



House of Commons

Environment, Food and Rural  
Affairs Committee

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# **The Welfare of Laying Hens Directive— Implications for the egg industry**

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**Ninth Report of Session 2010–12**

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# The Welfare of Laying Hens Directive— Implications for the egg industry

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**Ninth Report of Session 2010–12**

*Volume I: Report, together with formal  
minutes, oral and written evidence*

*Additional written evidence is contained in  
Volume II, available on the Committee website  
at [www.parliament.uk/efracom](http://www.parliament.uk/efracom)*

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## Summary

The European Union Directive 1999/74/EC on the Welfare of Laying Hens will ban the use of conventional cages (commonly referred to as 'battery cages') for laying hens and marketing of eggs from hens housed in such cages. The Directive, which is due to come into force on 1 January 2012, is the first piece of European legislation to phase out a method of production due to animal welfare concerns.

Around 31 million eggs are eaten in the UK per day, with around 80% of shell eggs and egg products (including liquid, powdered and frozen whole or part eggs) produced domestically. When the Directive comes into force the UK egg production industry expects to have spent about £400 million to be fully compliant with the legislation. In contrast, figures from the European Commission indicate that around one third of EU production will not comply with the Directive. The UK's egg production industry is concerned that as a result illegal, non-compliant eggs will be allowed to continue to be sold, putting compliant producers throughout Europe at a competitive disadvantage.

We found that several Member States have failed to provide the European Commission with the necessary data to enable an accurate assessment of the level of compliance when the Directive comes into force. We concluded that the Commission had not done enough to pursue this information and that the Commission had been complacent about the scale of the problem.

The Commission is only starting to consider its enforcement options at this late stage. We strongly resist Member States with non-compliant producers being given a derogation from the legislation. We support the implementation of an intra-community trade ban on the export of shell eggs and egg products from non-compliant egg producers. We concluded that the industry's wish to see non-compliant eggs differentiated by an additional marking would not work. We recommend that the Government press for robust inspection regimes across Member States and that swift action be taken if non-compliance is uncovered.

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# 1 Introduction

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## Background to this inquiry

1. EU Council Directive 1999/74/EC on the Welfare of Laying Hens is due to come into force on 1 January 2012.<sup>1</sup> Under the Directive the use of conventional cages (commonly referred to as ‘battery cages’) for laying hens will be prohibited in the EU as will the marketing of eggs from hens housed in such cages. The Committee decided to conduct a short inquiry into implementation of the Directive following concerns that some Member States would not be able to implement the ban in time. UK egg producers fear imports of non-compliant eggs from other Member States following the 1 January 2012 would put this country’s egg producers at an unfair commercial disadvantage.<sup>2</sup>

2. We announced terms of reference for our inquiry, encompassing English egg production, on 27 January 2011. On 7 February we announced that the scope of the inquiry had been extended to encompass egg producers across the whole of the UK. Twenty two organisations and individuals submitted written evidence to the inquiry; in addition the European Commission provided us with data on the state of compliance across the European Union. We took oral evidence from representatives of the British Egg Industry Council (BEIC), the Royal Society for the Prevention of Cruelty to Animals (RSPCA), the British Retail Consortium (BRC) and Noble Foods Ltd and from officials of the Directorate General Health and Consumer Policy of the European Commission and from the Minister for Agriculture and Food, Department for Environment, Food and Rural Affairs (Defra). We would like to thank those who gave oral evidence as well as those who submitted written evidence to the inquiry.

## The Welfare of Laying Hens Directive

3. In 1999 Member States agreed to the Welfare of Laying Hens Directive, which was prompted by the European Commission’s Scientific Veterinary Committee report which condemned conventional cages because of their “inherent severe disadvantages for the welfare of hens”.<sup>3</sup> The Directive has been incorporated into English law since 2002, most recently in the Welfare of Farmed Animals (England) Regulations 2007 (S.I 2007/2078) and in similar but separate legislation in Wales, Scotland and Northern Ireland. The Regulations specify requirements for the keeping of hens in establishments with 350 or more laying hens, whether kept in non-cage systems, conventional cages or enriched cages. The Regulations forbid the building or new use of conventional systems from October 2007, and all use of such systems from January 2012, and require premises to register so that eggs can be traced.<sup>4</sup>

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1 Ev 36,43

2 Ev 36

3 Report of the Scientific Veterinary Committee, Animal Welfare Section on the Welfare of Laying Hens, Brussels 30 October 1996, p 109.

4 HoC Library note SN/SC/1367 para 2.1

4. Egg production in the UK is broadly divided into cage and non cage production systems. Non-cage systems include:

- Free range, including organic, in which eggs are produced by hens which have continuous daytime access to runs which are mainly covered with vegetation. They can be kept in multi-tier or single tier housing. In 2010, in the UK, 45% of the eggs produced were free range.
- Barn eggs, in which hens are able to move freely around an indoor enclosure. These account for 5% of eggs sold in the UK.

Cage systems, accounting for about 50% of UK commercial egg production, include:

- Conventional battery cages, which contain around five birds with a minimum of 550cm<sup>2</sup> space, less than the size of a sheet of A4 paper, per bird. In the UK in December 2010, these accounted for 28% of all laying hens.
- New enriched cages, which provide at least 750cm<sup>2</sup> per bird and a minimum height of 45 cm along with a nest, perching space and a scratching area. In the UK in December 2010, these accounted for 21% of all laying hens.

The BEIC predict that the market split for 2012 will be 50% free range, 43% cage, 4% barn and 3% organic.<sup>5</sup>

5. The Directive is intended to improve the welfare of laying hens. According to Defra “There is clear evidence that conventional cages are detrimental to hen welfare and therefore the decision to ban them by 2012 represents a significant welfare advance across the European Union”.<sup>6</sup> The RSPCA described the Directive as “...one of the first multi-country agreements in the world to phase out a method of production due to animal welfare concerns”.<sup>7</sup> The Minister felt that, given producers’ investment in new cages, the Directive was likely to be the last major regulatory change designed to improve the welfare of laying hens for some time.<sup>8</sup> In this inquiry we have considered how implementing the Welfare of Laying Hens Directive would affect the UK egg production industry rather than its merits as an instrument to improve the welfare of laying hens.

6. In the UK around 31 million eggs are eaten per day, which equates to an annual consumption of 182 eggs per person. In 2010, the UK produced 9,023 million eggs representing around 80% self-sufficiency in shell eggs and egg products.<sup>9</sup> The remaining 20% are imported from other Member States, in particular France, the Netherlands, Germany and Spain. About 66% of these eggs are imported as shell eggs for use by wholesalers, caterers and the food industry. The remaining 33% are imported as egg products.<sup>10</sup> Egg products include liquid, powdered (dried) and frozen whole or part eggs.

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5 Ev 44

6 Ev 43

7 Ev 41

8 Q 216

9 See <http://www.defra.gov.uk/statistics/foodfarm/food/eggs/>

10 Ev 43

They are mainly used by food processors and in food service industries. The UK egg products market is worth approximately £250m per year.

7. ‘Lion Code’ producers account for around 90% of the UK’s egg production. The Lion Code of practice is administered by the British Egg Industry Council (BEIC), all of whose members adhere to the code. The code sets higher standards of both hygiene and animal welfare than are currently required by UK or EU law.<sup>11</sup> Defra anticipates that from 1 January 2012 all Lion Code egg producers will comply with the Directive and smaller producers that have not invested in enriched cages will leave the industry by 2012.<sup>12</sup> The Government therefore expects “virtually” all UK cage-produced eggs will be compliant following implementation of the Directive.<sup>13</sup>

8. Egg producers have had several years to prepare for the Directive’s implementation. Since the Welfare of Farmed Animals (England) Regulations 2007 came into force, producers have been forbidden from the building or new use of conventional systems. The BEIC estimate the capital investment by British producers in erecting new enriched cage units to comply with the Directive to be around £400 million—or £25 per hen.<sup>14</sup> In addition to the capital costs, the production costs for enriched cages are estimated to be 8% higher compared to a conventional cage.<sup>15</sup> According to the NFU the level of investment required to comply with the Directive has “... led to accelerated consolidation of the industry, with fewer producers and a much smaller independent egg industry”.<sup>16</sup> Defra estimates that about 80% of all total UK egg production goes through just 20% of companies, with 60% of all eggs marketed by the top four companies.<sup>17</sup>

**9. Defra expects all UK cage egg production to be compliant with the Directive by the 1 January 2012 deadline. While this is encouraging, the UK’s ability to argue for strict adherence to the Directive will be undermined if this country is not fully compliant. We therefore seek Defra’s assurance that UK egg production is on course to be fully compliant by 1 January 2012. We expect Defra to confirm when the UK achieves full compliance with the Directive. We further recommend that Defra publish its assessment of the total capital cost to UK producers of implementing the Directive.**

## UK egg industry concerns

10. The industry’s principal concern is that after 1 January 2012 there will be unfair competition from non-compliant producers elsewhere in the European Union. The NFU told us that:

English egg producers have serious concerns that if the Directive is not uniformly implemented across the EU, after investing heavily in conversion to enriched cages

11 Ev 41

12 Q 118

13 Q 197, see Ev 43

14 Ev 36, see Q 4, Ev w14 [Note: references to ‘Ev wXX’ are references to written evidence published in the volume of additional written evidence published on the Committee’s website]

15 Ev w14

16 Ev w14

17 Ev 43

to meet the requirements of the Directive, they will be put at a commercial disadvantage by imported non-compliant eggs and egg products from conventional cages.<sup>18</sup>

Similar arguments were made by Scottish Egg Producer Retailers Association and NFU Cymru.<sup>19</sup> Mark Williams, Chief Executive of the BEIC described the investment as the ‘crux of the argument’ and told us “That investment made by the UK industry must be protected from what we believe will be non compliant production coming out of Europe in just under 12 months’ time”.<sup>20</sup>

11. Compassion in World Farming, however, argued that producers may be less vulnerable to non-compliant imports because of the “strong support from UK food businesses many of which no longer sell or use battery eggs”.<sup>21</sup> CWF’s argument has some weight in relation to the retail sector. Waitrose (shell eggs and own label food products), the Co-op (shell eggs), Marks and Spencer (shell eggs and food products) and Morrisons (own label shell eggs) have already stopped selling cage eggs or have indicated their intention to do so in the near future. Sainsbury’s no longer sell cage eggs and have stated that they will move to using eggs from non-cage systems in their own label food products by 2012. However, 49% of egg production in the UK uses cage systems and the two largest retailers, Tesco and ASDA, have both stated that they intend to continue to offer cage eggs for sale in their stores to satisfy the demands of their diverse consumer base.<sup>22</sup> In addition, more than 1,800 million eggs were bought by food processors last year.

12. The Government shares the UK egg producers’ concerns. The memorandum from the department told us that:

The UK government wishes to protect compliant UK producers from any competitive disadvantage of illegal production in other Member States or indeed the UK. Such behaviour would affect economic stability and fairness within the sector. Simply relying on infraction proceedings against non-compliant Member States will not be enough to deal with the commercially negative impact that the non-compliance would cause. Additional measures will need to be put in place to prevent market disturbance.<sup>23</sup>

In oral evidence the Minister told us the Government stood “four-square with those producers in this country who have made the investment”, and added “We have been pressing the Commission for some months now to prepare for action, because it has been abundantly clear to me and to, indeed, the industry that a number of countries were not making the progress that was necessary”.<sup>24</sup> We share the industry’s concern that other Member States have made insufficient progress in converting to enriched cages to be able

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18 Ev w15

19 Ev w13, 14, 18, 19

20 Q 4

21 Ev w1,2

22 Ev 44

23 Ev 43

24 Q 196

to comply with the 1 January 2012 deadline for implementation of the Directive. That being the case there is a real risk that UK producers, who have spent around £400 million on new infrastructure and have on-going higher production costs, will be competing with imported shell eggs and egg products from non-compliant producers who have lower capital and production costs. **We conclude that the UK cage egg production industry will be at a competitive disadvantage after implementation of the Directive if non-compliant cage egg producers in other Member States are able to export shell eggs and egg products.**

## Implementation of the Directive

### *Data provided to the Commission*

13. In preparation for the implementation of the Directive the European Commission has been collecting and collating data from Member States. The Commission provided us with data which sets out the number of laying hens and production sites by production method as at 31 December 2010, 1 April 2011 and Member States' forecasts for 31 December 2011. In Germany, conventional cages have been banned since 1 January 2010 and enriched cages will be banned from 1 January 2012 (so production will be entirely in non-cage systems). The use of conventional cages is also already banned in Austria, Sweden and the Netherlands. Member States' own forecasts of the position at 1 January 2012 show that Belgium, Cyprus, Poland, Portugal, Romania and Slovakia do not expect to be in compliance by the deadline. In addition, Hungary, Italy, Latvia and Malta have indicated that the status will not be known; while France, Greece and Spain have provided no data to the Commission. In total around one third of production throughout the EU is likely to remain non-compliant by the 1 January 2012 deadline.<sup>25</sup>

14. Ms Joanna Darmanin, Head of Cabinet, Directorate General Health and Consumers (DG SANCO) described the data provided to the Commission as "far from optimal".<sup>26</sup> She told us that "The data we have are patchy, and there are some data that are reliable, but others where we have, I have to say, gaps, or where the data that we have requested are not exactly comparable".<sup>27</sup> She explained that the Commission had requested data from those Member States that had failed provide the required information; and that Member States had been asked for an action plan to show how they intended to comply with the legislation by the 1 January deadline.<sup>28</sup>

**15. Certain Member States have failed to provide the data requested by the Commission. The Commission needs to know the likely level of compliance in advance of the 1 January 2012 deadline in order to gauge the scale of enforcement activity required. The Commission will also need an accurate assessment of the level of compliance across Member States at 1 January 2012 so that it can implement the necessary enforcement action. We recommend Defra press both the Commission and**

25 See Ev 36, 43–44

26 Q 121

27 Q 122

28 Q 121

**individual Member States to provide the necessary data that will enable the Directive's effectiveness to be assessed.**

16. The figures have many omissions but the Commission has no power to penalise those Member States that had failed to provide the required data.<sup>29</sup> **We considered whether the Commission has sufficient powers to require Member States to provide information relating to compliance with European Union legislation. We do not consider it appropriate to give the Commission the power to impose penalties on Member States.**

17. **As a general principle, the Commission should ensure that Member States fully understand their reporting and monitoring responsibilities in relation to existing or forthcoming European regulation.**

18. Egg-laying hens have a productive lifespan of approximately 13 months. Assuming that a producer would not sacrifice a proportion of that productive lifespan, for a flock to be fully compliant by the deadline birds would need to have been housed in compliant cages from the end of 2010. Mr Williams told us:

if people are putting hens in conventional cages today across Europe, I would suggest that they are taking a brave step and assuming they will get the return on that pullet before 31 December, or they intend to run them beyond. I suggest that the latter is probably more in tune with that.<sup>30</sup>

19. Ms Darmanin confirmed her understanding that the Directive required all hens at 1 January 2012 to be in compliant enriched cages.<sup>31</sup> **We recommend that the Commission makes clear that Member States should be advising their egg producers that no new hens should be being placed into non-enriched cages now.**

### **Probability of compliance**

20. The Government considers that Member States and their egg producers have had sufficient time to prepare for the Directive. The Minister told us that:

The industry has had plenty of time to prepare for it, and indeed the new Member States who have joined the EU since then knew what they were joining and the rules they were going to have to achieve, so I am not sure that anybody can complain they have not had sufficient notice.<sup>32</sup>

21. Mr Williams told us that “certain Member States that physically cannot comply now from the very fact that equipment must be ordered; erection gangs must be contracted; and then physical erection has to take place”.<sup>33</sup> The Minister agreed that the manufacturers of

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29 Q 128

30 Q 61

31 Q 179

32 Q 202

33 Q 14

compliant cages did not now have the capacity to deliver and install cages so that every country could be compliant by the deadline.<sup>34</sup>

22. Giles Clifton, Head of Public Affairs, BEIC noted, however, that when the Directive was initially adopted the Commission had said that it would provide a definitive date for implementation by 1 January 2005, but did not, in fact, produce that definitive answer until 8 January 2008 which had put time pressure on producers.<sup>35</sup> Mr Williams noted that the low market demand for higher welfare eggs in some Member States had been a commercial disincentive for early adoption for producers facing an 8% higher cost of production in enriched cages.<sup>36</sup>

23. Mr Williams' comments about consumers' views on higher welfare eggs echo the findings of the 2007 Eurobarometer report *Attitudes of EU citizens towards Animal Welfare*. The report found that animal welfare was a slightly greater concern in the countries of the EU15 than in the ten new Member States and that lower importance was attached to the subject in Hungary, Slovakia, Latvia, Lithuania and Spain.

24. The Commission's own evidence makes clear that several countries will not have complied by the deadline and yet it appears to believe that full implementation of the Directive by the 1 January deadline is feasible.<sup>37</sup> Defra has pressed the Commission to prepare for non-compliance.<sup>38</sup> The Minister recounted a discussion with the Commissioner, who had said "We are not prepared to contemplate that people will not have converted. We think they all will"; a position which the Minister described as "unwise".<sup>39</sup> He considered that the Commission were "now much more aware that there is going to be a problem".<sup>40</sup> Ms Darmanin summed up the Commission's strategy: she told us that once the data was collected it would reveal the extent of the problem and the potential non-compliance, and that "it is at that point that obviously we will start to kick it into high gear and have a strategy on how to deal with it".<sup>41</sup> She added:

... we have to know exactly what the situation is going to look like on 1 January 2012 before we decide how to tackle it. I think it would be foolish of us to say, "Okay, we are going to give you a safeguard clause; you can ban this and ban that." I think we really need to see, number one, the extent of the problem—whether it is limited to one or two Member States, or whether it is a more generic problem across the Member States. I think all those issues we really do have to factor into any decision that we are going to take.<sup>42</sup>

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34 Q 230

35 Q 15

36 Qq 15, 16

37 European Commission press release, 20 January 2011, <http://europa.eu/rapid/middayExpressAction.do?date=21/01/2011&direction=0&guiLanguage=en>

38 Q 196

39 Q196

40 Q 196

41 Q 177

42 Q 177

25. The Commission has said that the Directive must be implemented to the letter but does not appear to have considered how it will mitigate the impact for egg producers and consumers. If, on 1 January 2012, the Directive were to be fully complied with, the 30% of EU egg production that is expected to be non-compliant would have to be taken off the market and destroyed, creating a sudden catastrophic shortfall in eggs across the EU. Contemplating this scenario, the BEIC concluded:

We very much doubt this will be allowed to happen [...] The commercial reality is that such eggs would continue to be produced and enter the marketplace unless certain measures are put in place.<sup>43</sup>

26. The Commission's own data confirm that a significant proportion of cage egg production across the European Union will not comply with the Directive by the deadline. At that point, assuming the Commission does not insist on the destruction of millions of eggs, the choice is between allowing non-compliant eggs to be traded, negating the whole purpose of the Directive; or instituting enforcement action that will put pressure on Member States and producers to become compliant. Given these facts it is mystifying that Commission feels able to wait until after the deadline has passed before kicking into "high gear" and producing a strategy.

**27. The Commission's forecasts show clearly that the Welfare of Laying Hens Directive will not be complied with across the entire European Union from 1 January 2012. The Commission has had the evidence to show this for some time. We are concerned by the Commission's evident complacency: it does not appear to recognise the potential damage that will be done to compliant egg producers.**

**28. The Commission has not developed a plan to manage the anticipated non-compliance. If such a plan were already developed and publicised it would have had the additional benefit of acting as a deterrent to non-compliance.**

## Enforcement options

29. On 19 January 2011, in response to pressure from Member States and egg producers, the Commission held a stakeholder meeting to discuss the implementation of the ban.<sup>44</sup> The Commission is considering the 14 enforcement options proposed by Member States and stakeholders at that meeting, including:

- Derogation from implementing directive for a period of time.
- New code '4' to distinguish illegal eggs.
- Intra-community trade ban.
- Official list of non-compliant producers.
- Increased inspection regime.

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43 Ev 36

44 Multi-Stakeholder Meeting on the Implementation of Council Directive 1999/74/EC, on the Protection of Laying Hens, held in Brussels on 19 January 2011

## Derogation

30. Several Member States have requested additional time to implement the Directive. To date those requests have been refused.<sup>45</sup> Ms Darmanin told us that “at last count”, Poland, Romania and Bulgaria had called for an extension of the deadline, but those requests had been “immediately shot down by the rest of the Council and the Commission saying that is simply not an option that is on the table”.<sup>46</sup> Referring to that discussion, the Secretary of State told the House that she had told the Council “any delay would be grossly unfair to egg producers in the UK and other Member States that have made significant investments to adapt and enrich cages”.<sup>47</sup> The European Parliament has also called on the Commission to maintain the requirement for the ban to come into force on 1 January 2012 and to oppose strongly any attempts by Member States to secure a deferral of that deadline.<sup>48</sup>

31. The UK egg production industry is concerned that, despite current opposition to any derogation within the Commission and Council, as the deadline approaches the economic and practical reality will force some form of concession to non-compliant Member States. The BEIC “... anticipate that producers in some other Member States may be given permission at the last minute to extend the deadline and that cheap, lower welfare eggs, especially from Southern and Eastern Member States could be available in the UK”.<sup>49</sup> **Defra must resist the granting of a derogation from the Welfare of Laying Hens Directive to any Member States as strongly as possible.**

## New Code/Labeling

32. Eggs are marked with a production indicator which allows enforcement authorities and the general public to easily identify the production method under which the egg was produced. The BEIC recommended that, if after 1 January 2012, eggs from non-compliant cages were still being marketed they should be marked in a way that differentiated them from eggs produced under other regimes:

... eggs from an enriched cage would be marked with a No.3 and eggs from a conventional cage would be required to be marked with a No.4 or other mark, if more time should be provided to phase out the use of conventional cages.<sup>50</sup>

The UK Egg Producers Association Ltd (UKEP) also argued for an additional code number to differentiate between eggs coming from enriched or conventional cages.<sup>51</sup>

33. Mr Jorêt, Technical Director of Noble Foods Ltd and Deputy Chairman of the British Egg Industry Council, questioned whether such an approach would work. He thought producers of illegal eggs “will also mark them illegally anyway, so whether or not we have

45 Qq 150–151

46 Q 152

47 HC Deb, 17 March 2011, col 462

48 Ev w1

49 Ev 36

50 Ev 37

51 Ev w16

the number they will probably use it wrongly”.<sup>52</sup> The European Commission opposes the introduction of an additional production indicator for non-compliant, conventional cage produced eggs after 1 January 2012 as this would “give a legal status to something that is de facto illegal”.<sup>53</sup> Defra agreed with the position taken by the Commission. The Minister told us:

... it seems odd to me that you should be suggesting you label something that is unlawful. Are people willingly going to put a label on an egg that says “This is an unlawful egg”? [...] I think we should say there should only be eggs from enriched cages on the market, and we have to move towards making sure that the others do not come on to the international European market, at least.<sup>54</sup>

**34. We understand the industry’s wish to see non-compliant eggs differentiated by an additional code. However, we are persuaded by the argument put forward by the Government and the Commission that requiring producers to mark an egg as unlawful would be illogical and probably counter-productive.**

### ***Intra-community ban***

35. The Commission is considering “limited circulation of illegal eggs within Member States of production”, in other words an intra-community trade ban on non-compliant eggs. Such a ban would mean that eggs from hens housed in conventional cages could only be marketed in their Member State of production.<sup>55</sup> The Minister told us that the UK Government, the devolved administrations and other Member States were pressing the Commission for an intra-community ban, which he considered would be the “best way of ensuring that our producers, and indeed those in other countries who have made the investment, are not undercut”.<sup>56</sup> The Minister advocated a complete ban on eggs from non-compliant Member States; he thought that either a ban on individual producers, or a ban that allowed a Member State only to export egg from enriched cages would not apply pressure on Member States to enforce compliance.<sup>57</sup>

36. Compassion in World Farming (CWF) expressed concern about an intra-community ban because it could undermine the ban on conventional cages. CWF argued that:

Legalising the sale of battery eggs would result in farmers in countries such as Spain having little incentive to move away from battery cages [... and the UK] may find other Member States pressing for a lengthy period during which illegally produced battery eggs can continue to be sold.<sup>58</sup>

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52 Q 109

53 Q 189

54 Q 231

55 Ev 37, Q 13

56 Qq 199, 206, 233, 236

57 Qq 232–234

58 Ev w2

37. Mr Williams described those egg products as the “battleground” once the Directive comes into force.<sup>59</sup> According to the BEIC one third of the UK’s egg imports are in the form of egg products, such as powdered or liquid egg. In order for an intra-community ban to be effective it would be necessary to identify shell eggs from non-compliant Member States; powdered and liquid egg products from the same source; and any number of products containing some ingredient derived from non-compliant eggs.

38. The difficulties of tracing egg products was highlighted in several submissions. UKEP state that:

Whilst manufacturers may ask egg product suppliers if the product is from compliant cages, what tangible guarantees can be given?

A significant amount of egg product used in the UK is in the form of powder. As no powder is produced in the UK, all this will be imported, possibly from non-compliant cages in the EU, and certainly from third countries.<sup>60</sup>

Roy Kerr, an egg producer argued:

It is absolutely essential to insist on full traceability on liquid egg, and country of origin on product, as retail organisations are increasingly stating that they use only free-range eggs in their products, this is impossible to police with liquid egg and product being sourced from other countries on a cost basis.<sup>61</sup>

39. Our witnesses all agreed that traceability of egg products was a major problem. Mr Bowles argued that “retailers, processors or producers, particularly in the food industry sector”, had an important role to play in ensuring they were only importing compliant eggs.<sup>62</sup> Mr Jorêt agreed that products with eggs as an ingredient were a particular concern; and he added that many consumers were unaware of the range of products that contain eggs.<sup>63</sup> Mr Opie argued that large retailers, who stock a large percentage of own brand products, would be able to control traceability of legal eggs through their supply chains.<sup>64</sup> He was not able to offer a satisfactory answer to how retailers would respond to concerns about egg products contained in imported branded items—saying instead that retailers would prefer consumers bought own-brand alternatives.<sup>65</sup>

40. The Government and industry are concerned that an intra-community ban should include egg products as well as shell eggs. The Secretary of State told the House that it was important to establish “the provenance of liquid-egg and dried-egg products”, and confirmed that the Commission was considering the issue.<sup>66</sup> The Minister agreed that a

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59 Q 5

60 Ev w16

61 Ev w11

62 Q 76

63 Qq 95, 90, Andrew Jorêt

64 Q 110

65 Q 111

66 HC Deb 17 March 2011, col 462

ban should include shell eggs and egg products. He acknowledged that a ban should include products containing eggs but was unable to offer a mechanism to achieve this.<sup>67</sup>

41. Ms Darmanin told us that the Commission’s legal services was assessing whether an “intra-community ban for those egg products that will be illegal by the time of the entry into force on 1 January”, was a “feasible and a proportionate measure”.<sup>68</sup> She confirmed that the question of a ban on non-compliant eggs was both a legal question and a policy judgement.<sup>69</sup> Dr Vassallo, Member of Cabinet, European Commission Directorate General Health and Consumer Policy, appeared to suggest that the Commission was not fully committed to introducing a ban. He argued that the lack of clarity around whether an intra-community ban was to be introduced was “a form of pressure on producers who are not yet compliant, in the sense that a total ban of illegal eggs is a risk to somebody who is producing 5 million eggs a day—a risk he will not take”. More tellingly he told us that as “... at the end of the day, we have minimal non compliance, why go all that way”.<sup>70</sup>

42. The Commission’s goal must be that all egg producers comply with the Directive. The purpose of an intra-community trade ban should therefore be to protect compliant producers across the EU, while providing an incentive to producers to quickly convert to enriched cages. Producers who have invested in enriched cages should not be penalised. An intra-community ban should therefore cover only non-compliant eggs, whether or not other producers in the same Member State are non-compliant.

43. The Commission has the option of initiating infraction proceedings against Member States which have non-compliant producers. Infraction proceedings would provide an incentive for national Governments to put pressure on their non-compliant producers.

