

Submission
Proposed Draft Australian Animal Welfare Standards and Guidelines for
Poultry*

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1 Identified policy problems

1.1 According to the *Consultation Regulation Impact Statement*, November 2017, the main policy problem that the options seek to address is the minimisation of ‘risks to poultry welfare due to deficiencies in existing codes of practice and other standards’ (p iv). This point is made repeatedly throughout the RIS.

1.2 While ‘uncertainty for industry due to a lack of clear and verifiable standards’ and ‘excess regulatory burden arising from a lack of national consistency’ are also identified as problems (p vi), they are always secondary to the principal problem of animal welfare. On pp 28-29, for example, they are described as problems ‘to a lesser extent’. On p 30, animal welfare is acknowledged to be ‘the primary problem intended to be addressed by the proposed standards and alternative options. Regulatory differences between the jurisdictions and excess regulatory burden, whilst relevant, are a secondary problem in this RIS’.

1.3 The RIS also acknowledges that ‘a number of current practices present significant risks to poultry wellbeing’ due to a failure to keep ‘pace with animal welfare science and society’s expectations’ (p 28).

2 Identified animal welfare risks

Having stressed that animal welfare is the principal policy problem that the options seek to address, the RIS then identifies the main risks to the welfare of poultry in existing instruments as follows (p vi):

- Lack of clear responsibilities for personnel in charge of poultry
- Lack of freedom of poultry to express innate behaviours
- Inadequate space allowances for poultry (stocking density)
- Lack of perches, nests and litter for layer hens (production systems)
- Lack of quantitative lighting standards
- Need for restrictions on routine beak trimming
- Risky litter management
- Need to restrict routine use of induced moulting

* Unless otherwise indicated, page numbers refer to the *Consultation Regulation Impact Statement*, November 2017 (RIS).

- Care of meat chickens and turkeys awaiting slaughtering; and
- Access to water for ducks

3 Disjunction between identified animal welfare risks and proposed draft standards (Option C)

3.1 According to the RIS, approximately half of the proposed standards (Option C) are new in comparison with those under the existing MCOPs (p viii). These proposed new standards are set out in Table 14 (p 18).

3.2 It is instructive to compare these proposed new standards with the animal welfare deficiencies in existing instruments as identified by the RIS.

Lack of clear responsibilities

General standard SA1.1 lacks specificity and thus does little to aid animal welfare while maintaining uncertainty. Some of the specific standards refer to a 'person in charge' which may aid accountability. Note, however, that the meaning of this term is one of very few provisions in animal welfare/cruelty legislation to be litigated.

Lack of freedom to express innate behaviours

There are *no* proposed new standards that increase the capacity of poultry to express innate behaviours other than the very limited changes listed below in relation to nest boxes for breeder poultry and ducks' access to water.

Inadequate space allowances (stocking density)

There is *no* change to stocking densities for most species. The only specific new standards re stocking densities are for emus, geese, partridges and pheasants (and Table 14.1 indicates a lack of *any* existing stocking density standards for geese, partridges or pheasants).

Lack of perches, nests and litter for layer hens (production systems)

There is *no* general requirement that perches, nests or litter be provided. The only specific standards requiring nest boxes are limited to breeder poultry.

Lack of quantitative lighting standards

General standards SA6.3 and SA6.5 do specify quantitative lighting. The standards, however, are inconsistent with RSPCA recommendations. Similarly, specific standards that quantify lighting periods, SB1.5, SB2.1 and SB3.5, fail to match RSPCA recommendations.

Need for restrictions on routine beak trimming

General standard SA9.12 requires appropriate pain relief when carrying out surgical procedures on poultry but the only general standard that refers to beak trimming is SA9.15, a person must not remove more than one-third of the upper and lower beaks. The new specific standard, SB2.2, prohibits the routine undertaking of surgical procedures, such as beak trimming, on meat chickens, but is unclear as to what constitutes non-routine practice or the

circumstances in which it can be undertaken. Taken together, these standards also create ambiguity. The specific prohibition in relation to meat chickens and its absence in the case of laying chickens implies that routine beak trimming is authorised for the latter, subject only to the one-third requirement in SA9.15. Yet in SB2.2 beak trimming is given as an example of a surgical procedure which suggests that the requirement for pain relief in SA9.12 might apply. However, the Glossary in the proposed draft standards defines *surgical procedure* as one *that exposes tissues normally covered by skin or mucosa*.

