

University of Nebraska - Lincoln

DigitalCommons@University of Nebraska - Lincoln

---

B-Corp Case Studies by UNL Raikes Seniors

Jeffrey S. Raikes School of Computer Science  
and Management

---

Spring 2023

## Dealing with “Humanewashing” Claims: Vital Farms’ Crucial Next Step

Bryce Janke

*University of Nebraska - Lincoln*

Cole Johnson

*University of Nebraska - Lincoln*

Kieran McWilliams

*University of Nebraska - Lincoln*

Justin Morrow

*University of Nebraska - Lincoln*

Isabelle Schmidt

*University of Nebraska - Lincoln*

Follow this and additional works at: <https://digitalcommons.unl.edu/raikescases>



Part of the [Business Administration, Management, and Operations Commons](#)

---

Janke, Bryce; Johnson, Cole; McWilliams, Kieran; Morrow, Justin; and Schmidt, Isabelle, "Dealing with “Humanewashing” Claims: Vital Farms’ Crucial Next Step" (2023). *B-Corp Case Studies by UNL Raikes Seniors*. 5.

<https://digitalcommons.unl.edu/raikescases/5>

This Article is brought to you for free and open access by the Jeffrey S. Raikes School of Computer Science and Management at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in B-Corp Case Studies by UNL Raikes Seniors by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.

# Dealing with “Humanewashing” Claims:

## Vital Farms’ Crucial Next Step

### Abstract

Vital Farms prides itself in their ethical and environmentally-friendly production of pasture-raised eggs, butter, and ghee. A popular tagline for the company is “keeping it bullsh\*t-free.” This is core to their company mission and values. However, they are currently facing a PETA class action lawsuit for potential humanewashing and greenwashing, essentially false advertising. So, what happens when the Certified B-Corporation is under attack for the very thing that sets it apart from its competition? Is it possible to rebuild trust with the public and regain ethical standing after bad PR? What are humanewashing and greenwashing, and is Vital Farms guilty?

- Learning Objective 1** Discuss how to regain trust after bad PR or accusations of questionable character
- Learning Objective 2** Discuss how to retain your competitive advantage amidst a lawsuit
- Learning Objective 3** Discuss how to analyze existing operations throughout the supply/value chain and determine where changes need to be made to align with company values

The Texas-based company was founded in 2007 by Matt O’Hayer and wife Catherine Stewart (Vital Farms, 2023). The pair was eager to produce ethical food options and has since partnered with over 300 small family farms to make this dream a reality. Today, Vital Farms offers a variety of products but primarily focuses on eggs. As of November 2021, O’Hayer’s company earned just under 95% of its revenue from egg or egg-based products (B Corporation, Vital Farms, 2021). These products come from Vital Farms’ hens who are said to enjoy a minimum of 108 square feet of pasture per bird (Figure 1; Vital Farms, 2023).

The stated purpose of Vital Farms is to “improve the lives of people, animals, and the planet through food”. The company aims to do this by achieving their mission to “bring ethical food to the table.” Vital Farms prioritizes the long-term effects of their actions (Vital Farms, 2022).

### Ethical Practices

O’Hayer’s company practices pasture rotation, which is a natural method of land rejuvenation that eliminates the need for herbicide or pesticide. For Vital Farms, this means that hens are moved to a new area of pasture every three weeks (Figure 2; Vital Farms, 2023).

Vital Farms is also passionate about renewable energy (using 45% renewable energy), water conservation, and egg traceability (B Corporation, Vital Farms, 2021). An innovative technique for egg traceability on the Vital Farms website is the “Peek Into a Pasture with Traceability” videostream (Figure 3; Vital Farms, 2023). This feature allows users to enter the farm name printed on their egg carton to view the pasture where their eggs were laid.

*Bryce Janke, Cole Johnson, Kieran McWilliams, Justin Morrow, and Isabelle Schmidt, students of the Jeffrey S. Raikes School of Computer Science and Management, prepared this case. This case was developed solely to serve as a tool for class discussion and is not intended to serve as an endorsement, source of primary data, or illustration of effective or ineffective management.*

Vital Farms has also recently expanded into regenerative farming practices (Vital Farms, 2023). These practices are intended to be a step up from Vital Farms' already rigorous ethical practices. Syngenta Group, an agricultural science and technology company, describes regenerative agriculture as "an outcome-based food production system that nurtures and restores soil health, protects the climate and water resources and biodiversity, and enhances farms' productivity and profitability" (Syngenta Group, 2023). Vital Farms is currently in pursuit of a third-party regenerative certification (Vital Farms, 2023).

