

Committee Secretary  
Senate Rural and Regional Affairs and Transport Committee  
Inquiry into Meat Marketing  
Parliament House  
Canberra ACT 2600

By email: [rrat.sen@aph.gov.au](mailto:rrat.sen@aph.gov.au)

27 April 2009

Dear Secretary,

**Submission to Inquiry into Meat Marketing – Proposed production-method labelling**

Lawyers for Animals Inc. (“LFA”) is a not-for-profit incorporated association run by a management committee of lawyers, based in Melbourne. Its objectives include: alleviating the suffering of animals by engaging with those who create or administer laws in Australia to strengthen legal protection for animals; promoting better animal welfare practices amongst animal-related industries in Australia; and

undertaking educational activities in an effort to dispel myths and increase awareness relating to animals and the law.

We refer to our previous submission (dated 1 May 2008) made before the Committee extended its terms of reference to include:

- 'the labelling of beef products, particularly improvements that could be made to ensure consumers have better and more accurate information about the product they are purchasing; [and]
- the use of labels 'organic' and 'free range' across all meat products.'

In view of these new terms of reference, we attempted to telephone and then emailed the Committee's Principal Research Officer on 10 March 2009 'to enquire about the potential for LFA to make a supplementary contribution to the Meat Marketing inquiry'. On 23 March 2009, we received an apologetic response from the Principal Research Officer, explaining that he had been 'out of the office' and advising that the Committee would be conducting a public hearing in Melbourne on 26 March 2009. We were invited to attend and view the proceedings, without giving evidence, since the program for the hearing was then full.

Instead, we tender this further written submission, and hope that the ideas contained herein may prove useful to the Committee in addressing what appear to be some significant deficiencies in the present labelling of meat products.

### Food Labelling Laws

As the Committee is aware, food labelling in Australia is governed by the Australia New Zealand Food Standards Code. This Code is adopted into local laws by all States and Territories, giving it binding force throughout the Commonwealth. It is enforced by State and Territory departments and, in some cases, local councils. The Code sets out the information which must be provided on the labels of all packaged foods, including: ingredients, date markings, weight and nutritional information. Although the Code contains some basic standards on meat production, and specific meat ingredient labelling requirements, these do not require producers to indicate the method by which the meat was

produced.

Each of the State and Territory Acts adopting the Food Standards Code is framed in similar terms. They contain various food-related offences, including the handling and sale of unsafe or unsuitable food and, importantly, that of 'falsely describing food.'<sup>1</sup> However, this offence will only be established if the seller either knows or ought reasonably to know that a consumer who relies on the description will, or is likely to, 'suffer physical harm'. Since this is unlikely in the case of consumers who are misled or ill-informed about the means of production of meat products, the offence would not apply in such circumstances.

A lesser penalty is proscribed for the offence of 'misleading conduct relating to sale of food' which prohibits a person from engaging 'in conduct that is misleading or deceptive or is likely to mislead or deceive in relation to the advertising, packaging or labelling of food intended for sale or the sale of food' or causing 'the food to be advertised, packaged or labelled in a way that falsely describes the food'<sup>2</sup> However, in the absence of laws defining the use of labelling terms such as 'free-range', 'organic', 'intensively farmed' or 'feed-lot confined', the laws relating to 'misleading conduct' are virtually unenforceable. Further, in the absence of laws mandating the use of such labelling terms, the laws can be avoided by non-disclosure. As such, we submit that Australian food labelling laws are seriously deficient when it comes to informing consumers about the method by which meat is produced.

Indeed, an investigation undertaken by LFA in relation to the labelling of chicken meat, indicates that such laws are presently flouted with apparent impunity. Two examples of improper labelling of chicken meat are set out below.

