



Ms Sharyn Vaughan  
Assistant Director  
Small Business and Agriculture Consumer Fair Trading  
Australian Competition and Consumer Commission

Dear Sharyn,

**RE: "RSPCA APPROVED" AUDIT SCHEME**

We have been approached by a number of growers who have expressed concerns that this high profile and publicly promoted scheme may not be as it seems. In particular, there are concerns about third-line forcing by supermarkets and meat poultry processors, and significant concerns in relation to misleading and deceptive representations by the RSPCA in relation to the scheme.

These issues have become so significant that we believe that ACCC might need to take an interest in this scheme at this point. While this has been driven by an individual case study, this case has largely crystallised many of the issues apparent over the last period. Meat poultry processors and their growers appear to have been trapped by supermarkets and the RSPCA into a scheme that is poorly operated, apparently variable in its implementation, potentially misleading in its representations and very likely unconscionable in its management, particularly of outcomes.

If you are not the right person to whom this should be reported, please advise to whom it should be sent and we will proceed from there. However, in light of the current supermarket review, it is also worth noting that this additional behaviour by supermarkets should perhaps be considered in that review.

This matter is relatively urgent – the livelihood of the farmer in the case study, and even the long term viability of the (small) processor is at stake. In addition, RSPCA advises that they are "reviewing their standards", but has not yet transmitted these to industry, so if there are fundamental issues that need to be addressed, then the timing is serendipitous.

We look forward to early comment on these issues and are happy to assist as needed.

**BACKGROUND**

RSPCA Australia operates a farm audit program, purporting to guarantee high levels of animal welfare. While it operates across all livestock farming types, this letter and the case study will focus only on the meat poultry industry. RSPCA originally entreated both major supermarkets to join the scheme and then the supermarkets forced the scheme onto the meat poultry processors with significant public advertising and threats of loss of supply contract if processors did not comply. Processors &/or supermarkets pay handsomely for the scheme, we understand that the RSPCA Australia has reaped in excess of \$25M from it. It includes a slickly marketed, high-emotion video/TV advertising campaign promoting RSPCA as the holder of the moral high ground on animal welfare, and this is supported by extensive supermarket advertising of the scheme.

Australian Chicken Growers' Council Limited ACN 079 892 443

Ph: 0412 609 151 Email: [meatchicken.farmers@gmail.com](mailto:meatchicken.farmers@gmail.com)

Web: <https://acgc.org.au>

*Question: given that the scheme has been forced on processors as a condition of doing business, does this constitute third line forcing by the supermarkets?*

### **Operation**

1. The RSPCA Certification Body signs what they call “the Producer” to their contract and Operations Manual (Exhibit 1). In this case they allege that the “Producer” is the meat poultry processor including but not limited to Inghams and Baiada as well as a number of smaller processors. In fact, meat poultry production is a shared activity between the processors and the growers.
2. The processor then forces their growers<sup>1</sup> to conform to RSPCA “Standard” (Exhibit 2), which are in excess of or slightly different to that required under agreed federal National Animal Welfare Standards adopted by all states. Sometimes the processor pays a few additional cents to the grower for the privilege of substantial additional work for the RSPCA scheme, but we are advised that in no case does this compensate for the additional work and the audits that are forced onto the grower.

*Question: is the processors forcing growers “to do business with RSPCA by proxy” by way of substantial additional labour and audit, as a key criteria of their contracts, third line forcing?*

3. The grower’s farm is audited by the RSPCA auditors. The grower has no say over the audit, or the outcomes. The grower cannot refuse RSPCA auditors access to the farm under the contract with the processor. The formal qualifications RSPCA requires for auditing are unclear. A farm report is generated and provided to the processor (as the signatory to the contract). In most cases it appears that the farmer is never told the outcome unless the farm is punished, although we are aware that growers are provided with these in some cases out of courtesy by their processors.

