Author/s:
Parker, C;Carey, R;Scrinis, G

Title:
The Consumer Labelling Turn in Farmed Animal Welfare Politics: From the Margins of Animal Advocacy to Mainstream Supermarket Shelves

Date:
2019

Citation:
Parker, C., Carey, R. & Scrinis, G. (2019). The Consumer Labelling Turn in Farmed Animal Welfare Politics: From the Margins of Animal Advocacy to Mainstream Supermarket Shelves. Phillipov, M (Ed.). Kirkwood, K (Ed.). Alternative Food Politics: From the Margins to the Mainstream, (1), pp.193-215. Routledge.

Persistent Link:
https://hdl.handle.net/11343/233983

The consumer labelling turn in farmed animal welfare politics: from the margins of animal advocacy to mainstream supermarket shelves

Christine Parker, Rachel Carey and Gyorgy Scrinis (University of Melbourne)

In Michelle Phillipov and Katherine Kirkwood (eds), *Alternative Food Politics: From the Margins to the Mainstream*, Routledge (Critical Food Series, 2018) pp193-215.

Abstract

"Free range" and other higher welfare label claims are increasingly visible on Australian egg, pork and chicken meat products. This paper critically examines the way in which these claims have shifted animal welfare concerns from the "margins" of the animal advocacy movement to the "mainstream" of everyday consumer choice. It asks what has been lost and what gained as mainstream producers and retailers have adopted these label claims. The chapter argues that the growing market share of higher welfare labelled foods and the increasing public discussion and contestation of the meaning of terms such as "free range", "free to roam" and "bred free range" does represent the success of animal advocacy campaigns aimed at activating mainstream consumers to express their concern about animal welfare. At the same time label claims also exhibit the creativity of industry and retailers in appropriating and accommodating civil society critiques of dominant production and distribution systems by narrowing down the range of contested issues, and sentimentalising, simplifying and de-radicalising potential solutions. This indicates a governance gap - a chasm between what can be achieved via voluntary certification and labelling and the need for a more inclusive, sustainable and official government regulation of animal welfare.

Author Bios

Prof Christine Parker is a Professor at Melbourne Law School, the University of Melbourne where she researches and teaches business regulation and corporate social responsibility, lawyers ethics, food law and policy, and animals and the law. She is the author of a number of books including *The Open Corporation: Business Self-Regulation and Democracy* (Cambridge University Press, 2002) and *Inside Lawyers' Ethics* (with Adrian Evans, 3rd edition, Cambridge University Press, 2018).

Dr Rachel Carey is a Research Fellow in the Faculty of Veterinary and Agricultural Sciences at the University of Melbourne, where her research focuses on sustainable food systems and food policy. She is a researcher on the ARC-funded project "Regulating Food Labels: The Case of Free Range Food Products in Australia". Dr Carey also leads the Foodprint Melbourne project, which focuses on the resilience of Melbourne's city fringe foodbowl.

Dr Gyorgy Scrinis is Senior Lecturer in Food Politics and Policy in the School of Agriculture and Food at the University of Melbourne, Australia. He is the author of *Nutritionism: The Science and Politics of Dietary Advice* (Columbia University Press, 2013).

Acknowlegements

The authors are grateful to the stakeholders interviewed for this research and Josephine De Costa, Geordie Fung, Joe Lasco, Adaena Sinclair-Blakemore and Zoe Jackson for research assistance in the fieldwork and preparation of the manuscript for publication. This research was funded by Australian Research Council Discovery Project *DP150102168,* "Regulating Food Labels: The Case of Free Range Food Products in Australia".

Introduction

Throughout the western world there has been a turn towards labelling and certification of animal food products as a means of signalling higher welfare production (Evans & Miele 2017). In Australia, the terms "free range", "sow stall free" and "RSPCA Approved" have become common on egg, chicken, pork and ham products. These label claims reflect concern about the welfare of those animals that are most confined for the purposes of food production. Layer hens, meat chickens and pigs are typically "factory farmed" (Harrison 1964) in precisely controlled sheds with tens of thousands of other animals. The animals themselves are treated largely as components in meat-making machines. This large-scale industrialised production system produces huge amounts of safe, affordable food. It also raises serious animal welfare issues (D'Silva & Webster 2010). Indeed animal advocates have been vocal in protesting the cruelties of industrial confined animal production and in arguing for greater government regulation of animal welfare protection, better industry practice and more ethically conscious consumer choices.

This chapter argues that higher welfare and free range label claims are an outcome of regulatory politics. They reflect political contests within a network of public and private actors - official government agencies, supermarkets, industry associations, civil society organisations and consumers - over how production should be governed and presented to the public. The chapter critically examines the degree to which free range and higher welfare label claims on Australian animal food products have shifted concerns about farmed animals' lives from the "margins" of the animal advocacy movement to the "mainstream" of everyday consumer choice. It also asks what has been lost and gained as dominant industry and retailers have adopted these label claims.

This case study of the regulatory and market politics of ethical labelling and consumption in relation to farmed food animals in Australia reveals trends and challenges that have a wider relevance. International institutions and national governments all over the world favour market-based action such as labelling for consumer choice and industry self-regulation as preferred modes of response to the many pressing ecological, health, and worker, farmer and animal justice issues facing the food system. The fact that Australia has seen such a high degree of market penetration of, and public debate about, voluntarily labelled free range and higher welfare animal foods makes it a rich case study for critically examining the potential and limitations of labelling for consumer choice as a strategy for increasing public enagagement in food system governance.

This chapter is structured in three parts. The first part argues that the widespread adoption and use of higher welfare label claims on animal food can be seen as a response to civil society campaigns to politically activate mainstream consumers and involve them in the governance of the food system (Holzer 2006). At the same time label claims also exhibit the creativity of industry and retailers in appropriating and accommodating civil society critiques of dominant production and distribution systems (Richards, Lawrence & Burch 2011). We suggest that in order to evaluate the impact of these label claims it is critical to "backwards map" the regulatory politics behind them (Parker 2014).

The second part analyses the politics of "free range" and higher welfare claims on egg, chicken and pig products in Australia using empirical data. Our anlaysis reveals a shift of animal welfare from the "margins" of specialist animal advocacy movements to the

mainstreams of supermarket shelves, consumer and food advocacy organisations and consumer protection regulatory enforcement.

The third part critically examines the impact of this shift from the margins to the mainstream on the market, the governance of the market, and the lives of the animals themselves. Although animal welfare concerns may have reached the mainstream through labelling, the improvements for the lives of animals are at best marginal and incremental, and higher welfare labelling is often misleading. This indicates a governance gap - a chasm between what can be achieved via voluntary certification and labelling (even with ongoing supermarket support and civil society activism) and the need for a more inclusive and sustainable official regulatory governance system for animal welfare practice.

1. Food labelling as regulatory politics

Political consumerism and food labelling

The debate over how animal welfare should be regulated in food production is just one skirmish in what have been labelled the "food wars" – a series of contests over how to best address the environmental, health and social challenges of food production, distribution and consumption into the future (Lang & Heasman, 2015). The marketing and information claims on retail food packaging have become one of the arenas of conflict and contestation in the food wars. These have included successful campaigns to mandate the labelling of genetically modified foods in Australia and the United States (Roff 2007), the creation and, in some cases, protection via trademarks of denominations of origin and markers of locally distinctive small-scale production throughout Europe and increasingly in other jurisdictions, the advancement of ecological sustainability through a range of organic and agro-ecological certification schemes and voluntary claims that are in turn critiqued or championed by different interests (see Guthman 2007), and contests over the mandating of certain health and nutrition information on food labels (nutrition information panels, traffic light warnings) in some countries to encourage healthy diets and voluntary health claims placed by industry and often contested by public health groups (see Scrinis & Parker 2016). As these examples suggest, label and marketing claims are often political in the sense that they are both constituted and contested by a polycentric network of actors all seeking to influence the governance of food production and consumption. These include various government agencies, supermarkets, producers, social movement advocates, and citizens (Parker et al. 2017).

Social movements sometimes seek to exert political influence over markets by advocating for consumers to "buycott" some goods and boycott others: that is, to choose which goods to buy or not buy on the basis of the qualities of the goods and the way they were produced (Holzer 2006). Label claims are often the mechanism by which these qualities or production practices are made apparent. This may create an opportunity for citizen engagement and voice in the governance of supply chains that is not available via other means - neither government regulatory processes nor industry practice and governance. Thus "voting with your fork" is proposed as a powerful way to change the food system (cf Guthman 2007). It is intended to allow citizens to contest both industry practice and government regulation, and to advocate for alternative mechanisms to govern industry practices, such as different business-to-business requirements (supermarket supply standards), and labelling and certification standards (production and process standards) – all of which may be represented on the label.

