

**Senate Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates

2015 - 2016

**Department/Agency:** Australian Competition and Consumer Commission

**Question:** AET 68

**Topic:** Consumer surveys on free range eggs

**Reference:** Hansard page no. 110 - 10 February 2016

**Senator:** Canavan, Matthew

**Question:**

**Senator CANAVAN:** I am going to poultry matters. I will not be long. We have been over this egg stuff plenty of times. Has the ACCC done any consumer surveys on people about what they expect free range is meant to mean? I will try not to put words in your mouth, but seemingly the ACCC's view is that people expect most chickens to go outside on most days. Have there been any consumer surveys done to look at what consumers actually expect?

**Mr Sims:** Mr Gregson is probably best placed to give you the answer to that.

**Mr Gregson:** We have not undertaken surveys. I am happy to elaborate on how we form our views.

**Senator CANAVAN:** If you could.

**Mr Gregson:** The courts do not generally require, nor do they place, generally speaking, much weight on consumer surveys in answering the question of what a reasonable person would think. That is the test under our legislation. In this matter, we have had regard to what we think is the common sense approach—the common view on free-range, meaning chickens having access and actually going outside. We have been assisted, though, by the representations that industry make in their promotional material, which clearly shows that they understand that consumers believe that chickens go outside when free-range. We have also noted a number of other surveys dating back a few years. They all ask slightly different questions and come up with slightly different answers, perhaps revealing some of the challenges with consumer surveys.

**Senator CANAVAN:** On notice, would you mind providing the details of those surveys—the ones you looked at a few years ago?

**Mr Gregson:** Certainly.

**Senator CANAVAN:** Sorry, Mr Sims, did you want to add something?

**Mr Sims:** Obviously, a lot of times companies advertise their chooks as being outside, so they are very much giving the impression to consumers from the packaging that the chooks are outside.

**Senator CANAVAN:** Although, of course, the test that you seem to be applying is 'most chickens on most days', which may not be quite the same as having some chickens pitch it outside. I recognise that this is the case law and provisions and that jurisprudence. My understanding is that the government or COAG is undertaking some kind of process now to try to develop a standard.

**Mr Sims:** Yes. The consumer affairs minister—

**Senator CANAVAN:** Yes. Do you have any input into that?

**Mr Sims:** Yes, we have input. The policy advising department is the Treasury, but they ask us for views, like I am sure they ask many people for views.

**Senator CANAVAN:** But you are not aware of any consumer surveys being conducted for that process?

**Mr Gregson:** Two of the recent surveys coalesce around that process. One of the latest Choice surveys and certainly the one from New South Wales farmers are both of that vintage.

**Senator CANAVAN:** They go to the issue of what consumers expect a free-range farm to have or what chickens do on a free-range farm?

**Mr Gregson:** There are elements that are relevant to that question.

**Mr Sims:** One of them is over here and one of them is over there, I would expect.

**Senator CANAVAN:** I can imagine which one is either way. Maybe that was captured by the previous question on notice, but could you make sure you provide details of those on notice?

**Answer:**

The Australian Competition and Consumer Commission (ACCC) response on 10 February 2016 identified the type of considerations taken into account in forming a view as to what consumers understand free range egg representations to mean. We noted that the ACCC had not undertaken consumer surveys, but had noted a number of other surveys, some of which had been produced recently. These include:

- CHOICE 2014
- CHOICE 2015
- The Humane Society International 2012
- Australian Egg Corporation Limited 2012
- New South Wales Farmers Federation 2015
- New South Wales Farmers Federation 2016

Further to our response on 10 February 2016, we note ACCC exposure to feedback received from engagement through previous assessments of Certified Trade Mark applications which have seen us receive in excess of 25,000 submissions on the topic.