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To Whom It May Concern,

SUBMISSION IN RELATION TO FREE RANGE EGG LABELLING CONSULTATION PAPER

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 the following input to the Free Range Egg Labelling Consultation Paper.

Summary

In summary, Animals Australia recommends the following:

- Option 1 not be implemented.
- Option 2 (including option 2(a)) not be implemented. However, we recommend that option 2(b), that being, disclosure of stocking densities on labels, be implemented.
- Option 3 be implemented with the following label categories:
 - Free range
 - Barn
 - Cage

- Barn laid - Access to outdoors
- Option 3(a), that is the premium free range category, not be implemented.
- Option 3(b) be implemented, however, we recommend that the title be amended to 'Barn laid – Access to outdoors'.
- That labelling requirements include mandatory disclosure of debeaking and forced moulting practices.
- That 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.

In general, Animals Australia strongly believes that an information standard for all categories of eggs should be introduced in Australia to ensure consumer confidence and certainty in relation to egg labelling and reduce the current confusion and, in some circumstances, misleading conduct surrounding egg labels and the definition of 'free range'.

Consumer choice

Consumers have demonstrated a clear concern and interest in the conditions in which their eggs were produced, with 65% of Australians buying free range eggs in the past 12 months, making it the fastest growing egg sector.¹ However, at present, only Queensland and the ACT have legislated requirements surrounding the labelling of eggs,² with no nationally consistent definition of 'free range' or requirements for egg labelling currently in place in Australia.

Instead, 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. For example, stocking densities can range from 1,500 – 10,000 hens per hectare under certain free range standards.³ Further, it has been reported that nearly a third of free range egg production comes from facilities with stocking densities greater than 20,000 hens

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

² See *Animal Care and Protection Amendment Regulation (No.2) 2013* (QLD) and *Eggs (Labelling and Sales) Act 2001* (ACT).

³ Australian Government, 'Free Range Egg Labelling, Consultation Regulation Impact Statement' October 2015, p 12-13.

per hectare.⁴ Not only does this create a situation where consumer choice and information is severely undermined, it also creates confusion and unfair circumstances for producers.⁵ This inconsistency has also been reflected in the recent misleading and deceptive conduct cases pursued successfully by the ACCC.⁶

Therefore, the evidence supports a compelling consumer need in Australia for clearer egg labelling requirements in order to clarify consumer information and choice, thereby removing 'confusion', and addressing the existing inconsistency and unfair market environment for producers, which is undeniably creating an inefficient market. As the housing environments and stocking densities in egg producing facilities have a direct impact on hen welfare,⁷ and therefore influence consumer purchases, we believe that the Australian Government should introduce labelling requirements relating to these factors. It is evident that these factors are at the heart of impacting consumer choice when seeking out free range eggs.

Reform Options

In relation to the reform options set out in the Consultation Paper, Animals Australia strongly submits that Option 3 be implemented. However, as will be set out below, we believe that a number of amendments need to be made to Option 3 to ensure that it is appropriate, effective, and achieves the desired policy objectives stated throughout the Consultation Paper. Furthermore, we submit that some requirements stated throughout Option 2 should additionally be included in Option 3, as will be explained below.

⁴ Choice, 'Free Range Eggs: Making the Claim Meaningful' June 2015, p 4.

⁵ Choice, 'Free Range Eggs: Making the Claim Meaningful' June 2015, p 3.

⁶ Australian Government, 'Free Range Egg Labelling, Consultation Regulation Impact Statement' October 2015, p 47.

⁷ 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>.

Option 1

For the reasons set out above, Animals Australia strongly believes that additional labelling requirements need to be introduced into Australia. We therefore reject the proposal to maintain the status quo under Option 1.

Option 2

Again, for the reasons set out above, Animals Australia strongly believes that additional labelling requirements are presently needed in Australia, and that these requirements should be detailed and comprehensive. We therefore do not believe that Option 2 goes far enough to ensure consumers are provided with the necessary information to make an informed choice and be confident that their purchase aligns with their preferences.

