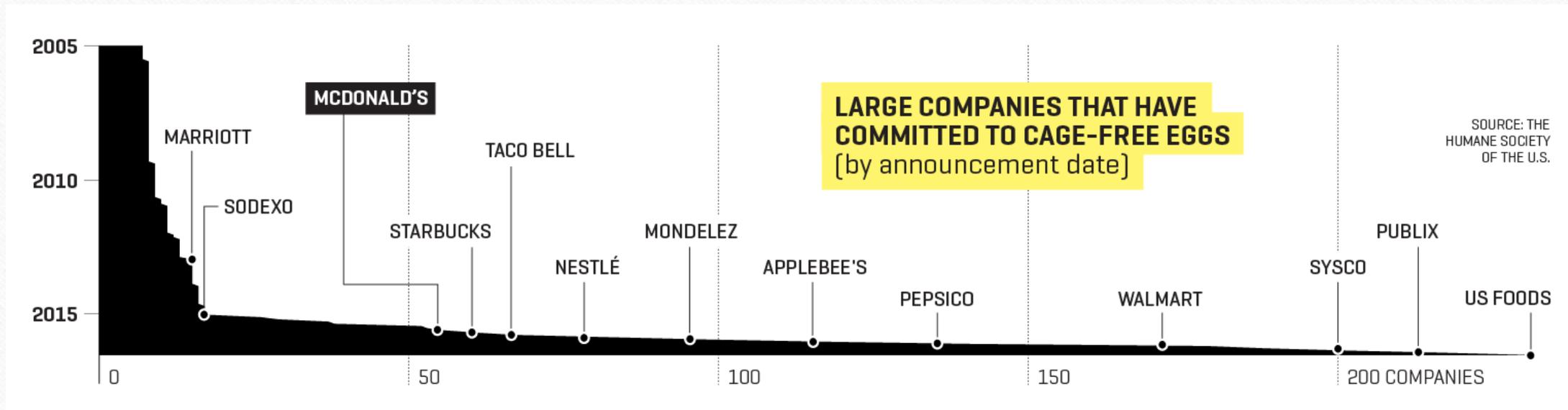


Private Governance & Animal Welfare

Sarah J. Morath, University of Houston

“When they move, the industry moves.”

- Paul Shapiro, vice president of farm animal protection for the Humane Society of the United States



Beth Kowitt, *Inside McDonald's Bold Move to Go Cage Free*, Fortune (Aug. 18, 2016).

Private Governance & The Environment

- Private governance is an alternative or complement to public regulation or governance by the administrative state.
- In the environmental context, private entities have tackled deforestation, climate change, and fishery management using a variety of governance instruments or tools including voluntary standards, certifications, and labeling regimes.
- In response to consumer demand and activist investors and shareholders, more and more private entities are developing and implementing rules that serve the traditional social goals of public regulation, particularly health, safety, environmental protection, and increasingly animal welfare.

Farmed Animal Welfare Regulations

or lack thereof

- **Animal Welfare Act-** “The term “animal . . . excludes . . . other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber.”
 - 7 U.S.C. § 2132 (2012)
- **Livestock Transporting Act-** “[A] rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel transporting animals . . . may not confine animals in a vehicle or vessel for more than 28 consecutive hours without unloading the animals for feeding, water, and rest.”
 - 49 U.S.C. § 80502 (2012).
- **Humane Slaughter Act-** “No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane.”
 - 7 U.S.C. §§ 1902 (2012).
- **Organic Foods Protection Act?**

Private Governance Tools

- Performance Standards
 - Set by a single firm, industry group, or third-party
- Information
 - Public disclosure, reporting, rankings, awards and labels
- Procurement or Supply chain contracting
 - Business entity imposes standards on its suppliers or vendors



Information



- Reporting/Disclosure

Business Benchmark on Farm Animal Welfare (BBFAW). A report that ranks private entities on: management commitment and policy, governance and management, leadership and innovation, performance reporting, performance impact.

- Nestlé has expressed its commitment to farm animal welfare as part of its Creating Shared Value Report. Listed by BBFAW as Tier 3 in 2016 (Established but work to be done).
- Unilever incorporates animal welfare into its Sustainable Agricultural Code. List by BBFWA as Tier 2 in 2016 (Integral to business strategy).

- Rankings and awards

- Good Farm Animal Welfare Awards, given by Compassion in World Farming, recognizes market leading food businesses (retailers, food service, and manufacture) for their current policies or commitments that result in positive impacts on farm animal welfare across their supply chains. 2016 winners: ALDI, Pret A Mange, The happy egg co.
- In 2016, Aramark was named recipient of the Henry Spira Humane Corporate Progress Award, given by the Human Society of the U.S.

