

**Submission  
No 231**

## **COMPANION ANIMAL BREEDING PRACTICES IN NEW SOUTH WALES**

**Organisation:** Shopping Centre Council of Australia  
**Name:** Mr Milton Cockburn  
**Date Received:** 15/06/2015

# SHOPPING CENTRE

## COUNCIL OF AUSTRALIA

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15 June 2015

Mr Adam Marshall MP  
Chair  
Joint Select Committee on Companion Animal Breeding Practices in NSW  
Parliament House  
Macquarie Street, Sydney, NSW 2000

Dear Mr Marshall,

### **The implications of banning the sale of dogs and cats in pet stores**

#### **Summary**

This submission by the Shopping Centre Council of Australia (SCCA) relates to item (d) of the Joint Select Committee's Terms of Reference: "*The implications of banning the sale of dogs and cats in pet stores*". The SCCA strongly supports humane treatment of dogs and cats. We are, however, firmly opposed to banning the sale of dogs and cats from pet stores and consider such a ban would be counter-productive. A ban would inevitably mean greater reliance on less regulated channels for the sale of dogs and cats, such as the internet, newspaper advertising and 'backyard breeders'. These alternative sale channels do not have the extensive regulatory control that applies in NSW to pet shops and pet shop sales.

A ban would have devastating consequences for the profitability of pet shops which sell cats and dogs. We estimate this would reduce the revenues and gross profit of such shops in shopping centres, on average, by around 40% and would render them unsustainable. The vast majority of pet shop tenants who sell cats and dogs are small independent businesses so this would involve wiping out a small business industry in NSW. This would mean a substantial loss of jobs in NSW, particularly for young people.

We have been unable to find any evidence that banning the sale of dogs and cats from pet shops would lead to more humane treatment of these companion animals. It is more likely, given the difficulty of regulating and enforcing the alternative sale channels, a ban would have the opposite effect. There is no evidence that a ban (which would effectively close such stores) would lead to a better housing, health and hygiene environment for dogs and cats. There is also no evidence that pet shops promote 'impulse buying' or that a ban would lead to fewer unwanted or abandoned pets. Nor is there any evidence that preventing the sale of puppies from pet shops would lead to a reduction in puppy farming. The imposition of such a ban would therefore be contrary to the principle of evidence-based decision making.

We agree with the Australian Veterinary Association which has stated: "*Quite simply, the majority of Australians want to own pets and they should be able to purchase a suitable pet freely and confidently from a well managed, ethically run pet shop.*"

We recommend that if the Committee, at the conclusion of its inquiry, has any concerns about the sale of dogs and cats from pet stores, these should be addressed through amendments to the mandatory and enforceable *Animal Welfare Code of Practice: Animals in Pet Shops*, not by such a drastic measure as prohibiting their sale from pet stores.

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## **1. Proportion of sales from pet shops and shopping centre pet shops**

On 31 January 2008 the then NSW Parliamentary Secretary for Primary Industries, Steve Whan MP, (on behalf of the then Minister for Primary Industries) advised SCCA, by letter: *"The published figures on companion animals in NSW suggest that less than 11 per cent of dogs and cats are sold from pet shops."* Statistics compiled for SCCA in 2001 found that 27 % of retail shops were located in shopping centres. We believe this figure is now higher than 27%. Nevertheless it is a reasonable assumption from this that fewer than 4% of all dogs and cats sold in NSW are sold from shopping centres.

A recent survey of SCCA members found that there were 23 shopping centres in NSW which had pet shop tenants who sold companion animals. SCCA members own and manage approximately 63% of shopping centre floor space throughout Australia. A reasonable assumption, therefore, is that there are around 37 shopping centres in NSW which sell companion animals.

(The Property Council of Australia publishes a Directory of Shopping Centres. Unfortunately it is not possible to derive from this directory the number of pet shops in shopping centres selling companion animals since the directory does not distinguish between pet shops that sell animals and those shops that sell only pet supplies or pet accessories.)

## **2. Ban on pet shop sales of dogs and cats would be financially devastating for pet shops and would cause a loss of jobs**

We estimate a ban on pet shops in shopping centres from selling dogs and cats would reduce sale volumes of these shops, on average, by around 38% and reduce gross profit by around 42% on average. While this would also lead to some savings in the cost of keeping such animals (such as a reduction in food supplies and veterinary services), a reduction in gross margins of this magnitude would render these shops financially unsustainable. The vast majority of pet shops which sell dogs and cats are small businesses so this would effectively wipe out a small business industry in NSW.

