



Queensland United Egg Producers Pty Ltd

Representing our Industry Ph. 07 3822 7695

Queensland United Egg Producers Pty Ltd

Response to the

Consultation Regulation Impact Statement

Labelling of Eggs – Free Range.

Background:

On 12 June 2015 Consumer Affairs Ministers from the Commonwealth, states and territories requested the preparation of a draft national standard on free range egg labelling.

A consultation Regulation Impact Statement (RIS) released in October 2015 and decision RIS, forms part of the process ahead of Ministers formally considering in February 2016 whether an information standard is required.

Industry welcomes the process to remove uncertainty for farmers investing in this sector of the egg industry and to provide consumers' confidence in the purchase of eggs labelled as free range.

Queensland United Egg Producers Pty Ltd (QUEP) represents the vast majority of egg production in Queensland supporting farmers of all production systems including, Caged, Barn and Free Range.

QUEP is also a member of Egg Farmers of Australia (EFA) and fully endorses the process, submission and definition developed by EFA.

QUEP believes that much of the confusion and uncertainty has come about from a number of key events. Firstly, as a result of a number of consumer law cases against egg farmers for misrepresenting what the Australian Competition and Consumer Commission (ACCC) believed was *free range* in relation to the production of these eggs. While QUEP does not support any egg farmer who blatantly misrepresents the consumers expectations of *free range* or who has disregard for the guidelines and regulations around egg farming, there has developed a default case law definition which QUEP believe has added to the confusion not to mention the recently released ACCC production guidelines produced which were developed without consultation of the Australian egg industry and are considered inappropriate.

Secondly, buy in by consumer advocate group CHOICE, suggesting some 200 million eggs are sold to consumers which don't meet "their" definition or interpretation of what constitutes *free range* eggs. Unfortunately their research and interpretations have been flawed and have wrongly influenced decision makers and added confusion for consumers.

EFA has independent research from a highly recognised firm (Quantum Market Research Pty Ltd) that clearly shows that the definition co-developed by EFA members is supported in principle by more than 75% of Australian *free range* egg buyers. This result is also endorsed by two other independent sets of research, namely that done by Australian Egg Corporation Ltd and a major egg wholesaler.

QUEP was instrumental in co-developing the Queensland legislation with government which defines production and management requirements for *free range* egg production in Queensland and would not be likely to require amendment to comply with the EFA definition. This Queensland Regulation was developed and legislated to clarify, and set an upper limit to the external stocking density which was an anomaly in the Model Code of Practice that only stated where a higher stocking density than 1,500 hens per hectare was farmed then certain management practices need to be employed to maintain good environmental and welfare practices. Queensland legislators and QUEP identified that 10,000 hens per hectare or one hen per square meter was an acceptable upper number.

QUEP would also like to point out to the review that in setting any standard around the term *free range* and labelling requirements, that the review should not interfere with the animal welfare Code of Practice which will be under its own review with the next twelve months but focus on what consumers expect the term to mean or represent when purchasing *free range* eggs.

The Code of Practice for the Welfare of Domestic Poultry when modified next year to address any science based and consumer driven changes to welfare requirements around egg farming, will also become “Standards and Guidelines” and as such will be adopted into State welfare laws bring about uniformity across the country.

Going Forward:

QUEP believe that the issue of defining the term *free range* does need addressing and has nominated the following key points to support our submission.

The EFA definition co-developed and agreed to by each of the various State members, (who represent more than 80% of total egg production across Australia), is clear, understood and supported by the vast majority of *Free Range* egg consumers,

and as such:

1. QUEP is in full support of establishing a labelling standard that removes confusion and provides clarity and certainty for egg farmers and consumers alike without adding significant costs and red tape for all stakeholders. QUEP does not support the options as provided in the RIS but rather offers an alternate for consideration;
2. QUEP also supports consumer protection regulation and the principle that consumers should not be misled in relation to aspects of free range production systems. There have been exaggerated claims in the past and regulatory intervention has and will continue to ensure that consumers are not misled;
3. QUEP has been disappointed by the scope and analytical basis of regulatory intervention to date and the impact it has had in creating uncertainty as to the definition of *free range* eggs. The prospect that the approach of 'most birds outside on most ordinary days' could be incorporated into a free range labelling standard is deeply concerning and QUEP urges the Treasury not to characterise the relevant 'problem' to be addressed on this basis;

