

Submission  
No 421

**INQUIRY INTO USE OF BATTERY CAGES FOR HENS IN  
THE EGG PRODUCTION INDUSTRY**

**Organisation:** Animal Justice Party

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## About Us

The Animal Justice Party (AJP) was formed in 2009 in response to growing public concern about the treatment of animals and the inadequate protections provided by our political system. We consider that our laws and regulatory framework should be reformed to recognise animals' inherent behavioral needs and capabilities. The AJP has representation in both the NSW and Victorian Parliaments which reflects the public support for our platform of animal protection.

## In Summary

The AJP considers that the scientific evidence and public opinion make it clear that there is neither justification nor the social licence for the keeping of layer hens in battery cages.

**(a) whether or not the use of battery cages to contain or accommodate hens in the egg production industry is:**

**(i) associated with poor animal welfare outcomes or is accompanied by poor animal welfare practices,**

Animal sentience is the reason that welfare matters. It seems self-evident in 2019 that animals, (a class to which humans also belong) are sentient; they have the 'ability to perceive their environment, and experience sensations such as pain and suffering, or pleasure and comfort.'

The 1970s saw the beginnings of a modern animal welfare movement, with the United Kingdom Farm Animal Welfare Council in 1979 developing the concept of the Five Freedoms, now internationally recognised as the best practice standard for animal welfare systems:

1. Freedom from hunger and thirst, requiring producers to provide access to fresh water and a diet sufficient to maintain good health.
2. Freedom from discomfort, by providing housing which meets the shelter needs of the animal
3. Freedom from pain, injury or disease by prevention or rapid diagnosis and treatment.
4. Freedom from fear and distress by ensuring conditions and treatment which avoid mental suffering.
5. Freedom to express normal behaviour by providing sufficient space, proper facilities and company of the animal's own kind.

It took, however, until 2012 for leading neuroscientists to declare the sentience of animals in the renown 'Cambridge Declaration on Consciousness': "The absence of a neocortex does not appear to

preclude an organism from experiencing affective states. Convergent evidence indicates that non-human animals have the neuroanatomical, neurochemical, and neurophysiological substrates of conscious states along with the capacity to exhibit intentional behaviors. Consequently, the weight of evidence indicates that humans are not unique in possessing the neurological substrates that generate consciousness. Nonhuman animals, including all mammals and birds, and many other creatures, including octopuses, also possess these neurological substrates.”

In a nutshell, all animals, not just humans, are conscious; which gives them/us the capacity to experience pain and pleasure, both physical and psychological.

Given that there is no dispute as to the sentience of chickens, what are the basic behaviours that they engage in when given the freedom to do so:

A study undertaken by the University of Kassel, Faculty of Agriculture, International Rural Development and Environmental Protection Department of Animal Behaviour and Management, identified the following basic natural behaviours of chickens. They are:

- Foraging; where chickens scratch and peck at the ground
- Locomotive behaviour, including walking, stretching, flapping wings, flying etc.
- Resting behaviour including sleeping, standing, sitting and roosting
- Maintenance-Comfort behaviour exhibited by sunbathing, dustbathing, preening, stretching, flapping, and body shaking
- Nesting-laying behaviour sequence involves hens ‘Separating from the flock, examining potential nest sites, scratching and pecking at nest material, building a nest or choosing an already formed nest, entering the nest, forming a hollow, laying an egg, rolling the egg under the body, lying on the egg, getting up, standing, leaving the nest and cackling.

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#### **RSPCA Australia has reviewed the science and established that:**

“The ability to express normal behaviours is important to every hen whether they are housed in cage or cage-free systems. Hens in battery cages experience extreme behavioural restriction. They cannot flap or fully stretch their wings, walk or run, and do not adjust to this behavioural restriction”

“Hens are motivated to perform actions such as such as foraging, perching, dustbathing and laying their eggs in a nest.”

“None of these normal behaviours can be performed in a battery cage, leading to intense frustration and suffering.”