*Question: does the forced signing of growers to a scheme over which they have no choice, have not seen the contract, have no control and are not a signatory evidence of unconscionable behaviour and duress in the contract with the processor?*

4. The farm audit criteria are known and corrective actions are identified in a document (Exhibit 3). The audit examines not only those issues on the farm that are in the direct control of the processor (eg bird density) but also things under the control of the grower (eg litter<sup>2</sup>/bedding quality, water availability, feed availability, temperature, observation etc).
5. Assessments by the auditor are marked on the farm report as “Minor”, “Major” or “Observations” (Exhibit 5). Corrective actions are required to be performed by the grower (and in some cases by the processor as well) to avoid negative action by the RSPCA on the farm/processor if a non-conformance is found. In each case, growers are expected to provide evidence of correction, and the grower advises that he sent photos/videos or other

---

<sup>1</sup> The term “farmer” and “grower” are used interchangeably in this document. Meat Poultry growers are slightly different to other farmers in that they do not own the livestock that they care for, but are highly skilled farmers nonetheless.

<sup>2</sup> “Litter” is not used in the colloquial sense in the meat poultry industry, but refers to the bedding substrate that farmers buy and put into sheds for chickens to walk/sleep on. Wood shavings or rice hulls are generally used. In Tasmania, the only available substrate is fresh pine shavings, which have a high water content at the point of receipt and tend to clump readily as a result.

documentation of his correction to the RSPCA. However, the RSPCA never appears to note any CAP (corrective action plan) as resolved, as would be expected in normal audit.

This means that seasonal or recurring batch issues or other legitimate issues cannot be addressed. For example, the climate across all of SE Vic and Tas in a Mediterranean “cool wet winter” means that as fresh air enters a chicken shed in winter, it is cold and damp. As soon as it hits the cold metal drinker line it condenses, so of course there will be wet litter under these lines every winter, particularly near the walls of the shed where the fresh air enters and particularly when the birds are close to pick-up age (maximum density). This is not a detriment to animal welfare in relation to dust bathing//scratching behaviours in that the animals are mobile and can easily move a very short distance away from the damp/clumped area. It only becomes potentially detrimental to animal welfare if, when disturbed, it gives off ammonia, which IS injurious to bird health, or if the clumped areas become slimy/slippery, or if the clumping is so widespread as to genuinely deny the birds the ability to interact with the litter. RSPCA appears not to understand the relationship between shedding, litter and climate that is so important to animal welfare in these southern zones, and moreover may be indifferent to this evidence. They did, however, note this as a minor non-conformance.

*Question: is it misrepresentation to call a scheme an animal welfare accreditation scheme when there is no transparency, when the scheme operator is the direct financial beneficiary, when there is no independent oversight, and when there are “Auditors” but no evidence of normal operation of an audit scheme?*

6. Audit reports are the opinion of the auditor. For example, the auditor in our case study determined that around 10% of litter was caked and therefore the birds could not carry out normal behaviours like dust bathing or scratching; but failed to mention that because this was a small % was under drinker lines where birds do not normally settle or even walk, the birds were mobile and only had to walk around 7 steps to be able to dust bathe and scratch. It was a MINOR non-conformance caused by climatic conditions coupled with bird density and age (harvest weight = maximum stress on housing) and does not warrant the extremely punitive outcome. The auditor found NO evidence that the welfare of the birds were suffering (eg due to ammonia production), in fact production performance was in the high deciles. No alternative auditor was offered to review the situation *in situ*, as would be normal where there is a dispute with an auditor. No veterinarian, processor service person or other professional was consulted about *actual* bird welfare.

