

SUBMISSION TO ACCC ON MATTERS RELATING TO THE CTM APPLICATION BY AUSTRALIAN EGG CORPORATION LIMITED

PREPARED BY PETER BELL – 26TH NOVEMBER 2012

I was very interested to receive a copy of the News Release issued by the ACCC on 2nd November 2012 in relation to the Certified Trademark application by the Australian Egg Corporation Limited. I was further intrigued by the statements and conclusions contained in the document some of which I would strongly dispute and question the basis on which the ACCC has made their deliberations.

My background has been an involvement in most aspects of the poultry industry for a period of 49 years and believe I am well qualified to speak on matters relating to poultry production systems, breeder flock management, chicken hatching, chicken rearing, egg production in cages / barn / free range, poultry health and bird welfare.

It would seem that the ACCC in their deliberations has not been able to take a holistic view of free range production and appear to have delved into a number of areas beyond the scope normally addressed in ACCC matters. Perhaps there were reasons for this, but I would then question why they have not considered many other factors such as bird health, food safety and Work, Health & Safety matters.

I am available to discuss any of the issues relating to my comments on the interim assessment published by the ACCC and my contact details are shown at the end of the document.

ACCC News Release

I am not familiar with all of the information provided to the review by ACCC relating to free range egg production systems, nor to the background to the deliberations on the Certification Trade Mark application by the Australian Egg Corporation Limited. I do not have a view on the application but rather wish to comment on what I see as misunderstandings in the News Release which I believe may contribute to misleading consumers or at the very least contribute to misconceptions. I would make the following observations on the News Release for your information:

- ***“The proposed outdoor stocking densities are very significantly higher than those in existing standards”***

It appears that the issue of bird density in the range area is the most contentious one and it has been partly driven by divisions within the free range egg farming community. Essentially some (but not all) of the small producers prefer a low number of birds per square metre and they are more readily able to achieve this due to small flock sizes. These farms typically supply small outlets and have used their image as a marketing tool. Much larger flock sizes require much larger properties and if the range areas were extended proportionally the yards would extend beyond a manageable distance for effective flock management. The question may arise as to why a farm would want large flock sizes? The reason of course is economics required in order to supply the large demand of the supermarkets. The reality is that the small “cottage” farms

cannot provide the volumes required for the supermarket trade. It is also a fact that small farms can command a higher price for free range eggs as they can supply the boutique markets.

There are possibly as many views on range density as there are birds (and people) and likewise with perceptions that people may have. Consideration should be given as to what is required of a range area rather than just a focus on the area per bird. Laying birds do not derive their nutrition from range areas and require a balanced diet with certain levels of proteins, amino acids, vitamins and minerals in the same way that humans do. The notion that birds could be productive and healthy by eating only from the range area is simply untrue. The main requirement for range areas is to provide a choice for the birds to be outside if they wish and to scratch around and dust bathe.

- **Only a very small proportion of birds actually venture outside at any one time**

This point is very selective among the attributes which may contribute to the welfare of birds. It has not recognised the other essential elements of welfare e.g. provision of feed and water inside the shed (N.B. due to bio-security concerns over exotic diseases requires feed and water should not be provided outside); shelter from the elements; protection from predators; nest boxes under shelter. Have the reviewers considered the environment in the range area during torrential rain or when the summer temperature is 46c?

There is an inference in the ACCC News Release that all of the birds should be outside all the time. This is misleading and it may further create perceptions in consumers' minds that this is a reality. My understanding of free range production is that the yards are provided for the birds as they desire – if they prefer to stay inside due to rain, hot weather, laying eggs, perching, feeding, drinking etc. I'm not sure what the ACCC is proposing with this statement? Perhaps they are suggesting that the birds be forced outside and the doors closed and not allow them inside to lay eggs in the nest boxes nor to eat and drink? The ACCC statement inadvertently is promoting a standard which is counter to good management practices and animal welfare.

