

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates

4 – 6 June 2013

**Question: BET 30**

**Topic: Free-Range Egg Labelling**

**Hansard Page: Tuesday 4 June 2013, Page 115**

**Senator RHIANNON asked:**

**Senator RHIANNON:** Following the last Senate estimates, we were provided with some useful information about complaints made to the ACCC regarding misleading free-range egg labelling, about AECL-member egg producers. Have any of these contacts led to action to initiate prosecution? I was also interested in whether any systemic lessons have been learnt from these complaints.

**Mr Gregson:** We did provide you, in response, with a number of matters that have been referred to us.

**Senator RHIANNON:** They are questions 43 through to 45.

**Mr Gregson:** That is right. I believe we also provided information about proceedings or enforcement action that we have either commenced or concluded. I am having a quick look at it now. That list appears to remain reasonably comprehensive. I think there might be one or two more matters that we have pursued since. I would be happy to supplement that subsequent to—

**Mr Sims:** But they have come from these sorts of complaints. I think that was the question, wasn't it?

**Mr Gregson:** The matters have come to us from a number of sources, such as from consumers. It is not uncommon for us to have matters raised with us by traders that we might be investigating in a different context. Indeed, we like to be fairly on top of the issues ourselves and we will be aware of what is happening in the marketplace.

**Mr Sims:** But we get complaints, particularly from firms who might be competing with those firms—firms who would themselves judge that they are doing the right thing, and they judge that others are not, and they come our way. We get complaints from animal welfare organisations.

**Senator RHIANNON:** Are there systemic lessons that you have learnt along the way?

**Mr Gregson:** I am not sure if they are systemic lessons, but we grapple with the same issues that you have been asking us about earlier tonight, about how we form a view and articulate what we say particular claims mean. We often look at that and form the view that we may not always be able to give a precise definition about what it means but we have some idea of what consumers expect. Or, further, we know what is not one of those claims, and that is certainly how we have been dealing with a few of our enforcement matters: to say, 'You may say something is free range, but we do not believe that what you are actually doing is.'

**Senator RHIANNON:** I think in response to an earlier question, if I understood correctly—I think it was about the number of contacts—you said there had been a couple more contacts. I just wanted to check on the figures, because I noted that there were 40 contacts in a six-month period between July 2012 and December 2012. Can you provide the same figures for the period of January to June 2013?

**Mr Gregson:** Yes, we can. I do not have them in front of me, but we can provide those.

**Senator RHIANNON:** Are the number of complaints increasing?

**Mr Gregson:** I do not have that information in front of me.

**Senator RHIANNON:** So you can take all of that on notice?

**Mr Gregson:** Yes.

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#### Answer:

For the period 1 January 2013 to 19 June 2013 (inclusive) the ACCC received 37 contacts that raised free range concerns. Of these contacts, 31 related to eggs while 6 contacts concerned issues relating to duck, pork and chicken meat production.

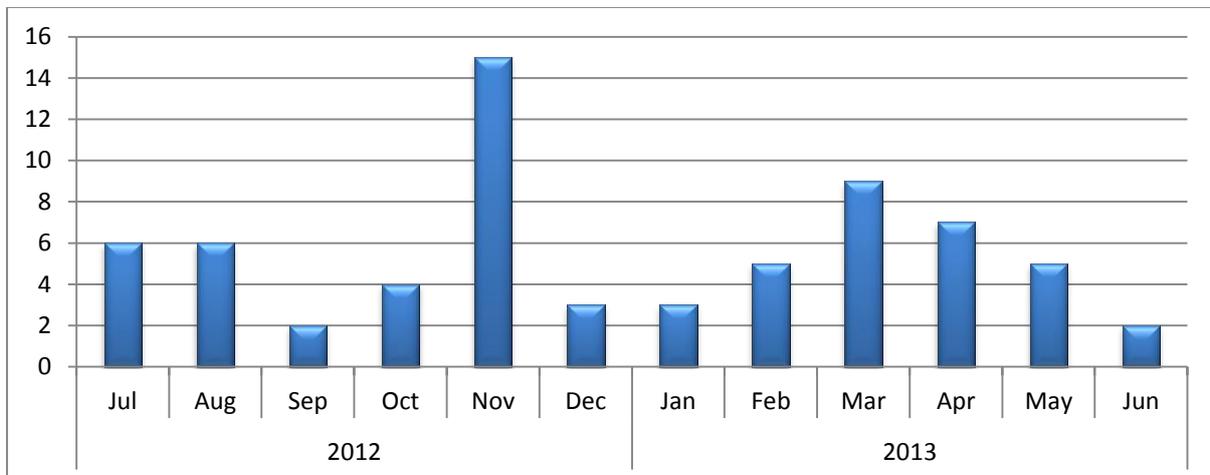
#### Free range contacts

<b>2013</b>	Jan	5
	Feb	7
	Mar	9
	Apr	7
	May	5
	Jun	4
<b>Total</b>		<b>37</b>

#### Free range egg contacts

<b>2013</b>	Jan	3
	Feb	5
	Mar	9
	Apr	7
	May	5
	Jun	2
<b>Total</b>		<b>31</b>

#### Free range egg contacts 1 July 2012 to 19 June 2013



Note: The large spike observed in November 2012 is related to the ACCC's assessment of an application for a free range Certification Trade Mark (CTM). Further details about the assessment of Australian Egg Corporation CTM 2012 are available on the [ACCC website](#).

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During the period contacts were progressed as follows:

Actions	Outcomes
- 9 under assessments (8 concerned eggs and 1 pork)	- 6 progressed to initial investigations (5 eggs and 1 pork) - 1 was added to a pre-existing under assessment (1 eggs) - 1 was discontinued due to insufficient evidence (eggs) - 1 was discontinued due no breach in the <i>Competition and Consumer Act 2010</i> being observed (eggs)
- 9 initial investigations <sup>^</sup> (7 eggs and 2 pork)	- 3 progressed to in-depth investigations (2 eggs and 1 pork) - 1 was discontinued as a possible breach with no further action (eggs) - 3 were discontinued due no breach in the <i>Competition and Consumer Act 2010</i> being observed (2 eggs and 1 pork) - 2 initial investigations are still active (2 eggs)
- 3 in-depth investigations (2 eggs and 1 pork)	- 1 was combined with another in-depth investigation (eggs) - 2 are still active (1 eggs and 1 pork)

<sup>^</sup> 3 initial investigations were active at the start of the period. 6 initial investigations commenced during the period.

There are a number of recent and current ACCC initiated proceedings before the Federal Court involving free range claims in relation to egg production and other claims involving poultry meat production:

- *ACCC institutes proceedings against luv-a-duck for false misleading and deceptive conduct (Media release dated 15 March 2013)*
- *Pepe's Ducks to pay \$400,000 arising from false, misleading and deceptive conduct (Media release dated 19 December 2012)*
- *SA supplier penalised \$50,000 for egg substitution (Media release dated 5 September 2012)*
- *Court penalises wholesaler for "cruel deception" on free range eggs (Media release dated 4 February 2011)*
- *ACCC takes action over 'free to roam' chicken claims (Media release dated 7 September 2011)*

The ACCC is considering broader compliance and enforcement issues associated with concerns in relation to free range representations.