



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

The Director-General

Brussels,
LB/fvn agri.ddg2.g.3 (2017) 1052044

Dear Mr Ford,

Thank you for your letter of 13th February asking for clarification on the implementation of the 12 week period for free range eggs and poultry meat in case of veterinary restrictions.

The impact of veterinary restrictions on CAP labelling provisions regulating several regimes of outdoor farming of poultry are set out in detail in a note addressed to the delegates of the Committee for the Common Organisation of the Agricultural Markets attached to this letter.

You asked in your letter for clarifications about the beginning of the 12 week period referred to in Annex II point 1(a) of Commission Regulation (EC) No 589/2008¹ for laying hen and poultry meat holdings and for the possibility of renewing the 12 week period in case of two consecutive outbreaks of avian influenza.

As to the beginning of the 12 week derogation, under current legislation, this period begins for each individual farm with the coming into force of the veterinary restrictions imposing the housing of birds indoors. This period does not begin individually at the time when a new flock has been introduced in the farm.

In cases where birds are kept indoors beyond the 12 week period, eggs must be labelled as "barn" eggs. As soon as veterinary restrictions imposing the housing of birds are lifted and birds have again access to open-air runs, eggs can be labelled again as "free range". In case another epidemic of avian influenza occurs later on and new veterinary restrictions require again the housing of birds, a new 12-week period derogation starts during which eggs can continue to be labelled as "free range".

¹

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008R0589-20130701&qid=1487150153125&from=EN>

Veterinary restrictions having the effect of restricting access of hens to open-air runs are part of risk mitigating measures that Member States take to reduce the risk of transmission of highly pathogenic avian influenza viruses from wild birds to poultry in high risk areas. These measures are taken by Member States depending on the specific epidemiological situation on their territory and for the time needed. There is therefore no minimum or maximum timeframe permitted between two periods.

Please note that the Commission services consider that lifting a confinement order for the sole purpose of giving "free range" egg producers the possibility to benefit from an additional 12 week derogation (for eggs to continue to be marketed as "free range") could be considered as a circumvention of the 12 week rule (laid down in Annex II, point 1(a), of Commission Regulation (EC) No 589/2008) that should not be allowed. Lifting confinement orders shall be done by Member States on a basis of their specific epidemiological situation regarding highly pathogenic avian influenza.

The present opinion is provided on the basis of the facts as set out in your letter of 13th February and on the understanding that in the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours sincerely,



Rudolf MOEGELE

Annex: Note to the delegates of the Committee for the Common Organisation of the Agricultural Markets – Animal products- Clarifications on the impact of veterinary restrictions on CAP labelling provisions regulating several regimes of outdoor farming of poultry

Cc: UK Permanent representation