Vital Farms has been a Certified B-Corporation since December 2015, further demonstrating the company's commitment to social and environmental good. To be considered a B-Corporation, companies are evaluated on metrics for governance, workers, community, environment, and customers. Vital Farms' 2022 Overall B Impact Score was listed as 98.7. The company's score has fallen slightly since their previously reported score of 108.9 in 2018, but still is firmly above the minimum score of 80 to qualify for B-Corporation Certification (B Corporation, Vital Farms, 2023).

### **Market Demand**

Due to the company's commitment to ethical farming practices, eggs from Vital Farms come in at a higher price point than typical eggs. Vital Farms charges anywhere from \$6.99 to \$8.99 for a 12-egg carton at Whole Foods, which is similar to other cage-free egg companies (Figure 4; Whole Foods). However, this is quite a bit higher than the U.S. average for Large Grade A eggs, which passed \$3.00 for the first time ever in August 2022 (Figure 5; Federal Reserve Economic Data, 2023). These prices have recently skyrocketed because of a major Avian Influenza outbreak, combined with general inflation (Vital Farms, n.d.). As of March 2021, 29.3% of the U.S. laying hen population was housed in a cage-free environment. Demand for cage-free eggs is expected to rise significantly in coming years. The USDA's Agricultural Marketing Service estimates that 66% of hens must be cage-free by 2026 to meet growing market demand (United Egg Producers, 2023).

### **Class Action Lawsuit**

Vital Farms, as with many other agricultural and animal-related businesses, is no stranger to litigation and lawsuits. PETA and environmental/health-conscious advocacy groups are constantly watching.

However, their most recent case is an unresolved, major class action lawsuit. Although previous cases against Vital Farms have been small and primarily insignificant, this case poses a much greater threat. Whether these allegations are true, and the way in which Vital Farms responds to them, could easily tarnish their reputation if managed incorrectly.

With prices substantially higher than their competition, and grand claims about how humane, eco-friendly, healthy, and natural their food is, it is not out of line to question Vital Farms' motives. They undeniably have a substantially higher markup on their products than many of their more generic competitors.

Although Vital Farms purports to truly care about ESG (Environmental, Social, and Governance) and their humane treatment of animals, parts of their dealing have been called into question. Looking at the Industries & Products section in their 2021 B-Corporation Disclosure Report, they detail all the ways they are combating poor treatment of animals, biodiversity impacts, emissions from energy, and overuse of water. However, the Litigation or Arbitration section raises concerns (B Corporation, Vital Farms, 2021).

In May of 2021, "Usler et al v. Vital Farms, Inc. et al" and the five related cases after it began. Nicholas A. Usler and others, backed by attorneys from PETA, accused Vital Farms of false advertising (Usler et al v. Vital Farms, Inc. et al, 2021). In Vital Farms' 2021 B-Corp Disclosure Report, it is named a "class action consumer lawsuit alleging deceptive marketing practices regarding humane treatment of animals" (B Corporation, Vital Farms, 2021).

Specifically, the original case complaint document states that "on information and belief, Vital [Farms] through its farmer network:"

- Obtains hens from hatcheries that kill all male chicks at birth through shockingly cruel methods.
- Removes or permits the removal of the tips of hens' highly sensitive beaks.
- Confines hens in conditions that cause them to spend most of their time indoors, rather than on a "pasture".
- Cultivates hens to lay far more eggs than they would naturally, leading to painful health issues such as bone density loss (osteoporosis).
- When hens stop laying shelf-stable eggs efficiently enough - once those hens have lived around 15-20% of their natural life spans - sells those adolescent hens to pet food companies, which kill them using unquestionably inhumane industrial slaughter methods. (Usler et al v. Vital Farms, Inc. et al, 2021)

While there is not a well-defined precedent here, there have been some similar cases in recent years. One such case is the 2015 PETA lawsuit against Whole Foods over their marketing and rating system for "humane meat," alleging potential defrauding of customers. However, this case was dismissed in 2016 by a federal magistrate judge, ruling that no laws were violated (Poinski, 2021).

On the other hand, though, a PETA case against Nellie's Eggs, a similar free-range egg company, hits much closer to home for Vital Farms. In 2020, an investigator visited a Nellie's farm on a public tour and found 20,000 hens stuffed in a shed. This raised questions over what "free range" means, as scarcely mobile hens in visible rough shape did not fit the assumed description by the general public. PETA was able to win against Nellie's motion to dismiss the case, marking the first victory of its kind (Sullivan, 2022).

