likely to affect a

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- Tyson Foods, Inc., Cummings, Georgia (September 18, 2007 through October 25, 2007)
  - Tyson Foods, Inc., Union City, Tennessee (October 29, 2007 through November 20, 2007)
  - Tyson Foods, Inc., Heflin, Alabama (December 7, 2004 through February 14, 2005)
  - Georges, Inc., a KFC “Supplier of the Year” located in Butterfield, Missouri (September 3, 2003 through May 5, 2004).
  - Pilgrim’s Pride Corporation, a KFC “Supplier of the Year” located in Moorefield, West Virginia (September 3, 2003 through May 5, 2004).

Additionally, the group Compassion Over Killing (“COK”) conducted an investigation of a Perdue Farms chicken supplier in Showell, Maryland from September 16, 2004 through October 1, 2004 and conducted a six week investigation of a KFC farm level supplier in 2003.

<sup>4</sup> 15 U.S.C. § 45.

<sup>5</sup> 15 U.S.C. § 52(a). The terms “food” and “false advertisement” are specifically defined in 15 U.S.C § 55.

<sup>6</sup> *F.T.C. v. National Com'n on Egg Nutrition*, C.A.7 (Ill.) 1975, 517 F.2d 485, certiorari denied 96 S.Ct. 2623, 426 U.S. 919, 49 L.Ed.2d 372.

consumer's choice of or conduct regarding a product. In other words, it is information that is important to consumers.”<sup>7</sup> “The FTC presumes express claims are material.”<sup>8</sup> “Injury” exists if consumers would have chosen differently but for the deception—i.e. if they would not have purchased a food or product absent the seller's deception. “The basic question is whether the act or practice is likely to affect the consumer's conduct or decision with regard to a product or service. If so, the practice is material, and consumer injury is likely, because consumers are likely to have chosen differently but for the deception.”<sup>9</sup>

Finally, companies are required to have a reasonable basis for any advertising claims they make—i.e. to substantiate their representations.<sup>10</sup>

#### **IV. “Humane” Defined**

The *New Oxford American Dictionary* defines “humane” as “having or showing compassion or benevolence.”<sup>11</sup> *Merriam-Webster's Collegiate Dictionary* defines “humane” as “marked by compassion, sympathy, or consideration for humans or animals.”<sup>12</sup> *Dictionary.com* defines “humane” as “characterized by tenderness, compassion, and sympathy for people and animals, esp. for the suffering or distressed.”<sup>13</sup> *TheFreeDictionary.com* defines “humane” as “characterized by kindness, mercy, or compassion.”<sup>14</sup> These dictionary definitions best reflect how a reasonable consumer would interpret the word “humane.”

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<sup>7</sup> FTC Policy Statement on Deception.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> FTC Policy Statement Regarding Advertising Substantiation.

<sup>11</sup> *The New Oxford American Dictionary* 825 (2nd Ed. 2005).

<sup>12</sup> *Merriam-Webster's Collegiate Dictionary* 564 (10th ed.1993).

<sup>13</sup> [www.dictionary.reference.com/browse/humane](http://www.dictionary.reference.com/browse/humane)

<sup>14</sup> [www.thefreedictionary.com/humane](http://www.thefreedictionary.com/humane)

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## **V. “Humane” and “Lawful” Are Not the Same**

Complainants anticipate that KFC may respond to this complaint by stating that chickens raised for sale in its restaurants are raised in conformance with the law. However, “humane” and “lawful” are not the same. In fact, in recognition that farm animals are not treated humanely, most every state’s cruelty-to-animals statute exempts customary animal husbandry practices from criminal prosecution for cruel or inhumane treatment. Similarly, farm animals are not covered by the federal Animal Welfare Act, and chickens are not covered by the federal Humane Methods of Slaughter Act. Thus, KFC suppliers can use customary animal husbandry practices that are inhumane to chickens without fear of criminal prosecution, and can claim that they operate in compliance with the law, but that does not mean KFC can truthfully claim the practices—practices such as detailed and depicted in this complaint—are “humane” to chickens.

## **VI. Humane Treatment is Material to Consumers**

The FTC has recognized the importance to consumers of animal husbandry claims and the marketplace premium created by these types of advertisements in at least four separate matters. First, in a complaint filed by PETA in 2002 challenging “Happy Cows” advertisements, the FTC decided not to act, but nonetheless “recognize[d] that for many consumers the treatment of farm animals is a moral and/or ethical issue, and that a market has developed for items that derive from animals that are treated in a more humane fashion.”

Second, in September of 2005 the FTC announced that the United Egg Producers’ “Animal Care Certified” seal would no longer be stamped on egg cartons nationwide after both the National Advertising Division of the Council of Better Business Bureaus and the National Advertising Review Board found that the seal program was misleading because consumers could

reasonably believe hens who laid eggs sold in cartons bearing the “Animal Care Certified” seal were accorded a more humane level of care than UEP required of those using the seal.<sup>15</sup>

Third, in administrative and court documents related to the proposed merger of Whole Foods and Wild Oats markets, the FTC noted that both companies spent substantial resources on developing a trustworthy reputation “that all products are natural, that products labeled ‘organic’ are properly labeled, *that the store’s suppliers practice humane animal husbandry*, and that the store’s actions are ecologically sound.”<sup>16</sup> The FTC recognized that such claims “create substantial brand equity for premium natural and organic supermarkets . . . .”<sup>17</sup>

And, fourth, after PETA and others filed complaints in 2008 about Motomco’s misleading labels on its glue traps, the FTC responded to individual complainants, noting that the “FTC appreciates that, for many consumers, a company’s claim that its products are humane is important to their decision whether or not to purchase products from that company.”<sup>18</sup>

The FTC is not alone in recognizing the importance of the humane treatment of animals to consumers. In September of 2005, the USDA issued a notice entitled “Treatment of Live Poultry Before Slaughter” recognizing that “there has been considerable congressional and public interest in the humane treatment of animals, including poultry.”<sup>19</sup> In November 2008, California voters passed “Proposition 2,” an initiative which will outlaw the practice of keeping hens in cages so small they cannot turn around or extend their wings. This victory came with a

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<sup>15</sup> See September 30, 2005 letter from Mary Engle, FTC Associate Director Division of Advertising Practices, available at [www.ftc.gov/os/closings/staff/UEPStaffOpinionLetterCOK.pdf](http://www.ftc.gov/os/closings/staff/UEPStaffOpinionLetterCOK.pdf). See also Compassion Over Killing, “Animal Care Certified” Eggs (2008), <http://www.cok.net/camp/acc/>.