Nevertheless, should the Australian Government⁸ implement Option 2, we strongly believe that the defence set out in Option 2(a) not be implemented in Australia. As it stands, Option 2(a) prescribes a set of conditions that, if complied with by a producer, would form a defence to allegations that eggs were not 'free range'. Whilst we agree that the lists of conditions set out in the proposed Option 2(a) by Professor Christine Nicol could provide producers with guidance on what is necessary to ensure that hens range freely, we believe these should be provided as a 'guideline' document for producers rather than serve as a defence.

The provision of such a 'guideline' would ensure that industry groups received the guidance they have requested in relation to labelling eggs as free range, with some certainty of compliance, whilst also ensuring that the ACCC retains their full powers and abilities to enforce and regulate the market for misleading and deceptive conduct. We believe that this is the most appropriate way to introduce guidelines for free range egg labelling, especially when considering the fact that the proposed list of conditions would not form part of the definition of 'free range', nor be mandatory.⁸

⁸ Australian Government, 'Free Range Egg Labelling, Consultation Regulation Impact Statement' October 2015, p 20.

In relation to Option 2(b) set out in the Consultation Paper, Animals Australia strongly agrees that stocking densities should be disclosed on egg labels, in order to allow consumers to make informed choices regarding purchasing eggs produced in different circumstances. As stated throughout the Consultation Paper, many consumers perceive stocking densities as a contributing factor for hen welfare, and therefore forms a key part of their decision when purchasing different egg varieties.⁹ For this reason, Animals Australia strongly believes that the stocking density of the facility in which the eggs were produced should be a mandatory requirement for all egg labels.

We believe that this requirement to display the stocking densities should extend not only to free range eggs, but also to other categories of eggs, such as barn eggs (and provide both indoor and outdoor densities when there is an outdoor area). This is because consumer information and choice would be hampered if this requirement only related to free range eggs, making it more difficult for the consumer when he/she is deciding whether to purchase free range eggs or another category of eggs as they would not have all information to be able to make the comparison between the products. Further, we agree with the suggestion that the stocking density should be stated in terms of the number of hens per metre squared, in order to make it easier for the average consumer to conceptualise the number of hens kept in an area. We note that this is already the manner in which various housing standards (not labels as yet) often express indoor densities and this should be extended to both indoor and outdoor areas.

Option 3

As stated above, Animals Australia generally supports Option 3 of the Consultation Paper and believes that this should be implemented once some necessary additions and amendments are made. We believe that detailed and comprehensive egg labelling requirements are necessary to address the current issues within the egg market.

⁹ Australian Government, 'Free Range Egg Labelling, Consultation Regulation Impact Statement' October 2015, p 22.

Animals Australia generally agrees with the three categories of egg labelling set out in Option 3, however suggest that the following amendments be made to each:

- **‘Free Range’**: Animals Australia supports the suggested definition of ‘Free Range’ that is set out in the Consultation Paper, being:

Free range eggs are produced by hens that can, and do, move about freely on an open range on most ordinary days. An ‘ordinary day’ is every day other than a day when on the open ranges weather conditions endanger the safety or health of the laying hens or predators are present or the laying hens are being medicated.

However, we also believe that a maximum outdoor stocking density should be introduced into this definition (and displayed on the label as discussed above), to ensure that the production methods accurately reflect consumer preferences. As CHOICE has indicated, a stocking density of 1,500 hens per hectare is what consumers would generally expect when purchasing free range eggs.¹⁰ The outdoor stocking density for free range hens may be extended to a maximum of 2,500 if the hens are rotated into other paddocks and pasture cover is maintained (as approved under the RSPCA program). Further, we strongly recommend that in addition to an outdoor maximum stocking density requirement, the free range label should only be permitted to be used where the indoor stocking density is a maximum of 7 hens per square metre (of usable space).

- **‘Barn’**: Animals Australia accepts the definition provided for ‘Barn’ eggs in Box 6 of Option 3, however recommends that a maximum stocking density of 7 hens per square metre (of usable space) be required (the maximum allowed under current RSPCA standards).

¹⁰ Australian Government, ‘Free Range Egg Labelling, Consultation Regulation Impact Statement’ October 2015, p 6.

