

Submission on the Proposed Draft Australian Animal Welfare Standards and Guidelines- Poultry

The authors appreciate the opportunity to respond to the Public Consultation initiated 27 November 2017 on the *Proposed Draft Australian Animal Welfare Standards and Guidelines and Poultry Consultation Regulation Impact Statement*.

About the authors

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The views expressed herein are those of the authors and not necessarily of their employers or other colleagues.

Context

1. The Consultation Package comprises of the 282 page *Proposed Australian Animal Welfare Standards and Guidelines Poultry Consultation Regulation Impact Statement* ('RIS') and *Guide on the Regulation Impact Statement*, 72 page *Proposed Draft Australian Animal Welfare Standards and Guidelines -Public Consultation* ('Draft Standards') released November 2017 as well as support material such as *Australian Animal Welfare Standards and Guidelines for Poultry; Questions and Answers*.¹
2. The Draft Standards cover all aspects of poultry farming and egg production including under the battery cage system. Option D of the Draft Standards proposes variations to the standards as presently drafted to allow for the phase out of battery systems over ten year and twenty year terms in favour of alternative systems which might include 'typical' free range, barn/aviary or furnished cages (which might involve a nest, perch and space for forage).
3. It has been estimated that around two thirds or 11 million of Australia's 15.6 million layer hens and almost 4 million pullets are confined to battery cages.² This means an estimated 63% of all eggs produced came from caged birds, 30% came from free range hens, and 7% from barn flocks³.
4. The Australian Bureau of Statistics has estimated the gross value of all eggs produced during the financial year 2015-16 to be 783 million Australian dollars.⁴ Overall, there were 130 caged egg farming businesses, 159 barn egg farming businesses and 1,539 free range egg farming businesses.⁵

Observations

5. The Guide to the RIS mentions the public consultation seeks views on how well the:
 - Proposed standards will ensure the welfare of poultry;

¹*Australian Animal Welfare Standards and Guidelines for Poultry Questions and Answers* available at http://www.animalwelfarestandards.net.au/files/2015/07/AHAH1708-Poultry-Standards-and-Guidelines_FAQs_FA2.pdf

² Australian Bureau of Statistics, ABS. 2017a. Agricultural Commodities, Australia, 2015-16, available 25 Jan 2018 at www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/7121.02015-16?OpenDocument

³ Australian Bureau of Statistics, ABS. 2017a. Agricultural Commodities, Australia, 2015-16, available 25 Jan 2018 at www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/7121.02015-16?OpenDocument

⁴ Australian Bureau of Statistics, ABS. 2017b. Value of Agricultural Commodities Produced, Australia, 2015-16 available 25 Jan 2018 at www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/7503.0Main+Features12015-16?OpenDocument

⁵ Australian Bureau of Statistics, ABS. 2015, Agricultural Commodities, Australia, 2013-14, available 25 Jan 2018 at www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/7121.02013-14?OpenDocument.

Australian Bureau of Statistics, ABS. 2016, Agricultural Commodities, Australia, 2014-15, available 25 Jan 2018 at www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/7121.02014-15?OpenDocument.

- RIS demonstrates the need for the standards;
- RIS identifies the cost and benefits for producers, government and the wider community in all proposed standards.

Part 1 Ensuring Welfare of Poultry

6. Animal welfare is an increasingly important factor in food purchasing decisions⁶ and there is now also a considerable body of research focussed on consumer willingness to pay for improved animal welfare.⁷ Accordingly there is an increasing need to develop policies regarding animal production, sustainable intensification and animal welfare which incorporates consumer priorities as well as technical assessments of animal welfare.⁸
7. It is clear Australian consumers '*place a value on farm animal welfare and benefit from knowing animals are being treated humanely*'.⁹ This would account for the estimated 165,000 submissions¹⁰ reportedly received in response to the consultation.
8. While the RIS details Options A through G, the RIS largely advocates the proposed Draft Standards as the basis for transition into uniform state and territory government adopted standards to be implemented into legislation.
9. The proposed Draft Standards and 'feasible alternatives' are evaluated based on 'net benefit' to the community based on achieving consistency of policy and regulatory uniformity. Such evaluation is based on a qualified costs and benefits analysis. The benefits to industry are pretty obvious. However, in the main, the Draft Standards appear to do little to improve the existing inadequate arrangements for the welfare of the birds whose existence would be governed by the standards. This raises concerns that industry groups may have exerted disproportionate influence, particularly as the participation of welfare organisations (RSPCA and Animal Australia) was limited to the reference group level and was excluded from strategic phases such as during policy formation and process planning. That is:
 - the Draft Standards were developed under the direction of the Animal Welfare Task Group (AWTG)¹¹ and
 - in a process 'managed' by Animal Health Australia (AHA), the Draft Standards were drafted by a smaller group 'supported' by a Stakeholder Advisory Group (SAG).¹²
10. The SAG comprises representatives of 11 livestock industry organisations, the Australian Veterinary Association, representatives of the eight state and territory governments, the Australian Government, and two animal welfare organisations. One of the animal welfare organisations, the RSPCA, stated it became

