



The Veterinary Institute for Animal Ethics

Submission by Sentient, The Veterinary Institute for
Animal Ethics:

Free Range Egg Labelling Information Standard

Sentient welcomes the opportunity to comment on the Australian Government's Free Range Egg Labelling Information Standard. We have long advocated for the need for a national standard for egg labelling that covers eggs produced on free range systems, and also caged and barn systems and are grateful for this opportunity.

Part 1—Preliminary

1 Name

This instrument is the *Australian Consumer Law (Free Range Egg Labelling) Information Standard 2017*.

2 Commencement

Each provision of this information standard specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Part 1	The day this information standard is published by written notice on the internet.	
2. Part 2	Twelve months after the day this information standard is published by written notice on the internet.	
3. Parts 3 and 4	On the later of: (a) the day this information standard is published by written notice on the internet; or (b) the same time as Schedule X to the <i>Treasury Laws Amendment (2017 Measures No Y) Act 2017</i> . However, the Part does not commence at all if the event mentioned in paragraph (b) does not occur.	

3 Authority

This instrument is made under section 134 of the *Australian Consumer Law*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 4 of the Act, including the following:
Australian Consumer Law.

In this instrument:

egg means an egg laid by a hen.

free range egg has the meaning given by section 7.

hen means a female domestic fowl (*gallus gallus domesticus*).

laying cycle for hens means the period of a group of hens' lives across which the hens are kept together, managed in the same way and are able to lay eggs.

packaging for eggs means anything that completely or partly encloses, contains or packs the eggs.

stocking density for hens means the maximum number of hens per hectare that have access to an outdoor range on any day across the laying cycle.

5 Application

This information standard applies to packaging of eggs for wholesale or retail sale, and that are displayed for retail sale without packaging.

6 Inconsistency of State and Territory laws

This information standard is not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with the provisions of Part 2.

Part 2—Free range egg labelling and display requirements

7 Meaning of the term free range

(1) *Free range eggs* are eggs laid by hens that:

(a) had meaningful and regular access to an outdoor range during daylight hours across the laying cycle; and

'Meaningful' is poorly defined. A more quantifiable metric such as number of hours per day and time of day would promote greater adherence and ease of enforcement.

(b) were subject to a stocking density of 10,000 hens or less.

This stocking density is poorly defined – please supply a denominator for use as a reference point. Sentient supports lower stocking densities and smaller flock sizes as these both increase ranging behaviour due to the ability of hens to access pop holes more easily. We advocate for a maximum outside stocking density of 1,500 birds per hectare, or 2,500 birds per hectare on pasture-rotation systems, and a maximum indoor stocking density of 7 birds per square metre of the usable area for floor-based systems, or 9 birds per square metre of the usable area for tiered systems.

(2) For the purpose of paragraph (1)(a):

(a) disregard occasions when hens were prevented from accessing the outdoor range because:

(i) the hens were undergoing nest box training; or

(ii) the weather conditions endangered the safety or health of the hens; or

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- (iii) the hens would have been exposed to predators;

This clause is too liberal and readily adopted. Any easy argument can be made that the outdoor environment is inherently dangerous due to the existence of predators across Australia – such as eagles and hawks, foxes, dingoes and wild dogs. This clause needs to be bolstered with the provision that adequate external shelter (in the way of shelters and/or trees near barn doors, and robust fencing systems must be provided as a means of avoiding predators.

- (iv) the hens were being medicated or otherwise cared for; or
(v) there were exceptional circumstances that prevented the hens from accessing the range; and
(b) have regard to the extent to which hens are able to roam, forage and display natural behaviours on the outdoor range to which the hens have access.

This is also too ambiguous and should be better quantified. Having ‘regard’ should not be the goal here: providing hens access to an environment that allows for the expression of natural behaviours should be.

The outdoor range should include:

- Provision of dense, overhead cover on the range, such as trees or hedges, to provide shade and protection from aerial predators
- Artificial structures to provide stimulation for natural behaviours (eg., covered dustbaths for dustbathing or berries for foraging), shade and protection from winds or predators)

8 Labelling requirements

A person must not label packaging for eggs for wholesale or retail sale with the words ‘free range’ unless:

- (a) the eggs are free range eggs; and
- (b) the words ‘free range’ are used in relation to the eggs; and
- (c) the stocking density is prominently displayed on the packaging.

These stocking densities should be provided in terms that are accessible to the general public. Most people do not know how to interpret this term, and may be confused by having to compare figures of multiple tens of thousands. We cannot assume that a person would correctly interpret that ‘10,000 hens per acre’ is better than ‘20,000 hens per acre’. Better terms or analogies should be adopted, such as ‘each hen has a square of one metre to roam’.

9 Display requirements

If eggs are being displayed for retail sale without packaging a person must not represent that the eggs are free range unless:

- (a) the eggs are free range eggs; and
- (b) the display has a sign containing the words ‘free range’; and
- (c) the sign is prominently displayed; and

As above.

- (d) the sign prominently displays the stocking density; and
- (e) if eggs other than free range eggs are being displayed at or near the display of free range eggs, the display of free range eggs must be separate from the display of other eggs, so that a person at or near the displays can reasonably distinguish between eggs to which the sign required by paragraph (b) relates and other eggs.

Part 3—Misleading or deceptive conduct

10 Safe harbour for free range egg representations

A person does not contravene section 18, paragraph 29(1)(a), section 33 or paragraph 151(1)(a) of the *Australian Consumer Law* merely by making a representation that complies with Part 2.

11 Proceedings relating to misleading or deceptive conduct or representations

If:

- (a) proceedings are brought against a person in respect of section 18, paragraph 29(1)(a), section 33 or paragraph 151(1)(a) of the *Australian Consumer Law*; and
- (b) the person seeks to rely on section 10 of this information standard in the proceedings,

the person bears an evidential burden in relation to whether they have made a representation in compliance with Part 2.

Part 4—Transitional provisions

- (1) The transitional period commences on the day this information standard is published by written notice on the internet and ends when Part 2 commences twelve months after that day.
- (2) During the transitional period, if a person makes a representation that would comply with the labelling or display requirements in Part 2 if they were in effect, they may rely on section 10 (safe harbour for free range egg representations) in relation to that representation.