

SUBMISSION TO FREE RANGE EGGS CONSULTATION PAPER

I applaud the Minister for seeking industry and community feedback on this divisive issue.

I believe the Australian Competition and Consumer Commissions (ACCC) has handled this issue badly. Its inability to be more definitive on what constitutes free range has left the industry in limbo and people in court. Chairman Rod Sims has been quoted in Senate Estimates and in the media as saying there is no need for a national standard and it should be common sense. Yet it continues to prosecute producers who in its belief don't show common sense which, the last time I looked, was not a criminal offence. This is not to say that, where hens are blatantly prevented from accessing the outdoors and the eggs are still being labelled as free range, legal action shouldn't be taken. But it is the uncertainty that is affecting the industry.

In the October 2015 Senate estimates the following exchange occurred between Mr. Sims, Senator Canavan and me -

Senator WILLIAMS: Okay. I want to get clarification on the word 'most'. If I have 100 hens, how many is 'most': 51, 65, 90?

Mr Sims: What we said in our guidance is that this is not about counting the hens. This is a very common sense view. Our guidance suggests that if the farmer is looking around and on most days most of the hens are outside that is going to be fine with us. We are not in the business of counting. We are not going to be applying any great strict standard. The common sense point is if the chooks are—if on most days most of those are out—this is not a question of counting. The purpose of the guidelines was to say that we actually would not be doing that. If you see a good number of hens outside on most days that will be fine by us.

Senator WILLIAMS: The point I make is the court ruling was most of the hens outside for most of the day, wasn't it?

Mr Sims: That is the way the court ruled it, yes.

Senator WILLIAMS: I am trying to get clarification of what is 'most'. I use a simple example, 100—

Mr Sims: Sure.

Senator WILLIAMS: The industry is petrified. It is simple as that. I will be meeting with the Minister for Small Business tomorrow. As far as I am concerned, we have to get standards drawn up in conjunction with the states and industry so that the lines are in the sand.

You step over the lines and I want to see ACCC pound on you. For example, if you have caged hens and you brand them as free-range that is clearly wrong. If you have barn hens and you brand them as free-range that is clearly wrong. We need clarification here because I cannot get an answer about what is 'most' and what is 'most of the day'. Let us say from six in the morning until seven in the evening the sun is up and shining. Thirteen hours is most of the day—six hours



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The Nationals Senator for New South Wales

31 minutes, seven hours or is it eight hours—how do you define 'most of the day'?

Senator CANAVAN: I just want to clarify something. You have well explained the principle of the test you apply, that most chickens should go outside most days. However, when Senator Williams asked how you would apply that, you said you would not be counting; instead, you would be looking at whether chickens can go outside and you have retained someone from overseas to judge whether they have the 'opportunity', I think is the word you used, to go outside.

Why is it, in the way you are going to apply the standard, you are looking at whether the chickens 'can' go outside, in terms of the size and the holes and those things, but the standard itself you keep referring to is whether they 'do' go outside? Why would we not have the standard of the 'can' side—the 'Do they have the opportunity to?' side? Why are you setting a bar where they have to go outside and setting a standard where it would be very hard for you to test? As you admit, you are not going to count chickens. Why have this test?

Mr Sims: I will make two comments. The hurdle bar, we believe, we are applying is an extremely low one. We have only taken action where we believe, in essence, the birds very rarely went outside. In our view, people would not regard that as free-range. What I was saying was we are not going to be taking any statistical approach. If you have a barn of some size and you have a couple of small holes inside, they have access but would they ever go outside? That is the question the expert was called on to answer. We are trying to work out whether the chickens are, essentially, barn reared chickens, in the sense that it is awfully difficult—

Mr. Sims refuses to be more definitive of what is meant by the word “most”. Speaking with egg producers it would not be uncommon for as low as 10% of birds to be outside at any one time because of various reasons (mainly climatic), but if an Enforcement Officer arrived at the site 10% would not be described as “most”. This is the anomaly that needs urgent rectification.

NSW FARMERS SURVEY

The recent NSW Farmers Association survey of 1200 people found that the average consumer, when asked how they would describe the definition free range, understood it to mean “not in a cage”. One in five respondents could not give a definition. The survey concluded that the proposed maximum stocking density rate of 1 bird per square metre meets or exceeds most consumers' expectations. In relation to price, it determined “*the market is price sensitive, with consumers (even those relatively committed to welfare) expected to trade-off above \$5.50*”. This indicates price rather than description still plays a big role in consumer purchases.

STANDARD

I fully support the Egg Farmers of Australia recommendations for a Voluntary Code of Conduct.

They are that a free range system be defined as –

- a) hens are unconfined within a ventilated hen house;
- b) hens have access to and are free to roam and forage on an outdoor range area during daylight hours (minimum 6) in a managed environment; and



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c) have a maximum outdoor stocking density of one hen per square metre.

CONCLUSION

There are a range of views on what is the ideal free-range environment. Unfortunately the debate has been hijacked by the animal welfare lobbyists who are wonderful theorists but lack the practicalities. Listen to those who are in the industry 365 days a year and whose very livelihood depends on the welfare of their hens and viable production rates. But where “grey” areas of compliance exist, I ask the ACCC to refrain from prosecuting producers until a national law is agreed on.

John Williams
Senator for NSW