**44. We support the calls for an intra-community trade ban on the export of shell eggs and egg products from non-compliant egg producers. We recommend that the Government press the Commission to confirm that such a ban would be permissible under the European law.**

**45. We recommend that Defra press the Commission to initiate infraction proceedings against Member States whose caged egg producers are non-compliant once the Directive comes into force.**

**46. We recognise that the obstacles to establishing a trade ban that encompassed all products that contained egg derived ingredients produced in non-compliant cages may well be insurmountable.**

**47. We recommend that Defra investigate establishing a voluntary approach under which retailers and food manufactures would undertake stringent traceability tests to ensure that they are not responsible for bringing products containing non-compliant egg products into the UK. We further recommend that Defra publish a list of those retailers and food manufacturers that have signed up to the voluntary approach.**

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67 Q 200

68 Q 123

69 Qq 187–188

70 Q 188

48. On 16 June, Defra published the Government buying standards for food and catering services. In March the Minister confirmed that it:

... will be mandatory on central Government, subject to no overall increase in cost, and those mandatory standards will require that all food purchased by central Government and its Departments should be produced to, at minimum, the standards of production required of our producers or their equivalents from overseas.<sup>71</sup>

The Mandatory Standards require all shell eggs are “sourced from systems that do not use conventional cages. If from a caged system, enriched cages are used”.<sup>72</sup> Under the Best Practice standards “All eggs, including liquid and powdered eggs, are sourced from systems that do not use conventional cages. If from a caged system, enriched cages are used”.<sup>73</sup> **We recommend that the Government buying standards should be amended to make clear that after 1 January 2012 it will be mandatory that no products containing egg products from non-compliant eggs are purchased.**

### **Increased inspection**

49. Enforcement of the legislation is carried out by national inspection agencies. However, the Commission has to be assured that the competent authority in each Member State is going to enforce compliance. There is a degree of trust that each Member State will ensure compliance within its own country.<sup>74</sup> Two options put forward at the stakeholder meeting were increased inspection by the Commission’s Food and Veterinary Office (FVO) or increased Competent Authority inspection regime. The Commission witnesses explained that the Commission’s Food and Veterinary Office (FVO) audits Member States’ inspection systems and that once the Directive was in force they would inspect “different Member States to ensure that Member States are actually doing what they have told us they were supposed to be doing”.<sup>75</sup>

50. Mr Williams, chief executive of the BEIC, told us that the FVO representative at the February stakeholder meeting had said the FVO needed “more teeth to ensure enforcement takes place that is proportionate to the misdemeanour”.<sup>76</sup> He added that the current levels of fines imposed through the FVO were not sufficient to act as a deterrent.<sup>77</sup> The FVO inspects the enforcement in each Member State: the NFU argued that while in theory each Member State would ensure proper implementation of the legislation:

... in practice this relies on the Competent Authority effectively enforcing legislation and we would argue that those Member States which have significant numbers of

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71 Q 220

72 <http://sd.defra.gov.uk/advice/public/buying/products/food/standards/>

73 <http://sd.defra.gov.uk/advice/public/buying/products/food/standards/>

74 Q 234

75 Qq 183–186

76 Q 48

77 Q 17

non-compliant producers have already demonstrated they cannot be relied upon to robustly enforce the directive in a timely manner.<sup>78</sup>

51. Anecdotal evidence suggests the inspection regime in the past has varied from one Member State to another—the Scottish Egg Producer Retailers Association refers to a country with a flock population “equal to the UK” with only one inspector.<sup>79</sup> UK egg producers are therefore concerned that enforcement will be weak in some countries and that by the time non-compliance has been discovered, reported and acted upon, they will have suffered irreparable commercial damage. The Minister made clear that he considered enforcement of the Directive to be a matter for the Commission.<sup>80</sup> He explained that in the UK producers would be inspected to ensure compliance and agreed that:

... there is a suspicion, shall we say, that with previous regulations, some countries have signed up to them and not really paid too much heed to implementation, and that has to be a worry, but I am afraid it is not for us to do those inspections: it is for the FVO from the European Commission to make sure that other countries keep to it.<sup>81</sup>

Defra’s memorandum adds that “it is unlikely that relying on [enforcement] will be enough to deal with the commercially negative impact that non-compliance would cause”.<sup>82</sup>

**52. The Commission has a responsibility to ensure enforcement of the Directive. We therefore urge Defra to press the Commission to bolster the powers and resources of the Food and Veterinary Office.**

**53. We further recommend that Defra press the Commission and Member States to have robust inspection regimes in place, that swift action be taken if non-compliance is uncovered, and that Member State’s fine producers for non-compliance at a level that will act as a deterrent.**

54. The list of enforcement options includes two that rely on Member States providing information to the Commission or other Member States: an official list of non-compliant producers; and implementation plans and flock data to be freely available to all. Given the inability of several Member States to provide the data requested to date it seems unduly optimistic to assume that the data required for these two options would be provided.

**55. We conclude that lists of non-compliant producers would only be of benefit if officers were available at ports of entry to check imported eggs against the list. Such an approach would be costly. Given the current poor state of the data available to the Commission we doubt any enforcement method relying on comprehensive accurate data will be effective.**

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78 Ev w15

79 Ev w14

80 Q 230

81 Q 207

82 Ev 43

## UK unilateral action

56. The Government has said it may take unilateral action. However, the Minister was not prepared to discuss what that action might be, or whether the Government would pursue a unilateral UK ban on non-compliant eggs.<sup>83</sup> We understand that the Government may be unwilling to 'show its hand'. However, we would not wish the promise of the UK clipping the wings of non-compliant egg producers from elsewhere giving the UK industry misplaced confidence. **We recommend that Defra confirm whether it is still exploring unilateral action and that the devolved administrations support that approach. We recommend that Defra investigate the potential for putting in place a UK ban on shell eggs and egg products from Member States with non-compliant production.**

57. The UK not only imports eggs and egg products from the EU but also from outside the Union. A ban on eggs or egg products that do not comply with the animal welfare standards required in the EU is attractive. However, the Minister confirmed that there would be very high risk of being challenged under the World Trade Agreement if an attempt were made to ban eggs or egg products imported from third countries produced in cage systems below the welfare standards specified in the Directive.<sup>84</sup> Under the WTO Agreement on Sanitary and Phytosanitary Measures, governments can regulate trade in agri-food products only on food safety, plant and animal health grounds and as long as these do not act as disguised trade barriers.<sup>85</sup> Given the history of international trade negotiations it is unlikely that any changes reflecting animal welfare standards would be successful in the medium term. However, the inclusion of animal welfare standards in future rounds of WTO negotiation should remain a long-term goal of the Government. **As we argued in our report on Common Agricultural Policy after 2013; it is in the interests of fairer trade in the long-term that the EU should argue more strongly for recognition of standards of production (for example animal welfare, use of water, greenhouse gas emissions) within international trade agreements.**

## Conclusion

58. The Welfare of Laying Hens Directive will be the first piece of EU legislation intended to improve animal welfare to be implemented. As such the Commission's ability to enforce this Directive will be a test of the European Union's resolve to improve standards of animal welfare. We have seen little evidence that the Commission appreciates the serious risks associated with implementation of this Directive. First, the Commission has been insufficiently robust in securing the data required to assess the current trajectory to compliance. Second, the Commission has also shown little enthusiasm for establishing tough enforcement measures in the face of certain non-compliance by several Member States. Third, the Commission appears to have failed to grasp the very serious consequences for compliant egg producers if full implementation of the Directive is not vigorously pursued. We therefore recommend that Defra work

83 Qq 199, 225, 237

84 Q 225

85 The WTO Agreement on the Application of Sanitary and Phytosanitary Measures, [www.wto.org/english/tratop\\_e/sps\\_e/spsagr\\_e.htm](http://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm)

with other concerned Member States to make the case for swift action by the Commission.

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## Conclusions and recommendations

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1. Defra expects all UK cage egg production to be compliant with the Directive by the 1 January 2012 deadline. While this is encouraging, the UK's ability to argue for strict adherence to the Directive will be undermined if this country is not fully compliant. We therefore seek Defra's assurance that UK egg production is on course to be fully compliant by 1 January 2012. We expect Defra to confirm when the UK achieves full compliance with the Directive. We further recommend that Defra publish its assessment of the total capital cost to UK producers of implementing the Directive. (Paragraph 9)
2. We conclude that the UK cage egg production industry will be at a competitive disadvantage after implementation of the Directive if non-compliant cage egg producers in other Member States are able to export shell eggs and egg products. (Paragraph 12)
3. Certain Member States have failed to provide the data requested by the Commission. The Commission needs to know the likely level of compliance in advance of the 1 January 2012 deadline in order to gauge the scale of enforcement activity required. The Commission will also need an accurate assessment of the level of compliance across Member States at 1 January 2012 so that it can implement the necessary enforcement action. We recommend Defra press both the Commission and individual Member States to provide the necessary data that will enable the Directive's effectiveness to be assessed. (Paragraph 15)
4. We considered whether the Commission has sufficient powers to require Member States to provide information relating to compliance with European Union legislation. We do not consider it appropriate to give the Commission the power to impose penalties on Member States. (Paragraph 16)
5. As a general principle, the Commission should ensure that Member States fully understand their reporting and monitoring responsibilities in relation to existing or forthcoming European regulation. (Paragraph 17)
6. We recommend that the Commission makes clear that Member States should be advising their egg producers that no new hens should be being placed into non-enriched cages now. (Paragraph 19)
7. The Commission's forecasts show clearly that the Welfare of Laying Hens Directive will not be complied with across the entire European Union from 1 January 2012. The Commission has had the evidence to show this for some time. We are concerned by the Commission's evident complacency: it does not appear to recognise the potential damage that will be done to compliant egg producers. (Paragraph 27)
8. The Commission has not developed a plan to manage the anticipated non-compliance. If such a plan were already developed and publicised it would have had the additional benefit of acting as a deterrent to non-compliance. (Paragraph 28)

9. Defra must resist the granting of a derogation from the Welfare of Laying Hens Directive to any Member States as strongly as possible. (Paragraph 31)
10. We understand the industry's wish to see non-compliant eggs differentiated by an additional code. However, we are persuaded by the argument put forward by the Government and the Commission that requiring producers to mark an egg as unlawful would be illogical and probably counter-productive. (Paragraph 34)
11. We support the calls for an intra-community trade ban on the export of shell eggs and egg products from non-compliant egg producers. We recommend that the Government press the Commission to confirm that such a ban would be permissible under the European law. (Paragraph 44)
12. We recommend that Defra press the Commission to initiate infraction proceedings against Member States whose caged egg producers are non-compliant once the Directive comes into force. (Paragraph 45)
13. We recognise that the obstacles to establishing a trade ban that encompassed all products that contained egg derived ingredients produced in non-compliant cages may well be insurmountable. (Paragraph 46)
14. We recommend that Defra investigate establishing a voluntary approach under which retailers and food manufacturers would undertake stringent traceability tests to ensure that they are not responsible for bringing products containing non-compliant egg products into the UK. We further recommend that Defra publish a list of those retailers and food manufacturers that have signed up to the voluntary approach. (Paragraph 47)
15. We recommend that the Government buying standards should be amended to make clear that after 1 January 2012 it will be mandatory that no products containing egg products from non-compliant eggs are purchased. (Paragraph 48)
16. The Commission has a responsibility to ensure enforcement of the Directive. We therefore urge Defra to press the Commission to bolster the powers and resources of the Food and Veterinary Office. (Paragraph 52)
17. We further recommend that Defra press the Commission and Member States to have robust inspection regimes in place, that swift action be taken if non-compliance is uncovered, and that Member State's fine producers for non-compliance at a level that will act as a deterrent. (Paragraph 53)
18. We conclude that lists of non-compliant producers would only be of benefit if officers were available at ports of entry to check imported eggs against the list. Such an approach would be costly. Given the current poor state of the data available to the Commission we doubt any enforcement method relying on comprehensive accurate data will be effective. (Paragraph 55)
19. We recommend that Defra confirm whether it is still exploring unilateral action and that the devolved administrations support that approach. We recommend that Defra investigate the potential for putting in place a UK ban on shell eggs and egg products from Member States with non-compliant production. (Paragraph 56)

20. As we argued in our report on Common Agricultural Policy after 2013; it is in the interests of fairer trade in the long-term that the EU should argue more strongly for recognition of standards of production (for example animal welfare, use of water, greenhouse gas emissions) within international trade agreements. (Paragraph 57)
21. The Welfare of Laying Hens Directive will be the first piece of EU legislation intended to improve animal welfare to be implemented. As such the Commission's ability to enforce this Directive will be a test of the European Union's resolve to improve standards of animal welfare. We have seen little evidence that the Commission appreciates the serious risks associated with implementation of this Directive. First, the Commission has been insufficiently robust in securing the data required to assess the current trajectory to compliance. Second, the Commission has also shown little enthusiasm for establishing tough enforcement measures in the face of certain non-compliance by several Member States. Third the Commission appears to have failed to grasp the very serious consequences for compliant egg producers if full implementation of the Directive is not vigorously pursued. We therefore recommend that Defra work with other concerned Member States to make the case for swift action by the Commission. (Paragraph 58)

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# Formal Minutes

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**Tuesday 19 July 2011**

Members present:

Miss Anne McIntosh, in the Chair

Thomas Docherty  
George Eustice  
Barry Gardiner  
Mrs Mary Glendon

Neil Parish  
Dan Rogerson  
Amber Rudd

Draft Report (*The Welfare of Laying Hens Directive—Implications for the egg industry*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 58 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Ninth Report of the Committee to the House.

*Ordered*, That the Chair do make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No.134.

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[Adjourned till Tuesday 6 September at 10.30 am

## Witnesses

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### Wednesday 2 March 2011

Page

**Mark Williams**, Chief Executive, and **Giles Glifton**, Head of Public Affairs, British Egg Industry Council Ev 1

**David Bowles**, Director of Communications, and **Alice Clark**, Senior Scientific Officer, Farm Animals Department, Royal Society for the Prevention of Cruelty to Animals (RSPCA) Ev 10

**Andrew Opie**, Director of Food and Sustainability, British Retail Consortium (BRC), and **Andrew Jorêt**, Technical Director of Noble Foods Ltd and Deputy Chairman of the British Egg Industry Council Ev 14

### Tuesday 22 March 2011

**Joanna Darmanin**, Head of Cabinet, and **Dr Harry Vassallo**, Member of Cabinet, European Commission Directorate General Health and Consumer Policy (DG SANCO) Ev 19

**Rt Hon. James Paice MP**, Minister of State for Agriculture and Food, and **Sue Ellis**, Head of Animal Welfare, Department for Environment, Food and Rural Affairs (Defra) Ev 28

## List of printed written evidence

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1	British Egg Industry Council	Ev 36
2	Royal Society for the Prevention of Cruelty to Animals (RSPCA)	Ev 41
3	Department for Environment, Food and Rural Affairs (Defra)	Ev 42

## List of additional written evidence

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(published in Volume II on the Committee's website [www.parliament.uk/efracom](http://www.parliament.uk/efracom))

1	Compassion in World Farming	Ev w1
2	Dr A (Lou) Marsden	Ev w3
3	Martin Morrison	Ev w4
4	JR Clark and Sons	Ev w5
5	Professor CJ Nicol, Professor of Animal Welfare, Bristol University	Ev w6
6	Good Food for our Money Campaign	Ev w7
7	Bennett's Eggs	Ev w8
8	Kinswood Eggs	Ev w8
9	British Hen Welfare Trust (BHWT)	Ev w9
10	Roy Kerr	Ev w11: Ev w12
11	M B Crocker Ltd	Ev w13
12	Manor Farm Eggs	Ev w13
13	Scottish Egg Producer Retailers Association (SEPRA)	Ev w13
14	National Farmers' Union (NFU)	Ev w14
15	UK Egg Producers Association Ltd (UKEPA)	Ev w16
16	The Co-operative Group	Ev w17
17	Martin Peaty	Ev w18
18	NFU Cymru Poultry Board	Ev w18
19	British Free Range Egg Producers Association (BFREPA)	Ev w19

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# List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

## Session 2010–12

First Report	Future Flood and Water Management Legislation	HC 522 (HC 922)
Second Report	The Marine Policy Statement	HC 635
	The Marine Policy Statement: Government response to the Committee's Second Report published as an Un-numbered Act Paper on 17 March 2011	
Third Report	Farming in the Uplands	HC 556 (HC 953)
Fourth Report	The draft National Policy statement (NPS) on Waste Water	HC 736
Fifth Report	The Common Agricultural Policy after 2013	HC 671 (HC 1356)
Sixth Report	Implementation of the Common Fisheries Policy: Domestic Fisheries Management	HC 858
Seventh Report	Pre-appointment hearing: Chair of Gangmasters Licensing Authority	HC 1400-I
Eighth Report	EU proposals for the dairy sector and the future of the dairy industry	HC 952
First Special Report	The National Forest: Government response to the Committee's Fourth Report of Session 2009–10	HC 400
Second Special Report	Dairy Farmers of Britain: Government response to the Committee's Fifth Report of Session 2009–10	HC 401

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# Oral evidence

## Taken before the Environment, Food and Rural Affairs Committee on Wednesday 2 March 2011

Members present:

Miss Anne McIntosh (Chair)

Thomas Docherty  
Richard Drax  
George Eustice  
Mrs Mary Glendon

Neil Parish  
Dan Rogerson  
Amber Rudd

### Examination of Witnesses

*Witnesses:* **Mark Williams**, Chief Executive, and **Giles Clifton**, Head of Public Affairs, British Egg Industry Council, gave evidence.

**Q1 Chair:** Good afternoon, Mr Williams. Thank you very much for joining us in our inquiry into the Welfare of Laying Hens Directive and the implications for the UK egg industry. For the record, would you like to introduce yourself, and Mr Clifton?

**Mark Williams:** My name is Mark Williams, Chief Executive of the British Egg Industry Council (BEIC). Good afternoon, ladies and gentlemen.

**Giles Clifton:** I am Giles Clifton, Head of Public Affairs for the British Egg Industry Council.

**Q2 Chair:** You are both very welcome. Thank you. Perhaps I may ask you first a general question. How would you describe the state of the egg industry at the moment?

**Mark Williams:** At the present moment in sheer commercial terms the industry is going through a sticky patch, but because we are an unsupported industry we have always responded to supply and demand and met exactly what the consumer requires. Like all industries that operate under market conditions, our slight over-supply situation at the moment will correct itself in the coming months.

**Q3 Chair:** Would you care to comment on the cost of production as opposed to one year, three years or five years ago? How do you find the cost of production looking particularly at feed prices and also fuel costs?

**Mark Williams:** Both have risen significantly. How energy prices have increased, and continue to increase almost on a daily basis, is I believe well documented. For egg producers the cost of feed is a significant proportion of the overall cost of producing a dozen eggs. We have seen the price of wheat effectively double; the price of soya, which is the main protein ingredient in a laying hen's diet, has also shot up considerably; and of course there are supply issues that are well documented from problems with harvests in different parts of the year. So the industry has been under severe pressure from increasing costs of feed and energy.

**Q4 Chair:** The industry has made a significant investment in enhanced cage production. Would you

like to quantify what the impact of change on production costs will be?

**Mark Williams:** Yes. We are very proud to be part of an industry that has always taken the initiative here in the United Kingdom. Our egg producers and the other parts of the industry have made a phenomenal investment in meeting the requirements of the new laying hens welfare directive. If you look at it over the implementation period of 12 years, our industry will have invested £400 million in meeting the requirements of that directive. I believe that is the crux of the argument and why we are here today. That investment made by the UK industry must be protected from what we believe will be non-compliant production coming out of Europe in just under 12 months time.

**Q5 Chair:** At the moment how competitive do you think UK egg production is compared with production in the rest of the EU and with the rest of the world?

**Mark Williams:** If you look at our current rate of self-sufficiency, the UK is 80% self-sufficient in eggs. Therefore, we import 20% of our consumption needs and roughly two thirds of that will come in a shell form and tends to get sold in wholesale markets and small retail shops in big cities and food service outlets, at least some of them. The other one third of the import requirement will come in as egg products already. That is where we believe the battle ground will be as we come to the end of this year and start 2012.

**Q6 Chair:** What would you say are the main challenges to UK egg production at the present time?

**Mark Williams:** Besides what you raised, Madam Chairman, at the beginning about the increasing cost of feed and energy, the very real concern is that other parts of the European Union will not be ready, as we will be, to implement the laying hens directive in its entirety.

**Q7 Neil Parish:** In your evidence you suggest that some Member States may be given a last-minute extension to implementing the directive. On what do you base that assessment?

2 March 2011 Mark Williams and Giles Clifton

**Mark Williams:** We have done a considerable amount of work over the last 10 years. In 1999, in the early days when the directive was adopted, we did various economic analyses of the effects on EU production vis-à-vis third-country imports. If we leave third-country imports aside for the moment and look at what is happening just within the EU, it became abundantly clear to us in the mid-part of the last decade that all producers across the EU just would not be ready on time due to a number of factors, some within the control of producers and some certainly outwith their control.

As we look today—we believe that our figures are still relevant and are based on data from the European Commission, so they are their own statistics collected from Member States—29% of commercial laying hens in the European Union of 27 will not be compliant with the directive on 1 January next year. That is nearly one third—or, put into simple terms, 83 million eggs a day would have to be destroyed. The Commission has very clearly said—we totally support it on this point—that the directive will be implemented on time. However, on 19 January it held a stakeholder meeting of various participants: the industry, welfare groups, consumers and retailers as well as Member State representatives. I was part of that meeting. It became very clear that other options would have to be looked at. Some of those options we would support; other options we certainly would not support. But let me make it clear, Madam Chairman, as far as we are concerned we are working closely with our own Government here in the United Kingdom to make sure this directive is implemented on time.

**Q8 Chair:** Which other Member States are ready and which are not? Do we have that information?

**Mark Williams:** As things stand at the moment, in theory we are still in the implementation period. They should all be ready at the end of this year. For example, Germany went ahead of the directive and decided to ban battery or conventional cages at the beginning of last year, by the time it was phased in. Austria does not have any conventional cages any more but allows enriched cages, which are allowed under the directive, but they will phase out those eventually in 2020. Sweden went ahead and banned battery cages but started that process before they acceded to the EU in 1995, so there was a transitional arrangement.

**Q9 Chair:** Sweden?

**Mark Williams:** Sweden, yes.

**Q10 Thomas Docherty:** They started it in 1995 and then came into the EU?

**Mark Williams:** Yes. They banned battery cages in 1989 with a 10-year phase-out, and joined in 1995.

**Giles Clifton:** It is also true, Madam Chairman, that Poland has repeatedly gone to the Council of Ministers to ask for a three-year extension to the 1 January 2012 ban on the grounds that they simply will not be ready. At the moment the vast majority of their production is still in the conventional systems.

**Q11 Neil Parish:** I just wanted to add that Jim Paice has been very much part of the Council of Ministers' opposition to any extension of the present system, so the new regulation has to come into force. But do you suspect that one of the things that will be done is that, for example, you will not be able to export eggs from Poland to the rest of the European Union out of the existing cages, but they will be able to sell their egg production in Poland? Does that worry you? Will it stay in Poland under the lower conditions or will we find it going into the rest of Europe in processed form in particular?

**Mark Williams:** There are two issues here. The first one is getting the policies in place. As you correctly say, the policy is basically to put in place what would effectively mean an export ban of non-compliant production if producers were either given more time or took more time from the beginning of next year to phase out battery cage production. Of course, the second phase is the detail, which is all-important to my members operating out there on the farms in the United Kingdom. How do you prevent either eggs or egg products that are supposed to stay in that Member State from finding their way across the channel or through the tunnel? That is the key point. Defra has been hugely supportive on this point—in particular the Minister and Secretary of State in pressing Europe to ensure that the directive is implemented. But what worries me somewhat at the moment is that the Hungarian presidency at the last Council meeting on 21 February was already talking about transitional measures.

**Giles Clifton:** If I may come in, Mr Parish, you can see the problem. You might imagine a large farm with seven poultry houses, three of which are converted to the new enriched system and four are still using the old conventional cage system. All the eggs go to a central packing station. Overseeing that things are done properly in accordance with the directive, even if there is a phased derogation period, would be a recipe for chaos, frankly.

**Q12 Neil Parish:** There is the question of how much processed food we might buy from Poland. If you were buying processed food you would have no idea of the eggs used in it, would you?

**Mark Williams:** Exactly. With your permission, Madam Chairman, we have brought along some props to try to illustrate the point.

**Q13 Chair:** You will have to describe it for the record.

**Mark Williams:** We will. I am holding up a six-egg pack. Fresh eggs would be sold in it. This would be sold, as it happens, in one of our named retailers in the United Kingdom. Just under half of all the eggs produced in the United Kingdom will be sold at retail level in shell. The other problem we have is that at the moment 23% of all eggs produced in the United Kingdom will be processed; in other words, they will be taken out of their shell and made into a variety of egg products. You name it, they can do it now.

The balance, which is really shell eggs again, go to the food service (catering) sector. That sector, not exclusively but generally, is governed by price. That

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2 March 2011 Mark Williams and Giles Clifton

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is a key point. So in retail, as you know yourselves, there are eggs from different production systems used and consumers make their choice. It is as simple as that. As to the food service sector, increasingly there are now moves by companies to use non-cage eggs because that is what their customers want, but today it is still very much a price-sensitive market.

We then get into the processing market. Unless the manufacturer can gain a marketing advantage from selling a product made with free-range eggs they will not do it. What they are interested in is both the price and the microbiological safety, i.e. no salmonella or other bugs in it. Animal welfare considerations come low down the chain.

If I am a consumer and go into a retailer on 2 January of next year—because of the bank holiday, of course—basically I wish to ensure that when I buy a bag of imported pasta, the egg from which it is produced is a legal product in that other European country. I know that you are to speak to the British Retail Consortium afterwards, but certainly my members are talking to their customers, who are retailers as well as food service companies and manufacturers, to make sure that they are buying legal product from the beginning of next year. While the vast majority of those people will be responsible, there will be those who perhaps are not in membership of that organisation or others who may just decide to buy on price, and then we have leakage straight away.

I cannot stress enough the collateral damage that will be done to our industry from illegal product coming on to our shores from the beginning of next year unless measures are put in place. The two measures we clearly set out in our submission to you, Madam Chairman, are: that basically the directive should be enforced to the letter, and that if more time is given or taken by producers in certain other Member States then that production must stay within their own borders.

One particular point that I see in black and white, but I am afraid the European Commission does not, is that there should be a different number marked on the shell of eggs that do not comply with the directive, if producers in other member states are given, or take, more time to phase out the use of conventional battery cages after 1 January 2012. This would allow our enforcement authorities in this country, Animal Health and the Egg Marketing Inspectorate, to be able to check that any eggs coming in were legal. To me, it is simple. It then makes it clear that an egg which carries a No. 3 code on the eggshell comes from a legal, enriched cage egg. Any egg that comes across our borders but is not supposed to must carry another mark, a skull and crossbones or whatever. It does not matter, as long as it does not carry a No. 3. That is really what we are pushing for. Defra is supporting that but the Commission is not listening at the moment.

**Q14 Chair:** Did you say you would not know until the end of the year which Member States are not in a position to comply?

**Mark Williams:** We know there are certain Member States that physically cannot comply now from the very fact that equipment must be ordered; erection

gangs must be contracted; and then physical erection has to take place. I could name the Member States but prefer not to, but, if I generalise, the northern European Member States in general will be ready and the southern and eastern countries will struggle. It is not all producers, because a lot of them in those countries will be ready, but the whole of their industry will not be ready—hence Poland, Romania and Bulgaria went to the Agriculture Council just over a week ago to ask for more time.

**Q15 George Eustice:** I just want to probe this. You said in your opening remarks that there were factors within their control and others outside it that meant they were not ready to comply. Can you explain a bit more what these are? You talked about lack of time to order, but are we just talking about the fact that they have different attitudes to animal welfare and so do not care, or is lack of financial capital a barrier to compliance? Why is it that Germany complied very easily ahead of time and these other countries are struggling?

**Mark Williams:** In certain European countries the actual percentage of cage production is above 90%, so consumers in those particular Member States do not really place animal welfare considerations high up on their agenda. For example, by the beginning of next year free range will be 50% of all eggs produced in this country. In the Member State I am referring to, at the moment 95% of all eggs are produced in a cage system. To change that industry to enriched or non-cage will take longer than the deadline that has been given to them. You mentioned the financial crisis. In the same Member State normally they would receive Government assistance to oil the change. Because the financial crisis has hit this particular Member State very hard indeed, Government has delayed providing that grant aid.

**Giles Clifton:** It is also true, Mr Eustice, that the Commission itself has not helped matters in some ways because when it initially brought in the directive it said it would give a more definitive final say on this by 1 January 2005. It did not produce that final definitive viewpoint until 8 January 2008, which meant that producers in the UK, for example, did not then have the green light that this would most certainly happen on the date it was meant to, so that did not help matters.

**Q16 George Eustice:** So are there other factors? The number one factor is the basic lack of financial capital.

**Mark Williams:** I would say market demand is number one. There has not been the willingness to do so. Why on earth would I invest in an enriched cage system in this particular Member State when the cost of production is 8% higher? I have my competitors down the road who will probably carry on using a traditional battery cage. Straight away I am making myself uncompetitive. Therefore, you leave it and leave it and then the financial crisis comes along to compound an already difficult situation.

**Q17 George Eustice:** Basically, you are saying it is a judgment call that the authorities would not enforce it. This is not like going to free range where you try

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to get a premium for your product; this is a new legal requirement, and you are saying they are actively just ignoring it.

**Mark Williams:** One of our legitimate fears is that at the moment the Commission points towards current enforcement measures. The current enforcement measures it uses is missions from the Food and Veterinary Office to check that Member States are complying with and enforcing EU legislation. I refer you to an FVO mission to Poland at the beginning of last year that picked up non-conformity on the current stocking density in cages. The individual producer was fined in the order of €7,500. This particular business has 1.25 million hens. I would say that is not satisfactory. That fine would be classed as a business expense, so what is the incentive to do anything about it? There isn't one.

**Q18 Neil Parish:** Taking that particular Member State, do you have any idea how many have converted to the enriched cage? Eventually there will be pressure within that Member State because those who have made the investment in the higher standard cages and have extra costs will want to stop the rest of their fellow farmers producing eggs according to lower standards. Do you have any ideas on that?

**Mark Williams:** I can refer you, Mr Parish, to the stakeholder meeting on 19 January. The representative from the Government of Poland noted that there were 452 production units in Poland using conventional cages. She said that 131 had enriched cages, but I believe she meant to say "enrichable cages". What it means is that it is still a conventional cage in which you would put the furniture of a nest box, perches and scratching area from the beginning of next year. But she clearly said that a phenomenal percentage of their hens would not be legal from the beginning of next year, hence their return to the Agriculture Council last week to ask for more time.