⁶ See for example Napolitano, F., Girolami, A. and Braghieri, A. Consumer liking and willingness to pay for high welfare animal-based products, *Trends in Food Science and Technology*, (Nov 2010)21: 537-543
<https://www.sciencedirect.com/science/article/abs/pii/S0924224410001767>

⁷ B Clark, B Gavin, Stewart, A Luca and Ors *Citizens Consumers and Farm Animal Welfare; A meta-analysis of Willingness to Pay*, *Food Policy* Vol 68 April 2017 112-137 available at
<https://www.sciencedirect.com/science/article/pii/S030691921730060X>

⁸ B Clark, B Gavin, Stewart, A Luca and Ors *Citizens Consumers and Farm Animal Welfare; A meta-analysis of Willingness to Pay*, *Food Policy* Vol 68 April 2017 112-137 available at
<https://www.sciencedirect.com/science/article/pii/S030691921730060X>

⁹ Productivity Commission, *Regulation of Australian Agriculture*, Report no. 79, November 2016, Canberra available at <http://www.pc.gov.au/inquiries/completed/agriculture/report>

¹⁰ Animal Health Australia, Media Release *Record Response to Poultry Welfare Standards During Public Consultation* 27 February 2018 see <https://www.animalhealthaustralia.com.au/wp-content/uploads/Record-response-to-poultry-welfare-standards-during-public-consultation.pdf>

¹¹ Proposed Australian Animal Welfare Standards and Guidelines Poultry Consultation Regulation Impact Statement Nov 2017 page 2

¹² Proposed Draft Australian Animal Welfare Standards and Guidelines -Public Consultation Nov 2017 page 6

concerned when the chair of the SAG made it clear that battery cages would not be discussed as part of the process nor would an independent scientific review, especially on egg production systems, be conducted.¹³

11. Further, the authors note:

- a. there have been allegations of collusion¹⁴ involving the NSW Department of Primary Industries¹⁵ in the drafting of the Draft Standards¹⁶;
- b. a failure to conduct proper audit giving due consideration to contemporary scientific views on animal welfare (as evinced by the need for the Victorian Government to undertake research 'because it was not carried out during the national review')¹⁷; and
- c. that state government participants have disapproved of the process, including, for example, the Victorian¹⁸ and Western Australian governments.¹⁹

12. The authors believe the current Australian regulatory framework does not adequately protect the welfare of farmed animals; including the poultry species covered by the consultation package. Preeminent amongst the authors' concerns are that the Draft Standards fail to give due regard to prevailing scientific views and international trends particularly with regards banning the battery cage. Further, it is also the authors' key submission that though the consultation material references the Productivity Commission reports, there is no consideration of the recommendations that bear directly on how the Draft Standards should have been developed so as to balance competing interests.

13. National standards meeting international best practice for animal welfare are needed to safeguard Australia's reputation and future investment opportunities.²⁰ Countries across North America and Europe²¹ including Canada²², the United States,²³ the United Kingdom and New Zealand²⁴ amongst

¹³ The Royal Society for the Prevention of Cruelty (RSPCA) is quoted in E Tan article in the Sydney Morning Herald *RSPCA threatens to quit poultry standards advisory group, as integrity of process is questioned* 15 February 2017 available at <http://www.smh.com.au/business/consumer-affairs/rspca-threatens-to-quit-poultry-standards-advisory-group-as-integrity-of-process-is-questioned-20170213-gubqx0.html>

