

**For discussion
On 10 April 2012**

Legco Panel on Food Safety and Environmental Hygiene

Proposed Measures to Further Enhance Regulation of the Pet Trade

PURPOSE

This paper briefs Members on a post-implementation review of the additional licensing conditions introduced in February 2010 for animal traders involved in the trading of dogs. It also sets out the Administration's proposals to further regulate the pet trade as well as sources of pet animals offered for sale in order to safeguard public health and animal welfare.

BACKGROUND

2. Under section 4 of the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B), a person shall not carry on business as an animal trader ("animal trader" means a person who sells, or offers to sell, animals or birds other than a person selling or offering to sell any animal or bird kept by him as a pet or any offspring thereof) otherwise than under a licence issued by the Director of Agriculture, Fisheries and Conservation (DAFC) under section 5. DAFC may attach appropriate conditions to an Animal Trader Licence (ATL) to ensure effective control.

3. Dogs from questionable sources could bring about animal health and welfare issues, as well as an increase in the public health risks of zoonotic diseases, notably rabies. In order to tighten the control of the sources of dogs offered for sale for animal welfare and public health reasons, additional licensing conditions for pet shops selling dogs were implemented on 1 February 2010. In brief, the additional licensing conditions stipulated that pet shops may only obtain dogs for sale from one of the following sources, namely –

- (a) legally imported and covered by a valid import permit/special permit issued by the Agriculture, Fisheries and Conservation Department (AFCD), together with a valid health certificate issued by the veterinary authority of the exporting place; or
- (b) acquired from other licensed animal traders with appropriate documentation (e.g. invoice, sale receipt, etc.) detailing the microchip number, breed, quantity, date of transaction and source; or
- (c) acquired from a private pet owner (PPO). For a dog under five months of age, it must be covered by a certificate issued by a registered veterinary surgeon along with an owner declaration verifying the dog is the offspring of a specified licensed dog.

4. Since the introduction of the additional licensing conditions, AFCD has stepped up inspection of licensed pet shops to check on compliance. Animal traders who are found to be in breach of the licensing conditions are liable to prosecution and a fine. Investigations into reports of suspected illegal dog trading activities have also been conducted.

5. A review was recently conducted after the implementation of the additional licensing conditions to assess their effectiveness and identify cases of illegal sourcing of animals. On the basis of the findings of the review, AFCD has explored jointly with the Animal Welfare Advisory Group (AWAG)¹ suitable measures to further enhance regulation of the pet trade, including the sources of pet animals offered for sale, with a view to better safeguarding animal health and welfare, as well as public health. The review findings as well as the proposals to further enhance regulation of pet trade are set out in the ensuing paragraphs.

¹ The Animal Welfare Advisory Group was established in 1996 to advise the Government on animal welfare and related matters. The ambit of AWAG and its committees covers the review of animal legislation, regulation and control of the pet trade, education and publicity programmes, etc. Its current membership comprises representatives from a wide spectrum of fields covering veterinary science, animal welfare and management, the pet trade as well as other professionals.

Review Findings and Recommendations

Compliance with the additional licensing conditions

6. There are currently 464 licensed animal traders, of which 155 are dog traders. Since February 2010, AFCD has carried out over 8 000 inspections and found that animal traders have generally complied with the additional licensing conditions and all dogs from licensed pet shops were obtained from legal sources as listed in the additional conditions. There were seven prosecution cases in relation to breaches of the additional conditions. All seven cases pertained to insufficient documentation of dogs for sale, for example, missing vaccination certificates and they were all convicted, with a fine between \$500 and \$2,000 (the maximum penalty is \$2,000 under existing legislation). Follow up actions have been taken to ensure compliance with the licensing conditions and that sources for all dogs for sale in the pet shops can be verified.