**Q19 Neil Parish:** Therefore, there will not be much pressure within Poland at the moment.

**Mark Williams:** There was also reference to lack of enforcement ability at the moment in Poland.

**Q20 Amber Rudd:** Do you think that it is small and local producers who might suffer most under this directive in terms of the costs of adapting and being commercial going forward?

**Mark Williams:** To be honest, I do not think any distinction could be drawn between large, medium or small. At the end of the day, the large producers in this country have spent many millions of pounds. To move from a conventional cage to an enriched cage costs £25 per hen. If that is something which your counterpart on the continent does not have to do, it is a significant cost. Therefore, I do not draw any differentiation between sizes.

**Q21 Amber Rudd:** What about employment issues? Do you think it will affect employment in the industry?

**Mark Williams:** My personal view is that if we do not get this right, it will. Ladies and gentlemen, you will know better than I do what happened to the UK pig

industry a few years ago. One thing we want to avoid collectively is for our successful UK egg industry to go along similar lines.

**Q22 Amber Rudd:** Have you made any assessment of what effect implementation of the current directive might have in terms of employment?

**Mark Williams:** In round figures, currently, 10,000 people are employed directly in the industry, and another 13,000 are employed in ancillary industries like feed, veterinary and equipment, which we share with the poultry meat industry, if you like. Quite simply, if you are putting up your production cost by 8%, bearing in mind that price is the governing factor in the particular segments of the market I described earlier, there is no doubt that the impact will be severe.

**Q23 Chair:** You said that feed and energy costs were challenging. Is that the same across the piece? Do you have energy costs in terms of both heating the units and transporting?

**Mark Williams:** In terms of energy, the cost of oil will have gone up and affected the price of feed deliveries and the price of manufacturing feed as well. Energy costs have gone up—electricity for running feed mills and so on. We have heating costs because a day-old chick must have heat, which you gradually decrease over the first few weeks of its life until it can produce its own heat to keep it at ambient temperature. These are all costs that the industry has to bear.

In addition, other input costs are going up. For example, vaccine costs are going up significantly. There are issues about availability of supply, all of which must be addressed as we go forward. I would hesitate to use the expression "perfect storm", but at the moment it seems to us there are quite a few clouds gathering. We would wish to get out of the storm rather than allow it to hit us full on.

**Q24 Chair:** You just referred to the parallel of the pig industry, but there we were in the German position of going ahead unilaterally, well ahead of our competitor countries.

**Mark Williams:** Yes.

**Q25 Chair:** Are you getting support from Germany and their position on their producers as well?

**Mark Williams:** Absolutely. The German Government representatives supported Caroline Spelman when she made her statement in the council rejecting the Poles', Bulgarians' and Romanians' wish for more time, so we were very happy about that.

**Q26 Chair:** So, you have named the countries.

**Mark Williams:** We are very happy about the Secretary of State supporting our industry.

**Q27 Dan Rogerson:** For the record, you have explored a little the trend in what consumers demand here and what retailers provide. Can you set out what evidence there is that consumers are prepared to differentiate between production methods in terms of the choices they make?

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**Mark Williams:** I take you back to 2004 or 2005—I cannot remember which—and the European egg marketing regulations. So they are egg-marketing regulations that are directly applicable. They were amended. They required that every single class A egg produced had to have a code put on it. The code on the egg started with a zero if it was an organic egg; it was one if it was free range; two if it was a barn or three if it was a cage. Then you had the country of origin, in our case “UK”, or “NL” for the Netherlands, and so on; and then a unique code after it saying that it came from my farm, for example. That very clearly allowed consumers to see which egg was produced from which system of production. Led by both industry as well as particular retailers, they were already asking for clear labelling on the pack.

Our industry has always been totally transparent. We believe in transparency, and when you are market led you must be. As we saw back in 1999, about 75% of all eggs produced in this country at that time came from a cage system. Today, about 50% of eggs come from a non-cage system, and all of that is done by market demand and by being honest and open with consumers.

Madam Chairman, with your permission I should also bring in that my organisation runs the Lion quality scheme for eggs. That is basically a food safety scheme to ensure that eggs are as safe as possible for consumers. Some 90% of all eggs produced in the UK come under those standards. We took the decision many, many years ago to prohibit the use of misleading terms on packs. Therefore, on a cage pack we do not use the term “farm fresh eggs”; we call them “fresh eggs”. There can be no pretty pictures of farmyard or countryside scenes on a cage pack, so when consumers go into a shop they can see very clearly what eggs they are buying. It is their choice, and I believe that is the way it should be.

**Q28 Dan Rogerson:** Some have argued that in addition to the system that is used, how birds are looked after obviously can have a crucial effect on welfare. Is the industry doing much in terms of training about how to get the best out of the systems that are there to increase standards?

**Mark Williams:** Yes, absolutely. Within the Lion code there are higher standards of animal welfare than those prescribed by either UK or EU legislation. You are probably aware that Freedom Food runs a scheme for non-cage eggs, and our colleagues from RSPCA will touch on that. We mirror the Freedom Food welfare standards for our non-cage production, so you can see we already have higher standards of welfare. Producers are audited independently to make sure they are trained in bird welfare. We have the Defra code and the same codes in the devolved Administrations. The codes of practice for welfare must be available and understood by farm staff. I certainly would not put someone in charge of £1 million, £2 million or £3 million-worth of stock without making sure they knew what they were doing, if you know what I mean. It is so critical. The margins in our industry are so wafer thin that you cannot afford to get it wrong.

**Q29 Chair:** For clarification, in the memorandum you have submitted you say that free range eggs currently account for 41.7%.

**Mark Williams:** Yes.

**Q30 Chair:** You forecast that free range production will go up to 50% by 2012.

**Mark Williams:** Yes.

**Q31 Chair:** Are you confident that will be reached?

**Mark Williams:** Looking at figures supplied by people like TNS and others, certainly retail sales of free range eggs are still going up. Perhaps they are not going up at quite the extortionate rate they were now we are in recession, but it is certainly true that free range eggs sales are continuing to grow. It is a forecast and we believe it is still relatively accurate.

**Q32 George Eustice:** You said at the start that you were proud to be implementing this new directive, but, to play devil’s advocate, is it that much better for a bird that it has 50% more space and a perch? If you are a chicken do you feel much, much better in that type of cage, or is it still a million miles from barn eggs and even further from free range? I have heard some producers defend cages as better for animal welfare than barns, for instance. I find that counter-intuitive, but I wondered whether you had a view on it.

**Mark Williams:** The welfare directive prescribes what an enriched cage should provide. A current battery cage provides 550 square centimetres a hen; an enriched cage provides 750, plus the provision of a nest box, scratching area and perching space. In the UK certain companies have led the design and development of this. We now use what we call enriched colony cages. For example, instead of having traditional battery cages—I am sorry; I struggle to describe it for the shorthand writer—we put in big colony cages, which effectively are a series of cages where the hens have open access throughout.

What we are seeing now is that mortality levels are even lower than for a battery cage, which were already very low; the feather cover is better; the bird behaviour is better. It is not just industry saying that; it has been scientifically proven by research done under a LayWel project funded by the European Union on an EU-wide basis that concurs with that.

**Q33 George Eustice:** With colony cages there is free movement, which enables them to behave more normally, but to comply with the directive do people have to have colony cages, or can they just have a slightly bigger old-style cage?

**Mark Williams:** You are quite right, Mr Eustice. They can have just a slightly bigger furnished cage, but here in the United Kingdom as far as we are aware all the cages that have been installed are colonies. In the early days of the directive we moved towards, say, 40-bird colonies, then to 60 and the majority of the units going in currently are 80-bird colonies. We are seeing fantastic results. It is important to note that there are not just welfare benefits; there are also economic benefits for the producers. While the cost of production has gone up by 8%, we have now

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overcome the problems of second-quality eggs that we saw in the early days, where 90% of eggs being laid in a nest box knocked into one another causing hairline cracks, which are not acceptable at retail. Therefore, we have overcome those problems.

**Q34 George Eustice:** How far away from a barn system is a colony as you describe it in terms of, say, life expectancy of the bird?

**Mark Williams:** Barn and free range systems inside a house are exactly the same. The difference between the two is that free range hens have access to a range area outside. A barn system has a stocking density of nine birds per square metre, as per the welfare directive. Obviously, Freedom Food/Lion free range hens have higher standards in terms of access by hens to the outside. We have bigger pop holes so they can get out more easily. We enrich the range outside to encourage hens outside, all for their welfare benefit.

**Q35 George Eustice:** Is there a big difference between the two systems in terms of life expectancy of the hens?

**Mark Williams:** No. Basically, a laying hen is reared to point of lay and is then transferred to its laying quarters from its rearing quarters, and it will stay in lay for about 13 months. The traditional cycle is 72 to 76 weeks of age, when it is slaughtered.

**Q36 George Eustice:** The “colony” point is really interesting. How many of the other European countries will take the colony system route, which seems to me almost more significant than the arbitrary and slight increase in space?

**Mark Williams:** We do not have any cage manufacturers in the UK any more; they are European-based, and the work that is being done—I dare to say it is led here in the UK—will effectively be implemented by other European countries. The problem is that, as we said earlier, a lot of them are well behind at the moment.

**Q37 George Eustice:** So, if they renew their system they are likely to end up with a colony system?

**Mark Williams:** Yes.

**Q38 Mrs Glendon:** I would just like to ask about the potential quality of the eggs in the worst-case scenario if these other European countries were allowed a time delay and were able to undercut the British market. I want to ask about the quality of the eggs. Obviously, the egg has a ‘best-before’ date. So there must be some implication if eggs are being imported that that would be reduced by the time it gets to the consumer in whatever form. If that is the case, are there also any implications for health and well-being in relation to the consumer? Am I clear in what I have said?

**Mark Williams:** Totally clear. Because we have European egg marketing regulations that are directly applicable, that sets a ‘best before’ date on an egg. So when you go into a shop to buy an egg it has to be taken off the shelf at 21 days from lay because that is the so-called sell by date. The EU ‘best-before’ date is set at 28 days. Within the Lion scheme we set a shorter ‘best-before’ date because it is a quality

scheme. So if you are talking about quality, in theory all other eggs produced throughout the European Union should have the same best-before date of 28 days from lay; it is as simple as that.

If you are talking about safety, that could be a slightly different issue. In the United Kingdom we have done a fantastic job, and full marks to the industry. We had our problems with salmonella in December 1988 and during the early part of the 1990s. Those days have long gone. We are a chalk and cheese industry compared with then. You have only to look at the success of the Lion scheme in effectively eradicating salmonella from UK eggs. That is backed up by our Government’s figures and European survey figures, which improve year on year. The industry should really be congratulated on that.

That has not always been the case with all 27 Member States. A survey done a few years ago by the European Commission showed that there were a number of Member States that had a problem. They are sorting out their problem, but they have not achieved what we have achieved here in the United Kingdom. I think your final question was: would it take longer for eggs to be imported from the continent? There is a time factor, but because the best before dates are so long, in many ways, commercially it would not provide protection to say that British eggs are fresher than eggs that have to come across the Channel.

**Q39 Mrs Glendon:** But it is not ideal. Probably being able to get them more locally, being based in this country with all of the protection around them, means the ideal would be if they were British eggs?

**Giles Clifton:** It is certainly what the consumer wants as well.

**Mark Williams:** That is right. We have something like 88% consumer recognition of the Lion mark. You only have to look around the retail sector, and increasingly the food service sector, to see the number of packs now sold with the Lion mark on the box. It has been a phenomenal success story. The problem is that with every success story there is always a risk that you can have problems going forward, and through no fault of our own we can see real problems arising potentially from imports of illegal eggs and egg products from the beginning of next year.

**Q40 Thomas Docherty:** Good afternoon. It is good to see you again, Mr Clifton.

**Giles Clifton:** The same to you.

**Q41 Thomas Docherty:** We have had evidence about some egg producers choosing to leave the industry as a result of the transition costs. I think it would be helpful to the Committee to get a sense from you as to how widespread a factor that is.

**Mark Williams:** The Lion scheme represents 90% of UK egg production. I suggest that the vast majority of the 10% that is non-Lion will be egg production that is still in a battery cage or is changing to colony cages. The reason I bring in the 90:10 figure is that the people who are part of the Lion scheme have agreed collectively that regardless of what any legislation says, on a commercial basis there will be no Lion

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conventional cage eggs sold from the beginning of next year; in other words, it will be policed rigorously. The people who are not part of the Lion scheme do not come under the control of our auditing system. Many of those people in the submissions that you have received have expressed severe concern because of lack of finance and so on, and will leave the industry. I am hearing that others are now starting to invest. Some will be ready on time. I hope all will be ready on time here in the United Kingdom. That is certainly the plan, and Defra and Animal Health in their enforcement arrangements will be making sure that they do comply. I hope that answers your question.

**Q42 Thomas Docherty:** What percentage is leaving the industry, if you had to take a stab at it? I appreciate that it is difficult.

**Mark Williams:** It is difficult to say. Because you are providing hens with more space, if you use existing housing you will get fewer hens in the new enriched cages, quite simply. Therefore, producers who want to stay in the business and keep their hen numbers at the same level will have to expand production. A lot of producers have severe problems in getting planning permission to build new houses. Nimbyism is rife, so to speak, in many respects. That has caused problems. There is no doubt that it has delayed things, but it is difficult to put a figure on it, and I would be wrong to guess.

**Q43 Thomas Docherty:** My understanding is that at least one nation of the UK is providing financial assistance to its egg producers. Scottish ministers provide it through rural development grants and financial assistance to Scottish egg producers to make the transition. I am not clear if it is buying the cages or expanding their areas. Do you think this difference in approach between Scotland and the rest of the United Kingdom has distorted the market within the UK?

**Mark Williams:** Madam Chairman started by asking whether there were any problems with our industry at the moment. We are suffering from over-production. I believe that one factor that has added to that has been the provision of grants in certain parts of the country. The devolved Administration to which you refer, Mr Docherty, has also made those grant aids available to go into non-cage or free range production.

**Q44 Thomas Docherty:** Has not? Oh, it has—right.

**Mark Williams:** It has been made available to producers to get into free range production; it was not just kept to that. What do I think of grants? Not a lot, to be perfectly honest, because I think they distort markets. You just leave the market to get on with it, as long as everybody plays by the same rule book.

**Q45 Thomas Docherty:** Are you aware of any discussions between Defra and Scottish Ministers as to the impact that the different approach has had on the market?

**Mark Williams:** I think you would need to ask Defra that question, because I would have thought that is a

discussion between the devolved Administration and the Government.

**Q46 Thomas Docherty:** Have you asked Defra through your public affairs arm, or through your own discussions, to raise the issue with Scottish ministers?

**Mark Williams:** We have not directly, but the provision of grant aid will have been mentioned in conversations. For example, when we have made submissions to Defra over the past 10 years we have asked for funding under rural development for, I suppose, UK producers, but then some of the devolved Administrations went ahead and provided grant aid; however, in England it has always been refused.

**Q47 Chair:** How would you describe the current enforcement regime?

**Mark Williams:** Here in the United Kingdom or on a Europe-wide basis?

**Q48 Chair:** Both.

**Mark Williams:** If I may talk first about Europe, Madam Chairman, it has considerable room for improvement. I quoted the example of the FVO mission in Poland in 2010. One of the points made at the stakeholder meeting, not by me but by the representative from the Food and Veterinary Office in Dublin, was to the effect that they need to have more teeth to ensure enforcement takes place that is proportionate to the misdemeanour, so to speak. I have no doubt at all that these other producers in European countries who are looking for more time will eventually comply, but they will not be able to comply on 1 January next year. Some are looking for two more laying flock cycles; some are looking to 2018, or, if the truth be known, probably even longer than that, and the concern is the damage they can cause to our industry in the intervening period.

**Q49 Chair:** You rather trustingly said that they should put “No. 3” on the egg, or that they must not have that number on it. Which was it?

**Mark Williams:** It must have “No. 3” on the egg for it to be legally sold from the beginning of January next year.

**Q50 Chair:** Who would have responsibility for ensuring that they complied, and had the right to have “No. 3” on the egg?

**Mark Williams:** As it comes under the egg marketing regulations it would be Animal Health Egg Marketing Inspectorate in this country.

**Q51 Chair:** So, they would be taking on trust what the exporting country was saying.

**Mark Williams:** Quite, yes. I was talking about the policy and detail. If we get on to the detail, as Giles mentioned earlier our great fear, taking a producer who has part-converted—to be clear, there are many in Europe who are part-converted—is how to ensure that we do not receive non-compliant eggs or egg products. That is where the difficulty arises. We are discussing with Defra ways and means of preventing

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that happening. To be perfectly honest, I do not see demonstrations at ports helping.

**Q52 Chair:** It is the same with poultry from Brazil, is it not?

**Giles Clifton:** Anything that is actually imported from another country in the EU is assumed to be produced according to our standards, so it is never checked. Everything else is checked on a speculative basis.

**Q53 Chair:** But they could put on “No. 3” without knowing.

**Mark Williams:** It would be illegal to do so.

**Q54 Chair:** If they are taking it on trust, how do they know?

**Mark Williams:** One of the animal welfare groups, for example, in their submission to you said that they saw no need for a different production number. They argue that it would suffice if the egg marketing regulations say that from the beginning of January next year no battery cage-produced egg can carry a “No. 3”, so it sorts the problem out straight away. I would suggest, however, that to many producers in other countries, to have a product legal at five minutes to midnight on 31 December and illegal five minutes after midnight is hard to get their heads around. I talked about 83 million eggs a day, or 29% of EU egg production, not being compliant. It would be totally naïve to assume that those eggs or egg products would not enter the marketplace from the beginning of January. Of course they will.

**Giles Clifton:** When you consider that in Spain there is 20% unemployment—it is 40% in some Spanish regions—the idea that the Government will come along and put anyone out of business, and that the directive will be fully in force on 1 January 2012, is just wishful thinking.

**Q55 Chair:** Assuming that the directive comes into force, do you expect the inspection regime to be more onerous or expensive than the current one?

**Mark Williams:** I would certainly hope that Defra-Animal Health will provide sufficient resource to ensure that the directive is implemented properly; and that will, according to all our beliefs and the increasing noises coming out of Europe, ensure that no illegal eggs or egg products are allowed to cross Member State borders. I should also add for the record that we are not against the import of legal product. So if an egg or egg product has been produced from a barn, free range, enriched cage or organic system, that is absolutely fine—that is commercial competition—but we cannot have illegal product coming into this country.

**Q56 Chair:** But are we assuming that they will be just as rigorous in other EU countries in ensuring that they are legal at the point they leave the country to cross into another Member State?

**Mark Williams:** I think that is the big problem. As we are in a financial crisis with official resource being scaled back for inspection, for example, it compounds an already difficult situation.

**Q57 Neil Parish:** I want to take further this line of questioning. Basically, will the countries that cannot comply by next January have all their poultry farms registered? Will they know where they are? Are they going to know whether they are partly converted or partly not? Do you have any ideas about that?

**Mark Williams:** The honest answer is that I do not believe that is the case in a lot of other countries, for a variety of reasons, and different attitudes by governments towards their agricultural industries is just one of them. Every Member State authority should know where every single commercial egg production unit is, because they are required to register for the producer code that goes on eggs, so it is on record already. The problem we see at the moment—it frustrates me greatly—is that when I presented at the stakeholder meeting in January I used data from May 2010 provided by DG AGRI. I know that DG SANCO, where the welfare dossier sits under their control, had asked all chief veterinary officers in Member States for details of their national plan to implement the directive, plus an update of which hens were in which system—in other words, the state of implementation.

Those figures were not put on the table at the meeting, and the cynic in me would question why. I have no evidence to support it, but I suggest it is because they were too close to the industry forecast—i.e. 29% of illegal hens from the beginning of next year—and I would have thought it would have been an embarrassment. Mr Parish, we have pressed the Commission. They invited us to write to them and request those figures. Because of confidentiality, they then have to go to Member States to ask their permission to release them. We did that, but we are being stalled at the moment in receiving those figures.

**Giles Clifton:** If I may just add to that, Mr Parish, the European Parliament overwhelmingly passed a resolution in December—by 459 votes to 32, with only 17 abstentions—requesting that the Commission submit by no later than 31 December of this year a list of egg and egg product processors and retailers who would not be compliant with the provisions of the directive.

**Q58 Neil Parish:** In broad terms, it is bad that 29% will not be compliant, but one would have thought that the fact that 71% should be means there would be a bigger amount of political pressure on the countries to get the rest of them to comply, so the 71% are not disadvantaged. I know it is country by country, whereas the 71% is the overall EU figure, so it is very much targeting those countries, but surely there will be pressure in lots of Member States for compliance, not just in Britain.

**Giles Clifton:** Yes, absolutely. If you look at Germany, which went ahead and did this two years before everyone else, they are absolutely on side, as it were, so are a host of other countries. It is certainly the case that the UK has very strong allies in sticking to a firm line in enforcing this directive and making sure that our producers who have put in all this money and investment are treated fairly.

**Mark Williams:** This ought to be mentioned now: please do not compare the German situation with the

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UK situation directly. Germany is the world's largest importer of eggs. It is a seriously big importer. Most of their imports come from Holland, so the two industries are really very closely associated. Germany was 70%-plus self-sufficient. Then they introduced the battery cage ban ahead of time. Their self-sufficiency went down, as you would expect, because cheap imports were coming in, but the German industry did a very clever thing. They worked with their retailers to ensure that the only eggs sold in German retailers were non-cage, so they protected themselves, if you like. But the situation we have in the United Kingdom is that we produce eggs in all systems of production. You have seen our forecast: 50% of eggs will be free range; 43% will be enriched cage-produced; 4% will be barn-produced; and 3% will be organic at the beginning of next year. Enriched-cage eggs will still be a significant sector, and that takes into account those consumers who are very price sensitive, and it is really offering the consumer choice. This is where we started from. I just thought it was important to ensure that the German situation is not comparable.

**Q59 Neil Parish:** The next question you have more or less answered, namely the two actions in particular that you require. One is a ban on non-compliant eggs, and the other is, I take it, to have a "No. 4" stamped on those eggs as well. Is there anything else you want to add?

**Chair:** Could we wrap up two questions as well from Mr Eustice and Mr Docherty? Perhaps you could then answer them all together.

**Q60 George Eustice:** You have partly answered my point in what you said about Germany. You said that their self-sufficiency went down. By how much did it go down? What impact did it have on their overall production levels? That is a good case study in a way because they have gone unilaterally ahead of the rest of Europe on this.

**Q61 Thomas Docherty:** My understanding is that you cannot move a hen out of a conventional battery into a new cage. My understanding is that if it is a 73-week cycle of life, surely they have to be in now and that is the clearest marker. If you have hens continuing to go into battery cages at the moment, that says that farmers either here or overseas will miss the target.

**Chair:** Perhaps you would like to answer all those questions together.

**Mark Williams:** If we may we will take them in reverse order. Defra has clearly said here in England—it was reiterated by the devolved Administrations—that the directive would be

implemented to the letter here in the United Kingdom, so if I as an egg producer wanted to get a full flock cycle through, the last date I could house a hen in a conventional cage would have been December last year; so, the 13 months in lay. That is very clear. Therefore, if people are putting hens in conventional cages today across Europe, I would suggest that they are taking a brave step and assuming they will get the return on that pullet before 31 December, or they intend to run them beyond. I suggest that the latter is probably more in tune with that.

**Q62 Thomas Docherty:** Is that happening?

**Mark Williams:** Anecdotal evidence would suggest it is, yes. There is also the issue about the way certain Governments interpret 1 January 2012. Some people may say that it is pullets housed from the beginning of the year, so straight away they get a 13-month advantage. To answer the question about self-sufficiency, I believe it is roughly 10%. I can provide you with the exact figure afterwards.<sup>1</sup> Because the German market is different from many others, in that it is such a large importing country, it rather distorts the facts, but that is what all the figures point to. There would be a massive decrease in self-sufficiency. I am sorry; I cannot remember your question, Mr Parish.

**Q63 Neil Parish:** It is really about reinforcing the measures that you want to see.

**Mark Williams:** It is very simple. We want to see full implementation of the directive here in the United Kingdom and across the European Union. However, we realise that there will be problems with some producers in other Member States. I have already talked about the figure of 83 million eggs a day. Our view is that those eggs will continue to enter the marketplace illegally, or, even if the Commission and Member States allowed more time at the last moment, those eggs or egg products should stay within those Member States. It must be, otherwise, the investment of UK producers has all been for nothing. It is not just UK producers but UK consumers who will suffer that disbenefit. We then need to give the enforcement authorities some means of differentiating.

**Chair:** You have been very generous. We have overshot your time, but thank you very much indeed for your evidence this afternoon.

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<sup>1</sup> Note by Witness: The following was provided by the German government representation at the Multi-Stakeholder Meeting on the Implementation of Council Directive 1999/74/EC, on the Protection of Laying Hens, held in Brussels on 19 January 2011—Self-sufficiency had decreased from 69% in 2008, to 59% in 2009 and was estimated to be 58% in 2010.

### Examination of Witnesses

*Witnesses:* **David Bowles**, Director of Communications, and **Alice Clark**, Senior Scientific Officer, Farm Animals Department, Royal Society for the Prevention of Cruelty to Animals (RSPCA), gave evidence.

**Q64 Chair:** Good afternoon. Thank you very much indeed for joining us. Mr Bowles and Ms Clark, would you like to introduce yourselves for the record, please?

**David Bowles:** Thank you very much. My name is David Bowles. I am the director of communications at the RSPCA, and on my left is Alice Clark, a senior scientific officer at the RSPCA in the farm animals scientific department. She is our laying hen expert.

**Q65 Chair:** You are both very welcome. If I may ask a general question at the beginning, successive Governments have taken a number of animal welfare measures in a variety of sectors and, perversely, the consumer goes out and purchases on price. How do you feel that we are progressing animal welfare in this country when we are damaging our own producers and just boosting imports?

**David Bowles:** The laying hen and egg issue is a good example of where that is not happening. If you look at where we started off in 1999, 25% of the market was free range eggs. Here we are in 2011, when that has increased by 2% to 3% each year, and we are now at, as BEIC has said, probably 45% to 50% of the market. That has happened because consumers are not choosing on price—because there is still a price differential between battery, barn and free range eggs—but on welfare grounds. The egg is the clearest example where you have seen the shortening of the tie between what consumers say in an opinion poll and what they actually do when they get into the supermarket.

**Q66 Chair:** Do you believe that will still be the case if the EU directive comes into force and 29% of EU eggs are not compliant?

**David Bowles:** What the RSPCA has been extremely consistent about all the way along from 1999, when the ban was agreed, is that we have said to consumers that they need to play their part in this. They can play their part by choosing free range or barn eggs, and certainly by buying Lion eggs. We still say that. That is really important. The people who will determine whether this ban comes into effect—we have already heard from the previous witnesses that there are clear challenges with enforcement and change-over—and can play their part in ensuring that that is as smooth as possible as the retailers, the processors and consumers.

**Q67 Chair:** In your memorandum you say that England—I am sure you mean the UK—has several advantages in ensuring that no illegal dried and liquid eggs enter the market. Are you equally confident that such imports are not passing around the rest of Europe?

**David Bowles:** No, but there are eggs coming in particularly for the egg processing market. That is a problem. In terms of shell eggs I think we have a situation now in the UK where we will be fairly compliant with shell eggs being legal and in accordance with the directive come 1 January 2012.

The issue and the challenge will be in the processed and the egg products markets. We have all accepted that; indeed, the RSPCA was clear that that would be the challenge way back in 1999. It is still a challenge. If you look at the Commission's latest data, there are egg products coming from the USA, Argentina and India. All of those places are using cages. The USA is probably 95% cages; India is probably 90%. Therefore, there are real challenges, because they could undercut European producers. The key area, therefore, to focus on is the consumer but, as we know, when you are looking at egg products transparency is much more difficult because you cannot label them, but in addition the key people are the processors who buy these products.

**Q68 Thomas Docherty:** What activities are either you or your sister organisations—I am thinking particularly of, say, Spain—undertaking to encourage or ensure the compliance of these other countries with the directive?

**David Bowles:** We work through the Eurogroup for Animal Welfare, which has representatives in each of the 27 EU Member States. I have to say that the strength of the organisation varies between those states—from the UK where the RSPCA is a £110 million organisation, down to Greece where you have a couple of people and a typewriter, so it is a very different situation in those countries. But from day one when the directive was passed we clearly said to each of those organisations that they needed to go out and lobby their retailers and make clear to consumers that a changeover was to happen and they should be shifting in terms of their consumer-buying patterns. What has happened in the 12-year period from 1999 to now is that you start to see that change take place. In Italy, even in Spain, and in Greece you see companies changing over to being cage free, not just with retailers. For instance, the Netherlands went cage free in retailers long before the UK. The UK still has not gone cage free with all retailers. So a number of countries have gone further than the UK.

**Q69 Thomas Docherty:** Does the directive meet your concerns about cage production?

**Alice Clark:** We can say that it is definitely a step forward. We would hate to see that not being enforced across Europe, and that all the efforts the UK industry has put into it are undermined. It is not to the extent that we would like to see it, but I reiterate that it is certainly a step forward.