<sup>16</sup> (Emphasis added). See *In the Matter of d Market, Inc.*, Amended Complaint, Docket No. 9324 (September 8, 2008); *FTC v. Whole Foods, D.C. Cir. Memorandum in support of Plaintiff’s motions for temp. restraining order and preliminary injunction*, at p. 3, available at [www.ftc.gov/os/caselist/0710114/070710PublicVersionfrommemo.pdf](http://www.ftc.gov/os/caselist/0710114/070710PublicVersionfrommemo.pdf).

<sup>17</sup> *Id.*

<sup>18</sup> See e-mail response regarding Motomco’s rodent glue trap labels from Mary K. Engle, FTC Associate Director Division of Advertising. The Motomco FTC matter is still pending at the time of this complaint.

<sup>19</sup> *Treatment of Live Poultry Before Slaughter*, 70 Fed. Reg. 56624 (September 28, 2005). According to the notice, the USDA “had received nearly 13,000 e-mail messages supporting legislation to include provisions for the humane treatment of poultry in the Humane Methods of Slaughter Act.”

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higher proportion of the state's vote than any other ballot initiative in California history, despite a \$9 million campaign in opposition. Measures on behalf of pigs passed by similar overwhelming majorities in Florida and Arizona. And, finally, the meat industry publication, *Feedstuffs*, reported that up to 55 percent "of consumers say they would pay 10% more for meat and dairy products produced under humane conditions."

In sum, a company's explicit claim of humane treatment of animals is a material representation, *per se*, and need not be revalidated by new and costly consumer surveys every time yet another company has to be called to account for its false statements about care accorded animals.

## **VII. KFC's Claims of Humane Treatment**

As noted in the Introduction, KFC claims that it is committed to humane treatment of animals. KFC's website contains six web pages heralding its supposed commitment to animal welfare.<sup>20</sup> These pages state, in part:

- "Yum! Brands, parent company of KFC, is committed to the humane treatment of animals."<sup>21</sup>
- "KFC believe[s] treating animals humanely and with care is a key part of our quality assurance efforts. This means animals should be free from mistreatment at all possible times from how they are raised and cared for to how they are transported and processed."<sup>22</sup>
- "[A]s a major purchaser of food products, we have the opportunity, and responsibility, to influence the way animals supplied to us are treated. We take that responsibility very seriously, and we are monitoring our suppliers on an

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<sup>20</sup> The "About Us" portion of KFC's website has a section detailing its "Social Responsibility," which includes its "Animal Welfare Program." Within the "Animal Welfare Program" area of its website, KFC makes numerous explicit and implicit claims of humane treatment on five web pages entitled: (1) "Guiding Principles," (2) "Latest News," (3) "Advisory Council," (4) "Welfare Guidelines," and (5) "Facts."

<sup>21</sup> [www.kfc.com/about/animalwelfare.asp](http://www.kfc.com/about/animalwelfare.asp)

<sup>22</sup> [www.kfc.com/about/animalwelfare\\_principles.asp](http://www.kfc.com/about/animalwelfare_principles.asp)  
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ongoing basis to determine whether our suppliers are using humane procedures for caring for and handling animals they supply to us.”<sup>23</sup>

Further, in the recent past, KFC repeatedly made claims that appeared in print media about its commitment to the humane treatment of animals. Here are just a few examples:

- “KFC is committed to the well-being and humane treatment of chickens.” (*The Colorado Springs Gazette*, July 12, 2008).
- “In a statement, KFC spokesman Rick Maynard said the fried chicken chain ‘is committed to the well-being and humane treatment of chickens.’” (*The Boston Herald*, May 13, 2008).
- “KFC is committed to the wellbeing and humane treatment of chickens.” (*The New York Post*, March 12, 2008).
- “KFC spokesman Rick Maynard said, KFC is committed to the well-being and humane treatment of chickens and ‘we’re proud of our responsible, industry leading animal welfare guidelines.’” (*Brandweek*, October 1, 2007).
- “Rick Maynard, spokesman for KFC in Louisville, Ky., said the company is committed to the well-being and humane treatment of chickens.” (*Pittsburgh Post-Gazette*, February 24, 2008).

### **VIII. KFC’s Claims of Commitment to Humane Treatment are Objectively and Demonstratively False**

KFC does not itself raise and kill chickens, but rather contracts with poultry suppliers to provide chicken to its restaurants. While KFC could simply avoid all public statements about the care of chicken destined for its restaurants, it has instead chosen to make representations to consumers about its animal welfare policies, and so has the obligation to be accurate and truthful about what those policies mean for chickens. KFC says that it is committed to the humane treatment of the chickens it sells in its restaurants. In claiming to be humane, it claims to be compassionate, benevolent, sympathetic, tender, kind, and merciful to chickens.<sup>24</sup> But KFC

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<sup>23</sup> [www.kfc.com/about/animalwelfare.asp](http://www.kfc.com/about/animalwelfare.asp)

<sup>24</sup> See definitions of “humane,” *infra*.  
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knows that the standard practices its suppliers use include: (1) breeding and drugging<sup>25</sup> chickens to unnaturally and rapidly gain weight, which causes painful bone disorders and lameness; (2) raising chickens in packed sheds where ammonia from excrement burns the chickens' eyes, skin, throats, and lungs; (3) handling and transporting chickens in a fast and rough manner that leads to dislocated and broken bones, internal hemorrhaging, and suffocation; and (4) putting chickens through a slaughter process that results in broken bones, bruising, hemorrhaging, live conscious throat-cutting, and live conscious scalding.

1. Manipulated growth rate cripples chickens.



This chicken is from Compassion Over Killing's (COK) investigation of a Maryland KFC supplier, during which investigators repeatedly documented severe and crippling leg disorders. Because chickens have been bred and drugged to grow at an unnaturally fast rate, up to 90% of KFC's supplier chickens will suffer crippling disorders or broken bones.

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<sup>25</sup> Complainants anticipate that KFC will attempt to deflect discussion of selective breeding and drugging by talking only about drugging, then claim that *hormones* are not used on chickens it sells in its restaurants. However, complainants understand that KFC suppliers make routine use of *antibiotics* to facilitate rapid growth of chickens in what otherwise would be an even more disease-ridden environment.