- Animal welfare labels issued by a third-party

TIER

1 - Leadership



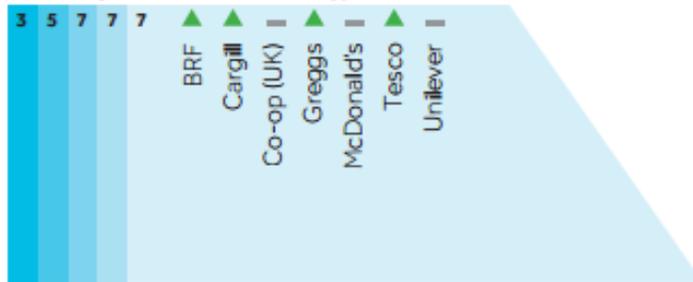
— Non-mover

▲ Up at least 1 tier

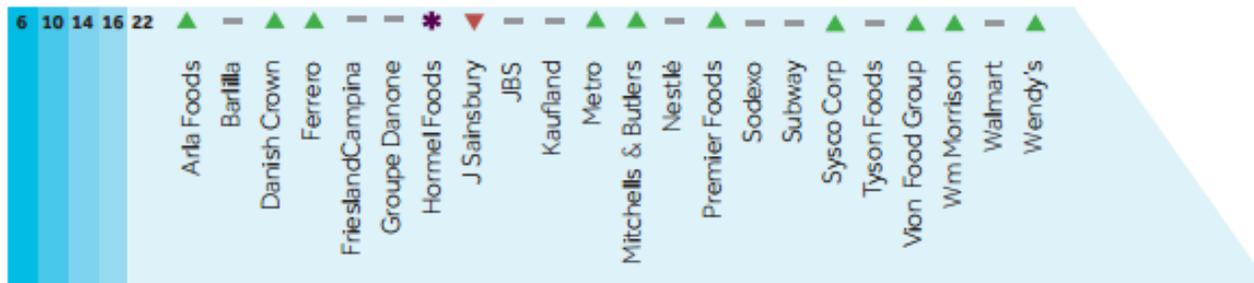
▼ Down at least 1 tier

* New company

2 - Integral to Business Strategy



3 - Established But Work to be Done



4 - Making Progress on Implementation



Procurement or supply chain management

- Many companies have adopted animal welfare standards, some of which will be met at a future date. Companies working with suppliers to achieve these standards.
 - General Mills— “[I]n 2013 we announced that **we will favor pork suppliers** that provide actionable plans by 2017 to create traceability and end their use of gestation crates within the U.S. pork supply chain.”
 - Walmart— “Each fresh pork supplier must have **on-farm video monitoring** for sow farms and will be subject to unannounced animal welfare video audits by an accredited and independent third-party.”
 - Dunkin Donuts— “**Source** 100% of our eggs for Dunkin' Donuts' U.S. menu from cage-free sources by December 31, 2025; **Eliminate gestation crates from our U.S. pork supply chain** by 2022 and publish interim reports on our progress by December 31, 2018 and December 31, 2020.”
 - Aramark—“To ensure effective implementation of principles and commitments and to maintain supplier accountability, Aramark will: Engage our employees and suppliers to understand animal welfare issues; Incorporate our principles and policy into all contracts, RFIs, RFPs, etc.; Require 3rd party documentation demonstrating that suppliers meet or exceed our expectations; Require annual supplier data progress reports; Expect swift and decisive action in unforeseen cases of animal abuse or cruelty.”
 - Wendy’s—The Wendy's Supplier Code of Conduct was rolled out in early 2016 to the nearly 300 suppliers that provide food, paper, and packaging to the Wendy's U.S. system. Wendy's achieved 100% acknowledgement of the Code by May 2016, which requires an annual reaffirmation.
 - Kitchfix—Premade meal company using pasture raised meats in the meals they sell.