**Q70 Thomas Docherty:** Is there a form of cage production that you would support?

**Alice Clark:** Any kind of production that we would support would have to meet the full needs of the birds. As it stands, there is no evidence that a cage system can meet the full behavioural and physical needs of the birds. One thing highlighted in a Commission report a couple of years ago was that the enriched cage still did not allow for the full repertoire of the birds. Particularly when you are looking at foraging

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and dust bathing, those kinds of behaviours cannot be fully carried out in a cage situation.

**Q71 Thomas Docherty:** Given the cost to the producer of moving to completely free range, and also the cost to the consumer that I imagine is passed on, how feasible is it that we can move to an EU-wide completely free range system any time soon?

**Alice Clark:** Free range might be difficult, but you have to remember that there are higher welfare systems in terms of keeping them indoors in barns where they do not have outside access but still have the facilities inside, as they would have in a free range house, which allows them access to litter so they can dust bathe, forage and perch. They have free movements around the shed to exercise and move away from each other. That should certainly be a consideration in terms of farmers deciding to which system to change. Economic work that we did in 2006 looked at the costs to producers who had conventional barren cages and had to make the decision of which system to go to. The costs are quite comparable when you look at changing to an enriched cage system and some versions of the barn system.

**Q72 George Eustice:** I just want to press you on the point about how big a step forward this is. To come back to a question I asked earlier, how much better does a chicken feel being in an A4 plus 50% space, compared with the current system?

**Alice Clark:** It is fabulous to have that kind of Europe-wide recognition that the barren cage is not good enough, and there are inherent problems with the cage. You are just not in a situation where you will meet those needs at all. What we have now is a cage that is a little better. It gives a little more space; it tries to provide for those different behaviours like the addition of perching, but it is still not a situation where you can compare it with the alternative systems.

**Q73 George Eustice:** What do you say about the new colony system where birds can fly around and move more freely?

**Alice Clark:** As I have seen with the enriched cages, they still meet the requirements as set out in the directive, but from experience I think they have started to use them for larger groups of birds. They are still to the letter of the directive, as I understand it, but typically they will use 60 to 80 birds as Mark Williams said.

**David Bowles:** The directive is important for two things. Alice has covered welfare. Do not forget that the directive was implemented on the back of scientific reports from the Scientific Veterinary Committee, and there was a further report from the European Food Safety Authority (EFSA) in 2004, so the science is very clear. But from a totemic animal welfare point of view this is really the first time that we are moving from what can be termed an intensive production system to a less intensive one. As a totemic issue it is reversing what has happened in European farming over the last 40 years, so from that perspective it is very important not just for laying hens but farming in general.

**Q74 Richard Drax:** The Professor of Animal Welfare at the University of Bristol, Professor C. Nicol, said that good management may be more important for welfare than systems. That is her view. Do you think UK producers are sufficiently aware of and have knowledge of the impact of welfare systems on chickens?

**Alice Clark:** The impact in terms of management?

**Q75 Richard Drax:** Are they aware of the impact of management systems on the chickens?

**Alice Clark:** Management is absolutely critical. A free range unit will not necessarily be a good one if it is not managed well. The change in the legislation is based on the fact that some production systems inherently will not be good for the birds. Within the Freedom Food schemes run by the RSPCA, the standards we have developed go above and beyond the basic minimum in the legislation and cover management in detail, so it is something we would recommend all farmers start thinking about more. Certainly, in all sectors of agricultural livestock veterinary health planning is becoming more widely used within the farming industry, looking at management and training, as Mark talked about before.

**Q76 Amber Rudd:** Mr Bowles, you talked earlier about your conviction that consumers take account of animal welfare when buying eggs. To what extent do you think that might continue to be effective in terms of consumers buying egg products?

**David Bowles:** In that respect you have a major problem with egg products, in that it is much more difficult to be transparent about the information. It is very difficult to label ice cream or, even further away from that, to label what goes into wine, for instance, which is sometimes made from egg products. You have to get across that transparency boundary and that is where retailers, processors or producers, particularly in the food industry sector, are so important. For instance, when Hellmann's Mayonnaise made the decision a couple of years ago to move to 100% free range eggs that was a really important decision because they made the choice for the consumers. When you go into your supermarket and buy Hellmann's Mayonnaise, I imagine most people do not know they are buying free range eggs; they are buying Hellmann's Mayonnaise as a brand, but the decision has been taken for them by the company, Unilever in this respect. When Unilever went over to free range in all their Western European products it was a really important decision because it pulled through a lot of producers.

**Q77 Amber Rudd:** That is very interesting. How do we convince customers that there is recognisable value in food produced to higher welfare standards not only in the UK but throughout the EU? Obviously, some recognise that but what else can we do to increase that reach?

**David Bowles:** I think we have been very successful with eggs in particular. Eggs are the easiest thing. I think the reason we have been so successful in convincing consumers to go for free range or systems

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other than cage is that a cage is very emotive; it is a very simple thing for them to understand. If you are talking about chickens or pigs, it is very difficult to get across the method of production very simply. With the egg industry we have had a very clear advantage, in that the terms are very easy to convey. I think that is why there has been a 2% to 3% increase year on year in the UK, and also changes happening in other countries.

**Q78 Dan Rogerson:** We have talked a bit about the potential competitive disadvantage if what is predicted actually happens next year. Obviously, the EU Commission are looking at how they can deal with that. What do you think needs to be done to ensure that UK producers are not at a competitive disadvantage?

**David Bowles:** The RSPCA point of view is that, first, the directive needs to be implemented entirely on 1 January; secondly, that UK producers who, as Mark Williams said in his evidence, have made the effort to change over should be protected from being undercut by producers in other countries that are acting illegally. The Commission have a choice: either they go down the route of compliance, which is taking a country to the European Court of Justice and then fining it—we all know that that takes a bit of time and the fine may not be commensurate with the damage they have done—or there is a national ban to stop the eggs coming into the UK. The RSPCA is sympathetic to the fact that you may need to have national bans, because I do not think we will see compliance in Spain and Poland with the directive by 1 January. My main concern is to ensure that producers in the UK who have changed over and are farming with a higher welfare system are not undercut by a producer in another country that is acting illegally and farming with a lower welfare system.

**Q79 Dan Rogerson:** Talking about non-EU countries, which is an issue we have raised, do you think that kind of approach should also be taken in terms of banning things produced to a lower standard? That is a pretty big step in terms of how trade issues are usually dealt with. What is your view on that?

**David Bowles:** Here we are getting into World Trade Organisation territory. As the Committee is probably aware, we are in the process of having the first ever animal welfare challenge at the WTO. Canada has taken the European Union to the WTO on its seal import ban. That will be a really important challenge, because for the first time the WTO will have to make a decision as to how animal welfare sits with its rules. Let us say the WTO does not allow trade bans on animal welfare grounds. Therefore, the responsibility for ensuring that we do not import eggs that are produced at lower standards than those produced in the EU—for example, barren battery cage eggs—lies firmly with the people who are importing those, so that is retailers. As far as I am aware, every retailer to whom I have spoken and every member of EuroGAP imports at standards that are at the European baseline,

so they are not importing below that standard. But we then get into the products side of it. There may well be processors post-2012 who are importing using barren battery cages. That is a real problem. They need to be convinced that they should have their own Corporate Social Responsibility (CSR) standards that are at EU baseline standards.

**Q80 George Eustice:** To press you on that, do you think it is good enough just to rely on the retailers in that situation to enforce a ban? Should we not just knock heads together and sort out the WTO in this regard?

**David Bowles:** The European Commission could be bold and stop imports. They could also ensure that we do not lower our tariffs. We have the ongoing Doha development round, which ironically has been going for as long as the battery hen ban in 1999. Unfortunately, we are even further from getting a resolution on that. But we do not want them to reduce the tariffs to give the incentive for egg products to come into the EU. I think everyone has a role to play: the NGOs, to make sure consumers are aware and ask for products that are not produced illegally in the EU; the retailers; and processors. Everybody has a responsibility. We have talked to the Commission before about introducing a ban on imports that are not produced to EU standards. I would have to say they are lukewarm about it at the moment.

**Q81 George Eustice:** But it is a bit upside down, is it not, to be able to ban imports from a European Union country—it is supposed to be a free trade area—but not imports from a country outside the EU that has an even worse system?

**David Bowles:** Yes, but do not forget that the EU has banned imports internally in the market anyway but only for animal health reasons. For instance, the UK was itself subject to a ban when the BSE issue arose. That has now happily been rescinded. We have never had an internal ban on animal welfare grounds, although it is allowed under the Treaty of Rome. The language of the Treaty of Rome is very similar to that of the WTO. So if the Commission decides that it wants to do an internal ban on animal welfare grounds, maybe a good question to put is: if it is good enough for an internal ban, why is it not good enough for an external one?

**Q82 Neil Parish:** The recent financial crisis and credit restrictions have made borrowing for reinvestment difficult. This has been further compounded by poor returns for egg producers and record feed prices. In your memorandum you say that English producers have not been eligible for Government support but this has not had a crucial effect on their competitiveness. What is the basis for your assertion on that?

**David Bowles:** There are two things. First, as far as we are aware there are only three countries that have given assistance to egg producers, one being Scotland. Secondly, if you look at the changeover of production standards in England, even after the Scottish

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Government gave assistance to farmers there has not been a slow-down in changing over. That changeover is still happening. I assume from that that English producers are still competitive, and because the number and amount of grants was quite small I do not think it really affected competitiveness that much, though it must be galling for English producers to see their Scottish counterparts getting money when they have not.

**Neil Parish:** One thing we must remember is that the egg and pig industries do not get a single farm payment or money from the CAP, so they have to remain extremely competitive. I think we agree on all sides that we have to make sure that imports do not come in from countries that apply lower standards. That is what we have to work together on, isn't it?

**Q83 Thomas Docherty:** I apologise if you are not the right group to ask, and perhaps I should have asked this question earlier. What is the relationship with the Crown dependencies and British overseas territories on these rules? I am not aware of how many eggs we import from the Channel Islands or the Isle of Man, or the other way, but where would they sit? Obviously, they are outside the EU although they have a special trade relationship with the European Union, so how would they be affected on 1 January?

**David Bowles:** The simple answer is that as far as I am aware no Crown dependency has a huge egg-producing sector. I am thinking of places like Ascension Island and Tristan da Cunha.

**Q84 Thomas Docherty:** I was thinking in terms of the Channel Islands and the Isle of Man.

**David Bowles:** There is no big industry there.

**Neil Parish:** I think they should have to meet the same standards if they come into the European market, shouldn't they? I think that is how it stands, but whether they do is another matter.

**Q85 Chair:** I want to follow up the point about competitiveness. In paragraph 6 of your memorandum you say that "Defra has not taken up any of the seven measures to improve animal welfare available to it under the ERDP," the English Rural Development Programme. Of course, if they did use that money it would not be available for other matters on which it is currently being spent; it would be diverted, would it not?

**David Bowles:** That is precisely correct, and that is why they did not use it.

**Q86 George Eustice:** On that point, it is pretty clear that you would like to see an acceleration to a free range/barn system everywhere. Do you think there is a danger, given that DEFRA is digging in its heels and refusing to help support farmers to make the change, that once they have made that investment in the new cages and the new system, it moves your ultimate goal of a barn system further away than ever because people have done that bit? They have ticked the box and say they have improved welfare, but now they have made that investment it is harder to say they should get rid of it altogether and go to a barn system.

**Alice Clark:** I think we could continue to see demand for eggs from alternative systems. Something like that is so hard to predict, but I think there is a massive demand for it from consumers. Retailers are making big changes. They are not just changes that have been made; there are promises and pledges to make changes in future on the processing side, as well as the shell eggs and the retail side.

**Q87 George Eustice:** Leaving aside the market-led side, which I completely understand—hopefully, it will grow—in terms of the very minimum standard set down in regulation, by opting for a slightly bigger cage-plus system, an enriched cage system, and getting everyone to make the investment in that, have you made it harder to introduce legislation at a future date that says we are not having cages at all?

**Alice Clark:** I think that when any legislation comes in you have to bear in mind the investment people have made and have a phase-out time. This legislation has shown that you have to do that. It is certainly a consideration but this is the position we are in, so I think that for now you have to base it on that.

**David Bowles:** The history of European animal welfare legislation is that usually, you ratchet up the standards. For instance, the first legislation on animal welfare on eggs was in 1986. Then we had the 1999 change. The same goes for pigs and calves. But having got to where we are, we are happy with the directive. Of course we did not get everything we wanted, but we are happy with the directive as it is. We will not go back to the Commission next year or the year after and ask them to change the legislation. We are happy with what we have got, and we think consumer power will change those sectors certainly within the UK but possibly in other countries as well.

**Chair:** Thank you very much indeed for being so generous with your time this afternoon and for your contribution to our inquiry.

### Examination of Witnesses

*Witnesses:* **Andrew Opie**, Director of Food and Sustainability, British Retail Consortium (BRC), and **Andrew Jorêt**, Technical Director of Noble Foods Ltd and Deputy Chairman of the British Egg Industry Council, gave evidence.

**Q88 Chair:** Mr Opie and Mr Jorêt, thank you both very much for being with us. Perhaps you would like to introduce yourselves for the record.

**Andrew Opie:** I am Andrew Opie, director of food and sustainability at the British Retail Consortium.

**Andrew Jorêt:** I am Andrew Jorêt, technical director of Noble Foods, which is the largest egg marketing company in the UK and is also involved in egg processing. I am also deputy chairman of the British Egg Industry Council, from whom you heard earlier through my colleagues.

**Q89 Chair:** At the outset you might just like to describe the interests of Noble Foods and where most of your production takes place.

**Andrew Jorêt:** We market about 40% of the eggs produced in the UK. We are producing on farms that are both owned by the company and are on contract to us. Just under 20% of the eggs are from farms that we own; 80% come from farms that are on contract to us. We are right across Great Britain but are not involved in Northern Ireland, so we are in England, Wales and Scotland.

**Q90 Chair:** Perhaps I may ask at the outset about the labelling provisions generally, how the animal welfare provisions affect you and how they are being implemented currently.

**Andrew Jorêt:** We have always had a very clear policy in the UK of clear labelling, as my colleague Mark Williams indicated. We think that is important. I think it is important that we are transparent on these issues. It then becomes very much a consumer choice as to what type of egg that person wants to buy when they have clearly in front of them the production types available to them. I am not exactly sure when labelling came in compulsorily, but certainly I was involved in the industry when labelling was not compulsory. Our feedback was that when it did come in, it did not really affect sales at all. While labelling is important and it is important to be transparent, personally I do not believe that it holds that much sway in terms of what consumers will do.

**Andrew Opie:** Obviously, we have always supported clear labelling and gone above and beyond what is legislatively required, although these terms are well defined. I would agree with that to a certain extent, in that labelling is really only an indicator and helps consumers make a quick choice; it does not necessarily sell them itself. But the trend for shell eggs and increasingly for processed eggs is the demand for free range, particularly from retailers in the UK. Some retailers have gone completely for free range shell eggs; some retain some caged sales but also have large numbers of free range sales. But looking at the trends in terms of consumers, over the last decade there has been a definite push towards the free range end for eggs, and increasingly into processed products as well.

**Q91 Chair:** Mr Jorêt, I think you said in your memorandum that your company produced over 60 million eggs for consumers. Presumably, that is per year.

**Andrew Jorêt:** Yes.<sup>2</sup>

**Q92 Chair:** Would you say that 50% of those are already free range?

**Andrew Jorêt:** That is right, yes.

**Q93 Chair:** That is helpful. Do you have any concerns about how the directive will impact on you?

**Andrew Opie:** Not necessarily. The challenge for us is traceability. We heard earlier about some of the concerns quite rightly raised by UK producers that they are not hampered. I think retailers have an excellent record in both traceability and also ensuring that standards are equally applied across agricultural sectors. I think pigs were mentioned in the earlier discussion. Obviously, retailers are quite happy to be judged by their standards on imports as much as they are on products produced in the UK, but certainly in this case, while traceability is quite challenging—I think of the number of products in a supermarket that contain egg or use egg in their production—all the major retailers have been actively involved to ensure that the eggs that come into their supply chain meet the regulations before they are introduced in 2012.

**Andrew Jorêt:** Our concern is really the same as has already been expressed by BEIC. We estimate that about 30% of the eggs in Europe will be non-compliant. We want very strongly this intra-EU trade ban on illegal eggs, but even if the political ban is in place you then have to ask: what sort of policing mechanisms exist? In practice what does it really mean?

Our big concern is that there will be some seepage and leakage. None of us minds competition but it should be fair competition. Clearly, those people have not had to make the investments that the UK industry has made. Those investments, which are the biggest ones I have seen in my career in the industry, mean it costs us more to produce out of those systems. You can very easily be undercut by somebody who has not made that investment. Our big concern in particular, as has already been expressed by previous witnesses, is in the products area where eggs are an ingredient. That might be eggs coming over to be used in manufacture in the UK. Equally, it could be an egg product manufactured somewhere on the continent with locally produced egg that then comes over here. That is the bit we fear most.

**Chair:** That is very helpful.

**Q94 Thomas Docherty:** What evidence is there that customer awareness of egg or hen welfare is reflected in their decision about not only shell purchases but the other 50% of the market?

<sup>2</sup> Note by Witness: Noble Foods Ltd produces over 60 million eggs per week

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**Andrew Jorêt:** Free range started in this country in the early 1980s and has grown rapidly since then. At the moment that rate of growth is increasing. When you look at consumers' motivation for purchase, it would be wrong to assume that all people buy free range eggs just because of animal welfare considerations. Certainly, a lot of them do but, as we find from our own market research, there is also a significant body of people who have a perception that a free range egg is a better quality egg in some way, shape or form. If you do blind testing that is not the case; the eggs are of equivalent quality.

What it also throws up is that there are people out there who do not buy only free range eggs or cage eggs; some consumers buy both. They might buy free range eggs if they are doing a family breakfast at the weekend; they might buy a lot of cheaper value cage eggs if they are doing a big family bake, so it is not always animal welfare considerations. The talk today has all been about animal welfare, but that is not always the reason for the choice.

**Q95 Thomas Docherty:** In speaking to quite a few colleagues ahead of this inquiry, they were not aware of the range of products that contain eggs. I suspect that is true for the wider consumer. After all, MPs are supposed to be much more knowledgeable than the general public! Do you think those consumers who do express a concern about animal welfare and form the category of purchaser you mentioned are aware that the products they buy that contain eggs are not necessarily free range?

**Andrew Jorêt:** Again, unless it is a very obvious product that contains eggs, such as a quiche, there is probably value in saying there is free range or cage egg in that quiche, but where you are talking about really hidden ingredients in rather obscure uses, most people will not realise that there is an egg product there, so how can they be concerned about the type of egg that is in there?

**Q96 Thomas Docherty:** I suppose that is true; yes.

**Andrew Opie:** I guess that is true, but I think we have seen growth in the use of free range eggs right across. It started very much at the premium end and it has moved on. For example, we have seen some retailers go to completely free range now for their processed products. Remember that egg is also an allergen, so it is labelled on all products. Therefore, if you wanted to look for egg or see whether it was in a product, you would be able to see that. I think that the growth will continue in processed areas. We have seen it a lot in pasta and areas like that; now we have seen it in quiches and more well-known products where you would expect to see eggs, but the growth definitely continues.

There is a demand for free range. Interestingly, the demand for free range has held up extremely well even in the recession. Looking at the IGD's<sup>3</sup> current figures on shopper trends, it is quite clear that consumer expectation to buy free range products will continue even into next year, which is interesting.

**Andrew Jorêt:** I would concur with what Andrew Opie said about demand. If you look at either TNS or

Nielsen data for the free range market, it is still growing at about 12% per annum, which is quite substantial in the face of the recession. The only egg that has suffered in the recession is organic, which has probably halved in the last two years. The response to that has been that a lot of producers have had to switch off organic farms and convert them back to standard free range farms rather than organic free range farms.

**Q97 Thomas Docherty:** I go to Tesco on my way home, but I have to confess I am not aware whether, for example, a Tesco quiche is labelled as free range. It may be. Do you think that consumers are putting pressure on retailers in particular, and that when they go into Sainsbury or Tesco they apply pressure for them to switch to free range in their quiches or other products?

**Andrew Opie:** Yes. There is definitely a growing demand, and because it is a premium product it will cost more to produce, because free range eggs will cost more. The retailer will want to make that easy for the consumer to find, and they will identify that in the product, so "pasta made with free range eggs" or something like that will be in the label so people can find it. It is not in their interests to sell a product that costs them more to produce for a lower price, when there might be an alternative product on the shelves that is made with caged hens' eggs. So they will try to make it as easy as possible for you as a consumer to find it, because it is costing them more to produce and it is generally a premium product.

**Q98 Thomas Docherty:** Obviously, companies like Mr Kipling in a more high-profile way made that move across. Could you comment on the impact on the consumer of companies like Mr Kipling making that high-visibility switchover?

**Andrew Opie:** I think it just continues that trend. We heard earlier that free range is something that consumers seem to grasp and want; they believe that if they spend extra on a product they will be rewarded by a value product. I think high-profile brands help. You will have seen some of the statements retailers have made in terms of their determination to sell either only free range or to move to free range products. That is because it helps them sell their whole brand. It is enhancing their brand in terms of their consumers and what they are offering overall on animal welfare. There is definitely an incentive for brands to follow that kind of lead and make it clear that they are selling free range and are supporting the free range process.

**Q99 Amber Rudd:** Do customers get most of their information about the products from packaging or from other sources such as advertising, magazine articles and so on?

**Andrew Jorêt:** There is limited information available on the egg pack; there is standard nutritional information and usually some description. You will also find there is access to websites by trade associations, such as our Lion website, which would be advertised. If you go on to that there is a lot of information about all kinds of production methods and

<sup>3</sup> www.igd.com

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anything you want—or even company websites if it is a specific brand. I think people would get their information from that rather than the limited amount on the pack itself, but that pack can give you access, if you want it, to greater sources of information through the web.

**Q100 Amber Rudd:** Do you think it is good for business when companies advertise that they buy or sell only certain types of high-quality egg?

**Andrew Jorêt:** As business men, we think it is good anyway when people are promoting eggs in whatever shape or form, full stop. It is right that the words “free range” have almost become a brand. Therefore, as Andrew rightly said, if someone is using free range eggs they will want to advertise the fact that they are doing that because they would see marketing value in doing that.

**Q101 Neil Parish:** I think it shows that over the years you have been able to market free range compared with battery hen eggs and people are beginning to differentiate, and you see a much bigger take-up of free range eggs. Do you think the consumer would be ready to differentiate between a cage egg and an enriched cage egg? That will not be the point here, hopefully, if we can stop them coming in, but it will be in some Member States very difficult to market. What is your view? What is the difference from the consumer’s point of view?

**Andrew Opie:** I would agree with your assessment. I think the issue is free range or caged. As we have seen with some of the other animal welfare issues, in the case of pigs there were some issues about tail-docking and some minor issues about welfare. It is much harder to sell to consumers than stalls and tethers, for example. It is a very visible thing; it is very tangible for a consumer to get to grips with. I would think it would be extremely difficult. I am not sure many people would want to advertise that fact. It would be difficult to get that as a premium when you are in the market against free range, for example.

**Q102 Neil Parish:** Further to Mr Docherty’s question, how much pressure are retailers putting on food manufacturers to use higher animal welfare standards for eggs?

**Andrew Opie:** It is definitely a process that they are all going through now. I have seen a couple of recent statements by retailers to confirm that is the case and I have spoken to them myself, so it is a case of going through the specifications with their suppliers and making sure that they source from the right places, but this is what they do day to day anyway. This is traceability and food safety, so it is something that can be done and will be done. It is quite a complex process, because we spoke about the number of egg products that are used, but it is something they are going through at the moment. It is possible to do it. If it is possible for retailers to do it, it is possible for other manufacturers to do it.

**Q103 Neil Parish:** Especially when it comes to using powdered or liquid egg, surely that must be the most difficult thing to trace.

**Andrew Opie:** It is more difficult to trace, but we have seen cases. Unfortunately, recently we saw a case in this country involving dioxins. There had to be a very small withdrawal. Eggs had come from Germany via Holland. It is possible to trace those and withdraw the product. It takes a little time and work with your supply base, but it is absolutely possible to do.

**Neil Parish:** The European Commission does not seem to want to add an additional code for the egg that does not comply with the legislation on enriched cages and is produced now in standard cages. Provided it does not come into the country, that is fine. I agree that if it does not have any mark on it at all, it would not be identifiable because you would not be able to trade it, but surely there must be temptation in some Member States, especially if they have a mixed poultry farm with some enriched cages and some existing battery cages, just to put the same mark on it.

**Q104 Chair:** If I may broaden that question, is the issue not one that was put by Roy Kerr, an egg producer: it is not so much the eggs that are produced in the EU Member State; it is eggs that are exported into another EU Member State and are then in free circulation? As he put it, “these are production units outside the European Union whose main intended market is inside the European Union to take advantage of the lack of border controls and traceability of egg in liquid or product form”.<sup>4</sup> Do you believe that after the EU directive comes into effect, that will be compounded, Mr Jorêt?

**Andrew Jorêt:** At the moment there are not many third countries that can import shell eggs into the European Union because of our salmonella rules. There must be equivalence there, even though there does not have to be equivalence on animal welfare. So to a certain degree we are protected.

**Q105 Chair:** That is in shell?

**Andrew Jorêt:** That is in shells yes. It is not true of eggs in product; it could be dried product and so on. That is the problem area.

**Q106 Chair:** I think the original question was specifically about liquid or product form. Is this an issue now, and do you believe that it might be a greater issue if the EU directive comes into effect?

**Andrew Jorêt:** It is not a big issue today, but it will increasingly become an issue because on the one hand costs are going up in the EU because of the directive, and at the same time the protection that exists by means of tariff barriers for imports from third countries at some stage will reduce whenever there is a final conclusion on the Doha agreement. Therefore, that would leave the whole EU potentially more exposed to competition from certain countries. The countries we would fear would be those like Ukraine, China, Mexico and the United States, who are very big producers of very low-cost powdered egg.

**Andrew Opie:** It comes back to the point I made earlier. Responsible companies will think very carefully about their own supply chains. Would you want to take from countries where you put yourself at

<sup>4</sup> Ev w99

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risk? Ultimately, aside from the food safety risk, there is reputational damage if you had not audited something in your supply chain and had not traced it properly and found it was a problem. I do not believe that would be so for the major retailers because they would not want to put their reputation at risk; they will make sure that their supply chains are robust, safe and can supply the kind of quality that they and their consumers demand.

**Q107 Chair:** Perhaps I may run past you something Lord Rooker told the Committee in our evidence session on animal cloning. He said that “you can technically tell whether an egg is free range or not”. If I may expand that, other than whether a number is on it, how do you establish whether an egg has been produced in a conventional or enriched cage?

**Andrew Jorêt:** Are you asking: is there a way to distinguish?

**Q108 Chair:** Can you?

**Andrew Jorêt:** No. In fact that would apply not just to eggs in cages; it would apply if you had unmarked free range and cage eggs. You would not be able to tell one from the other. There are one or two technical tests that people are beginning to look at, but it is more to do with very technical issues about isotopes, which tell you the locality where it might have been produced but not necessarily whether it is free range or cage.

**Q109 Chair:** What is your response to Mr Parish’s question about the Commission’s reluctance to use production method codes?

**Andrew Jorêt:** While we would like to have a differing production indicator, the likelihood anyway is that we will have farms on the continent, in those countries that do not comply, that are partially compliant. If they are to produce illegal eggs I am sure they will also mark them illegally anyway, so whether or not we have the number they will probably use it wrongly. Therefore, I think the important thing for us politically is to have the ban in place and then for us as an industry to work very hard with our Lion scheme to say that, if you want to ensure compliance, you go for Lion shell eggs or Lion egg products. That is the pressure that we will be applying as an industry towards the end of this year.

**Q110 Thomas Docherty:** One thing that fascinates me is that if you go into the big supermarkets these days you find world foods: Tesco has huge aisles and other specialised retailers provide imported finished products. I suppose my question is to Mr Opie, although Mr Jorêt may want to add something. What is your impression of what will happen on 1 January if, for the sake of argument, Spain, Portugal and Poland have not complied and they produce a product—a cake, biscuit or whatever else—and then expect to export it here? Has your organisation discussed with the Government, be it BIS or Defra, the legal implications and practicalities of a ban?

**Andrew Opie:** We have not discussed that with them. Our companies are really looking only at their own brand products, so they could not necessarily speak,

for example, for the manufactured products that are on their shelves. Remember that they completely control only their own supply chain. About 50% of products in a typical supermarket would be own brand; about 50% would be branded products. They have control of their own supply chain, so they would be in control of those and they will be going through all the steps of traceability at the moment. If you wanted to speak to branded manufacturers you would have to ask them that question.

**Q111 Thomas Docherty:** So for argument’s sake, Sainsbury or Tesco have no view on whether or not cakes or biscuits from Poland or Spain would fall foul of that. I am surprised by that.

**Andrew Opie:** Our members would prefer that you did not buy the branded products and bought their own brand products. That is why they are so robust about their brands. They will say that they have been through all these traceability issues and can demonstrate to consumers where their eggs are coming from and to what standards they are produced, and they would hope that that would persuade the consumer that that was the right thing to do, because then they would buy their products.

**Q112 Neil Parish:** You have partly answered my question. One of the things is the policing of all this. I remember from the foot and mouth inquiry that it is basically a paper trail from the country it has come from, and very few physical inspections are ever done, and with eggs it is probably even more difficult. From your point of view is there anything more we can do to make policing easier and more robust?

