

Submission for the Inquiry into the Impact of Animal Rights Activism on Victorian Agriculture – Caroline Hartley

Thank you for seeking and accepting submission on this important topic, I appreciate the opportunity to contribute to the consultative process that reviews the key issues of transparency and consumer protections in relation to Victorian Agriculture that are in the interests of the general public.

The 2019 report by the federal Department of Agriculture and Water Resources, entitled Australian's Shifting Mindset on Animal Welfare shows that the majority of Australians care about animal welfare. The report found from responses from the public that 95% of respondents viewed farm animal welfare with concern and 91% wanted reforms to address animal welfare. (1)

It is through this lens of increasing awareness of the animal agriculture industry that I am responding, and I strongly encourage education and increased transparency around standard practices and more rigorous legislation to address cases of animal abuse and cruelty.

The type and prevalence of unauthorised activity on Victorian farms and related industries, and the application of existing legislation.

It should be noted that the majority of extreme cases of animal cruelty reported in Victoria have been made possible by the initiative of whistle-blowers. Without the efforts of whistle-blowers, we the public would not know of the cases of animal cruelty within the animal agriculture industry including on farms and related businesses.

Unauthorised activity on agricultural properties is a rare occurrence, and has been centred on accessing large-scale animal production facilities such as commercial pig sheds and similar external production structures. There is no evidence of any form of activity taking place on the home ground of farming families, either at their homes, their backyards or in close proximity to their homes. The sole purpose of unauthorised activity has been to take documentary evidence (photos and videos) in relation to the conditions of animals in those facilities, in addition to any specific instances of animal cruelty. The rationale behind documenting evidence in this way has been that it is in the public interest for there to be available information about the conditions in which animals are raised and farmed in order for consumers to have transparency about the businesses from whom they purchase their food.

It must be acknowledged that there are a significant number of animal cruelty cases that have been exposed due to the efforts of whistle-blowers that we could not know about otherwise.

There has been no case identified or reported of unauthorised activity breaching biosecurity regulations and causing a biosecurity event. This seems to be an issue that has been raised within the media and yet does not stand up under scrutiny and is not validated by any evidence.

There are existing laws in place that adequately address criminal offences such as trespass, damage of property and theft. It is also the role of the judiciary to determine if the current penalties are inadequate, this is not the role of the Parliament.

Attention should be focussed on the Prevention of Cruelty to Animals Act 1986 (POCTAA) and it's insufficient legislative provisions to address animal welfare given that 'production' animals are exempt from protections.

The workplace health and safety and biosecurity risks, and potential impacts of animal activist activity on Victorian farms, to Victoria's economy and international reputation.

There is no evidence that any unauthorised activity by whistle-blowers has resulted in a biosecurity event. It appears that this has been raised as a point of concern by industry without any substance.

Whistle-blowers have taken appropriate action in relation to using personal protective equipment (PPE) and will wear oversuits, masks, gloves and booties to ensure that they use appropriate infection control measures.

The nature of intensive farming systems that are the standard within animal agriculture are subject to pests and disease moving between facilities, and pose a more significant threat to the animals than any whistle-blower.

The key risk within animal agriculture and the large-scale intensive farming systems that are commonplace is the use of prophylactic use of antibiotics. Renowned microbiologist and infectious disease specialist Professor Peter Collignon of the Australian National University has provided recommendations to the World Health Organisation and also locally to the Meat and Livestock Association in 2014 at their one day symposium covering antimicrobial resistance in the cattle industry. Professor Collignon warned against using antibiotics as growth promoters, to use antibiotics as prophylactics sparingly and not to use critically important or 'last line' antibiotics such as human antibiotics (glycopeptides, FQs, 3GCs).

Professor Collignon said that he had concerns that 3rd generation cephalosporin resistance could come through the food chain. (2)

The RSPCA also note in their 2014 white paper Ag-gag laws in Australia? It is notable that current criminal and biosecurity laws in the US and Australia already prohibit trespass and other actions that threaten biosecurity.

Opponents of the laws claim that the real objective of the proposed laws is to shield livestock industries from public scrutiny and prevent consumers from finding out about common husbandry practices that may cause alarm. (3)

Animal activists' compliance with the Livestock Disease Control Act 1994, Livestock Management Act 2010, and the Prevention of Cruelty to Animals Act 1986.

The Livestock Management Act 2010 contains Section 50 – Offence to endanger people or animals or risk disease, and relates to people who are engaged in regular livestock management activity. As previously mentioned, there have no been no recorded cases of biosecurity events following whistle-blower activity.