¹⁴ See for example **Australian Broadcasting Corporation *Egg Farmers Accused of Colluding with Government Departments to Sabotage Moves to Outlaw Battery Hens 20 December 2017*** suggesting NSW bureaucrats secretly met with industry representatives to discuss how to manipulate the process to retain the use of battery cages, available at

¹⁵ See for example **Australian Broadcasting Corporation *Executive Email Reveals Stoush Over 'Stage-Managed' Process to Benefit Egg Industry, 8 January 2018*** available

¹⁶ Australian Broadcasting Corporation, *Western Australia Threatens to Pull Out of Review of Chicken Welfare Standards* 22 December 2017 available at <http://www.abc.net.au/news/2017-12-22/western-australia-may-leave-chicken-welfare-review/9283274>

¹⁷ Victorian Government *Farmed Bird Welfare Science Review* 2017

¹⁸ Australian Broadcasting Corporation, *Executive Email Reveals Stoush Over Stage Managed Process to Benefit Egg Industry* 8 January 2018 available at <http://www.abc.net.au/news/2018-01-08/concerns-poultry-welfare-standards-stage-managed-by-industry/9299256>

¹⁹ Australian Broadcasting Corporation, *Western Australia Threatens to Pull Out of Review of Chicken Welfare Standards* 22 December 2017 available at <http://www.abc.net.au/news/2017-12-22/western-australia-may-leave-chicken-welfare-review/9283274>

²⁰ C Phillips, *Proposed Poultry Standards Leave Australia Trailing Behind Other Industrialised Countries*, The Conversation 1 December 2017 available at <https://theconversation.com/proposed-poultry-standards-leave-australia-trailing-behind-other-industrialised-countries-88302>

²¹ EU Council Directive 1999/74/EC EU. The Council of European Union judged battery cages cruel and passed legislation through minimum standards for keeping laying hens.

²² 'Canada's battery cage phase-out officially begins' at https://www.cfhs.ca/canadas_battery_cage_phase_out_officially_begins

others²⁵ have banned or are moving towards banning battery cage systems. Even countries like China (one of the world's largest egg producers) with poorer animal welfare track records are beginning to acknowledge the importance of poultry welfare.²⁶ It is in Australia's best interests to also respond to global public demand for improved ethical egg productivity and global competitiveness for egg products.

14. As it is Australia's animal welfare standards are ranked much lower than other countries. In terms of animal protection standards and standards for protecting animals used in farming, Australia rates 'C'. Overall, the World Animal Protection Index placed Australia on equal footing with India and others and behind jurisdictions including for example New Zealand (A), the United Kingdom (A), Sweden (B), Germany (B) and others.²⁷
15. In the 2016 PC Report, the Productivity Commission observed the standard setting process in this regard had progressed unsatisfactorily slowly. In relation to current arrangements the 2016 PC Report acknowledged there were concerns amongst others that;
 - animal welfare regulations are not meeting community expectations about the humane treatment of farm animals;
 - there is a risk that regulations would not be based on evidence based policy;
 - conflict of interest- as industry could disproportionately influence the agricultural departments responsible for animal welfare.²⁸
16. The 2016 PC Report found there were three main ways in which animal welfare regulations could be improved by:
 - clarifying the objective of the national standards and guidelines;
 - ensuring the standards and guidelines are more evidence based by drawing on the existing body of evidence on animal welfare science and research on community views of animal welfare (which should also be used in the Regulatory Impact Assessment processes)
 - ensuring the standards development process is more independent so that outcomes are not overly influenced by any group. Judgments made to balance conflicting views need to be transparent and adhere to scientific principles and surveys of community values on animal welfare need to be statistically robust and transparent.²⁹
17. The authors join the Government of Western Australia³⁰ in endorsing the Productivity Commission's recommendation for an independent statutory body to oversee drafting and enforcement of animal

²³ In California, Ohio, Michigan and Oregon, see California Proposition 2 (2008); http://www.humanesociety.org/news/press_releases/2009/10/mich_gov_granholm_signs.html; http://www.humanesociety.org/news/press_releases/2010/06/landmark_ohio_agreement_063010.html; and <http://www.oregon.gov/ODA/programs/ISCP/Hens/Pages/RequirementsInspections.aspx>

²⁴ Layer Hens' Animal Welfare (Layer Hens) Code of Welfare 2012 at <<https://www.mpi.govt.nz/protection-and-response/animal-welfare/codes-of-welfare/#codes>>

²⁵ Switzerland was the first country to impose a ban on battery cages from 1.1.1992. See <https://www.landwirtschaft.ch/de/wissen/tiere/gefluegelhaltung/haltung/>

²⁶ 'China to employ European animal welfare standards', Aaron McDonald, 5.4.17 <https://www.globalmeatnews.com/Article/2017/04/06/China-to-employ-European-animal-welfare-standards>.