**Andrew Jorêt:** Unless you start to look at port and border controls, not really. That was really my earlier comment: we think it is very important that politically this ban on illegal egg is in place, because then if there is leakage and it is exposed, hopefully the issue is that through embarrassment, people will stop doing it. I think it is then down to us as an industry to look after ourselves, and that is why we are very pleased we have a strong Lion scheme. We are going to use that, and we will be promoting through the Lion that if you want an assurance of compliance, look for the Lion for both shell eggs and egg products.

**Andrew Opie:** Similarly with the retailers, regulation is fantastic and enforcement is great, but because of due diligence issues they invest in their own supply chains; they carry out audits in their own supply chains. Andrew will know as a supplier that they will come and see him and his producers regularly to check that they are doing what they say they should be doing to the right specification. A lot of auditing goes on. For example, in food safety we have a BRC standard that is used throughout the world in terms of factories, productions and safety and the ingredients that go into those factories. There are plenty of audits available to those companies that are prepared to invest in them.

**Q113 Neil Parish:** Do you do that on processed products as well?

**Andrew Opie:** Definitely with processed products, yes.

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**Q114 Richard Drax:** Do you have any concerns that the implementation of this directive could lead to an egg shortage? Is there any risk of that, or not?

**Andrew Jorêt:** The degree of non-compliance in Europe that we anticipate is so great—

**Richard Drax:** It is one third, is it not?

**Andrew Jorêt:** —that it is unthinkable that that production will just be slaughtered because it is illegal. That will not happen, so that egg will be there. So I do not think there will be an immediate shortage. Our concern comes back to unfair competition.

**Andrew Opie:** I certainly would not think there would be any immediate problem with shell eggs because they are 100% UK on major retailers' shelves, so that is covered. We have heard earlier that all of them will be compliant. As to processed eggs, a lot of that product would come from the UK anyway; what went into the supply chain would be manufactured here, and a small element would come from the EU or outside the EU. Therefore, we would not anticipate any problem, particularly not with shell eggs but not with processed products either.

**Q115 George Eustice:** Mr Jorêt you said earlier that you supported an intra-EU ban on eggs that did not comply. I just want to ask Mr Opie whether that is also the position of the British Retail Consortium. Would you support an intra-EU ban on product within the EU that did not come up to standard?

**Andrew Opie:** Yes, absolutely. I said earlier that our main supplier base is UK farmers. The last thing we want to see is our own UK supply base hamstrung because it is being undermined by illegal imports. It is not something that we will entertain in our supply chain, so we do not see why they should also be subject to unfair competition. We would not have a problem with that. It will not affect our supply chains; we will still put the same products on the shelves as we do now, and we are taking steps to make sure that we do not take illegal eggs. Therefore, it would not affect us and we do not see why UK farmers should be affected adversely.

**Q116 George Eustice:** The other area in which I was interested was the extent to which the move to enriched cages might affect demand for other production systems, such as barn-produced eggs or free range. There is no doubt that cage-produced birds became a kind of totem for factory farming generally over the last 25 years. The *Daily Mail* would cover it—chickens are always up there. That is undoubtedly what has driven the success of free range egg production, but is there a danger that this undermines that if basically people take the view that it is all okay now because these new regulations are in place? Do you see that having an impact on demand for free range?

**Andrew Jorêt:** I suspect not, and that the people who are buying cage egg do so because they are very price-driven. They probably do not want to be reminded about the production method, if I am honest about it; it is all about price. The colony egg will still be substantially the cheapest form of egg production. Therefore, while we are talking very much about free range growth, we are not also talking about the complete demise of any cage production in this country. I think that will go on for some time to come.

**Andrew Opie:** I would concur with that.

**Q117 Chair:** Referring to feed and energy prices, have they had a big impact on your production and operating costs?

**Andrew Jorêt:** At farm level very much so. Feed is the biggest single item of cost in eggs at farm level, whether it is cage, colony or free range eggs, and that has nearly doubled. That has put producers under enormous short-term pressure because as of yet, that has not really translated through into retail prices so we can feed back additional margin to producers. Therefore, in the short run there is a problem.

My colleague Mark Williams indicated that there had been a little imbalance in the market. Collectively, we have slightly over-expanded on free range and have had a surplus. That expansion is temporarily on hold while the market catches up with itself, which it is doing. We forecast that by the end of the summer we will be back in balance. We will then perhaps see prices having to rise to reflect the higher costs.

When you look at forward pricing, wheat today is about £195 per tonne; new crop wheat is still coming in at about £170 per tonne. It is at a record high level; it has never been there before. Therefore, it is not just a case of going through a short period when there are high food costs and we all tighten our belts and struggle and then carry on at old levels. I think there must be some translation of pricing through into the consumer market in the end.

**Andrew Opie:** It is a very difficult market at the moment, because on the one hand you have real pressures on suppliers, which we are very well aware of. Retailers themselves have rising costs. Oil is really important in terms of distribution and all those sorts of areas. On the other hand, you also have consumers who feel increasingly under pressure. Therefore, you have a market where according to our figures food prices have risen by about 4%, which is unusual. We have been through periods of deflation, not inflation. However, we have consumers who are increasingly under pressure in terms of their own budgets, so to try to pass those on but also ensure a sustainable future for farmers is increasingly difficult.

**Chair:** You have been very generous with your time. Thank you very much indeed for your contribution to the inquiry.

**Tuesday 22 March 2011**

Members present:

Miss Anne McIntosh (Chair)

Thomas Docherty  
Richard Drax  
George Eustice

Mrs Mary Glendon  
Neil Parish

**Examination of Witnesses**

*Witnesses:* **Joanna Darmanin**, Head of Cabinet and **Dr Harry Vassallo**, Member of Cabinet, European Commission Directorate General Health and Consumer Policy (DG SANCO), gave evidence.

**Q118 Chair:** Good morning, and may I welcome you to the Committee? Thank you for participating in our inquiry. Can I ask you, Miss Darmanin, to introduce yourself and your colleague for the record?

**Joanna Darmanin:** Yes, my name is Joanna Darmanin; I am the Head of Cabinet for Commissioner Dalli, dealing with public health and consumer affairs, and my colleague to the left is Dr Harry Vassallo, who is a Member of Cabinet dealing with animal health and welfare issues.

**Q119 Chair:** Thank you. First of all, what liaison has there been with DG Agriculture in drafting the directive and the preparations for the new proposals?

**Joanna Darmanin:** Well, as you know, the Commission has a pretty complex system for consultation internally before directives or legislation is proposed, so certainly at the at the inter-service level—so we are talking a number of years back—DG Agriculture would have been one of the main DGs consulted on this issue, together with others. They are obviously fully informed of the directive and formed part of its drafting at the time.

**Q120 Chair:** And if they had any concerns then that would have—

**Joanna Darmanin:** That should have been put in at the stage of the drafting of the legislation, indeed.

**Q121 Chair:** Can I ask how many producers in the EU will be compliant with the terms of the directive by 1 January 2012?

**Joanna Darmanin:** As you know, the current state of data is far from optimal. There are figures, at least, that have been circulated as recently as February that would indicate that non-compliance with enriched cages would be at around 30%. As you know, only on 19 February the Commissioner brought this issue up in Council, when he said we needed to have the data from the member states as quickly as possible. The deadline we have given them is 1 April. Not only do we want the data, but we would like from member states an action plan on how they intend to comply with the legislation by the time of its entry into force; that is 1 January 2012.

**Q122 Chair:** So as we speak, we do not know the lack of compliance for sure. What action can you take? What penalty will there be if they do not provide the data within the next 10 days? You are talking about 1 April.

**Joanna Darmanin:** The data we have are patchy, and there are some data that are reliable, but others where we have, I have to say, gaps, or where the data that we have requested are not exactly comparable. I think you have access to the document that was circulated—

**Q123 Chair:** We have, but it is pretty incomplete. There are four member states that have either given incomplete data or no data at all.

**Joanna Darmanin:** Yes, you are right. This is why it was brought up at the highest political level: to ensure that we do have the data. Further to the meeting of stakeholders, which was held in January, a number of options were put on the table, some of which the Commission is still trying to assess. There is the issue of whether you have an intra-community ban for those egg products that will be illegal by the time of the entry into force on 1 January. However, there are internal discussions with the legal service to see if that is possible, feasible and a proportionate measure. It is not normal, I have to say, that you have such a safeguard, if you like, on the basis of animal welfare; it is normally the type of thing we would do for health. I do not think it has ever been used before for non-compliance in the field of welfare, but we are still exploring the options. Having said that, our hope is that indeed after 1 April we would get some more complete data in which we can see where the problem lies and how we can try and ensure compliance by 1 January 2012, because that is our ultimate objective.

**Q124 Chair:** Can I just stop you there? The problem I have is that in Germany and the United Kingdom, producers have spent huge amounts of money to comply with the EU directive, and we represent many of those producers in our constituencies. What confidence can they have that they have complied ahead of, or will comply by, the deadline? They have provided all the data, at huge expense, which has obviously put up the cost of their production, and we have four, five member states who simply are not complying even with providing you with the data. It is fairly elementary.

**Joanna Darmanin:** Our objective is also to see compliance, and fundamentally the onus of compliance rests with the member state, so we keep pushing the member states to ensure that they can be compliant by 1 January 2012. I have to say, since the figures were circulated we have already had some preliminary figures coming in from the Netherlands, which is one of the bigger producers.

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The problem with these data and this table is indeed that you have the biggest producers where you have big gaps, so that begs the question: what exactly do you do if there is non-compliance? The data that we have received from the Netherlands indicate that they will be compliant, so that is some hope that we have, but we will have a clearer picture after 1 April.

**Q125 Chair:** Germany, I understand, is probably going to comply, but what about France?

**Joanna Darmanin:** Germany has banned it in any case, so Germany is not a problem.

**Q126 Chair:** What about France, Belgium and Portugal?

**Joanna Darmanin:** We are waiting for the figures.

**Q127 Chair:** And you have no power other than diplomatically chivvying them along?

**Joanna Darmanin:** We have no power because the onus to send us the figures will rest with the member state, and we keep pushing the member states to give up those figures and hope that they do so after 1 April.

**Q128 Chair:** And there is no penalty that you can imagine if they do not provide those figures by 1 April?

**Joanna Darmanin:** No. I suppose the penalties would be more in terms of what happens after the compliance comes into force as of 1 January.

**Q129 Neil Parish:** The egg production takes about 13 months from the time you put the hens into cages or whatever until the end of that production. Being quite blunt with you, don't you think you are asking for these figures far too late, for the simple reason that a lot of that production is going to go on well into next year if all those hens are being put into un-enriched cages? There are no data from France here; we have a huge amount of Polish eggs still being produced in un-enriched cages, and you state quite clearly that you do not normally act on welfare. I would suggest this is competition, because if you have lower standards of welfare you also have lower costs, and that is what worries farmers. Not only is it bad for the hen for welfare, it is also anti-competition, and the single market does not work properly. My very direct question to you is: why haven't you asked for these data a lot sooner? If you are not going to get the data until later on this year, you cannot stop that production by the time you get to January 2012.

**Joanna Darmanin:** We have repeatedly asked for the data. This issue has been discussed, I think, every so often in the Standing Committee. They give us some data; then again they are not good enough, so you cannot compare. Now what we have done is sent a specific questionnaire so that we get exactly the same data from the member states so that we can compare and see where the targets are, including the action plan on how they intend to be in compliance.

**Q130 Neil Parish:** And do you accept that it is a matter of competition as well as a matter of welfare?

**Joanna Darmanin:** That is for the legal service to determine more than me, to be honest with you.

**Q131 Chair:** So there is a possibility, even for non-provision of information, that infraction proceedings could be started?

**Joanna Darmanin:** No, not before, to my knowledge of European law, which is not that detailed. The provision on compliance or otherwise comes into effect once the legislation is in effect.

**Q132 Chair:** You cannot at this stage say which member states will not be fully compliant on 1 January because they are not giving you the information, so we are just going round in circles.

**Joanna Darmanin:** No, the reason why it was raised at Council level was precisely to sensitise the Ministers and put them behind their responsibility to provide us with the data and the action plan to make sure that they are compliant.

**Q133 Chair:** Could I just take you back to something that you said? I do not know which provision it is now, but it used to be Article 36 of the Treaty: to prevent free movement on the grounds of public health of agricultural products.

**Joanna Darmanin:** Internal market, no? Is that the internal market?

**Q134 Chair:** Are you possibly suggesting that, for a breach on grounds of animal welfare, an individual member state could ban these products from coming in for not complying with the EU directive?

**Joanna Darmanin:** As far as I know, if I have understood you correctly, the Article would kick into force if there was a risk to public health, in which case you can take out such measures. What I am saying is that in the case of non-compliance with animal welfare standards, it would be a first, so we are consulting with the legal services.

**Q135 Chair:** The legal service, to your knowledge, are not ruling it out?

**Joanna Darmanin:** They are still studying the issue. They have some concerns about how this would affect the different member states, but they have not given us a final answer either way.

**Q136 Chair:** You see, there are potentially two ways of proceeding on 1 January. First, if member states are still in denial and refusing to give you data, there is a pretty clear indication that they are not compliant. I think you said that there is 30% non-compliance currently?

**Joanna Darmanin:** In these figures.

**Q137 Chair:** There are two ways of proceeding: one is that the Commission takes infraction proceedings, which takes probably three months for a reasoned opinion, and before it eventually goes to the European Court of Justice, you are probably looking at 12 or 18 months. The other alternative is for the UK, Germany and other member states simply unilaterally to refuse to take these products in. We learned in our evidence that the way of proving that the product should be in free circulation and meets the criteria that our producers will meet will be if it has an e mark—a

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mark on it. That would not be unlawful if we were to introduce a unilateral ban?

**Joanna Darmanin:** An e mark?

**Chair:** A mark to show that, the same as our domestic producers, these imports meet the standards under the EU directive. If we were to introduce—Germany, UK and other member states—a ban on importing these products, we would not be acting unlawfully?

**Joanna Darmanin:** I do not think it is so simple. We continue to hope that indeed the member states will be in compliance. Like I said, there are some gaps in the big member states, but for example the Netherlands seems to be okay. It also depends on the producers in the different member states. For example, in Italy you have four or five big producers, and I understand that, because of consumer choice and because the big retailers are also going to demand it, Italy will also be taking steps to try and ensure that it is in compliance. So I think at the moment we are exploring with the legal services to see exactly and study the issues that you mention. But we have not given up hope yet.

**Chair:** We will return to this subject.

**Q138 Richard Drax:** Good morning. How did the Commission arrive at the cage and perch dimensions set out in the directive?

**Joanna Darmanin:** There was an opinion by the Scientific Veterinary Committee, I believe, at the time, and also it was confirmed by an EFSA opinion later on the specific dimensions.

**Q139 Richard Drax:** Right. So that was some sort of scientific advice, was it?

**Joanna Darmanin:** Yes.

**Q140 Richard Drax:** What evidence is there that the specific size of these new cages and perches will have significant animal welfare benefits? What evidence is there for that?

**Joanna Darmanin:** The EFSA opinion showed that increased space was needed to allow the hens to exercise their basic needs, and so the conversions were made or proposed in order to allow them to do—what is it, the dust bathing and—

**Dr Vassallo:** Foraging, perch sites, density of population per cage.

**Q141 Richard Drax:** Sorry, where did the evidence come from for that?

**Joanna Darmanin:** It was later, by the Scientific Veterinary Committee, but also confirmed by EFSA, if I am not mistaken.

**Q142 Chair:** Could you spell out EFSA, and just give us the long title?

**Joanna Darmanin:** European Food Safety Agency.

**Q143 Chair:** And that is full of experts, isn't it?

**Joanna Darmanin:** Scientific experts.

**Q144 Richard Drax:** Were contributions from the chicken industry itself included in that?

**Joanna Darmanin:** I am afraid I do not know the background in such detail, but they normally do

consult with stakeholders. I do not know the extent of that consultation, but at some point in time, also in the preparation of the Commission proposals that would have resulted, there is a consultation of stakeholders, yes.

**Q145 George Eustice:** I wonder if I can ask about public attitudes towards animal welfare, and the extent to which it varies from country to country. You probably get a clue from the list we have of those who have supplied data, but could you tell us how it differs from country to country, in terms of public awareness and concern about welfare?

**Joanna Darmanin:** I have some statistics here, if I may read. There is a clear trend that towards the north, the attitude of consumers and their awareness of animal welfare issues tends to be much higher than in the southern member states. There are certainly different perceptions between and across the EU, and a recent Eurobarometer was held in the member states, which showed, for example, that in Luxembourg 81%, in Portugal 76%, and in Denmark 76% had high concerns about animal welfare issues, whereas in Romania it would be 49%, in Bulgaria 48%, in Hungary 44%, etc. So there is this trend where we see that consumer concerns about welfare tend to be higher in the more northern member states.

**Q146 George Eustice:** Did that have any impact on the drafting of the directive? I know you said you took serious, specialist veterinary evidence, but was there a differing opinions factor?

**Joanna Darmanin:** The directive was adopted 13 years ago, and our aim as a Commission is to try to have a level playing field. I assume there is this consciousness of the differences of consumers and different market forces in the different member states, but our idea is to have a level playing field at a higher level for animal welfare.

**Q147 George Eustice:** And is the Commission doing anything to try and promote the benefits of this directive, or raise public awareness of it?

**Joanna Darmanin:** There are repeated meetings with stakeholders and with member states on these issues, and certainly the bigger retailers—then again, it does depend to a certain extent which member state you come from—do in fact have a lot of awareness campaigns and labelling schemes, etc.

**Q148 Neil Parish:** Yes, on dealing with the way the directive has been dealt with across member states, back in 2002, the Commission found that Spain had an insufficient legal basis, in certain regions, to permit the imposition of the directive, right? Now we have figures before us in Spain that give you the total number of hens, and they give you the number of free range, the number of barn and the number of organic, which amount to much more than 2 million, and then it gives us a figure of 42,157,430 hens that are either in enriched cages or non-enriched cages. How on earth can the Commission get to any grips with what is happening in Spain with figures like that? What we are trying to get at is that member states knew this legislation was coming; it has been like the arrival of

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the Queen of Sheba. It has taken a very long time to get here, so why has the Commission not taken action before now and waited until this situation? I could not make a decision on data like those; how can the Commission possibly make a decision on data like those?

**Joanna Darmanin:** On these specific points, indeed, they are part of the question, and that was sent to the member states in February when the Commissioner raised it in the Council, and we hope we get the data that we are looking for.

**Q149 Neil Parish:** I think we have come to the conclusion that the data are not satisfactory, so how can you take action against non-compliant egg producers if you do not actually know where those non-compliant egg producers are?

**Joanna Darmanin:** Because we hope that as of 1 April, or shortly after that, we will have the data, and on the basis of those data we will be able to take our decisions in a more reasoned fashion.

**Q150 Neil Parish:** Right. Going back to my previous question, you are talking about at least 13 months through a process of production. You are going to be well into next year, even if you have the right data. You see, if we are going to have proper competition across the EU, with good animal welfare requirements for all hens, it is absolutely right that all member states comply. I know it is difficult for the Commission to get all member states to comply; I understand that, but what I am trying to get to grips with is why more is not being done more quickly. We are now where we are, so how are you going to speed up the process and how can you ensure and reassure us that there is not going to be a lot of egg production, in those member states that do not have the right data, from hens in non-enriched cages after January 2012?

**Dr Vassallo:** I think the first thing to be said is that not last February but the February before, there was a request in the Agriculture Council from Poland to postpone the deadline.

**Chair:** Excuse me, postpone the deadline for supplying the data, or—

**Dr Vassallo:** No, the 1 January date.

**Q151 Thomas Docherty:** So that was February 2009, or 2010?

**Dr Vassallo:** 2010. And that was clearly rejected, so the Commission gave a clear signal that there will be no postponement, and that should certainly have been a sign to everybody in the European Union not to do what you suggested—to be putting in hens in the wrong cages in such a way that they will not meet the deadline. That was the warning. If we do not have the data at this moment, we have no reason to assume that this warning has not reached everywhere and people are not taking notice. It may be in the commercial interests of the operators to time their transfer as late as possible for economic advantage.

What we will have on 1 April, and it would be foolish of us to assume we will not have co-operation from the member states on 1 April, is a snapshot. We still would like much more detailed information to have a feeling of how it is going to develop in the next

several months. We hope to have a much clearer picture—comparable data—and to be able to come back to you with it. I hope that we will not stop at this moment, but if you require further data we will be very happy to provide it. There is no reason for us to assume the worst. We will be able to judge what measures would be appropriate once we have a clear picture.

**Q152 Neil Parish:** Can I come in on that? I am afraid I do not share your optimism, and I think you will find that the worst will happen, because the member states that are not supplying the figures are not complying. That is the reality. What sanctions are you going to bring into force when those member states do not comply? That is where we are going; it is no good putting your head in the sand and waiting for 2012 to get here, as though there is going to be some sort of miracle in between. It is not going to happen. What sanctions are the Commission going to put in place to make sure that those member states that have not complied do comply very quickly?

**Joanna Darmanin:** The only member states that said that they want a prolongation of the deadline are Poland, Romania and Bulgaria at the last count, and that was immediately shot down by the rest of the Council and the Commission saying that is simply not an option that is on the table.

**Neil Parish:** I apologise for being a suspicious politician, but those figures do not bear that out, because if they are not prepared to put on paper how many enriched cages they have compared with others—

**Q153 Chair:** Just before, could you just answer Mr Parish's point: how many member states' Parliaments have transposed the directive into their national law?

**Dr Vassallo:** Transposed, all; implementation is missing, and we have no power to enforce anything before 1 January—the deadline.

**Neil Parish:** No, I accept that.

**Q154 Thomas Docherty:** I am absolutely fascinated as to why you think our good European neighbours are, for once in their lives, going to comply with something. I am absolutely astonished that you are working to that assumption. You said that you would be foolish—correct me if I am wrong—to think they were not going to comply. The history of UK agriculture with our European neighbours is they do not comply unless you put the proverbial gun to their head. Why do you think, just because Poland is the only country to have actually raised it—

**Neil Parish:** They are the only honest ones.

**Dr Vassallo:** Sweden was in compliance before there was a directive. Germany has banned cages without an obligation.

**Q155 Thomas Docherty:** We are not talking about Germany, or Scandinavia, or the Dutch, but we have heard evidence after evidence—

**Joanna Darmanin:** France has said that it will comply, and have indeed—

**Dr Vassallo:** Rural development funds to aid the transfer.

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**Joanna Darmanin:** To be able to convert.

**Q156 Thomas Docherty:** Greece, Portugal, Spain, Romania, and Bulgaria have an appalling track record on this issue, and I am absolutely astonished that you are taking the attitude, “They are bound to comply because they are terribly nice chaps.”

**Joanna Darmanin:** We are not taking that attitude.

**Thomas Docherty:** You said that, Doctor.

**Joanna Darmanin:** What we are saying is that on the data we have no reason to believe that by 1 April they are not going to come back, put their cards on the table and say, “Okay, I am going to comply” or “I am not going to comply, I need another six months.”

**Chair:** It is next week.

**Dr Vassallo:** No, it is not.

**Thomas Docherty:** 1 April is.

**Dr Vassallo:** 1 April is to provide data.

**Q157 Chair:** The thing is, if they do not provide the data, you are saying there is nothing you can do until 1 January.

**Joanna Darmanin:** Hold on a second: I think the first hurdle is getting the data, so that we have a snapshot to see first of all how big the problem is and what solutions we can have. The idea of having the exception to the internal market—if you like, a ban on intra-community trade—is an option that we are exploring. We have not yet come to a conclusion. These things take time, because it is not only the legal services but all the other services that will be involved, including people like DG Agriculture, so we are still exploring that option. What I think Dr Vassallo meant is we have no reason to suspect that they will not submit the data in the format that we have asked them to submit it in, including an action plan. If the action plans prove to be, “Listen, we are not going to have compliance,” then we have to see what it is that we are going to do.

**Q158 Neil Parish:** What is the action that the Commission is going to take when you have that data in order to make the member states comply?

**Joanna Darmanin:** One of the options that we are exploring is indeed safeguarding the internal market in intra-community trade. That is one of the options. There are the infringement proceedings, which as you say do take a long time, but there are also means of imposing fines, which is, if you like, a rather draconian message. I remember the Hake case—I do not know if you remember the Hake case against France, where the Court actually issued fines for non-compliance for 20 years, so even the fact that you open proceedings is not taken lightly by member states, because there is a money issue tied to it. So let us first find out what the real state on the ground is, and then come up with the solutions that we need to take in order to make sure that there is compliance, and if there is not compliance there is, if you like, a safeguard in the internal market, or there is some measure of saying, “These are compliant; these are not compliant.”

**Q159 Neil Parish:** And further to the Chairman’s question, if there are, after 2012, eggs produced from

un-enriched cages, and also powdered egg and liquid egg that has been produced from eggs from un-enriched cages, would we be within our rights in the UK to say, “We are not going to have those eggs”?

**Joanna Darmanin:** I am not saying that; I would not dare to say that.

**Q160 Neil Parish:** So what are you saying?

**Joanna Darmanin:** For the UK, the problem is you import from Germany, the Netherlands, France and—well, the biggest I think are Germany and the Netherlands, so your only question mark would be the French imports. Now, France says it will comply by 2012; let’s wait and see.

**Chair:** The Czech Republic produces over 3 million from un-enriched cages; Greece produces over 4 million from un-enriched cages. But we move on to inspection.

**Q161 Mrs Glendon:** How do member states’ inspection regimes differ across the EU, and do you think they are sufficiently robust, following on from what has been said?

**Joanna Darmanin:** Inspections do indeed vary across the member states quite considerably. In this area especially you have two types of problems. One is the enforcement by competent authorities, and the second issue is sanctions. As you know, where both are, if you like, a little bit disproportionate, there is not a common level playing field across the European Union, and you will find that—I suppose this is similar to the issues of animal welfare—in the northern states you have maybe a higher degree of enforcement than in other member states. I do admit that there are problems with inspections in countries like Greece, especially in the situation that they are in today.

I have to say that this issue of inspections is something that we are starting to look at in the review of Regulation 882 in order to see how we can have better enforcement across the European Union and across the food chain—with all the different partners having to pitch in to the inspections, for example. We hope that by, I think, the beginning of 2012 there will be a review of 882, which will look at the inspections of plant, animal and welfare issues, and come up with some more common principles for the different member states. The issue, for example, of the cost of inspections and who bears that cost varies significantly across the member states. Who pays for the inspections? In some member states it is the public authorities; in others it is the operators, for example. So these are all issues we are looking at in the hope that by the beginning of 2012 we can review the regulation to have some coherence in the legislation. Also, you have the issue of sanctions across the different member states. For welfare especially, it is very disproportionate, which is something that we also hope to look at.

**Q162 Mrs Glendon:** You are talking about future things, but I asked how robust it was, and it probably comes back to the compliance question. What else could be done? You were talking about who is going to inspect and regulate. Is there anything more that

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can be done to make it more robust and more equal across the EU?

**Joanna Darmanin:** The FVO (Food and Veterinary Office), as you know, even on this issue, undertook a number of inspections to try and see what the situation was, and on the basis of the FVO reports the Commission can take necessary action, including infringement proceedings, which it does on a monthly basis depending on the issue and the type of infringement. But unless we have a fundamental rethink and re-look at the legislation on the basis of which these inspections happen, and how to, if you like, have a little bit of a common denominator, I do not think that there is much else we can do at this point in time.

**Q163 Mrs Glindon:** Thank you. Can I ask you how concerned you are that eggs from part-compliant producers may leak from one category of cage production to another, where you have a part-converted system? How confident would you be that non-compliant eggs do not come through?

**Joanna Darmanin:** So in other words you move from the fresh egg to the prepared—

**Mrs Glindon:** Sorry, where people have part-converted, so you have some compliance, but then they will have part of the system that is not, and you get mixed produce.

**Chair:** It is the transferring from one category to another, so it goes, for example, from an enriched to a non-enriched, or organic to conventional—it is that kind of transfer.

**Dr Vassallo:** It would be a misrepresentation in any case. It would be like selling caged eggs as free range. The possibility of crime is always there, but there are various methods of certification, not only through officialdom but through voluntary schemes and consumer-retailer relationships, which are under great pressure not to fall foul of such a fraud, because it would have considerable economic consequences to their reputation.

**Q164 Chair:** I think what we are trying to do is this: how can we be sure that where it is a part-conversion, where a producer has partly converted, that the products—

**Dr Vassallo:** Are separate.

**Chair:** We just want reassurance that we are able to identify.

**Dr Vassallo:** At this point, if a producer in France has partly converted, it does not make a difference. It will be on 1 January that it will make a difference. This will come back to the same question of what we are going to do about enforcement, and how we are going to deal with the ones that are illegal.

**Neil Parish:** How do you deal with that on the labelling?

**Chair:** It is trying to identify that we are talking about the product in the right category before we allow them after 1 January.

**Joanna Darmanin:** To make sure that it is both the fresh eggs, the shell eggs, but also anything that goes into industrial—

**Chair:** Well, that it is what it says on the packet—that it is either free range, organic, or part-converted. But we can return to that, if we may.

**Q165 George Eustice:** We talked a bit about the possibility of an intra-EU trade ban, but I wanted to ask you about egg products, specifically from outside the EU, that have access to the EU market, and whether you thought anything could be done there. Is it possible to have some kind of ban or increased tariff to deal with egg products coming from outside the EU, produced under standards that would be illegal in the EU?

