

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2015

**Agriculture**

**Question: 8**

**Division/Agency:** Australian Egg Corporation

**Topic:** Free range eggs

**Proof Hansard page:** Written

**Senator RHIANNON asked:**

In relation to last year's (September) \$300,000 penalty imposed on Pirovic Enterprises by the Federal Court:

1. Chairman of the ACCC (Australian Competition and Consumer Commission) stated that the Federal Court's finding that Pirovic had misled consumers by using egg cartons labelled "free range" with images of three hens roaming in open pastures when its 80,000 hens rarely saw the light of day.
  - a. Does the Australian Egg Corporation (AEC) consider this ruling clear guidance that eggs labelled free-range must be backed by farming conditions and practices under which hens actually move about on an open range each day?
2. Does the AEC agree with Justice Flick and Franko Pirovic's observation that Pirovic's offending practices were consistent with the practices of most other competitors that sold and promoted for sale eggs as 'free range'?
  - a. If not, explain exactly how this is not the case?
  - b. Is the AEC auditing its member producers claiming free-range eggs for hens to ensure they meet the definition of free-range egg production as inferred by the Federal Court's decision?
  - c. What is the AEC doing to ensure its member producers claiming free-range eggs for hens that do not move about on an open range daily, change their farming practices to ensure daily open ranging by their 'free-range' chickens?
3. The Australian Egg Corporation is supposed to represent the interests of all its egg growers, including true free-range egg producers?
  - a. Are voting rights for member producers something like one vote per chicken owned?

**Question: 8 (continued)**

- b. How are the interests of free-range egg producers running a few hundred or even a few thousand birds protected, when just a few behemoths effectively own the AEC's directions?
4. Chair of the ACCC, Mr Sims, called for the maximum threshold to notify a collective bargaining arrangement should be reviewed to ensure that it is not restricting participation by small business.
  - a. What actions is the AEC undertaking to review the maximum threshold as recommended by the ACCC?
5. The Federal Court ruled that free range means the birds can and do go outside on most days. Which of those corporate egg producers label their eggs as 'free-range' yet run farming conditions similar to those of Pirovic's farming practices that were found to not be 'free-range'?
6. May I have an update on which of the Australian Egg Corporation's members currently have complaints against them or are being taken to court for:
  - a. misleading labelling of eggs as 'free-range' when their chickens can't or don't range freely outside every day?
  - b. For animal welfare complaints?

**Answer:**

1.
  - a. It is AECL's understanding that the definition and other parameters contained in the government-endorsed 4th edition of the Model Code of Practice for the Welfare of Animals pertaining to free range and other farming systems is what the egg industry has been relying on to date. This is further referenced in the National Standards for Egg Labelling approved by a former Minister for Agriculture. The recent Federal Court ruling in the ACCC versus Pirovic Enterprises case has assisted the egg industry to further refine and contextualise the definition of free range to ensure egg carton labelling is not misleading. AECL considers it essential that the egg industry takes note of and addresses this ruling.
2. AECL cannot attest to the free range labelling and husbandry or management practices of "...most other competitors...".
  - a. AECL can attest to the free range labelling and husbandry or management practices of egg producers who are accredited to the egg industry's Quality Assurance (QA) program titled EggCorp Assured (ECA) and only in the context of the audit regime in place for the voluntary QA program. That is, at the time of annual audits, unannounced audits and verification audits taking place and the observance of on-farm records at this time.

**Question: 8 (continued)**

- b. For many years now AECL has made reference to and highlighted compliance with the Consumer and Competition Act 2010 at Section 13 (titled misleading or deceptive conduct) of the Egg Labelling Guide (ELG) published by AECL. Additionally, AECL has made all known egg producers nationwide aware of the Federal Court decision and impressed on them the need to consider the outcomes of the decision in their free range labelling and husbandry or management practices. AECL is also instituting the outcomes of the Federal Court decision in annual, unannounced or verification audits among those egg producers who are accredited or wish to be accredited to the voluntary EggCorp Assured (ECA) industry Quality Assurance (QA) program. As further Federal Court decisions come to light, as it relates to free range, it is the intention of AECL to also adopt these outcomes into auditor checklists for accreditation to the ECA program.
        - c. Apart from making all egg producers aware of the recent Federal Court decision and other Court outcomes that may eventuate with other cases that are before the Court, AECL can and will issue critical Corrective Action Requests (CARs) to egg producers who wish to be accredited to the EggCorp Assured (ECA) Quality Assurance (QA) program. This may lead to egg producers not attaining ECA accreditation or ECA accreditation being removed.
3. AECL represents the interests of all egg producers in the investment of Egg Promotion and Laying Chicken statutory levy investment proceeds appropriated by the Department of Agriculture to AECL.
  - a. Voting is undertaken as per the AECL Constitution and, at the discretion of the AECL Chairman, votes can either be conducted on a show of hands (one person one vote) or by way of a Poll (one chicken one vote) at a General Meeting of AECL, usually once each year at the Annual General Meeting (AGM).
  - b. AECL invests the statutory levies in line with the Egg Industry Service Provision Act 2002; the Statutory Funding Agreement (SFA) between the Commonwealth and AECL; and the AECL Constitution. AECL reports to all members at any General Meeting and to the Government as it relates to SFA compliance at six-monthly intervals. AECL provides services to and for the benefit of all egg producers irrespective of their size, location or farming system. The only additional benefit AECL members have is to be able to vote at AECL general meetings, usually the Annual General Meeting (AGM).
4.
  - a. AECL has taken no actions in this regard at this stage as it is not a priority concern for AECL.
5. AECL's knowledge of free range egg producer labelling and husbandry or management practices extends only to those egg producers who are accredited to the voluntary EggCorp Assured (ECA) Quality Assurance (QA) program and observations made at the time of audit. AECL is incorporating the findings of the Federal Court outcome into the auditor checklist and will be training auditors as to how to better observe non-compliant activity in this regard at the time of audit.

**Question: 8 (continued)**

6. a. AECL is of the understanding that there are two current AECL members where actions have been brought before the Federal Court by the ACCC on allegations of misleading and deceptive conduct as it relates to their labelling and husbandry or management practices.
- b. AECL is not currently aware of any animal welfare-related court actions or complaints against AECL members.