Risky litter management

SA8.1 and SA8.2 set out certain requirements *where litter is used*.

Need to restrict routine use of induced moulting

General standard SA9.4 that requires a person in charge to ensure that induced moulting is not routinely practiced (*sic*) also suffers from lack of clarity as to how often and under what circumstances it is allowable. SA9.5 and SA9.6 require certain standards where induced moulting is 'necessary'.

Care of meat chickens and turkeys awaiting slaughtering

The only new standard for slaughtering establishments listed in Table 14 is the general requirement in SA11.3. Other new standards under the broader headings of Handling/husbandry and Humane killing are mostly expressed in general terms, for example SA9.1, SA9.2 and SA10.1 or incorporate terms such as *reasonable opportunity* and *reasonable action*, such as SA10.3 and SA10.4. These general provisions maintain uncertainty and are difficult to enforce. A few specific standards create greater certainty for some species in terms of their general handling, for example SB6.2 and SB6.3 in relation to geese.

Access to water for ducks

Standard SB4.4 requires a person in charge to ensure facilities are provided to allow ducks to dip their heads under water or misters/showers to allow ducks to wet preen, and to clean their eyes and nostrils.

3.3 While some of the proposed new standards provide additional animal welfare measures, taken as a whole there is a significant discrepancy between the animal welfare risks identified by the RIS and the new draft proposed standards (option C) chosen to address them.

3.4 This gulf is even more evident when the numbers of poultry at risk from the identified factors is taken into account, for example the millions of layer hens and meat chickens who are granted no improvement of any kind with respect to space allowance or ability to express innate behaviours.

4 Science and animal welfare

4.1 The above discrepancy appears to be a function of the role of science in the standards development process, an inconsistent understanding of animal

welfare and the alleged indeterminacy of positive welfare impacts in some cases.

- 4.2 It is public knowledge that some stakeholders were dissatisfied with the lack of an independent and comprehensive review of relevant research to inform development of the draft standards. Not only did the RSPCA feel the need to compile its own review but the Victorian government also commissioned one separately. While the RIS includes reference to these, the decision of the Animal Welfare Task Group (AWTG) not to undertake its own independent review is telling. It is also a matter of public record that the WA Minister for Agriculture criticised the proposed draft standards as not reflecting contemporary scientific knowledge (or community expectations).
- 4.3 Animal welfare is referred to inconsistently in the RIS. Critically, a narrow understanding is favoured despite acknowledgment at key points that animal welfare encompasses more than biological factors. Three frameworks for assessing animal welfare are recognised (p v): biological functioning, affective state and natural living. Further, the RIS notes that it 'is possible to have a physically healthy, productive animal that is in a poor state of welfare due to, for instance, mental stress' (p x). And, on p 31, an animal is said to be 'in a good state of welfare if (as indicated by scientific evidence) it is healthy comfortable, well nourished, safe, able to express innate behaviour, and it is not suffering from unpleasant states such as pain, fear and distress'. Further, 'apart from physiological functioning, physical condition and performance - brain state, behaviour, and even an animal's emotions are now all recognised as key factors in assessing an animal's welfare' (p 45).
- 4.4 This broader understanding of animal welfare is heavily qualified, however, at various points. For example, the concept of natural living '*assumes* that the welfare of an animal is better when it can express its normal patterns of behaviour' (p v, emphasis added); the 'concept of "natural" is poorly defined, and this framework does not provide a rigorous scientific basis for welfare assessments' (p 9). Moreover, the 'importance' of innate behaviours such as nesting, dust bathing, ground-scratching and wing-stretching is said to be 'a matter of contention'. This despite the fact that the introduction to the proposed draft standards states that 'the basic physiological and behavioural needs of poultry include ... space to stand, lie and stretch their wings and perform normal patterns of behaviour'. The RIS also refers to this as one of the poultry welfare principles identified by the Standards Advisory Group (SAG) (p 10), as well as including innate behaviours in its specific areas of risk to poultry as discussed in 3.2 above.
- 4.5 As a result, while it appears that a broad understanding of animal welfare has been adopted, the concept is framed and applied in a way that favours animal health and biological functioning. We are told, for example, that