**Joanna Darmanin:** The trade from outside the EU is minimal in any case, and if they do not comply it has the non-EU standard, which is already on the pack, I believe, not on the egg. But I think the major concern here is not so much the trade, because you have the tariff in place. It is more what happens internally, inside the internal market, which is the bigger issue, because if you look at the figures, what comes from outside the EU is mainly from Croatia, Switzerland and—

**Neil Parish:** America.

**Q166 George Eustice:** Egg products are the key. I know the EU is effectively self-sufficient in fresh eggs.

**Joanna Darmanin:** In the UK you have some, but it is not the bigger issue. In any case, you have the non-EC standard.

**Q167 George Eustice:** And what does that mean?

**Joanna Darmanin:** It is not EC standard: it means that they do not comply, but that is already the case now.

**Q168 George Eustice:** But they cannot be sold then?

**Joanna Darmanin:** No, they can be sold, but they are marked—labelled as being non-EC standard. That is the situation today. So whether or not this comes into force, it is not EC standard, because it is the EC standard that is changing.

**Q169 George Eustice:** This has come up in quite a lot of different areas in some of the work the Committee has looked at, and some people are saying that the European Union should argue more strongly within the World Trade Organisation, for instance, to use Article 3, which talks about like products and enables you to block imports that are not produced to the same production processes. Is that something that you accept and should be more assertive on?

**Joanna Darmanin:** As you probably know, within the context of the WTO, it is only what happens in the SPS that is legally binding, where you can actually take measures. Animal welfare in the WTO is undeveloped ground. The truth is there is currently a WTO Dispute Panel on seals, and that will be something to show us whether there is scope to develop, but let's see how it goes, because it is a first case.

**Q170 Chair:** So could that be developed outwith the Doha round? If the seals dispute succeeds, are we

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taking it for read, then, that it will be accepted in the Doha round? It has been going on for 10 years, and they have not reached an agreement.

**Joanna Darmanin:** The seals? That has been going on for 10 years?

**Q171 Chair:** No, the Doha round. We like seals.

**Joanna Darmanin:** The seals issue is more recent than that, but let's see what the outcome is. Certainly it would give us a stronger hand in making the case for welfare, and not only in this case; there will be others, where welfare can feature in a binding manner in our international relations and international trade.

**Q172 George Eustice:** But specifically on eggs, because you have the numbered categories depending on the method of production, it is recognised that they are not like products, and you can test an egg to tell the production process. So it gives you the strongest possible chance to make that argument.

**Joanna Darmanin:** Are you talking about a ban?

**George Eustice:** Yes.

**Joanna Darmanin:** To be quite honest, I do not think that that is the core issue in the problem here, and the fact that you already—I think eggs is probably the only one—have this non-EC standard label would dissuade us from trying to do anything further on that front.

**Q173 Neil Parish:** The problem is not so much with the eggs themselves in the shells; it is the egg product, and the egg product then going into a processed product in the EU. That is where a lot of imported egg lands up, and there will be no sign of a label on that processed product saying that the eggs in the processed product did not meet EU standards. Will the Commission do anything about that?

**Dr Vassallo:** It may create some problems, especially for those countries such as the UK that are the heaviest importers, for instance, from the United States. We will not be able to do anything because it would be very hard to label an egg that has been turned into powder, and in any case, on international trade terms we cannot differentiate.

**Q174 George Eustice:** I think in one of your stakeholder meetings you touched on the issue of how you improve animal welfare. I think one of the conclusions was—this was in January—that having common welfare standards for products produced in the EU and imported from third countries would be a preferred option. With all these things, unless there is an incentive for countries to adopt higher welfare standards that gives them access to the European market, how can you achieve common welfare standards unless there is some sort of quid pro quo?

**Joanna Darmanin:** It is normally the retailers that then have a big role to play and to label their products, "This is according to welfare standards in the EU," etc. I will be very honest with you: welfare in terms of an issue that can be legally binding in international trade relations will be a very difficult issue, and probably a long time coming. But we have this first case on the seals; let's see how that goes, and then see if there are any lessons to be learned from that.

**Q175 Thomas Docherty:** Just so there is no misunderstanding, there are the good European countries, the good Europeans—the UK, Germany and others—that are going to comply on 1 January, and there is the possibility that some countries will not comply; let's not get into "Will they, won't they?" just now. What is the Commission's legal opinion? If those good Europeans decide to ban the import of eggs in shells, or in liquid or powder form, or food products that have been made in, for argument's sake, Poland, what is the legal position if the good Europeans imposed unilaterally a ban on imports from the bad Europeans, or the less good Europeans.

**Joanna Darmanin:** If you did this without a legal basis it would be illegal.

**Q176 Neil Parish:** Even though those other member states are acting illegally?

**Joanna Darmanin:** What we are trying to do is explore with our legal services and internally with the other services—DG Agriculture, etc—whether there could be a legal basis to allow member states to do that, but I cannot give you an answer here.

**Q177 Thomas Docherty:** Obviously, now we are working to a deadline of 1 January. I appreciate that the European Union and common sense do not always go hand in hand, but common sense would tell us that we would want to have that legal opinion in place some time before 1 January. Does the Commission have a time that it is working to, to have that opinion?

**Joanna Darmanin:** Yes, the idea would be that once we have the data on which we can examine the extent of the problem and the potential non-compliance across the member states, it is at that point that obviously we will start to kick it into high gear and have a strategy on how to deal with it. I am saying that, because there is still the option of infringement on the table, we have to know exactly what the situation is going to look like on 1 January 2012 before we decide how to tackle it. I think it would be foolish of us to say, "Okay, we are going to give you a safeguard clause; you can ban this and ban that." I think we really need to see, number one, the extent of the problem—whether it is limited to one or two member states, or whether it is a more generic problem across the member states. I think all those issues we really do have to factor into any decision that we are going to take.

**Q178 Thomas Docherty:** Just so I am clear—apologies if I misunderstood you—you are talking about the period between 1 April and 31 December? You are not waiting until January to see the problem?

**Joanna Darmanin:** If we decided to go down the route of using this exception to the internal market or allowing for a ban in intra-community trade, then yes, we would have the time necessary in order for it to be in place on 1 January 2012 should it be necessary, if that was your question.

**Q179 Thomas Docherty:** As my colleague Mr Parish has pointed out, the egg-laying span of a hen is something like 13 months. Common sense would tell me that a hen going this afternoon into an

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un-enriched cage would, in terms of economics, be expected to be in that un-enriched cage until May 2012. So is it the legal opinion of the Commission that all hens that were in an un-enriched cage before 1 January 2012 then, on 1 January 2012, become non-compliant, or do you accept the argument that I understand some member states are putting forward, that the 1 January 2012 deadline next year is an entry date into the cage?

**Joanna Darmanin:** No. To my knowledge, this argument that it comes into force at the time you put the chicken in the cage is not one that I have heard, and certainly if it has been said by some, it is not shared by the many. I do not think that is a problem. As my colleague tried to point out, it would be rather foolish if you had people who have a problem in trying to implement and trying to be in compliance by 2012 putting in a number of hens now. The truth is that if they are going to comply then they have to comply by 1 January 2012.

**Q180 Thomas Docherty:** That is absolutely fine. We welcome that. My final question: do you accept that when you talk about sanctions and so on, that penalises the nation state that is not complying, but does nothing to help the producers in the good European countries? That is to say, while, for argument's sake, the Polish Government receive a fine for non-compliance, the UK or German egg producer is still at a competitive disadvantage over Polish egg producers, and therefore the scepticism about the validity of sanctions is that it does not actually help the producer himself or herself.

**Joanna Darmanin:** But if there had to be a hefty fine on, for example, Poland for non-compliance, they would have to pay it.

**Q181 Chair:** It would be the member state that picked up the fine; it is not the producer. Our point ultimately is that we want fair competition; we want a level playing field. We have gone through the member states that have banned un-enriched cages. Our producers in this country have paid a massive amount of money; we care about animal welfare. They are going to be undercut by cheap imports. I understand exactly where you are, but the Commission appear a little bit complacent. We are on the eve of 1 April, when the information should be given, and it looks like three, four, five member states are not going to comply with that. We are only eight months away from 1 January, and I just do not think it is fair. We have had this before. We unilaterally banned sow stalls and tethers in this country, and it appears there is just a little bit of a repetition; we have gone along with the directive, our producers have paid huge amounts of money, and we are going to be undercut by producers who will not be fined. It will be the taxpayers in these countries who are fined. Did you just want to answer that point?

**Joanna Darmanin:** It is a difficult point to respond to. To say to us that we have been complacent is a little bit unfair too, as a Commission. At the end of the day it was a directive that was accepted by all the member states. All the member states have their enforcement responsibilities. All the member states

have their inspections, have their duty and their responsibility to transpose the legislation, so it is also from, where I am sitting, difficult to say, "This is all our fault because we have done nothing about it." But this is the reality you are facing, and now what we are trying to do is first of all understand the extent of the problem, if there is a problem, and see how to fix it in order to try and come to this level playing field and deal with the issues that you are facing.

**Q182 Thomas Docherty:** Which, in the eyes of the Commission, is the worse crime: member states banning imports of non-compliant eggs, or the non-compliance by member states? It strikes me, Chair, that the Commission is going after the law-abiding member states, rather than the non-complying member states.

**Dr Vassallo:** As a lawyer, I would say that an infringement is an infringement.

**Thomas Docherty:** Which is the more serious?

**Chair:** It may not be an infringement, because you said earlier that Article 36—whatever it is called now—could be applied on animal welfare grounds. The Commission has not excluded that.

**Joanna Darmanin:** That is exactly what we are exploring. It has thus far been used for health purposes and not for welfare, but what we are exploring with our legal services is whether we could also apply it in this case. Just on your previous question, in fact the member states can fine producers for being non-compliant, so there is a fine that can also be transmitted along the line to the producers in case there is non-compliance, so that answers your previous question a little bit.

**Q183 Richard Drax:** You said that the inspection routine was pretty dodgy—that was not the word you used—particularly, shall we say, in the southern part of Europe. Forgive me—I am beginning to know a little bit more about chickens as we go through this—but is the inspection regime and are you as a Commission, on 1 January next year, meant to be able to say to everybody, "We have inspected all the countries," in addition to them filling out the forms to say that they are compliant? If that is the case, that is not going to happen, realistically, is it? And if it is not, are you then going to inspect the following year to ensure that the paperwork, which presumably will have been completed because that is typical EU bureaucracy, shows that they are complying?

**Joanna Darmanin:** The FVO, which is the Commission inspections, already did the round of inspections and produced a report, but certainly, the moment this comes in to force then yes, it is very much an issue that we will continue to follow and we will send inspections of the Food and Veterinary Office in Grange to the different member states to ensure that member states are actually doing what they have told us they were supposed to be doing.

**Q184 Richard Drax:** Your inspectors are out there now in Greece and all these places, going into little villages saying, "Get those chickens out"? What is going on?

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**Joanna Darmanin:** On a regular basis they do inspections. I cannot say they are out there now. I do not know; there might be one on laying hens. They have to cover the whole breadth of the animal health issues.

**Chair:** Dr Vassallo wanted to comment.

**Dr Vassallo:** Yes; the FVO audits the inspection systems.

**Q185 Chair:** So the Commission Inspectorate—what do the initials stand for, just for the record—the FVO?

**Joanna Darmanin:** The Food and Veterinary Office in Grange, Ireland.

**Q186 Chair:** They do not inspect—they just audit the national inspections?

**Dr Vassallo:** It would be impossible; it would be an enormous cost if we were to inspect every farm in the European Union. What we do is audit the inspectorate of member countries, and see that they are upholding standards. We prepare reports on every audit—in fact, we audit not only European member countries, but also countries around the world that want to export to the EU. We audit their system and publish reports.

**Chair:** George just wanted to come in and answer that point as well.

**Q187 George Eustice:** You said your legal team are looking at this issue of banning intra-EU trade. Is it just a lawyers thing, or isn't that really a policy judgment call that the Council of Ministers should have a view on?

**Joanna Darmanin:** No, it is both.

**Q188 George Eustice:** It is not just a point of law?

**Joanna Darmanin:** No, it is an interpretation of the law, and it is exactly where the policy meets the law to try to come up with a solution, so no, it is not just saying this in a strict legal view. If it was deemed from the snapshot that we get that this is the route we have to go down, then it is obviously the policy arguments that you would be making to the lawyers.

**Dr Vassallo:** It would be very convenient for us and reassuring for you if we could tell you that on 1 January we will do x, y and z to people who are not compliant. It is perhaps counter-productive for us even to decide in advance. The uncertainty, which is very uncomfortable for you, is also a form of pressure on producers who are not yet compliant, in the sense that a total ban of illegal eggs is a risk to somebody who is producing 5 million eggs a day—a risk he will not take. So that is pressure that is placed today. That uncertainty, in a certain way, is a great pressure on producers who are not compliant around the European Union. On the other hand, if I can use an English expression, we do not want to use a hammer to crack an egg, in the sense that if, at the end of the day, we have minimal non-compliance, why go all that way?

**Q189 Neil Parish:** I think that we can establish quite clearly that by 1 January 2012 in several member states there is going to be quite a lot of egg production that is going to be in un-enriched cages, and it is going to be a very difficult position for the Commission to say to those member states, "Destroy all that egg

production immediately," because it is good food in as much as it may not be produced under good welfare standards but the food is good to eat, and in a world that is starving I think it would be very difficult for the Commission to take that position. Is there a practical solution? I do not believe you are terribly keen on this idea, but if the eggs that are produced in enriched cages had a number 3 stamped on them, and if the eggs that are produced in un-enriched cages had a number 4 stamped on them, we would be able to identify where those eggs have come from and under which systems they have been produced. It is no good you telling me, "We do not know what is going to happen in January," because we all know what is going to happen in January, so let's be grown up about it. Because otherwise an egg looks very much like another egg.

**Chair:** Surely we can do what we like. The way that we implement it is up to us.

**Neil Parish:** It is a case of how those eggs are traded across Europe, and if they are not to be traded across Europe—that is, remain in the member state—then they must have a different mark; otherwise you will not be able to differentiate them.

**Joanna Darmanin:** But if you have a mark number 4, you give a legal status to something that is de facto illegal, and that would be, for me, a problem to be able to live with, so just do not have it at all. Do not have a number, rather than—

**Chair:** So the only ones that we would import would be the ones with a 3 on them.

**Joanna Darmanin:** If you have a number 4, you are de facto saying, "Okay, it is illegal, but we will give it a number."

**Q190 Chair:** The alternative to not putting a number 4 on it is that we label up those that are number 3, and we allow those freely to be sold in England, but ones that have not got a number 3 on, we do not.

**Joanna Darmanin:** But then you are in the territory of Article 36, and whether you apply that.

**Q191 Chair:** I think what Mr Parish is trying to ask is how we identify.

**Joanna Darmanin:** But rather than have a 4, I would have no number.

**Neil Parish:** Madam Chairman, in fairness, can I ask the question?

**Chair:** Well, if you would put the question.

**Q192 Neil Parish:** I am putting the question, and I am trying to get there, thank you very much. I can understand where you are coming from; what you are saying is that if an egg is produced in an un-enriched cage, then it will not be allowed to have any form of stamp on it. That in itself does not seem so illogical. The problem we have is that in quite a lot of member states there are going to be farms, producers, with enriched cages and un-enriched cages. How is the Commission going to stop those particular producers having a few enriched cages and making sure that all the eggs that leave that farm have the stamp on it, because of course they are also producing a lot of eggs in un-enriched cages? How do you enforce that particular position?

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**Joanna Darmanin:** My understanding is that if a certain producer decided to go down the route of getting himself into the action plan to be in compliance, then he is likely to do it in a holistic manner and say, “Okay, I am going to be compliant.” Also, because of his retail pressures, if you have a producer saying to the Italian system, “I want to ensure that my supermarket only sells compliant eggs,” then he is going to have to ensure his whole production. In any case, the way these big producers operate is that they have different identified houses, so you can de facto say, “Okay, these are coming from that house and these are coming from a different house,” and then you would have to be able to inspect to make sure that there is compliance with how the system is working.

**Chair:** One last question from Mr Parish, and then I am going to move on.

**Q193 Neil Parish:** As far as the Commission is concerned, your preferred position is that those eggs that are being produced in un-enriched cages after 1 January will have no mark on them, and that if there were to be a mark put on them, those producers would be acting illegally; is that where you are?

**Joanna Darmanin:** No, what I am saying at the moment is that I am just exploring. You asked if this was an option, and my opinion is: do not put number 4; just do not put a number. At the end of the day, like I said, whatever measures we will have to take or not take by 1 January 2012, these are the types of issues that we will look at. For me, having a number 4—having a number to mark an illegal product within the

legal framework—does not make sense. Just drop the number, if we had to go down that route.

**Neil Parish:** I accept that, but we do want them clearly identified.

**Q194 Chair:** Could I just conclude with one question on competition? How are you going to protect those compliant producers in the UK, Germany and Austria who have actually invested huge amounts of money to comply? What action have you proposed to take to make sure both that the data are provided by 1 April and that all producers comply across the European Union by 1 January?

**Joanna Darmanin:** The answer to that question comes down to the core of the issue, and certainly if we explore the issue of the internal market and an intra-community trade ban, then that in itself is going to have an effect on those member states that are not compliant. Let’s not forget that in a lot of the member states there is this wish by the consumer, by the retailers, to make sure that their eggs are going to be compliant, so the pressure is out there. We still have not lost hope that there will be a level playing field as of 1 January 2012. Let’s wait for the figures on 1 April; after that we will be, once we get the figures, ready to share them with you. Once we have those figures and the action plans on how they are going to comply, then I think we’ll have a better picture in mind of where we need to go from here.

**Chair:** Thank you for being so generous with your time and answering all our questions and participating in our inquiry. I have a feeling that we will meet again. Thank you very much indeed.

#### Examination of Witnesses

**Witnesses:** Rt Hon Mr James Paice MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs (Defra), and Sue Ellis, Head of Animal Welfare, Defra, gave evidence.

**Q195 Chair:** Good afternoon, and welcome. Thank you very much for being with us and participating in our inquiry. For the record, would you like to introduce yourself and your colleague, Jim?

**James Paice:** Thank you, Miss McIntosh. I am Jim Paice, the Minister of State for agriculture and food, and I have with me Sue Ellis from Defra, who heads up our Animal Welfare team.

**Q196 Chair:** I would just like to ask one question. We have had a very interesting session with the Commission, but there seems to be a degree of complacency about the lack of data that they are expecting on 1 April, particularly as to which member states comply, or the number of laying hens by farming system through the different ranges—free range, barn, organic. They are not 100% confident they are going to have that information, or that member states will be compliant by 1 January. What message do you give to our producers who have forked out substantial sums in very difficult circumstances, with rising feed and fuel costs, and who might be undercut from 1 January by those member states that might not meet the directive?

**James Paice:** I can assure you that the message from the Government is that we stand four-square with those producers in this country who have made the investment, which is virtually all of them. We have been pressing the Commission for some months now to prepare for action, because it has been abundantly clear to me and to, indeed, the industry that a number of countries were not making the progress that was necessary. I invited the Commissioner, John Dalli, to come to London for a discussion of a number of things. He came in November, and I specifically put this point to him—that we were very concerned that it was not going to be possible at the current rate for every producer in the EU to convert, and therefore we hoped that he would prepare for action. His response at that stage was: “We are not prepared to contemplate that people will not have converted. We think they all will.” I must admit I felt that was an unwise position at that stage.

Since then we have been pushing very hard. We were invited to send representatives from the Department to a meeting in Brussels to discuss this, and I think the Commission are now much more aware that there is going to be a problem—that it is quite true that some countries, even if they pulled every stop out,

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could not do it. The manufacturers could not produce it. The Government's view is that something has to be done to protect those who have made the investment.

**Q197 Thomas Docherty:** Good afternoon Minister. We have a table—or a partial table—provided by the Commission as of 31 December, and approximately 25% of the eggs produced within the United Kingdom are not compliant, or would not be compliant. Could you update us, as to the estimate of what percentage is likely to be non-compliant within the United Kingdom on 1 January next year?

**James Paice:** I do not wish to project forward, but the latest information is that all those producers signed up to the Lion brand, which is 90% of production, will have converted. Of the remaining 10%, we do not have clear information, but all the evidence, and you will have heard it from the British Egg Industry Council, is that virtually everybody will have converted. In other words, I believe that by the end of this year there will be a very tiny minority who might not have done.

**Q198 Thomas Docherty:** I do not know if you have seen the table or not, so apologies for that. It shows that there are approximately 3,500 producers within the United Kingdom, or rather sites of production within the United Kingdom—I appreciate that many producers have more than one site. I was wondering: is Defra at all concerned that we, as a result mainly of this new directive, will move to a situation where there are even fewer producers within the UK? You might have seen the evidence we have had from the industry. They are saying that some people are being forced out of the industry by these new directives. Is that a fair assessment?

**James Paice:** I think it is perfectly fair to say that there are those who, for one reason or another, are choosing not to make the investment in the new type of cages, the enriched colonies, and will choose to exit the industry. That may be from personal choice; it may be that they do not have the money to invest; it may be for a number of reasons. A much bigger threat to the industry, though, is not those who have chosen to exit for that reason but those who are, firstly, under immense pressure because of the increased costs of feed at the moment—the industry is suffering badly from that—but also the risk, if something is not done, that the UK market will be undercut by imports of eggs from cage units from countries that have not carried out the conversion. That is the biggest threat to our producers, even to those who have made the investment in the newer systems.

**Q199 Thomas Docherty:** Last Thursday, when I think we had a very good Question Time session on the issue of eggs—your colleagues took part in that—the Secretary of State said that in her view the infraction proceedings might not be enough, in terms of a threat. Could you perhaps go further and spell out, for the Committee's benefit, what additional measures you and the Secretary of State perhaps have in mind if infraction measures are not indeed enough?

**James Paice:** I do not want to be drawn into any measures that the UK may take, if that, if I may say,

is behind your question. What we want to see within Europe is an intra-community ban, so that any countries that have not converted should be banned from exporting their eggs out of their own country. That is the best way of ensuring that our producers, and indeed those in other countries who have made the investment, are not undercut.

**Q200 Thomas Docherty:** If I can just tease out the intra-community ban, as we said in the Chamber last week, Madam Chairman, there are obviously shell eggs, liquid and powdered, but of course there are also food products that come into the United Kingdom pre-made. Would you see a ban being first of all on a member state basis, rather than on the basis of individual producers within a nation state? For argument's sake, let's use Poland, because we know that they have indicated that they have some concerns. Would you see it being Polish eggs and Polish products, or certain producers within Poland? Assuming it is member states, would you see it as being a shell ban, a liquid ban, a powder ban or a cake and quiche ban?

**James Paice:** First, yes, I do see it as a member state issue, because that puts pressure on the member state to put pressure on its own producers who have not made the investment. In the case of Poland, as far as I can understand, quite a lot have made the investment, and therefore that pressure should be on those that have not. I think if you made it on a producer basis, it would be very difficult to police and enforce. It has to be on a member state basis, and it would apply to any egg or egg product.

Whether it would extend to prepared food, such as your quiches, to be frank I have not thought of that issue. I am not aware that we import quiche from Poland, but perhaps we do. But no, it is a serious point, and I am afraid I do not have a direct answer to it. Logically you are right, it should—anything that contains an egg product. But do not forget that one of the difficulties with that is, of course, that we do import egg product, particularly powdered and some liquid, from outside the EU, and of course the ban does not affect those countries, so in theory there would be nothing to stop a country importing egg powder from, say, the USA, and then using it for baking, so it might be quite difficult to enforce that one.

**Thomas Docherty:** Thank you. I think I will come back to those later, Madam Chair.

**Q201 Richard Drax:** Minister, in the UK egg production is very consolidated. Do you think the directive is likely to result in production being concentrated on even fewer producers in this country?

**James Paice:** That would be speculation, Mr Drax, that I am not sure I should enter into. You are right: the industry has been concentrating for a number of years and it would be foolish to deny that that trend is likely to continue. Whether this particular measure will accelerate that trend, I do not think I am in a position to judge. My main concern is that we retain a strong and vibrant egg industry, which is, as you will be aware, largely self-sufficient in terms of the UK, and that is why I want to ensure that they are not

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undercut from abroad, and that obviously issues to do with supply and demand and balance in the marketplace come right before too long, I hope.

**Q202 Richard Drax:** Chickens are one example, but for farming generally, do you think that the more regulations you impose on people, the bigger farms—whether they be arable, chicken or anything else—are going to be able to meet the economies of scale, or rather the regulations, imposed on them?

**James Paice:** Yes, I agree with that. It is the case in all businesses that when you create more regulations, only the bigger ones have the time and the resources to concentrate ever more on keeping up with regulations, rather than getting on with the job they are supposed to be doing. That is why, as a general approach, the Government's desire is not to burden businesses—farms or any other sort of business—with unnecessary regulation.

When you are in the field of animal welfare, such as in this particular incident, I think it is difficult to resist the need for some regulation. This regulation was of course passed in the year 1999. The industry has had plenty of time to prepare for it, and indeed the new member states who have joined the EU since then knew what they were joining and the rules they were going to have to achieve, so I am not sure that anybody can complain they have not had sufficient notice.

**Q203 Richard Drax:** They are not following them; we just heard that before you came.

**James Paice:** Yes, I know. We reject that excuse, frankly. We believe they should have known what they were signing up to, and that is not an acceptable excuse to us.

**Q204 Neil Parish:** Good morning, Minister. We had a very frank exchange of views with the Commission, because we believe that egg producers need to be competitive, and English egg producers are competitive and they are also unsubsidised. One of the problems we have within the UK is that the Scottish producers have had some subsidy, had some support. Are you concerned that English egg producers have not had that support, and what could Defra do to help English egg producers?

**James Paice:** Defra is certainly not going to start supporting—to use your words, Mr Parish—the egg industry in cash terms. Yes, some Scottish producers got some money to assist with conversion; that is a devolved issue and the Scottish Government were able to make those contributions. I understand that in Wales there was not any. There was some help for people to go over to free range, but not in terms of converting from conventional cages to enriched colonies. It is unique to Scotland, but that is in the nature of devolution.

No, I think the egg industry has operated, as you rightly say, for countless years now in a free-market economy, outside any form of direct taxpayer support. The vast majority, as I said earlier, of our industry have invested in the new systems on that basis, and I think that is the right way forward, which I believe is what you were also told by the industry council.

**Q205 Neil Parish:** I would very much endorse what you say, but without rebuilding Hadrian's wall—I am being flippant—it is very difficult to stop eggs coming in from Scotland, and there is this chance that they will have received support, and it does have a disadvantage. But I suppose there is nothing, in the end, you can really do about that. Is that the case?

**James Paice:** No, there is not anything we can do about it, and actually I can look up the figures if you would wish me to, but my recollection is that the figures that Scotland has contributed are pretty small fry—not large scale. Sorry, that was not meant to be a pun.

**Q206 Thomas Docherty:** Just on the issue of devolved Administrations—it always falls to me to stop the trade war for Mr Parish—what discussions have you had with the devolved Administrations on the issue of 1 January 2012?

**James Paice:** We have had discussions, particularly with the Scots, and I think, without checking, also with the Welsh, and I am seeing the Northern Ireland Minister on Friday this week, and basically we are all of the same mind. Obviously trade is a UK matter, so in that respect, Ministers in Defra wear a UK hat, and we will be pressing the point that I have already made about an intra-community ban.

**Q207 George Eustice:** There are two issues being raised by the egg industry. One is compliance, and whether member states will fully comply, but there is a second concern that they might give the impression of complying and pretend they have done it and ticked the box, but then not do it in practice. There are also concerns about whether there is adequate enforcement in the EU, and whether it is consistent throughout the EU. Could you just tell us what Defra is going to do to enforce the regulations?

**James Paice:** We have, as you know, a legion of different inspectorate schemes, which indeed we are looking to try and rationalise and improve. As I understand it, it will primarily be a matter for what is currently the Animal Health Agency and about to become the merged agency with the VLA, and they would be able to carry out the necessary inspections, but as I have said, we have no reason to doubt that virtually every UK producer will be converted anyway.

I think the bigger challenge, and the right one behind your question, is: what will some other countries do? As you say, there is a suspicion, shall we say, that with previous regulations, some countries have signed up to them and not really paid too much heed to implementation, and that has to be a worry, but I am afraid it is not for us to do those inspections: it is for the FVO from the European Commission to make sure that other countries keep to it.

**Q208 George Eustice:** One of the issues in the specific case raised by the FVO was that in one instance in Poland, where they were already breaching the current densities, there were 1.2 million hens on a huge site, and the fine was only €7,500, which is clearly just a drop in the ocean for a unit of that size. Who sets those fines, and what sanction would be

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taken against a UK producer who was found to be in breach of the new legislation?

**James Paice:** I think I am going to turn to Sue for an answer to that.

**Sue Ellis:** There are two sets of penalties. One is under the welfare of farmed animals regulations; that applies to people having birds in non-compliant cages. The maximum penalty there is six months' imprisonment and/or £2,500. Breaches of the egg marketing regulations attract a maximum fine of £5,000.

**Q209 George Eustice:** And are those fines decided by the Department? Indeed, is the potential for a prison sentence set by the Department?

**Sue Ellis:** The penalties are usually decided on in conjunction with the Ministry of Justice, because there are certain levels of penalties, and you are expected to adopt one of those standard penalties.