The profitability of these pet shops has already been challenged in recent years by increased competition for pet food and pet accessories from supermarkets, discount department stores, 'big box' retailers of pet supplies and from the internet. At the same time they are facing increasing competition for pet sales from internet suppliers. Given the competitive outlook there is no reason to believe these pet shops could recover from such a severe financial reverse resulting from a ban on dog and cat sales.

It should be noted that pet shops in shopping centres which sell dogs and cats hold valid retail leases (contracts) entitling them to sell such animals. If the Parliament was to ban such sales, the issue of financial compensation would inevitably be raised.

A ban on the sale of dogs and cats from pet shops would also have a significant effect on the sale price of dogs and cats. The elimination of a significant competitor to licensed breeders and internet sellers would inevitably raise the selling price of puppies, in particular, possibly putting them out of reach for many ordinary families.

### **3. Substantial existing regulatory oversight of pet shops in NSW**

Pet shops are already subject to substantial regulatory control by the NSW Parliament. They must, by law, comply with the provisions of the *Prevention of Cruelty to Animals Act* and the mandatory and enforceable *Animal Welfare Code of Practice: Animals in Pet Shops*.

The Code of Practice is a detailed, 27-page document which includes both 'standards' (which are enforceable) and 'guidelines' (which regulate 'best practice'). The Code sets out detailed standards and guidelines covering such matters as animal housing, hygiene, health care, food and water, sale of animals and transport. The Code also includes additional requirements for dogs and cats, including compulsory micro-chipping, vaccination and minimum age of sale (8 weeks).

Pet shops are also regulated by the *Companion Animals Act 1999* which, among other matters, requires the compulsory micro-chipping of dogs.

Successive governments in NSW have been opposed to a ban on pet shops selling dogs and cats. In October 2009 the NSW Legislative Assembly debated a private member's Bill, the *Animals (Regulation of Sale) Bill 2008*, which, among other provisions, would have prohibited the keeping of cats and dogs at shops or markets for the purpose of sale. The Bill was not agreed in principle and only three members of the Legislative Assembly voted in favour of the Bill.

A ban on the sale of pets from pet shops and markets was also considered by the NSW Companion Animals Taskforce, which reported to the Minister for Local Government and the Minister for Primary Industries in October 2012. The Taskforce, which included representatives from a number of animal welfare organisations, did not recommend a ban. Instead the Taskforce argued that other recommendations made by the Taskforce would adequately address concerns expressed in submissions (p.13). (Incidentally we note that another recent review, by the South Australian Parliament Select Committee on Dogs and Cats As Companion Animals, which reported in July 2013, also did not propose banning the sale of dogs and cats from pet shops in that State.)

Pet shop owners who are also members of the Pet Industry Association of Australia (PIAA), the peak industry body for pet industry professionals, agree to abide by the association's Code of Ethics and its National Code of Practice for Pet Care Professionals, which has recently been reviewed and updated. This is a detailed 23-page Code of Practice which includes specific requirements dealing with the handling of animals (veterinary care, housing, ventilation, noise and pollution etc.), the sale of animals and pet shop management and also includes special requirements for dogs and cats. Compliance with the Code is a mandatory requirement for members of the PIAA and an Ethics and Compliance Committee adjudicates any complaints against activities deemed to be contrary to provisions of the Code.

The PIAA Code of Practice specifically requires its members to reject stock from 'puppy farms' and other sources that fail to provide appropriate care for breeding stock.

#### **4. Pet shops are highly visible to the public**

Pet shops, particularly those in shopping centres, are highly visible. Thousands of people visit or pass these shops every week. The conditions that apply in these pet shops are constantly 'on display' to customers and to passers-by. Pet shop owners therefore run the risk of being reported to the appropriate authority if they are not conforming to regulatory requirements. This high degree of transparency would be lost if pet shops are no longer a means of purchasing dogs and cats.

For the purchaser of an animal, a pet store remains the best channel for post-purchase advice and service. Pet stores are generally located close to the customer's residence, are open seven days a week and have been in business for many years with trained staff.

There is no evidence for the claim that preventing pet shops selling dogs and cats would lead to a more humane sales environment for these animals. It is reasonable to assume, given the difficulty of imposing effective regulatory mechanisms on the alternative sale channels and the lack of public scrutiny of these channels, this would actually have the opposite effect.