4. This is because the 'most birds, most days' approach is analytically flawed in that it seeks to define free range by reference to misrepresentations that have been the subject of enforcement action (see detail in the EFA submission) and would significantly distort the competitive process by imposing a difficult to measure definition of free range that the vast majority of *free range* egg suppliers could not be confident they could meet and would see expansion of the industry hampered;
5. The ACCC's definition should clearly align with consumers expectations. They appear to have considered their own interpretation, listened to a number indirect stakeholders and have undertaken a competition analysis that excludes 80% of the free range market. In doing so, they have put the vast majority of *free range* producers in doubt as to the future of their product;
6. QUEP supports a basic information standard based on a definition of *free range* in which hens have access to an outdoor range as specified in the Model Code of Practice for the Welfare of Animals – Poultry 4th Edition (MCoP) and are likely to go outside on any ordinary day to a range that has a stocking density of no more than one hen per square metre (10,000 hens per hectare). QUEP feels it is most important that hens have unrestricted access to the range and are not forced to leave the hen house against their will;
7. Tested against the criteria for good regulation, this proposed standard has the potential to deliver significant net benefits in a manner in which the options set out in the Consultation Paper do not.
In particular the Egg Farmers of Australia proposed standard:
 - Is supported in full by QUEP;
 - is responsive to an identifiable failure of regulation in the form of an inappropriate definition being imposed as a consequence of consumer protection regulation;
 - is confined to the relevant problem and would not regulate the market more broadly or traverse into related issues of animal welfare regulation;
 - will be effective in addressing the problem by bringing clarity to the definition of free range eggs;
 - is based on and consistent with consumer expectations and current industry practice;
 - is capable of being complied with by free range egg producers and would not disrupt the supply of free range eggs;
 - is capable of being monitored and enforced by regulators;
 - it is inclusive in that it sets a minimum standard and will not distort competition by excluding some suppliers from the supply of free range eggs; and
 - would have no impact on innovation or the ability of producers that operate differentiated production systems to make accurate claims in relation to the characteristics of those systems.
 - would align with the MCoP and not impact negatively on the review process or Animal Welfare laws.

Conclusion:

In respect to the options and variants proposed in the RIS:

Option 1.

While maintaining the status quo would be the least cost impact we don't support this option as it leaves a lack of clarity for farmers and doesn't remove any confusion created by the debate for consumers.

Option 2. This is the only option which has some appeal to QUEP but would require significant amendments to be appropriate. Adoption of the EFA Definition is considered a better option.

Option 3.

Is not considered an option as apart from adding significant cost in developing and applying a standard, there is little or no confusion with consumers over the production terms, "cage" or "barn".

Also, QUEP also believe that any presentation of "stocking density" or any other production fact on packs should be part of the marketing position for any of the farmers who see value in presenting their farming practices on packs. Producers with a point of difference within the free range sector, could add a simple diagrammatic representation of external stocking densities on the carton. Consumer research shows greater than 75% of *free range* egg buyers support and clearly understand a stocking density presented as 1 Hen per sq. metre and in line with the proposed upper limit in the EFA Standard. Producers would be at liberty to describe any less stocking density on pack and be subject to any regulatory oversight to confirm the same.

The Option variance in the RIS to divide the *free range* category into a "premium" and "barnyard" or other similar term is not supported and is considered that it would add confusion and weaken the overall and already established *free range* term for both the niche and major retail sector suppliers.

Thus respectively QUEP requests the Treasury adopt the proposed EFA submission "information standard" and bring clarity to this issue. It would remove any doubt in consumers' eyes and for farmers investing in the growing egg market sector

Therefore QUEP tender the following Standard be set as the preferred position.



Standard for Free-range Systems

Definition

"Laying hens in free range farming systems are unconfined within a ventilated hen house. They have access to and are free to roam and forage on an outdoor range area during daylight hours in a managed environment."

Adopting the following supportive practices. *(which are in most Animal Welfare requirements and will be part of the MCoP review)*

Minimum Standards:

1. Hen housing should:
 - a. provide shelter from inclement weather;
 - b. provide reasonable protection from predators;
 - c. be ventilated; and
 - d. contain food and water.
2. Hens should be provided with a minimum of 6 hours of darkness per night.
3. Eggs must not be labelled as free range until such time that the flock is provided with unrestricted daily access onto the outdoor range area.
4. Popholes (openings) should be provided extending along the length of the hen house equating to 2 metres per 1000 hens (min size 35cm high/40cm wide).
5. The outdoor range area should provide:
 - a. vegetation;
 - b. shelter;
 - c. shade; and
 - d. reasonable protection from predators.
6. Access to an outdoor range should be unrestricted and be for a minimum of 8 hours per day during summer daylight hours and a minimum of 6 hours per day during winter daylight hours.
7. Outdoor stocking density must not exceed 1 hen per square metre. Where hens are stocked at higher than 1500 hens per hectare, close management must be undertaken and regular rotation of hens onto fresh outdoor range areas should occur with some continuing soil or fodder cover.
8. Stocking density inside the hen house up to a maximum of 30kg per square metre of useable space.

QUEP welcome the opportunity for further consultation as a key stakeholder and to provide further detail and explanation to the submission.

QUEP also offer Treasury the opportunity to visit a free range facility to see first-hand the application of the EFA standard as has been working in Queensland for the past several years.

Sincerely,

John Coward
CEO – Queensland United Egg Producers Pty Ltd. QUEP