



Response to CTM Application

Pastured Proof - Pasture Raised On Open Fields

(CTM 1784876)



Suite 402, Level 4, 107 Mount Street
North Sydney, NSW, 2060
www.eggfarmersaustralia.org
John@eggfarmersaustralia.org
02 8043 0953

About Egg Farmers of Australia

Egg Farmers of Australia is the peak national body representing egg farmers across Australia. The Board of Egg Farmers of Australia is comprised of representatives elected by its founding members. These founding members include: the Victorian Farmers' Federation Egg Group, the NSW Farmers' Association Egg Committee, Queensland United Egg producers, the Commercial Egg Producers' Association of Western Australia and the Commercial Egg Farmers Association of South Australia and Tasmania. This membership base, combined with a number of direct members, allows EFA to represent the vast majority of egg production in Australia (more than 80%).

Introduction

Egg Farmers of Australia welcomes the opportunity to make a submission to the Australian Competition and Consumer Commission (ACCC) consultation regarding Certification Trade Mark (CTM) Application No. 1784876. EFA strives to represent the interest of all egg farmers in a variety of different production systems and we commend the applicant for their attempts to increase differentiation in the egg supply chain and to add value through different standards.

Whilst supportive of the applicant's intent to increase value to consumers we suggest that the application could be enhanced through considerations of:

- the inference in the title of the trademark that layer hens eat or are predominantly sustained on a diet of grass and not fed supplementary feed;
- the lack of specificity with respect to certain requirements within the standards;
- lack of rigour in auditing of standards;
- the arising consumer protection issues of potentially misleading and deceptive conduct which would have an anti-competitive effect on the market.

We would hope that the trademark could be amended to avoid these issues.

Pasture Raised

Egg Farmers of Australia are committed to ensuring that consumers have an informed understanding of egg production systems. Central to our efforts to build this understanding is raising awareness of the needs of hens, including their dietary requirements. In its current form the CTM gives rise to an inference that layer hens are partially or wholly sustained on a diet of grass. We note that some research - referenced by the applicant's website - has been conducted into supplementing a traditional diet with pastureⁱ however this single and largely untested study relates to specific types of pasture including clover and alfalfa. Moreover, it confirms the need for supplementary feed. There is no scientific literature which would support a claim that hens can be sustained on pasture.

Hens require a variety of nutritional inputs including protein, grains and other additives which could include, vitamin and mineral mixes, amino acids and salt. Hens certainly consume grass, particularly in free range farming systems. But they cannot be sustained on it and EFA is concerned that consumers are clear about this important nuance. Fundamentally, an approval by the ACCC for the trademark in its current form would be at risk of entrenching this misunderstanding.



Suite 402, Level 4, 107 Mount Street
North Sydney, NSW, 2060
www.eggfarmersaustralia.org
John@eggfarmersaustralia.org
02 8043 0953

More broadly, the trademark is at risk of misleading consumers into believing that the production systems which underpin PROOF approved farms are significantly different to that of free range farming facilities. The poultry standards for PROOF do not make out a significant and material difference to free range farming facilities. As a result, an approval of this application is likely to create a new category of eggs in the market which are not materially different than free range production systems. EFA is concerned about the anti-competitive effect this would create in the market.

Specificity of standards

EFA would like to see improvements in the specificity of the standards to ensure they can be appropriately measured and audited. The standards as currently drafted are too broad. EFA points to the following component of the standards as requiring more clarity:

- what is required to ensure that producers have satisfied section 1.1 by ensuring that birds are *encouraged* to spend time outdoors? Is this an activity of a stockperson or a requirement of infrastructure;
- what *soil testing* results (1.4) would trigger *remedial action*? (1.5) What is meant by that remedial action;
- what elements are required in developing a *pasture management program*? (1.8);
- how are farmers to assess and ensure that an animal is *free from stress*? (3.2);
- what are the *designs* which would help *develop natural behaviour* (3.9) and *accustom the birds to hours of sunlight, outdoor temperatures, perches* (3.9.1)?
- are standards which are “encouraged” to be the subject of auditing? If so, how?
- what is the test that a producer is required to pass to ensure compliance with the requirement that they must *endeavour to purchase point of lay pullets that have not had their beaks trimmed* (8)? What threshold of activity satisfies that endeavour?

EFA would suggest that these standards could be recast with greater emphasis on specificity to ensure farmers would be clear on what production requirements are necessary to use the trademark. EFA notes that this would be of significant benefit to the applicant in ensuring the clarity and integrity of the standard.

Auditing

The PROOF Standard does not provide a meaningful mechanism for evidence based compliance and there is a clear lack of guidance for producers on what reporting or record keeping activities should be undertaken to adhere to the standards of the trademark. Industry best practice for managing a layer hen farm are certified under Egg Standards of Australia which provides an accreditation scheme for producers operating in caged, barn or free range systems.

It would be a natural assumption of consumers that the PROOF trademark operated at a level equal to or above industry best practice but the standards as drafted fall short. EFA would submit that each producer should be audited at least once by an independent third party and is concerned that only 20% of PROOF producers would be subject to a third-party audit. Perhaps more problematic than the lack of rigour in auditing requirements is that the standards as drafted are not conducive to a rigorous assessment; even if the proposed auditing sought to achieve rigour through regularity. The issues raised above regarding the lack of specificity in the standards go directly to the ability of PROOF to audit the standards. EFA is concerned that producers would be unable to prove



compliance with standards because those standards are not specific and are therefore ultimately unmeasurable.

Summary

EFA supports farmers who want access to additional industry trademarks, particularly trademarks which provide consumers with options for value-added products relating to animal welfare and other aspects of production. EFA is proud of the industry's ongoing efforts to price certain elements of animal welfare through alternate production systems which create differentiated egg products. In line with this, we support the intent of PROOF's Trademark application but we have concerns that its current design and its articulation would mislead consumers and have an anti-competitive effect on the market. We hope that the trademark could be refined to address these issues.

ⁱ *Vitamins A, E and fatty acid composition of the eggs of caged hens and pastured hens*, Volume 25, Issue 1 ("Food for Life": Looking Beyond the Horizon), March 2010, pp. 45-54, Karten. H et al

