

## Bills Committee on Prevention of Cruelty to Animals (Amendment) Bill 2006

Updated summary of views raised by organisations/individuals  
(as at 29 September 2006)

| Organisation/Individual   | Concerns/views  | Administration's response  |
|---|---|--|
| (1) Definition of cruelty acts  |   |  |
| Miss CHAN Pik-shan<br>Mr Paul GARDINER and<br>LEE Ai-Phing<br>Miss Marianne YEO<br>Miss Mandy CHEUNG<br>Miss Fien LIU Fong-yan<br>Miss NGAI Shan-shan<br>Mr Dickey CHAN<br>Miss FONG Hoi-kuen<br>Miss 李思敏 | <p>The definition of acts of cruelty to animals in Section 3(1) of the Prevention of Cruelty to Animals Ordinance (Cap.169) (the Ordinance) is too vague and covers only limited aspects of animal cruelty acts. Consideration should be given to include the following in the definition of acts of cruelty –</p> <ul style="list-style-type: none"> <li>- neglecting an animal's medical needs;</li> <li>- newly born animals being removed from their mothers too early, which affect their health, growth and mental well-being;</li> <li>- forcing, and/or assisting and/or encouraging an animal to reproduce continually; and</li> <li>- prolonged confinement of an animal in a fixed area with no toys, company or bodily touch from a human being.</li> </ul> | <p><u>Definition of cruelty to animals</u></p> <p>The Ordinance already covers a wide variety of acts of cruelty, including but not limited to causing any unnecessary suffering to any animal by unreasonably doing or omitting any act, keeping any animal in a way that causes the animal avoidable suffering, etc. It would be less effective to specify cruelty acts in the Ordinance as the acts cannot be exhaustive. Apart from the Ordinance, the Prevention of Cruelty to Animals Regulations (Cap. 169A) (the Regulations) also specifies conditions in which animals should be kept, e.g. adequate shelter from sun or rain, enough room for each animal to move freely in cages, etc.</p> <p>The definition of cruelty under the Ordinance and the Regulations is adopted internationally, such as the Protection of Animals Act of the UK and Criminal Code (cruelty to animals) of Canada, etc. The prevailing definition enables the relevant authorities to enforce the laws effectively, as well as easier to be understood by the general public.</p> |

| Organisation/Individual | Concerns/views  | Administration's response  |
|-------------------------|---|--|
| Earthcare               | The definition and coverage of acts of cruelty to animals should be widened to take into account a wide variety of negligent and irresponsible behaviour. For instance, it should also be made unlawful to abandon or neglect animals where by doing so the animal is caused to suffer. | <u>Newly born animals</u><br>As regards newly born animals, there are provisions in existing legislation to cover animals being removed from their mothers too early for the purpose of selling. |
| Mr CHIK Wing-keung      | Consideration should be given to include the following in the definition of acts of cruelty –<br><br>- prolonged confinement of animals;<br>- failure to provide medical care to sick animals;<br>and<br>- newly born animals being removed from their mothers too early.               |  |
| Mr Eric Sammy LI        | Acts of cruelty to animals should also include failure to provide medical care to sick animals.   |  |
| Miss Catherine LI       | Prolonged confinement of an animal under conditions which may cause the death of the animal (e.g. being exposed to the blazing sun with no shade) should also be included in the definition of acts of cruelty to animals   |  |

| Organisation/Individual  | Concerns/views  | Administration's response  |
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| Stray Cats Home<br>BagMeHome<br>Earthcare<br>Mr Eric<br>Sammy LI | The Administration should consider including the abandonment of animals as one of the prohibited acts under Section 3(1) of the Ordinance.  | <u>Abandoning animals</u><br>As regards abandoning animals without reasonable excuse, there are provisions under existing legislation covering this. |
| SAA  | "Abandoning an animal without reasonable excuse" should be included under Section 3(1) of the Ordinance.  |  |
| Civic Party<br>Animal Earth                                      | Although unreasonable abandonment of animals is an offence under section 22 of the Rabies Ordinance (Cap 421), it is not commonly known to the public and loosely enforced by the authorities. Most importantly, failure to put this offence under Cap 169 gives the society a wrong message that unreasonable abandonment of animals does not constitute cruelty to animals. It is queried in what situation abandonment of animals can be "justified" and thus become "reasonable". The Administration is urged to make abandonment an offence under Cap 169. |  |
| Earthcare  | The offences in the Ordinance should be offences of strict liability, and the Ordinance should set out standard of care and treatment of animals which, if violated, even unintentionally, will result in an offence.   |  |

| Organisation/Individual            | Concerns/views  | Administration's response  |
|------------------------------------|---|--|
| (2) Penalty – level of fines       |   |  |
| SPCA<br>AAF<br>Dr Anthony E JAMES  | <p><u>General comments</u></p> <p>It is misleading to compare the proposed increase in penalties in the Bill with those of other countries quoted in Annex B of the Legislative Council Brief issued by the Administration (File ref:HWF(F)6/8/2 pt.2), as a number of the countries listed (such as UK) are currently in the process of revising their own outdated legislation. Rather than deciding on new penalties based on inadequate and outdated laws elsewhere, Hong Kong should look to legislation currently being developed in other jurisdictions.</p> | <p><u>Level of penalty and imprisonment</u></p> <p>Our proposed level of penalty is already on par with level of penalty in other serious criminal offences, such as, on summary conviction, the making of false threat of terrorist attack. Besides, the proposed penalty was set by making reference to existing legislations which are now in force in other countries. We will keep in view any new legislation passed by other countries/areas to ensure our penalty levels are in line with the international development.</p> |
| Miss Bonnie CHENG<br>Canmiu CHEUNG | Strongly request the Administration to increase the penalty for acts of cruelty to animals  |  |
| HKLPTA                             | Considers it reasonable to increase the penalty level for offences relating to cruelty to animals in view of the rising cases of animal abuse   |  |
| LAWC                               | Supports the Bill, but considers that the maximum penalty for acts of cruelty to animals should be further increased to enhance the deterrent effect.   |  |