Indeed in contemporary neoliberal western societies, labelling and information disclosure to support consumer choice are often lauded as important market-based alternatives to onerous mandatory regulation (Shaw & Black 2010).

Evaluating the regulatory politics of food labelling

Label claims put forward to resolve the tension between current production practices and competing public interest goals (such as animal welfare) may help to improve production practices and to incorporate a broader range of concerns and voices in the governance of these practices. It is, however, a question for empirical investigation whether labelling for consumer choice does or does not impact on markets, networks of governance, and ultimately on production practices and animals' lives.

This chapter summarises key findings from a larger research project that seeks to "backwards map" (Parker 2014) the regulatory politics behind "free range" and higher welfare labelling practices in Australia in comparison with other countries. Our focus is not on empirically investigating what impact label claims might have on consumer behavior (eg Hodgkins et al. 2012) or how consumers understand these labels (cf Bray & Ankeny 2017). Instead our focus is on how the marketplace is framed and constructed in the first place, and how that framing and construction can change through regulatory politics. Thus we inquire into how the label claims seen in the marketplace have been constituted by political and regulatory contests between producers, retailers, social movement advocacy and government; and the consequences these have for production practices and animals' lives.

This chapter therefore asks: First to what degree has free range and higher animal welfare labelling in Australia opened up public discourse over animal food production beyond industry and animal advocacy groups to include more voices and more players with an influence over everyday production practices and consumption choices. Second, to what degree has the penetration of different label claims into the market created different production systems with different impacts on the lives of the animals themselves, and different regulatory networks that might drive further change into the future.

Methodology

We rely on three key data sources for our analysis. The first is a comprehensive analysis of all publicly available official policy documents and reports, and all newspaper articles from major Australian newspapers relating to the ethical governance of animal welfare in egg, chicken meat and pork and ham production from 1990 to 2016.[1] Second we examined the higher welfare claims in the Australian market place via a product survey of egg, chicken meat and pork and ham products available for retail sale in a selection of retail outlets in Melbourne in 2015.[2] Third we compared the various animal welfare claims identified on these products with information about the accreditation schemes and production practices behind them through desktop review of accreditation organisations' and producers' websites,

[1] The official policy documents were used to create timelines of policy debates and decisions for each of the three animal food products, which were in turn used as the basis for defining search terms to collect all relevant newspaper articles in major Australian newspaper articles digitally archived in Factiva, resulting in a total of 1483 articles. 1990 was chosen as the start year because before that many fewer articles were digitally archived. For further discussion of this methodology and its limitations and more detailed analyses of certain issues, see Parker et al. (2017), Parker (2017), and Carey (2017).

[2] For more detail of these data see Parker & De Costa (2015).

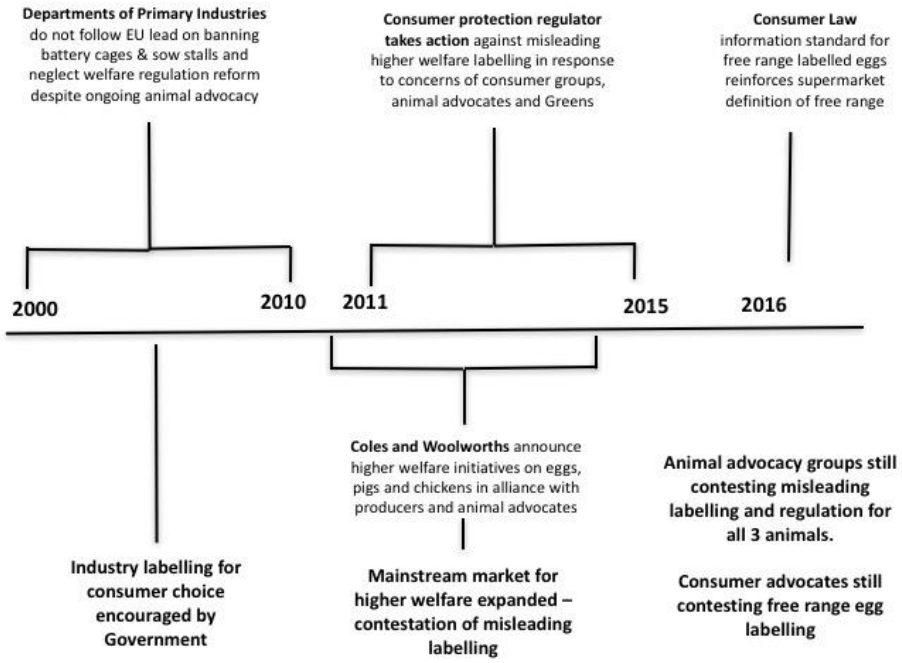
and interviews with representatives of the organisations responsible for accreditation systems, Australia's two major supermarkets, producers and animal welfare and consumer NGOs. In this paper, we focus on reporting data from the first two sources and summarize high level findings from the third source.

2. Animal welfare from the margins to the mainstream

Our review of policy documents and newspaper articles shows that since about the year 2000, concern about the welfare of animals confined in large scale intensive systems has been a topic of public discussion, civil society contestation and industry action. The key issues in this debate all relate to how animals are housed within intensive production systems: the farming of layer hens in bare "battery" cages; the confinement of sows in stalls for the purposes of mating, gestation and suckling of their offspring; and the overcrowding of meat chickens inside large barns.

The absence of government commitment to enacting and enforcing higher standards of animal welfare to address these issues has prompted industry and retailer innovation in free range and higher animal welfare labelling to address public concern and civil society contestation of that labelling. Figure 1 summarizes key policy and market developments over that time frame. The top half of the diagram shows official government policy decisions and regulatory actions. The bottom half shows the development of private labelling initiatives. The timeline shows the shift of regulatory politics from civil society activism aimed at government reform of animal welfare regulation towards supermarket-led higher welfare labelling initiatives to respond to public concern. The final phase is consumer-oriented contestation of misleading higher welfare labelling leading to consumer protection regulatory action. These developments and the interaction between government, civil society and industry and retailers are briefly outlined in the following sections.

Figure 1: Timeline of welfare regulation and labelling – eggs, pigs and chickens - 2000-2016



A government animal welfare policy of labelling for consumer choice

The official regulatory standards affecting farmed animal welfare in Australia are the *Model Codes of Practice* for various farmed animals decided via a cooperative process between federal and state primary industries ministers who share responsibility for regulating animal welfare in Australia's federal system. These standards are designed to allow large scale, intensive, shed-based farming and have scant regard for animals' affective suffering or desire to engage in natural behaviors (Sharman 2009). They allow high stocking densities and do not restrict flock size, nor mandate outdoor access or enrichment opportunities inside or outside the shed. Australian governments have adopted an explicit policy of leaving the most contentious animal welfare issues to the market to sort out via labelling for consumer choice, and have deprioritised ongoing government funding and staffing support for evidence-based animal welfare standard-setting, monitoring and enforcement.

Layer hens and egg production provides the clearest example. In 1999 the European Union introduced a new Directive that would ban conventional bare "battery" cages and require "enriched" or "colony" cages by 2012 (see Parker et al. 2017, p. 2). This prompted Australian government animal welfare authorities to commission a review to consider whether to follow suit. But this review recommended instead to empower industry to label eggs as cage, barn, or free range, a market-based option that was adopted by government (Standing Committee on Agriculture and Resource Management 2000, pp. 10–11). Similarly, in relation to pigs and meat chickens, Australian animal welfare authorities declined to follow UK and EU leadership on phasing out sow stalls,[3] and lifting animal welfare standards for poultry production (see Robins & Phillips 2011). This was despite very active ongoing campaigning by leading Australian animal advocacy groups, Animals Australia, the RSPCA, and Voiceless on both issues (eg Animals Australia 2005; Sharman & Kossew 2008; Sherman, Sherman & Sharman 2005).

Australian agricultural animal welfare regulation has been severely criticized by animal welfare advocates (as noted above), academic commentators (Goodfellow 2016, pp. 218–9; Phillips & Petherick 2015) and, most recently, the Productivity Commission (a federal government body which evaluates regulation) (Productivity Commission 2016, pp. 199–259) for weak standards, lack of independence and inadequate resourcing in standard setting, monitoring and enforcement.

