

18 Feb 2008

Statement by Animal Earth

in relation to LEGCO Paper No. CB(2)1061/07-08(01)

[*Progress Report on the Proposed Amendments to the Prevention of Cruelty to Animals Ordinance and the Public Health (Animals & Birds) (Animal Traders) Regulations*]

At LEGCO in November 2006, the Government committed AFCD to completing a comprehensive review of animal welfare legislation within one year.

The captioned report, delivered after more than 13 months, is grossly inadequate, disappointing, and illustrated a lack of transparency.

While we welcome many of the proposals mentioned in the Report as first steps towards a comprehensive review, we would like to see the ones with profound implication* more thoroughly and openly consulted before they come into effect.

The attached response paper outlined our comments and position on the matter.

Animal Earth

* Namely, paragraph 10 of the Progress Report

Animal Earth

Response Paper in relation to
the “*Progress Report on the Proposed Amendments to the Prevention of Cruelty to
Animals Ordinance and the Public Health (Animals & Birds) (Animal Traders)
Regulations*”

Submitted to LegCo Panel on Food Safety and Environmental Hygiene

PURPOSE

In response to the “*Progress Report on the Proposed Amendments to the Prevention of Cruelty to Animals Ordinance and the Public Health (Animals & Birds) (Animal Traders) Regulations*” [LEGCO discussion paper No. CB(2)1061/07-08(01)] issued by the Government, Animal Earth wishes to express its comments and position on issues relating to the paper. This document briefs Members on these comments and position.

COMMENTS AND POSITION

A. *Comments on specific paragraphs*

1. Regarding the specific issues mentioned in the paragraphs of the captioned paper, we wish to express the following comments.

(i) *Comments on Paragraph 8, “A (ii) Power to revoke licence”*

2. The power of DAFC to revoke animal trader licence needs to be accompanied by implementation arrangements to ensure that the person(s) whose licence had been revoked would not be able to carry on trading in another name or as another legal entity.

3. We assume, and would otherwise suggest, that the said revocation power be retrospectively applicable to licences issued prior to the proposed revision.

(ii) *Comment on Paragraph 9, “A (iii) Prohibit the sale of sick animals / birds”*

4. We appreciate that under the purview of Cap. 139B, the presence of the word “infectious disease” was possibly a primary consideration given to public (human) health. However, since the mandate of the present review is to *study how the Prevention of Cruelty to Animals Ordinance and the related laws could be improved to better safeguard animal welfare*, we advise that, instead of limiting the prohibition of selling animals or birds with infectious diseases, the regulation be extended to prohibiting the selling of **unhealthy** animals. This would serve to address both animal welfare as well as public health issues.

(iii) *Comment on Paragraph 10, “A (iv) Revise licensing conditions to require animal traders to source animals from legitimate sources”*

5. Paragraph 10 of the Report is grossly problematic. It does not address the mandate of the Report, that is, to “safeguard animal welfare”. It reflects the Government’s confused thinking on animal rights, animal welfare, public health, consumer rights plus responsibilities, and merchants’ rights plus responsibilities.

6. The paragraph starts by setting the aim to “safeguard the health status of dogs sold at pet shops”. It has been brought to light by many groups that uncontrolled breeding by unscrupulous breeders and traders has been at the root not only of the proliferation of unhealthy pets sold through pet shops and other channels, but also of the serious problems of animal cruelty behind shopping windows at breeding establishments. Existing loopholes in the laws opened up huge opportunities for people to breed animals at low cost made possible by horrific treatment of the animals used. We expected that these loopholes would be plugged; but there is no indication in the Report that these are being dealt with.

7. Unethical breeding of animals in the pet trades has resulted in a ready supply of pet animals at commoditized prices, which is largely linked to abandonment and stray animal problems. (See paragraphs 21 to 25 below)

8. In relation to paragraphs 6 and 7 above, we welcome the Government’s proposal to require animal traders to source animals from **legitimate sources**. However, no definition of **legitimate sources** was mentioned in the Report. In order to make the new requirement an effective control for preventing animal abuses and unhealthy animals being traded, a clear and stringent definition of legitimate sources is essential.