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This chicken's leg disorder makes moving—let alone walking—extremely difficult. Chickens do not receive individualized veterinary care and are left to suffer without treatment or relief. Poultry expert Dr. Ian Duncan has stated that the fast growth of chickens killed for meat is the biggest welfare problem in the industry.

The chicken industry, including KFC's suppliers, grow chickens more than five times faster than they grew naturally a century ago.<sup>26</sup> Because these chickens are selectively bred for rapid weight gain, many of those served in KFC restaurants suffer from debilitating leg conditions. One study found that 90 percent of chickens had a visible abnormality in their walk due to this overgrowth and 26 percent of chickens suffer chronic pain in their final weeks of life due to bone disease.<sup>27</sup> Another study found that 30-49 percent of chickens had painful leg deformities.<sup>28</sup>

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<sup>26</sup> "U.S. Broiler Performance (Current as of November 2, 2006): 1925 to Present," National Chicken Council, [www.nationalchickencouncil.com/statistics/stat\\_detail.cfm?id=2](http://www.nationalchickencouncil.com/statistics/stat_detail.cfm?id=2).

<sup>27</sup> Kestin SC, Knowles TG, Tinch AE, and Gregory NG. 1992. Prevalence of leg weakness in broiler chickens and its relationship with genotype. *The Veterinary Record* 131:190-4.  
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This breeding and drugging for size and rapid growth can lead to various painful musculoskeletal diseases such as spondylolisthesis (kinky-back) and tibial dyschondroplasia, and is the root cause of spontaneous leg fractures as the chickens increase in weight.<sup>29</sup> A number of chickens with these leg deformities die, unable to reach food or water.<sup>30</sup> Chickens who have become lame can do little more than lie in the excrement that covers the floors. In addition to lameness, these chickens also suffer pulmonary hypertension syndrome, fatty liver and kidney syndrome, ascites, and acute death syndrome.<sup>31</sup> One group of experts summed up the plight of these chickens, saying, “We consider that birds might have been bred to grow so fast that they are on the verge of structural collapse.”<sup>32</sup> According to *Feedstuffs*, a meat industry magazine, “[b]roilers now grow so rapidly that the heart and lungs are not developed well enough to support the remainder of the body, resulting in congestive heart failure and tremendous death losses.”<sup>18</sup> Renowned animal scientist Dr. Ian Duncan has concluded, that “[w]ithout a doubt, the biggest welfare problems for meat birds are those associated with fast growth.”<sup>33, 34</sup>

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<sup>28</sup> Tablante NL, Estevez I, and Russek-Cohen E. 2003. Effect of perches and stocking density on tibial dyschondroplasia and bone mineralization as measured by bone ash in broiler chickens. *Journal of Applied Poultry Research* 12:53-9.

<sup>29</sup> Julian RJ. 2004. Evaluating the impact of metabolic disorders on the welfare of broilers. In: Weeks CA and Butterworth A (eds.), *Measuring and Auditing Broiler Welfare* (Cambridge MA: CABI Publishing, pp. 51-9).

<sup>30</sup> Sørensen P, Su G, and Kestin SC. 1999. The effect of photoperiod: scotoperiod on leg weakness in broiler chickens. *Poultry Science* 78:336-42.

<sup>31</sup> Julian RJ. 2004. Evaluating the impact of metabolic disorders on the welfare of broilers. In: Weeks CA and Butterworth A (eds.), *Measuring and Auditing Broiler Welfare* (Cambridge MA: CABI Publishing, pp. 51-9).

<sup>32</sup> Wise D and Jennings A. 1972. Dyschondroplasia in domestic poultry. *The Veterinary Record* 91:285-6. (as quoted by the Humane Society of the United States. *An HSUS Report: The Welfare of Animals in the Broiler Chicken Industry*).

<sup>33</sup> Duncan IJH, “Welfare Problems of Poultry,” in Benson JB, Rollin BE (eds.) *The Well-Being of Farm Animals* (Ames, IA: Blackwell, 2004), pp. 307-324.

<sup>34</sup> Notably, Dr. Duncan was previously a member of KFC’s Animal Welfare Advisory Council who resigned in protest, stating “progress was extremely slow, which is why I resigned. It was always going to be happening later. They just put off actually creating standards. . . . I suspect that upper management didn’t really think that animal welfare was important.” Magda Koneiczna, “KFC Not Progressing on Animal Welfare,” *Guelph Mercury* Oct. 26, 2005.

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2. Extreme crowding, filthy conditions, and ammonia burns.

The poultry industry deals primarily in volume, and so chickens are raised in sheds, on the same litter throughout their lives, in as large a number and as little space as possible; typically, feces and urine are not cleaned out during the chickens' lifetimes, but only when they are sent to slaughter. The *Commercial Chicken Production Manual* states, "limiting the floor space gives poorer results on a bird basis, yet the question has always been and continues to be: What is the least amount of floor space necessary per bird to produce the greatest return on investment?"<sup>35</sup>



Conditions inside a chicken shed. It is common for 20,000 or more chickens to be confined to each house with 80-130 square inches of space per bird.

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<sup>35</sup> North M and Bell D. 1990. *Commercial Chicken Production Manual*, 4th Edition (New York: Van Nostrand Reinhold, p. 456) (as quoted by the Humane Society of the United States. An HSUS Report: The Welfare of Animals in the Broiler Chicken Industry) {00024549 4}





Ammonia from accumulated waste matter eats away at chickens feathers and flesh, as pictured above. At a KFC supplier in West Virginia, a PETA investigator witnessed chickens with ammonia burns on a daily basis during his eight months of employment.

It is common for 20,000 (or more) chickens to be confined to each shed with only 130 square inches of space per bird (or less).<sup>36</sup> Studies have found that increased crowding leads to increased difficulty in walking due to leg deformities and improper development.<sup>37</sup> Severe crowding with no change in litter also causes high levels of excrement, ammonia fumes, and dust in the air, all of which cause suffering and ill health. Ammonia levels can be as high as 200 parts per million, which is ten times the amount considered to be safe.<sup>38</sup> Chickens "are inhaling

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<sup>36</sup> Ernst RA. 1995. University of California Cooperative Extension, Poultry Fact Sheet No. 20, June 1995, [animalscience.ucdavis.edu/Avian/pfs20.htm](http://animalscience.ucdavis.edu/Avian/pfs20.htm).