**James Paice:** But in other countries they would be set by those countries. They are not an EU set penalty. I think that is what is behind your question.

**Q210 George Eustice:** Yes. It is not within the directive, for instance?

**Sue Ellis:** No.

**Q211 George Eustice:** Just in relation to how clear the interpretation of the directive was, I know that one producer told us it was unclear whether they needed to go the full way and have the new colony cages, or whether just slightly expanding the existing ones would suffice. Do you think that the guidance is clear enough, and have you issued some guidance to the producers in the UK so they know exactly what is required of them through this directive?

**James Paice:** I have never heard that point raised before, to be quite honest. I would find it difficult to understand how anybody could be confused by what was intended by the regulation. I think what was proposed has been well understood for a long while.

**Chair:** It is measurement of the cages.

**Q212 George Eustice:** That was a specific point—confusion as to how the cage area available to the hens is actually measured, and what is to be included.

**James Paice:** Ah, this is to do with the extended fronts issue? There was an issue that came up with what we might call conventional battery cages—the ones that are about to be banned—which was to do with the amount of area per bird, and my predecessors in office—not to comment on that but it was not my decision—made the decision to allow an extended front—to allow the front of the cage to be pushed out aurally—to be included in the overall area of the cage. That will not be allowed with the new systems. That is correct, isn't it?

**Sue Ellis:** Yes, that is right.

**Q213 George Eustice:** And has that been communicated to producers?

**James Paice:** Oh yes. I am not aware of any other confusion over the area of the floor. I suspect that is the extended front issue.

**Q214 Chair:** It is actually in the written evidence, if I may, from one of the farmers, and it relates to Directive 1999/74, the requirements to hold a particular number of birds and measuring the cages, but we can send you, perhaps, the written evidence and ask you to comment, Minister? It may well be related to before your watch, but if we could just get that for the record, that would be really helpful.

**James Paice:** Of course. Thank you.

**Q215 Mrs Glendon:** Minister, does the directive mark the end of the process from an animal welfare point of view, or will we move to stricter regulations in future, say if you went to a full adoption of non-caged systems way down the line?

**James Paice:** We have no plans to go further, no.

**Q216 Mrs Glendon:** You think this is the end of the process and we have reached that point in animal welfare?

**James Paice:** I know there are those in the animal welfare community who believe that it is not adequate, but I think we have to remember that these cage systems have a 20-year life, and therefore these producers have invested for a long time ahead, so in my view we should certainly not be contemplating any further changes for a very considerable period of time, and then with a good lead-in time. But all I can say is at the moment we have no plans or thoughts of going further than we have.

**Q217 Mrs Glendon:** Does Defra have a view on the relative ability of big and small producers to deliver improvements in animal welfare?

**James Paice:** We do not have an official view. In some ways, it is back to Mr Drax's point that the larger producers perhaps have the capacity to invest more and to be more flexible in their approach. Certainly, all the evidence that we have received—this applies right across the piece to farm animal welfare—from research is that welfare is more a function of management—the quality of the people looking after the birds or animals—than of scale. You have small producers of anything from chickens to cows who can make a good job of their welfare or can make a very bad job of their welfare, and equally the same with very large producers. It is the quality of the management husbandry skills that is the most important issue, rather than the scale of the business.

**Q218 Thomas Docherty:** Minister, first of all, just going back to your first answer about costs, we have obviously had quite a bit of evidence about, as you say, the rising price of feed and fuel costs as well. To what extent does the Department believe that the rising price is due firstly to feed, secondly to fuel, and thirdly to welfare directives, very broadly?

**James Paice:** Rising cost of production, you mean?

**Q219 Thomas Docherty:** Or cost of an egg to the consumer.

**James Paice:** The cost of an egg to the consumer in theory is not directly related to the cost of production. The cost of production—no, I am not aware that we have done that analysis. We do have—again, Sue may

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have this at her fingertips, but I do not; it is in this file somewhere—the extra cost to production incurred purely from the cages element. I can look that up in a second, unless you have it off the top of your head?

**Sue Ellis:** In terms of a hen place, it is between £20 and £25.

**James Paice:** That is capital cost; in terms of cost of production of the eggs?

**Sue Ellis:** I do not have it, no.

**Q220 Thomas Docherty:** On the issue of public procurement, you will recall that the Secretary of State said in the Chamber last week that the Government “is also a major procurer of public procurement, and by revising Government buying standards to make sure that sustainable development is at the heart of them, we can really help change behaviours.” Now obviously I agree with the Secretary of State, which is pleasant, so what steps will Defra be putting in place to ensure that illegal eggs and egg products are not purchased by the public sector from 1 January?

**James Paice:** The direct answer is no illegal eggs should be on sale in this country, or indeed in Europe, but the more detailed answer is that we will soon be launching Government buying standards, which will be mandatory on central Government, subject to no overall increase in cost, and those mandatory standards will require that all food purchased by central Government and its Departments should be produced to, at minimum, the standards of production required of our producers or their equivalents from overseas. It is not “Buy British”; we are not allowed to suggest that we should only buy British food, but we can stipulate that we should only buy food produced to the standards expected of our producers, and de facto that means not in conventional cages.

**Q221 Thomas Docherty:** Okay. I shall ask you two questions in one to speed things up, because I am conscious of time. You would accept that does not mean there is anything to stop a public body buying a non-British egg or egg product?

**James Paice:** European law would forbid us from doing that: we cannot possibly stipulate that food has to be British, or indeed anything else that we publicly procure.

**Q222 Thomas Docherty:** No, that is fine. And how do you intend to monitor the implementation of these rules by public bodies? Will it be your responsibility? Will it be CLG’s? Will it be that of the soon to be abolished Audit Commission?

**James Paice:** They would be expected to make annual returns to us. This of course applies to, as I say, central Government and its Departments. If I may, I just add that as far as local government and institutions like hospitals and schools are concerned, it would be through the transparency arrangements contained in the Localism Bill.

**Q223 Thomas Docherty:** My final question on procurement: you will be aware that people like Unilever, Subway, some of the supermarkets and Mr Kipling have all said that they will no longer use caged eggs in their products. Why cannot Mrs

Spelman or Mr Cameron make the same pledge—that we will not be using caged eggs in our products that are purchased by Government?

**James Paice:** The fundamental reason is an issue of cost. When you say caged eggs, I am assuming you are including the new enriched colonies as a cage—because that would be the only form of caged eggs that will be permitted. The fundamental point is the one I made about no overall cost: obviously at the present time we have to be very careful about public expenditure, without going into all those issues, and therefore it would be wrong to compel, we believe, the spending of more public money where it could be avoided. Having said that, we would expect all central Government and its Departments to have account of the overall picture, rather than item by item, and it is quite often the case—indeed, there is ample evidence now—that overall, these higher standards can be achieved at no overall increase in cost at all. We are not at this stage going to raise the standards beyond, as I say, the basics required of British producers, although we are quite clearly saying that the existing assurance schemes, such as the ! Red Tractor, would be a good indicator of those standards.

**Q224 Thomas Docherty:** We had a very lively exchange with the Commission’s representative before you came in, and I am sorry you did not have a chance to see our exchange, but could you outline how Defra is planning to protect good Europeans, as I think I described it—those who comply with the EU’s rules—from those who do not, beyond an intra-trade ban?

**James Paice:** You are talking within the EU?

**Q225 Thomas Docherty:** Sorry; how will you protect, as a Department, good Europeans—the UK egg industry—from the bad Europeans who do not comply, both those within the European Union and also those producers from outside the European Union? I appreciate you have already discussed the trade ban, but what other steps can be taken?

**James Paice:** As I have argued, the responsibility for enforcing the ban is the Commission’s, and that is why we are putting on all the pressure we can, as I think was said at Questions last week. At last month’s Agriculture and Fisheries Council, the Secretary of State herself flatly opposed the proposition from Poland of any extension; this has to be done. It is an EU responsibility. I do not particularly want to be drawn on what unilateral action we might have to think of if the European approach does not work, because we really want to press that it should happen right across Europe, and as you say, the good Europeans—those who have complied—should be protected.

Once you start going outside the EU, we are saddled with international law, and if the EU was to put a ban on cage eggs—or cage egg products, as it is more likely to be—from outside the EU, then we would stand a very high risk of being challenged under the World Trade Agreement, or under GATT. However, I said in a debate in Westminster Hall a few weeks ago that we are sympathetic, in time, to the idea that animal welfare should become an international issue

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in terms of the world trade talks, but we have to make sure that it is a genuine desire to improve animal welfare, and not some sort of protectionism, which might damage the least developed countries, who see agriculture as a growth sector.

**Q226 Mrs Glindon:** Are current food labelling standards sufficient to enable consumers to make an informed choice about the animal welfare implications of the eggs they buy?

**James Paice:** On eggs, yes they are; that assumes that they are aware of the system, but as you will be aware all eggs have to now be graded and marked with different codes, all of which indicate different housing systems. Yes, I think the system is there. Whether consumers either understand it or wish to use it is a matter that I do not think I want to comment on, but yes, I think in terms of eggs the system is pretty good at enabling them to differentiate systems of production.

**Q227 Mrs Glindon:** Going on from what you said about whether the consumers choose to use it, would you confirm that you think it is sufficiently clear and informative on products containing eggs, which might be branded goods?

**James Paice:** Once you are into products containing eggs, as opposed to eggs themselves, then to the best of my knowledge there is no direct labelling obligation on the husbandry or the housing systems from which the eggs were produced. In that case, no, there is no mechanism other than claims made by the producer. Increasingly, as somebody said earlier, a number of not just retailers but also producers of branded products are now stating quite clearly that they only use free range eggs or do not use caged eggs, or various other claims, but there is no statutory system of labelling like that, no.

**Q228 Mrs Glindon:** So is Defra planning to do anything, or what are Defra planning to do, perhaps, to improve food labelling in this way?

**James Paice:** We are certainly making big plans to change food labelling through the voluntary agreement that was delivered by the industry before Christmas. That relates to country of origin, but not to welfare, and the discussion is still taking place in Europe with regard to the food information regulations, which again primarily regard country of origin. We do see welfare as an issue about which consumers are interested, and it is a negative I am afraid, but we have not ruled out welfare labelling. If we achieve the country of origin rules that we are, I think, fairly close to delivering, then that in itself will be a significant step forward, and yes, welfare may well follow, but we have to take one step at a time. Country of origin itself can be a broad-brush indicator. For example, in the pig sector, if you want to be certain that the pig meat you buy was not produced by the use of stalls and tethers, for example, then you have to buy British, because we are the only country that has a complete ban. That is going to change in two years' time, but that is the rule at the present time. That is not to say other countries all use stalls and tethers; it is a minority now, but I am talking about if

you want certainty. So country of origin can be a proxy—not a particularly ideal one—for welfare standards. Welfare standards per se are something that we have in mind and we are looking at across a range of issues, but at the end of the day you always come down to the issue of how much information you can put on a label.

**Q229 Mrs Glindon:** How far do you think it would go, to be practical? With country of origin, what would be the next stage? What do you think would be the best level of information that consumers would find helpful?

**James Paice:** I think we have to look at the voluntary schemes first—the private schemes, they are sometimes called—and the various farm assurance schemes, such as the RSPCA's Freedom Foods, for example. There is a whole range of different schemes that will inform consumers. Once you get into the processed product, whether that is Mr Kipling's cakes or anything else like that, or a quiche, obviously it gets much more difficult. We have always argued that where there is a dish or product that has a clear majority ingredient—if you bought a ready meal of a beef casserole, then clearly everybody would assume that the majority of the ingredients is beef—you could easily have an obligation, although we do not at the moment, to label the country of origin of the beef. Once you go down to very minority ingredients, the bureaucracy, the burden on business, becomes pretty massive, and I think we have to accept that that, certainly at the present time, would be a significant step too far.

**Q230 Neil Parish:** Minister, there is this idea with the non-compliant eggs, and about having an intra-EU ban on trade in eggs that are not compliant. Data from the Commission show that Bulgaria, the Czech Republic, Greece, Poland, Romania, and Slovakia are not going to comply by January 2012. You have the figures on Spain, where you have 2 million eggs produced in free range or barn, and then you have 42 million eggs produced in either enriched or un-enriched cages. They are excellent figures, aren't they Minister? I am being sarcastic, as you can tell. We did really question the Commission very thoroughly on how on earth they can get member states to comply when they have not even got the figures. France's figures, for instance, are not available for 2010 and are incomplete for 2009. It really does help. So the point I am making to you is that, with so many countries not in a position to comply, how feasible is it with the law of numbers in Europe to get a ban in Europe on trade of eggs produced in non-enriched cages?

**James Paice:** I have not seen those figures that the Commission have given you, so I cannot comment on them directly, Mr Parish, but I am not at all surprised by the conclusions that you are, as you say, somewhat sarcastically drawing from them, because we have long believed from the information we were getting that a number of countries were not going to be able to deliver by 1 January, and now we get to the stage that, as I think I said earlier, the capacity of the equipment manufacturers to deliver and install is such

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that it would be impossible for every country to achieve it by 1 January.

I am not surprised by the overall picture, and that is why, to me, it is totally beholden on the Commission to ensure that either an intra-community ban or—if they can come up with some alternative that I have not thought of, fine—some mechanism is put in place to ensure that those countries that have delivered are not undercut. You have more experience than I have as to the detailed intricacies of how Europe works, Mr Parish, but I do not think this is a matter that could be voted down by member states, apart from the issue of a derogation, which was clearly squashed two weeks ago. My understanding is that enforcement is a matter for the Commission, not for Councils of Ministers.

**Q231 Neil Parish:** And then on the labelling, some of the egg industry that came and talked to us said that they would quite like a number 3 put on an egg from an enriched cage and a number 4 put on an egg from a non-enriched cage. The Commission argument was that they do not want any mark put on an egg that has been produced in a non-enriched cage after January 2012 because that egg is not compliant. The problem I have with that is, when there are producers that are producing eggs from enriched and non-enriched cages on the same holding, are they not going to get mixed? Where is Defra on this business of labelling? Where do you stand on this?

**James Paice:** We take the view that the Commission is right. Firstly it seems odd to me that you should be suggesting you label something that is unlawful. Are people willingly going to put a label on an egg that says “This is an unlawful egg”? I just think that is a strange expectation, and I also think it is exactly the sort of situation to which you refer, where you have both sorts being produced on one holding. Trying to enforce accuracy in that situation, in my view, would be a fool’s errand. I think we should say there should only be eggs from enriched cages on the market, and we have to move towards making sure that the others do not come on to the international European market, at least.

**Q232 Neil Parish:** So you are saying that where there are producers in member states that are producing eggs from enriched cages and non-enriched cages, none of their eggs, basically, should be accepted. They would have to prove categorically that they were from enriched cages. Otherwise, an egg looks like an egg, and they can stamp it. I know they would be stamping it illegally if they stamped it from a non-enriched cage, but policing that surely is impossible.

**James Paice:** It is impossible, I think, and that is why, I am afraid, in my view, the rules have to apply to the member state, not the producer or the individual unit.

**Q233 Neil Parish:** And therefore you will be supporting an intra-trade ban?

**James Paice:** Unquestionably that is our approach: we want the Commission to introduce one.

**Q234 Chair:** Are we putting too much trust in the Commission on policing and inspecting? I have no

doubt that our home inspections will verify that the ban is being implemented, but what confidence do you have that the directive will be applied uniformly from 1 January?

**James Paice:** Firstly, there is obviously the issue that the Commission have to take the lead on this, and then they have to be assured that the competent authority in each member state is going to comply and enforce compliance. That is the way the system operates, and I do not particularly want to suggest that we want to see some sort of overall European enforcement mechanism. That is not the direction in which we would particularly wish to see the European Union develop.

However, there is an obligation, and yes, as you rightly say, it does involve trust that each member state will ensure compliance within its own country, and that is why I think the only way that the Commission or the European Union can put pressure on the member state is an intra-community ban on all eggs from that country, rather than from any individual producer, because that would not apply any pressure. If you say, for example, because it has been brought up already, to Poland, “You cannot export a single egg until we are pretty sure that all your cage eggs are from enriched systems,” then that puts pressure on the Polish Government and its agencies to enforce the legislation. If you say to them, “You can only export eggs from enriched cages and keep the rest within your own borders,” it firstly does not put much pressure on them to force compliance, and in my view it is pretty widely open to abuse.

**Q235 Chair:** Sue Ellis gave us the figures for fines and imprisonment that would be imposed on our producers, and yet my concern is that it was flagged up to us by Mr Williams of the BEIC that a particular business that has 1.25 million hens in Poland was fined €7,500. We are being particularly good Europeans, and you need to have confidence to know that the directive will be applied uniformly, and as you so rightly said, Minister, the inspection is heavily oriented towards national implementation. We have had evidence during the course of this inquiry that not every national Parliament has transposed the directive into its own laws. How can you put our minds at rest that we are not being perhaps over-zealous? Also, I know when we banned sow stalls and tethers, it was unilateral, and it was seven years ahead of our main competitors, but my concern is that I see parallels in what our producers have gone through to meet the terms ahead of time—or hopefully 70% of them, or even 100%—by 1 January, and that may not be the case across the European Union.

**James Paice:** You make a perfectly valid point, Ms McIntosh, to which I am afraid I really do not have an answer. You are absolutely right about the experience of the stall and tether ban with pigs, and we made the point absolutely clear that, although we can go back over history, there was a very justifiable welfare reason for doing it. What we ended up demonstrating was an export of our pig industry largely to countries that were not imposing that ban, so arguably the cause of animal welfare was not enhanced. It may have been good for our collective

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conscience that we did it, but it did not actually improve the welfare of pigs. Therefore, operating across Europe has to be the right way forward, because it is where the vast majority of our trade is, particularly on food products. That is why we support—I keep repeating this—the idea that it is a matter for Europe itself to ensure that these regulations are complied with, but short of actually advocating, which I certainly do not, some sort of pan-European inspection system, I am afraid you have to end up trusting each member state. That is not unique to chicken cages; it is across the piece, with all sorts of regulations on business and farms or anything else.

**Q236 George Eustice:** I just wanted to pick up on this point. You said it was the Commission's role to enforce this, which is absolutely right, but when we probed them on this, they kept saying it was with the lawyers, basically. The legal department was looking at the possibility of an intra-EU ban, but there was no precedent for this sort of thing being done. We all know that lawyers like to follow precedent rather than set new ideas and go out on a limb. I suppose my question is: what are the influences on the Commission, and what influence can we bring to bear on them to ensure that, if push came to shove, they came down on the right side in this decision? When we put pressure on them, they sort of said, "It is good to keep this idea alive, and so it is probably better that we do not reach a definitive position on whether or not we would support an intra-EU ban," which did not give me much hope that they would actually come down on one's side if needed. How influential can Defra, as one Department from one country, be in making sure that they get that judgment right?

**James Paice:** I admit to sharing the obvious doubts that are behind your question, Mr Eustice. All I can say is that both the Secretary of State and I and our officials are putting all the pressure that we can on the Commission at as high a level as possible; I do not know how high the rank of the official you have interviewed was. We are not alone. There are a number of other countries in Europe who have done the right thing—been good Europeans, to take Mr

Docherty's earlier remark—and we are pressing the Commission for action. That has to be the right way forward. I am perfectly conscious that if the worst comes to the worst, and action from a European level is not forthcoming, we will have to think about what we do after that, but at the moment, with nine months to go, I am determined to press the Commission to do the job that I think they are required to do.

**Q237 Neil Parish:** A unilateral ban?

**James Paice:** I am not going to be drawn on that.

**Q238 Chair:** We took a lot of evidence, Minister, during the course of the campaign that showed that in addition to the costs producers have had in meeting the terms of the directive, the general costs of production have increased hugely, with the feed and fuel costs going up. Are you aware of this, and is there anything that you can do in Defra to meet the general concern about the rising cost of egg production?

**James Paice:** The direct answer to you, I am afraid, has to be no, no more than we can do it for pig producers or beef producers or dairy producers, inasmuch as, quite rightly, Government does not set prices for agricultural products any more—not that they ever did for eggs, or indeed pig meat for a very long while. These are things that have occurred through the market. Obviously, we are very conscious of those price pressures, and our role has to be to try to ensure that the market is operating as effectively as possible, which is why we are looking at things like food labelling, why in the dairy sector we are looking at how we can stimulate more work in terms of exports and import substitution—there is a whole range of issues across the piece where we are trying to ensure that the economic environment in which businesses and farmers are operating is producing the best return that the market can deliver, but for anybody that looks to Government for direct financial support or market support, I am afraid that is not where we live today.

**Chair:** You have been very generous with your time. Thank you very much for participating in the inquiry and for being with us this afternoon.

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# Written evidence

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## Written evidence submitted by the British Egg Industry Council (BEIC)

### SUMMARY

- New EU legislation will prohibit the use of conventional (“battery”) cages for laying hens from 1 January 2012.
- UK egg producers will have invested £400 million to comply with this legislation—equivalent to spending £25 per hen housed.
- However, not all producers in the EU will comply with the ban.
- 29% of EU egg production is forecast to be “illegal” on 1 January 2012 (ie 103.5 million laying hens, or 83 million eggs a day!).
- The investment made by UK egg producers must be protected by preventing “illegal” eggs and egg products from entering the UK from 1 January 2012.
- The Egg Industry employs 10,000 people directly with another 13,000 indirectly.
- The Industry has a turnover of some £1.5 billion annually.
- 90% of eggs produced in the UK meet the stringent standards of the Lion Quality Code of Practice. British Lion Quality eggs are consistently rated amongst the safest in the world and are produced to the highest welfare standards.
- In 2009 the UK was the 6th largest producer in the EU.
- UK production was 8,642 million eggs with 189 eggs consumed per capita.
- The UK egg industry consumes one million tonnes of cereals annually.
- The UK is 80% self-sufficient in production—this compares with 87% 10 years ago.

### BACKGROUND

1. Council Directive 1999/74/EC, laying down minimum standards for further improving the welfare of laying hens, makes certain requirements on all egg production systems including cage, free range and barn. However, by far the greatest challenge is the implementation of the ban on the use of conventional cages in the EU from 1 January 2012.

2. The UK industry responds to the demands of the marketplace and has already made significant progress in implementing the requirements of the Directive (Figure 1).<sup>1</sup> All British Lion Quality egg producers have committed to move their caged hens into the new enriched colony systems by 1 January 2012. (Figure 2).<sup>2</sup> In addition, the UK already has the largest free range flock in the EU.

*Complying with this EU Directive will have cost British producers £400 million—or £25 per hen.*

3. BEIC does not fear competition from “legal” eggs being imported into the UK.

4. However, BEIC estimates that there are many producers in other EU member states who are unlikely to meet this deadline. We estimate that should the ban on eggs produced from conventional cages come into force on the 1 January 2012 (as the European Commission is currently adamant will be the case) then there will be a sudden shortfall of eggs EU-wide—as high as 29% (Figures 3 and 4).<sup>3</sup> We very much doubt this will be allowed to happen (especially at a time of increasing food prices and concerns over future food security). The commercial reality is that such eggs would continue to be produced and enter the marketplace unless certain measures are put in place.

5. We therefore anticipate that producers in some other member states may be given permission at the last minute to extend the deadline and that cheap, lower welfare eggs, especially from Southern and Eastern member states could be available in the UK.

### WHAT CAN BE DONE TO SAFEGUARD THE UK’S EGG SECTOR?

6. In order to provide a “level playing field” for the British egg industry and to ensure that British consumers are not inadvertently buying eggs and egg products which have been produced to a lower animal welfare standard than UK eggs, we are asking the Government to ensure that Council Directive 1999/74/EC is adhered to across the EU. From 1 January 2012 EU egg marketing legislation makes the marketing (and therefore sale) of any eggs or egg products produced from a hen housed in a conventional cage unlawful in the EU. We expect

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<sup>1</sup> Ev 38

<sup>2</sup> Ev 39

<sup>3</sup> Ev 39, Ev 40

the Government to enforce legislation so that no eggs or egg products produced from a hen housed in a conventional cage enter the UK from elsewhere in the EU. We have additionally asked the European Commission, European Council and European Parliament for:

- An intra-EU trade ban on eggs and egg products produced by hens which continue to be housed in conventional cages after 1 January 2012, if more time should be given to producers in other member states to phase-out conventional cages. (This would be via an amendment to the Egg Marketing Regulations so that eggs from hens housed in conventional cages could only be marketed in their member state of production).
- The introduction of a 5th production indicator marked on eggs to allow enforcement authorities to differentiate between eggs from enriched and conventional cages. (ie eggs from an enriched cage would be marked with a No3 and eggs from a conventional cage would be required to be marked with a No4 or other mark, if more time should be provided to phase out the use of conventional cages).

7. Any exemptions which allowed the continued sale of eggs or egg products produced from conventional cages EU-wide after 1 January 2012 would put the British egg industry at a huge commercial disadvantage and would effectively be penalising British egg producers who have responsibly taken into account changes to the law and invested a great deal of money in preparing the industry for this change.

8. Additionally, we feel confident that British consumers would wish to be able to differentiate between an egg produced under higher animal welfare standards in the UK and one produced under inferior animal welfare standards elsewhere.

#### WHAT NEXT?

9. We continue to work hard, in conjunction with the Government, to press the case for both an intra-EU trade ban on any eggs or egg products that continue to be produced from hens housed in conventional cages after the 1 January 2012, and for the introduction of a new production indicator to be marked on eggs.

10. In addition to this, BEIC is lobbying the Commission through our European umbrella trade organisations EUWEP and COPA/COGECA.

11. Clearly, at this stage, it is impossible to say what decisions will be taken at the last moment, but we are determined to leave no stone unturned in our determination to ensure a level playing field for the British Egg Industry, and to avoid our own industry being “exported”.