Yet attempts to introduce more independent and professional standard setting have to date been stymied and delayed. For example, the national Australian Animal Welfare Strategy was introduced to revise and renew animal welfare standards in 2004, but its coordinating office was de-funded by the Commonwealth government in 2014 (Productivity Commission 2016, pp. 185–6). Alternative attempts at reform have included a number of bills introduced by the Greens (the third most significant political party in Australia) into federal and state parliaments to ban battery cages and sow stalls and to introduce an independent regulator of animal welfare at state or commonwealth level (see Productivity Commission 2016, p. 230). However, these initiatives have generally been unsuccessful.

[3] The UK implemented a total ban in 1999 and the EU announced in 2001 a so-called 'partial ban' on sow stalls after the first 4 weeks of pregnancy from 2013.

Supermarkets expand mainstream market for higher welfare labelled products

After 2011, when it became clear that government welfare authorities intended to leave it to the market to improve the animal welfare of layer hens, pigs and meat chickens, Australia's two major supermarkets (Coles and Woolworths) filled the animal welfare governance vacuum. The two Australian supermarkets followed the example of UK supermarkets in making the creation and advertising of higher animal welfare labelled products a prominent part of their brand identity (Parker & Scrinis 2014).

By 2014, both of Australia's two dominant supermarket chains had loudly announced plans to improve animal welfare standards for a range of products with a particular focus on phasing out the sale of caged eggs. Woolworths had already announced it would phase out cage eggs in 2009. In 2010, Coles announced that it would phase out own brand caged eggs and drop the price of free range eggs. In 2012 (in response to public conflict over the meaning of free range – see below), Coles announced they would set their own standards for free range egg production and heavily advertised their commitment to non-cage own-brand eggs (see Photograph 1). In 2013, Woolworths followed suit on the free-range standard and upped the ante by announcing it would phase out the sale of both own-brand and branded cage eggs and cease using cage eggs as an ingredient in own-brand products (see Parker et al. 2017, p. 14). By 2015, the vast majority of carton eggs in Coles and Woolworths stores were free-range (although free range still represent only forty percent of the total retail market once all retail outlets are counted: see Parker et al. 2017).

In 2010, Coles announced that it would no longer source own brand pork products from production systems where sows (breeder pigs) were kept in sow stalls ('Coles Broadens Sow Stall Free Pork' 2010). As of 2013, all Coles brand pork is "sow-stall free" (Long 2013). By 2014, Coles and Woolworths had also both implemented "RSPCA Approved" certification labelling for all own brand chicken meat sold in store (Parker 2017). A growing proportion of retail pork and ham products in Australia is now "sow stall free",[4] and around sixty percent of chicken meat is labelled "RSPCA Approved" (RSPCA 2016). In addition, Coles and Woolworths also sell accredited free range chicken meat (representing 20% of the total retail market: Australian Chicken Meat Federation 2011) and free range pork and ham products (up to 5% of the total retail market). [5] They also offer pork and ham labelled "outdoor bred, raised indoors on straw" and accredited organic chicken meat (each a tiny proportion of the market).

The result is that by 2015 the vast majority of egg and chicken products in the two dominant supermarkets, and an increasing proportion of pork and ham products, now have some form of higher welfare label claim. The mainstreaming of higher animal welfare onto the supermarket shelves has been achieved through alliances between the supermarkets and animal welfare, producer and industry or civil society based certification groups. The dominance of RSPCA Approved chicken meat in the supermarkets is dependent on an alliance between the supermarkets (who adopted it as the baseline animal welfare standard for own brand chicken), the RSPCA (Australia's most highly respected civil society

[4] Around 70% of the Australian sow herd is sow stall free (Australian Pork Limited 2017). All Coles own brand imported product is sow stall free. Woolworths has only made that commitment for fresh own brand product, not for processed. And Woolworths does not label pork and ham as sow stall free.

[5] 5% of the Australian sow herd is in free range production systems and another 5% in the 'outdoor bred, raised indoors on straw' system. See http://aussiepigfarmers.com.au/pigs/our-farming-systems/outdoor-bred-system/. Figures are also based on our own product survey in 2015.

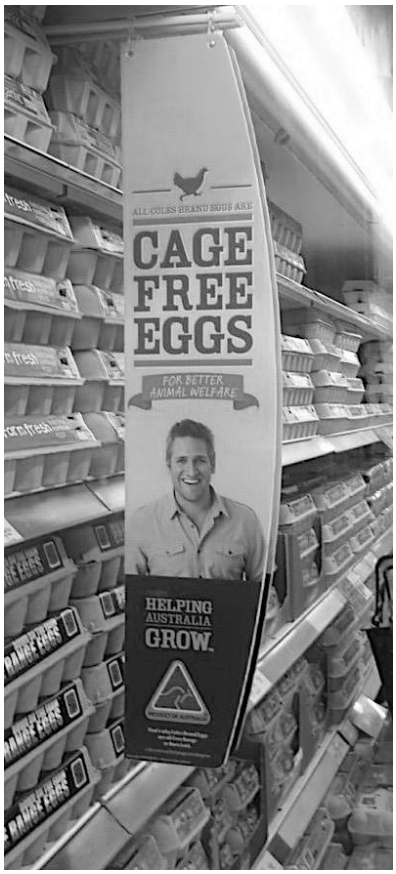
organisation and a fairly mainstream animal welfare organization: see Chen 2016, p. 167), and chicken producers (notably mid-tier producer Hazeldenes who worked with Coles in the first instance to trial and adopt the RSPCA Approved standard, with the two largest producers coming on board soon after).

The prominence of "sow stall free" is due to a convergence between the interests of Coles, which announced a phase out of sow stalls for own brand products in 2010 ('Coles Broadens Sow Stall Free Pork' 2010), and industry association Australian Pork Limited, which decided to implement a voluntary phase out of sow stalls a few months later ('No more Sow Stalls says Pork Industry' 2010). This was a clear response to very active animal advocacy campaigning in relation to industry practices and disappointment in government failure to completely ban sow stalls. Animals Australia ran a long-running campaign on the basis of the movie *Babe*, and Voiceless and RSPCA were also very active in campaigning against sow stalls. Coles' ability to introduce "sow stall free" also depended on the fact they could source sow stall free pork and ham from Europe where the law had already changed. However, as we show below, "sow stall free" is not completely free of the use of "sow stalls" (for pregnant sows). Moreover farrowing crates (for sows to suckle the piglets before weaning) are still used.

Coles and Woolworths took advantage of the lack of a government ban on battery cages and lack of trust in the industry accreditation standard (see below) for "free range" eggs to create their own campaign to buy cage free and their own standard for free range. Although the supermarket free range standard is based on an industry association (the Australian Egg Corporation) accreditation, this is not emphasized on the label (see Parker and De Costa 2015, p. 933). Rather the supermarkets' strategy of eliminating cage eggs from their shelves and setting extra standards for industry is emphasized in their advertising.

The supermarkets have appropriated an animal welfare "halo effect" by adopting welfare standards that are higher than official government standards and being seen to respond proactively to the animal welfare concerns that have been brought to the attention of the general public by animal advocacy groups. Curtis Stone and Jamie Oliver (celebrity chef faces of Coles and Woolworths respectively) are frequently shown in marketing material as caring for animals and advocating for higher animal welfare standards within the supermarkets. Photograph 1 for example shows a banner featuring Curtis Stone in store pointing out that all Coles own brand eggs are cage free. Coles has similar advertisements featuring Curtis Stone in its own advertising magazines, online and in feature articles in the wider media (see also Photograph 2 below). Woolworths features Jamie Oliver on various value added ready to cook products that use free range eggs and chicken and in recipes in their instore magazine, as well as media articles. In a RSPCA Approved blog post (RSPCA 2015) Oliver is quoted as saying that "me and Woolworths put our heads together on loads of issues, from health and wellbeing to animal welfare, and decided to set ourselves some ambitious goals to raise the bar." This resulted in the adoption of RSPCA Approved standards for meat chickens by Woolworths and they are still improving free range egg standards, according to the blog. This gives consumers the impression that public concern about animal welfare is receiving a tangible and personal hearing by the supermarkets via the celebrity chefs (see Lewis and Huber 2015).