<sup>37</sup> Dawkins M, Donnelly C, Jones T. Chicken Welfare is influenced more by housing conditions than by stocking density. *Nature*. January 22, 2004;427(6972):342-344.

<sup>38</sup> Carlile FS. 1984. Ammonia in poultry houses: a literature review. *World's Poultry Science Journal* 40:99-113. Wathes CM. 1998. Aerial emissions from poultry production. *World's Poultry Science Journal* 54:241-51. {00024549 4}

harmful bacteria constantly” and develop respiratory infections, such as airsacculitis.<sup>39</sup> Overcrowding can cause these respiratory infections to spread at an alarming rate.<sup>40</sup> And the excess of ammonia burns the eyes and throats and causes extremely painful contact dermatitis burns on the skin. With regard to the contact dermatitis, Dr. Bernard Rollin explains, “to have such lesions the animals must have been living and walking in unacceptable levels of excrement.”<sup>41</sup> Ammonia also causes pulmonary congestion, swelling, hemorrhage, and even blindness.<sup>42</sup>

A *Washington Post* writer who visited a chicken shed said that the “dust, feathers and ammonia choke the air in the chicken house and fans turn it into airborne sandpaper, rubbing skin raw.” Michael Specter, a longtime staff writer for *The New Yorker*, also visited a chicken shed and wrote:

“I was almost knocked to the ground by the overpowering smell of feces and ammonia. My eyes burned and so did my lungs, and I could neither see nor breathe.... There must have been 30,000 chickens sitting silently on the floor in front of me. They didn’t move, didn’t cluck. They were almost like statues of chickens, living in nearly total darkness, and they would spend every minute of their six-week lives that way.”

The effects of living in squalor have also been documented in all of PETA’s investigations of KFC suppliers. In an investigation of a KFC supplier in West Virginia, the investigator wrote the following:

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<sup>39</sup> Duncan IJH. 2001. Welfare problems of meat-type chickens. Farmed Animal Well-Being Conference at the University of California-Davis, June 28-29.

<sup>40</sup> Wathes CM. 1998. Aerial emissions from poultry production. *World’s Poultry Science Journal* 54:241-51.

<sup>41</sup> Letter from Bernard E. Rollin, Ph.D., Distinguished Professor, Professor of Philosophy, Animal Sciences, Biomedical Sciences and University Bioethicist, Colorado State University, to Cem Akin, Research Associate, People for the Ethical Treatment of Animals (June 28, 2004).

<sup>42</sup> See, e.g., Berg C. 1998. Foot-pad dermatitis in broilers and turkeys. *Veterinaria* 36; Wang GJ, Ekstrand C, and Svedberg J. 1998. Wet litter and perches as risk factors for the development of foot pad dermatitis in floor-housed hens. *British Poultry Science* 39:191-7; Wathes CM. 1998. Aerial emissions from poultry production. *World’s Poultry Science Journal* 54:241-51; Dozier WA. Ammonia & Broiler Performance. *Poultry Digest Online* Vol. 2, No. 12

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“I witnessed and documented severe lesions on the feet of chickens. I observed this condition on a daily basis. These lesions—ammonia burns—develop when birds are raised in densities that are too high, with poor-quality litter and inadequate ventilation . . . birds continued to arrive at the plant with severe burns throughout my [eight months of] employment.”<sup>43</sup>

A PETA investigator at George’s Poultry in Missouri, a company that KFC rewarded with its “Supplier of the Year” award, noted:

“[m]any birds were covered with feces, and many in each load had what appeared to be bad burns, apparently from the ammonia fumes caused by the waste build-up in the factory farms that they came from.”<sup>44</sup>

A COK investigation of a Maryland KFC supplier documented many dead and dying chickens whose bodies were raw and burned from ammonia scalding after living in the excrement of thousands of birds.<sup>45</sup> On November 12, 2007, PETA’s investigator at a KFC supplier in Tennessee estimated that 75 percent or more of the chickens’ feet that he witnessed were covered with large ammonia burns.<sup>46</sup>

### 3. Chickens broken and hemorrhaging from gathering and transport.

The suffering that chickens endure in growing sheds continues as they are gathered and then transported to the slaughterhouses. The most common method of gathering chickens for transport is for workers to grab birds by their legs and stuff or throw them into transport crates; this is often done quickly and carelessly. In the gathering process, many chickens are injured “suffering dislocated and broken hips, legs, and wings, as well as internal hemorrhages.”<sup>47</sup> One study found that 35 percent of birds that are dead on arrival at slaughterhouses can be attributed

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<sup>43</sup> [www.kentuckyfriedcruelty.com/pdfs/pp\\_eyewitness.pdf](http://www.kentuckyfriedcruelty.com/pdfs/pp_eyewitness.pdf)

<sup>44</sup> [www.kentuckyfriedcruelty.com/PDFs/GeorgesKFCLogNotes.pdf](http://www.kentuckyfriedcruelty.com/PDFs/GeorgesKFCLogNotes.pdf)

<sup>45</sup> [www.chickenindustry.com/cfi/photogallery/index.php](http://www.chickenindustry.com/cfi/photogallery/index.php).

<sup>46</sup> Investigator’s log notes from Tennessee Tyson Foods investigation.

<sup>47</sup> Gregory NG and Wilkins LJ. 1992. Skeletal damage and bone defects during catching and processing. In: Whitehead CC (ed.), *Bone Biology and Skeletal Disorders in Poultry* (Abingdon, England: Carfax Publishing). (as cited by the Humane Society of the United States. An HSUS Report: The Welfare of Animals in the Broiler Chicken Industry).

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to catching and transportation injuries.<sup>48</sup> Another study estimated that 90 percent of bruises observed at processing plants can be attributed to this gathering and crating process.<sup>49</sup> And yet another study concluded that, “[c]hickens find transport a fearful, stressful, injurious and even fatal procedure.”<sup>50</sup> The chickens are transported in multi-tiered trucks, often with 6,000-9,000 birds per truck, where they are exposed to all forms of inclement and extreme weather. A significant number of these chickens do not survive transport, having died from hypothermia, hyperthermia, or heart failure.<sup>51</sup>



When they arrive at the slaughterhouse, chickens are dumped out of the transport crates. Workers then grab the birds and force their often broken legs into shackles. A PETA investigator worked on a “dumper” for a KFC supplier in Missouri where he witnessed birds piled on top of others leading to “crushed bodies, suffocation, and death.”