| Organisation/Individual           | Concerns/views  | Administration's response |
|-----------------------------------|---|---------------------------|
| HKKKA                             | Penalties which are too lenient fail to deter people from committing acts of cruelty to animals.  |                           |
| Earthcare                         | Agrees with the amendments proposed by the Administration. The proposal to increase the penalties for cruelty to animals is viable and practical especially in the short run but inadequate in terms of the needs of a civilized and humane society in the medium and long run.   |                           |
| SAA                               | The Administration's proposal to increase the penalty level of offences under the Ordinance to a fine of \$100,000 and imprisonment for 12 months is acceptable as a first step, as the proposed maximum fine and maximum imprisonment terms are on a par with those of the neighbouring Asian countries.   |                           |
| Mr CHAN Pui-tin<br>Mr Kenneth KOH | The proposal to increase the maximum fine to HK\$100,000 and imprisonment for 12 months under the Ordinance and to increase the maximum fine to \$25,000 under the Regulations is much needed. The suggested amendments will enhance the deterrent effect against cruelty to animals and will be welcomed by many people in Hong Kong who care for animals. |                           |

| Organisation/Individual   | Concerns/views   | Administration's response |
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| Miss Kelly YU   | <u>Maximum fine</u><br>Suggest to set the maximum fine at \$20,000 |                           |
| 陸穎珊小姐   | Suggest to set the maximum fine at \$50,000                        |                           |
| Stray Cats Home<br>Animal Earth<br>Civic Party<br>BagMeHome<br>Miss Suky LEE<br>Miss Iris HO<br>麥兆輝先生<br>Miss Catherine LI<br>Miss Ada YAM<br>Mr Eric<br>Miss KWOK<br>Miss Connie LEUNG | Support to set the maximum fine at \$100,000                       |                           |
| SPCA<br>AAF<br>HKNKCF<br>傅海欣小姐<br>Mr Danny CHAN   | Suggest to increase the maximum fine to \$200,000                  |                           |
| Mr CHIK Wing-keung  | Suggest to increase the maximum fine to \$500,000                  |                           |

| Organisation/Individual | Concerns/views  | Administration's response  |
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| AAF                     | <p><u>Minimum fine</u></p> <p>Suggest to prescribe a minimum fine</p> | <p><u>Minimum penalty</u></p> <p>We consider it inappropriate to set a minimum penalty for the cruelty offences. The court would determine the appropriate amount of penalty based on factors such as background of the case and the offender. The sentence imposed by court should be determined on a case-by-case basis, instead of setting a minimum penalty. It would allow the court to have discretion in special cases. It would be wrong for the Executive, through legislation, to take away the sentencing discretion that is normally given to the independent Judiciary.</p> <p>For example, a 27-year-old man left his dogs in the balcony unattended and eventually caused the dogs to starve to death. As a result, he was jailed for a month and fined \$1,000 for offences including failing to provide sufficient food and water for animals in August 2006.</p> |

| Organisation/Individual              | Concerns/views  | Administration's response   |
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| Stray Cats Home                      | A minimum fine of \$5,000 should be imposed under the Ordinance.  | In another case, an elderly man was fined \$500 for severely beating his niece's dog. Although some members of the public considered that the penalty was inadequate, the court, when rejecting the Administration's appeal, explained that took into account that the elderly man lived on social welfare payment and considered that rejecting the Administration's appeal, explained that took into account that the elderly man lived on social welfare payment and considered that the penalty represented a large proportion of the man's income, it was considered a sufficient penalty. |
| Miss Ada YAM                         | Suggest to prescribe a minimum fine of \$50,000   |   |
| (3) Penalty – period of imprisonment |   |   |
| Miss Kelly YU                        | <p><u>Maximum period of imprisonment</u></p> <p>Support that the maximum period of imprisonment be 1 year</p> | Same as above.  |
| Miss Daisy FUNG                      | The proposed maximum 1-year imprisonment was not adequate to deter acts of cruelty to animals.                |   |
| Earthcare                            | The duration of imprisonment should be within the range of 1 to 2 years.                                      |   |

| Organisation/Individual  | Concerns/views  | Administration's response |
|--|---|---------------------------|
| 麥兆輝先生<br>伍凱詩小姐<br>Miss WONG  | Suggest to increase the maximum period of imprisonment to 3 years   |                           |
| HKACW  | Recommend a heavier prison term of 3-5 years to really make a difference  |                           |
| Civic Party<br>Animal Earth  | Suggest to increase the period of imprisonment to 3 years. However, for cases<br>(a) which result in the death or serious disablement of the animal; or<br>(b) where the offender is a second or subsequent offender under the Ordinance in the past 5 years, the person convicted shall be liable to imprisonment for 5 years. |                           |
| Animal Earth   | Suggest a maximum imprisonment of 5 years on indictment and 3 years on summary conviction   |                           |
| Stray Cats Home<br>BagMeHome<br>Miss Suky LEE<br>Miss Iris HO<br>Miss Catherine LI<br>Miss Ada YAM<br>Mr Eric<br>Miss KWOK<br>Miss Connie LEUNG<br>Mr Danny CHAN | Suggest to increase the maximum period of imprisonment to 5 years   |                           |

| Organisation/Individual             | Concerns/views  | Administration's response |
|-------------------------------------|---|---------------------------|
| Mr Peter CHAN<br>Mr CHIK Wing-keung | Suggest to increase the maximum period of imprisonment to 10 years  |                           |
| 傅海欣小姐                               | Suggest to increase the maximum period of imprisonment to 20 years  |                           |
| AAF                                 | <u>Minimum imprisonment period</u><br>Suggest to set out a minimum period of imprisonment for each offence  |                           |
| Stray Cats Home                     | A minimum imprisonment period of 6 months should be imposed under the Ordinance.  |                           |
| 陸穎珊小姐<br>Miss Ada YAM               | Suggest to set out a minimum period of imprisonment of 1 year   |                           |
| HKDR                                | Any prison sentence should take into account the automatic reduction of most sentences to ensure that the actual time spent in prison is not just a matter of days or a few months. |                           |