9. In mentioning that the trade expressed concern over the possibility of shortage in dog supply as a result of the amendment, and AFCD is then conducting further consultation with the trade on this aspect, the Report seems to favour this flawed argument by the pet trade. According to the Society for the Prevention of Cruelty to Animals (SPCA), over 20,000 unwanted animals were killed last year. On the average, more than 54 animals need to be killed everyday because no one would want them. According to AFCD statistics, more than 14,000 stray animals were captured in 2006, and only around 700 were eventually adopted. The “surplus” needs to be killed (what they called “euthanized”). Animals are not commodities to be casually destroyed and produced according to consumer tastes and fashion. The Government has the ethical role to play in balancing the situation.
10. By comparison, animal welfare groups have expressed equal, if not more, amount of concerns of NOT implementing tighter controls of pet trades and animal breeding; but in contrast, none of these concerns were mentioned in the Report. We wish that the final proposal would not thus be biased towards commercial interests at the expense of animal welfare.
11. The paragraph did raise the essence of the issue, that is **legitimate sources**. However, it took the Government more than 13 months to come up with no useful definition of **legitimate sources**, and yet the paragraph went on to “*hope to implement the new licensing condition by mid-2008*” which is only 4 months from now. By extrapolation, we are very doubtful whether the content of the final proposal will be well-rounded, widely consulted, and sufficiently rigorous as an effective measure.
12. For reasons outlined in paragraphs 5 to 11 above, the Government has the obligation to (i) make the detail of the proposed amendments accessible to the public; and (ii) allow reasonable period for public consultation. The fact that amendment of Regulations under an Ordinance need not go through full-fledged legislative procedures does NOT automatically exempt the process from transparent and adequate consultation with all stakeholders concerned. We request the Government to respond to this matter with first priority.
13. In a related LEGCO motion debate that took place on 16 January 2008, a Member expressed ill-informed concerns on the apparent harm that tightened

regulations would exert on the animal trades and the consumers. In response to those concerns, we have explained our position which is included in Annex A.

14. Regarding the new licensing condition, we acknowledge that there will likely be a price to pay as a society, and the transition would not be overnight. We therefore stress the importance of accompanying measures to ease and buffer the transition to the new legislation to ensure that all stakeholders' interests (including merchants, consumers and animals involved) will be fairly taken care of.

(iv) *Comment on Paragraph 12, “B (i) Early release or disposal of seized animals”*

15. In “...or otherwise dealt with under the Ordinance for which it is **impractical** to keep in captivity”, the word “impractical” shall better be revised to “**inappropriate or inhumane**”.

(v) *Comment on Paragraph 15, “B (iv) Power of a Magistrate to prohibit further keeping of animals”*

16. In the same spirit as towards preventing recurrence of similar offences, we suggest that, in addition to the Court's power to disqualify a person from keeping animals, the power be extended to disqualifying that person from involving himself/herself in live animal-related work and activities.

(vi) *Comment on Paragraph 21, “Publicity and Education”*

17. We welcome these initiatives, and appreciate the Government's effort being put into these important programmes.

(vii) *Comment on Paragraph 22, “Way Forward”*

18. We noted that the Government is “consulting **the** animal welfare groups and representatives from the pet trade on the proposals...”. We maintain that the issues at hand affect a wide public. We request the Government to increase the breadth and transparency of the consultation process, especially on the scope of the representation.

19. The examples quoted for legal implications – the possible violation of human rights – indicated the alarmingly human-centric disposition of the Government and its shallow understanding of human rights. Unless the Government rid itself of such outdated and uninformed thinking, it would be difficult for our society to make progress in anything related to ethical treatment of animals.

B. Issues not addressed in the Progress Report

20. Since November 2006, various groups and individuals have been expressing opinions and recommendations for protecting the rights and improving the welfare of animals, including pets and free-living animals. We expect that the comprehensive review committed by the Government would acknowledge, if not address, those issues. However, many of those issues remain untouched in the Report. Some of these issues are outlined below.

(i) *Failure to link animal abuses to stray animal issues, and to address it.*

21. A large proportion of past known animal abuse cases involves stray animals in urban areas. A lot of conflicts also happened between citizens who take care of stray animals and those who oppose such act. Well-researched advice on the solution to stray animals have been repeatedly communicated to the Government through various channels by experts; but the Government keeps on denying the viability without giving much thought. Neither does the present report mention this issue. It is high time the Government candidly review and change its existing policy in stray and free-living animals management, and actively implement measures proven effective in similar cities overseas.