- **‘Cage’**: Animals Australia accepts the definition provided for ‘Cage’ eggs in Box 6 of Option 3.

Variation Option 3(a)

We do not agree with the proposed variation ‘Premium free range’ category set out in Option 3(a), as we believe that it would likely increase consumer confusion surrounding the different categories of eggs, and also create an unfair situation for producers who currently produce free range eggs with a stocking density of up to 1,500 hens per hectare. This is because producers who produce eggs in facilities that have much higher stocking densities, such as 10,000 hens per hectare, may be able to use the ordinary ‘free range’ category should this premium category also be introduced. Please note that it is for this reason (see below) that we have suggested the amended label ‘Barn laid – Access to outdoors’ to cater for the recently introduced multi-level intensive indoor systems that allow access to a very limited outdoor area. We strongly believe that this additional free range category would only continue to negatively impact consumers who purchase eggs labelled free range for a higher price when they are not truly free range according to consumer expectations. This would undermine the policy objectives stated in the Consultation Paper and would not assist in addressing the heart of the consumer issue that prompted this Consultation in the first place.

Variation Option 3(b) ‘Access to Range’

- **‘Barn laid – Access to outdoors’**: Animals Australia agrees in principle with the need for the proposed variation category set out in Option 3(b), however we strongly recommend that the title of such label be ‘Barn laid – Access to outdoors’ instead of ‘Access to range’. This is because the ‘Access to range’ category could be easily confused with ‘free range’ by a consumer when he/she is making a purchase. The use of the word ‘range’ in both titles would almost certainly increase confusion between the two categories and could mislead consumers into believing hens producing ‘access to range’ labelled eggs had access to the outdoors in a similar manner as free range hens. Therefore, we strongly believe that this category would be more

accurately represented if it was labelled 'Barn laid – Access to outdoors', as it removes the similarities with the free range category and would better inform consumers as to the environment in which hens were housed and the eggs were produced. Further, for the same reasons that were set out above in the 'free range' category label, we strongly believe that maximum stocking density requirements – both indoors and outdoors - be included in this definition and on the labels. We believe that this should be a maximum of 10,000 hens per hectare outdoors, with an indoor stocking density of 7 hens per square metre (usable space).

Additional requirements

Further, we strongly recommend that the requirement currently suggested under the 'premium free range' category that labels also contain information about whether certain practices are performed on hens be made compulsory across all labels. As discussed above, animal welfare is the key influence on consumer preferences when purchasing different categories of eggs, with consumers who purchase the more expensive free range egg category doing so as they believe that this category of eggs would be produced in facilities with better hen welfare – which includes housing and husbandry methods.¹¹ For this reason, labelling should include information as to the occurrence of beak trimming and forced moulting. We strongly believe that given the current consumer concern about animal welfare in the production of eggs and the influence this has over the choice of purchase consumers make, the clear labelling of whether or not these practices were carried out throughout the life of the hens is important. This is because it would help ensure that consumers are provided with appropriate information so that they can make purchases that align with their preferences.

Finally, we 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. Given the current

¹¹ Julie Dang & Associates Pty Ltd, *Production methods understanding & QA evaluation: A market research report*, Prepared for Australian Egg Corporation Ltd, May 2012, www.aecl.org/dmsdocument/465.

consumer concern for different varieties of eggs in Australia and the manner in which they are produced, we believe that these label requirements should be applied to all products containing eggs to increase consumer information and ensure their purchasing choices accurately reflect their preferences. As these same consumers are concerned by animal welfare and ethical factors when purchasing eggs, it follows then that any products containing eggs should adopt this mandatory labelling requirement. Further, as only approximately 46% of eggs produced in Australia go into retail sales, meaning that approximately 54% of eggs go into other products or hospitality, 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.¹² We believe that this would undermine consumer information and only create more confusion and inefficiency within the market.

Overall, Animals Australia commends the Australian Government for preparing the Consultation Paper and strongly recommends that Option 3 be implemented with our recommended amendments detailed above.

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

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¹² Australian Egg Corporation Limited, *Annual Report 2013/14*.