| Organisation/Individual   | Concerns/views  | Administration's response   |
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| <p>SPCA<br/>AAF<br/>HKCNKCF</p>   | <p><u>Penalty under section (3)2 of the Ordinance</u></p> <p>Suggest to amend section 3(2) of the Ordinance as follows –</p> <p>“For the purposes of this section, an owner shall be deemed to have permitted cruelty if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefor:<br/><del>Provided that where an owner is convicted of permitting cruelty within the meaning of this Ordinance by reason only of his having failed to exercise such care and supervision, he shall not be liable to imprisonment without the option of a fine.”</del></p> |   |
| (4) Penalty – level of fines that may be prescribed under the Regulations |   |   |
| <p>BagMeHome</p>  | <p>Suggest to set the maximum penalty that may be prescribed under the Regulations to a fine of \$20,000, and in the case of continuing offence, a further sum of \$2,000 every day during which the offence continues.</p>   | <p>Since offences under the Regulations are generally less severe than the Ordinance, the Administration considers that the 11-fold increase in maximum fine to Level 4 (i.e. \$25,000) should be sufficient to act as a deterrent against the offences. The penalty is on par with other offences, such as bringing a fighting dog into public places without a muzzle and moving an aircraft without permission. If the offence is severe, the enforcement agencies would consider prosecution under the Ordinance.</p> |
| <p>SPCA<br/>AAF<br/>HKCNKCF</p>   | <p>Suggest to increase the maximum fine that may be prescribed under the Regulations to Level 6 (i.e. \$100,000) or Level 5 (i.e. \$50,000), plus a cumulative fine for continued offence with the option of a jail sentence</p>  |   |

| Organisation/Individual  | Concerns/views   | Administration's response  |
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| Miss Ada YAM             | Suggest to increase the maximum penalty that may be prescribed under the Regulations to a fine of \$100,000 and imprisonment for 5 years, and in the case of continuing offence, a further sum of \$5,000 every day during which the offence continues.  |  |
| 伍凱詩小姐                    | In the case of continuing offence, the penalty should be increased to a further fine of \$1,000 every day during which the offence continues.  |  |
| AAF                      | Suggest to prescribe a minimum fine for offences under the Regulations   |  |
| (5) Orders by magistrate |  |  |
| SPCA<br>AAF<br>HKCNKCF   | <p><u>Disqualification</u></p> <p>Suggest to provide under section 5 of the Ordinance that the magistrate may make an order to disqualify a person convicted of committing an act of cruelty to animals from –</p> <ul style="list-style-type: none"> <li>- owning and/or keeping (or participating in such) an animal;</li> <li>- occupying positions of control or influence on the way that animals are kept;</li> <li>- dealing or trading in animals; and</li> <li>- transporting animals or arranging such.</li> </ul> | <p>The penalty in terms of fine and/or imprisonment should be an adequate punishment for the offenders.</p> <p>Under section 5(2A)(a) of the Ordinance, the magistrate could order depriving an owner, who have been convicted of an offence, of the ownership of the animal involved and dispose of the animal as he may think fit.</p> |

| Organisation/Individual             | Concerns/views   | Administration's response  |
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| <p>SPCA<br/>AAF<br/>HKCNKCF</p>     | <p><u>Section 5(3) of the Ordinance</u><br/>Section 5(3) may allow the offender to avoid a possible fine by electing to have the animal destroyed. There should be some provision in the law to protect the animals in such cases.</p>                                       | <p><u>Section 5(3) of the Ordinance</u><br/>Section 5(3) only applies to cases in which the animal involved continues to be owned by its convicted owner. However, this is rarely the case. The magistrate could deprive the owner of ownership of the animal involved and dispose of the animal as he may think fit, which includes passing it to AFCD for rehoming. Moreover, according to past experience, the animals were surrendered to AFCD on the date of the offence.</p> |
| <p>Mr CHIK Wing-keung</p>           | <p>A person who has been convicted of an offence under the Ordinance or the Regulations should not be allowed to decide whether to destroy the animal concerned. Such a decision should be made by a veterinarian having regard to the medical conditions of the animal.</p> |  |
| <p>Civic Party<br/>Animal Earth</p> | <p>Animal owners should not be given power to request its animal be destroyed such that no maintenance fee be payable under section 5(3) of Cap 169.</p>   |  |

| Organisation/Individual   | Concerns/views  | Administration's response |
|---|---|---------------------------|
| <p>Ms CHAN Pik-shan<br/>Mr Paul GARDINER and<br/>LEE Ai-phing<br/>Miss Marianne YEO<br/>Miss Mandy CHEUNG<br/>Miss Fien LIU Fong-yan<br/>Miss NGAI Shan-shan<br/>Mr Dickey CHAN<br/>Miss FONG Hoi-kuen<br/>Miss 李思敏</p> | <p>Section 5(3) of the Ordinance is actually an encouragement of animal cruelty. Consideration should be given to amend the section as follows (deletions in strikethroughs and additions underlined) –</p> <p>“If any animal has been taken to any place in pursuance of an order made under this section any person who has been convicted of an offence in respect of such animal shall be liable to pay the prescribed fees for its maintenance and treatment for so long as it shall remain therein, and such fees may be recovered as a fine:</p> <p><del>Provided that, if the owner of any such animal shall request the officer in charge of the animal to destroy it, such officer shall forthwith cause the animal to be destroyed, and no fees shall be payable in respect of the maintenance or treatment of such animal for any time subsequent to such request.</del></p> <p><u>If the owner of any such animal shall request giving up ownership of any such animal, the officer in charge of the animal shall find the animal an appropriate Animal Shelter or Organisation, the owner of any such animal shall be liable to pay the prescribed fees for its maintenance and treatment for so long as it remains under the care of the officer in charge of the animal, and such fees may be recovered as a fine”.</u></p> |                           |