(ii) *Abandonment of animals to be made an offence under animal cruelty*

22. Abandonment of animals is currently an offence under Sect.22, Cap.421, Rabies Ordinance. However, the specified condition of offence is flawed. In particular, the ordinance qualifies the offence with “without reasonable excuse”. It is inconceivable nowadays what constitutes a reasonable excuse for abandoning an animal. Secondly, the fact that the offence is put under the Rabies Ordinance failed to acknowledge that abandoning an animal, especially pets, is an act of cruelty, which consequently failed to bring penalty that is commensurate with those under Cap.169.

23. Worst, despite abandonment having long been an offence, few, if any, people have been charged. AFCD all too often turns a blind eye to a constant stream of abandonment cases.

(iii) *Microchipping of animals at source*

24. A water-tight scheme needs to be put in place if the Government aims to control the source of animals supplied to pet trades. One such scheme is the mandatory microchipping of animals at source, i.e. breeding establishments. Without such scheme, any elaborate effort to control animal trading further downstream on the supply chain will be in vain.

(iv) *Regulation and control of breeding establishments*

25. The Report grossly lacks content in the regulation and control of breeding establishments. In particular, any proposed new licensing conditions of both pet shops and breeders that attempt to plug current loopholes need to be explicitly spelt out. The essence of effective controls lies in the detailed condition, which have also been the cause of much controversy in recent months, and therefore, needs to be thoroughly thought-out and debated. (See also paragraphs 5 to 14 above)

(v) *Selling of animals to children*

26. Just as tobacco stores are not allowed to sell cigarettes to people under certain age (on the ground that they are not mature enough to take responsibility for their own health), no person or pet shop should be allowed to sell animals to anyone under certain age (on the similar ground that they are not mature enough to take responsibility for the animals' well-being).

(vi) *Revamping AFCD animal management operation.*

27. Improper management of AFCD's Animal Management Centres (AMCs) in several incidents have caused tremendous suffering of a large number of animals. Some were widely covered in the media (for example, dogs and pigs). To improve the situation, transparency of AFCD's handling of animals needs to be increased. AMCs are animals' rough equivalence of human's hospital, but unlike human, the patrons of AMCs, i.e. animals, are not able to speak for

themselves. The only way to ensure animals are not mistreated behind the doors is to open up these operations to public inspection. The idea was communicated to the Government (See Press Release in Annex B), but is grossly ignored in the present Report.

(vii) Construction site dogs.

28. The current practice of construction site dogs (and in similar settings like junkyards) is creating a lot of potential for and many actual incidents of animal cruelty. Improper control of these practices is also one major cause of stray animal problems. With modern security technology, dogs in construction site is totally unnecessary. Schemes should be devised to eventually ban usage of dogs and other animals in construction sites and similarly hazardous environments. We, and some other animal welfare organizations, have been expressing this view but it is grossly ignored in the current Report.

(viii) Management of free-living and other animals e.g. monkeys, buffalos, boars....

29. Past incidents involving stray buffalos, monkeys, boars have shown that their basic rights to live is not respected by some members of the public and some Government officials. Problems involving these animals' natural cohabitation with human were often not properly handled by the Government, resulting in unnecessary suffering and, in many cases, death in agony of these animals. The Government should play a pivotal role in enabling all inhabitants of Hong Kong to live in harmony and with mutual respect. We recommend the Government explore and arrive at feasibility solutions instead of ignoring them.

(ix) A dedicated unit in the Police Force to tackle animal abuses and cruelty

30. Referencing experience of other countries and with consideration of local situation, we maintain that a special unit in the Police Force be set up and dedicated to handling animal-related crimes. However, no consideration was given to this in the Report.

C. On terminology

31. Some wordings used in the paper reflected the inability of the Government to appreciate the fundamental notion that animals are sentient beings – the

cornerstone that underlies the need for improving animal rights and welfare. We understand that the legislation process may eventually deal with these details, but as language reflects and influences thinking, it would be more beneficial to acknowledge the proper concepts and values up front by using the proper terminology. Some of our observations are outlined below.