Photograph 1: Coles in store advertising of cage free eggs using celebrity chef Curtis Stone. Author's own photograph (2015)

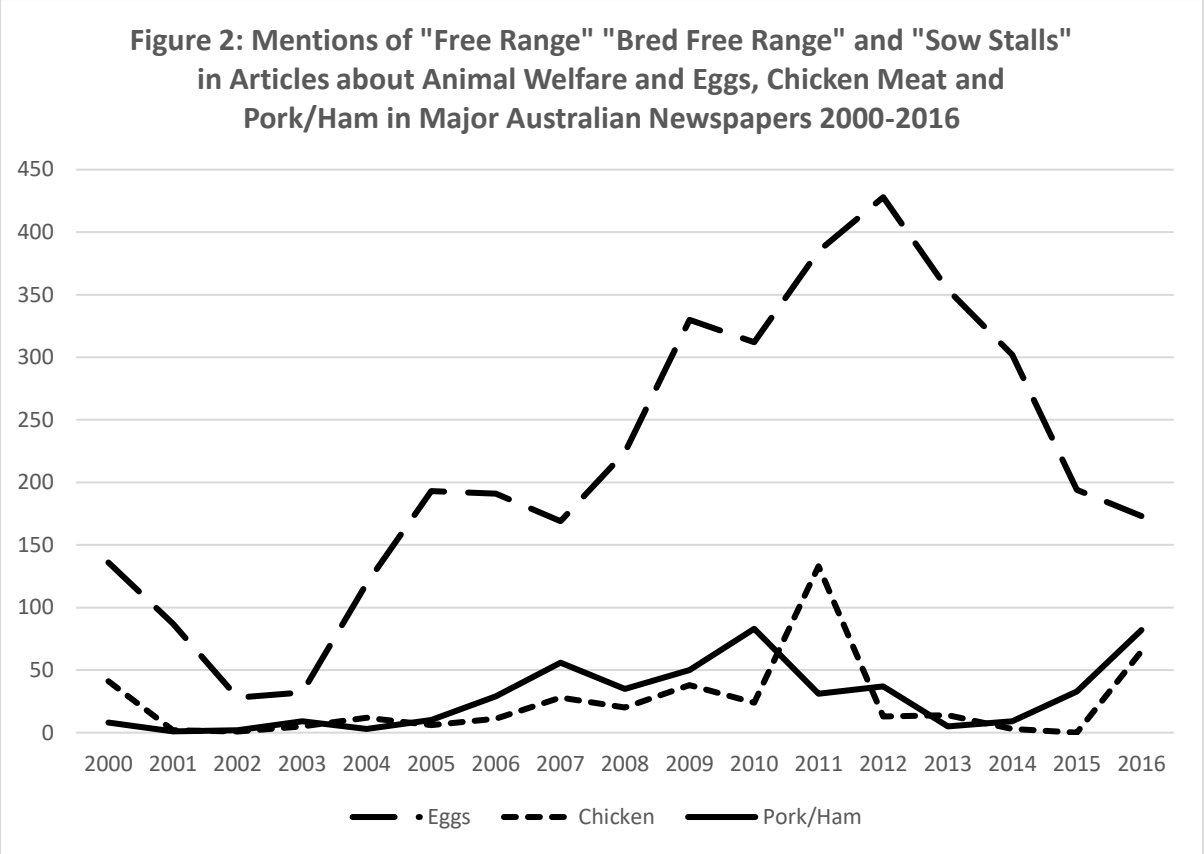


The clear messaging of even the more radical animal advocacy organisations has significantly supported the supermarkets' welfare friendly ethical branding strategy by encouraging supporters to vote with your trolley and buy as "kindly" as possible (see Rodan & Mummery 2014). For example, Animals Australia's long-running "make it possible" campaign recommends that "Step 1" for supporters is "vote with your trolley": "[M]ake kind choices. Avoid factory farmed, buy fewer animals products, or even go meat-free… The choices you make at the supermarket can ensure a kinder world for these animals."[6] Indeed the RSPCA in particular has actively facilitated and supported the supermarkets' ethical branding strategy with its RSPCA Approved certification scheme for various animal products.

A shift to consumer advocacy and consumer protection regulation

As free range and higher welfare labels gained prominence on supermarket shelves, so did public debate about the meaning of these terms and the certification standards behind them. Figure 2 exemplifies this by showing the extraordinary rise in discussion of "free range" labels in relation to egg, chicken and pork and ham products in newspaper articles since 2000.

[6] http://www.makeitpossible.com/take_action/



Discussion of animal welfare was expanding well beyond the traditional animal advocacy groups and primary industries departments to include consumer advocacy organisations and consumer protection regulators. The latter ultimately took legal action for misleading labelling against industry players in all three industries of chicken meat, eggs, and pork and ham.

The meat chicken industry was the first to attract consumer protection regulatory attention. In 2011 Australia's powerful national consumer protection regulator, the Australian Competition and Consumer Commission (ACCC) commenced enforcement action for misleading conduct against industry body, the Australian Meat Chicken Federation (ACMF) and three major chicken meat producers for claiming that meat chickens grown conventionally inside barns with tens of thousands of birds and no outdoors access were "free to roam". The consumer action was prompted by a complaint and lobbying from the Barristers Animal Welfare Panel working with Animals Australia (one of Australia's most prominent animal advocacy organizations). The commencement of that action in 2011 garnered much media attention, and by 2013, the ACCC had succeeded against all parties in court (see Parker 2017).

At the same time public concern about the definition of "free range" eggs had erupted as Figure 2 clearly shows. Conflict centred on whether "free range" birds were or were not kept in a system where most hens actually went outside on most days. Critics argued that most so called free range eggs were produced in conditions where hens were largely confined in crowded conditions in barns and given only theoretical access to outdoor ranges (see Parker & De Costa 2015). The outcry over misleading free range egg labelling was led by a combination of animal welfare, consumer and small scale free range advocacy groups together with Greens MPs (see Carey et al. 2017, pp. 267-8). The ACCC responded by taking

a series of successful enforcement actions against producers who had misleadingly labelled their eggs as "free range" (see ACCC 2015b). In 2012, both the egg and chicken meat industry associations withdrew proposals they had previously made to introduce industry accredited "free range" certification standards in their respective industries. Due to the public interest in and outcry over misleading free range egg labelling, government consumer protection ministers stepped into the debate in 2014 and announced that instead they would produce a consumer law information standard defining free range eggs for the purposes of labelling. The result was a standard that defined free range largely in line with the standard that had been developed by the two dominant supermarkets (see Carey et al. 2017).

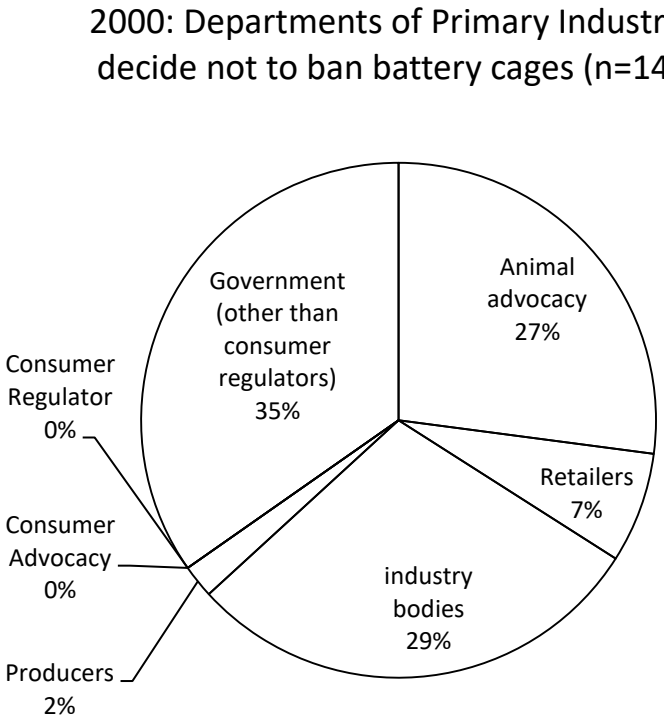
From 2007, small scale alternative free range pig farmers groups had also contested "bred free range" labelling promoted by the mainstream pig industry (McCosker 2016; see also Sherman, Sherman & Sharman 2005). They argued that the term "bred free range" was misleading, because it gave the mistaken impression that the grower pigs (or piglets) who become pork and ham were raised outdoors. The "bred free range" system in fact keeps the sows (mother pigs) outdoors with huts for giving birth and suckling the grower pigs (piglets). The grower pigs are, however, put into barns once they are weaned to grow out ready for slaughter. Between 2012 and 2015, the ACCC investigated misleading free range and bred free range label claims in the pork industry, and obtained court-enforceable undertakings from three major producers and an agreement with industry body, Australian Pork Limited, to change labelling and address what the ACCC considered to be misleading practices (ACCC 2015a).

