

**Submission
No 17**

**INQUIRY INTO LANDOWNER PROTECTION FROM
UNAUTHORISED FILMING OR SURVEILLANCE**

Organisation: Egg Farmers of Australia

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**Submission to the Select Committee on Landowner Protection from Unauthorised Filming or
Surveillance**

**Animal Protection and Crimes Legislation Amendment (Reporting Animal Cruelty and Protection of
Animal Enterprises) Bill 2018 (NSW)**

Egg Farmers Australia

About Egg Farmers Australia (EFA)

Egg Farmers of Australia (EFA) 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%).

1. Introduction

EFA welcomes the introduction of the Animal Protection and Crimes Legislation Amendment (Reporting Animal Cruelty and Protection of Animal Enterprises) Bill 2018 and thanks the committee for the opportunity to provide relevant perspectives from NSW egg farmers.

EFA welcomes the intent enshrined through the current draft and we acknowledge the work of representatives from the Shooters and Fishers in bringing this challenging issue to Parliament for further consideration. Farmers deserve to be protected from nuisance and from the threats posed by intruders. Additionally, like all members of the community they should expect that their property and family are appropriately protected through common law and statute.

We welcome the introduction of a bill and recognise the efforts being made to address the anxiety and concern that has been experienced by farmers following the long-running scourge of illegal surveillance, property damage and break and enter which has engendered a sense of frustration and fear in the agriculture community.

We note that similar bills have been introduced in other jurisdictions around the world, indicating that this problem is not unique to NSW farmers. We expect that these global and well-intentioned parliamentary efforts have been attacked by the activist sector and tested through appeals which challenge the merits of such protection being provided. Despite the considerable deliberation of these proposed laws, farm incursions have increased. And as this activity has become more frequent, the distress of farmers has increased in equal measure.

We note that with surveillance device legislation being the responsibility of state governments, that there are inconsistencies in the enforcement of such illegal acts. This inconsistency is compounded when material is consistently published online, giving rise to additional complications of copyright and the remit of state in censoring such posts. While these jurisdictional limitations are noted, EFA submits that the protection of farmers from such publishing of frequently misleading and defamatory information is a problem which requires a regulatory response.

These concerns are expressed personally by farmers who, having survived the fear of such events, must deal again with the incident by having their practices impugned online. These acts are unlawful. These acts cause significant and unreasonable anxiety and stress. And whilst these acts may be difficult to legislate against; they must be stopped and their impact redressed.

EFA notes in particular the following issues that emerge from the content of this bill;

- a. The conflict that this bill will necessarily perpetuate between farmers and activists;
- b. The ongoing efforts of egg farmers to open up their farms to directly address concerns of community members – including those that would act unlawfully to gain access to farms;

- c. The experience of international jurisdictions in which legislation such as this has been implemented;
- d. The impact that illegal farm raids have on farmers, employees, and the animals that these intruders claim to protect;
- e. The impact that illegal farm raids have on farming families.

2. Conflict between farmers and activists: the egg industry's approach to open farms

While thankful that action is being proposed, EFA has some minor concerns around the drafting of the bill; concerns that are enlivened by examples we have seen from similar efforts in other jurisdictions. It is notable that these sorts of proposed reforms inevitably give rise to conflict between activist and farmers when similar conflict is already pervasive.

This is concerning to EFA and while we yearn for the plain protections that should be afforded to farmers; any escalation in conflict is likely to detract from industry efforts to deescalate the anger expressed by sections of the community with a radical agenda and an enduring disrespect for the farmers that provide our community with the security of having food.

EFA is working to better understand the details and nuance of the anger expressed by those with radical agendas. Indeed, far from overlooking or dismissing the reality of these concerns, egg farmers are committed to a better understanding of them. We hope this can allow farmers to respond to any substantive and justified concerns.

We refuse to hide from community concerns. We are committed to addressing them.

But this must be done responsibly, legally and in circumstances where the industry has embraced its role in the resolution of this conflict. It is difficult to suggest that protections or exemptions should be provided to vigilantes who break the law. Where genuine interest is shown; we will always endeavour to invite people in through the front door.

3. Relevant precedents

EFA has considered the divisiveness of such legislation in other jurisdictions and has followed the lawsuit filed against so-called 'ag gag' laws in Utah, United States. We note that the laws were ruled unconstitutional on the basis that such laws violated the First Amendment of the US Constitution, that which upholds freedom of speech.

Obviously, such constitutional provisions are not available in Australia, to the usual troop of objectors such as the Federal RSPCA, Animals Australia, Voiceless and PETA, and we are unsurprised that similarly dissonant complaints will be heard in response to this legislation.

At the centre of the protections provided to the above radicals in the Utah court by Judge Shelby was concern that the design of such laws threatened to 'suppress[ing] broad swaths of protected speech without justification.' If the NSW conditions were similar to those of the United States then EFA would have cause to consider this important point.

But NSW is not the United States. NSW farmers are not American farmers and their proven approach to community outrage and concern makes Shelby's concerns redundant in these domestic circumstances.

While it would be fanciful to suggest that any homeowner would accept a knock on the door from a blackly-clad miscreant who sought to take photos of their private home; farmers are working slowly

and deliberately to ensure that any community member who wants to know more intensive farming has the opportunity to do so.

4. The impact of farm intrusions

Given the leadership shown by industry and given that leadership is necessarily difficult; requiring courage, patience and a persistent commitment to better understand and work with every member of the community; egg farmers submit that those that frame this bill as an effort to hide our farming practices can only be viewed as lazy and an indolent expression of anger without substantive cause.

EFA understand that many in the community currently disapprove of animal welfare practices in our industry as well as agricultural industries in general. As such, we have called on governments to implement the first set of mandatory animal welfare standards and guidelines for the egg industry.

The egg industry is committed to openness and transparency, and in response to the bill we express confusion and anger that the bill's protections should be required.

When activists enter farms illegally, they intimidate and alarm farmers, employees, and the animals they purport to serve. This type of action is no more about exposing truth than their opposition to the Bill is about justice or their rights. Their complaints are purposefully plain – they want to publish footage out of context and work to erode the reputation of our farmers who – despite the pernicious motivations of the offenders – will commit yet again to show all properly interested people through the front door.

5. Conclusion

It is with a sense of great frustration that we note to the committee that we remain concerned that this bill will enliven the increasingly dangerous and troubling tension between activists and agricultural industries.

Having worked to resolve these challenges over the past two years, it is galling that instead of partnership with the community to engage and improve, we are now poised yet again for to hear complaints from activists which manage to be both low-slung and incoherent.

Given these dynamics, EFA laments the need for this bill whilst acknowledging that something simply must be done to enforce the law.

On balance, we thank the committee for considering the bill and for examining how such protections can be implemented for the benefit of the whole community. So too, we remain ready for the conflict that our experience shows will now follow.

As the committee considers the appropriate framework for these protections we ask that they also consider the anger and conflict that will be expressed by activists. We ask the committee to note that we will always work to decrease this conflict. Though, in this instance, we stand ready to rebut the mistruths and to correct the incoherent legal arguments that will ask the government to accept that breaking the law can be deemed justifiable.