

INQUIRY INTO THE EXHIBITION OF EXOTIC ANIMALS IN CIRCUSES AND THE EXHIBITION OF CETACEANS IN NEW SOUTH WALES

Supplementary Questions - RSPCA NSW

1. In evidence tendered by the representatives from the circus they stated they have often asked RSPCA NSW inspectorate for written reports highlighting their positive inspections and also invited the inspectors to witness the show, both of which have been declined by inspectors citing a fear from negative repercussions from people higher up in both RSPCA NSW and Australia. Has there been any direction in writing or verbally to any of the inspectors along these lines? If not, how do you explain your inspectors making such commentary?

Response: At no time has there been any written or verbal direction either directly or indirectly, from RSPCA NSW management, regarding staff attendance at circus performances in their personal time.

RSPCA inspectors investigate animal welfare and cruelty complaints. RSPCA NSW does not issue reports on investigations to the subjects of any investigation. It is not a feasible administrative undertaking considering that over 15 000+ complaints per year are received by the inspectorate.

RSPCA NSW does not adopt the comments described.

2. We received a submission from a former RSPCA employee saying that RSPCA have received a lot of complaints about the treatment of animals in circuses over the years. Are you aware of these complaints?

RSPCA NSW has a record of nine complaints regarding circuses for the period 1 July 2018 to present.

3. The Committee's terms of reference defines 'exotic animals' as 'any animal that is not native and is not a stock or companion animal.'

(a) Do you believe the term 'exotic' is satisfactory? If not, what would be a better term, and is it used in any other jurisdiction?

Response: RSPCA believes the intent of any legislative reform in this area is to restrict the use of animals by circuses to those animals that are domesticated¹. This is an acceptable welfare position as domesticated animals are genetically suited to life with humans.

The term 'exotic' does not capture all wild species that are equally ill adapted to transportation, interacting with humans and intensive captivity. For example, there is unlikely to be support for kangaroos in circuses for the same reason that a monkey raises concerns.

¹Domesticated animals are animals that have been selectively bred and genetically adapted over countless generations to live alongside humans. They are genetically distinct from their wild ancestors or cousins and often take on a different appearance to their wild ancestors (for example, domestic dogs and wolves). They are not simply animals that are born in captivity. Domestication is not the same as taming. A domestic animal is genetically determined to be tolerant of humans. An individual wild animal, or wild animal born in captivity, may be tamed—their behavior can be conditioned so they grow accustomed to living alongside humans—but they are not truly domesticated and remain genetically wild.

(b) Do you agree that this is a satisfactory definition? If not, what would be a better definition?

The approach of the United Kingdom *Wild Animals in Circuses Act 2019* has merit. It refers to wild animals and defines “wild animal” as an animal of a kind which is not commonly domesticated in Great Britain. Regulations may also be used to provide additional clarity by naming particular species that are prohibited.

4. The Committee’s terms of reference refers to ‘circuses’.

(a) Do you believe the term ‘circuses’ is satisfactory?

Response: The term ‘circus’ is satisfactory

(i) If so, how should it be best defined in legislation?

Response: A mobile animal establishment where there is no daily return to a fixed or off-display establishment.

(ii) If not, what would be a better term, and is it used in any other jurisdiction?

(b) Some witnesses argued that the term ‘circuses’ could include agricultural shows, mobile petting zoos, and the supply of animals for use in film and television. Do you agree?

Response: No.

Animals used in film and television are regulated by a Code prescribed under POCTA.

The definition of circus could not capture these activities as the NSW Exhibited Animals Protection Regulation 2010, clause 5 already exempts these activities from the requirements of the Act. Specifically these exemptions are:

for the purposes of paragraph (c) of the definition of exhibit in section 5 (1) of the Act, it is declared that the display, or keeping for display, of an animal in the following circumstances does not constitute an exhibition of the animal for the purposes of the Act:

- (a) that the animal is a free-living animal in its natural habitat,*
- (b) that the animal is a lawful captive and is part of a competitive display of household pets,*
- (c) that the animal is part of a competitive display of domestic farm animals,*
- (d) that the animal is a domestic farm animal being used to demonstrate the acquisition of wool, milk or other produce of a living animal,*
- (e) that the animal is of domestic hoof-stock and is performing, or is to perform, in an event at a rodeo,*
- (f) that the animal is a lawful captive that is not displayed, or kept for display, to the public,*
- (g) (Repealed)*
- (h) that the animal is displayed, or kept for display, in the course of carrying on the business of animal research, or in the course of carrying out animal research, without contravening the Animal Research Act 1985,*

(i) that the animal, being an animal of a species listed in Schedule 3 and not being an animal kept pursuant to an approval or permit or at a licensed animal display establishment, is an animal used only for riding or racing,

(j) that the animal is kept in a pet shop for display and not for sale,

(k) that the animal, being an animal of a species listed in Schedule 1 and not being an animal kept pursuant to an approval or permit or at a licensed animal display establishment, is displayed:

(i) at an agricultural show or show parade conducted by the Royal Agricultural Society or a society that is a member of the Agricultural Societies Council, or

(ii) at an agricultural field day conducted on a farm or showground, or

(iii) on the farm on which the animal is kept,

(l) that the animal, being an animal of a species listed in Schedule 1, and not being an animal kept pursuant to an approval or permit or at a licensed animal display establishment, is displayed, or kept for display, for the purposes of promoting an agricultural product derived from that species of animal and:

(i) the animal is one of no more than 10 animals displayed, or kept for display, for this purpose at any one time, and

(ii) any display lasts for no more than 2 days at a time and is conducted at least 5 days after any previous display of the animal, and

(iii) the animal is displayed near a display of the relevant agricultural product or shortly before or after such a display, and

(iv) the person who normally cares for the animal attends the animal for the duration of any display,

(m) that the animal is a fish that is kept (otherwise than in a habitat display) at:

(i) a fish hatchery, or

(ii) a fish farm,

for the purpose of:

(iii) commercial food production, or

(iv) re-stocking of lakes, dams or waterways,

(n) that the animal is a lawful captive and is being displayed, or kept for display, at a meeting of an association dedicated to the keeping of that type of animal,

(o) that the animal is being displayed, or kept for display, by a school student at a school for a single "show-and-tell" activity.

5. The Committee's terms of reference refers to the 'welfare' of exotic animals and cetaceans.

(a) Do you believe the term 'welfare' is satisfactory?

Response: Yes

(i) If so, how should it be best defined in legislation?

Response: The state of an animal as regards its attempts to cope with its environment (Broom, 1986).

This definition acknowledges welfare can be measured, that it ranges from very poor to very good and refers to feelings as well as physical and psychological health.

(ii) If not, what would be a better term, and is it used in any other jurisdiction?