32. "... animals **seized**..." (in Paragraph 12 of the paper) – the word “seized” connotes non-living objects being taken into custody. We suggest to replace the word with “...animals **rescued**...”, or simply “...the **victim animal(s)** in relation to a cruelty case...”. (For comparison purposes, we never adopt language like “...children **seized**”)
33. In usages similar to the above, “**animal(s)**” should be used instead of just “**animals**”, to properly acknowledge that animals always retain their individuality as sentient beings.
34. In all instances, the phrase “**destruction** of animals” and “**destroy** the animals” should be replaced by “**killing** the animals”. (For comparison purposes, we never adopt language like “**destruction** of a child”)
35. We highly recommend that wordings that subsequently go into any law revision regarding animal welfare be based on well-informed knowledge in such.

FURTHER ACTION NEEDED

We welcome the Government’s effort shown in the Progress Report, but of the opinion that the proposals are only first attempts to fulfill its commitment. There have been various recommendations submitted or expressed by the public on animal rights and welfare issues in recent years. Many of these recommendations aims to improve animal welfare and, at the same time, put public resources to better use. Compared with these recommendations, the proposals mentioned in the present Report is grossly inadequate, piecemeal, and bear a manifest lack of transparency in the consultation process. We expect that the Government would thoroughly examine the public’s recommendations, conduct adequate consultation, and come up with holistic schemes to improve animal rights and welfare; or else provide full explanation for not doing so.

致各立法會議員：

關注動物權益團體「動物地球」就《動物出售條例》提出意見

去年九月，漁護署擬提出修訂《動物出售條例》，並向業界作出諮詢，引來關注動物權益團體與寵物業界人士熱烈討論。寵物業商會更曾去信漁護署反映看法，亦於去年十一月舉辦遊行，抗議有關修訂影響寵物業界運作。「動物地球」現特具函，就漁護署的修訂建議，與寵物業商會的理據，表達意見如下：

1. 寵物業商會支持漁護署實行動物繁殖發牌制度，但卻認為應放寬對「私人繁殖者」的監管。

「動物地球」認為，香港既然沒有「公共」動物繁殖場所，又何來「私人繁殖者」？現時，所有從事動物繁殖的，不論是專業/業餘；公司/家居，一律都是「私人繁殖」。而繁殖動物、出售動物等事宜，涉及專業醫療知識、公共衛生、生命權益、專業操守、稅收等層面，牽涉廣大社會利益，我們實在看不到任何人有可獲放寬監管的權利。

2. 本港有部分飼養動物人士人會為動物安排繁殖，然後將之送往參展；寵物業商會將這等繁殖者稱之為「興趣繁殖者」。寵物業商會認為，漁護署實行發牌制度，會損害「興趣繁殖者」把動物出售的利益。

「動物地球」認為，寵物業商會在提出「私人繁殖者」之餘，又提出「興趣繁殖者」一說，只為混淆視聽。如果「興趣繁殖者」最終是把其繁殖動物出售牟利的話，那麼，他和「私人繁殖者」有何分別？為甚麼可以豁免監管？

3. 寵物業商會指出，如果「私人繁殖者」受監管，會令市場失去良好貨源。

「私人繁殖者是良好貨源」這說法一直只是寵物業商會一面之辭，我們並未看到當中有充分理據。而且，不論是何等類型的繁殖者，如果能符合漁護署提出的條件，為甚麼要拒絕被監管？再者，說「私人繁殖者」

受監管會令市場失去良好貨源，等同說「不受監管的私人繁殖者可為市場提供良好貨源」，此言實是令人啼笑皆非。

4. 寵物業商會指，發牌制度會令很多繁殖者會把未及出售的動物放出街或送往人道毀滅。

「動物地球」認為，無論受監管與否，有操守的繁殖者理應清楚了解被他們繁殖的動物除了作為販賣的商品外，亦是有感覺和感受的生命，若繁殖者濫用自由過量繁殖而最終又以未及出售為借口而放出街或送往人道毀滅，是不顧後果、踐踏生命的行為。再者，在香港，遺棄動物是刑事罪行。繁殖者如以「動物生命」與「以身試法」作要脅，等如與法治人道為敵。

