



Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003

September 17, 2021

Mrs. Sandra Eskin
Deputy Under Secretary for Food Safety
Office of Food Safety
U.S. Department of Agriculture
1400 Independence Ave. SW
Washington, DC 20250

Via email and USPS

Re: Competitive markets and animal raising claims, request for meeting

Dear Mrs. Eskin:

We are writing on behalf of the Animal Welfare Institute (AWI) to request a meeting to discuss changes that the USDA Food Safety and Inspection Service should make to improve market competitiveness¹ with respect to animal raising claims on meat product packages. As the only non-profit organization that routinely monitors the approval of animal raising claims, AWI has had the opportunity to meet with several of your predecessors about the labeling of animal products, and we would greatly appreciate the opportunity to meet with you to discuss this pressing topic.

AWI was established in 1951 to reduce the suffering caused by humans to all animals, including those raised for meat, poultry, and egg products. In furtherance of its mission, AWI promotes higher-welfare farming systems and works to raise awareness about the realities of conventional, intensive animal agriculture. AWI monitors the use of animal raising claims on product packaging, because we believe maintaining consumer confidence in labels is critical to supporting higher-welfare farming practices.

Based on more than a decade of research, AWI believes that the deceptive use of claims on meat and poultry products represents a major threat to the future of higher-welfare, sustainable farming in the United States. Consumers are extremely invested in the welfare of animals raised for food, and producers are eager to capitalize upon this interest. The USDA's current label approval system, however, does not guarantee that high-value, high-impact claims, such as "humanely raised" and "sustainably farmed," are substantiated.² Some producers use these claims without ever receiving label approval from the USDA. Moreover, because producers are allowed to create their own definitions for these claims, many do not make meaningful improvements to their production practices above what is required by baseline industry care standards.

Producers that use claims without approval and/or without improving their practices destroy markets by competing unfairly against products bearing similar claims that are produced under higher standards. When a producer is allowed to make high-value claims without adequate substantiation, it lowers the value of the claim for producers who invest in higher-welfare or sustainable production practices. Further, consumers who purchase these products are deceived because they perceive animal welfare and environmental stewardship claims, such as "humanely raised" and "sustainably farmed," to mean that producers exceed minimum industry animal care standards. For example, in a recent poll conducted on

¹ *Promoting Competition in the American Economy*, Exec. Order No. 14,036, 86 Fed. Reg. 36,987 (July 9, 2021).

² *Label Confusion 2.0: How the USDA Allows Producers to Use "Humane" and "Sustainable" Claims on Meat Packages and Deceive Consumers*, ANIMAL WELFARE INST., (Sept. 2019) <https://bit.ly/3nBKJrE>.

behalf of AWI, 84 percent of chicken consumers agreed that producers should not be allowed to use the claim “humanely raised” on their chicken product labels unless they exceed minimum industry animal care standards.³

AWI has also conducted extensive research into approval and use of “free range” and similar living/raising claims, and we submitted a petition in 2016 requesting additional standards for substantiation of the claim. The FSIS issued an “interim response” to that petition in 2019 and solicited public comment on the claim at that time.⁴ However, FSIS has yet to issue a final response to the petition, and it also has not acted on public comment submitted in response to a 2015 *Federal Register* notice on the use of the claim “natural” in labeling human food products.

AWI strongly believes that the current lack of fair competition in the meat industry should be addressed by requiring producers who want to use holistic animal welfare and environmental stewardship claims to be third-party certified to standards that are higher than that of the conventional industry. For living/raising claims such as “free range,” the USDA should require producers to provide additional substantiation to ensure that products are meeting consumer expectations. Unless FSIS further limits which market participants can use these claims, farmers, animals, consumers, and small businesses will continue to be harmed. The enclosed recommendations describe short- and long-term actions that FSIS can take to increase transparency for consumers who wish to purchase products that align with their values. These recommendations would also help promote a more fair, open, and competitive marketplace, and serve to preserve America's role as the world's leading agricultural economy.