#### Examples of improper labelling of chicken meat

##### 1. Limnos Poultry Pty Ltd (producer/wholesaler)

109-111 Craig Road, Devon Meadows Vic 3977

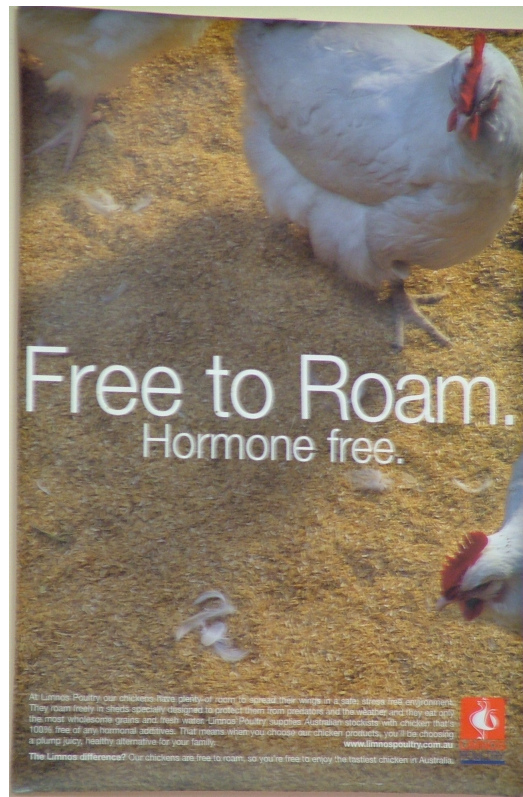
Ph: 03 5998 2241 Email: [sales@limnospoultry.com.au](mailto:sales@limnospoultry.com.au)

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<sup>1</sup> See, eg. *Food Act 1984* (Vic) s 10(1); *Food Act 2001* (SA) s 15; *Food Act 2003* (NSW) s 15; *Food Act 2001* (ACT) s18; *Food Act* (NT) s 14; *Food Act 2003* (Tas) s 15; *Food Act 2006* (Qld) s 34; *Food Act 2008* (WA) s 16.

<sup>2</sup> See, eg. *Food Act 1984* (Vic) s 13

The following poster for Limnos Poultry was prominently displayed (5 times) by a South Melbourne poultry retailer (as at 03/09):



The following text was extracted from Limnos Poultry website <http://www.limnospoultry.com.au/> on 26/03/09 [misleading or false information has been highlighted]:

'At Limnos Poultry our chickens have plenty of room to spread their wings in a safe, stress free environment. They roam freely in sheds specially designed to protect them from predators and the weather and they eat only the most wholesome grains and fresh water... The Limnos difference? Our chickens are free to roam so you're free to enjoy the tastiest chicken in Australia...

We take care of our chickens

Limnos flocks enjoy the best possible conditions:

- They roam free in sheds specially designed to protect them from the weather and predators.
- The sheds and equipment are all designed to ensure the chickens are as stress free as possible.

- They come to you free of any hormones
- Limnos chickens eat only wholesome grains and fresh water.
- The chickens' health and well-being is monitored throughout the day to ensure they are comfortable and free of poultry diseases.
- We adhere to all industry guidelines and regulations
- Our chickens are processed according to Commonwealth and State Government standards covering hygiene, quality assurance, human handling and regular inspection.'

## 2. La Ionica Poultry (producer/wholesaler)

5 Lipton Drive, Thomastown Vic 3074

Ph: 1300 132085

The following sign for La Ionica was prominently displayed by Albert Park chicken restaurant (as at 26/03/09):



The following text was extracted from La Ionica Poultry website <http://www.laionica.com.au/main.html> on 26/03/09 [false or misleading information is highlighted]:

## 'Frequently Asked Questions

### *What is "Free Range"?*

The term "Free-range" means chickens have access to paddocks outside during the day (weather permitting) and are free to roam, scratch and peck. Free Range chickens are herded into their sheds at night to prevent attack by natural predators such as foxes.