| Organisation/Individual   | Concerns/views   | Administration's response   |
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| (6) Penalty – other views |  |   |
| SAA                       | The proposed “Level 6 fine” can be reworded as “\$100,000” so that the public can have a clearer picture of what the actual sum of fine is and the seriousness of the offence. Similarly, the proposed “Level 4 fine” which may be prescribed under the Regulations can be reworded as “\$25,000”. | <p><u>Wording of the Maximum fine</u><br/>Setting the maximum fine in terms of a fine level under the Criminal Procedure Ordinance (Cap. 221) would be more appropriate than setting the fine at a fixed amount as it would be more flexible in changes of economic environment. We will enhance public awareness of the level of penalty by education.</p> |
| Dr Anthony E JAMES        | <p><u>Different penalties for different acts of cruelty</u><br/>Consideration could be given to introduce the concept of aggravated cruelty with commensurate increases in the severity of penalties.</p>  | <p><u>Different penalties for different acts of cruelty</u><br/>As mentioned above, the court would determine the appropriate penalty based on factors such as seriousness of the cruelty act, background of the case, whether the accused is repeated offenders, etc.</p>  |
| Meion KWOK                | There should be different penalties for different acts of cruelty, which should be set out clearly in the Ordinance and the Regulations.   |   |
| HKDR                      | <p><u>Sentencing</u><br/>There need to be a recognition by the courts that cruelty to animals is a serious crime and worthy of heavy fines and even imprisonment. Fines should be heavy enough to act as a deterrent and prison sentences imposed for deliberate and serious cases.</p>            | <p><u>Sentencing</u><br/>Hong Kong respects the Rule of Law and the independence of the Judiciary hence we respect the decision of the Judiciary. If the sentence is considered manifestly inadequate, the Secretary for Justice may apply to the Court of Appeal for the review of the sentence.</p>   |

| Organisation/Individual  | Concerns/views  | Administration's response |
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| Dr Anthony E JAMES       | Better defined definitions of cruelty and more severe penalties are all but toothless tigers if there are not more concerted efforts by the courts to impose tougher penalties on convicted wrong doers.  |                           |
| 伍凱詩小姐<br>Mr Danny CHAN   | The penalties imposed by the court for offences concerning cruelty to animals were too low, which go against the anti-animal-cruelty messages disseminated by the Administration.   |                           |
| Earthcare                | There should be clear guidelines and directives in terms of the discretion that could be exercised to prevent law enforcement officers, prosecutors and court staff from imposing penalties on the low side.  |                           |
| Mr Kenneth KOH           | The Judiciary, thus far, appears not to fully comprehend the seriousness in cruelty to animals by continually giving watered-down penalties to offenders. The increment in fines and imprisonment will be more meaningful if the Legislative Council brings home to the Judiciary the spirit for such increments. |                           |
| HKDR<br>SAA<br>BagMeHome | <u>Other penalties</u><br>Penalties for convicted offenders should include a lifelong ban on the keeping of animals.  |                           |

| Organisation/Individual  | Concerns/views  | Administration's response |
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| Civic Party<br>Animal Earth                                    | The court should be given additional power to ban the convicted persons from purchasing, owning, acquiring, etc. any animal for any period of time, but in the case of a second or subsequent offence, for a minimum period of 5 years.   |                           |
| Ms Mindy So Ching-ching  | People who abuse animals should be punished harshly and evaluated by a psychiatrist.  |                           |
| Civic Party<br>Animal Earth<br>BagMeHome<br>麥兆輝先生<br>Miss WONG | A person convicted of committing an act of cruelty to animals should be required to attend a mandatory counselling programme on care and respect for animals.   |                           |
| Ms Althea TAN  | A person who commits an act of cruelty towards animals is sick in the mind. Instead of prison confinement, it should be "confinement to a psychiatric ward to receive proper behavioral counselling for a period of time recommended by registered psychologists" and "mandatory registration with the authorities and local district council offices of the offender's criminal record, and the public (specific neighbourhood) made aware of the offender's residency". |                           |

| Organisation/Individual                              | Concerns/views  | Administration's response   |
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| AAF  | <p>A person convicted of committing an act of cruelty to animals should pay for the costs of investigation into the cruelty as well as the costs for the care, adoption or euthanasia of the animal, as required.</p> <p>Suggest that an additional conviction of the same offence within 2 years would lead to a mandatory penalty which is two times the maximum penalty.</p> |   |
| Mr Peter CHAN  | A person convicted of committing an act of cruelty to animals should be required to pay compensation to the animal owner.   | <p><u>Compensation to the animal owner</u><br/>The owner of an animal could seek compensation from a convicted person through civil claims in court.</p>  |
| 陸穎珊小姐  | Offences under the Ordinance should carry a criminal record.  | <p><u>Criminal record for offenders</u><br/>If a charge is laid against a person and the person is convicted by court, it will lead to a criminal record.</p>   |
| (7) Enforcement                                      |   |   |
| <p>HKACW<br/>Miss Connie LEUNG<br/>Mr Danny CHAN</p> | Law enforcement agencies should treat animal abuse seriously to send the right message to the community – animal abuse should not be tolerated. Courts should impose proportionate sentence to offenders of animal abuse to prevent recurrence.   | <p><u>Enforcement</u><br/>The Hong Kong Police's duty includes, inter alia, the investigation of crime. All reports of crime, irrespective of the offence specifics, will be vigorously pursued. Besides, there is a clear set of Force procedures regarding the demarcation of responsibilities between the Police and SPCA.</p> |