<sup>48</sup> Bayliss PA and Hinton MH. 1990. Transportation of broilers with special reference to mortality rates. *Applied Animal Behaviour Science* 28:93-118.

<sup>49</sup> McGuire AR. 2003. Improving carcass quality. *Poultry* 10(1):25-6.

<sup>50</sup> Webster AJ, Tuddenham A, Saville CA, and Scott GB. 1993. Thermal stress on chickens in transit. *British Poultry Science* 34:267-77. (as quoted by the Humane Society of the United States. An HSUS Report: The Welfare of Animals in the Broiler Chicken Industry)

<sup>51</sup> Elrom K. 2000. Handling and transportation of broilers: welfare, stress, fear and meat quality Part V: Transport to the Slaughterhouse. *Israel Journal of Veterinary Medicine* 56(1).  
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These chickens were mangled and killed in the dumping process at a KFC supplier. The investigator that took this photo stated: “There really does not seem to be much variation in the amount of mangled and injured birds each day, which amounts to at least 100 birds (maybe far more) a shift that are injured in some way by the transport crates or the dumper. Almost every crate that comes in directly injures birds, either during packing when they can get pierced by the busted cage wiring, or by the dumper when the doors smash limbs and necks.”

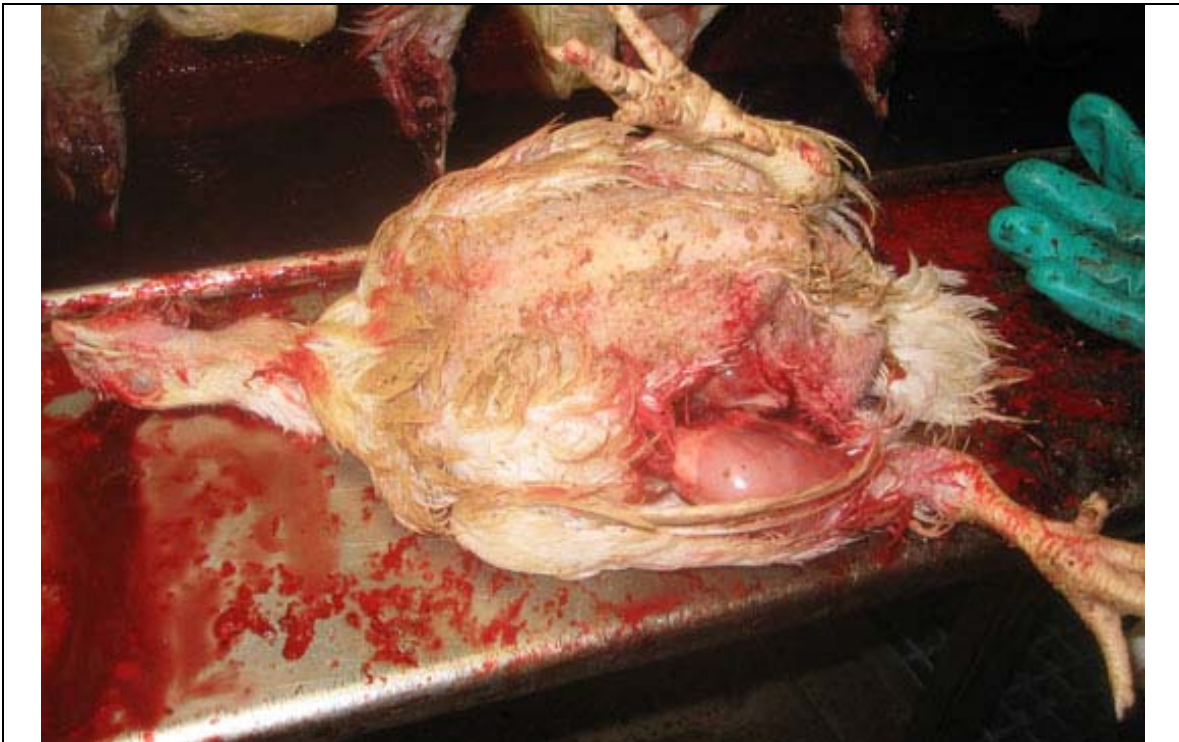
At George’s, Pilgrim’s Pride, Tyson Foods, and Perdue – all KFC suppliers – PETA and COK investigators documented the receiving, or “dumping,” process immediately following transport. Fifty or more chickens may be dumped in a pile on the conveyor line from a distance of eight feet. An investigator at Pilgrims Pride noted how chickens would suffocate at the bottom of this pile.<sup>52</sup>

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<sup>52</sup> [www.kentuckyfriedcruelty.com/pdfs/pp\\_eyewitness.pdf](http://www.kentuckyfriedcruelty.com/pdfs/pp_eyewitness.pdf). Pilgrims Pride was named by KFC as a “supplier of the year.”