然而，考慮到實際執行情況，有團體建議在發牌制度實行前設寬限期，「動物地球」對此亦持開放態度。

5. 寵物業商會指出，實行發牌制度，損害了繁殖者的人權。

「人權」不能建築在其他生命的痛苦上，這是無容置疑的人類價值；隨意用「人權」一詞來作擋戰牌，是侮辱公眾智慧，甚為膚淺的言論。

「動物地球」認為，動物飼主有的不單是「權利」，也有「義務」 - 不單是守法、承擔責任和後果，更要耐心，和體現對生命的尊重和愛惜。

「動物地球」認為，動物繁殖者只分兩種，就是「合法的」和「非法的」。
「動物地球」支持漁護署收緊發牌制度，嚴格監管所有動物售賣商、動物繁殖場與繁殖者，保障動物與市民的利益、權利。

關注動物權益團體「動物地球」

2008年2月18日

For immediate release

2007.04.29

AFCD reprimanded for animal abuse and breaches of duty. Blackbox operation must stop.

Recent decisions and actions undertaken by the Agriculture, Fisheries, and Conservation Department have caused large numbers of animals being abused and brutally killed. The Department literally turn a deaf ear to groups and individuals who expressed concerns on these incidents, grossly shedding its responsibilities. In some instances, AFCD even imposed retaliatory measures.

For these acts of the AFCD, the HKAW, Lantau Post, and Animal Earth announced a severe reprimand. Civic Party Chief Ms Audrey Eu and representative Ms Linda Wong were also present at the announcement.

The following lists some recent cases of mistreatment, abuse, and brutal killing of animals by AFCD :

(1) October 2006 to date – Large number of buffalos and cows were traumatized and terried to death in a series of culling and ?? operation done by AFCD in the name of community interests and development. A case also involved huge proportion of deaths while buffalos were being transported by AFCD personnel. AFCD only try to fend off the public's inquiry.

(2) March 2007 – Large number of monkeys were found severely injured in Kam Shan Country Park, some being obvious human acts. After months of follow-up by citizens, the AFCD gave no reasonable explanation and took no concrete action. However, upon the matter being uncovered the news by the media, AFCD rushed to summon the press only to give ridiculous and contradictory information, in an effort to cover up rather than deal with the safety and habitat problem of the monkey.

(3) February to April 2007 – AFCD mistreatment of animals in their Animals Management Centers causing suffering and death of numerous dogs

were uncovered by the media. In response, the AFCD shunned voluntary organizations who used to save stray animals from the AMCs for adoption, which renders the life of many animals redundant. When the news caused public outrage, AFCD issued misleading statistics and photographs, at the same time smearing stray animals and the volunteers who cared for them, in an attempt to sidetrack focus.

(4) March 2007 – Brutal killing of pigs in AFCD's New Territories North AMC was uncovered by the NEXT Magazine. Screens were immediately erected at the periphery of the center to shun further public exposure. Both York Chow (Secretary for Health, Welfare and Food) and AFCD officials put up "international recognition" to shrug off responsibility and mislead the public. Despite the matter raising international outrage from more than 800 cities in over 60 countries, the government openly refused investigation in LEGCO hearing.

While the government has been appealing to the public for kinder treatment of animals, it is taking a swift lead to abusing and brutalizing animals. Series of incidents showed the government is grossly uninformed about animal rights protection, downplaying the suffering of the less-privileged, and taking an antagonistic posture towards activists. **The red tape has severely and systematically caused widespread suffering of animals to various degrees.**

The public has been catching on with the idea of caring for animals and respecting their lives. To build a truly city of harmony and ???, what remains is the change of mindset of policy makers and frontline personnel.

To protect the basic right of animals to a dignified existence, we urge the AFCD to institute the following proposed measures to improve and overhaul the entire operation:

(1) Immediately open up all blackbox operations and facilities for public access, thereby returning the rights and obligation of monitoring to the hands of citizens

- (2) Conduct complete review and consultation on the standards and procedures involved in caring, management, destruction of all stray and non-stray animal, maintaining due care and consideration to the mental and physical well-being of animals.
- (3) Institute transparency for monitoring and assurance purposes to ensure procedures and guidelines are followed by frontline personnel.
- (4) Re-educate both decision-making and frontline personnel, realigning their mindset with the the correct knowledge in animals' needs, giving them ability to deal appropriately with contingencies involving animals.
- (5) Maintain open attitude in frontline and decision-making personnel, communication and collaborate with non-government organizations and volunteers to avoid sacrificing lives of animals.
- (6) Seek to actively communicate ideas of cohabitation between human and other animals. Abandon the practice and culture of reacting to complaints for the sake of closing cases, thereby saving animals from unjustified complaints.
- (7) Revise the outdated list of protected animal species. Establish the status all animals (including strays) as valued part of the ecosystem, striking a better balance between human interest and animal living space.
- (8) Regularly reviewing policies and implementation with the aim of continuous improvement, realizing true "Conservation".