The Livestock Disease Control Act 1994 contains Section 9A that it is an offence to move identification from livestock, and 9B covers the requirement of properties where livestock are kept to have a property identification code. These provisions are in place to minimise the risk of diseases being transferred. As previously mentioned, there have no recorded cases of biosecurity events following whistle-blower activity.

In relation to the Prevention of Cruelty to Animals Act 1986, whistle-blowers have been responsible for capturing the vast majority of video footage and evidence in relation to extreme animal cruelty. Without their efforts, much of the available information would not surface, and therefore be hidden both from Agriculture Victoria, the Victorian Police, Primesafe and the general public.

It is worthy of drawing attention to POCTAA itself and the failure to provide protections for animals who are deemed to be 'livestock' or animals used for 'production'. There are numerous standard practices that are routinely used without pain relief; these include but are not limited to, castration, tail docking, beak trimming, mulesing, teeth clipping and the like. The RSPCA has strongly encouraged the industry to use pain relief, although there is no legal requirement for compliance to this advice. The general public would regard similar practices such as castration of domestic animals without pain relief unacceptable and barbaric, and would be subject to prosecution under animal cruelty charges. Animals raised in the food chain do not have the same legal protections as companion animals.

Under POCTAA there are Codes of Practice for 'livestock' animals that are voluntary and not mandatory. Under Section 9 of POCTAA it is considered an act of cruelty if a person "is the owner or the person in charge of a sick or injured animal and unreasonably fails to provide veterinary or other appropriate attention or treatment for the animal". It should be noted that whistle-blowers often find animals that are injured and/or sick and require attention under the duty of care provisions of both the Codes and POCTAA. It is also considered an act of cruelty of a person "does or omits to do an act with the result that unreasonable pain or suffering is caused, or is likely to be caused, to an animal".

In June 2019, a very disturbing video of animal cruelty emerged that recorded horrific abuse of hens at one of the largest egg-producing facilities in Australia. The video footage was taken by Animal Liberation at the Bridgewater Poultry farm in Victoria. The video showed workers kicking chickens, throwing them to the ground and breaking their necks. Hundreds of chickens were abused in this manner. They were deemed no longer economically viable by the company and were due to be gassed.

The egg labels Loddon Valley Eggs, Victorian Fresh Eggs and Country Fresh Eggs all come from Bridgewater Poultry. (4)

Following this horrific incident of animal abuse, I emailed the Agriculture Minister to express my concerns and to ask that there be charges of animal cruelty prosecuted under POCTAA. I was pleased to have received an email reply from Michael Rosier, the Acting Executive Director, Biosecurity Services on July 16, 2019 ([please refer to the attached email](#)).

In his response, Michael Rosier acknowledge my concern about the treatment of poultry on Victorian farms and that this had been referred to him as it falls within his responsibilities. He continued and stated that POCTAA protects the welfare of all animals including farmed birds and that there are specific requirements for the housing of layer hens. Additionally the Victorian Code of Accepted Farming Practice for the Welfare of Poultry (Victorian Code) describes additional recommended practices for the housing and handling of chickens farmed for egg and meat production. Agriculture Victoria inspectors have powers under the Act to investigate complaints about the inappropriate treatment of animals and prosecute those responsible where there is evidence of cruelty. Michael Rosier advised that the incident at Bridgewater Poultry was being investigated by Agriculture Victoria inspectors, and that if a person is prosecuted and found guilty for an offence under POCTAA, Agriculture Victoria will publicise the outcome on its website in order to raise community awareness about animal welfare issues and how animal welfare is protected and regulated.

I was pleased to note that Michael Rosier concluded his email by advising that The Victorian Government is committed to modernising Victoria's animal welfare laws to support better harm prevention, improved education, a more effective regulatory response and effective penalties.

It is the last paragraph of the correspondence from Michael Rosier that prompted me to make a submission, as I believe that there needs to be discussion about strengthening animal protections against cruelty and abuse within POCTAA to restore public confidence in the regulatory process.

The civil or criminal liability of individuals and organisations who promote or organise participation in unauthorised animal activism activities.