*Question: the scheme is meant to be an animal welfare scheme. Is this misrepresentation?*

7. In tandem with the assessment in (5), we are now advised that the RSPCA also runs a secret system of points scoring for each of the “Major/Minor/observation issues. (Exhibit 5). The points allocation to “Major” or “Minor” is not disclosed. Relative allocation of points to issues which can be resolved quickly vs those that are un-resolvable is not disclosed. The period over which points accrue is not disclosed. The period (if any) over which points expire is not disclosed. When a certain number of points is reached, the issues are sent to “The Committee” for escalation/punishment. Growers and processors do not appear to be notified when they close to reaching the points allocation that would trigger additional action by “The Committee”; the processor was apparently notified that this farmer was “getting close to some action” but not that a secret points system had been triggered, nor the severity of the punishment that was to be meted to the grower or processor.

*Question: Audits by their nature are transparent. Does operating a secret points system to determine the potential for punishment mean that the scheme is being misrepresented under the ACCC definition of misleading and deceptive representations?*

8. In the case study we are dealing with, 2 “minor” non-conformances (Exhibit 5) has resulted in RSPCA suspension of the farm for at least 6 months, and temporary suspension of the processor from the scheme. (This also represents potential vicarious punishment of the other farms in the scheme that have not been audited or have audited “clean”). The financial loss to the farmer is in excess of \$80,000 and to the processor potentially in the \$millions. RSPCA argues that this farmer accrued enough secret points over an unspecified time period to warrant the suspension. However, some of the secret points accrued on this farmer’s farm are as a result of direct actions by the processor (eg bird placement density), over which the farmer had no control, and which are likely to have exacerbated the other issues.

No trigger for suspension is available because the points system is secret. There is nothing published on what punishment is meted out for what level of “offence”. The punishment meted out appears to be just a group decision of “The Committee” and not based on any system disclosed to the processor/grower. The farm and the processor had no idea about the secret points system and feel they were being commercially smashed for relatively minor transgressions.

*Question: Is this a misleading and deceptive representation of an animal welfare scheme?*

9. Management of damp or caked/clumpy litter is generally by rotary hoeing any affected area so that any clumps are broken up. In this case the farmer noted to the auditor that he deliberately did not do so because 90% of the litter in the shed was fine, and that the action of rotary hoeing (which produces emissions and loud metal noises as well as ground vibrations) with birds at that weight/age and density, would stress the birds to the point that they may panic and “crowd crush”, resulting in deaths. Moreover, using a rotary hoe in a full shed of birds who are stressed and exhibiting panic signs also risks some birds running into the blades and suffering horrible death or injury. From a veterinary perspective, these are legitimate concerns. The RSPCA has suggested that the farmer was argumentative and noted a non-conformance. No veterinarian was consulted at that time. No independent person appears to have been consulted to determine if the farmer’s response was a legitimate attempt to avoid an animal welfare detriment. If ANY other farmer, or veterinarian with expertise in meat poultry had been consulted they were likely to have agreed with that assessment by the affected farmer. All the farmers consulted by the author noted this, unsolicited. Some recounted situations they were aware of where, *in order to pass the audit*, a grower had used the rotary hoe to the direct detriment of animal welfare, so that their audit was acceptable to RSPCA, because they were concerned that the auditors were intractable on the issue and only interested in “box ticking”.

*Question: The scheme is marketed to improve animal welfare. The auditor has punished the farmer for taking account of animal welfare. Is this misrepresentation of the scheme by the RSPCA?*

10. There is clear evidence that audits in different geographic locations use either different criteria or different assessment, or perhaps there is no validation of audit activities between states. In Victoria, there has been a significant disease outbreak of “kinky back”

(spondylolisthesis) in the birds, which is a malformation of the spine causing spinal cord compression, significant pain, inability to walk, difficulty getting to food, and increased mortalities- in some cases up to 20%. Multifactorial in origin, it can be triggered by an *Enterococcus* bacterium that is treatable with antibiotics if caught early. It is a clear and hugely significant animal welfare detriment, BUT EVERY FARM WITH THIS DISEASE PASSED THEIR AUDIT, even though this occurred over a number of batches (and therefore a number of audits). It is worth noting that on these farms, litter was “normal”. How is it possible that animal welfare issues of this magnitude can be deliberately overlooked, when a farmer in Tas is punished to the tune of \$100,00.00 for around 10% damp bedding?

