

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

Supplementary questions Hearing – 14 August 2020

Supplementary question for Sentient

1. 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: Yes, providing it is expanded (see below).

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

- **Response:** To avoid confusion, this definition should be expanded to capture the physiological and behavioural features of exotic animals that make them unsuitable for being kept for companionship or entertainment purposes. RSPCA Australia¹ defines exotic animals as: "species which are not domesticated and whose collective behaviour and physiology is essentially the same as their wild counterparts, despite being maintained and/or bred in captivity." Domesticated animals have been selectively bred and genetically adapted over generations to live alongside humans as companions, to be farmed for food or as working animals. Exotic animals may be tamed but this is not the same as being domesticated because they have not been genetically determined to be tolerant of living alongside humans.

2. The Committee's terms of reference refers to 'circuses'.

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

Response: Yes, this term is widely understood by the public.

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

Response: I agree with the following definition because it allows for circuses without animals: "Circus" is defined to mean "any premises occupied by temporary or moveable structures used for the purposes of a circus, fair, fun-fair, amusement park or similar place of public entertainment." This is from The Exhibited Animals Protection Amendment (Prohibitions on Exhibition) Bill 2018.

¹ <https://kb.rspca.org.au/wp-content/uploads/2019/03/Exotic-Animals-in-Australian-Circuses-RSPCA-Information-Paper-March-2017.pdf>

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

Response: N/A.

(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. These should be subject to standards and guidelines but generally do not involve the use of exotic animals in settings that cannot meet their needs.

3. 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, welfare is the scientific term that refers to whether the physiological, environmental, behavioural and emotional needs of animals are appropriately met. Animal welfare science is an established discipline that uses multiple measures to determine the overall welfare of animals in any situation. It is based on an understanding of their natural behaviours and physiological needs, from which arise interests that must be fulfilled for them to lead lives worth living. Fundamental to animal welfare is the recognition of animal sentience, which is the capacity to feel. This includes the experience of both positive emotions (including joy, curiosity, affiliation) and negative emotions (including pain, frustration and fear).

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

Response: The fundamental change required is an acknowledgement of animal sentience, which should be enshrined in all animal welfare legislation without exceptions made for individual species. There are various definitions of animal welfare in use, including the OIE Terrestrial Code definition of animal welfare as: "the physical and mental state of an animal in relation to the conditions in which it lives and dies". A satisfactory definition of animal welfare must include biology (how the animal is functioning), affective state (how the animal is feeling) and naturalness (whether they are able to perform species-specific behaviours that are important to them). Whatever definition is used, a contemporary framework for conceptualising and assessing animal welfare must be used. The currently used framework in animal

welfare science is the Five Domains Model², which focuses attention on survival-related factors (nutrition, environment and health), situation-related factors (behaviour) and mental state. Mental state is based on the affective experiences of the other domains and determines overall welfare status. Based on current research and best practice, animal welfare must include an assessment of mental state and of the full range of behavioural needs.

On these grounds, Sentient holds grave concerns about the recent C-Well (Cetacean Welfare Assessment) (Clegg 2015) assessment of the dolphins currently held at Dolphin Marine Conservation Park. This assessment did not consider mental state and it omitted key natural behaviours such as foraging/hunting, travelling and complex social interactions, all important species-specific behaviours. Therefore, it does not constitute a comprehensive or valid assessment of the welfare of these dolphins. Rather, we submit that it is outcome driven, working backwards to assess only those needs that can be met in the current restricted setting rather than starting from the premise of determining whether the animals' needs are being met in all domains. Sentient urges the panel to be mindful that positive findings from such an assessment can be used to maintain these dolphins in situations that are detrimental to their welfare. We also question why this assessment was not publicly available.

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

Response: Not applicable. However, wherever animal welfare is addressed in relation to how animals are used or affected by humans, ethics must also be considered. Animal welfare science can inform us whether animals are in a positive or negative welfare state, but ethical questioning is how we decide whether the treatment of animals is fair or should be changed.

² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5575572/pdf/animals-07-00060.pdf>

4. In your veterinary opinion, what would be the best welfare outcome for the current exotic animals being used in circuses and cetaceans currently being exhibited in NSW?

Exotic animals in circuses

Exotic animals who are currently used in circuses in NSW should be rehomed to an appropriate sanctuary. This must be done under veterinary advice with clear plans to prepare these animals for the transition. A zoo would not be an acceptable alternative due to spatial restrictions, unless this was an open plain zoo that can accommodate the needs of broad-ranging species.

Cetaceans being exhibited in NSW

We believe the best outcome for the remaining captive cetaceans in NSW would be a move to a genuine sea sanctuary. This will require a feasibility study to address the welfare needs of the dolphins in this setting. It will also require advice from independent marine mammal experts and veterinarians to assist with the transition to the sea sanctuary, to routinely assess the welfare of the dolphins in this setting and to review whether they will ever be suitable for release to the wild. Such a proposal will likely require government funding.

The following considerations must be addressed in establishing a sea sanctuary:

- Location – the location must be away from areas prone to oil spills, stormwater, pollution, high winds or other events that would compromise the animals' welfare; it should also be away from crowds of people and both land and ocean traffic to reduce noise; it should be in an area that is not adjacent to a marina or similar due to the increased levels of anti-fouling paint which have been shown to have long-term consequences for marine life;
- Size – the sanctuary must have the size and environmental complexity that would allow the dolphins to engage in a wider range of natural behaviours, including diving, hunting and fast swimming
- Water quality – low pollution levels, correct pH, appropriate temperature and routine monitoring of all these variables
- Feeding – introduction of live fish would enable the dolphins to engage in some natural feeding behaviours
- Sex of dolphins – to avoid aggression, consideration should be given to separate areas for males and females, although this may be mitigated by a sufficiently large sea sanctuary that provides opportunities for escape
- Breeding – there should be no captive breeding of dolphins, which means segregation of the sexes or otherwise some form of contraception
- Freedom from exploitation – additional forms of enrichment for the dolphins should not include performing for crowds, photo opportunities, interactive activities with

humans (such as kissing or swimming with dolphins – other than, in appropriate circumstances, the trainers), and training sessions should be limited to training behaviours essential to provide care, such as training the dolphins to come on command should they require moving for medical treatment or for other reasons

- Inclusion of rescue animals – there is evidence that the inclusion of rescue dolphins in a sea sanctuary can result in these animals adopting the stereotypies expressed by previously captive dolphins; rescue animals should be kept in a separate sanctuary;
- Visitor access – should be strictly limited, with options for viewing dolphins from afar, or from vantage points that are not clearly visible to the animals, and with the educational purpose of teaching the public that cetaceans belong in the wild and that sanctuaries are the best option for animals who cannot be released due to their dependence on human care

Dr Rosemary Elliott

18/9/2020