| Organisation/Individual          | Concerns/views   | Administration's response  |
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| Ms Althea TAN                    | The existing legislation is premised on the principle of punishment, in the form of monetary fine and/or imprisonment, which has proven ineffective in the prevention of cruelty to animals. The Bill should focus more on principles and methods to enable the law enforcement agencies to strictly enforce animal protection laws.   | <p><u>Training</u><br/>Suitable training is currently provided to Police recruits and AFCD staff on the handling of cruelty of animal cases.</p> <p>All frontline officers of both the AFCD and the Police are aware of the need to exercise compassion and sensitivity in handling cruelty to animal cases.</p> |
| Ms Gloria KWOK                   | The Police, the Agriculture, Fisheries and Conservation Department (AFCD) and the Society for the Prevention of Cruelty to Animals (SPCA) should deal with all cases of cruelty against animals seriously.   |  |
| Animal Earth<br>BagMeHome        | The law enforcement agencies including the Police Force and the AFCD have not been paying adequate attention and resources to the active investigation and prosecution of animal abuse cases. There were numerous serious cases where concrete evidence existed and reports had been made by citizens, and yet the police have been grossly reluctant to put resources into investigation. |  |
| LAWC<br>Civic Party<br>BagMeHome | Training should be provided to law enforcement officers and judicial officers to bring home the message that animal abuse is a serious crime which should not be tolerated.  |  |

| Organisation/Individual                            | Concerns/views  | Administration's response   |
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| HKACW<br>Meion KWOK<br>Miss Suky LEE<br>Miss Sandy | There is a lack of transparent and clear delineation of duties among the Police, the AFCD and the SPCA. The Administration should immediately review the overall case handling mechanism among these departments to facilitate effective case management.   |   |
| Earthcare  | <p>The procedures and mechanisms adopted by law enforcement agencies for handling and following up reports by public on animal abuse cases should be improved.</p> <p>A transparent system which keeps tracks of the progress and the effectiveness of law enforcement should be put in place. The public should have access to monthly or quarterly reports on progress of cases and statistics on number of cases and prosecutions etc.</p> <p>Performance pledges should be established and imposed on relevant government departments to render law enforcement more effective.</p> | <p><u>Progress on investigation</u></p> <p>Each cruelty to animal case has to be investigated on its own circumstances. Setting a performance pledge or revealing the progress of investigation on individual cases is not considered practical. AFCD and the Police will continue to ensure that there is no delay in the investigation process so that all enquiries are expeditiously completed.</p> |

| Organisation/Individual           | Concerns/views   | Administration's response   |
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| Civic Party                       | Law enforcement agencies like the police and AFCD fail to effectively implement the law. The Administration should require the relevant authorities to keep full record and database of all reported animal abuse cases, and set out guidelines on proper handling of reported animal abuse cases. |   |
| Miss Sandy                        | The Administration should provide training to AFCD staff to enhance their professional knowledge on the different breeds of dogs and cats.   |   |
| Mr CHIK Wing-keung                | Suggest to amend Section 4(1) of the Ordinance to extend the power of enforcing the Ordinance and the Regulations to the relevant ranks of officers in all the disciplinary forces, including the Fire Services Department and the Customs and Excise Department                                   |   |
| (8) Public Education              |  |   |
| Civic Party<br>BagMeHome<br>陸穎珊小姐 | The Administration should step up educational measures and publicity to promote kindness to animals, respect for animal lives and animal welfare issues.   | AFCD conducts regular village and community campaign, such as educating the public to be responsible to their pets and ensure that they comply with vaccination and licensing requirements. Website of AFCD contains educational materials available to the public. |

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| Sammy LI  | Apart from arousing public awareness on animal welfare through mass media, the Administration should also promote at pet shops the message on the need to take good care of pets.                                    | AFCD takes every opportunity in dog shows or animal related activities to educate the public. Series of TV and radio APIs have been produced to remind people the importance of treating pets well, responsible pet ownership and respect the life of animals. Posters and pamphlets on the same topics are being produced, which can be sent to schools, pet shops, veterinary clinics and private buildings when ready. Comments and suggestions on public education and promotion activities would be welcomed. |
| Mr LUK Ping-choi, Sai Kung District Councillor  | Support the Bill as respect for life is an integral part of civic education  |  |
| Ms Althea TAN   | Not only legislation but also education are needed for the offenders, the public, the law makers and the law enforcement agencies.   |  |
| (9) Other areas   |  |  |
| SPCA<br>AAF<br>HKNKCF<br>LAWC<br>Civic Party<br>Animal Earth<br>Miss Suky LEE<br>Dr Anthony E JAMES | <u>Overall review of the Ordinance (Cap. 169)</u><br><br>The Ordinance is outdated, full of grey areas and loopholes. There is an urgent need to conduct a full and thorough review of all aspects of the Ordinance. | <u>Review of the Ordinance</u><br>The Ordinance already covers a wide variety of acts of cruelty and is largely tallying with similar legislation elsewhere. We will keep in view any new legislation passed by other countries/areas to ensure our regulatory regime is in line with the international development.   |

| Organisation/Individual  | Concerns/views  | Administration's response   |
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| HKACW<br>Civic Party<br>Animal Earth<br>BagMeHome<br>Miss Iris HO<br>Miss Connie LEUNG | The Administration should undertake to review all animal-related laws and policies in Hong Kong and provide a proper time-table for this task.  |   |
| Earthcare  | There is a lack of provision(s) in the Bill to provide for a review and an overhaul of legislations and regulations regarding humane treatment of animals which is necessary for maintaining Hong Kong as a civilised and advanced society with sustainable development in the medium and long run. |   |
| Mr CHIK Wing-keung   | Regular reviews should be conducted on the Ordinance on issues such as animal rights and legal status of animals.   |   |
| HKACW<br>BagMeHome   | <u>Animal population control</u><br><br>The Administration should allocate more resources to desexing stray animals instead of their massive destruction.   | <u>Animal population control</u><br>Regarding animal population control, AFCD promotes desexing of animals as a part of responsible pet ownership. Moreover, AFCD provides subvention for animal welfare organization to carry out animal desexing programmes. The Administration has no plans to control the number of animals being imported or sold in the market as it would violate the free trade policy. |
| HKNKCF   | Controlling the number of animals coming on to the market can help ensure that every animal has a good home to go to. This is one good way of preventing animal cruelty.  |   |