Thank you for your consideration. Please feel free to contact me at dena@awionline.org or (202) 446-2146 to arrange a meeting with AWI to discuss our concerns and recommendations.

Sincerely,



Dena Jones
Director, Farm Animal Program



Erin Sutherland
Staff Attorney, Farm Animal Program

Enclosure

cc: Andrew Green, Senior Advisor for Fair and Competitive Markets

³ *Survey of Consumer Attitudes About Chicken Welfare*, ANIMAL WELFARE INST. (Oct. 2020) <https://bit.ly/3sSeFAo>. AWI has surveyed on this question three more times in the past ten years, and on every occasion, consumers have overwhelmingly agreed: *Survey of Consumer Attitudes About Animal Raising Claims on Food (Part II)*, Animal Welfare Inst. (Oct. 2018) <https://bit.ly/3yIDtSA> (82% of meat, poultry, egg or dairy purchasers agree); *Survey of Animal Raising Claims Used on Meat Packaging*, Animal Welfare Inst. (Oct. 2013) <https://bit.ly/3BlqT7Q> (88% of frequent meat or poultry product purchasers agree); *U.S. Poll on the Welfare of Chickens Raised for Meat*, Animal Welfare Inst. 2 (Apr. 2010) <https://bit.ly/3DiqbtL> (77% of frequent chicken purchasers agree).

⁴ 84 Fed. Reg. 71,359 (Dec. 27, 2019).



Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003

Recommended Actions to Improve the FSIS Approval Process for Animal Raising Claims

1) All Animal Raising Claims

Short-term action #1: Commission survey research to determine consumer perception of common animal raising claims.

Long-term action #1: Given that FSIS has been unable to provide label approval files for approximately half the animal raising claims reviewed by the Animal Welfare Institute over the past decade, request that the USDA Office of Inspector General determine what percent of these claims appearing in the marketplace have received FSIS pre-market label approval.

Long-term action #2: Request that USDA Economic Research Service study the impact on competitive markets of approving claims that are inconsistent with consumer expectations.

2) Animal Welfare and Environmental Stewardship Claims

Short-term action #1: Determine whether USDA has authority to require third-party certification of animal welfare (“care,” “ethical,” “humane,” “welfare,” etc.) and environmental stewardship (“sustainable,” etc.) claims through guidance.

Short-term action #2: Given that FSIS has opposed requiring third-party certification due to the associated costs to producers, encourage USDA Rural Development to educate producers about the availability of USDA funding for participation in value-added animal welfare and environmental stewardship certification programs.

Long-term action #1: Through guidance or regulation, require participation in a third-party certification program for use of these claims, where standards must exceed those of the conventional industry *and* compliance with 100% of the standards is required.

3) Natural Claim

Short-term action #1: Commission research on consumer perception of the “natural” claim.

Short-term action #2: Analyze docket comments relating to the use of “natural” as an animal raising claim submitted in response to the 2015 FDA *Federal Register* notice on use of the term in the labeling of human food products. (FDA indicated in the notice that it was working with USDA to examine use of “natural” in meat, poultry, and egg products.)

Long-term action #1: Add “natural” to the Labeling Guideline for animal raising claims, including a definition consistent with consumer perception research.

4) Free Range, Pasture Raised, and Similar Living/Raising Claims

Short-term action #1: Given that FSIS has not provided a final response to the Animal Welfare Institute’s 2016 petition requesting additional standards for substantiation of “free range” and similar claims, complete an analysis of comments received in response to FSIS’s December 2019 *Federal Register* notice on these claims.

Short-term action #2: Grant AWI’s 2016 petition by revising the Labeling Guideline to require additional standards for substantiation of the “free range” claim as described in the petition.

Short-term action #3: Revise the Labeling Guideline to clarify that “free range/free roaming” and “pasture raised/meadow raised” are not synonymous claims for either birds or mammals.

Long-term action #1: Consider defining “free range” and similar claims in regulation.