²⁷ World Animal Protection Index, Country Report available at <https://api.worldanimalprotection.org/>

²⁸ Productivity Commission, Regulation of Australian Agriculture, Report no. 79, November 2016, Canberra at page 21 available at <http://www.pc.gov.au/inquiries/completed/agriculture/report>

²⁹ Productivity Commission, Regulation of Australian Agriculture, Report no. 79, November 2016, Canberra at page 22 available at <http://www.pc.gov.au/inquiries/completed/agriculture/report>

³⁰ Australian Broadcasting Corporation, *Western Australia Threatens to Pull Out of Review of Chicken Welfare Standards* 22 December 2017 available at <http://www.abc.net.au/news/2017-12-22/western-australia-may-leave-chicken-welfare-review/9283274>

standards. The authors submit that Recommendation 5.1 of the 2016 PC Report could be adapted as follows:

RECOMMENDATION

To facilitate greater rigour in the process for developing national poultry welfare standards, the Australian Government should take responsibility for ensuring that scientific principles guide the development of all farm animal welfare standards. To do this, a stand-alone statutory organisation — the Australian Commission for Animal Welfare (ACAW) — should be established. The functions of ACAW should include:

- **determining if new standards for farm animal welfare (including poultry) are required, and if so, to develop the standards using good-practice public consultation and regulatory impact assessment processes**
- **publicly assessing the efficiency and effectiveness of the implementation and enforcement of farm animal (including poultry) welfare standards by state and territory governments**

ACAW should comprise no more than five members (including a Chair) appointed by the Australian Government following consultation with state and territory governments. Members should be appointed on the basis of skills and experience, not as representatives of a particular industry, organisation or group. It should also include animal science and community ethics advisory committees to provide independent, evidence-based advice on animal welfare science and community values.³¹

Part 2 The Need for the Standards

18. The welfare of farm animals (including poultry species) in Australia has, since the 1980's, been governed by national Model Codes of Practice, implemented by state and territory governments (many were implemented as voluntary standards). In 2005, Australian governments agreed to convert the codes into mandatory standards and voluntary guidelines that reflect contemporary scientific knowledge and community expectations for animal welfare. The RIS states the Draft Standards are '*part of a national effort to deliver clear consistent and contemporary standards that will enhance welfare arrangements...*'
19. It has been observed,³² that clear nationally consistent and contemporary standards could have offered benefits including:
 - help increase confidence in the community that livestock production in Australia is based on consistent welfare standards;
 - regulatory differences can impose costs on businesses that operate in more than one state or territory, particularly in the eastern states where not only are livestock transported across state boundaries, but also some farming businesses cross state boundaries. While there are challenges to developing a national approach that takes into account the interests and circumstances of all jurisdictions, a nationally consistent approach can reduce costs from regulatory differences that result in additional transaction costs with no offsetting benefits;
 - regulatory differences can make it harder or impossible for consumers to compare the welfare attributes of like products (eg no consistent legal standard for what 'free-range' means in the context of egg production and consumer confidence in the market has suffered as a result);

³¹ Productivity Commission, Regulation of Australian Agriculture, Report no. 79, November 2016, Canberra Recommendation 5.1 at page 38 available at <http://www.pc.gov.au/inquiries/completed/agriculture/report>

³² Productivity Commission, Regulation of Australian Agriculture, Report no. 79, November 2016, Canberra available at <http://www.pc.gov.au/inquiries/completed/agriculture/report>

