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Sent by email (pigseggsandpoultryteam@defra.gov.uk)

Dear Sir or Madam,

Thank you for giving us the opportunity to respond to the Consultation on removing the 16-week derogation period in egg marketing standards legislation in England and Scotland.

The BRC is the lead trade association for UK retail. Our purpose is to make a positive difference to the retail industry and the customers it serves, today and in the future. Retail is the 'everywhere economy', a vital part of the socio-economic fabric of the UK. The industry makes up 5% of the UK GDP and is the largest private sector employer, providing 3 million direct jobs and 2.7 million more in the supply chain. Retail has a presence in every village, town and city across the country. Over 200 major retailers are members of the BRC, with thousands of smaller, independents represented by BRC's trade association members. Together, these businesses operate across all retail channels and categories and deliver over £350 billion of retail sales per year. We build the reputation of the retail industry, work with our members to drive change, develop exceptional retail leaders, and use our expertise to influence government policy so retail businesses thrive and consumers benefit. Our work helps retailers trade legally, safely, ethically, profitably and sustainably. On food, our membership comprises over 5,000 businesses, accounts for £180 bn of grocery sales and employs over 1.5 million people in food outlets and distribution.

We do not want our response to be confidential. The BRC and its members operate UK wide.

Q 8. Do you agree or disagree with the proposal to remove the 16-week derogation period? This would allow eggs that are from laying poultry that are subject to a housing order to be labelled as 'free range' throughout the duration of an order.

We strongly agree with the proposal.

Q 9. Do you have any comments on the proposed legislative change?

Management of the avian flu outbreaks in 2017, 2021/22 and 2022/23 was only manageable due to the pragmatic approach agreed with Government at the time. This pragmatism was welcomed, but it is not a long-term solution.

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The introduction of these changes will give producers, packers and retailers confidence. Avoiding the disruption, after the 16-week period of birds being indoors, will reduce cost and disruptions in supply, which could lead to shortages.

These measures will support egg producers. If not adopted, their eggs would become barn eggs at the end of the 16-week period and despite having been produced to the higher cost of the free-range system, they could only receive a barn egg worth amount. To date, most retailers have made commitments to not change payments, however a change in policy approach could change this and make things challenging for producers. These producers are likely to have already experienced strong loss of revenue from the loss of birds to the disease.

Since Europe has adopted the provisions, they will also result in fair trading with other European countries. This is especially pertinent since based on the Windsor Framework Agreement, the provisions are already applicable in Northern Ireland. This means that not only will production and trading conditions be favourable in Northern Ireland, but the movement of eggs produced in Northern Ireland into the GB market will result in inconsistencies after a 16-week period.

Q 10. To date housing orders have only ever been in place for limited time periods. With this consideration do you think the proposed alteration to the Egg Marketing Standard Regulation could confuse consumers in any way?

Not at all. Our members' experience during previous outbreaks is that consumers have understood that the priority is the welfare of the birds, and the support for egg producers. It has also been made clear that there are no safety implications and that the system and process according to which these eggs have been produced has only included one change – having to place the birds indoors for their safety. For all other purposes, the eggs have been produced in the same way.

Our members received very few queries and no complaints by customers during previous outbreaks. Those few queries were received when 'Barn' was ink jetted on free range egg packs. It is unclear whether those customers had read all the information provided, including the accompanying signage.

Q 11. If you think there is a risk of confusion, do you have any suggestions for how the risk of confusion could be mitigated?

As stated in our previous response we do not believe there has been any consumer confusion in the past, however elements which helped were the transparent way in which the BBC and programmes like Country File covered the situation.

Q12. If the removal of the 16-week labelling derogation is not adopted within legislation in all of the GB nations (England, Scotland, Wales) what would be the implications for you, if any, and for the egg industry more broadly? (In your response, please separate out specific implications for you/ your organisation from the implications for the industry more broadly).

No adopting these provisions and not having the pragmatism we have benefit from over the last few years, will result in major disruption, higher costs of products for consumers, shortages of eggs and products containing eggs, and potentially challenges to the viability of some egg producers.

Once the egg loses its free-range status it becomes a barn egg. The price for barn eggs is cheaper than for free-range eggs. Some producers could be paid a lower price for their eggs despite having produced the eggs within the same system and with the higher costs of a free-range egg.

Packers / retailers will be required to relabel their products. They will need to create new egg boxes, or over stick a label on the old boxes. This is costly and cannot be done quickly. The consequence would be potential shortages, either no eggs or lower volume of egg available, and higher prices since despite having paid less for the eggs, the cost of changing labels, etc, may be passed to consumers.

The provisions do not only apply to shell eggs, but to products containing egg. There are many products which contain egg in their composition. Many of our members have made commitments to solely use free range in all their products. Out of those companies who have made a commitment, many either make a claim about it on pack or declare it in the ingredients list. If the provisions were not adopted, and the pragmatism adopted in the past was not available, there would be very strong implication on these products. To avoid such impact the retailers could amend all their labels and not make references to free-range egg being used, or alternatively move all the sourcing of liquid egg from UK to countries like The Netherlands, which will benefit from the provisions having been adopted in Europe. This will have a strong impact on British egg producers.

Additional comments

We appreciate the remit of the consultation is England and Scotland. It is concerning the Welsh Government has not participated in this consultation.

Irrespective of what the Welsh Government decides to do, we still believe it is important for England and Scotland to pursue this change. However, we must do whatever we can to make Wales understand of the enormous disruption and eventually very strong impact that taking a different approach to the rest of the UK will have on Welsh egg producers and ultimately consumers.

A high percentage of the eggs sold throughout the UK come from Wales. We understand 4.5 million chickens are kept for egg production in Wales, and the vast majority are free range.

If we were to have an outbreak, and we went beyond the 16-week, our members will try to avoid having to make labelling changes to Welsh eggs only. They will look for an alternative supply of eggs. This would be complex to manage within a short period of time. After the outbreak, and to avoid a similar scenario, retailers are likely to move away from Welsh supply longer term.

We are responding to this consultation with the understanding that the removal of the 16-week exemption will result in free-range not losing their status. At the moment, the only benefit of the arbitrary 16-week cut of period is that everyone knows what timeframe they are working to, and at what point a change may be required. We usually have an understanding, weeks before the end of these 16-weeks whether we will be going over or not. We want to avoid a scenario where the removal of the exemption results in the National Chief Veterinary Officer deciding that eggs lose their free-range status after a certain period of time, and not having enough warning to make any necessary arrangements.

We hope our response and comments are clear. Please do not hesitate to contact us if you want to follow up on any of our points.

Yours sincerely,

Andrea Martinez-Inchausti