- **The animal management practice of beak trimming is routinely practised**

The ACCC is suggesting that the consumer is being misled on beak treatment used with laying birds. I fail to see what is misleading – there is no advertising material to state that birds are not beak trimmed nor do I see this statement on egg carton labels.

I understand that ACCC made reference to “perceptions” on this matter. The reality is the majority of consumers do not think about this issue unless prompted to consider the matter. The ACCC News Release is fostering this view. Further, there is a misunderstanding of why beak trimming may be used as a management practice. The reason it is done is for animal welfare issues in that it reduces the risk of bird loss due to aggressive behaviour. There are many procedures used with humans which are similar in nature e.g. dental work – should these also cease?

Response to ACCC Initial Assessment

Although I have written the submission above in response to reading the ACCC News Release dated 2nd November 2012 I have now taken the opportunity to read the Initial Assessment. I have noted a

number of contradictions in terms of achieving positive bird welfare outcomes and also noted the promotion of misconceptions through the ACCC assessment.

Promote competition

In the opening statements of the assessment the ACCC has one of their stated aims as being “to promote competition”. In the interim assessment of the AECL Certified Trademark application many of the ACCC conclusions could be deemed to promote anti-competitiveness. Some of these items would include closing down of large farms due to lack of space, high capital cost of land purchase for new operators, restrictions on management practices which may lead to higher bird mortality, etc. Through this process I believe there may be two losers i.e. the consumers with higher free range egg prices and the birds with lower welfare outcomes.

Indoor stocking density

There is a standard indoor stocking density which is quoted in the Model Code of Practice. I cannot understand why ACCC has chosen to include this in the assessment, or the relevance of its inclusion. With this point, and others mentioned, is the ACCC seeking to produce a de facto new Code of Practice.

Management practices inconsistent with concept of free range

I fail to see the logic in the ACCC determination that there are many management practices inconsistent with the concept of free range. This conclusion may have been based on a number of submissions received where various groups and individuals have sought to determine and impose their view of life. The fact is there is a Code of Practice for the Welfare of Poultry and this should determine the outcomes. If all the statements made by ACCC were adopted then bird welfare would suffer and ACCC may be deemed partly responsible for these outcomes.

ACCC acknowledges misleading conduct is the primary concern

With the points covered in the ACCC assessment there is a failure to identify and prove where there is misleading conduct with the production and marketing of free range eggs. It appears in their deliberations instead to have a focus on “perceptions” which is a very “grey” area and subjective. This approach seems to be unusual and certainly open to many interpretations.

Environment on range

ACCC makes comment on the environmental issues relating to the range area for the birds. In doing so it has not recognised the widely differing climatic conditions around Australia which vary from arid areas to tropical and everything in between. There are significant variations in rainfall and more particularly in the availability of water. During the summer season in Southern and Western Australia there is minimal rainfall and it is not possible to maintain green pastures (nor is it required under the Code of Practice). Conversely in high rainfall areas, at certain times, range areas are likely to be wet and sometimes muddy and this cannot be changed. These features are part of the natural environment and should be acceptable.

Making up own rules

It is noted that some of the submissions from small free range producers have a focus on range area as being the only welfare issue and make certain claims as to the need to meet a particular standard. There are a number of examples where these same people then choose to ignore other Code of Practice recommendations such as stocking density in sheds.

Bills in various states

With reference to the statement that some State Government jurisdictions have Bills before their respective Parliaments it should be noted that none of these have been put into legislation at this time. I understand that they are all Private Members Bills and would need to be debated and accepted by Parliament and there is no certainty that adoption will occur.

Engage in natural behaviours

ACCC references the suggestion that birds require a very large area to express natural behaviours. I suggest however that birds do not require very large areas to do this. Typically birds prefer to stay close to each other and do not seek isolation from other birds.

Popholes

The assessment suggests that the size of popholes (doors) may be restrictive of birds leaving or entering the sheds. Anyone who has actually observed these events would clearly see that the current recommendation is adequate for the purpose and are not restrictive. Perhaps the same should apply for humans – we should not have doors but instead open entire front walls of buildings?