From the margins to the mainstream

Our analysis of newspaper articles shows very clearly and quantitatively the way that the voices in policy discussion around animal welfare regulation for pigs and meat chickens expanded beyond animal advocacy groups, animal industry and primary industries departments between 2000 and 2015. Figures 3(a), (b) and (c) show two years in which the most newspaper articles were published about animal welfare in relation to each of eggs, meat chickens and pigs. These show that the number of different voices have expanded, in a context in which (as shown in Figure 2) the amount of public attention and discussion has also expanded (see also Parker et al. 2017).

Animal welfare labelling is a political movement in which animal advocacy groups have successfully mobilised people in their everyday lives (ie as consumers) through alliances with supermarkets and with a broader range of political and consumer advocacy groups. But in order to do so, a degree of "frame bridging" has been required (Holzer 2006, p. 411). The following section discusses the impacts of this broadening of animal welfare from the margins to the mainstreams in terms of the impacts on production practices and animals' lives, and the impacts for future governance of animal welfare.

Figure 3(a): Proportion of newspaper articles mentioning different stakeholders: eggs, 2000 and 2013



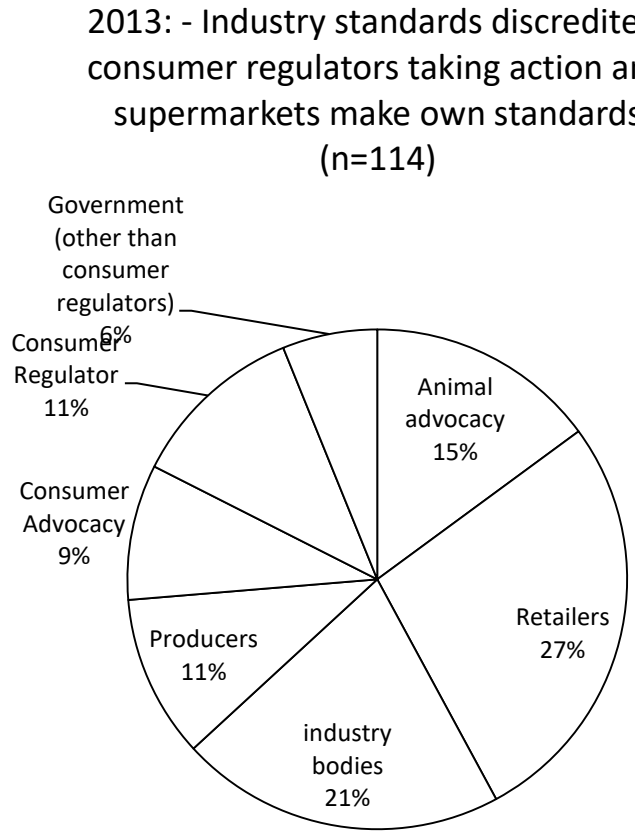
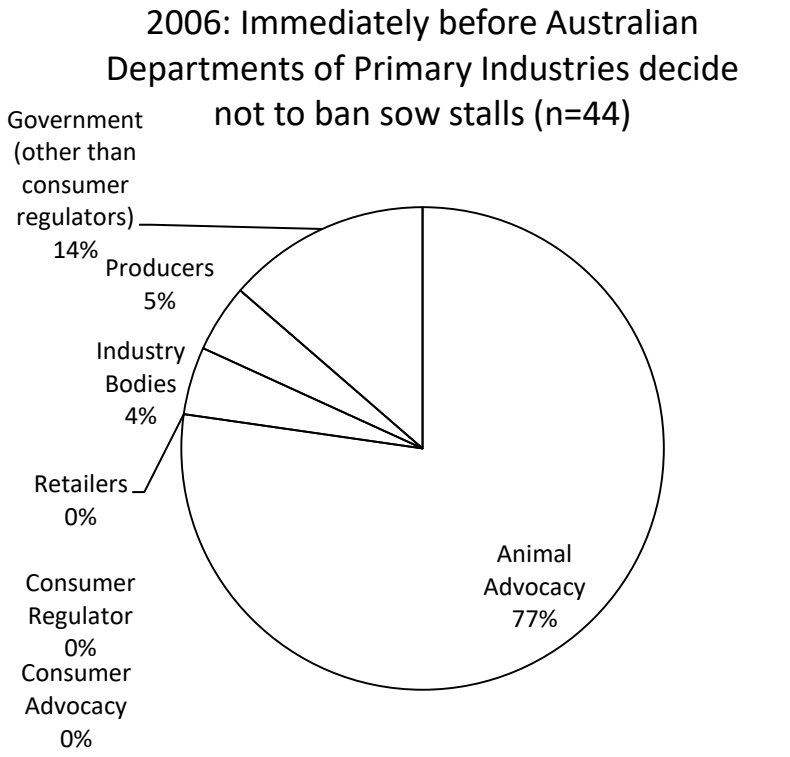


Figure 3(b): Proportion of newspaper articles mentioning different stakeholders: pigs, 2006 and 2010



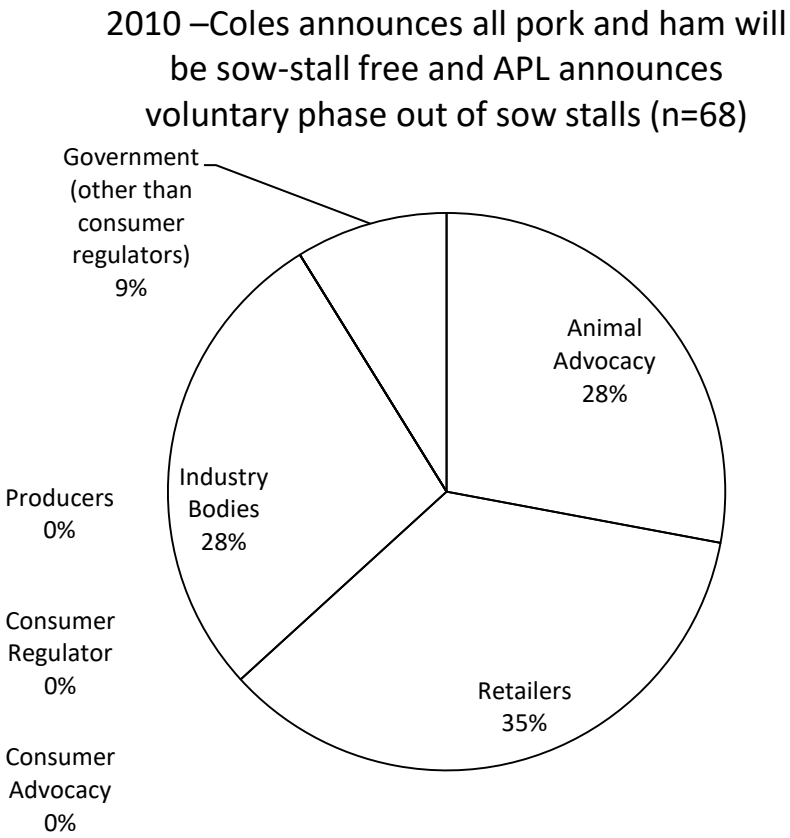
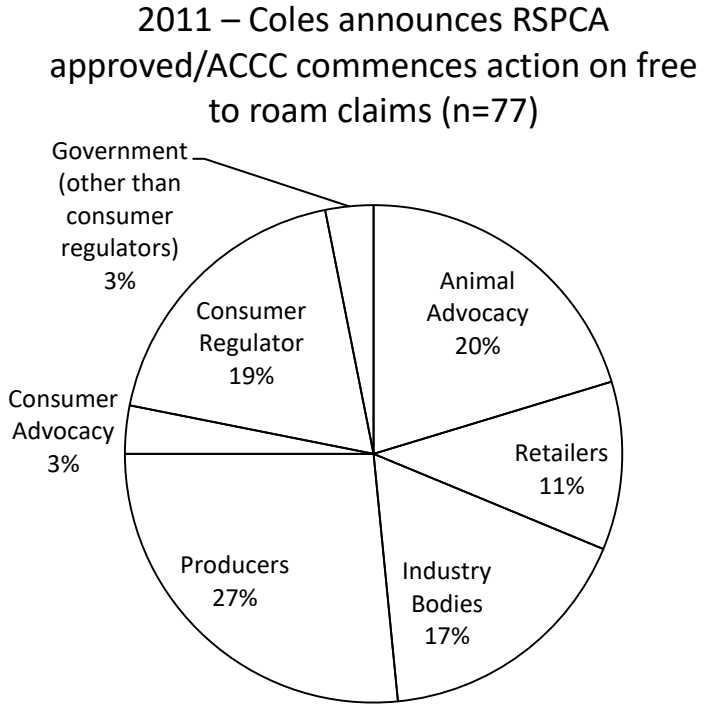
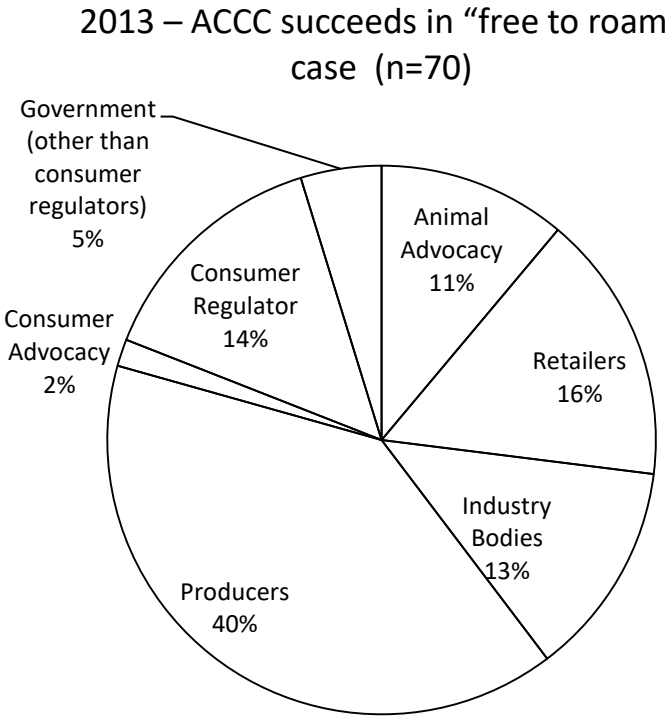


