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FREE RANGE EGGS:
Making The Claim Meaningful

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THE SYSTEM IS BROKEN

The free range egg business is booming in Australia. Consumers' desire to back better animal welfare and support free range egg producers has contributed to free range being the fastest growing egg sector, with growth expected at eight times that of caged eggs.¹ It is far from a niche product, with 65% of Australians buying free range eggs in the past 12 months.²

But the system is broken. With no national standard for free range eggs, consumers are being sold eggs under the free range label that do not meet a common sense definition of free range. Consumers pay a premium for free range eggs, but there is no guarantee they are getting what they pay for. Not only are consumers being ripped off, but the current environment creates uncertainty for free range egg farmers and presents significant costs to government.

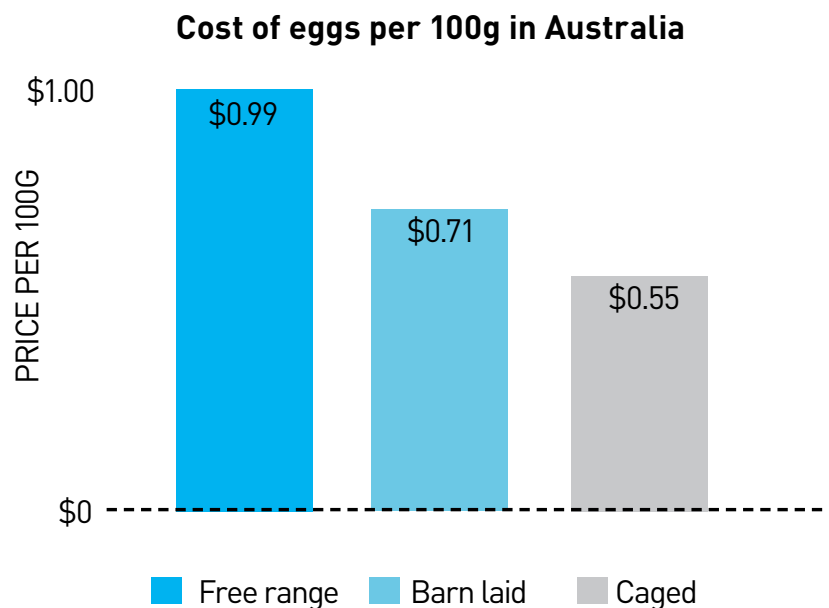
The solution is clear. A nationally consistent and enforceable standard for free range eggs would give consumers confidence and provide a level playing field for producers. The cost of inaction is far-reaching.

COST TO CONSUMERS

Free range eggs command a price premium which many consumers are prepared to pay in the belief that these products meet their expectations. An analysis of free range eggs, barn laid eggs and caged eggs in 93 supermarkets across Australia found that consumers pay up to almost double the amount for free range eggs over caged. Per 100g, consumers are paying on average;

- \$0.99 for eggs labelled free range.
- \$0.71 for eggs labelled barn laid.
- \$0.55 for eggs labelled caged.³

Unfortunately this price premium doesn't mean much. An examination into a broad cross-section of eggs labelled as free range shows a wide variation of stocking densities. The Model Code of Practice for the Welfare of Animals: Domestic Poultry (the Model Code) states that free range eggs should be produced by hens who have access to an outdoor area during daylight hours for a minimum of eight hours per day, shaded areas and shelter from rain and windbreaks and that there is a maximum of 1,500 hens per hectare.^{4,5}