Motivations for change

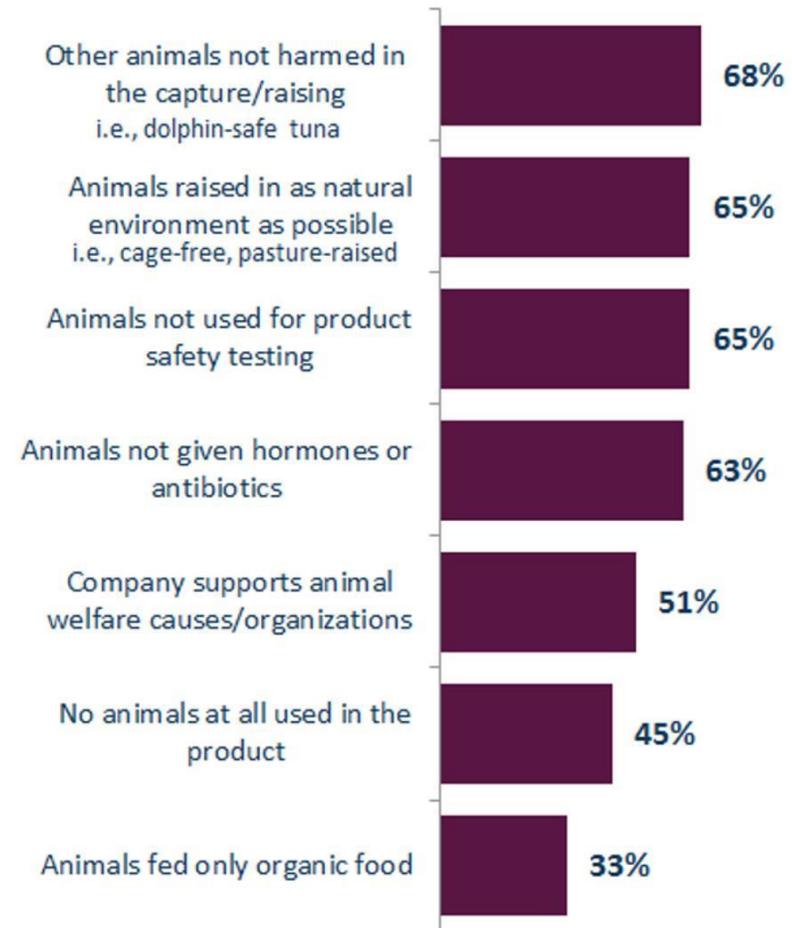
- Consumer preference
- State requirements
- Investor and shareholder concerns

Consumer preference

84% of consumers view “better living conditions for farm animals” as “very important” or “important.” (2015 Consumer Reports Survey)

74% of consumers say they are paying more attention than they were five years ago to labels reflecting how animals are raised. (2016 Lake Research Partners Survey)

67% of consumers state they would purchase welfare-certified products even if it means a modest rise in price. (2016 Lake Research Partners Survey)



State requirements

- Ballot Initiatives

2002 FL: bans gestation crates for pigs. (55% to 45 %)

2006 AZ: bans gestation crates and veal crates. (61% to 39%)

2008 CA: bans gestation crates, veal crates, and battery cages (63% to 37%)

2016 MA: bans gestation crates, veal crates, hen confinement and forbid sale of veal, pork, or eggs from confinement (78 to 22%)

- State Legislation (examples):

- Colorado, Michigan, Ohio, Oregon, Rhode Island all prohibit or put limits on gestation crates for sows

- California, New Jersey, Ohio, Rhode Island all have restrictions on tail docking for cattle

- Michigan, Oregon, Washington restrictions on confinement of egg-laying hens.

- State Ag-gag laws and right to farm laws?

Investor and Shareholder Concerns

- Investors recognize that good farm animal welfare performance is often indicative of a company who has more awareness of the intricacies of its supply chain.
 - In May 2016, 18 institutional investors signed the first global investor statement on farm animal welfare.
- Profits: Unilever, for example, reported its Hellmann's brand grew by 7% in 2015, attributing the growth to its decision to source only cage-free eggs.
- Cost:
 - Avian flu (U.S. 2015)—Cost to wider economy was estimated at over \$3 billion.
 - Swine flu (U.S. 2013)—Smithfield's shares dropped 12.8%, Tyson's dropped 5.6% and Hormel dropped by 3.1%
- Shareholders: In 2014, shareholders of Tyson Foods submitted a resolution asking that the meat giant disclose the financial and operational risks associated with its use of controversial gestation crates. “Tyson’s failure to disclose the risks associated with the indefinite inclusion of gestation crates in its supply chain is of concern to shareholders.”

Investor Statement Animal Welfare

May 2016 → 18 signatures

January 2017 → 23 signatures



12 January 2017

INVESTOR STATEMENT ON FARM ANIMAL WELFARE

Long-term value creation requires companies to fully consider the range of business risks and opportunities that they face, and to take appropriate action to manage these. We recognise that, alongside traditional financial risks and opportunities, environmental, social and governance (ESG) issues are potentially material to the financial performance of companies. We therefore expect companies to demonstrate that they are effectively managing these issues.