#### **Nesting**

“Layer hens have a strong motivation to perform nest-building behaviour, which is triggered by hormones at ovulation. Hens have a basic and instinctive need to lay their eggs in a quiet secluded place: what we call a ‘nest’. Prior to egg laying, hens perform pre-laying behavioural patterns which include searching for a nest site, nest building, and sitting on a nest. The need for layer hens to perform pre-laying behaviour and use a nest has been assessed by motivation tests, which have consistently demonstrated that it is a high priority. Hens have been found to work harder to access a discrete nest

site prior to egg laying than they do gaining access to food following four hours of food deprivation. Further, an enclosed nest area can reduce cannibalism.”

“Hens like to be able to lay their eggs around the same time each day and will go through the same egg-laying routine every day. This can include walking around, sitting in the nest, standing up again, scratching around before they’re comfortable to settle down and lay.”

“If denied a nest, hens can become frustrated, pace, and retain their eggs beyond the expected time of lay. Abnormal behaviours include: increased clucking, pacing and going through the motions of nest building. Hens endure this frustration every day they are confined in battery cages.”

### **Perching**

“Almost all layer hens use perches at night if adequate perch space is provided. Hens show signs of unrest when they are deprived of the opportunity to perch at night, and experience frustration and reduced welfare if perching is not possible.

Perches are also critical to animal health and well-being as they improve bone and muscle strength, reduce fearfulness and aggression, give places for refuge, reduce injurious pecking and enhance the use of space and reduce stocking density on the floor.

The inability to perch decreases muscle and bone health. Rearing birds without early access to perches causes poor muscle strength, a lack of motor skills, and the inability to keep balance, with long-lasting effects on welfare. The inclusion of perches in all housing systems is relatively straightforward and has the potential to provide large improvements in welfare if placed and managed correctly.”

### **Foraging**

“When litter is available, it is used extensively by hens for scratching and pecking. Hens perform foraging behaviours even when feed is freely available in feed troughs, demonstrating an instinctive motivation to forage for food. In addition, studies have found that hens spend the majority of their time ground pecking and ground scratching if litter is available.”

### **Dust bathing**

“Hens have an instinctive motivation to dust bathe. When they have access to soil, sand or litter, hens will dust bathe most days, often for long periods at a time. Dust bathing involves hens crouching down and using their wings to throw dust through their feathers before standing and shaking off the dust. Dust bathing cleans and maintains feathers, removes oil build-up, parasites, and helps regulate body temperature.”

### **Comfort behaviours**

“Hens need space to stretch, preen their feathers, flap their wings and move around.”

### **A cruel system that is overdue for prohibition**

Battery cages were first developed in the 1930s and had become ubiquitous by the 1960s. At the time of their development and during the widespread establishment of cages systems, no one considered the sentience of chickens. Battery cages proliferated because they were an easy management system for humans; barren enclosures without perches or nesting materials that made them cheap and easy to

maintain. The battery cage system ignored what has been readily observable during the ten thousand years that we have lived with domesticated chickens; their joy in finding warm and friable ground in which to dustbathe and foraging and finding that seed or green leaf before their sister hens. So compelling is that desire, that they will go through the motions of dust bathing and preening even in cramped cage conditions.

There are critical welfare reasons why chickens attempt these behaviours even when unable to do so. Preening uses the beak to eliminate parasites, dusts and dirt from feathers and aids to maintain feather condition. Dustbathing is important for health and comprises three stages: tossing, rubbing and shaking. The dust absorbs excess moisture and oil and kills parasites by coating their skin thereby blocking the parasites breathing pores, suffocating them. In relation to sunbathing, daylight controls and triggers many of their physiological processes. It also stimulates their metabolism, plays an important part in the formation of red and white blood cells and of vitamin D, and promotes the secretion of hormones necessary for growth and reproduction. When hens are unable to dust bathe, their plumage is in a poorer condition as it is dirtier and less insulating.