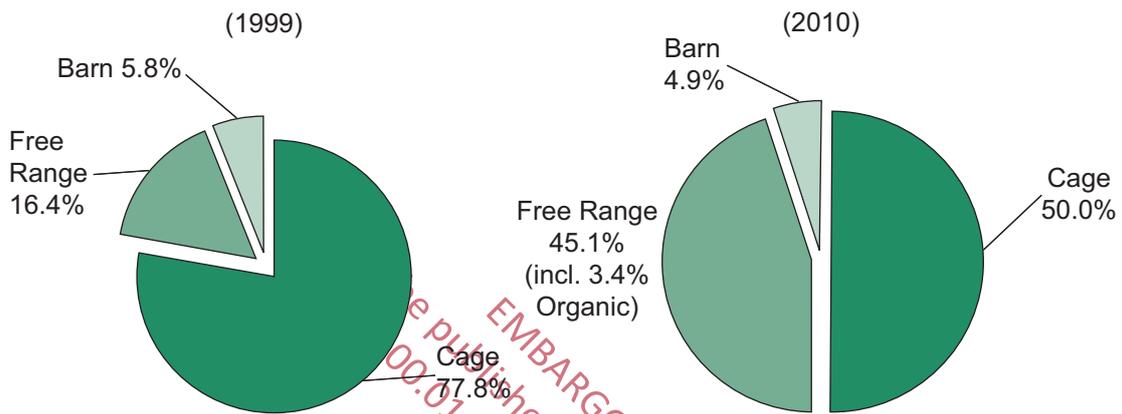
15 February 2011

Not to be published in full, or part, in any form before  
Friday 2 September 2011

Figure 1

UK EGG MARKET SPLIT BY SYSTEM OF PRODUCTION—1999 AND 2010

UK Egg Market Split, by System of Production (Volume)  
(Source: Defra, UK Packing Station Throughput)



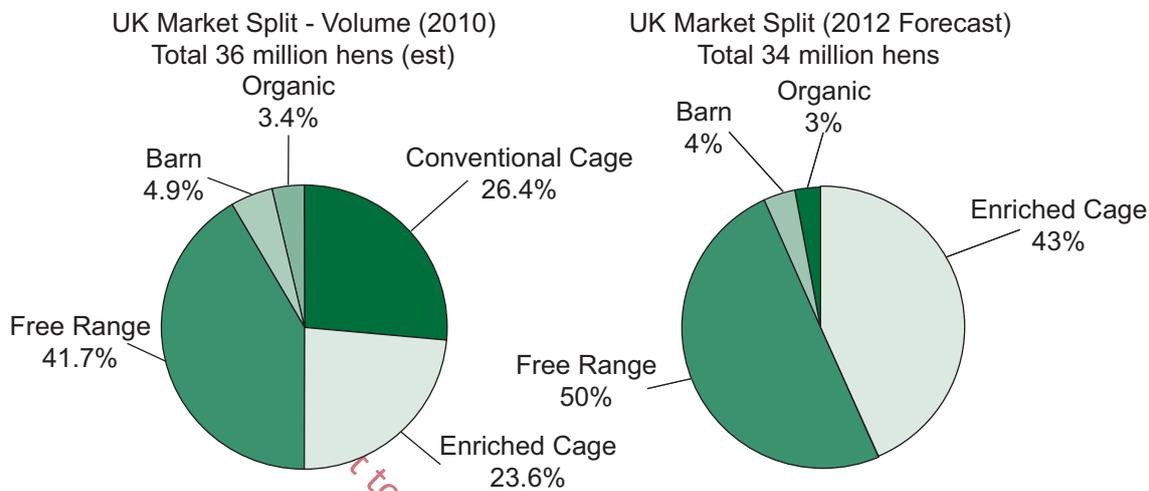
The UK egg market is led by market demand

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10.01 am on Friday 2 September 2011

**Figure 2**

**UK EGG MARKET SPLIT BY SYSTEM OF PRODUCTION—2010 AND 2012 FORECAST  
(INCLUDING ENRICHED CAGE)**

**UK Egg Market Split, by System of Production—Volume  
(Source: BEIC)**



**Figure 3**

**EU LAYING HENS BY SYSTEM OF PRODUCTION—2009**

Updated on 28 May 2010

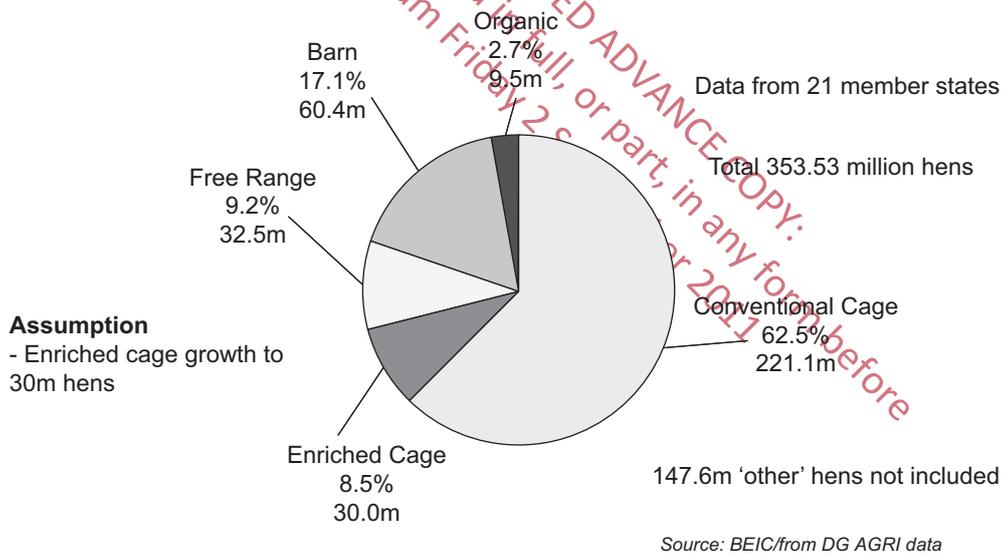
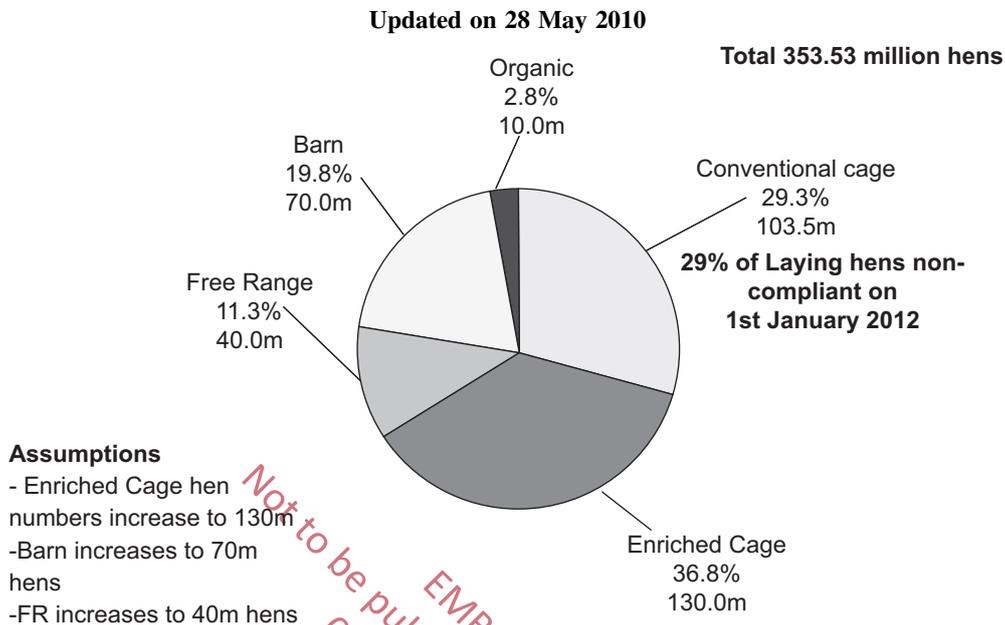


Figure 4

EU LAYING HENS BY SYSTEM OF PRODUCTION—2012 FORECAST



Source: BEIC

THE ROLE OF THE BRITISH EGG INDUSTRY COUNCIL

The BEIC is an inter-professional organisation of 11 trade associations in the UK, which cover all aspects of the egg industry—breeding, hatching, rearing, laying, packing, egg processing and marketing.

Set up in 1986, the principal function of the BEIC is to represent the interests of its Members (the UK egg industry) in discussions with Government, MPs, the European Commission, European Parliament, and other bodies. BEIC also set up and runs the British Egg Information Service (BEIS) to provide information and answer questions about eggs. The BEIS distributes leaflets and recipe books, nutrition and food safety information, and specific materials for the general public, teachers, caterers, health professionals and students. BEIC also finances research and development. BEIC is recognised by Government and Parliament as the representative voice of the UK egg industry.

The 11 representative Trade Associations are:

- British Egg Association (BEA).
- British Egg Products Association (BEPA).
- British Free Range Egg Producers Association (BFREPA).
- National Egg Marketing Association Ltd (NEMAL).
- National Farmers' Union (England and Wales) (NFU).
- National Farmers' Union (Scotland) (NFUS).
- Northern Ireland Poultry Breeders and Hatcheries Association (NIPBHA).
- Pullet Hatcheries Association (PHA).
- Pullet Rearers' Association (PRA).
- Scottish Egg Producers Retailers Association (SEPRA).
- Ulster Farmers Union (UFU).

The Council of the BEIC is made up of the 11 organisations listed above. The Chairman of each organisation attends the quarterly Council meeting, where policy is determined.

BEIC is funded exclusively by a voluntary levy on a number of packers and producer/packers who between them represent more than 85% of egg output in the UK. These “Subscribers” to the BEIC adhere to the “Lion” Code of Practice, which sets higher standards of both hygiene and animal welfare than is currently required by UK or EU law. (Currently, more than 95% of free range and organic egg production is to “Lion” standards, plus almost all barn production).

BEIC members and staff also hold key positions in the following EU and global organisations;

- COPA/COGECA (the EU organisation for producers and cooperatives).
- EEPTA (the EU organisation for egg packers and traders).
- EEPA (the EU organisation for egg processors).
- EUWEP (the umbrella organisation for EEPTA and EEPA).
- European Commission’s Advisory Group on Poultrymeat and Eggs.
- IEC (the global body for egg producers, packers, traders, processors and allied industries).

### Written evidence submitted by the Royal Society for the Prevention of Cruelty to Animals (RSPCA)

#### SUMMARY

The RSPCA believes that the English egg industry can be compliant with Directive 1999/74 and will not face any extra competition on shell eggs from inside or outside the EU. It is possible to produce and import dried and liquid illegal eggs from Spain or third countries cheaper than in England. Corporations especially in the food processing sector have a crucial role to ensure that English producers are not undercut, as retailers have done in shell eggs. This is already starting to occur. Future trade liberalisation should be tempered by classifying eggs as a sensitive product. English producers have not been eligible for government support but this has not had a crucial effect on their competitiveness.

1. The RSPCA is pleased to respond to the consultation looking at the implications and challenges England faces in complying with Directive 1999/74. The RSPCA was one of the foremost advocates of the ban on the conventional cage in the 1990’s but also agreed with the egg industry on the implications of the ban on the competitiveness of the egg products industry and its relationship to ongoing agricultural negotiations under the Doha Development Round (DDA).<sup>4</sup> The EU ban is one of the first multi country agreements in the world to phase out a method of production due to animal welfare concerns, so its implementation and effects go beyond the egg sector. The RSPCA is uniquely placed to comment as both an animal welfare organisation and as the standard setter for Freedom Food, the UK’s only assurance scheme solely geared to animal welfare. Freedom Food currently has around 98% of the free range egg market in the UK, a market that has been growing by around 3% Year on Year since the ban was agreed 12 years ago.

2. The implications for egg production, manufacturing and food processing in England fall into three distinct areas: a) the ability of production methods to meet the Directive by January 2012; b) the effect of imports of shell eggs and dried/liquid egg on competitiveness and c) any future liberalisation under the DDA. It is clear that the ban will be enforced in 2012. Only one member State, Poland, is currently asking for a postponement and over the 13 year phase out the Commission has made it consistently clear to the egg industry that the 2012 deadline is sacrosanct.<sup>5</sup> This position is supported by the European Parliament.<sup>6</sup> Current ability to meet the Directive’s standards varies greatly in the EU-27, from Luxembourg (100% compliance) to Spain (5% compliance).<sup>7</sup> The UK (over 50% compliant) also has variations from Wales (96% compliance)<sup>8</sup> to England (around 50% compliant). The RSPCA believes that England will meet the Directive’s deadline and brings to the Committee’s attention the rapid change over that occurred in Germany which went from around 40% compliant in 2008 to full compliance in 2010.

3. Other countries will find the deadline challenging, including Europe’s third and fourth largest producers respectively, Poland and Spain which have non compliance estimated at 90% and 95% of production at present.<sup>7</sup> So what effect will this have on the English egg market? The UK is only 85% self sufficient in eggs and imports eggs from Spain. There are two options open to the Commission on non compliance, enforcement of the Directive or intra EU bans. The Commission continues to support the formal infraction process that applies to any Member State in breach of its obligations, but this could take time and may not ensure all illegal eggs are prevented from entering the EU-27 market place, especially as egg products. There has never been an intra EU ban on animal welfare grounds before and again this could have traceability issues with egg products as well as “rewarding” Spanish producers who are producing illegal eggs. Ensuring illegal

<sup>4</sup> RSPCA 2001. Hard boiled reality: animal welfare—friendly egg production in a global market.

<sup>5</sup> European Commission 8 January 2008. Communication from the Commission to the European Parliament and Council on the various systems of rearing laying hens in particular those covered by Directive COM(2007) 865 final; Agra CEAS Consulting Ltd. 2004. Study on the socio-economic implications of the various systems to keep laying hens. Report for the European Commission

<sup>6</sup> European Parliament Resolution P7\_TA-PROV(2010)0493 European Parliament resolution on the EU laying hens industry: the ban on the use of battery cages from 2012 16 December 2010

<sup>7</sup> DG AGRI. Average number of laying hens in the EU-27. 2010.

<sup>8</sup> Egg marketing inspectorate data. Report from the Welsh Assembly Government 2010.

shell eggs do not enter the English market is possible as all are marked with production method and a large majority are sold in the major retailers. By 2010 five retailers (Waitrose, Morrisons, Sainsbury's, Marks & Spencer, the Co-operative) only sold non-caged shell eggs and by 2012 the remainder will be able to ensure all shell eggs sold are produced legally. Egg products are more challenging.

4. England has several advantages to ensure no illegal dried and liquid eggs enter the market. It is the largest market in Europe for non cage egg products, and started conversion earlier. In 2008 non-cage eggs made up over 15% of the liquid egg market in England compared to 5% in other Member States. Secondly, the consumer attitude to eggs is mature and well informed. 65% say they would pay more to buy non caged eggs compared to an EU average of 53%,<sup>9</sup> 89% believing that imported food should have the same standards as EU ones.<sup>10</sup> This aspirational behaviour has translated into actual buying behaviour with the percentage of UK non cage eggs being produced rising from 25% in 1999 to over 50% in 2011 and the percentage on sale estimated to be 56% in 2009. Whilst true that awareness is less easy to translate into actual purchase behaviour with egg products due to labelling problems, retailers and food manufacturers are starting to play a key role in removing this problem of choice. Three retailers have stated they will only use non cage eggs in egg products in 2012. Food manufacturing and processing companies started later than retailers in applying standards on use of eggs in their sectors but in the past year their response has been, if anything, faster. McDonald's, Little Chef, Virgin Trains, Starbucks, Subway and John Lewis now use non cage eggs in their ingredients and as does Unilever in its operations in western Europe including Hellman's mayonnaise in England, a major user of dried eggs. If other major users also implemented such policies, it would be irrelevant if dried and liquid eggs from cage eggs continue to be produced and imported into England.

5. There are currently no imports of shell eggs from outside the EU, as transport distances are too far. Dried and liquid egg imports could be imported from countries such as the USA and India which still have large numbers of hens in conventional style barren cages (estimated to be around 95% and 80% respectively) and can produce eggs cheaper than England. These could undercut the English egg market with a price advantage in dried eggs of 3p before any changes in the DDA are enacted,<sup>12</sup> depending on the value of the Euro and tariff rates. But the EU and English egg products market is quite centralised, dominated by a relatively small number of large operators. Whilst price, security of supply and traceability are the three top buying factors in this market it is apparent that a demand to only use non cage eggs could be implemented if the market demanded it. Future tariff reduction could unbalance this. The RSPCA has been consistently clear in its support of the egg sector being classified as a sensitive product and exempt from any tariff reduction under the DDA.<sup>13</sup>

6. The RSPCA supports egg producers having financial assistance with the challenges that the 2012 change over brings. However Defra has not taken up any of the seven measures to improve animal welfare available to it under the ERDP, the most relevant to this issue being assistance with change over costs and marketing grants. The RSPCA is aware of three RDPs in the EU-27 where assistance has been given to egg producers to change over from conventional battery cages, including Scotland and Ireland. Though financial support has been time and budget limited it has created commercial opportunities to those producers not available to English ones. The RSPCA has lobbied for the ERDP to include animal welfare though it is recognised that change-over support is now not possible under the present programme.

February 2011

#### Written evidence submitted by the Department for Environment, Food and Rural Affairs (Defra)

- Council Directive 1999/74/EC laying down minimum standards for the protection of laying hens, states that from 1 January 2012, laying hens cannot be kept in conventional ("barren") cages. This is implemented in English law in the Welfare of Farmed Animals (England) Regulations 2007 (S.I. 2007/2078).
- The ban on conventional cages represents a significant welfare advance across the European Union.
- Government is committed to complying with the 2012 deadline to have phased out the use of conventional cages and welcomes the efforts the UK laying hen industry has made to comply with the ban.
- Government is concerned that progress in other Member States may not be so advanced and takes seriously the UK industry estimates that 29% of the total EU flock may still be in conventional cages across the EU on 1 January 2012.
- We wish to protect compliant producers from any competitive disadvantage of illegal production in other Member States or indeed the UK. Additional measures need to be put in place at an EU level to prevent market disturbance.

<sup>9</sup> Eurobarometer No. 229 June 2005 Attitudes of consumers towards the welfare of farmed animals

<sup>10</sup> Eurobarometer 270. March 2007. Attitudes of European citizens towards animal welfare.

<sup>11</sup> A price differential of about 11p/dozen eggs was estimated by the RSPCA in 1999 to move from the barren to the enriched cage system. In 2009 van Horne estimated an 8% cost of moving from the barren to the enriched cage and 22% to barn system.

<sup>12</sup> Agra CEAS 2010. *The poultry and egg markets: evaluation of the current market situation and future prospects*. European Commission.

<sup>13</sup> RSPCA 2001. *Hard boiled reality: animal welfare—friendly egg production in a global market*.

- Very much welcomed the Commission’s invitation for officials to discuss compliance and enforcement of the conventional cage ban at a multi-stakeholder event on 19 January 2011 and for its agreement to consider a number of possible enforcement options proposed by Member States and stakeholders.
- Government will continue to play a full part in EU discussions on a practical enforcement solution so that this significant welfare advance is not delayed and compliant producers are not disadvantaged.

## INTRODUCTION

1. This written evidence sets out Defra’s response to the issues identified by the Committee for its inquiry into the egg industry and the implications of the EU Council Directive 1999/74/EC: the Welfare of Laying Hens. As the Directive has been implemented in separate but similar legislation across the UK and the issues are relevant across the whole of the UK laying hen industry this is reflected in the response.

2. Council Directive 1999/74/EC laying down minimum standards for the protection of laying hens, states that from 1 January 2012 on establishments with more than 350 laying hens, hens cannot be kept in conventional (“barren”) cages. This has been implemented into English law since 2002, most recently in the Welfare of Farmed Animals (England) Regulations 2007 (S.I 2007/2078) and in similar legislation in Wales, Scotland and Northern Ireland. There is clear evidence that conventional cages are detrimental to hen welfare and therefore the decision to ban them by 2012 represents a significant welfare advance across the European Union. After 1 January 2012 EU laying hen production will have to be either in enriched cages, free range, barn or organic systems. Enriched cages, often termed “colony” systems provide more space than conventional cages and are legally required to provide nest boxes, litter, perches and claw shortening devices. Both the Commission and the Government’s independent advisory committee, the Farm Animal Welfare Council, recognise the benefits of enriched cages and support their use. Of the alternatives to conventional cages, there is no scientific evidence to favour one production system over another. In terms of welfare, each has its own strengths and weaknesses.

3. The UK government is committed to complying with the 2012 deadline to have phased out the use of conventional cages. The UK laying hen industry is working hard to comply with the ban and has stated that Lion Code subscribers will be ready for 1 January 2012 and that there will be no conventional cage produced eggs marketed as “Lion” from this date. Lion Code members represent 88% of UK production which includes free range, organic and barn commercial producers as well as cage producers. Some smaller cage egg producers have said they will not be investing in new equipment for 2012 and would leave the industry by 2012.

4. In respect of some other Member States, the Government’s concern is that progress in converting out of conventional cages may not be so advanced. The UK industry estimates that of the 251 million hens in cages in the EU, 103 million hens will remain in conventional cages across the EU on 1 January 2012 (which represents 29% of the total EU flock of 353 million hens) leading to large-scale non-compliance. Given these statistics, the UK industry is concerned that more time will be provided to producers in some other Member States to convert to alternative production systems, as if such action was not taken it is likely that the EU would have a massive egg shortage come 2012.

5. The UK government wishes to protect compliant UK producers from any competitive disadvantage of illegal production in other Member States or indeed the UK. Such behaviour would affect economic stability and fairness within the sector. Simply relying on infraction proceedings against non-compliant Member States will not be enough to deal with the commercially negative impact that the non-compliance would cause. Additional measures will need to be put in place to prevent market disturbance. We believe urgent consideration needs to be given at an EU level as to how to protect all those EU producers who are compliant and achieve the desired welfare improvements by 2012.

## THE IMPLICATIONS OF THE DIRECTIVE FOR THE EGG PRODUCTION, FOOD PROCESSING AND MANUFACTURING SECTOR

6. The UK is the sixth largest producer of eggs in the EU. In 2010 there were almost 39 million laying hens in the UK. The table at Annex 1 shows the current numbers of hens in the UK at the end of 2010. We are 80% self sufficient in egg and egg products, with the remaining 20% imported from other Member States, in particular France, Netherlands, Germany and Spain. The majority of these imported eggs (66%) are imported as shell eggs for use by wholesalers, caterers and the food industry. The remaining 33% are imported as egg products (liquid / powered eggs). We have a small export market, predominantly to the Republic of Ireland.

7. The UK industry is dominated by a small number of large companies—the top four companies market over 60% of all eggs. Roughly 80% of all total UK egg production goes through just 20% of companies. The remaining 20% of production and marketing is done by the far smaller companies in the industry, largely dealing in localised and niche markets.

8. In 1999, caged egg production accounted for 78% of UK egg production and free range (including organic) just 16%. By 2010, 49% of laying hens (19 million) were housed in caged egg production systems and over 42% (16 million laying hens) were housed in free range systems, with a further 3% in organic systems. Of this

caged production, nearly 11 million (28%) are reported to be in conventional cages and over eight million (21%) in enriched cage systems. This information is based on inspection data by Animal Health, the Government's inspecting and enforcement body, and the most up to date estimates from industry suggest that the number of enriched cage places are more likely to be between nine and 10 million. The growth in free range systems over the last decade has largely been driven by consumer demand.

9. At present, the British Egg Industry Council are predicting that the market split for 2012 could be 50% free range, 43% cage, 4% barn and 3% organic.

10. Waitrose (shell eggs and own label food products), the Co-op (shell eggs), Marks and Spencer (shell eggs and food products and Morrisons (own label shell eggs) have already stopped selling cage eggs or have indicated their intention to do so in the near future. Sainsbury's no longer sell cage eggs and have stated that they will move to using eggs from non-cage systems in their own label food products by 2012. The two largest retailers, Tesco and ASDA, have both stated that they intend to continue to offer cage eggs for sale in their stores to satisfy the demands of their diverse consumer base.

11. The UK egg processing sector believes that there is an imminent competitive threat from products manufactured from shell eggs produced in conventional cages in the EU after 2012. Parts of the market for egg products are extremely price-sensitive and products produced in existing conventional cages are likely to have a significant cost advantage over those produced in new enriched cages, even after transport costs are added.

12. The UK industry is also concerned that with the increased costs of production, combined with significant reductions in import tariffs, imports of eggs and egg products from third countries will increase. Eggs from third countries produced in conventional cages will continue to be permitted to be marketed post 2012. Industry argues that the price differential is likely to be sufficiently attractive for many retailers to choose cheaper imported eggs—particularly those eggs destined for the processing/manufacturing sector.

13. In terms of cage manufacturers, three European suppliers dominate the UK enriched cage market and each are estimated to have a 30–40% share. These suppliers have reported that they are still being asked to quote for new systems. They have restricted the installation of the units to their own staff for quality control purposes, so it is likely that this will slow up the rate of conversion across the EU as we approach 2012.

#### HOW THE EUROPEAN COMMISSION PLANS TO ENSURE COMPLIANCE WITH THE DIRECTIVE

14. The last survey the European Commission undertook at the end of 2008 revealed that only 7% of the hens housed in cages across the EU were in enriched cages. Until very recently the Commission has repeatedly restated its commitment to the 2012 deadline and argued that it would be down to the individual member state to ensure compliance and infraction proceedings would be undertaken in the event of non-compliance. At the end of 2010, however, there were signs that the Commission was beginning to accept the EU industry, the European Parliament and certain Member States, including the UK, that there might be a problem with non-compliance come 1 January 2012. Representatives from Member States, industry, animal welfare and consumer organisations were invited to attend an event in Brussels on 19 January to discuss compliance and enforcement of the conventional cage ban. The aim of the meeting was to give the Commission its first clear idea of the probable extent of non-compliance come 2012 and Member States views on possible enforcement options.

15. The Commission conclusions from this event were that the time frame for implementation of the conventional cage ban was feasible and that there was no appetite for allowing more time to phase out conventional cages. However, there was also a general consensus that the forecast by the European industry of 29% non-compliance would cause a significant problem, so the introduction of measures that would maintain transparency for consumers and a level playing field for all EU producers was favoured. Hence a number of possible enforcement options were proposed by Member States and stakeholders. They were:

1. Additional time / derogation to implement directive.
2. New code "4" to distinguish illegal eggs.
3. Limited circulation of illegal eggs within M/S of production, eg intra-community trade ban.
4. Official list of non-compliant producers.
5. Equivalent animal welfare standards for 3rd country imports.
6. Avoid adoption of new animal welfare standards for several years to allow all technical and financial payment to realise.
7. Implementation plans and flock data to be freely available to all.
8. Increased FVO inspection regime.
9. Increased Competent Authority inspection regime.
10. Compensation for producers who leave industry in 2012.
11. New promotional regime to inform consumers that egg is contained in foodstuff.
12. Prevent the sale of stripped out conventional cages to third countries.
13. Competent Authority sanctions to be proportionate, effective and dissuasive.
14. Additional investment aid to encourage conversion.

16. These options for enforcement are currently being considered by the Commission. The Commission agreed to continue the dialogue with Competent Authorities and all the sectors concerned in order to ensure the proper enforcement of the legislation. Four working groups have also been convened to continue the discussion on this issue with Member States and interested parties.

#### GOVERNMENT SUPPORT FOR THE EGG AND EGG PRODUCTS INDUSTRY

17. The Government wishes to protect all those UK producers who have invested heavily in alternative production systems from the risk of any illegal production in the UK or in other Member States after 1 January 2012. Action would be taken under the Welfare of Farmed Animals (England) Regulations 2007, and its equivalents in the Devolved Administrations, which implement Directive 1999/74/EC and Commission Regulation EC No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs. This Government and previous Administrations have supported the UK hen industry in a number of ways:

18. In the Autumn of 2008, an awareness campaign of 14 meetings was held around England, aimed at helping existing cage producers make informed business decisions on whether to re-invest in egg production facilities and to outline the options available, together with supplying them with indicative costs for enriched and non-cage systems. It proved a very useful campaign with around 60–70 cage egg businesses attending the meetings.

19. In July 2009, the previous Administration issued a letter to industry and producers restating Ministers' commitment to the 2012 deadline for the ban and to urge them to press ahead with their plans to convert out of conventional cages to alternative systems. Similar letters were sent by the Welsh Assembly Government and the Scottish Government.

20. In February 2009, Northern Ireland held an industry education and awareness event and in October '09 held a meeting with the Ulster Farming Union and the laying hen industry in Northern Ireland to discuss the conventional cage ban.

21. In February 2010, Northern Ireland Ministers met with representatives from the laying hen industry to discuss the implications of the conventional cage ban.

22. In July 2010, the Coalition Government wrote to industry to confirm that they were committed to the deadline for phasing out conventional cages. The Welsh Government has been actively raising awareness of the conventional cage ban through a magazine (GWLAD) which provides the latest agricultural news from the Welsh Assembly Government.

23. The Minister of State for Agriculture and Food met with the UK egg industry in October 2010 and spoke on this issue at the Egg and Poultry Industry Conference in November 2010. The issue of potential non-compliance come 2012 was raised at a bilateral with Commissioner Dalli in November 2010 to which Ministers from England, Scotland, Wales and Northern Ireland were present.

24. During September 2010 Animal Health (Great Britain's inspecting and enforcement agency) in conjunction with veterinary advisors and officials from Scotland, Wales, England and Northern Ireland, conducted a UK-wide training programme for Egg Marketing Inspectors, Technical Officers, Veterinary Officers, and other Animal Health staff on the requirements set out in the EU Laying Hens Directive 1999/74 so as to achieve as consistent an approach to enforcement across the UK as possible. In addition, a programme of visits to enriched cage production sites is being undertaken to ensure that the transition to enriched cage production is supported and monitored.

25. In a letter from the Minister of State in September last year, he made it clear that we would oppose any derogation or delay to the deadline of 2012. The UK Government maintained pressure on the Commission to put measures in place to lessen the risk of market disruption come 2012 and to protect compliant UK producers from unfair competition from possible cheaper non-complaint production in other Member States. One of the options suggested was for an intra-Community trade ban that would restrict the sale of eggs, which continue to be produced from conventional cages after 2012, from being exported outside that member state's border.

26. UK officials attended the stakeholder event in Brussels on 19 January and restated the views described above. We will continue to play a full part in any discussions in Brussels on a practical enforcement solution so that this significant welfare advance is not delayed and compliant UK producers are not disadvantaged.

27. In preparation for the 2012 deadline, it is the intention to revise the Codes of Recommendations for the Welfare of Livestock: Laying Hens in England, Scotland and Wales to take account of the ban on conventional cages and to provide more guidance on enriched cage and free range production, including up-to-date husbandry advice.

#### FINANCIAL ASSISTANCE TO THE INDUSTRY

28. Defra has and will continue to resist any requests by the industry for financial aid to be made available under the English Rural Development Programme to enable egg producers to convert out of conventional cages. The Government's position is that rural development programme aid is not available for meeting minimum legal

standards. It would also be totally unfair to all those producers who have already invested heavily in conversion to give those late in doing so any financial assistance.

29. The Scottish Government has provided grants under the Scottish Rural Development Programme to assist egg producers in the conversion from conventional cages. Neither Northern Ireland or the Welsh Assembly Government has made any financial aid available for conversion.

February 2011

## Annex 1

### NUMBER OF HOLDINGS AND LAYING HENS BY PRODUCTION SYSTEM DECEMBER 2010

#### ENGLAND

	<i>Organic</i>	<i>Free Range</i>	<i>Barn</i>	<i>Enriched Cages</i>	<i>Conventional Cages</i>	<i>Total</i>
Number of holdings	201 7%	1,989 74%	222 8%	47 2%	232 9%	2,691
Number of Hens (in millions)	0.9 3%	11.9 41%	1.9 7%	6.1 21%	8.4 29%	29.2

#### WALES

	<i>Organic</i>	<i>Free Range</i>	<i>Barn</i>	<i>Enriched Cages</i>	<i>Conventional Cages</i>	<i>Total</i>
Number of holdings	29 8%	304 85%	15 4%	0 0%	10 3%	358
Number of Hens (in millions)	0.08 5%	1.2 80%	0.05 3%	0 0%	0.2 12%	1.5

#### SCOTLAND

	<i>Organic</i>	<i>Free Range</i>	<i>Barn</i>	<i>Enriched Cages</i>	<i>Conventional Cages</i>	<i>Total</i>
Number of holdings	47 14%	222 66%	26 8%	5 2%	34 10%	334
Number of Hens (in millions)	0.2 5%	1.9 44%	0.02 <1%	1.6 38%	0.6 13%	4.4

#### NORTHERN IRELAND

	<i>Organic</i>	<i>Free Range</i>	<i>Barn</i>	<i>Enriched Cages</i>	<i>Conventional Cages</i>	<i>Total</i>
Number of holdings	17 7%	140 57%	20 8%	12 5%	57 23%	247
Number of Hens (in millions)	0.1 4%	1.1 29%	0.2 7%	0.4 11%	1.8 49%	3.7

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