| Organisation/Individual                                      | Concerns/views   | Administration's response   |
|--|--|---|
| BagMeHome  | AFCD should tackle the issue of stray cattle. Stray cattle should be desexed instead of being put down. Specific sites should also be identified for housing stray cattle.   |   |
| Miss Daisy FUNG  | The Bill should address the problem of excessive breeding of animals by private and commercial breeders.   | <p><u>Regulation of pet shops/animal breeders</u></p>   |
| BagMeHome<br>Mr CHAN Kuen-kwan, Sai Kung District Councillor | Excessive breeding of animals, which amounts to an act of cruelty to animals, should be prohibited. Apart from desexing animals, it is very important to put in place an effective system for monitoring the artificial breeding of animals. | <p>Regarding breeders, they are currently regulated under the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B). In the past 6 months, 4 animal breeders have been prosecuted by AFCD for trading animals illegally. AFCD will continue to investigate illegal animal trading cases. Besides, the Ordinance also covers cruelty in pet shops or breeders. If there is any activity causing unnecessary suffering to any animal, it should be reported to the enforcement agencies for investigation. cruelty prosecuted by AFCD for trading animals illegally. AFCD will continue to investigate illegal animal trading cases. Besides, the Ordinance also covers in pet shops or breeders. If there is any activity causing unnecessary suffering to any animal, it should be reported to the enforcement agencies for investigation.</p> |

| Organisation/Individual | Concerns/views   | Administration's response   |
|-------------------------|--|---|
|                         |  | <p>All pet shop must obtain an animal traders license under the Public Health (Animals and Birds) Animal Traders Regulations (Cap. 139B) and fulfill requirements, such as size of cages, in the licensing condition for pet shops. Besides, the selling of unweaned animals is prohibited. Moreover, any illegal practice of veterinary surgery will be investigated. If there are cases of cruelty in animal traders, they should be reported. AFCD will investigate and consider prosecution if there are sufficient evidence.</p> |
| Miss Catherine LI       | <p><u>Regulation of pet shops/animal breeders</u></p> <p>Pet shops should register the residential address of customers and ensure that the keeping of pets in such premises is allowed. The maximum penalty for violating this requirement will be a fine of \$50,000 and revocation of pet shop licence.</p> |   |
| Miss Ada YAM            | <p>Pet shops should keep a record of the information of customers who have purchased pets from them. Abandonment of pets should lead to a fine of HK\$100,000 and imprisonment for 5 years.</p>  |   |

| Organisation/Individual     | Concerns/views   | Administration's response |
|-----------------------------|--|---------------------------|
| Civic Party<br>Animal Earth | The licensing system for animal traders is ineffective in protecting animals from being abused or ill-treated by animal traders. An urgent review of the system and the relevant law is required.  |                           |
| BagMeHome                   | Commercial and private animal breeders should be regulated by way of a licensing system.<br><br>The sale of animals which are less than 3 months old should be prohibited.   |                           |
| HKDR                        | Consideration should be given to introducing –<br><br>(i) a complete ban on the sale of puppies in pet shops, but failing that, at least some regulations about the minimum care required (i.e. age of puppy not less than 8 weeks, size of cage, proper care in terms of feeding and companionship for the puppy); and<br><br>(ii) a ban on displaying puppies (or kittens) in pet shop windows to discourage impulse buying without proper regard for the responsibilities of animal guardianship. |                           |

| Organisation/Individual                    | Concerns/views  | Administration's response |
|--|---|---------------------------|
| HKCPG                                      | There is a need to enhance the regulation of pet shops. Many pet shops squeeze 10-15 animals into one small cage which can definitely be counted as cruelty case. A lot of pet shops sell puppies/kittens under 2 months old even though the existing rules provide that only animals over 3 months of age can be sold. |                           |
| BagMeHome<br>Mr Eric<br>Mr CHIK Wing-keung | It should be stipulated in law that the size of the basket, cage etc where an animal is kept in a pet shop should be at least 10 times that of the animal.  |                           |
| Mr Eric                                    | Pet shops should be prohibited from injecting stimulants to animals.  |                           |
| Mr CHIK Wing-keung                         | Pet shops, breeders, farms etc. should be prohibited from injecting or administering drugs to animals which will adversely affect their health, e.g. stimulants.  |                           |
| Earthcare                                  | The Ordinance has not taken into account cruelty occurring during animal rearing and in the course of pet sales business.   |                           |
| HKCPG                                      | The Administration should increase the penalty against private dog farms and private breeders who keep their animals in unacceptable conditions.  |                           |

| Organisation/Individual | Concerns/views   | Administration's response |
|-------------------------|--|---------------------------|
| Miss Ada YAM            | <p><u>Responsible animal guardianship</u></p> <p>A person who would like to acquire a pet should be required to complete a form for the purpose of assessing his suitability for keeping a pet. He should also be required to watch a video produced by the Administration on `responsible pet guardianship.</p> |                           |
| HKDR                    | <p>A Pets' Charter setting out the minimum requirements for the keeping of dogs should be drawn up.</p>  |                           |
| Dr Anthony E JAMES      | <p>Consideration should be given to imposing a positive duty of care on persons in charge of an animal, which requires that a significant burden be placed on animal keepers and others who interact with animals to ensure the welfare of animals.</p>  |                           |

| Organisation/Individual           | Concerns/views  | Administration's response  |
|-----------------------------------|---|--|
| Mr Paul GARDINER and LEE Ai-Phing | <p><u>Conditions under which animals may be kept in confinement</u></p> <p>Prolonged confinement of an animal in a fixed area without proper stimulation is a severe mental torture to an animal. Such an act of animal cruelty should be regulated with either restrictions on the minimum size of cage and the maximum length of time confined (say 2 hours maximum) and with due regard to the environment the animal is forced to endure.</p> |  |
| BagMeHome<br>Miss Daisy FUNG      | <p>Regulations should be made to specify clearly the conditions under which an animal may be kept in confinement, having regard to the size and the habits of the animals concerned.</p>  |  |
| Miss Ada YAM                      | <p><u>Abandonment of animals</u></p> <p>The Rabies Ordinance (Cap. 421) should be amended to increase the penalty for abandonment of animals. The maximum penalty should be a fine of \$200,000 and imprisonment for 5 years, whereas the minimum penalty a fine of \$100,000 and imprisonment for 2 years.</p>   | <p><u>Abandoning animals</u></p> <p>AFCD has been promoting responsible pet ownership and reminding the public to consider carefully before having a pet.</p> <p>Abandoning animal without reasonable excuse already constitutes an offence under the Rabies Ordinance (Cap. 421).</p> |