4. Live chickens cruelly-slaughtered.

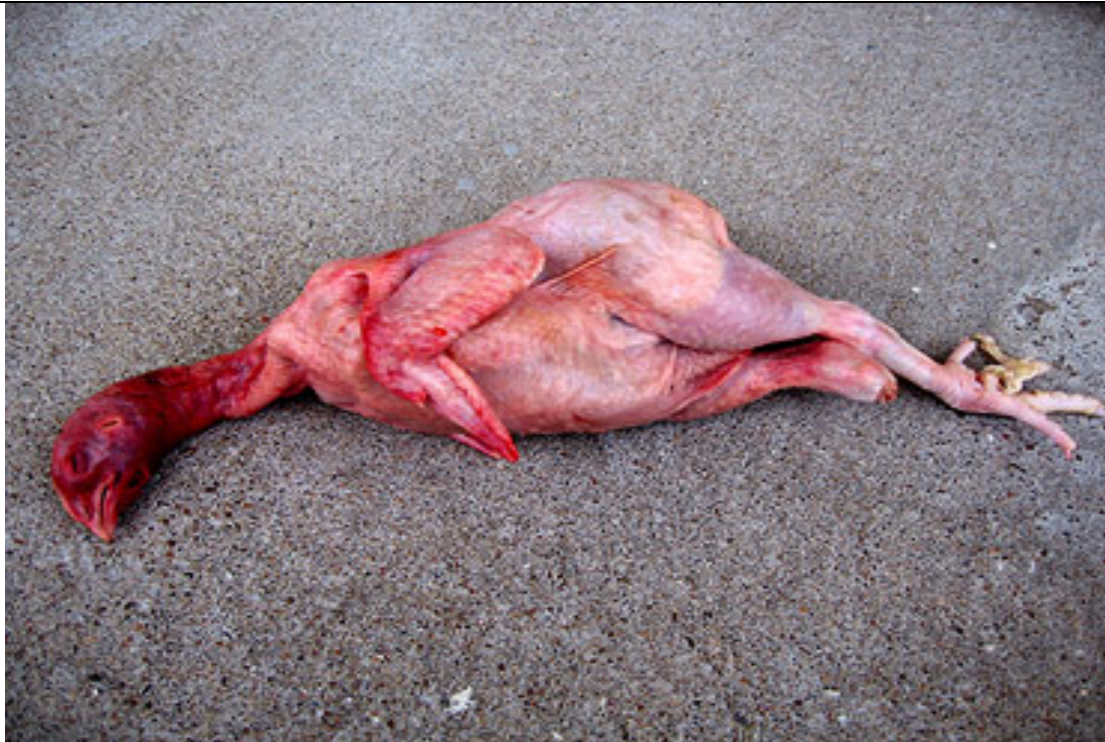
After chickens are dumped out of transport crates onto a slaughterhouse's conveyor belt, they are grabbed by workers, who roughly snap the animals' legs into tight-fitting metal shackles, causing further fear and pain.<sup>53</sup> Leg deformities, leg diseases, and other injuries typical of KFC chickens exacerbate the pain of rough shackling.<sup>54</sup> The birds then proceed to the immobilization area, where their heads are suppose to pass through an electrically charged water bath. This electric immobilization system is intrinsically inhumane and would be illegal if birds were covered under the Humane Methods of Livestock Slaughter Act, which requires that



This chicken was cut above her right leg. During a PETA investigation of a Tyson Foods slaughterhouse, a supervisor admitted on camera that the blades often miss the birds' necks and cut them in other parts of their bodies, causing painful injuries. Tyson Foods is a KFC supplier.

<sup>53</sup> DG Satterlee, LH Parker, SA Castille, GG Cadd, and RB Jones. Struggling behavior in shackled male and female broiler chickens, Poultry Science. 2000 79: 652-655.

<sup>54</sup> Satterlee, LH Parker, SA Castille, GG Cadd, and RB Jones. Struggling behavior in shackled male and female broiler chickens, Poultry Science. 2000 79: 652-655; Gentle MJ, Tilson VL. 2000 Aug. Nociceptors in the legs of poultry: Implications for potential pain in preslaughter shackling. Animal Welfare, 9:227-236. {00024549 4}



This scalded chicken was from a KFC “supplier of the year” in Missouri. The USDA estimates that each year nearly 3 million chickens are not killed by the blade designed to slice chickens’ throats and enter scalding tanks designed to remove their feathers though still alive. Because the birds are essentially boiled with their blood still inside of them, they come out of the scald tank bright red, as seen above.

animals killed for food being unconscious before they are shackled and their throats slit.

With this system pre-immobilization shocks are both painful and common, occurring, for example, when a bird’s wing comes into contact with the electric bath before the bird’s head does. Dr. Neville Gregory observed that 13.5 percent of chickens at one slaughterhouse received “painful and alarming” shocks before fully entering the electric bath.<sup>55</sup>

In the United States, the electric water bath is intended to ensure that birds are hanging uniformly when they hit the throat-slitting blade; it is not designed to cause unconsciousness. Voltage levels are not sufficient to render birds insensible to pain, and the birds are merely

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<sup>55</sup> Bell R. 1997 McLibel Verdict, available at: [www.mcspotlight.org/case/trial/verdict/verdict\\_jud2c.html](http://www.mcspotlight.org/case/trial/verdict/verdict_jud2c.html). {00024549 4}

immobilized. Studies suggest that birds experience pain after electric immobilization but are not able to display a pain reflex because of temporary paralysis. This means that most, if not all, birds slaughtered in the United States with this method—including those slaughtered for KFC—have their throats slit while they are still conscious and able to feel pain.

A metastudy of electric immobilization methods verifies that in North America, “the development and application of [electrical] poultry stunning had more to do with facilitating processing than with humane slaughter.”<sup>56</sup> Some birds inevitably will get too much current, causing bone breaks and muscle hemorrhaging, while others will get too little and suffer during bleeding. Yet others are able to avoid the electric bath by lifting their heads or flapping their wings, and these birds are still conscious and not paralyzed when they are moved to the next area. Dr. Gomez Gonzales, a meat-management technician for the McDonald’s Corporation, has testified that between 1 and 2 percent of chickens miss the electric bath entirely in the slaughterhouses of the company’s U.S. suppliers.<sup>57</sup> This number is about half what are estimated by USDA, but regardless, even these arguably low numbers translate into millions of chickens per year completely conscious and flapping around when they reach the kill blade. This means that the animals are likely to have their wings, legs, or chests sliced open.

Chickens who miss or are mutilated but not killed by the blade are fully conscious when they are plunged into tanks of scalding-hot water intended to defeather dead birds.<sup>58</sup> USDA records from a recent year show that there were at least three million chickens scalded alive that

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<sup>56</sup> Boyd F. 1994. Humane slaughter of poultry: The case against the use of electrical stunning devices. *Journal of Agricultural and Environmental Ethics* 7:221-36.

<sup>57</sup> Bell R 1997 Jun 19. McLibel Verdict. Available at [www.mcspotlight.org/case/trial/verdict/verdict\\_jud2c.html](http://www.mcspotlight.org/case/trial/verdict/verdict_jud2c.html)

<sup>58</sup> Heath GBS. 1984. The Slaughter of Broiler Chickens. *World’s Poultry Science Journal* 40:151-9; Griffiths GL, Purcell DA. 1984. A survey of slaughter procedures used in chicken processing plants. *Australian Veterinary Journal* 61:399-401.

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year.<sup>59</sup> At one KFC “Supplier of the Year,” an investigator saw roughly 50 chickens scalded to death in just one morning.<sup>60</sup> At a KFC supplier in Alabama, an investigator noted the following:

Many mutilated chickens were coming down the line. One bird's chest was slashed open. Some were split in half, while some were completely gone—the only thing left was their legs hanging from the shackles.<sup>61</sup>

The mutilations and scalding of live chickens described above are inevitable in the systems KFC suppliers choose to use. Poultry welfare expert Dr. Bruce Webster says, “The current dumping-shackling-electrical stunning process is a dinosaur. It’s inevitably rough.”<sup>62</sup> Poultry slaughter expert Dr. Mohan Raj says, “The complexity of multiple bird water bath stunning systems makes welfare management extremely difficult, if not impossible, and therefore could be deemed unfit for the purpose.”<sup>63</sup>

While the practices described in subparts 1-4 of this section may be legal, none of these practices could possibly be construed as compassionate, benevolent, sympathetic, tender, kind, or merciful. To call them “humane,” as KFC does, is to lie.

