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Manager  
Free Range Egg Labelling Consultation Paper  
Consumer Policy Unit  
Small Business, Competition and Consumer Policy Division  
The Treasury  
PARKES NSW 2600

[Australianconsumerlaw@treasury.gov.au](mailto:Australianconsumerlaw@treasury.gov.au)

Dear Sir/Madam

### **Free Range Egg Labelling Consultation Paper**

The Office of the NSW Small Business Commissioner (OSBC) is committed to supporting and improving the operating environment for small businesses throughout NSW. The role of the OSBC is to:

- provide dispute resolution services;
- deliver quality business advice through Small Biz Connect; and
- speak up for small business within government.

The OSBC works closely with small businesses and industry to identify regulatory requirements that place unnecessary burden or cost on small businesses across a wide range of sectors. This extends to acting as the NSW small business representative on a range of government agency consultations, reviews and reforms.

The OSBC supports the objectives of the consultation paper to discuss opportunities to increase transparency in the free range egg industry. The consultation paper suggests ways to increase clarity for egg producers, processors and consumers, and proposes to improve compliance and reduce deceptive and misleading conduct. The OSBC recommends providing detailed guidance on production requirements to enable producers to understand and comply with the requirements of free range classification. This will also assist consumers to understand the differences between the varying standards of products.

The OSBC understands that currently no single national definition exists for free range egg labelling. The presence of at least six varying descriptions across the market including; free range, barn laid, cage eggs, happy eggs, free to roam and farm fresh, is confusing for consumers and businesses. The information currently provided to consumers on packaging does not specify why free range egg products are free range and others are not.

The *Model Code of Practice for the Welfare of Animals – Domestic Poultry 4<sup>th</sup> Edition* (Model Code) provides 'minimum standards for the welfare and husbandry of layer hens in cage, barn and free range systems.'<sup>1</sup> The OSBC suggests that any information provided to consumers as part of changes to the regulatory environment for producers should be drafted in close consultation with the Model Code to ensure consistency across the sector. The OSBC supports

<sup>1</sup> Commonwealth Treasury, Consultation discussion paper: Free range egg labelling, page 12.



introducing a consistent national standard for the number of hens allowable per hectare (as per the Model Code suggestion of 1,500 hens per hectare). This will assist in educating consumers about what is meant by the 'free range' definition. Currently the inconsistencies between the number of hens allowable per hectare is subject to varying standards and may dilute the effectiveness of informing the public about the differences between products.

**Option two:**

The OSBC supports the considerations outlined in option two of the consultation paper which recommends introducing a 'basic' information standard for free range egg labelling. This will aid the development of procedural criteria for producers to follow for their egg products to be classified as free range. Option two would establish a single, nationally-consistent definition which producers would need to comply with if they wish to label their eggs free range.<sup>2</sup> This will also allow consumers to differentiate between free range and non-free range products by understanding the difference in production environments.

According to the consultation paper, an enforceable standard will require all free range egg producers to comply with a consistent, and regulated, hen per hectare ratio. The OSBC is aware of a number of voluntary egg production accreditation schemes operating across Australia that include independent auditing which set differing stocking density limits. Developing industry guidance in line with recent court decisions will ensure consistency for producers and will enable producers to develop a clear process to adhere to the regulated standards.

The OSBC agrees that a consistent definition across all free range products would enable producers to better invest in their products and their production infrastructure. Producers will be able to price their product in line with the costs of production of free range products rather than price matching against non-free range eggs, as outlined in the consultation paper. Consumers will also be able to assess the price variances in line with the 'basic' free range egg information standard and make their choice accordingly.

The OSBC is of the viewpoint that introducing a 'basic' standard for free range producers only, as outlined in option two, will promote transparency across the industry and should be an adequate measure to reduce misleading information regarding free range egg products.

**Option three:**

Whilst the OSBC acknowledges the advantages of option three; that all eggs, including cage eggs, in the market are labelled in accordance with a set standard to enable consumers to identify and choose a particular type of egg, this approach may place a significant burden on small business producers. Smaller producers may not be able to easily absorb changes to their packaging and/or business model and may incur additional costs to comply with the proposed new requirements as outlined in option three.

The OSBC considers that option three may also result in significant costs for the industry and the Government to communicate the labelling changes effectively, ensure comprehensive regulation and measure compliance across the sector. This may outweigh the advantages of such a proposal.

**Exemptions:**

The consultation paper does not currently specify whether any exemptions will be considered if any of the proposals outlined within the paper are adopted. The OSBC notes that if labelling requirements were to change, smaller producers may struggle to meet the required changes. In November 2014, the NSW Food Authority recognised the impact changes to their egg stamping requirements may have on smaller producers and introduced an exemption for operators that produce less than 20 dozen (240) eggs a week and sell their eggs direct from the farm gate.

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<sup>2</sup> Commonwealth Treasury, Consultation discussion paper: Free range egg labelling, page 19.



The OSBC encourages the consultation process to consider whether a similar approach would need to be implemented if changes to free range standards (option two) or industry wide standards (option three) are adopted. Similarly, adequate transitional measures will need to be included in order to allow producers adequate time to make required changes and to factor this into their business planning processes.

**Conclusion:**

The OSBC considers that option two is the first step in providing consumers with additional information that specifies the difference between free range egg products and non-free range egg products and will enable consumers to make an informed choice. The OSBC considers that option two will allow free range egg producers and their products to be easily identified in the marketplace without needing to extend the proposal to all egg producers across Australia, as outlined in option three of the consultation paper.

The OSBC supports increasing the amount of information available to consumers to increase transparency and provide additional clarity for free range egg producers. However, the OSBC suggests that any changes to labelling requirements considers the impacts additional labelling may place on egg producers, particularly small scale egg producers. The OSBC recommends that any adopted changes are tested prior to full scale introduction into the egg supply chain.

Should you wish to discuss these comments in further detail, please contact Melanie O'Brien, Advocacy Advisor on (02) 8222 4828 or [melanie.o'brien@smallbusiness.nsw.gov.au](mailto:melanie.o'brien@smallbusiness.nsw.gov.au).

Yours sincerely

A handwritten signature in blue ink that reads "Robyn Hobbs". The signature is written in a cursive style and is positioned below the "Yours sincerely" text.

**Robyn Hobbs OAM**  
**Small Business Commissioner**

30 October 2015