The Chicken & The Egg
Challenging Animals as Things

Disclaimer

This presentation is provided for the purposes of general information and education, and is not intended as specific legal advice on any matter. If you or your client’s have a legal problem you should consult a lawyer.

To the extent permissible by law, the Northern Rivers Community Legal Centre disclaims all liability for any detriment arising from reliance upon this publication.

Acknowledgements;
Dr Anne Schillmoller, for the use of her materials on Standing and Strategic Litigation. Christina Burke, ELC for her research on NSW Food Authority
Animals are things not clients

- Animals are property
- They have no legal capacity and no standing as legal persons
- Animals suffer from speciesism
- Human interests are prioritised above animal welfare.

Source: http://wigglypups.typepad.com/wiggly_pups/2008/03/animals-are-jus.html
Hatched & Despatched
-if you are born male
Animals as Commodities

Source: http://maggieblanck.com/Land/WE.html
75 cent chicken bred to live for no more than 7 weeks, allotted less than an A4 paper sized space, standing in excrement, with cardio-vascular and skeletal strain caused by breeding for quick maturing large breasts and thighs rather than the ability to walk

http://www.coopcam.org/Broiler-Chickens.php
The NSW Framework

- *Prevention of Cruelty to Animals Act 1979 NSW*
- “Stock animal" as an animal which belongs to the class of animals comprising cattle, horses, sheep, goats, deer, pigs and poultry.
- All factory-farmed “stock” are excluded from protections that mandate periodic release from confinement, allowing for exercise
Animal Welfare Codes of Practice

• Are developed in a partnership between animal industries and departments of primary industries with minimal input from animal welfare groups

• They are “best practice” industry standards that legitimise cruelty

• Prosecution for breaches of the Codes are rare
Factors for Standing

Factors which have been deemed relevant by the courts in determining whether a group has a representative nature and an established interest are:

- Whether or not the group has some kind of relationship with/or recognition by government
- Whether or not the group has some prior participation in the relevant area
- Whether or not there are other possible applicants for standing
- The ability (including resources) of the group to mount an effective challenge
- The constitution/objectives of the group
- The interests of the members of the group
- The significance of the issues at stake.
Basic requirements for standing:

1. The plaintiff has to have an ‘injury in fact’: some kind of an injury that is caused by the illegal act that is being complained about.

2. The injury that is being complained about must be fairly traceable to the illegal act that is being complained about.

3. In the case of actions pursuant to statute, the plaintiff’s claim is within the zone of interests that the legislature intended the statute to protect.

These limitations create hurdles to the protection of animals. Since no direct ‘harm’ is committed against the group or individual bringing the action, actions brought to protect the interests of animals may be dismissed because the plaintiffs are unable to establish a direct injury ‘in fact’.
Tests For Standing

Common Law- Admin Law Remedies

The applicant may be able to satisfy the general common law test for standing on the basis of having a ‘special interest’ in the subject matter:

AND

establish a nexus between its objects and those of the legislation to which the action relates.

Administrative Appeals Tribunal

If a Federal Act provides for review of a decision to the AAT, a person or organization with ‘interests affected’ by the decision may seek an application for review.
Administrative Appeals Tribunal

If a Federal Act provides for review of a decision to the AAT, a person or organisation with ‘interests affected’ by the decision may seek an application for review.

Section 27 of the AAT Act 1975 (C’th) provides:

Persons who may apply to Tribunal

(1) Where this Act or any other enactment provides that an application may be made to the Tribunal for a review of a decision, the application may be made by or on behalf of any person or persons ...whose interests are ... affected by the decision.

(2) An organisation or association of persons, whether incorporated or not, shall be taken to have interests that are affected by a decision if the decision relates to a matter included in the objects or purposes of the organisation or association.

(3) Subsection (2) does not apply in relation to a decision given before the organization or association was formed or before the objects or purposes of the organisation or association included the matter concerned.

• ‘[I]n their context in ss 27 and 30 the words ‘interests are affected’ denote interests which a person has other than as a member of the general public and other than as a person merely holding a belief that a particular type of conduct should be prevented or a particular law observed. However, the interest affected need not be a legal interest ...The nature of the interest required in any particular case would be influenced by the subject matter and context of the decision under review.’ [Brennan J]
Subsection 3(4) of the Act provides:

In this Act:

a reference to a person aggrieved by a decision includes a reference:

to a person whose interests are adversely affected by the decision, or

in the case of a decision by way of the making of a report or recommendation—to a person whose interests would be adversely affected if a decision were, or were not, made in accordance with the report or recommendation, and

(b) a reference to a person aggrieved by conduct that has been, is being, or is proposed to be, engaged in for the purpose of making a decision or by a failure to make a decision includes a reference to a person whose interests are or would be adversely affected by the conduct or failure.
Broiler Chickens; A case study in lawful cruelty and corporate greed

- www.animalsaustralia
The Model Code of Practice for Domestic Poultry

• Industry is given significant input into the guidelines.

• “Poultry other than newly hatched birds must have access to food at least once in each 24 hour period. The complete withholding of food for longer periods is not acceptable except in the case of broiler breeder birds or layer pullets, where skip-a-day feeding is an acceptable industry practice for maintaining bird health and productivity”
Free To Roam not....

The Good Life of a La Ionica Chicken.

The Facts are, chickens:

- are only fed natural grains and wheat,
- are not fed growth hormones, and
- are free to roam in large open sheds - NO CAGES.

Further, La Ionica uses a chemical free production process thus retaining the natural juices, leaving only 'pure natural tasting chicken'.

That is the reason for the SUPERIOR TASTE of La Ionica chicken.

Processed Chemically Free!
## Making sense of eggs.

<table>
<thead>
<tr>
<th></th>
<th>Cage</th>
<th>Barn laid</th>
<th>Certified free range¹</th>
<th>Certified organic²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are hens confined in cages?</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Are hens provided with a nest/perch?</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Do hens have space to flap their wings/exercise?</td>
<td>NO</td>
<td>YES (restricted)³</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Do hens have access to an outdoor range?</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Are hens ‘debeaked’?</td>
<td>YES</td>
<td>YES</td>
<td>MAYBE (depends on certification body)¹</td>
<td>NO</td>
</tr>
<tr>
<td>Are male chicks killed at birth?⁴</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Are hens sent to slaughter from 18 months old?⁴</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
</tbody>
</table>

For details visit www.AnimalsAustralia.org/eggs
What's in store for Free Range? APIA is attempting to take advantage of a market trend towards more ethically produced animal products by proposing standards that would severely weaken the “Free Range” label.

Tell the ACCC to uphold our expectations for ‘Free Range’ by rejecting APIA’s application.

www.getup.to/free-range
Northern Rivers Community Legal Centre’s Animal Law & Education Project