Battery cages are so small that birds can't engage in simple, comfort behaviours like fully stretching and flapping their wings. Lack of exercise due to restricted space causes extremely weak bones and muscles which can result in fractures. Hens in battery cages suffer extreme behavioural restriction, and due to their inability to walk, flap their wings, or perch, they suffer the poorest bone and muscle strength of all housing systems and the highest number of fractures at the end of their lives.

According to Compassion in World Farming, intensive production has resulted in hens being depleted of calcium due to the large increase in the number of eggs laid. This can result in osteoporosis or brittle bones and fractures. Restricted movement due to being confined in cages can also contribute to osteoporosis. Caged hens have a higher incidence of foot lesions and rates of non-infectious diseases such as fatty liver disease. The sheer number of cages and hens make it impossible to inspect with injured hens, often left to die unnoticed.

There is documented evidence regarding the abnormal behaviour displayed by caged hens includes feather pecking, cannibalism, sham/vacuum dustbathing, high levels of hysteria, fear and aggression. This is caused by an extreme lack of space, total lack of stimuli, low level artificial lighting and a generally artificial environment.

Aside from the physical concerns, restrictions on the ability to engage in natural behaviours leads to frustration, and distress. Mark Pearson, formerly of Animal Liberation NSW, now Member of Parliament for the Animal Justice Party, describes a scene from surveillance footage obtained from an intensive battery cage facility; "A hen had nested in the corpse of dead chicken, so desperate was she to lay her egg in the closest approximation to nesting material that she could find."

It beggars belief that any regulatory system would allow the confinement of between 3-7 birds in small cages with each bird allocated a living space less than an A4 piece of paper. That these animals would never feel the sun on their bodies or the fresh air in their feathers, is not acceptable to a modern, humane society.

And finally, the caged egg industry contributes to the killing of millions of newly hatched male chicks each year, macerated or gassed within hours of hatching, as 'surplus' to the needs of the industry.

**(ii) justified by any other consideration, and**

**(iii) consistent with community standards and supported by the public,**

**(e) the protection of consumer interests, including the rights of consumers to be fully informed of the sources of eggs in egg-containing products,**

Animal advocacy groups have been informing and educating the public about the cruelty inherent in battery cages for a number of years. This will continue unabated until they achieve the policy changes needed to bring animal welfare into the 21<sup>st</sup> century.

The tide of public opinion is changing with consumers having a greater awareness of animal needs and are demanding higher standards for animal welfare and well-being. According to Voiceless “There is widespread public opposition to the cruelty of battery cages and debeaking. A 2010 national survey indicated that 86% of Australians believe that battery cages are cruel, and public preference for cage-free eggs is increasing, with consumption of cage-free eggs now estimated to represent 38% of the retail market”.

Eating habits are changing with more people choosing either free range eggs, backyard chickens or removing eggs from their diets. In the US, disruption of the chicken egg industry is being undertaken by Just Foods which recently released ‘Just Eggs’ which is a plant based ‘egg mix’ that can be readily used by both consumers and the food industry, without concerns about animal cruelty, seasonal availability, land use or animal-borne diseases. Chicken eggs may indeed become redundant if industry does not move swiftly to address the concerns of consumers.

Australian consumers are increasingly making ethical choices at the supermarket and consciously choosing free range eggs. However, the same consumers that are deliberately choosing to support free range egg production are unwittingly supporting cage egg production through their purchase of prepackaged commercial goods like biscuits, bakery items and cereals etc. Consumers deserve truth in labelling. Why is there legislation to ensure that cage eggs are clearly labelled, yet producers are essentially allowed to hide their use of caged eggs in their packaged products? The use of cage eggs in packaged products is significant. Data from the Australian Eggs’ Annual Report 2018/19 states that of the total annual egg production of 515.7 million dozen eggs, 229.66 million dozen were sold through major supermarkets. This equates to 44% of total eggs produced being shell eggs. That leaves 56% of total eggs produced being non shell eggs, that is, used in food production. This does not account for all whole eggs sold but it is a reasonable approximation.