This Nellie's Eggs case lines up quite closely with the Vital Farms case. Similarly, Vital Farms' response to the lawsuit was to simply double down and motion to dismiss the case in March of 2022. Without bulletproof evidence on either side, Vital Farms leaned heavily on their certification from the organization Humane Farm Animal Care (HFAC) and the vagueness of

their words. However, like in the Nellie's Eggs case, the court decided that although vague, Vital Farms' marketing and the exact wording of the certification still portrayed a clear meaning to the end customers, and gave Vital Farms a competitive advantage in doing so. Thus, their motion to dismiss was denied and the case continued (Huff, 2022).

There is still activity on the case as recent as March 2023, with many different motions being accepted and denied on both sides of the case over the past few years. Vital Farms continues to operate seemingly unchanged, with similar marketing strategies and little public response to the case beyond the motion to dismiss.

### **False Advertising**

False advertising, or at least dubiously vague labeling, has plagued the health food industry since its inception and increasingly with its growth in recent years. Countless companies are plastering their products with all sorts of labels and stickers in an attempt to win over environmental/health-conscious buyers and to increase their bottom line. However, many of these terms are often unregulated, ambiguous, and could potentially be deceiving customers (Brainard, 2018; English, 2019; ASPCA, 2022).

The aforementioned is now being called "humanewashing" and "greenwashing," rising in popularity alongside the public's growing concern. Examples of potential humanewashing include "ethical", "free-range", and "pasture raised", while examples of potential greenwashing include "sustainable", "family farmed", "local", and "natural" (Langel, 2022). This is core to this case, as it is a key differentiator for Vital Farms' business model, and the potential of being misled creates fear and anger in the public eye. It is important to note that not all companies that use similar verbiage are guilty of greenwashing or humanewashing. Rather, only companies that fail to live up to their own claims are the guilty parties.

### **Questions**

This lawsuit is yet unresolved, so there is not conclusive evidence of what the final outcome is. However, one can still note the toll this has taken on Vital Farms as a company. This case has put a negative spotlight on Vital Farms, resulting in plenty of poor headlines and other unfavorable news for the company. How does a business navigate these rough waters and still pursue/maintain a strategic advantage? Furthermore, if Vital Farms were to lose this case, what would likely result and what should they do?

Vital Farms' commitment to 'conscious capitalism' is clearly an integral part of their identity and their competitive advantage. Now that commitment has come under accusation and scrutiny. How can Vital Farms maintain that identity and advantage when their key competency is under fire? How has Vital Farms' response to date, or lack thereof, improved their brand image and/or protected the advantage they have built?

Beyond this, what aspects of Vital Farms' operations should be analyzed more closely, if any? Do they need clearer expectations of their suppliers and other partners? If these allegations are true, where does Vital Farms start in order to live up to their claims of conscious capitalism and earn the trust of their customers back?

## Appendices

---

**Figure 1** Hens on Farm at Vital Farms vs. Typical Battery Hens



**Figure 2** Pasture Rotation

Image text: "We rotate the girls to a new section of pasture every 21 days so they can enjoy the freshest greens while the land recovers."



Image Source: <https://www.vitalfarms.com/farm/>

Figure 3 "Peek into a Pasture with Traceability"

