

13 December 2016

The Treasury
Langton Crescent
PARKES ACT 2600

By email: peta.dixon@treasury.gov.au

**Submission by Animals Australia regarding the
*Australian Consumer Law (Free Range Egg Labelling) Information Standard 2017***

Thank you for the opportunity to provide a submission regarding the *Australian Consumer Law (Free Range Egg Labelling) Information Standard 2017* (hereafter, “the **Standard**”).

As you may be aware, Animals Australia is a peak animal protection organisation in Australia. On behalf of our member societies and individual members and supporters we are pleased to be able to provide you with this submission.

We refer to and repeat the submissions made by Animals Australia on the consultation Regulation Impact Statement (RIS) in 2015 regarding “free range” labelling requirements. In addition, we now make the following submissions regarding the proposed Standard.

Consumers have demonstrated a clear concern and interest in the housing and husbandry conditions in which layer hens produce eggs, with 65% of Australians buying free range eggs in the 12 months to June 2015, making it the fastest growing egg sector.¹ Therefore, ensuring consumer certainty and confidence around egg labels and the definition of “free range” is paramount. Given that there are a number of voluntary or third-party certification schemes currently in place, which are significantly varied in their requirements and are largely unregulated and unenforced, consumer confidence in the choices and information presented is being severely undermined.

In light of the above, it was foreshadowed that the Standard would achieve at least two outcomes regarding “free range” labelling:

- First, set a “free range” stocking density that accords with consumer expectations; and
- Second, set clear and unambiguous standards regarding the living conditions of layer hens in a “free range” production system.

For the reasons set out below, we submit that the Standard does not deliver these outcomes.

The Standard will allow outdoor stocking densities of up to 10,000 birds per hectare to be labelled “free range”. This is in stark contrast to what consumers expect, and significantly greater than the CSIRO-published ‘*Australian Model Code of Practice for the Welfare of Animals*’ recommended 1,500 birds per

¹ Choice, ‘Free Range Eggs: Making the Claim Meaningful’ June 2015, p 3.

hectare. Currently, those Code standards are the only officially recognized standard for Australian free-range eggs under animal welfare guidelines for free-range eggs.

Further, as CHOICE has indicated, a stocking density of 1,500 hens per hectare is what consumers would generally expect when purchasing free range eggs.²

The Standard is therefore at odds with consumer expectations. It is clear that the stocking density set by the 10,000 hens per hectare Standard for “free range” has been influenced by (large-holding) producer interests and not consumer expectations or animal welfare science. We again submit that housing environments and stocking densities in egg producing facilities do have a direct impact on hen welfare,³ and therefore influence consumer purchases. It is evident that these animal welfare factors are at the heart of impacting consumer choice when seeking out free range eggs; the community overwhelmingly favours hens being given a life worth living.

The Standard defines “free range” eggs as “*laid by hens who have meaningful and regular access to an outdoor range*”. This definition is vague and lacks necessary precision.

“Regular” access could be considered an opening (or pophole) in one wall of a shed – which 10,000 birds would be competing to access. The failure of the Standard to be more prescriptive – or at least set a minimum standard regarding how regular access must be ensured – is a serious concern.

“Meaningful” access requires “*regard to be had to the extent to which hens are able to roam, forage and display natural behaviours on the outdoor ranges to which they have access*”. However, in addition to a lack of prescription about what “meaningful” means, such access comes with exceptions (and convenient loopholes) for occasions where (section 7(2)(a)):

- the hens were undergoing nest box training;
- the weather conditions endangered the safety or health of the hens;
- the hens would have been exposed to predators;
- the hens were being medicated or otherwise cared for; or
- there were exceptional circumstances that prevented the hens from accessing the range.

What constitutes exceptional circumstances under the Standard is a question of fact, and could include other circumstances whereby, for example, the hens were endangered or where it would be adverse to the welfare of the hens if they accessed the range.⁴ These exceptions are extremely broad, lack meaningful limits themselves (e.g. how long is nest box training?), and so provide significant loop holes for egg producers.

Under trade mark certification standards, applicants are required to meet certain thresholds in order to ensure that no consumer detriment results. We of course note that trade mark certification is a different consideration – however – we seriously question how the Standard foreshadowed here for “free range” can fall so far below that which is required for certification of standards under trade mark rules. That is, the Standard is setting a definition for “free range” – a production system that is supposed to be distinguishing itself as a higher standard to other egg production systems, yet the Standard is not specific, allows for significant variances, and is grossly vague and lacking in precision. In its current form, it lends itself to being grossly undermined and will very likely cause public detriment.

² Australian Government, ‘Free Range Egg Labelling, Consultation Regulation Impact Statement’ (October 2015), p 6.

³ See for example, Compassion in World Farming, ‘Welfare Sheet: Laying Hens’, available at: <http://www.ciwf.org.uk/media/5235027/Welfare-sheet-Laying-hens.pdf>.

⁴ Australian Government, ‘*Australian Consumer Law (Free Range Egg Labelling) Information Standard 2017 Explanatory Statement*’ (2016), page 5.

Finally, we note that the Standard applies to packaging of eggs for wholesale or retail sale, and eggs that are displayed for retail sale without packaging. We again strongly recommend that these labelling requirements be made mandatory for all egg products, including manufactured food products that contain eggs, eggs used in commercial catering and eggs used in food sold in restaurants and cafes. Approximately 46% of eggs produced in Australia go into retail sales, meaning that approximately 54% of eggs go into other products or hospitality. Therefore, these labelling requirements should be applied to all products containing eggs, as to not do so would mean that more than half the eggs produced in Australia would be exempt.⁵

Please contact me if you require further information or explanation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Glenys Oogjes', with a stylized flourish at the end.

Glenys Oogjes
Executive Director

(03) 9329 6333
googjes@AnimalsAustralia.org

⁵ Australian Egg Corporation Limited, *Annual Report 2013/14*.