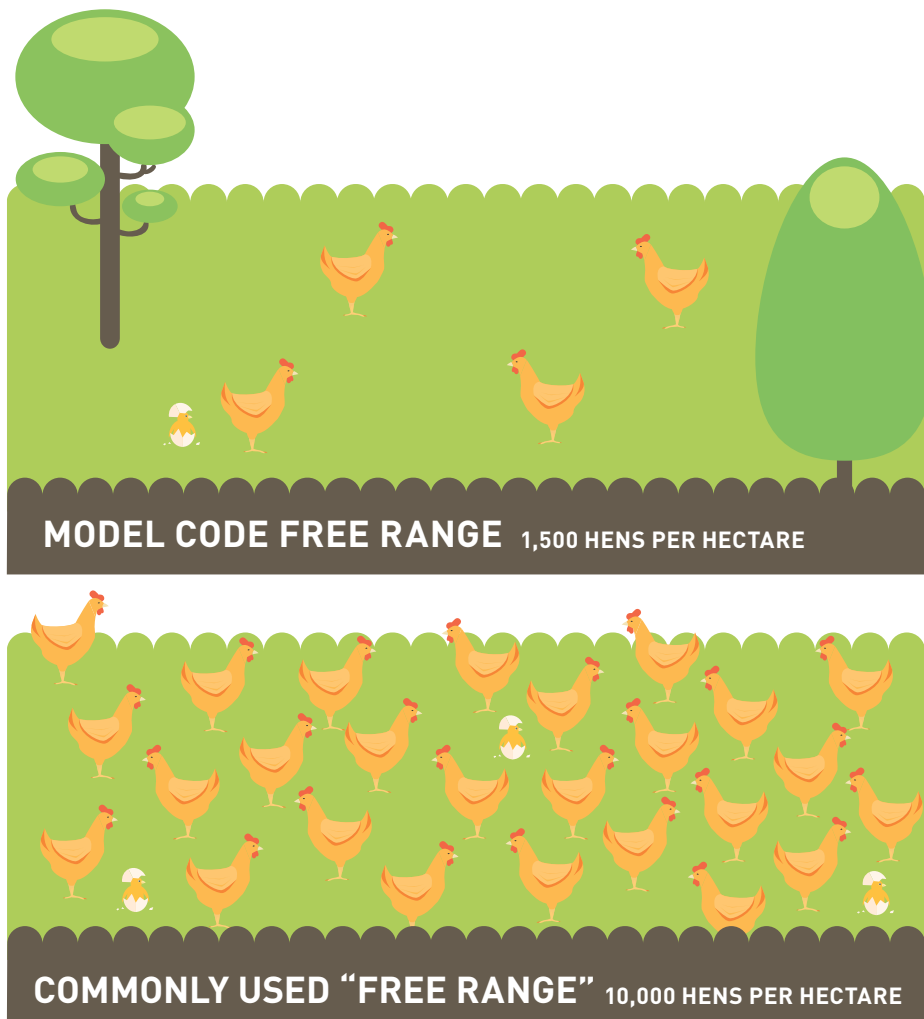
COST TO CONSUMERS

This is consistent with consumers' expectations of free range. When asked to describe conditions under which free range eggs are produced, consumers answered;

- > Free to roam/move about,
- > Access to the outdoors/paddock/grass, and
- > Not confined in cages.⁶

There are wide variations in how the Model Code has been interpreted – or in some cases, CHOICE would argue, misinterpreted. In 2010 the Australian Egg

Corporation Limited (AECL) applied for a certification that would permit a maximum stocking density for free range eggs of 20,000 hens per hectare. The Australian Competition and Consumer Commission (ACCC) rejected the application in its initial assessment on the basis that the rules may mislead or deceive consumers around 'free range' egg production claims.⁷ The application was then withdrawn before its final assessment. Nevertheless, the AECL has admitted that nearly a third of free range egg production uses stocking densities greater than 20,000 hens per hectare.⁸



COST TO CONSUMERS

So what stocking densities are consumers getting when they buy free range? Our investigation of 55 egg products claiming to be free range found major differences:

- Of 55 free range egg products, we could only identify the stocking densities for 35 of them (17 listed on pack, 7 from the website or online and the remaining 11 from reaching out to individual producers).
- Of the 35 egg products with known stocking densities:
 - The lowest stocking density was 185 hens per hectare.
 - The highest stocking density was 10,000 hens per hectare.⁹

