

**FREE RANGE EGGS LABELLING BILL 2013**

*Introduction and First Reading*

Bill introduced, on motion by **Hon Lynn MacLaren**, and read a first time.

*Second Reading*

**HON LYNN MacLAREN (South Metropolitan)** [10.35 am]: I move —

That the bill be now read a second time.

The purpose of this bill is to ensure that only eggs produced in free-range conditions can be labelled free-range eggs in Western Australia. The free-range egg industry in Australia is facing a crisis of classification; the laws surrounding definitions of “free-range” egg products are ambiguous. In WA, regulations are outlined in the “Code of Practice for Poultry in Western Australia”, which was published by the Department of Local Government and Regional Development in 2003. The code states that hens housed in free-range facilities must have access to an outdoor range for eight hours a day and that the outdoor stocking density for hens must not exceed 1 500 chickens per hectare, unless ranges are rotated. Given the rotational provision, some have claimed that in practice there is no upper limit for stocking densities for free-range facilities. However, we do have clarity from genuine free-range farmers on how to manage rotation with concern for animal welfare, and I will return to that in a moment.

The Australian Egg Corporation Limited—AECL—is Australia’s largest egg producer group and is seeking to codify in law a maximum stocking density of 20 000 chickens per hectare. Undeniably, this intense density will compromise the high level of animal welfare that consumers expect from free-range egg products, as higher stocking densities are shown to increase rates of cannibalism and mortality in domesticated chickens. The concept of protection for the “free-range egg” label has generated a lot of public interest and discussion on how consumer confidence can be improved by linking animal welfare standards for layer hens with product labelling. A growing number of consumers are prepared to pay a higher price for higher welfare standards and the care and management to provide an outdoor range. Marketers of eggs know this; as the free-range egg market expands and becomes more lucrative, every producer wants a piece of the valuable intellectual property embodied in the words “free range”. Some are claiming that premium despite the fact that the eggs they are selling under the free-range egg label are not produced in free-range farms. As the term becomes degraded, consumers become more bewildered, and in that confusion they are duped and animal welfare standards are lost. The Greens believe consumers should get what they pay for.

Just this week, we saw the confusion over “free range” taken to the courts. The Australian Competition and Consumer Commission alleged that a prominent producer of eggs in Western Australia misled consumers over the conditions on its farms. We should not have to require court action to ensure truth in labelling. A simple legislative instrument is sufficient, and apparently necessary to secure consumer confidence over free-range eggs. Efforts to improve the veracity of labelling have been made by a range of organisations from the RSPCA to the leading Australian consumer advocacy group Choice. On 29 October 2013, Choice’s annual “Shonky Awards” gave an award for “nothing egg-ceeds like egg-cess” to Ecoeggs. On the reason for the award the Choice’s website states —

Outdoor chook-stocking density is a huge issue when it comes to free range egg standards, and CHOICE has been demanding a crackdown on claims for ages. We support the national free range egg code that allows for 1 500 hens per hectare—but it’s voluntary. Last year, the ACCC rejected the Australian Egg Corporation’s application to introduce a standard that would see a maximum of 20 000 hens per hectare on the grounds that it was likely to mislead consumers.

But this hasn’t stopped Ecoeggs, which has a stocking rate of 20 000 hens per hectare—more than 13 times higher than the code—and we reckon that’s far too many for what most people would think of as “free range”. And if you think a higher stocking rate means lower prices, you’d be wrong: when we checked out local supermarkets, Ecoeggs were more expensive than other free range eggs from lower stocking rates.

People who buy Ecoeggs may reasonably believe the name means a higher standard of production than other free range eggs, and the price suggests the same. But in the end we were left wondering exactly what was “eco” about Ecoeggs.

The demand for free-range eggs has exploded in recent years. According to the 2012 Brand Story report prepared for the Australian Egg Corporation Ltd, “Project Equilibrium”, 11 years ago Australia’s free-range egg market comprised only eight per cent of total market share. In 2010–11, free-range eggs made up 28.4 per cent

of the national market in volume and 40.7 per cent of the value. Free-range is big business. In 2011, it made nearly \$200 million in retail sales.

We now have an environment in which “free-range” is used to describe virtually any system that is not a cage system and that provides some access to an outdoor area. In particular, stocking densities for so-called free-range laying hens may vary from 750 birds a hectare for some purist free-range producers to 1 500 a hectare, as required by the 2003 “Code of Practice for Poultry in Western Australia”; 10 000 per hectare, which is Coles’ standard and also Woolworths’ Select brand of free-range eggs; or 20 000, which is the Australian Egg Corporation Ltd’s preferred standard; and some are even more extreme than that. In these circumstances there is no truth in labelling and consumers have no way of knowing what the term “free-range” actually means as they try to choose from a range of options on the supermarket shelf.