- a lack of clear and verifiable standards also creates uncertainty for producers (eg inconsistent interpretation of stocking densities for free range layer hens in the poultry code).
20. However, national standard setting processes that align regulatory arrangements to the 'lowest (or highest) common denominator' are unlikely to be in the best interests of the community. Public benefit tests require an assessment of all the costs and benefits of a regulation.
21. The 2016 PC Report acknowledged that:
- more (or less) stringent standards in some states may affect the competitiveness of some providers by potentially raising their production costs relative to their interstate competitors. These costs must be balanced against the benefits to the community from improved animal welfare outcomes, particularly where the higher standards have been shown to better reflect community values;
 - A national approach with flexibility to address local circumstances is desirable. There would also be merit in prioritising the development of standards to areas where there is the most community concern about welfare, and where risk of adverse welfare outcomes are greatest.³³
22. While the need for animal welfare standards is clear, it is also obvious that pressures from the community have led to commitments from Australian businesses to fill gaps that arise from the absence of regulated animal welfare standards. For example Woolworths and Coles supermarkets are phasing out the sale of cage eggs. Restaurant chains such as McDonalds Hungry Jacks and Subway have also committed to remove cage eggs from their menus. In order to meet consumer demands, these businesses have committed to higher welfare standards before such standards are mandated by legislation. This suggests a level of community expectation which is higher than the government or AHA currently provides.
23. It is the authors' view the Draft Standards fail to achieve the '*national effort to deliver clear, consistent and contemporary welfare standards that will enhance welfare arrangements*'.

Part 3 Identification of the cost and benefits for producers, government and the wider community in all proposed standards.

24. It is an aim of the RIS process to identify and quantify the costs of regulatory proposals under consideration to ensure that costs are justified by their benefits. The authors acknowledge that improvements in animal welfare from changes in standards and the benefits derived by the community are not easily quantified. There is a need for balance to be informed by a transparent process that properly refers to community values and demonstrates how these values are balanced against costs to industry even where such costs are passed on to ultimate consumers. This is a complex task which requires independent analysis and robust techniques for testing community values. Methods by which community values can be ascertained include public consultation, reference group analysis and surveys.
25. A recent survey, the 2016 Special Eurobarometer on attitudes to animal welfare found that of those surveyed (approximately 1000 people in each country), 94 per cent thought it was important to protect the welfare of farmed animals and 82 per cent believed that the welfare of farmed animals should be better protected.³⁴
26. It is the authors' submission that a public consultation run over the Christmas holiday period is an insufficient attempt to assess community values. The authors note, concerns have been expressed from animal welfare groups and some government representatives that AHA is an organisation more closely

³³ Productivity Commission, Regulation of Australian Agriculture, Report no. 79, November 2016, Canberra page 213 available at <http://www.pc.gov.au/inquiries/completed/agriculture/report>

³⁴ 2016 Special Eurobarometer on Attitudes to Animal Welfare available at <http://www.animalwelfareintergroup.eu/2016/03/16/new-eurobarometer-on-attitudes-of-europeans-towards-animal-welfare/>

aligned with industry positions, and not sufficiently independent in the process. The 2016 PC Report observes there is the *potential* for a conflict of interest to arise where policy and regulatory objectives conflict. The Report found animal welfare is likely to be of secondary importance when the primary objective of the agency responsible for livestock welfare is to promote a productive and profitable agricultural sector.

27. The challenge associated with this policy area lies in the development of structures that have the capacity to deliver balanced outcomes over time, rather [than] responding to short-term or political developments in a piece-meal and haphazard manner. The authors endorse the 2016 PC Report recommendation adapted as follows:

RECOMMENDATION

State and territory governments should review the way in which their farm animal welfare regulations are monitored and enforced, and make necessary changes so that:

- **there is separation between agriculture policy matters and farm animal welfare monitoring and enforcement functions**
- **a transparent process is in place for publicly reporting on monitoring and enforcement activities**
- **adequate resourcing is available to support an effective discharge of monitoring and enforcement activities. State and territory governments should also consider recognising industry quality assurance schemes as a means of demonstrating compliance with farm animal welfare standards, provided that the scheme complies (at a minimum) with standards in law, and involves independent and transparent auditing arrangements.**³⁵

Conclusion

28. The authors are disappointed with the Draft Standards and wish to express their loss of confidence in the process overseen by AHA. The substance of the Draft Standards unjustifiably prioritises industry views over community values or the submissions of animal welfare organisations. Further, the process by which the Draft Standards have been developed has failed to properly consider modern scientific views on the welfare of layer hens, the move away from battery cage systems by the international community and has blithely disregarded the recommendations of the Productivity Commission which are directly on point.

³⁵ Productivity Commission, Regulation of Australian Agriculture, Report no. 79, November 2016, Canberra Recommendation 5.2 at page 38 available at <http://www.pc.gov.au/inquiries/completed/agriculture/report>