

# Lewis & Clark Law School 23<sup>rd</sup> Animal Law Conference

## The Rise of Animal Law “Down Under”

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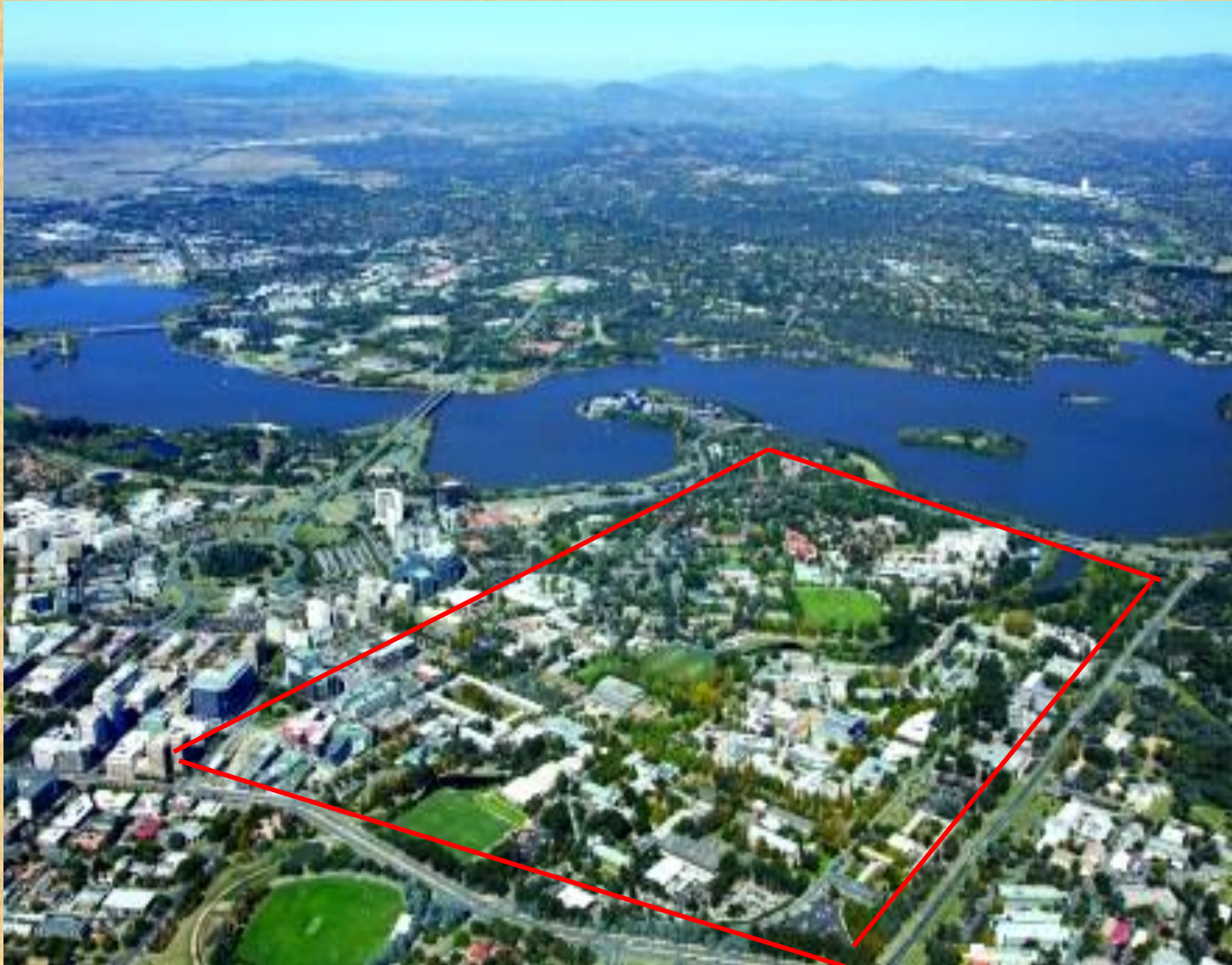
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# The Australian National University





# ANU College of Law



# What is this Presentation About?

- Phenomenal growth in Animal Law & Animal Welfare concerns in Australia;
- Evidenced by initiatives in three sectors:
  1. Legal sector – The Judiciary;
  2. Regulatory sector – Legislative; and
  3. Tertiary Sector – Higher Education

# Legal Sector - The Judiciary

- Impersonal, artificial “legal fictions” like corporations vested with legal rights - sentient animals are mere property with all the rights and privileges of a toaster;
- Liberal markets informed by neo-classical economic principles - corporations are rational profit-maximisers;
- Welfare of animals *always* subordinated to economic profit of corporations;
- Regulatory institutions oriented toward preserving efficient, competitive and profitable markets.