Figure 3(c): Proportion of newspaper articles mentioning different stakeholders: meat chickens, 2011 and 2013





3. Impact of shift from margins to mainstream

Our analysis above shows that animal welfare concerns have indeed moved from the margins to the mainstream through supermarket adoption of higher welfare labels and consumer advocacy destabilisation of existing industry welfare labelling practices. As Peter Chen (2016, p. 129) has suggested, the Australia animal protection policy field "is a network with a contested centre". The state does not act as the central authoritative actor and there is an ongoing dynamic contest of power between "key network participants" including the major animal advocacy organisations and key industry groups. Chen suggests that "the emphasis away from state regulation in Australia means that entrepreneurialism dominates over hierarchical power, leading the network to be more dynamic and changeable than other areas of policy-making" and handing greater opportunities for influence to both activists and private service providers (including supermarkets) (Chen 2016, p. 129). However, as Chen (2016, p. 128) also suggests, the uptake of private, supermarket-led animal welfare standards for labelling means that policy networks often mirror power in supply chains.

Impact on production practices and animals' lives: "better welfare at no extra cost"!

Chen (2016, p. 200) describes the relationship between the supermarkets and the RSPCA as a "resource exchange", one "that creates a degree of mutual capture". Both sides of this mutual capture can be identified in higher welfare and free range labelling in Australia.

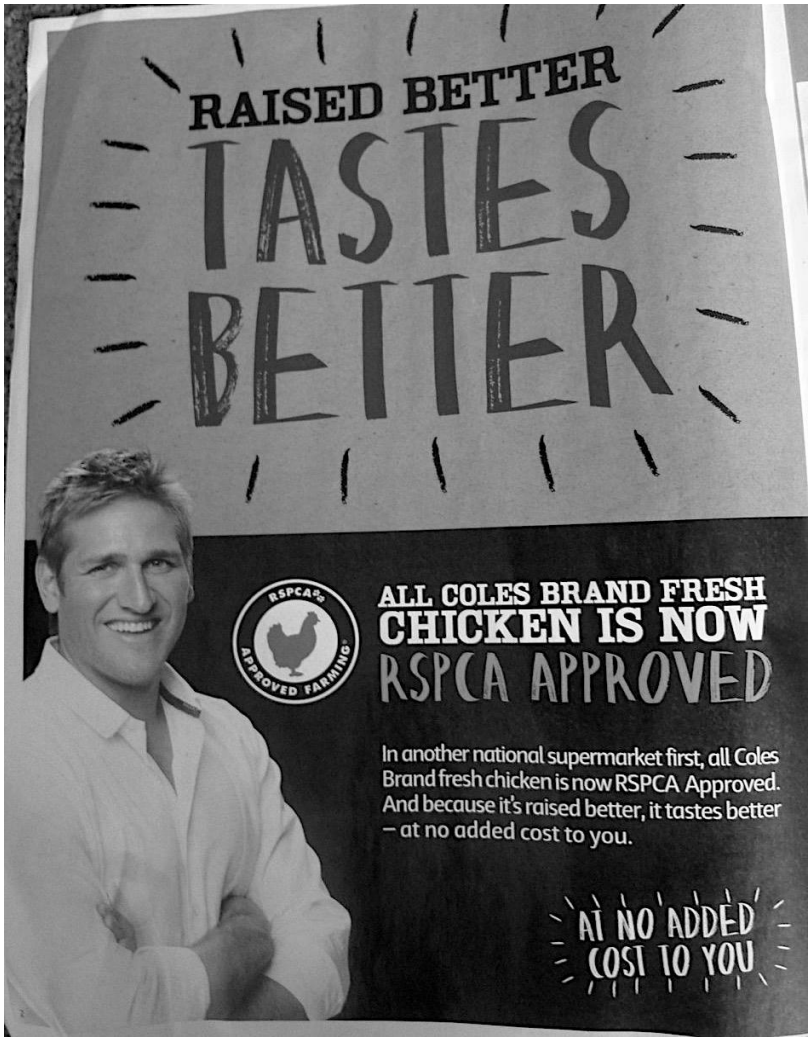
On the one hand, as we have seen, animal advocacy concerns "captured" the attention and action of the mainstream supermarkets and the wider public. Free range and higher welfare labelled products are now both prominent on supermarket shelves and a substantial, if not dominant, proportion of the grocery market for these foods.

On the other hand, the consequence of the mainstreaming of animal welfare concerns through labelling is that the supermarkets have assumed power over the issue. This comes with its own set of consequences. The transfer of animal welfare from an animal advocacy concern to a matter of general consumer concern blurred the frame from absolute standards of animal welfare to a balanced consideration of ethics, price and taste. The supermarkets have posited themselves as the authoritative judges of how to balance these qualities. Their overarching approach is exemplified in the claim shown clearly in Photograph 2 in which celebrity chef Curtis Stone for Coles advertises RSPCA Approved chicken as "better welfare at no extra cost to you". Intervening in the "free range" egg debate, Coles similarly placed itself as authoritative mediator between conflicting industry and animal advocacy groups in the consumer interest:

> "We have issued a standard that sets out a maximum stocking density of 10,000 birds a hectare. … We came to this figure after consulting with industry and welfare groups, and we believe it strikes the appropriate balance between animal welfare and keeping free-range egg prices within reach of most Australians." (Coles 2012)

As Jane Dixon (2002, p. 113) puts it, supermarkets' adoption of ethical brand identities that promote concern for animal welfare while maintaining low prices, sells the idea that both are possible at the same time.

Photograph 2: Coles magazine advertisement for RSPCA Approved chicken "at no added cost to you" (2015)



The implications for production practices and animals' lives is that these higher welfare labelled products represent at best a small incremental improvement for the vast majority of animals raised according to these schemes, and perhaps a substantial improvement for a very small minority of niche marketed products from animals who are raised in genuinely different systems. These labels represent misleading "welfare washing" of the reality that most animals (even those in higher welfare systems) still live confined brutal lives in large scale industrial factory farms. Moreover, an ever greater number of pigs, chickens and hens are living lives of confinement and suffering as more and more eggs, chicken meat and pork and ham is produced and eaten (see D'Silva & Webster 2010).