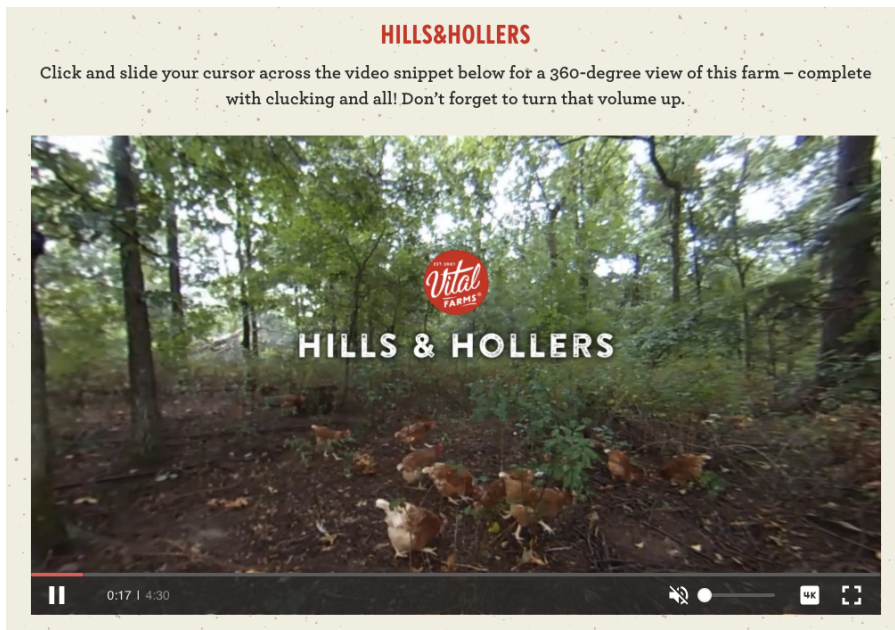
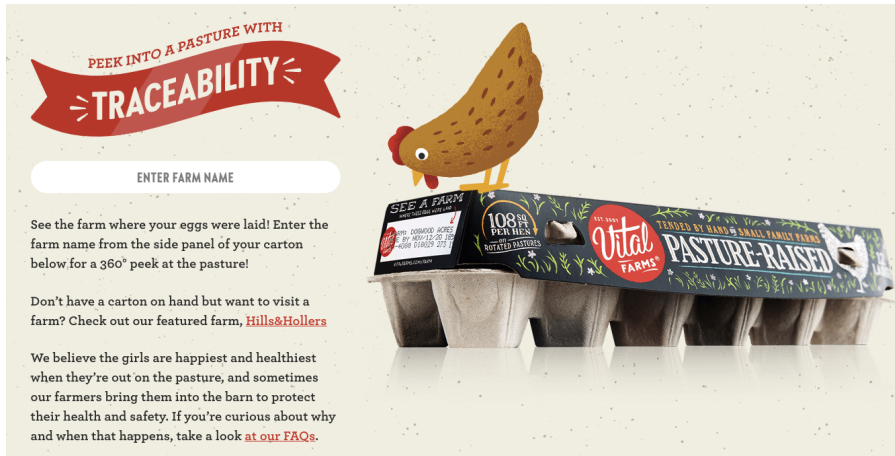


Figure 4 Egg Cartons

Just under 95% of Vital Farms' revenue is reported as coming from egg or egg-based products. On average, any of these cartons of eggs would sell for between \$6.99 and \$8.99 at Whole Foods. Vital Farms proudly markets their eggs as "pasture raised" on every carton.

- Green Carton: Non-GMO Large Grade A Eggs
- Black Carton: Extra-Large Grade A Eggs
- Brown Carton: Organic Large Grade A Eggs

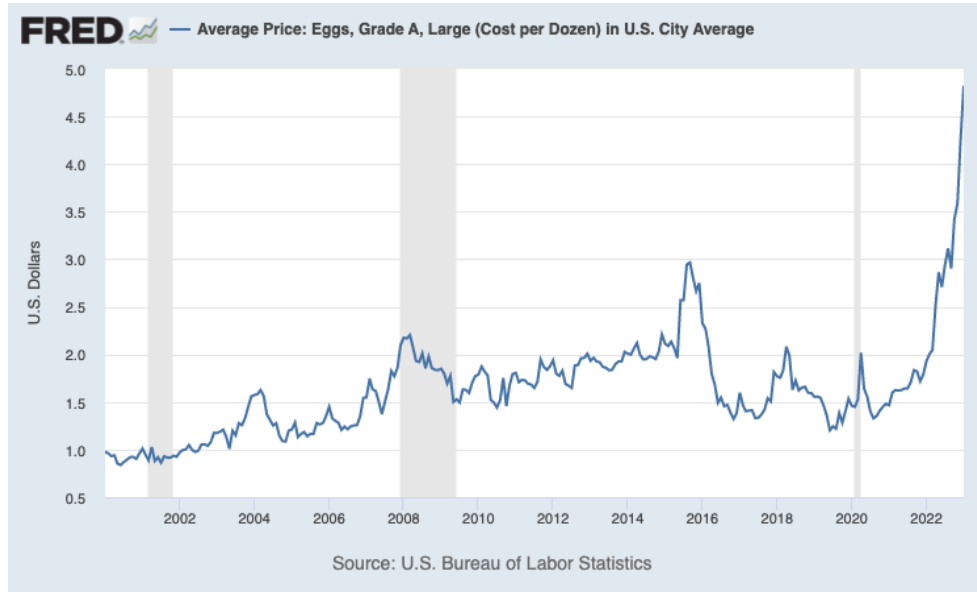
**Figure 5** Average Price of Eggs, January 2000 to January 2023

Average for 21st century: \$1.63

Current (max): \$4.82 in January of 2023

Min: \$0.84 in June of 2000

Prices have recently skyrocketed because of a major Avian Influenza outbreak and general inflation, with average prices surpassing \$3.00 for the first time in August 2022.