*Question: how is it possible to “approve” animal welfare issues of this magnitude and punish a “minor” non-conformance? Is this not obvious misrepresentation of the scheme?*

11. The appeals mechanism is opaque. Farmers have no ability to be represented to the appeals body because they are not signatories to the contract, yet they are being audited and then punished financially by the RSPCA secret points system. In addition, the farmer is in possession of information that the processor may not be party to (or want to be), for example, the financial position of the farmer. The *Processor* may appeal, ONCE, but there are no rules/criteria for appeal – their case is simply put to “The Committee”. There is no evidence of any series of questions, or investigation, carried out by “The Committee”. Even the names of “The Committee’ are not made public as would be the case with other auditors and legitimate oversight groups -we don’t even know how many there are. (Note that both financial and pharmaceutical auditors are identified under their schemes). In this case, in spite of the evidence put by the processor that (a) the density issues had been corrected, (b) that some level of litter issue was normal for that density of birds at that day of growth and there was no effect on bird welfare, “The Committee” apparently simply responded that the suspension stands, without any explanation or reasons.

There appears to be no mediation or arbitration provision in the case of a disputed result of a legitimate audit as would be the case with other audit schemes.

*Question: There is poor evidence of due process, no evidence of operational transparency, evidence of bias or potential bias, no clear criteria for assessment, no evidence of uniform application of standards no functioning appeals mechanism process and no oversight/arbitration body – is it unconscionable? Is it deceptive to promote this scheme to supermarkets and the public as an audit scheme when there are so many differences from known legitimate audit schemes?*

12. The RSPCA argues that the scheme “[is independent](#)”, on the basis that it doesn’t receive “funding from government, industry bodies or donations”. It fails to mention that it receives many millions of dollars of funding from the processors that they audit. This is a profit making scheme.

*Question: is declaring independence when you are funded extensively by those you purport to regulate not both misleading and deceptive?*

13. Moreover, the RSPCA argues that the scheme is “independent” when RSPCA inspectors are simultaneously [Authorised Officers](#) under the *Animal Welfare Act 1993* and can launch prosecutions within the law. RSPCA argues privately that the RSPCA Approved Farming Scheme is operated out of the RSPCA Australia offices and is therefore independent of state



authorisations, however, the Certification Body Manager is the ex-Tas RSPCA CEO. (Is this the reason why the punishments are more severe in Tas?). In fact, other than a Canberra address at the very bottom of the website, nowhere is it identified that the scheme is operated out of the Canberra office. The “reasonable man” cannot distinguish between RSPCA state and federal bodies and therefore is likely to conclude that the Certification body is also the Authorised Inspectorate. Given the significant earnings from the scheme, it is unclear whether there is a flow of funds from the scheme to state offices. Given the high profile of the scheme, it is unclear whether there is a flow of information from the federal to the state offices, eg for the purposes of prosecution.

*Question: is declaring “independence” in this situation misleading and deceptive?*

14. The RSPCA argues that “[RSPCA Approved Farming Scheme is not-for-profit and is not funded by donations to the RSPCA](#)”. This implies to the reasonable man that this scheme is not funded by those that they purport to regulate, which is not the case – they are funded by meat poultry processors. That it is not funded by “donations to the RSPCA” fails to mention that they are paid by the meat poultry industry. The use of the term “not-for-profit” also suggest that this scheme is an independent body registered with ACNC, which it is not.

*Question: are these representations actually misleading and deceptive?*

Sharyn, we look forward to your early response to these issues, or referral to the correct person within ACCC with the ability to investigate.

Yours Faithfully

*(by email)*

Joanne Sillince BVSc(Hons) MBA FAICD  
CEO, Australian Chicken Growers' Council

15th November 2024