Farm animal welfare is an important issue for companies and suppliers across the food sector, including those in the retail, food processing, food service and hospitality sectors. Regulation, labelling requirements, consumer concerns, media coverage and new business opportunities are all important drivers for action. In recent years, food scares, high profile cases of animal mistreatment, and concerns about human health risks linked to food safety have forced companies to look more closely at issues such as food provenance, traceability and quality, and to be more transparent on the management of their supply chains.

Shareholder activism

- A 2013 Ernst and Young Report revealed that animal welfare and animal testing comprised 4% of shareholder proposals.
- Companies like Tyson, KFC, and Sandersons Farm have faced shareholder proposals concerning the use of gestation crates and antibiotics.

Activist Investors

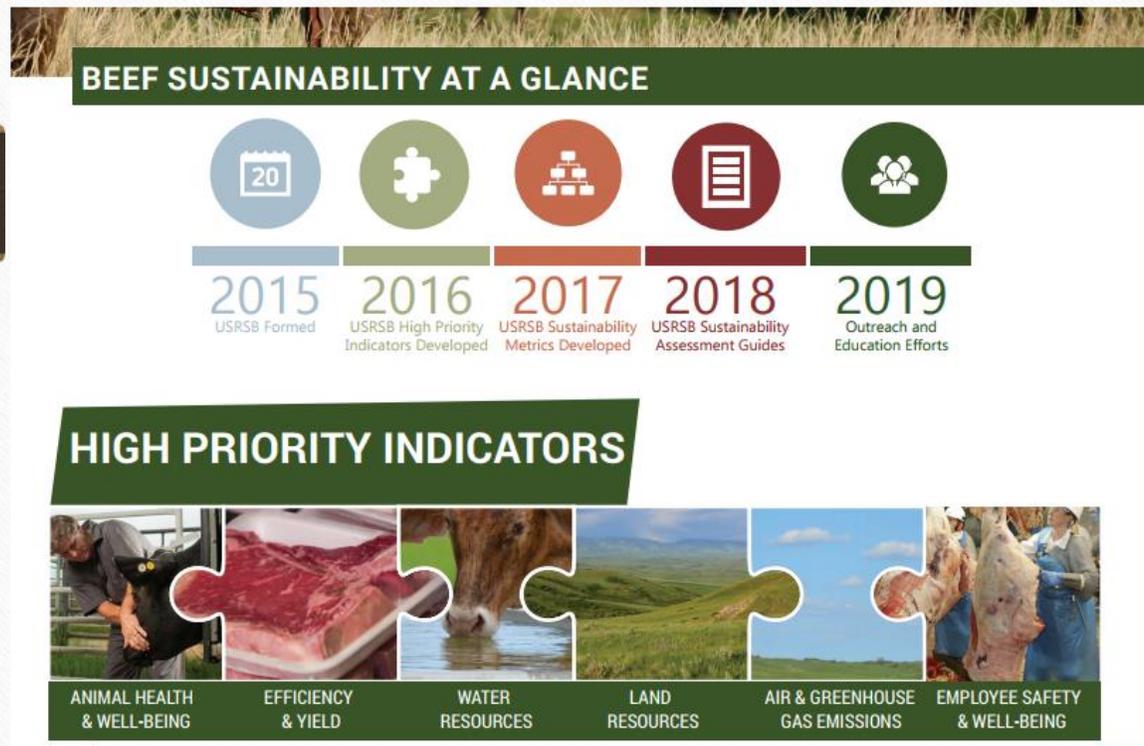
- An article published in March 2017 reported that shareholder resolutions specifically related to social and environmental issues had increased to 430 from 370 resolutions last year.
- A recent study by Harvard University found that about 40 percent of shareholder proposals on the Russell 3000, an index that is a benchmark for the entire U.S stock market, are related to ESG issues, a 60 percent increase since 2003.
- While the study found that most of these ESG proposals fail to receive majority support, it also found that these resolutions nonetheless can improve a company's attention and performance on the ESG issue in question.

Will private animal welfare governance be effective?

Requirements for effective private governance:

- Lead firm has a lot of leverage
- Lead firm has brand recognition
- Society cares about the issue
- Cost savings to the firm
- Buy-in?

Example: U.S. Roundtable For Sustainable Beef



- The U.S. Roundtable for Sustainable Beef (USRSB) is a multi-stakeholder initiative developed to advance, support and communicate continuous improvement in sustainability of the U.S. beef value chain.
- The USRSB achieves this through leadership, innovation, multi-stakeholder engagement, and collaboration.