Graph Source: <https://fred.stlouisfed.org/series/APU0000708111#0>



## References

---

- ASPCA. (2022, June 28). Study Shows Humanewashing Is Costing Animals—and Consumers—Too Much. We've Got Solutions! Retrieved April 24, 2023, from <https://www.aspca.org/news/study-shows-humanewashing-costing-animals-and-consumers-too-much-weve-got-solutions>
- B Corporation, Vital Farms. (2021). Disclosure Report. Retrieved March 5, 2023, from <https://www.bcorporation.net/en-us/find-a-b-corp/company/vital-farms>
- B Corporation, Vital Farms. (2023). Vital Farms. Retrieved March 5, 2023, from <https://www.bcorporation.net/en-us/find-a-b-corp/company/vital-farms>
- Brainard, A. (2018, April 25). Companies Are Labeling Their Products 'Humane,' but Most Are Far From It. Retrieved April 24, 2023, from <https://www.peta.org/blog/do-not-be-fooled-by-humane-washing>
- English, C. (2019, April 11). 30,000 food products with Non-GMO Project label may be "false or misleading," FDA guidance document says. Retrieved April 24, 2023, from <https://geneticliteracyproject.org/2019/04/11/30000-food-products-with-non-gmo-project-label-may-be-false-or-misleading-fda-guidance-document-says>
- Federal Reserve Economic Data. (2023). Average Price: Eggs, Grade A, Large (Cost per Dozen) in U.S. City Average. Retrieved March 5, 2023, from <https://fred.stlouisfed.org/series/APU0000708111#0>
- Huff, N. (2022, July 7). Litigation Minute: Greenwashing Case Highlights Threat of ESG Litigation to Agribusinesses (ESG in Litigation Series: Part Five of Eight). Retrieved March 5, 2023, from <https://www.jdsupra.com/legalnews/litigation-minute-greenwashing-case-7351795>
- Langel, J. (2022, June 28). Is Humane Washing of Meat and Poultry False Advertising? Retrieved March 5, 2023, from <https://www.thelangelfirm.com/debt-collection-defense-blog/2022/june/the-ugly-truths-about-humane-washing-of-meat-pro/>
- Poinski, M. (2021, May 21). PETA-affiliated lawsuit accuses Vital Farms of lying about ethical treatment. Retrieved March 5, 2023, from <https://www.fooddive.com/news/peta-affiliated-lawsuit-accuses-vital-farms-of-lying-about-ethical-treatment/600551/>
- Sullivan, M. (2022, May 25). Animal Law Podcast #84: The Case of the (Un)Ethical Eggs. Retrieved March 5, 2023, from <https://www.ourhenhouse.org/alp84/>

Syngenta Group. (2023). Regenerative Agriculture. Retrieved March 5, 2023, from <https://www.syngentagroup.com/en/regenerative-agriculture>

United Egg Producers. (2023). Facts & Stats. Retrieved March 5, 2023, from <https://unitedegg.com/facts-stats/>

Usler et al v. Vital Farms, Inc. et al, 1:21-cv-00447 (W.D. Tex. 2021)..  
<https://www.peta.org/wp-content/uploads/2021/05/2021.05.20-1-Complaint.pdf>

Vital Farms. (2023). About Us. Retrieved March 5, 2023, from <https://vitalfarms.com/about-us/>

Vital Farms. (2023). Our Farms. Retrieved March 5, 2023, from <https://vitalfarms.com/farm/>

Vital Farms. (2023). Restorative Eggs. Retrieved March 5, 2023, from <https://vitalfarms.com/restorative/>

Vital Farms. (2022). Our Commitment to Conscious Capitalism. Retrieved March 5, 2023, from <https://vitalfarms.com/wp-content/uploads/2022/03/Vital-Farms-Inaugural-Sustainability-Report.pdf>

Vital Farms. (n.d.). An Open Letter From Our CEO. Retrieved March 5, 2023, from <https://vitalfarms.com/an-open-letter-from-our-ceo/>

Whole Foods. (2023). Results for "Vital Farms". Retrieved March 5, 2023, from <https://www.wholefoodsmarket.com/search?text=vital+farms>