This bill addresses that problem. In a very simple way, the bill ensures truth in labelling. It defines a free-range egg as being an egg laid by a free-range hen. It then defines a free-range hen as a hen that is kept in certain conditions, and those conditions are set out in the schedule. The bill prohibits the use of the term “free-range” on the packaging of eggs that do not conform to the definitions.

The Free-range Eggs Labelling Bill 2013 is an amended version of a bill introduced in late 2012. The bill’s intention is to provide consumers with as much support to possible to know what they are buying. The 2012 bill set out the requirements for the display of free-range eggs for retail sale, in order to make it clear that those eggs are produced by hens in free-range systems that comply with the minimum standards of the code. This 2013 bill omits any specifications of how free-range eggs are to be displayed in a supermarket, for example, or how large text must be on egg cartons or other packaging. I understand the concerns of the president of the Commercial Egg Producers Association of Western Australia, who petitioned the Parliament, saying, in part —

All free range egg producers have the opportunity to develop branding and packaging that will differentiate their product in the market and give consumers an informed choice in their purchases.

We have decided to leave decisions about marketing displays and style of packaging up to the people who know marketing best. Over time, the design of packaging evolves to capture a market. I accept that legislation should not address that level of detail.

Another change from this bill is to include within the definition of free-range those eggs produced on farms with up to 2 500 hens per hectare in specific conditions. This change is supported by respected animal welfare organisations. It acknowledges farming practices in Western Australia that ensure high standards of animal welfare. This higher stocking density is also acceptable in European Union standards. The addition of “2 500 hens per hectare under specific conditions” in the schedule of the bill is supported by RSPCA Western Australia and Animals Australia. Not surprisingly, the bill relies on the code as the guide for the conditions in which free-range hens must be kept. The code is adopted under section 25 of the Animal Welfare Act 2002, whereby compliance with the code can be raised as a defence to a relevant animal cruelty charge and is based on the Australian “Model Code of Practice for the Welfare of Animals: Domestic Poultry 4th Edition”. That code was adopted by Australian primary industries ministers in 2002. This means that at the time the code was drafted, it was uniformly accepted in Australia as the benchmark for the welfare of poultry in Australia.

It is important to address the concerns of intensive farmers directly. This bill will not prohibit the sale of caged or barn-laid eggs. For example, Coles, Woolworths, IGA and the AECL may continue to produce and sell eggs from farms with higher stocking densities, but they may not label them free-range. The bill provides certainty to consumers and does not dictate farming practices. This bill might have been subtitled “Don’t let the Australian Egg Corporation degrade the term ‘free-range’ to the detriment of animal welfare”. There has been a strong push by AECL to change the definition of “free-range” to include stocking densities of 20 000 birds a hectare for laying hens. Last year, the Australian Competition and Consumer Commission rejected the Australian Egg Corporation’s application on the grounds that it was likely to mislead consumers. The ACCC ruled in November that it considers that these practices and standards do not accord with consumer expectations about the free-range production of eggs.

The Greens do not believe that a maximum free-range density of 20 000 chickens a hectare accurately reflects consumer expectations for free-range products. This is because, in free-range systems, science points to a correlation between lower mortality rates and lower stocking density with small flock size. An intense density such as the one proposed by AECL would naturally bring into question the animal welfare standards of free-range products. There is scientific consensus that animal husbandry systems affect social behaviour if movement is limited and animals are not able to display natural behaviours such as, in the case of chickens, pecking, preening, and dust bathing. AECL’s proposal to increase stocking density to 20 000 chickens a hectare would bring into question the animal welfare standards that free-range production systems should represent.

A survey conducted by the Choice consumer group magazine revealed that less than one per cent of free-range egg buyers would be satisfied with a stocking density of 20 000 chickens a hectare. Of those surveyed, 85 per cent stated that the primary reason for their purchase of free-range products was the higher animal welfare standards offered in free-range egg products. The survey also found that 43 per cent of consumers rely only on seeing the words “free-range” on packaging when making their purchase decisions. I see it as the responsibility of government to ensure that those words truthfully reflect consumer expectations for free-range products. The AECL cannot be allowed to hijack the definition of free-range systems and manipulate consumer expectations for free-range products.

There is a need to preserve the integrity of the free-range egg market, which has been built up for many years by genuine free-range egg farmers. Those farmers would either have to sacrifice their principles and commitment to the animal welfare standards established by the code or be forced out of the market by the big producers who do not conform to those standards. By clearly requiring that the term “free-range” may be used only where specific conditions are complied with, the bill will ensure that the rights of farmers, consumers and free-range laying hens are protected.

I inform the house that this is not a uniform legislation bill for the purposes of Legislative Council standing order 126(1). I commend the bill to the house and I also table the explanatory memorandum.

[See paper 1151.]

Debate adjourned, pursuant to standing orders.