Range for significant time

The conclusion that ACCC has reached in suggesting that birds should be outside for “a significant time” is not logical. The Code of Practice states that birds are free to roam – not that they “must” be outside for significant time. This suggestion misses the point that there are many factors that contribute to the welfare of birds such as nesting behaviour, feeding, drinking, perching, protection from the elements, etc, and to force birds outside will deprive them of these requirements.

Beak trimming trauma

I note the report refers to “trauma” from beak trimming. I am not sure where the reference for this was obtained for infrared beak trim. As stated previously these treatments are probably no more traumatic than humans would face at the dentists or doctors. I suggest that ACCC has made a judgement on insufficient information.

Beak trimming – most large producers beak trim while most small producers do not

The report states that in general most large producers beak trim while smaller ones do not. I understand the smaller ones that do not beak trim are typically affiliated with one or other of the free range groups that do not permit this treatment. I do know that a significant number of smaller producers do beak trim in the interests of bird welfare. I suggest the ACCC statement is incorrect.

Higher welfare practices

There are numerous references to free range and the advantages that may promote higher welfare practices. Many of these are open to interpretation and scientific studies in most cases have not demonstrated welfare advantages with large range areas. Missing from the submissions it seems are the negative welfare outcomes which occur through health issues such as “Fowl Cholera”, “Spotty Liver Disease”, Coccidiosis, which typically cause bird mortality and affect the birds’ health generally. Birds exposed to outdoor range areas are more prone to intestinal worms, (and in the case of tapeworm there is no registered treatment), and also the risk of external parasites such as body lice, stickfast fleas and red mite. It is interesting that the multitude of submissions already received seemed to have overlooked these facts. In a review, all welfare aspects should be considered a point which ACCC appears not to have done and therefore many of the conclusions are either flawed or open to question.

CTM – competitive advantage

I note the comment that larger producers would have a competitive edge by being able to use the CTM. It should be noted that many producers both large and small already use “logos” of one description or other on their packaging and these include “*Heartsmart*”, “*RSPCA Approved*”, “*Humane Choice*” and others. I would point out that a number of larger producers have no intention of using the proposed CTM (if it was approved) as they believe that no advantage would be gained and with the amount of information already on packaging it would just get lost in the background. I suggest therefore that the ACCC conclusion is incorrect.

Higher costs of small producers Vs large producers

It is a reasonable comment to state that smaller egg producers may be faced with higher costs per unit than larger producers. This is usually a factor in all types of enterprises (but not always) that economy of scale will reduce costs. It is also true that there are advantages in being a smaller producer in that they have more flexibility in operating their business and often do not face extra imposts of a larger business with payroll tax. Although smaller producers may generally have some higher costs, (but some lower), they will mostly have an advantage in sell prices due to having access to niche and local markets.

Conclusions

It is accurate to say that there are many views on what constitutes free range egg production. Unfortunately many of them are formed from misinformation, misunderstandings, lack of knowledge and perceptions in peoples’ minds. I have been involved from time to time with visits to cage and free range facilities and in most cases these inspections have dispelled misconceptions that the people had before the visit. In recent months I have had groups from RSPCA, politicians, ACCC, retailers and others visit our farms. In the case of cage egg production the only information they had seen in the past was footage provided by animal rights activists, who often have used selected misleading film footage from many years ago. In the case of free range, prior knowledge had only been received from various activist groups.

In the case of the visits to free range egg production farms, visitors have been able to see firsthand how the birds are housed and the range areas of different sizes. The visitors have commented that

they appreciated the opportunity to view the farm and were impressed by the welfare standards. The comments generally have been that they did not formerly comprehend what it would look like, but have been impressed with what they saw on the visits.

It appears that ACCC in considering the matter of free range egg production is seeking to make a judgement on many farming practices for which it is not qualified or experienced. Many of the points raised in the News Release have been provided by people that either do not understand egg production or have agendas separate from the points being debated. I suggest that more attention needs to be given to facts and science and what are the true animal welfare issues.

Contact Details

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