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<sup>59</sup> Jeff Welty, *Humane Slaughter Laws*, 70 *Law and Contemporary Problems* 175, 181-82 (Winter 2007).

<sup>60</sup> [www.kentuckyfriedcruelty.com/PDFs/GeorgesKFCLogNotes.pdf](http://www.kentuckyfriedcruelty.com/PDFs/GeorgesKFCLogNotes.pdf)

<sup>61</sup> [www.torturedbytyson.com/log.asp](http://www.torturedbytyson.com/log.asp)

<sup>62</sup> Dr. A. Bruce Webster, PhD, College of Agricultural and Environmental Sciences, Poultry Science Department, University of Georgia, as quoted in: Bagel, Ann. “LIVE FROM IPE: Experts link bird welfare to company culture.” *Meatingplace*. 01.28.05. <http://www.meatingplace.com>. Also quoted in: *People for the Ethical Treatment of Animals*. “Controlled Atmosphere Killing vs. Electric Immobilization: A Comparative Analysis of Poultry-Slaughter Systems.” June 2007. Available at [www.peta.org/cak/CAK+report.pdf](http://www.peta.org/cak/CAK+report.pdf).

<sup>63</sup> Dr. A.B.M. Raj, BVSc, MVSc, PhD, School of Clinical Veterinary Science, Division of Farm Animal Science, University of Bristol. “Humane Slaughter of Poultry”. Unpublished. December 2006. Provided to Noam Mohr. Also quoted in: *People for the Ethical Treatment of Animals*. “Controlled Atmosphere Killing vs. Electric Immobilization: A Comparative Analysis of Poultry-Slaughter Systems”. June 2007. Available at [www.peta.org/cak/CAK+report.pdf](http://www.peta.org/cak/CAK+report.pdf)  
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**IX. KFC Falsely Claims that it Requires its Suppliers to Comply with Strict Animal Welfare Guidelines.**

KFC's deceptive claims go beyond general commitments to the humane treatment of chickens. KFC says it has adopted what it calls "strict welfare guidelines" and claims that it requires its suppliers to adhere to these guidelines. For example, KFC makes the following statements about its supplier guidelines:

- "In consultation with our Council, KFC has developed guidelines and audit programs for our suppliers in the broiler industry."<sup>64</sup>
- "KFC has implemented a farm level audit program - a program which is industry-leading in the areas of poultry care and handling."<sup>65</sup>
- "While we don't own any poultry facilities, we **require** all of our suppliers to follow welfare guidelines developed by us with leading experts on our Animal Welfare Advisory Council."<sup>66</sup>
- "We're proud of our responsible, industry-leading animal welfare guidelines."<sup>67</sup>
- "KFC is committed to the well-being and humane treatment of chickens and we're proud of our responsible, industry-leading animal welfare guidelines."

KFC's so-called "required" "guidelines" address specific practices of its suppliers. For example, KFC's required guidelines "call for transport crates to be in good repair. KFC recommends that there be no crate damage that would allow injury to birds or allow crates to accidentally open."<sup>68</sup> And the required guidelines state "KFC recommends that its suppliers implement an incentive program that rewards catching crews for minimizing injury if KFC's audit reveals that birds are being injured during the catching process."<sup>69</sup> The required guidelines

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<sup>64</sup> [www.kfc.com/about/animalwelfare.asp](http://www.kfc.com/about/animalwelfare.asp)

<sup>65</sup> [www.kfc.com/about/animalwelfare\\_principles.asp](http://www.kfc.com/about/animalwelfare_principles.asp)

<sup>66</sup> Anthony Rifulato, "PETA protesters cry fowl," Herald Community Newspapers Online). (Emphasis added; see also use of the word "require" in bullets under Part X, below.

<sup>67</sup> [www.iht.com/articles/2007/01/17/business/yum.php](http://www.iht.com/articles/2007/01/17/business/yum.php) (Jan. 17, 2007).

<sup>68</sup> [www.kfc.com/about/animalwelfare\\_guidelines.asp](http://www.kfc.com/about/animalwelfare_guidelines.asp).

<sup>69</sup> [www.kfc.com/about/animalwelfare\\_guidelines.asp](http://www.kfc.com/about/animalwelfare_guidelines.asp).  
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further state that “every reasonable precaution should be taken to minimize injury to birds arriving at our suppliers' plants.”<sup>70</sup>

Regardless, PETA’s investigations confirm that KFC’s guidelines are not being meaningfully or effectively enforced. In PETA’s investigation of KFC supplier Tyson Foods, the investigator noted, “Chickens frequently arrived to the plant mutilated or dead, some with legs or wings ripped off, decapitated, or with open wounds with blood spilling out.”<sup>71</sup> An investigator at Tyson Food’s Georgia plant noted repeatedly seeing dead birds, including on one shift where there “were about 45 or 50 birds who died horribly before they ever came out of the crate. They were severely mutilated.”<sup>72</sup> An undercover PETA investigator at a KFC “Supplier of the Year,” George’s Poultry, found “wires on many of the crates are bent out of shape, and some have wires jutting out that stab the birds.”<sup>73</sup> He also noted:

There really does not seem to be much variation in the amount of mangled and injured birds each day, which amounts to at least 100 birds (maybe far more) a shift that are injured in some way by the transport crates or the dumper. Almost every crate that comes in directly injures birds, either during packing when they can get pierced by the busted cage wiring, or by the dumper when the doors smash limbs and necks.<sup>74</sup>

Like its claims of commitment to the humane treatment of chickens, KFC’s repeated claim that it holds its suppliers to “required” “industry-leading” guidelines is unfair and deceptive, and thus violates consumer protection laws.

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<sup>70</sup> [www.kfc.com/about/animalwelfare\\_guidelines.asp](http://www.kfc.com/about/animalwelfare_guidelines.asp)

<sup>71</sup> Tyson Foods Georgia Investigator’s log notes.