In relation to eggs, 40% of retail carton eggs are now free range, but the vast majority of these are produced in large industrial facilities with outdoor stocking densities of 10,000 per hectare, where hens have no meaningful life in an enriched environment in which they can

engage in natural behaviours and social arrangements. Moreover, the 40% free range figure does not include the vast amount of eggs produced for catering, hospitality and processed foods that represent about half of egg production in Australia (Parker et al. 2017). Thus the vast majority of hens in Australia are still in bare battery cages.

In relation to meat chickens, the RSPCA Approved system now dominates production. It may represent a minor improvement for the birds, since it requires slightly lower stocking densities and slightly better indoor conditions for the birds. This includes minor enrichments in the barn to allow some opportunities for exercise and better management of the environment to avoid health impacts. But it does not introduce a substantially different system. Only a small minority of birds are free range or organic: that is, given an opportunity to go outside. Given their short lives and breeding towards maximum meat production, free ranging is largely meaningless for these birds: They are only able to access the outdoors about half way through their short lives and are too young and timid to do so and may already lack physical strength to manage outdoo forays (see Parker 2017).

The majority of breeder pigs in Australia are "sow stall free", but even the Coles sow stall free standard includes up to 24 hours in a sow stall at the beginning of pregnancy and the Woolworths sow stall free standard allows up to 5 days in a sow stall. Moreover, the "sow stall free" standards of both major retailers allow sows to spend 3-4 weeks in a "farrowing crate" during suckling of the pigs. Both mother pigs and piglets are kept indoors in confined and crowded spaces for their entire lives. Only a small fraction of the pig herd is kept in free range systems in Australia, and free range production is very challenging for environmental reasons (Australian Pork Limited 2017).

Impact on possibilities for future reform

Animal advocacy concerns also "captured" the attention and action of government and non-government consumer advocacy organisations to achieve a regulatory response. Consumer protection action occurred when animal welfare was reframed as addressing the misleading of (ethical) consumers and thus obtained the support of consumer groups, MPs and, importantly, consumer protection regulators, to delegitimate industry labels. Switching the framing from poor animal welfare to misleading labelling also switched the government regulatory arena from the ineffective animal welfare regulation authorities to the more effective consumer protection regulator. This was essential to obtaining effective government action as consumer law action can only take place on the basis of misleading and deceptive conduct, not on the grounds of animal welfare.

However, consumer protection based attacks on the misleading nature of industry labelling is essentially a negative strategy. It does not provide a positive action for consumers, given that animal advocacy organizations do not create their own animal food production systems (with the important exception of RSPCA Approved certification). Supermarkets filled the power gap, claiming to be legitimate "food authorities" (Dixon 2007) or intermediaries between animal advocacy organisations, consumers and producers. This was most evident in relation to the debate over free range egg labelling, where the supermarkets set an outdoor stocking density of 10, 000 hens per hectare, neatly occupying the middle ground between the egg industry (who had proposed 20,000 hens per hectare) and animal and consumer rights groups (who advocated for 1500 hens per hectare as reflected in alternative small scale free range certification standards and the UK). This approach was then reflected in a new consumer law standard defining free range eggs for the purposes of labelling, which took on the

supermarkets' 10,000 hens per hectare stocking density and defined free range as "meaningful access" to an outdoor range, rather than most hens ranging most days (see Carey et al. 2017). The standard was described by the Australian Government as purporting "to increase consumer certainty, not to prescribe a particular set of production practices or to regulate animal welfare" (Treasury 2015). Thus the regulatory politics had shifted from a concern with animal welfare regulation to a concern with consumer protection regulation of labelling.

This approach - now institutionalised in the consumer law standard for free range egg labelling – may lock in the cheap incremental animal welfare improvement discussed in the previous subsection. The combination of supermarket baseline higher welfare standards plus premium products gives consumers and civil society advocates the illusion of a range of choice and the possibility of voting with their shopping trolleys. Yet at the same time it conceals or deflects attention from three other, potentially more important, ways of addressing animal welfare concerns.

First it diverts attention from the need to create and innovate with alternative production practices, such as small-scale agro-ecological farming and technologies like new designs for sheds, ranges and the genes of the animals themselves. Watered down, inexpensive supermarket welfare labelling fills the market space instead. Second, it focuses attention on the need for consumer certainty and transparency, while obscuring the possibility that official government standards for animal welfare could be improved. Labelling may help create better options in the marketplace, but market-led labelling alone does not prohibit or remove poor practices from the marketplace. Instead, it may placate many of those members of the public who do care about animal welfare and remove some of the pressure for regulatory reform to improve the baseline for all animals. Third, market-led labelling may encourage and legitimate increased production and consumption, with very small patches of significantly improved welfare and larger patches of incremental improvement. Still larger swathes of very poor welfare remain. Supermarket appropriation of higher welfare brand identities deflects attention from the need for radically reduced animal food production and consumption, including via advocacy for both cruelty-free consumption (minimising and abstaining from use of animals at all and the development of tasty viable alternatives) and high quality, low quantity meat production and consumption (eg reducetarian, locavore, "slow meat" and nose to tail consumption).

Conclusion

Ethical consumption is one strategy for expanding the voices and concerns in public policy discourse. Our case study shows how Australian animal advocacy organisations mobilised consumers, retailers and brands to seek to achieve improvements for animals that government had not provided via baseline regulation. In this context, higher welfare labelling must be understood, at least partly, as a contest of regulatory politics: who will gain power over production practices and the lives of animals via what is on the label, and what consequences will it have?

Our analysis has shown that higher welfare labelled egg, chicken and pork products now dominate the supermarket shelves, but this represents at best a very small incremental improvement in the lives of those animals. Some label claims are simply deceptive: For example cage or barn eggs are sometines labelled free range, and many "free range" eggs offer hens only a theoretical opportunity to access a bare and unappealing range from a large

crowded shed. Australia's two dominant supermarkets, Coles and Woolworths, have gained power over animal welfare governance via ethical consumption, but most higher welfare labels in the supermarkets are misleading "welfare washing". That is, they deliver a small incremental improvement from a very low baseline while implying to consumers that an absolute standard of good welfare has been reached. Arguably RSPCA Approved chicken and sow stall free pork fall into this category. Taking into account the great expansion in animal production and consumption facilitated by supermarkets and the large range of processed and packaged foods in which animal products are used, higher welfare labelling represents at best a marginal improvement.

Our analysis has also shown that the rise of higher welfare labelling has helped to mainstream animal welfare concerns about factory farming with the wider public and broadened the range of actors with voice in the animal welfare policy debate. This creates possibilities for ongoing dynamism and change in both animal food production practices and official governance of animal welfare. To date, however, the result is "more diffuse than specific" (Miele & Lever 2013) – not wholesale changes in animal supply, but contestation, problematisation and expansion of stakeholders and discourses in governance systems. Alliances between supermarkets and animal advocates to produce higher welfare labelling seemed promising, but to date they have blurred animal welfare concerns, even as they have created a bridge for animal advocacy into the mainstream (Holzer 2006). The danger is that supermarket ethical branding will simply present consumers with a predigested set of higher welfare choices that do not, in fact, give much voice to animal welfare concerns. There is also still a dangerous lack of official government and public policy attention to improving and enforcing minimum animal welfare regulation standards, and a lack of attention to encouraging innovation and experimentation in true alternatives.

Further and ongoing contestation of both higher welfare labelling and underlying animal welfare policy and practice is necessary to prompt greater change in the future. Contestation of what these labelling terms actually mean, and whether they mean what they say, will provide an opportunity to draw greater attention to the lives of the animals in a way that may drive ongoing change in practice and policy. The hope is that ongoing debate will ultimately lead to more than just welfare washing and marketing, but to better animal welfare regulation.

References

Australian Chicken Meat Federation 2011, *The Australian Chicken Meat Industry: An Industry in Profile*, Australian Chicken Meat Federation, Sydney.

Australian Competition and Consumer Commission (ACCC) 2015a, *ACCC concludes Review of 'Free Range' and Other Similar Claims in the Pork Industry*, viewed 19 November 2017, https://www.accc.gov.au/media-release/accc-concludes-review-of-free-range-and-other-similar-claims-in-the-pork-industry-0.

Australian Competition and Consumer Commission (ACCC) 2015b, *ACCC Enforcement Guide – Free Range Hen Claims*, Commonwealth of Australia, Canberra.

Australian Pork Limited 2015, *Standards Manual*, Australian Pork Industry Quality Assurance Program, Version 4.0, Australian Pork Limited, Canberra.

Australian Pork Limited 2017, *Our Farming Systems: Free Range System*, viewed 19 November 2017, https://aussiepigfarmers.com.au/pigs/our-farming-systems/free-range-system/.