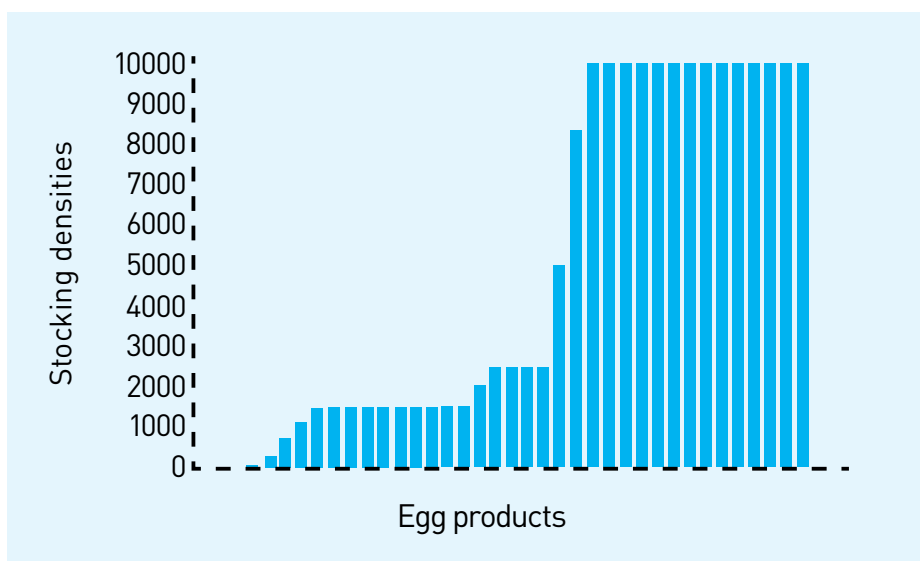
The largest producers and sellers of eggs labelled 'free range' - Pace Farm, Farm Pride, Manning Valley, Woolworths and Coles - declare the highest stocking densities. This is completely at odds with data on consumers' expectations of what a free range stocking density should be.¹⁰

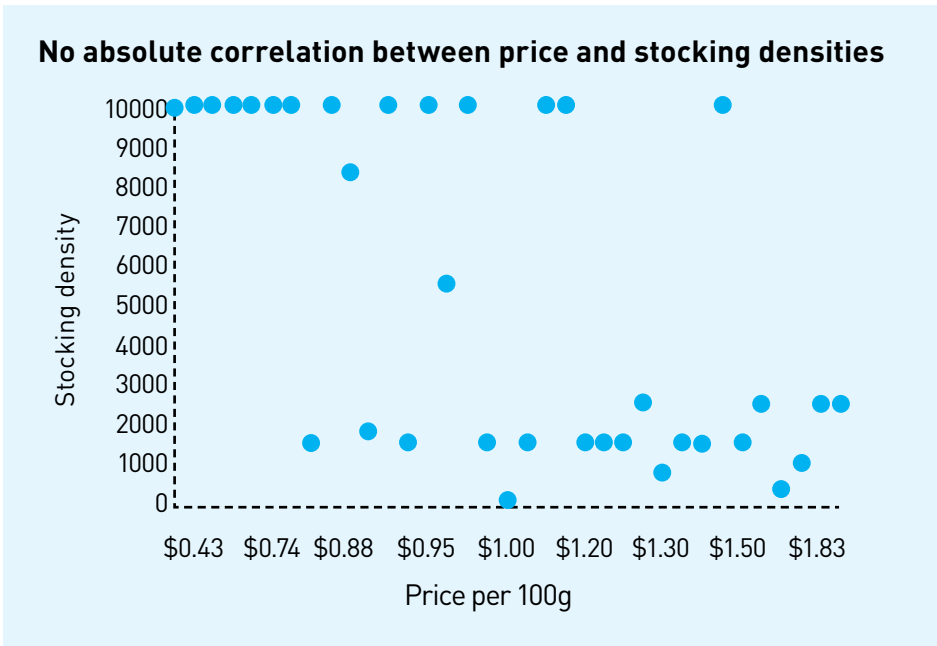
Our research also found that taken on average, the price of eggs varied slightly based on their declared stocking density:

- 14 egg products were compliant with the Model Code and had a stocking density of 1,500 hens per hectare or less. The average price per 100g was \$1.19.
- 21 egg products were not compliant with the Model Code and had a stocking density over 1,500 hens per hectare up to 10,000 hens per hectare. The average price per 100g was \$0.98.