<sup>72</sup> Tyson Foods Georgia Investigator’s log notes.

<sup>73</sup> [www.kentuckyfriedcruelty.com/PDFs/GeorgesKFCLogNotes.pdf](http://www.kentuckyfriedcruelty.com/PDFs/GeorgesKFCLogNotes.pdf)

<sup>74</sup> George’s Investigator’s log notes, April 3, 2007.

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**X. KFC Advertises the Existence of its “Animal Welfare Advisory Council,” Though that Council does Little-to-Nothing to Ensure the Humane Treatment of Animals.**

To buttress its claims of a commitment to humane practices, KFC also created a body that it refers to as its “Animal Welfare Advisory Council” (AWAC).<sup>75</sup> At KFC’s website, KFC describes the AWAC as consisting of “highly regarded experts in the field” and claim that the AWAC provides KFC “with information and advice based on relevant data and scientific research.” Additionally, KFC claims that the AWAC “has been a key factor in formulating our animal welfare program.” The existence of the AWAC is repeatedly mentioned by KFC in the press:

- “KFC is committed to the well-being and humane treatment of chickens and we’re proud of our responsible, industry-leading animal welfare guidelines. We . . . require all of our suppliers to follow welfare guidelines developed by us with leading experts on our Animal Welfare Advisory Council.”<sup>76</sup>
- “Rick Maynard, spokesman for KFC in Louisville, Ky., said, the company is committed to the well-being and humane treatment of chickens. . . . [W]e require all of our suppliers to follow welfare guidelines developed by us with leading experts on our Animal Welfare Advisory Council.”<sup>77</sup>
- “[W]e require all of our suppliers to follow welfare guidelines developed by us with leading experts on our Animal Welfare Advisory Council.”<sup>78</sup>
- “While we don’t own any poultry facilities, we require all of our suppliers to follow welfare guidelines developed by us with leading experts on our Animal Welfare Advisory Council.”<sup>79</sup>

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<sup>75</sup> See [www.kfc.com/about/animalwelfare.asp](http://www.kfc.com/about/animalwelfare.asp). The website states:

To assist us in [dealing with suppliers who promise to maintain our high standards and share our commitment to animal welfare], Yum! Brands formed the KFC Animal Welfare Advisory Council, which consists of highly regarded experts in the field. The Council provides us with information and advice based on relevant data and scientific research. The Animal Welfare Advisory Council has been a key factor in formulating our animal welfare program.

<sup>76</sup> Lexington Herald-Leader, September 24, 2007.

<sup>77</sup> Pittsburgh Post-Gazette, February 24, 2008.

<sup>78</sup> The Colorado Springs Gazette, July 12, 2008.

<sup>79</sup> Anthony Rifulato, “PETA protesters cry fowl”, Herald Community Newspapers Online, [www.zwire.com/site/news.cfm?BRD=1601&dept\\_id=477132&newsid=19187133&PAG=461&rfi=9](http://www.zwire.com/site/news.cfm?BRD=1601&dept_id=477132&newsid=19187133&PAG=461&rfi=9) (1/10/08) {00024549 4}



Despite these claims, the history and makeup of the AWAC demonstrate that it is used by KFC to deceive consumers into believing its suppliers treat chickens in a humane manner. Two members that have been or are serving on the AWAC are executives of Tyson Foods and Pilgrim's Pride, companies where PETA investigators documented the types of abuse described herein.<sup>80</sup> Moreover, previously when a group of AWAC members suggested ways to improve animal welfare, KFC simply ignored their advice. For example, on March 11, 2005, several members of KFC's AWAC gave their "Animal welfare recommendations and proposed plan of action for implementation at KFC suppliers" to KFC. These recommendations addressed how KFC should improve conditions for the chickens raised and killed for its restaurants.<sup>81</sup> But KFC refused to adopt a single one of these recommendations. In fact, five members of the AWAC resigned—most, if not all, in frustration or protest. Adele Douglass, a former member of the AWAC, told the Chicago Tribune: "[KFC] never had any [animal welfare committee] meetings. They never asked any advice, and then they touted to the press that they had this animal-welfare advisory committee. I felt like I was being used."<sup>82</sup> As noted above, Dr. Ian Duncan, another former member and North America's leading scientific expert on bird welfare, resigned in protest stating that he suspected "that upper management didn't really think that animal welfare was important."<sup>83</sup> Under these circumstances, KFC's statements about the AWAC are misleading and deceptive.

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<sup>80</sup> [www.kfc.com/about/animalwelfare\\_council.asp](http://www.kfc.com/about/animalwelfare_council.asp).

<sup>81</sup> Duncan, Grandin, and Raj in a letter to KFC COO Harvey Brownlee, "Animal welfare recommendations and proposed plan of action for implementation at KFC suppliers," March 11, 2005, accessible at <http://kentuckyfriedcruelty.com/pdfs/March11document.pdf>.

<sup>82</sup> Andrew Martin, "PETA Ruffles Feathers," Chicago Tribune Aug. 6, 2005.

<sup>83</sup> Supra. Magda Koneicznna, "KFC Not Progressing on Animal Welfare," Guelph Mercury Oct. 26, 2005. {00024549 4}

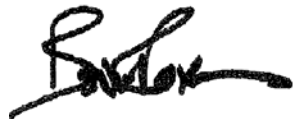
**XI. Requested Relief.**

KFC's claims pertaining to animal welfare are false and misleading. KFC's chickens are bred in a way that leaves many in pain and unable to walk; they are sickened and burned by the filth in sheds where they are confined for their short, miserable lives; they are broken in transit; and they are shocked, sliced open while conscious, and scalded alive at slaughterhouses. In the face of these documented practices, KFC is deceiving consumers about the treatment of chickens they buy from KFC and eat. KFC cannot continue to portray itself as a company that values animal welfare until vast and overdue changes are actually required of its suppliers. Until these changes are made, statements such as those documented herein are deceptive and unfair. The undersigned petitioners respectfully request that the FTC impose all appropriate penalties against KFC, and require KFC to remove the misleading statements from its website, cease making misleading statements to the media, and widely disseminate corrective advertising.

Submitted this 10th day of April, 2009.

**People for the Ethical Treatment of Animals (PETA)**

*Representing more than 2 million PETA members and supporters.*



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Authorized Representative  
By: Bonnie Robson, Deputy General Counsel



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**Bruce Friedrich**  
*In His Individual Capacity as a Consumer*