### *Are La Ionica Chickens "Free Range"?*

No, La Ionica chickens are not Free Range. They are reared in the same way as all other Aussie chickens. They are free to roam around in substantial poultry houses with no restrictions for accessing water and feed. All sheds are well ventilated and temperature controlled. Shedding also protects chickens from the elements, as well as possible contamination from outside items, including harmful diseases which may be carried by flying birds.

### *Are La Ionica chickens kept in cages?*

No, La Ionica chickens are not kept in cages. Only some egg laying hens are kept in cages. La Ionica do not produce any egg laying hens.

### *What does "free roaming" mean?*

Free roaming means just that. Chickens are not in cages and are free to roam in large sheds.'

## The truth about 'intensively farmed' (as opposed to 'free-range') chicken meat – why 'production method' labelling is urgently needed

[Primary legal source: Code of Accepted Farming Practice for the Welfare of Poultry (December 2003)  
– Victoria ("Code")]

The minimum space allowance for meat (broiler) chickens is 1 square metre per 40kgs of birds. [Code, Appendix 2, para.2.1.3] Floor space specifications may include any slatted or metal mesh areas and any areas occupied by feeding and watering equipment. [para.3.4] With an average adult chicken weighing 2kgs by the time it is ready to be taken to slaughter, this means that less than 22 x 23cm of space is often allowed for each adult bird (that's less than the size of an A4 page). The ability to 'roam' (or 'travel about') in such circumstances is non-existent.



Chicken shed – photo from: Animals Australia [http://www.freebetty.com/meat\\_chickens.php](http://www.freebetty.com/meat_chickens.php)

40,000-60,000 birds are grown in an average shed. Chicken producers factor in the deaths of up to 4% of birds in sheds. They die from a multitude of injuries and illnesses, including starvation and/or dehydration (being unable to reach food or water due to lameness) and being trampled to death. Around 488 million meat chickens are raised in these conditions annually. That means: up to 19.5 million birds die in such conditions, every year.

[Animals Australia - [http://www.freebetty.com/meat\\_chickens.php](http://www.freebetty.com/meat_chickens.php) ]

It is likely that millions of ethical consumers are misled and deceived by 'Free to Roam', 'Free Roaming' and similar phrases on intensively farmed chicken meat, every day.

#### Freedom of Expression:

While the High Court has held that there is an implied 'freedom of political communication' in Australia's *Constitution*,<sup>3</sup> it has not (yet) discerned a similarly implied 'freedom of expression'. However, in December 1972, Australia's Federal Government ratified the *International Covenant on Civil and Political Rights* ("ICCPR"), but with a reservation against Article 19, which was subsequently withdrawn in November 1984. Article 19(2) of the *ICCPR* states:

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<sup>3</sup> See *Australian Capital Television v Commonwealth* (1992) 177 CLR 106; *Nationwide News v Wills* (1992) 177 CLR 1; *Levy v Victoria* (1997) 189 CLR 520.

*Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

Thus the international community, including Australia, recognises that in modern society, if people are to express themselves freely, not only do they require freedom of speech (in all forms), but an entitlement to such information as will permit them to make ethical choices. By denying consumers basic information on meat labels that will enable them to make an informed choice about the method of production, freedom of expression is denied.

The *ICCPR* now forms Schedule 2 of the *Human Rights and Equal Opportunity Commission ("HREOC") Act 1986* (Cth). HREOC is empowered 'to inquire into any act or practice that may be inconsistent with or contrary to any human right'.<sup>4</sup> However, in contrast to issues covered by federal anti-discrimination laws, there is no judicial review available beyond HREOC in relation to a human rights complaint; and (perhaps as a consequence of this) it appears that a challenge to food labelling laws at HREOC has yet to be mounted.