However, while it costs on average an additional \$0.21 per 100g to buy free range eggs in line with the Model Code's recommended stocking density, consumers still have no guarantee that they are getting higher standards if they pay more. There is no absolute correlation between price and stocking density. In some cases, large producers appear to be cashing in on consumers' desire to buy eggs that meet a higher standard of welfare without delivering a product that meets the claims made.

Stocking densities of the 35 egg products





Pace Farms, Manning Valley and Farm Pride - three of the four largest egg producers - accounted for 30.7% of the number of free range eggs sold in Australia in 2014.¹¹ All these producers sell their free range eggs at a stocking density of 10,000 hens per hectare. Given the grocery volume of free range eggs sold in 2014 was 696 million, from these producers alone, we can estimate a minimum of 213 million eggs sold as free range in Australia didn't meet consumers' expectations of free range.¹²



COST TO INDUSTRY

The absence of a nationally consistent and enforceable standard for free range eggs has clear implications for the industry. Many free range egg producers are calling for a standard so that they can achieve certainty over what free range means.¹³ The Australian Egg Corporation has warned that investment isn't keeping up with demand because the industry is waiting for a national standard on free range eggs.¹⁴

The Federal Minister for Small Business, the Hon Bruce Billson MP, has said that "The Abbott Government is committed to ensuring efficient businesses, big and small, are able to operate on a level playing field."¹⁵ It appears that egg producers are currently unable to do so.

Many genuine free range egg producers are feeling the effects of an unfair playing field for themselves and their customers. CHOICE reached out to 16 free range farmers to understand their practices and to see what they had to say. Those producing in line with the Model Code and consumers' expectations of free range all expressed the need for a standard.

“These big, so called free range, farmers running 10 and 20,000 hens on 100m x 100m range area, are telling the same story to consumers about how great their free range eggs are. It’s difficult and I know a few 1,500 hens per hectare guys who are getting pushed out of the market at the moment. It’s not fair having to compete against these big boys and it’s not fair on the consumers paying an extra dollar or two for ‘make out’ free range. I’m not saying they shouldn’t produce eggs in that way, but they should be labelled ‘barn yard’ because that describes the system well, a lot of hens in a barn with access to a small yard, not free range” - **Tom, Kangaroo Island Free Range**

“At the moment, it is a free for all, anyone can put anything on a carton and when a consumer comes into a supermarket, they really have no idea where those eggs come from and what standards they are compliant with.” - **Kate, Top One Hundred Eggs**

“The reality is that none of the labels in the big supermarkets can be trusted, because they don’t mean anything, even if they are accredited by someone.” - **Phil Westwood, Freeranger Eggs**

“It’s terrible that egg producers can get away with selling their eggs as free range when they are not.” - **Emma, Glorious Googies**



The current landscape is fragmented, with free range egg producers employing an array of practices. Large-scale producers and the major supermarkets are effectively setting price expectations for the majority of free range egg consumers, without any certainty as to whether these products meet consumers’ expectations. This ultimately affects those producers who adhere to the production standards set out in the Model Code and cannot compete with the same methods of production.

While there may be some concern from the industry that costs will have to increase to meet a national standard, we know that consumers are willing to pay more for certainty. In fact, 59% of free range egg buyers would be willing to pay more than \$1 than they currently pay if they had confidence that their eggs were truly free range under a standard.¹⁶ In addition, the confidence of a standard would boost demand for free range eggs, rewarding those aligning to the standard.¹⁷

COST TO GOVERNMENT

The current free-for-all in the free range egg market creates costs for government as well as consumers. The ACCC has put a significant amount of resources into investigating free range egg claims in Australia. They have undertaken a wide examination of free range credence claims made by egg producers and in the past five years have instituted or taken action against eight producers for misleading or allegedly misleading consumers with their free range claims.