The proposed amendment to seek to criminalise the publication of information such as address details of animal agriculture businesses as 'inciting' trespass has implications for the freedom of the press and for communications of a political nature. It should be noted that none of the business details published by the Aussie Farms interactive map are private; they all relate to commercial businesses whose contact details are available in telephone directories, on signs outside their businesses and via a Google search on the internet. Additionally, it should also be acknowledged that under Australian law that a general right to privacy does not exist. This has been established in the matter of Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd [\[2001\]](#)

[HCA 6315 November 2001](#). The case involved undercover filming of a possum abattoir by a whistle-blower. The High Court did not reach a final position on the question put forward that activities that are secretly filmed were not relevantly 'private', and that a tort of invasion of privacy did exist, it should not be extended to corporations. The High Court suggested that the introduction of ag-gag laws would be subject to legal challenge if they were to be introduced in Australia. (5)

In the RSPCA white paper Ag-gag laws in Australia it is stated that the US experience of legislating against whistle-blowers has had a low rate of success. There were 20 bills proposed since 2011, only 4 have been successful, and that all of the bills proposed in 2013 were defeated. In the state of Utah where the first attempt at prosecution was scheduled, the proposed legislation was dropped following a groundswell of public criticism from animal protection organisations, journalists and academics, and a civil lawsuit was subsequently filed challenging the constitutionality of the Utah law on the basis that it violates freedom of speech. (3)

The Commonwealth Government recently introduced the Criminal Code Amendment (Agricultural Protection) Bill 2019 which includes two new offences relating to the incitement of trespass or property offences on agricultural land in Australia. It therefore should be noted that there are already sufficient laws in place that cover criminal activity.

The concerns regarding transparency and free speech are not solely related to animal welfare issues. The widespread concerns also relate to public health and appropriate consumer protections. (6)

Provide recommendations on how the Victorian Government and industry could improve protections for farmers' privacy, businesses, and the integrity of our biosecurity system and animal welfare outcomes, whether through law reform or other measures.

The Inquiry presents an opportunity at which concerns about the treatment of animals in the animal agriculture industries can be addressed through increased transparency.

As the Productivity Commission report Regulation in Australian Agriculture found; Australians place a value on farm animal welfare and benefit from knowing animals are being treated humanely. It has been acknowledged by Australian governments since the 2005 agreement of the need to move away from Model Codes of Practice (those codes were voluntary standards implemented by state and territory governments) into mandatory standards that were contemporary and founded on the scientific knowledge of animal welfare, and better addressed the general public's expectations. (7)

The report also states that progress has been very slow and some key concerns were identified, including:

- animal welfare regulations are not meeting community expectations about the humane treatment of farm animals — not mandating pain relief for some invasive surgical procedures and un-stunned (religious) slaughter were highlighted as examples (and the issue of un-stunned slaughter is not being considered as part of the current process for setting standards for livestock at slaughtering establishments)
- there is a risk that regulations will be imposed on farmers based on emotive reactions rather than evidence-based policy (including evidence on what represents an improvement in the welfare of farm animals and how this is valued by the community)
- there is a patchwork of different standards, which imposes costs on businesses operating in more than one state, creates confusion for consumers and reduces competition between producers — free-range hen stocking densities were raised as an example
- conflict of interest is an issue — the main concerns were disproportionate industry influence and perceptions of conflicts of interests of agriculture departments (that are responsible for farm animal welfare policy).

There is scope for greater rigour in the process of developing national farm animal welfare standards, and importantly, for science and (soundly elicited) community values to play a more prominent role. Without reform to the process, there is a risk that the agricultural sector, and the Australian community, will continue to face a patchwork of different regulatory arrangements across jurisdictions that do not rigorously take into account the economic and social considerations.

There are three main areas where farm animal welfare regulations could be improved.

1. The objective of the national standards and guidelines needs to be clearer.
2. Standards and guidelines should be more evidence-based, drawing on the existing body of evidence on animal welfare science and research on community views of animal welfare. Such evidence should also be used in RIA processes.
3. There should be more independence in the standards development process so that outcomes are not overly influenced by the views of any one group, either industry or animal welfare groups.

Judgments made to balance conflicting views should be transparent and apply rigorous scientific principles.

Surveys of community values for animal welfare should be statistically robust and transparent. (7)

A critical component of transparency would be the introduction of CCTV in animal agriculture businesses (in abattoirs and on farms). Attempts have been made to introduce mandatory CCTV recording of operations in abattoirs in Australia, such as the lapsed Food Amendment (Recording of Abattoir Operations) Bill 2015 put forward by the NSW Greens party. (8)

I would strongly encourage that an introduction of CCTV be prioritised.