The Australian Veterinary Association (AVA) has noted that 'back yard breeders', whether deliberately or accidentally, "*are much less visible and therefore difficult to regulate. Questions arise as to who ensures that sale stock is vaccinated, wormed, identified, fed well, kept in hygienic surroundings and socialised.*" (Australian Veterinary Association 'Sale of Pets through Pet Shops', 21 December 2007).

#### **5. Alternative sale channels are difficult to regulate and enforce**

The AVA has also drawn attention to the fact that, if a ban is imposed on pet shops, pet sales will be driven to alternative channels, and even underground, making the sales far more difficult to regulate and enforcement almost impossible.

*"Preventing the sales of mammals through print and electronic media will be both impossible to enforce and extremely costly. In the majority of cases the vendor's contact details are via mobile phone making it very difficult to determine the municipality in which the vendor resides and almost impossible for local authorities to enforce,"* the AVA commented.

Since the AVA made this comment, the internet has become a much more popular means of selling dogs and cats and the problems identified by the AVA are equally applicable to internet sales. THE RSPCA NSW recently drew attention to the increasing use of the internet for the sale of puppies. Thousands of advertisements are placed online each week for the sale or exchange of pets and there is little assurance that these pets are properly vaccinated, micro-chipped or are of proper sale age.

'Backyard' breeders would be given a significant benefit from banning the sale of companion animals from pet shops. As noted by NSW Fair Trading, the Australian Consumer Law does not apply when you buy [via online shopping] from a private seller and the goods are not sold in trade or commerce in the normal course of their business."

The AVA concluded: "*It seems counter intuitive to prohibit purchasing animals from a source that can be readily managed and regulated. Codes of practice can be enforced in pet shops.*"

## 6. The myth of impulse buying

Animals Australia has advised SCCA by letter (4 September 2014) that it had three main concerns in relation to pet shops selling puppies. (The first concern was that the display of animals in pet shops led to "adverse welfare outcomes". We have rebutted this in points 3, 4 and 5 above).

Animals Australia's second concern was that "*pet shops foster the impulse buying of puppies by customers without considering long term responsibilities or the suitability of breeds.*" We are not aware of any evidence to support this assertion. Nor are we aware of any evidence which suggests that abandoned dogs, euthanased dogs or dogs placed in shelter are predominantly or disproportionately those originally sold from pet shops.

It should be noted that the purchase price of a puppy, in particular, is not cheap. Only the relatively wealthy could regard such purchases as falling into the category of a retail offer that might be purchased on impulse.

We note that the AVA was quoted in the NSW Parliament (during debate on the *Animals (Regulation of Sale) Bill 2008* (Hansard, Legislative Assembly, 22/10/09 p.18560): "*There is no evidence to show that pet shop purchased animals are any more likely to be euthanased or are any less well-loved or cared for than those pets acquired from other sources.*"

Figures collected by the AVA from Central Animal Records show that over the period 1989-2007, animals purchased from pet shops were less likely (7.64%) to be lost than animals micro-chipped at veterinarians (9.74%) or animal welfare centres (15.81%) or other centres (15.25%). (Refer Appendix 2 of the AVA's *Sale of Pets through Pet Shops*, 21 December 2007.)

The PIAA has advised SCCA that, according to a recent survey it has conducted, the breeds of dogs most commonly found in shelters are not available from most pet shops.

The PIAA has now adopted a 'Dogs Lifetime Guarantee Policy on Re-homing and Traceability' to ensure that no puppy sold through a PIAA member pet store will ever be euthanased if it ends up in a shelter. The PIAA Code of Practice, referred to earlier, also has special provisions addressed at discouraging impulse buying, including staff training and a 7-day 'cooling off' period.

By law in NSW, pet shops must ensure that all puppies sold are micro-chipped so, for the lifetime of the dog, the origin of the dog can be traced. Pet shops are also required, by law, to keep records of the sale of pets and from where pets are acquired.

## 7. Puppy farming

There is confusion in public discussion of 'puppy farming' since it is apparent that some groups regard the intensive breeding of puppies, irrespective of the conditions under which such intensive breeding occurs, as 'puppy farms', 'puppy mills' or 'puppy factories'.

The RSPCA, however, defines a 'puppy farm' as "*an intensive dog breeding facility that is operated under inadequate conditions that fail to meet the dogs' behavioural, social and/or physiological needs*" (emphasis added).