cages provide the least freedom to express natural behaviours but they also have the lowest incidences (*sic*) of feather pecking and cannibalism. Some people

might consider that freedom to express innate behaviours is overwhelmingly the most important factor, whilst others might prefer a different weighting. Tradeoffs like these are very difficult to quantify for individual birds, *without further research into animal behavioural preferences* (p 34, emphasis added).

4.6 The RIS notes that the 'main criterion for evaluating the proposed standards and the feasible alternatives is net benefit for the community, in terms of achieving (the) policy objective' (p vii), that is, first and foremost, to minimise risks to poultry welfare. Accordingly, the 'preferred option is the one that generates the greatest net benefit for the community' (p x). While the 'selection of a preferred option has ... been postponed pending responses from the public consultation process' (p x), the choice of Option C for the proposed draft standards indicates that those responsible for preparing the RIS 'prefer a different weighting' - and one that is consistent with industry preferences.

4.7 This choice appears to be justified on the basis that some positive welfare impacts are 'indeterminate'. Yet the lesser weighting given to behavioural preferences and the mental state of animals ignores widespread recognition of their importance by animal welfare scientists, as noted on p 45; it is also inconsistent with the assumptions underpinning general animal welfare/cruelty legislation. Further, while it is true that each of the three farming systems have welfare advantages and disadvantages (p 34), no weight appears to be given to the fact that the disadvantages of other systems can be managed through good husbandry and other practices while the disadvantages inherent in caged farming systems cannot.

4.8 A narrow focus is also at odds with the case for government intervention made in the RIS: it is particularly in relation to a broader understanding that 'there can be insufficient economic incentive for a poultry farm to reduce risks to animal welfare, especially where doing so would increase costs with little or no offsetting gains to the business' (pp vi-vii). Moreover, the emphasis on looking 'strictly at factual considerations ... based on scientific evidence where available' (p 55) underscores the flawed nature of a process uninformed from the start by a comprehensive and independent review of research into poultry welfare.

4.9 Partiality is not only apparent in the choice of option for the proposed draft standards but also in ways that might seem insignificant but are in fact remarkably telling. In the Glossary, for example, the meaning of 'cages' includes an additional, evaluative statement about the importance of cage systems as a disease control measure. By contrast, free range systems and furnished cages are described in purely factual terms (pp 92-94).

5 Standards development process

5.1 It is doubtful that a narrow understanding of animal welfare is consistent with community expectations. I will spare you the survey statistics and data

about changing consumer preferences; I am sure many others will make reference to them.

