



**HUMANE SOCIETY
INTERNATIONAL**

**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 questions for Ms Georgie Dolphin,
Humane Society International, Australia**

1. *In your submission you included photos of animals of Stardust Circus and in evidence tendered to the committee you stated they were taken by someone who wished to remain anonymous. Did that person wish to remain so due to fear of facing prosecution for trespass as those photos could have only been taken from entering areas not open to the general public?*

Someone who operates as a professional photographer took the photos. They were taken from a position within a public domain, without breaking any laws. The material was supplied in good faith and free of charge because the photographer is passionate about this issue (the plight of animals exploited in circuses) and hopes the images may help to secure a better future for these animals.

2. *Were these the only photos taken by this individual, or were other photos taken that would have highlighted actual large size of enclosures deliberately excluded to generate a particular narrative?*

The photographer took several photos but submitted the images selected because they felt they demonstrate and reinforce the plight of captive animals used in circuses in NSW. The photographer explained that the animals were confined in small enclosures and felt the conditions were likely causing them mental anguish.

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?*

HSI considers the term 'exotic animals' to include non-native species that do not occur naturally in the wild in Australia, but not including stock animals (as defined by POCTAA 1979) or companion animals (as defined by the Companion Animals Act).

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

It seems that the term 'exotic' alone is causing confusion and that further clarification would be beneficial to form part of any NSW legislation. The Committee may wish to consider using the term 'prohibited animal' which has been adopted within the [ACT Legislation](#) and refers to (a) a bear, elephant, giraffe, primate (other than a human) or feline (other than a domestic cat); or (b) an animal prescribed by regulation.

4. *The Committee's terms of reference refers to 'circuses'.*

- a) *Do you believe the term 'circuses' is satisfactory?*
 - i. *If so, how should it be best defined in legislation?*
 - ii. *If not, what would be a better term, and is it used in any other jurisdiction?*

A 'circus' could be defined as any mobile establishment in which animals are held and exhibited to perform for the entertainment of the public. HSI suggests that this particular legislation should prohibit the use of exotic animals for performance, exhibition or display to the public.

In the [Wild Animals in Travelling Circuses \(Scotland\) Act 2018](#), a 'travelling circus' means a circus which travels, whether regularly or irregularly, from one place to another for the purpose of providing entertainment. They continue to explain that a 'travelling circus' is still defined as such despite there being periods during which it does not travel from one place to another, and it includes any place where a wild animal associated with such a circus is kept (including temporarily).

- b) *Some witnesses argued that the term 'circuses' could include agricultural shows, mobile petting zoos, and the supply of animals for film and television. Do you agree?*

HSI suggests that the legislation should prohibit the use of exotic animals for performance, exhibition or display to the public, so any relevant mobile establishments that fit these criteria should be captured.

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?*
 - i. *If so, how should it be best defined in legislation?*
 - ii. *If not, what would be a better term, and is it used in any other jurisdiction?*

Animal welfare describes how an animal is coping both physically and mentally with the conditions in which it lives. Achieving good animal welfare relies on providing them with the provisions outlined in the 'Five Freedoms'. Animals experience both positive and negative wellbeing, and in assessing welfare both the animal's physiological and psychological wellbeing needs to be accounted for in relation to its cognitive capacity and life experience. The term 'welfare' is appropriate in this instance, but consideration could also be given to the above.

Further, HSI believes it is important to recognise animal sentience and their intrinsic value, following the lead of the ACT and New Zealand. Acknowledging sentience recognises that animals feel emotions which is important when regulating human conduct towards them. The ACT became the first jurisdiction in Australia to change the legal status of animals in 2019. Scientific research is clear on sentience and supports the view that many animals are able to experience physical and psychological pain in a similar fashion to humans. The EU first recognised animal sentience in 1997 in the Treaty of Amsterdam. When assessing animal welfare both the physical and mental state should be examined.