Animals Australia 2005, *Press Release: New SaveBabe.com Billboards Up!*, viewed 19 November 2017, http://www.animalsaustralia.org/media/press_releases.php?release=41.

Animals Australia 2006 *Press Release: Draft Pig Code of Practice Condemns Pigs to Further Misery*.

Bray, H.J. & Ankeny, R.A. 2017, 'Happy Chickens Lay Tastier Eggs: Motivations for Buying Free-range Eggs in Australia', *Anthrozoös*, vol. 30, no. 2, pp. 213–26.

Carey, R. 2017, 'Pigs and Higher Welfare Labelling in Australia', (available from the first author upon request).

Carey, R., Parker, C. & Scrinis, G. 2017, 'Capturing the Meaning of "Free Range": The Contest between Producers, Supermarkets and Consumers for the Higher Welfare Egg Label in Australia', *Journal of Rural Studies*, vol. 54, pp. 266–75.

Chen, P. 2016, *Animal Welfare in Australia: Politics and Policy*, Sydney University Press, Sydney.

'Coles Broadens Sow Stall Free Pork' 2010, *The Age*, 8 November, p. 8.

D'Silva, J. & Webster, J. (eds.) 2010, *The Meat Crisis: Developing More Sustainable Production and Consumption*, Earthscan, London.

Department of Agriculture, Fisheries and Forestry 2011, *Australian Animal Welfare Strategy and National Implementation Plan 2010-2014*, Commonwealth of Australia, Canberra.

Dixon, J. 2002, *The Changing Chicken: Chooks, Cooks and Culinary Culture*, University of New South Wales Press, Sydney.

Dixon, J. 2007, 'Supermarkets as New Food Authorities', in Burch, D. & Lawrence, G. (eds.), *Supermarkets and Agri-Food Supply Chains*, Edward Elgar, Cheltenham.

Eberlein, B., Abbott, K.W., Black, J., Meidinger, E. & Wood, S. 2014, 'Transnational Business Governance Interactions: Conceptualization and Framework for Analysis', *Regulation & Governance*, vol. 8, no. 1, pp. 1-21.

Evans, A. & Miele, M. 2017, 'Food Labelling as a Response to Political Consumption', in Keller, M., Halkier, B., Wilska, T.-A. & Truninger M. (eds.), *Routledge Handbook on Consumption*, Taylor and Francis, London.

Goodfellow, J. 2016, 'Regulatory Capture and the Welfare of Farm Animals in Australia', in Cao, D. & White, S. (eds.), *Animal Law and Welfare — International Perspectives*, Springer International Publishing, Switzerland.

Guthman, J. 2007, 'The Polanyian Way? Voluntary Food Labels as Neoliberal Governance', *Antipode*, vol. 39, pp. 456–78.

Harrison, R. 1964, *Animal Machines: The New Factory Farming Industry*, Vincent Stuart Publishers, London.
Hodgkins, C., Barnett, J., Wasowicz-Kirylo, G., Stysko-Kunkowska, M., Gulcan, Y., Kustepeli, Y., Akgungor, S., Chryssochoidis, G., Fernández-Celemin, L., Bonsmann, S.S.G., Gibbs, M. & Raats, M. 2012, 'Understanding how Consumers Categorise Nutritional Labels: a Consumer Derived Typology for Front-of-pack Nutrition Labelling', *Appetite*, vol. 59, pp. 806–17.
Holzer, B. 2006, 'Political Consumerism between Individual Choice and Collective Action: Social Movements, Role Mobilization and Signalling', *International Journal of Consumer Studies*, vol. 30, no. 5, pp. 405–15.
Lang, T. & Heasman, M. 2015, *Food Wars: The Global Battle for Mouths, Minds and Markets*, Earthscan, Abingdon.
Lewis, T. & Huber, A. 2015, 'A Revolution in an Eggcup? Supermarket Wars, Celebrity Chefs and Ethical Consumption', *Food, Culture & Society*, vol. 18, no. 2, pp. 289–307.
Long, W. 2013, 'Coles defends Sow Stall Record', *ABC Rural*, 10 January, viewed 19 November 2017, http://www.abc.net.au/news/rural/2013-01-10/coles-defends-sow-stall-record/6298428.
McCosker, L. 2016, *Pigs, Pasture and Profit*, Lulu Publishing Services.
Miele, M. & Lever, J. 2013, 'Civilizing the Market for Welfare Friendly Products in Europe? The Techno-ethics of the Welfare Quality® assessment', *Geoforum*, vol. 48, pp. 63–72.
'No more Sow Stalls says Pork Industry' 2010, *Sydney Morning Herald*, 18 November, viewed 19 November 2017, http://www.smh.com.au/environment/animals/no-more-sow-stalls-says-pork-industry-20101118-17yon.html.
Parker, C. 2014, 'The Food Label as Governance Space: Free-range Eggs and the Fallacy of Consumer Choice', *Recht der Werkelijkheid*, vol. 35, p. 101.
Parker, C. 2017, 'The Meat in the Sandwich: Welfare Labelling and the Governance of Meat Chicken Production in Australia' (available from first author upon request).
Parker, C., Carey, R., De Costa, J. & Scrinis, G. 2017, 'The Hidden Hand of the Market: Who Regulates Animal Welfare Under a Labelling for Consumer Choice Approach?', *Regulation and Governance* (online early view).
Parker, C. & De Costa, J. 2015, 'Misleading the Ethical Consumer: The Regulation of Free-range Egg Labelling', *Melbourne University Law Review*, vol. 39, pp. 895–949.
Parker, C. & Scrinis, G. 2014, 'Out of the Cage and into the Barn: Supermarket Power Food System Governance and the Regulation of Free Range Eggs', *Griffith Law Review*, vol. 23, no. 2, pp. 318–47.
Phillips, C.J.C. & Petherick, J.C. 2015, 'The Ethics of a Co-regulatory Model for Farm Animal Welfare Research', *Journal of Agricultural and Environmental Ethics*, vol. 28, pp. 127–42.
Productivity Commission 2016, *Regulation of Australian Agriculture*, Government Printer, Canberra.
Richards, C., Lawrence, G. & Burch, D. 2011, 'Supermarkets and Agro-industrial Foods', *Food, Culture and Society*, vol. 14, pp. 29–47.
Robins, A. & Phillips, C.J.C. 2011, 'International Approaches to the Welfare of Meat Chickens', *World's Poultry Science Journal*, vol. 67, pp. 351–69.
Rodan, D. & Mummery, J. 2014, 'The "Make it Possible" Multimedia Campaign: Generating a New "Everyday" in Animal Welfare', *Media International Australia*, vol. 153, pp. 78–87.

Roff, R.J. 2007, 'Shopping for Change? Neoliberalizing Activism and the Limits to Eating Non-GMO', *Agriculture and Human Values*, vol. 24, pp. 511–22.
RSPCA 2015, 'Why is Jamie Oliver so excited?', RSPCA, viewed 22 August 2017, https://rspcaapproved.org.au/blog/?p=1628.
RSPCA 2016, *Approved Farming Scheme: Impact Report 2016*, RSPCA, Canberra.
Scrinis, G. & Parker, C. 2016, 'Front-of-Pack Food Labeling and the Politics of Nutritional Nudges', *Law & Policy*, vol. 38, pp. 234–49.
Sharman, K. & Kossew, S. 2008, 'From Nest to Nugget — an Exposé of Australia's Chicken Factories', Voiceless: The Fund for Animals, viewed 19 November 2017, https://www.voiceless.org.au/sites/default/files/from_nest_to_nugget_report_online_final.pdf.
Sharman, K. 2009, 'Farm Animals and Welfare Law: An Unhappy Union', in Sankoff, P. & White, S. (eds.), *Animal Law in Australasia: A New Dialogue*, Federation Press, Annandale.
Shaw, D. & Black, I. 2010, 'Market Based Political Action: a Path to Sustainable Development?', *Sustainable Development*, vol. 18, pp. 385–97.
Sherman, B., Sherman, O. & Sharman, K. 2005, *From Paddocks to Prisons: Pigs in New South Wales: Current Practices, Future Directions*, Voiceless, Paddington.
Standing Committee on Agriculture and Resource Management 2000, *Synopsis report on the review of hen housing and labelling of eggs in Australia*, Commonwealth of Australia, Canberra.
Treasury 2015, *Free Range Egg Labelling: Consultation Paper*, Commonwealth of Australia, Canberra.