- 5.2 Community views will also be gauged by the response to this public consultation. I note that three of the four daytime forums organised by the NSW Department of Primary Industries (DPI) were held in regional NSW, the scheduled timing of the Sydney forum being the least favourable for working people. The DPI did, however, include a link to a community survey and also referred people to the national consultation process but not everyone who cares deeply about poultry welfare will participate. I have spoken to a number of people who said it is pointless to do so, believing that any submission not in accord with industry preference will be given little weight. Mere anecdote, I know, but it illustrates an issue of some importance: the standards development process, and animal welfare regulation generally, are perceived to be infected by a conflict of interests. Some of the reasons giving rise to this perception are canvassed below.
- 5.3 Draft animal welfare standards are developed under the direction of the AWTG which is comprised of representatives at deputy-secretary level of Commonwealth, State and Territory agriculture/primary industries departments (p 22). The principal object of these departments is to promote the relevant industries.
- 5.4 According to the chair of the AWTG, the small writing group responsible for the initial draft includes representatives from Animal Health Australia (AHA) and the NSW Department of Primary Industries (Will Zacharin, ABC 7.30 - Statement regarding development of poultry guidelines, December 2017).
- 5.5 AHA is also the overall project manager. It is a not-for-profit public company whose membership comprises government agriculture/primary industry departments and major livestock industries. Its chief concerns are animal health and the sustainability of livestock industries.
- 5.6 The NSW DPI is the contract manager for the poultry standards process. According to its website, the DPI 'works to increase the value of primary industries and to drive economic growth'. NSW is home to the largest proportion of egg producers in Australia. The NSW Minister for Primary Industries is a National Party MLC. The chair of the NSW Nationals is a NSW caged egg producer and a director of Australian Eggs.
- 5.7 The SAG has input into the process following the initial drafting. Apart from AHA and government agencies, the organisations represented on the SAG include two animal welfare and 11 industry bodies (pp 22-23). It may be that '(a)ll members of the SAG had an equal opportunity to express their opinions' (p 23) but some interests receive substantially greater representation than others.

- 5.8 AHA acknowledges that the draft proposed standards do not necessarily represent the views of all parties who contributed to the process (*Proposed Draft Australian Animal Welfare Standards and Guidelines – Poultry Public Consultation* Nov 2017, p 6). Significantly, it is the two animal welfare organisations represented on the SAG whose dissent is noted in the RIS (p 25). By contrast, the industry representatives are broadly supportive of the process and the proposed standards.
- 5.9 After the proposed standards are revised and finalised, they require endorsement by the AWTG and ultimately by State and Territory agriculture/industry ministers. It is then up to State and Territory governments to implement them.
- 5.10 I am not suggesting any impropriety with respect to any of the above. It is difficult, nevertheless, to maintain confidence in the impartiality of an animal welfare process that is so intricately connected with industry interests at every level. This was recognised by the Productivity Commission in its 2016 Inquiry into the Regulation of Australian Agriculture which recommended the establishment of an independent statutory agency to manage the national standards process.

6 Conclusion

- 6.1 The RIS emphasises narrow measures of animal welfare on the basis that evidence concerning its broader attributes is indeterminate or lacking. As a result, the proposed draft standards largely fail to achieve the chief policy objective of minimising risks to poultry welfare.
- 6.2 While public concern has focused on layer hens in caged farming systems, there are a great many other welfare issues that the proposed standards fail to address adequately, or at all. Examples are the conditions in which meat chickens are raised, including stocking densities, and inadequate regulation of slaughter. The latter includes, but is not limited to, the lack of mandatory CCTV in all abattoirs, as well as the lack of any industry independent monitoring where it is present.
- 6.3 It is deeply ironic that the proposed draft ‘animal welfare’ standards are broadly acceptable to industry but criticised vehemently by animal welfare bodies. The absurdity of this situation is magnified by the fact that the RSPCA, one of the two SAG animal welfare representatives, is relied upon by State governments to enforce some or all of their animal welfare legislation. I am unaware of any other regulatory field in which governments delegate enforcement of a penal statute to a private charity; accordingly, to do so suggests a very high degree of government confidence in the RSPCA’s expertise. How curious then that governments often disregard the RSPCA’s advice when developing livestock welfare standards.

- 6.4 Improved animal welfare has a financial cost, particularly where it involves major infrastructure changes and it is not fair or realistic to expect producers, especially small farms, to shoulder this cost. One-off costs should be borne by governments on behalf of the community who benefit as a whole. The 10 year costs of Options D - G, over and above Option C (p x), are viable when viewed in the context of government expenditure as a whole. The NSW government, for example, is planning to spend \$2 billion on two stadium rebuilds notwithstanding considerable community opposition.
- 6.5 Finally, as noted in the RIS (p 11), the 'successful pursuit of many industries is dependent on community confidence in the regulation of animal welfare'. A significant proportion of the community has already lost confidence for the reasons touched on above. But I have made this point in submissions before; it is likely once again to be disregarded.