新聞稿

(2007.04.29)

譴責漁護署失職虐畜・要求停止黑箱作業

近期漁護署作出的多項決策及行動，引致大量動物受虐待、虐殺，對關注事件團體及人士的訴求更致諸不理，推卸責任，甚至採取報復措施。對漁護署此等行爲，**Hong Kong Alley Cat Watch**、《大嶼報》與《動物地球》提出強烈譴責。公民黨黨魁余若薇及代表黃瑞紅均有出席。

以下是近期漁護署不當照顧、虐待或虐殺動物事件：

(1) 2006 年 10 月至今 – 漁護署疑多次以土地發展和居民利益爲理由，粗暴趕殺及處理流浪牛，令大量牛隻受嚴重創傷、驚嚇甚至死亡。最近更發生運送流浪牛途中大量牛隻死亡，署方卻企圖以官腔回應了事。

(2) 2007 年 3 月 – 「馬騮山」大量猴子受傷，當中部份傷勢明顯是人類所爲，經市民數月催促，漁護署均未有積極行動和合理解釋，直至傳媒披露，署方才急忙召見傳媒，發放一些矛盾及荒謬的故事，企圖掩飾，並未有正視及改善猴子生態和安全問題。

(3) 2007 年 2 月至 4 月 – 漁護署狗房不當地照顧流浪狗，令多頭狗隻受虐待，期間更懷疑因事件曝光，而禁止一向照顧流浪動物的團體及義工進入狗房領養，令原本有人照顧的動物，白白送命。事件引來公憤後，署方又高調利用傳媒，發放誤導性數字及照片，把流浪動物及默默耕耘的義工們醜化，轉移公眾視線。

(4) 2007 年 3 月 – 上水狗房虐殺大量豬隻事件，被「壹週刊」揭露後，署方隨即把狗房外圍阻隔，企圖掩飾。周一嶽局長和漁護署官員亦再三推卸責任，以「國際認可」爲擋箭牌，妖言惑眾。事件雖然引起了全球超過 60 個國家 800 個城市的人士簽名關注及譴責，但政府卻再次公然在議會上拒絕調查事件。

政府這邊廂呼籲市民「停一停，唸一唸」，那邊廂又帶頭虐畜「唔使唸」。連串事件不但充份反映香港政府對保障動物權益意識薄弱，而且漠視弱勢社群的苦況，對維權人士，更採取敵對態度。**官僚作風，已嚴重及有規律地令廣泛動物受到不同程度的虐待。**

市民尊重生命、愛護動物的意識已日益提高，但政府政策和前線人員，必需配合社會，才能達至真正和諧的共融都市。

要求漁護署立即採取以下改善及改革措施，以維護動物基本生命尊嚴：

- (1) 立即停止黑箱作業，全面開放所有動物管理及處理設施，把監察運作的責任和權利交還所有市民；
- (2) 全面諮詢和檢討所有照顧、管理、毀滅流浪及非流浪動物的標準和程序，令動物的心理和生理得到合理照顧；
- (3) 引入高透明度監察及監控制度，確保前線人員依照程序執勤；
- (4) 徹底改變前線及決策人員的思維模式，重新教育他們認識非人類動物的身心需要，提升其處理特殊情況的敏感度與能力；
- (5) 教育前線及決策人員，持開放態度，與志願團體及人士加強溝通與合作，發揮官民互助精神，以免動物無辜犧牲；
- (6) 主動向社區灌輸人類與其他動物共融的意識，徹底摒棄「消極回應投訴、盡快 close file」的文化，令動物不致因無理的投訴而犧牲；
- (7) 更新過時的受保護動物名單，肯定各類動物(包括流浪動物)的生態與保育價值，在市民利益與動物生存空間兩者中取得平衡；
- (8) 定期檢討政策與實踐成效，循環改善運作，真正實踐「自然護理」。