| Organisation/Individual                         | Concerns/views   | Administration's response  |
|---|--|--|
| Miss Catherine LI                               | Any person who abandons an animal without reasonable excuse, or by abandoning an animal causes suffering to the animal, should be punishable by a maximum penalty of a fine of \$100,000 and imprisonment for 5 years. | <p><u>Animal licensing system</u></p> <p>At present, all dogs above the age of 5 months must be microchipped and licensed. Besides, dogs sold at pet shops must be microchipped already. The purpose of licensing and microchipping is to protect public health by ensuring timely vaccination of dogs against rabies. Since dogs have higher risk of having rabies in this region, compulsory licensing system is only applicable to dogs. The Administration does not have plans to license the keeping of other kinds of pets. Owners can voluntarily have their pets implanted with a microchip for identification purposes.</p> |
| HKDR  | Abandonment of pets should be punishable by a fine relative to the owner's income, and imprisonment for repeat offenders considered.   |  |
| Miss Sandy                                      | A person who abandons or decides not to keep his pet should be fined and required to pay the prescribed fees for the maintenance and treatment of the animal for so long as it lives.                                  |  |
| Miss Daisy FUNG                                 | <p><u>Animal registration and licensing system</u></p> <p>The licensing system for keeping dogs should be extended to other types of animals.</p>  |  |
| Mr CHAN Kuen-kwan, Sai Kung District Councillor | Suggest to explore the feasibility of putting in place a licensing system for keeping pets and to charge a one-off payment for the keeping of pets   |  |
| Mr Paul GARDINER and LEE Ai-Phing               | All pets should be microchipped to establish ownership, breach of which will lead to penalties to be imposed jointly on the pet shop and owner concerned.  |  |

| Organisation/Individual | Concerns/views  | Administration's response  |
|-------------------------|---|--|
| Miss Sandy              | All pets should be microchipped, which helps to identify their owners if they are lost or abandoned.  |  |
| Mr Eric                 | <p><u>Destruction of animals</u></p> <p>Euthanasia of animals should only be carried out with the consent of not less than two veterinarians and supported by detailed medical reports.</p>   |  |
| Mr CHIK Wing-keung      | <p>Suggest to state explicitly in Section 3(3) of the Ordinance that the destruction of any animal as food for mankind should be done in a humane manner to avoid causing any unnecessary suffering to the animal.</p> <p>Suggest to amend Section 6 of the Ordinance to provide that –</p> <p>(a) in case magistrate, senior veterinary officer, government medical officer, police officer etc. have conflicting views on whether an animal should be destroyed, the final decision shall rest with the senior veterinary officer; and</p> <p>(b) the destruction of severely-injured animals should be conducted in a humane way which minimizes the pain and suffering of the animal.</p> | <p><u>Destruction of animals</u></p> <p>According to the Code of Practice for veterinary surgeons, the welfare of animals is the primary concern of every veterinarian. Veterinary surgeon that performs euthanasia should have sufficient expertise in determining the necessity of euthanasia to animals. Euthanasia should be conducted as soon as possible to relief pain and suffering from the animal and is often performed in a humane way.</p> <p>Destruction of animals for food is a necessity in the society. The Ordinance already covers the destruction of animals for food or such preparation accompanied by the infliction of unnecessary suffering.</p> |

| Organisation/Individual             | Concerns/views  | Administration's response   |
|-------------------------------------|---|---|
| <p>Civic Party<br/>Animal Earth</p> | <p>Animals should only be killed upon humane reasons and professional opinions of veterinary surgeon as to their health and well-being. (Please refer to Annexure G of the deputations' submissions for detailed suggestions on amendment of section 6 of Cap 169.)</p> <p>Animals are living things of feelings, rather than "objects" to be "destroyed". The word "destroy" should be replaced by "killed" in the Ordinance and any other related legislations.</p> |   |
| <p>Mr CHIK Wing-keung</p>           | <p><u>Other views expressed</u></p> <p>The use of animals in experiments which cause pain and suffering to animals should be banned, other than experiments which aim at improving the health of mankind and animals.</p> <p>More parks should be opened up for the entry of pets.</p> <p>The trade of fur and related products should be banned.</p>   | <p><u>Use of animals in experiments</u></p> <p>Regarding the use of animals in experiments, the regulation of animal experimentation is under the Animals (Control of Experiments) Ordinance (Cap. 340), which is enforced by the Department of Health. AFCD and the Animal Welfare Advisory Group have issued a Code of Practice – Care and Use of Animals for Experimental Purposes, which provided general guidelines on animal experimentation.</p> |

| Organisation/Individual     | Concerns/views   | Administration's response |
|-----------------------------|--|---------------------------|
| Mr Peter CHAN               | <p>The Administration should outlaw –</p> <ul style="list-style-type: none"> <li>(i) any term in a building's Deed of Mutual Covenant which prohibit flat owners from keeping pets; and</li> <li>(ii) any clause in the by-laws of public transport companies which prohibit passengers from bringing any pet into the premises of the public transport.</li> </ul>                    |                           |
| HKLPTA                      | <p>Most of the pet traders take good care of the pets in their shops. In considering amendments to the Bill, the Administration should take into account the impact of the proposed amendments on the pet trade and the feasibility of the proposed amendments.</p>  |                           |
| Civic Party<br>Animal Earth | <p>The Administration should make it an offence for a person to transfer an animal by way of sale or prize to persons below 18 years old. This will reduce the chance of allowing vulnerable animals going into the hands of children too easily so as to avoid the risk of unnecessary suffering by the animals and reduce abandonment rate due to impulsive purchase of animals.</p> |                           |