The NSW Companion Animals Taskforce, referred to earlier, described 'puppy farming' as "the situation where a number of dogs are kept in sub-standard conditions and bred repeatedly to their detriment with inappropriate or inadequate provision of food, water, shelter and veterinary treatment" (p.6).

In the discussion below of 'puppy farming' we rely on the RSPCA and the Taskforce descriptions.

The third concern expressed by Animals Australia in its letter to SCCA was that "our investigations have revealed that pet shops routinely source puppies for sale from puppy farms". Animals Australia has not provided any evidence for its claim that pet shops "routinely source" from puppy farms. The PIAA strongly rejects the claim of "routine" sourcing from puppy farms.

The PIAA's National Code of Practice (referred to in point 3 above) requires members to reject stock from 'puppy farms' or from "sources that fail to provide appropriate care of breeding stock".

The Companion Animals Taskforce noted "the extent of 'puppy farming' is difficult to determine and enforcement action relies on complaints from the community. Regulatory mechanisms are in place and enforcement agencies have successfully prosecuted a number of breeders for animal welfare offences. These agencies also report that the number of cases which come to their attention is limited." We note that the Taskforce made a number of recommendations to the relevant NSW Ministers which would tighten the current regulatory mechanisms on puppy farming.

We are unaware of any evidence that banning the sale of dogs from pet shops would lead to a reduction in 'puppy farming'.

If there are concerns about 'puppy farming' these should be addressed through existing regulatory mechanisms, including the mandatory *Animal Welfare Code of Practice - Breeding of Dogs and Cats*.

## **8. Involvement of Australian Competition and Consumer Commission**

In 2014 the Board of Directors of the SCCA requested staff to explore whether voluntary leasing guidelines should be adopted by its members in relation to pet shops. This followed a misdirected and misguided campaign by an animal liberation group to force the closure of pet shops in shopping centres. One proposal which was examined was whether to require pet shop owners in members' shopping centres to be accredited members of the PIAA. This would give owners and customers the additional assurance of best practice standards of care in the operation of the pet shops, including an external auditing of conditions and standards. Since pet shop owners have entered into retail leases with shopping centre owners, such a requirement could only be imposed in future leases. As an incentive, we explored the idea of shopping centre owners reimbursing the pet shop owner for the cost of accreditation.

A rival industry association to the PIAA, [REDACTED] (which, unlike PIAA, does not reveal its membership), became aware of our preliminary discussions with PIAA on this matter. [REDACTED] advised us that it would refer this to the Australian Competition and Consumer Commission (ACCC) as an example of 'third line forcing' and subsequently publicly advised on its website that it had done so.

We held discussions with ACCC officials on 17 March 2015. We were advised that the ACCC considered any attempt by SCCA members to implement such a requirement, even if the cost of accreditation was met by owners, would constitute third line forcing, which is prohibited by section 47 of the *Competition and Consumer Act*. (Third line forcing involves the supply of goods or services on the condition that the customer buys other goods or services from a third party, or a refusal to supply because the customer will not agree to that condition.) The ACCC advised us that such an arrangement with PIAA would need to be open to other organisations. Because [REDACTED] does not have a detailed Code of Practice, and does not have an accreditation process, we had no alternative but to abandon this proposal.

## **9. Recommendation**

We recommend that if the Committee, at the conclusion of its inquiry, has any concerns about the sale of dogs and cats from pet stores, these should be addressed through amendments to the mandatory and enforceable *Animal Welfare Code of Practice: Animals in Pet Shops*, not by such a drastic measure as banning.

## **10. Shopping Centre Council of Australia**

The SCCA represents Australia's largest shopping centre owners, managers and developers. Our members, who operate across metropolitan, regional and rural areas of NSW, are: AMP Capital Investors, Blackstone Group, Brookfield Office Properties, Charter Hall Retail REIT, DEXUS Property Group, Eureka Funds Management, Federation Centres, GPT Group, Ipoh Management Services, ISPT, Jen Retail Properties, JLL, Lancini Group, Lend Lease, McConaghy Group, McConaghy Properties, Mirvac, Perron Group, Precision Group, QIC, Savills, SCA Property Group, Scentre Group (owner and manager of Westfield shopping centres in Australia and New Zealand) and Stockland.

We would be happy to elaborate on any aspect of this submission.

Yours sincerely,

  
[REDACTED]  
Angus Nardi  
**Executive Director**