# Legal Sector – The Judiciary

- However! In Australia, those same market forces and government regulator: *Australian Competition and Consumer Commission* using judicial mechanisms for animal welfare!
- Litigation concerning “misleading and deceptive conduct” generating up-stream market animal-welfare reforms.

# Legal - Role of the ACCC

- *ACCC v C.I. & Co Pty Ltd* [2010] FCA 1511 (2010);
- *ACCC v Bruhn* (2012);
- *ACCC v Turi Foods Pty Ltd* (2012);
- *ACCC v Pepes Ducks Ltd* (2013);
- *ACCC v Luv-A-Duck Pty Ltd* (2013);
- *ACCC v Pirovic Enterprises Pty Ltd* (2013);
- *ACCC v Australian Egg Corporation Limited* (2015)
- *ACCC v RL Adams Pty Ltd* (2015)



# The Legal Profession

Creation of animal welfare interest groups in State / Territory Law Societies & Animal Law Practice:

1. Law Society of New South Wales – Young Lawyers Animal Law Committee;
2. Law Society of South Australia – Animal Law Committee;
3. “BLEATS” – Brisbane Lawyers Educating & Advocating for Tougher Sentences;
4. Couper Geyson – Qld Law Firm specialising in Animal Law matters.

# Regulatory Initiatives

1. Commonwealth *Exporter Supply Chain Assurance Scheme* (“ESCAS”) 2012 – regulating live exports of animals;
2. Consumer Affairs Australia New Zealand – *Consultation into Free Range Egg Labelling* (2015);
3. ACCC – *Enforcement Guidance: Free Range Egg Claims* (2015)
4. *Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales* (2015);
5. Senate Economics References Committee: *Inquiry into Third Party Certification of Food* (2015)

# Inquiry into Third Party Certification of Food

- “the extent of food certification schemes and certifiers in Australia including.. schemes related to organic, kosher, halal and genetically-modified food and general food safety certification schemes”;
- “whether current schemes provide enough information for Australian consumers to make informed purchasing decisions...”



# Australian Egg Corp's Ambit Claim

- Australian Egg Corporation ('the AEC') proposed new *Draft Egg Standards* ('the AEC *Draft Standards*') would permit the label 'free range' to be applied to eggs produced by farms that permit a stocking density of up to 20 000 chickens per hectare;
- The AEC *Draft Standards* would permit a stocking density of only 0.5 of a metre for each chicken, representing a 91.6% reduction in available space while legally advertising that eggs produced in these conditions are free-range!

# Australian Egg Corp's Ambit Claim

- ACCC received over 1700 public submissions. All but 7 submissions opposed the application;
- ACCC denied application stating:

It was “not satisfied that the Rules are satisfactory having regard to relevant principles relating to unfair practices, because it is concerned that the Rules may mislead or deceive consumers regarding the nature of a certified egg production process described as ‘free range’”.

# Legislative Initiatives

- *Voice for Animals (Independent Office of Animal Welfare) Bill 2015 (Cth);*
- *Food Amendment (Recording of Abattoir Operations) Bill 2015 (NSW);*
- *Animal Welfare (Greyhound Training) Amendment Act 2015 (SA);*
- *Surveillance Devices Bill 2014 (SA) – Defeated, but...*
- *Biosecurity Act 2015 (NSW) - Passed*



# Tertiary Education Initiatives

- 14 Australian Law Schools offer “Animal Law” courses at undergraduate and JD level;
- Two Law Schools offer “Animal Law” at postgraduate level;
- Increasing number of PhD HDR students pursuing “Animal Law” and related research degrees;
- 2014 – creation of “ANIMAL” *Australia New Zealand Intervarsity Moot on Animal Law* – 2015 event contested by 50 law students from 12 law schools;
- *Australasian Animal Law Protection Journal* – 2009, Australia’s first peer-reviewed Law Journal devoted to animal law;
- First cadre of *Fellows of the Oxford Centre for Animal Ethics*.

Thank You!