| Organisation/Individual  | Concerns/views   | Administration's response |
|--------------------------|--|---------------------------|
| Civic Party<br>BagMeHome | The Administration should provide more funding to NGOs working on the protection of animals, in particular in respect of certain programmes like the Trap-Neuter-Release Programme and the Cat Colony Care Programme.  |                           |
| BagMeHome                | <p>The keeping of dogs at construction sites should be prohibited, as these dogs were often abandoned upon completion of works at the construction sites.</p> <p>The Administration was requested to provide a response to the following –</p> <ul style="list-style-type: none"><li data-bbox="584 799 1321 994">(a) whether it conducted any regular inspections on animal breeders, construction sites where dogs were kept and private stray animals farms; if yes, the records of such inspections and the public's access to such information;</li><li data-bbox="584 1038 1321 1273">(b) the number of prosecutions instituted against animal breeders, construction sites where dogs were kept and private stray animals farms for offences relating to cruelty to animals, the records of such information and the public's access to such information; and</li><li data-bbox="584 1318 1321 1393">(c) how the Administration regulated the crematoriums for animals.</li></ul> |                           |

| Organisation/Individual | Concerns/views  | Administration's response |
|-------------------------|---|---------------------------|
| BagMeHome               | Animals are living things of feelings. In existing legislation, animals are treated as "things" rather than "beings". Amendments should be made in all animal-related legislation to reflect the fact that animals are living beings rather than things or objects. |                           |

Council Business Division 2  
Legislative Council Secretariat  
9 October 2006

## Submission from Organisations/Individuals

| Name of organizations/individuals                                   | Reference No.                              |
|---|--|
| Animal Earth  | CB(2)2802/05-06(03)<br>CB(2)3085/05-06(02) |
| Concern Group for Pets (HKCGP)                                      | CB(2)2920/05-06(02)                        |
| Society for the Prevention of Cruelty to Animals (Hong Kong) (SPCA) | CB(2)2948/05-06(01)                        |
| Hong Kong Alleycat Watch (HKACW)                                    | CB(2)2948/05-06(02)                        |
| BagMeHome   | CB(2)3061/05-06(02)                        |
| Civic Party   | CB(2)3078/05-06(01)                        |
| The Hong Kong and Kowloon Kennel Association Ltd (HKKKA)            | CB(2)2980/05-06(01)                        |
| Animals Asia Foundation (AAF)                                       | CB(2)2948/05-06(03)                        |
| Hong Kong No Kill City Forum (HKNKCF)                               | CB(2)2948/05-06(04)                        |
| Lamma Animal Welfare Centre (LAWC)                                  | CB(2)2948/05-06(09)                        |
| Stray Cats Home   | CB(2)2948/05-06(14)                        |
| Hong Kong Dog Rescue(HKDR)  | CB(2)2948/05-06(19)                        |
| Earthcare   | CB(2)2948/05-06(25)                        |
| Society for Abandoned Animals (SAA)                                 | CB(2)3024 /05-06(01)                       |
| Hong Kong Licensed Pet Traders Association (HKLPTA)                 | CB(2)3061/05-06(04)                        |
| 傅海欣   | CB(2)2920/05-06(01)                        |
| Mr Peter CHAN   | CB(2)2948/05-06(05)                        |
| Ms Bonnie CHENG   | CB(2)2948/05-06(06)                        |
| Meion KWOK  | CB(2)2948/05-06(07)                        |
| Sai Kung District Council   | CB(2)2948/05-06(08)                        |
| Miss Suky LEE   | CB(2)2948/05-06(10)                        |
| Miss Iris HO  | CB(2)2948/05-06(11)                        |
| Mr 麥兆輝  | CB(2)2948/05-06(12)                        |
| Miss WONG   | CB(2)2948/05-06(13)                        |
| Miss Catherine LI   | CB(2)2948/05-06(15)                        |
| Miss Kelly YU   | CB(2)2948/05-06(16)                        |

| Name of organizations/individuals | Reference No.       |
|-----------------------------------|---------------------|
| Miss 陸穎珊                          | CB(2)2948/05-06(17) |
| Miss Ada YAM                      | CB(2)2948/05-06(18) |
| Mr Eric                           | CB(2)2948/05-06(20) |
| Ms Mindy SO Ching-ching           | CB(2)2948/05-06(21) |
| Miss KWOK                         | CB(2)2948/05-06(22) |
| Dr Anthony E JAMES                | CB(2)2948/05-06(23) |
| Sammy LI                          | CB(2)2948/05-06(24) |
| Miss Daisy FUNG                   | CB(2)2948/05-06(26) |
| Miss CHAN Pik-shan                | CB(2)2948/05-06(27) |
| Mr Paul GARDINER and LEE Ai-phing | CB(2)2948/05-06(28) |
| Miss Marianne YEO                 | CB(2)2948/05-06(29) |
| Miss Mandy CHEUNG                 | CB(2)2948/05-06(30) |
| Miss Fien LIU Fong-yan            | CB(2)2948/05-06(31) |
| Miss Xanthe Cathy NGAI Shan-shan  | CB(2)2948/05-06(32) |
| Mr Dickey CHAN                    | CB(2)2948/05-06(33) |
| Miss Sandy                        | CB(2)2980/05-06(02) |
| Mr CHIK Wing-keung                | CB(2)2980/05-06(03) |
| Miss 伍凱詩                          | CB(2)2980/05-06(04) |
| Miss FONG Hoi-kuen                | CB(2)3024/05-06(02) |
| Canmiu CHEUNG                     | CB(2)3024/05-06(03) |
| Miss Connie LEUNG                 | CB(2)3024/05-06(04) |
| Mr CHAN Pui-tin                   | CB(2)3024/05-06(05) |
| Mr Kenneth KOH                    | CB(2)3024/05-06(06) |
| Mr Danny CHAN                     | CB(2)3061/05-06(03) |
| Miss 李思敏                          | CB(2)3103/05-06(01) |
| Ms Althea TAN                     | CB(2)3103/05-06(02) |