In addition, the fragmentation of standards across States and Territories presents regulatory challenges for government and producers. Queensland and the ACT are the only jurisdictions to have free range legislation, while SA is introducing its own voluntary free range egg code. This patchwork of inconsistent standards presents challenges to States and Territories wanting to take action on a free range egg standard. It also presents issues for producers. An ad-hoc state based approach will hinder interstate trade and add complexities to supply-chain operations within the egg industry. Additional costs will be added as large egg manufacturers need to adhere to a variety of rules and regulations across Australia. Egg producers will need to keep eggs sold in different states separated and have different packaging and labelling requirements for products within each state. Small producers near state borders will have additional expenses and may only choose to trade within one state to ensure that they adhere to the set standard, reducing supply-side competition. If States and Territories continue to respond to consumers' concerns and develop their own standards, this will increase the regulatory challenge for government and producers.

A clear and consistent national solution would remove the burden and complexity of incompatible State and Territory standards.

SELF REGULATION ISN'T WORKING

In the last five years there have been eight major instances where the ACCC has instituted or taken action against egg or chicken meat producers for allegedly misleading consumers with their free range claims. They include;

- ▶ **Snowdale Holdings Pty Ltd, 2015:** currently in court for making allegedly misleading representations that its eggs were free range.
- ▶ **Pirovic Enterprise Pty Ltd, 2014:** pecuniary penalty of \$300,000 for making misleading representations in its labelling and promotion of eggs as free range.
- ▶ **R.L Adams Pty Ltd, 2014:** ACCC has instituted proceedings against Darling Downs Fresh Eggs, alleging that it made false or misleading representations that its eggs were free range.
- ▶ **Derodi Pty Ltd and Holland Farms Pty Ltd, 2014:** ACCC has instituted proceedings alleging that their use of 'free range' in relation to their Ecoeggs, Field Fresh and Port Stephens egg brands was false and misleading.
- ▶ **Baiada Poultry Pty Ltd and Bartter Enterprises Pty Ltd, 2013:** charged \$400,000 for engaging in false, misleading and deceptive conduct when it described on product packaging and in advertising that its meat chickens were 'free to roam in large barns'.
- ▶ **Turi Foods, 2012:** charged \$100,000 for engaging in false, misleading and deceptive conduct when it described on product packaging and in advertising that its meat chickens were 'free to roam in large barns'.
- ▶ **Rosie's Free Range Eggs, 2012:** charged \$50,000 for conduct involving substituting cage eggs for free range eggs.
- ▶ **C.I. & Co Pty Ltd, 2011:** charged \$50,000 for misleading the public by labelling and selling cartons of eggs labelled 'free range' when a

substantial proportion of the eggs were not free range.

The number of alleged instances of misleading and deceptive conduct and misleading representations highlights that self-regulation is not working. Without a standard we can only expect this behaviour to continue.

THE SOLUTION

In the absence of regulation, the free range egg market has failed consumers. CHOICE believes there is a role for the Federal Government to respond to consumers' preferences and provide certainty. CHOICE is calling for a national enforceable standard that meets consumers' expectations. We are not alone. An overwhelming majority of egg buyers - 84% - agree that a mandatory national standard is needed for free range eggs.¹⁸ In fact, only 2% did not believe there should be a standard.¹⁹

There are a number of farming conditions that impact on whether hens are able to, and do, move freely on an open range each day. The relevant conditions include:

- The internal stocking density of sheds.
- The condition of the internal areas the hens are housed in.
- The number, size and location of any openings to an outdoor area.
- The time of the day and how regularly the openings are opened.
- The size and condition of the outdoor area, including any shaded areas, the presence of food, water and different vegetation and ground conditions.
- The stocking density of any outdoor area.
- Whether the hens have been trained or conditioned to remain indoors.²⁰

CHOICE believes that a nationally enforceable standard for eggs labelled free range should require the producer to:

1. List the stocking density of the hens clearly and consistently on each egg carton. The recommended format would be 'xx hens per hectare' so that consumers are able to compare with the Model Code and make their own informed decision. An upper limit on stocking densities should be set by animal welfare experts.
2. Ensure that the eggs are produced by;
 - a. Laying hens that are farmed in conditions so that the layer hens are able to move around freely on an open range on an ordinary day
 - b. Laying hens most of which move about freely on an open range on most ordinary days

This solution combines the common-sense definition of 'free range' by the courts and a consistent display of stocking density so that consumers are able to buy eggs that meet their expectations.