International food businesses including major Australian and international brands are also moving forward. Arnott’s, McDonald’s, Hungry Jacks, Subway, Nando’s, Oporto, Coles, Woolworths, Aldi, Harris Farm Markets, Ikea, Kellogg’s, Compass Group, Mars, Nestle, PepsiCo and Unilever, have all committed to putting battery cage-free eggs on their shelves and in their products.

The supermarkets are increasingly stocking pasture-raised, organic and free range eggs and a number of cafes and restaurants are following suit. There is a need for truth in product labelling and menu ingredient listing to display the type of eggs used in menus and products i.e. caged, organic etc. The consumer needs to be fully informed to be able to easily make ethical choices.

**(b) what legislative measures should be taken to:**

**(i) prevent poor animal welfare outcomes to hens in the egg production industry of New South Wales,**

All of these health and welfare problems are associated with the battery cage system itself. They cannot be addressed through good management. The abundance of scientific literature on this topic has led the European Union Scientific Veterinary Commission, the National Animal Welfare Advisory Committee of New Zealand, and the National Farm Animal Care Council of Canada to conclude that battery cages cannot meet the welfare needs of hens and must be phased out.

Battery cages have now been phased out of all 28 nations of the European Union, several US states including the largest egg-producing state of California, and are in the process of being phased out in New Zealand and Canada.

The AJP urges the government to amend Section 9 of the *Prevention to Cruelty to Animals Act (1979)* to prohibit the confinement of hens in battery or furnished cages and mandate the ability of all farmed animals to have ready access to open air, protected areas for physical exercise, including the ability to engage in their natural behaviours such as nesting, dust bathing, foraging, grazing, stretching and walking about.

We seek the prohibition of debeaking which is the removal of part of the beak with an electrically heated blade - a procedure which results in acute pain and nerve injury. It is currently a lawful but cruel practice undertaken to prevent feather pecking and cannibalism. The root cause of the problem is stress from close confinement with other birds combined with an inability engage in their natural behaviours.

The government has recently established a Commissioner for Agriculture to advocate for the needs of businesses within agricultural industries. The AJP proposes that in the interest of balance, there is a need for the funding and establishment of an independent statutory body such as an Animal Rights Commission to protect the interests of animals in agriculture. At present animal welfare is hopelessly compromised by conflicts of interest due to animal welfare being positioned in the Agriculture portfolio. It is also hopelessly under-resourced in terms of investigations and enforcement of animal welfare breaches with small private charities like RSPCA and the Animal Welfare League carrying the burden of protecting the millions of farmed animals living and being bred and being slaughtered in NSW each year.

The media has recently highlighted the risks of animal welfare being compromised by commercial interests working closely with compliant government departments:

“Egg farmers have been accused of engaging in systemic collusion with the NSW Government to deliberately thwart moves to outlaw battery hens across the country.”

“It has been described by one governance expert as "collusion" and an "act of systemic corruption".

<https://www.abc.net.au/news/2017-12-21/egg-farmers-accused-of-colluding-with-nsw-government/9229242>

“Executive email reveals stoush over 'stage-managed' process to benefit egg industry.”

The NSW Department of Primary Industries (DPI) has allowed the drafting of new welfare standards for poultry to be "stage-managed" by industry in a process lacking "transparency", "governance" and "independence".

<http://www.abc.net.au/news/2018-01-08/concerns-poultry-welfare-standards-stage-managed-by-industry/9299256>

**(ii) set appropriate minimum standards of accommodation for the accommodation and treatment of hens in the egg production industry,**

That the Australian Standards and Guidelines for Poultry be revised to prohibit the use of battery and furnished cages and to detail the manner in which layer hens are to have ready access to open air, protected areas for physical exercise including the ability to engage in their natural behaviours such as nesting, dust bathing, foraging, stretching and walking about.