Moreover, Australia lacks a national Bill of Rights. The Australian Capital Territory and Victoria have both enacted charters protecting human rights, specifically including 'freedom of expression'.<sup>5</sup>

However, these only apply in relation to local laws and administrative decisions within those jurisdictions. Food labelling is an area which is best served by consistency throughout the Commonwealth, as evidenced by the adoption of the Australia New Zealand Food Standards Code in all States and Territories. A requirement that producers Australia-wide label their meat according to standardised phrases (listed below) would go a long way toward preserving the fundamental human right of all Australians to freedom of expression, by supplying consumers the information they require to make an ethical choice.

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<sup>4</sup> *Human Rights and Equal Opportunity Commission Act 1986* (Cth) s 11

<sup>5</sup> See *Human Rights Act 2004* (ACT); *Charter of Human Rights and Responsibilities Act 2006* (Vic).

### Our labelling proposal:

Following the relative success of Australia's 'National Standard for Egg Labelling' (March 2001) it is proposed that all meat products (fresh or processed) be mandatorily labelled with a simple phrase that best describes their means of production – such phrases being based on the relevant Codes of Practice. Further, use of the phrase 'free-range' will require accreditation by an independent oversight body, prescribed by law and funded by subscription (following seed funding). This should overcome many of the problems experienced with the introduction of the 'National Standard for Egg Labelling', where no independent accreditation system for 'free-range' and 'barn-laid' production was prescribed by law.

<u>Type of animal</u>	<u>Potential label</u>	<u>Potential label</u>	<u>Potential label</u>
Calf	Free-range with mother	Free-range without mother	Crate confined without mother
Chicken, rabbit, turkey and other poultry	Free-range	Intensively confined	
Cow (adult)	Free-range	Feedlot confined	
Deer	Free-range	Intensively confined	
Emu	Free-range	Intensively confined	
Goat	Free-range	Intensively confined	
Pig	Free-range	Group housed	Intensively confined
Rabbit	Free-range	Intensively confined	Cage confined
Sheep	Free-range	Feedlot confined	

Further, we submit that use of the additional label 'organic' will also require accreditation by an independent oversight body – perhaps the same (small) institution which accredits 'free-range' meat

production systems. This body, while prescribed by law and given seed funding by Government, would thereafter be funded by (approved) membership subscription. We note that member-funded accreditation systems are successfully operated with independence among various professional groups, including lawyers.

Finally, we note that unless the means of production labelling scheme is mandatory for all meat producers, its success in informing consumer choices, will be grossly undermined. At present, free-range producers of meat are unable to take full advantage of their market differentiation, because producers employing intensive farming methods do not disclose this fact, either at point of sale, or (in most cases) through their advertising. When a product label is silent as to its means of production, we submit that Australian consumers are likely to expect that optimal production methods have been used. This assumption becomes critical at point of sale, where free-range products are likely to be marginally more expensive owing to the higher quality of living afforded to the animals concerned. Unless consumers are directly informed – as by the use of 'Cage Egg' labels – of the reasons for a price differential between two similar meat products; they are likely to choose the cheaper product without making an informed decision.

We submit that during the last two decades, Australian consumers have gradually grown more conscious of animal suffering and of the impacts of their individual purchasing decisions on animal welfare. Such awareness must now begin to translate into profits. Why else would companies like Limnos and La Ionica deliberately undertake the risky business of falsely reassuring consumers that their chickens enjoy 'the best possible conditions' or 'the same [standards] as all other Aussie chickens' when the truth is otherwise? We ask the Committee to recommend the imposition of a mandatory labelling system to protect consumer interests and freedom of expression, which will allow market forces to operate with far less distortion.

Thank you for taking the time to consider our submission. Should the Committee have any queries about the content, please do not hesitate to contact us by email: [nichola@lawyersforanimals.org.au](mailto:nichola@lawyersforanimals.org.au)

Yours faithfully,

Nichola Donovan

Secretary

LAWERS FOR ANIMALS INC.

18/288 Brunswick Street

Fitzroy Vic. 3065

[www.lawyersforanimals.org.au](http://www.lawyersforanimals.org.au)