SOLUTION

WHAT CHOICE IS PROPOSING

A growing amount of free range egg products are displaying stocking densities on their product. But each egg producer displays this information differently, preventing consumers from easily comparing products.

Existing labels in the market



Farm Pride Free Range Eggs



McLean's Run Free Range Eggs



Woolworths Free Range Eggs

CHOICE recommends a consistent display of stocking density on free range egg products.



While we are advocating for a clear and consistent display of stocking densities on pack, CHOICE believes an upper limit should be set by animal welfare experts.

CONCLUSION

There is evidence of systemic consumer detriment when it comes to free range eggs with products failing to meet consumer expectations. CHOICE believes there are compelling benefits to developing a consistent and enforceable national standard for eggs labelled as free range. It would give consumers the confidence they need to make informed choices in the supermarket. It also would provide certainty for egg producers and create a level playing field for small and large egg

producers.²¹ The consequence of not acting will lead to further detriment to consumers who pay a premium for products that fall short of their expectations, to government who must deal with the consequences of a failing market, to small-scale producers who presently face an unfair disadvantage and to larger producers who run a continued risk of non-compliance in a regulatory vacuum.

REFERENCES

- 1 Free range eggs are expected to grow at a rate of 15.1% per annum compared with 1.9% per annum for caged eggs: <http://media.ibisworld.com.au/2014/10/16/consumers-shell-free-range-eggs/>
- 2 CHOICE Free Range Egg Survey, 2014
- 3 CHOICE Supermarket Price Survey, based on the cost of free range, barn and caged eggs across 93 supermarkets in Australia
- 4 4th Edition, Model Code of Practice for the Welfare of Animals: Domestic Poultry
- 5 CHOICE believes that the Model Code sets a maximum outdoor stocking density for layer hens at 1,500 hens per hectare. While some interpretations of the Model Code believe that stocking densities can be higher where regular rotation of birds occurs, we believe this clause only applies to meat chickens and not egg layer hens. See Free Range Egg Claims in NSW Super-complaint to NSW Fair Trading
- 6 CHOICE Free Range Egg Survey 2014
- 7 Australian Competition and Consumer Commission, 2012, Initial assessment of Certification Trade Mark application CTM1390450 filed by the Australian Egg Corporation Limited
- 8 Australian Egg Corporation Limited "Fact Sheet: Free Range Stocking Densities"
- 9 We appreciate that stocking densities are not the only defining feature of free range eggs however it is a measure that indicates compliance with the Model Code of Practice
- 10 Our 2014 Free Range Egg Survey showed that only 2% of free range egg buyers believe that 10,000 is an acceptable stocking density. While 46% believe that 1,500 is a reasonable stocking density for free range eggs
- 11 Retail World 2014
- 12 Retail World 2014
- 13 See links <http://www.abc.net.au/news/2015-04-18/call-for-national-standards-in-booming-free-range-egg-industry/6401694> and <http://www.poultryhub.org/2014/11/poultrys-part-moving-agricultural-competitiveness-white-paper/>
- 14 <http://www.abc.net.au/news/2015-04-18/call-for-national-standards-in-booming-free-range-egg-industry/6401694>
- 15 The Hon Bruce Billson, 2014, Farm Institute Insights, Australian Farm Institute, Vol 11, No 4
- 16 CHOICE Free Range Egg Survey 2014
- 17 IbisWorld Egg Farming in Australia 2014
- 18 CHOICE Free Range Egg Survey 2014
- 19 CHOICE Free Range Egg Survey 2014
- 20 These conditions have been drawn from the recent ACCC v Pirovic court case: <https://www.accc.gov.au/media-release/federal-court-orders-300000-penalty-after-finding-free-range-egg-claims-to-be-misleading>
- 21 IbisWorld Egg Farming in Australia 2014