**(d) trends in relative consumer demand for egg and egg-containing products derived from commercial operations that use battery cages and commercial operations that do not**

The public are clearly making choices based on concerns of the welfare of hens in battery cage facilities. As stated above there is no requirement for labelling of the use of cage eggs in commercial operations. If there was we could assume, based on information presented previously and the Choice survey below that consumers would choose not to support the industry by buying products that contain caged eggs. However under the current regime consumers are not provided with the information they require to make informed and ethical decisions.

In 2014 Choice conducted a national survey and published these results:

- 65% of Australians bought free-range eggs in the past 12 months.
- Australians buy free-range eggs for animal welfare reasons (68%), to support free-range egg producers (52%) and for better taste (44%).
- The majority of respondents believe that free range means free to roam, access to the outdoors and cage-free.
- 67% said that they would prefer to pay more for free-range eggs that are guaranteed to have an appropriate stocking density under a mandatory national free.

**(f) the economic and social effects on New South Wales of:**

There is no doubt that transitioning from cage eggs will have an economic and social impact. This is no different from the impacts felt when significant industries close or downsize. Take for example the car manufacturing industry, coal industry or logging – all of these industries have undergone significant changes in recent years, in response to dwindling profits, global structural adjustment, wage issues, environmental, ethical and sustainability concerns. In the case of the industries listed above the government has taken proactive steps to ensure that proper transition and compensation packages are



put together for both business owners and displaced workers. The cage egg industry is no different and the government will need to ensure that the appropriate transition packages are developed and delivered.

The government can also choose to see this as an opportunity. An opportunity to move to sustainable plant based agricultural production, clean meat, dairy and egg technology. Globally, billions of dollars are being invested into the industry as the demand for plant-based foods continues to grow at a rapid pace - as more and more people come to learn about the impact of our current diet on their health, the animals and the planet. NSW can position itself as a centre of excellence or innovation in this growing industry.

A quick google search shows you just how much activity, growth and profit is being generated by plant based food companies – in particular in Silicon Valley where the Californian government has put in place the right business and tax incentives to position itself at the forefront.

**There's a multibillion-dollar race to replace eggs. 16<sup>th</sup> May 2019**

<https://www.bloomberg.com/news/articles/2019-05-16/there-s-a-multibillion-dollar-race-on-to-replace-the-chicken-egg>

**A San Francisco startup has plans to blow up the egg industry – July 24<sup>th</sup> 2018**

<https://www.businessinsider.com.au/hampton-creek-sf-based-egg-replacer-2014-6?r=US&IR=T>

**Silicon Valley startups backed by celebrities like Bill Gates are using gene-editing tool Crispr to make meat without farms - and to disrupt a \$200billion dollar industry. 9<sup>th</sup> March 2019**

<https://www.businessinsider.com.au/silicon-valley-startups-using-crispr-chicken-beef-memphis-meats-new-age-meats-2019-3?r=US&IR=T>

**Beyond meat's stock jumps nearly 10% ahead of earnings – 22<sup>nd</sup> July 2019**

<https://www.cnbc.com/2019/07/22/beyond-meats-stock-jumps-12percent-ahead-of-earnings.html>

**Plant based food sales continue to grow by double digits, fueled by shift in grocery store placement – 16 July 2019**

<https://www.forbes.com/sites/janetforgrieve/2019/07/16/plant-based-food-sales-pick-up-the-pace-as-product-placement-shifts/#4a0f565f4f75>

**Plant-based meat market forecast to reach \$85B by 2030, July 22<sup>nd</sup> 2019**

<https://www.fooddive.com/news/plant-based-meat-market-forecast-to-reach-85b-by-2030-report-says/559170/>

**In conclusion**

The Animal Justice Party NSW calls on this inquiry to respond appropriately to the concerns of the people of NSW and meet community expectations by recommending the rapid phase out of cage egg production. NSW should join the EU and New Zealand and 28 other jurisdictions and relegate this cruel and archaic practice to the history books where it belongs.