The RSPCA white paper Ag-gag Laws in Australia identified that transparency and the treatment of livestock are primary concerns within the community. The RSPCA believes that livestock industries should pro-actively engage with consumers to address these concerns. Improving animal welfare on farm,

during transport and at slaughter requires on-going commitment from all participants along the supply chain. Acknowledging the need for incremental improvements, setting targets for achieving them, and keeping the community informed about progress will go a long way to building trust and confidence and ensure the long-term future of livestock production. Other strategies for promoting transparency may include greater method of production labelling schemes including rigorous third party auditing, the installation of closed circuit television cameras (CCTV) within livestock facilities, and the development of farm visitation programs to allow the public to meet with producers and view operating farms. Additionally, greater investment by state and territory governments in inspection and monitoring programs for livestock facilities will help to restore community confidence in the regulatory framework for farm animal welfare.

The RSPCA believes the interests of livestock industries are far better served by strategies aimed at building consumer confidence through greater community engagement and a more open and transparent operating environment than through the introduction of Ag-gag laws. (3)

Thank you for the opportunity to contribute to this important Inquiry, and I would welcome the opportunity to appear before the committee to discuss this submission as and when appropriate.

Yours sincerely,
Caroline Hartley

CITED REFERENCES:

- (1) Australia's Shifting Mindset on Animal Welfare, commissioned by the federal Department of Agriculture and Water Resources, 2019.
- (2) Meat and Livestock Australia factsheet Antimicrobials and the Cattle Industry <https://www.mla.com.au/globalassets/mla-corporate/research-and-development/program-areas/food-safety/pdfs/antimicrobials-and-the-cattle-industry-fact-sheet.pdf>
- (3) RSPCA discussion paper, Ag-gag laws in Australia, August 2014 <https://kb.rspca.org.au/wp-content/uploads/2019/03/Ag-gag-laws-in-Australia-RSPCA-Discussion-Paper-Aug-2014.pdf>
- (4) Animal cruelty investigation launched over video showing treatment of chickens at Victorian poultry farm by Peter Andrea, 18 June 2019. <https://www.abc.net.au/news/2019-06-18/chicken-video-footage-victorian-poultry-farm-under-investigation/11221398>
- (5) Case Note: ABC V Lenah Game Meats. Voiceless , the Animal Protection Institute <https://www.voiceless.org.au/content/case-note-abc-v-lenah-game-meats>
- (6) Gibson, M. 'US gag laws are violating press freedom – they should not be expanded overseas' The Guardian, 31 July 2013 <http://www.theguardian.com/commentisfree/2013/jul/31/ag-gag-law-journalism-activism>
- (7) Productivity Commission Inquiry Report : Regulation of Australian Agriculture, 15 November 2016. <https://www.pc.gov.au/inquiries/completed/agriculture/report/agriculture-overview.pdf>
- (8) Ag-gag report by Voiceless, the Animal Protection Institute https://www.voiceless.org.au/hot-topics/ag-gag#footnote3_dw9umf5



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[REDACTED]

Dear Ms Hartley

BRIDGEWATER POULTRY

Thank you for your email of 19 June 2019 regarding the treatment of poultry on Victorian farms. Your correspondence has been referred to me for consideration and response as the matter you raise falls within my responsibilities.

The *Prevention of Cruelty to Animals Act 1986* (the Act) protects the welfare of animals in Victoria and applies equally to all species, including farmed birds. Specific requirements for the housing of layer hens are described in the Prevention of Cruelty to Animals (Domestic Fowl) Regulations 2016. The Victorian Code of Accepted Farming Practice for the Welfare of Poultry (Victorian Code) describes additional recommended practices for the housing and handling of chickens farmed for egg and meat production.

Agriculture Victoria inspectors have powers under the Act to investigate complaints about the inappropriate treatment of animals and prosecute those responsible where there is evidence of cruelty. This incident is being investigated by Agriculture Victoria inspectors.

If a person is prosecuted and is ultimately found guilty for an offence under POCTAA, Agriculture Victoria will publicise the outcome on its website: agriculture.vic.gov.au. This is intended to raise community awareness about animal welfare issues and how animal welfare is protected and regulated. If you would like to view the details of successful animal welfare prosecutions, please visit the website:

<http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/record-of-prosecutions>.

The Victorian Government is committed to modernising Victoria's animal welfare laws to support better harm prevention, improved education, a more effective regulatory response and effective penalties. For more information and updates on this work, visit: animalwelfare.vic.gov.au.

Thank you for raising your concerns with me.

Yours sincerely,



Michael Rosier

Acting Executive Director, Biosecurity Services

Date: 16 / 07 / 2019