Sources of dogs sold by pet shops

7. Based on the pet shop records of the source of their dogs collected from the 155 licensed pet shops selling dogs, it can be observed that almost all (i.e. 99%) dogs sold by pet shops were less than five months old. It was also found that amongst dogs sold in these licensed pet shops, only 22% were imported and 4% were obtained from licensed commercial animal breeders whilst the remaining 74% were sourced locally from self-claimed PPOs. Further analysis showed that 16 pet shops accounted for almost half of all dogs sold in Hong Kong. These 16 shops sourced over 90% of their dogs from self-claimed PPOs. Each PPO on average owns five bitches, each giving birth to four puppies per litter on average. Each PPO sells two dogs to pet shops per month on average. Furthermore, ten out of the 16 shops consistently had more than 50% of their dogs supplied from just one or two self-claimed PPOs. These figures strongly suggest that these self-claimed PPOs are very likely not hobby breeders but commercial ones. In a recent enforcement action by AFCD in mid-March 2011, a self-claimed PPO was found to be operating an illegal dog breeding facility with over 90 dogs. The offender was convicted and was fined for \$1,200.

8. Under existing legislation, a person selling or offering to sell any animal kept by him as a pet or any offspring thereof does not need to apply for an animal trader licence. This has created a loophole for commercial animal breeders to operate under the guise of PPOs, thereby circumventing regulation through licensing conditions. Under existing legislation, the Administration is not empowered to monitor conditions such as housing facilities, hygiene of the premises and the health status of the breeding dogs of PPOs. In 2011, several cases investigated by AFCD (including the case mentioned in paragraph 7 above) revealed that the welfare conditions of dogs on the premises of some of the self-claimed PPOs were far from satisfactory.

9. In view of the above, we consider that the loophole must be plugged and these “de-facto” commercial breeders should be subject to necessary licensing conditions to ensure animal health and welfare as well as public health. We propose to put in place suitable measures to regulate the activities of anyone who breeds dogs for sale, regardless of the numbers involved.

Other Areas for Improvement in the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B)

10. We have also looked into the current provisions under Cap. 139B and have identified the following areas for improvement.

Insufficient deterrent effect under Cap. 139B

11. The maximum penalties for breaching of licensing conditions and illegal trading of animals under Cap. 139B are only \$1,000 to \$2,000 respectively. Such penalty levels are low when compared with the sale price of a pet animal which may be as high as tens of thousands of dollars. There is a need to strengthen the deterrent effect by imposing higher maximum penalties.

No power to revoke Animal Trader Licences

12. There is currently no provision in Cap. 139B to empower DAFC to revoke an ATL even if, for example, the licensee has been convicted of an offence related to cruelty to animals or maltreatment of animals under the Prevention of Cruelty to Animals Ordinance (Cap. 169). Under such circumstances, that person might continue to operate as an animal trader

even though he is considered unsuitable for running animal trading businesses where the welfare of animals is placed under their care. This situation should be addressed through a legislative amendment.

THE PROPOSALS

Regulation of Animal Breeders

13. We propose to tighten up the control over PPOs by amending Cap. 139B to –

- (a) remove, for certain types of animals² (initially dogs only), the existing exemption that a person may sell or offer to sell any animals kept by him as a pet or any offspring thereof without a licence; and
- (b) introduce a permit system requiring any person breeding certain types of animals² (initially dogs only) for sale to obtain either a Home Animal Breeder Permit or Commercial Animal Breeder Permit, depending on the scale of breeding. People who breed dogs which are not for sale will not be subject to the requirement.

14. Regarding paragraph 13(a) above, we consider that the types of animals to be removed from the exemption should include only dogs initially. Owners of other animals will still be allowed to sell their own pets or their offspring without the need for a permit or licence. This is because currently dogs comprise by far the largest share of the pet market and, based on the number of convicted and investigated cases, the welfare of dogs is compromised more often than other species. It is therefore appropriate to concentrate on tackling these issues in dogs first.

15. The bigger the number of animals is kept on a premises, the higher is the risk on animal welfare. Striking a balance between regulatory burden and business facilitation on pet animal trading, we propose to introduce two types of animal breeder permits as follows:

² The types of animals will be specified in a new schedule in Cap. 139B.

- (a) the Home Animal Breeder Permit: a permit required by anyone who keeps up to four entire female animals for breeding purposes on one premises *and* sells his breeding animals and/or offspring derived from those animals; and
- (b) the Commercial Animal Breeder Permit: a permit for anyone that keeps five or more entire female animals for breeding purposes on one premises *and* sells his breeding animals and/or offspring derived from those animals.

AFCD will adopt a risk-based approach in future inspections of the animal breeding premises. In other words, those with a higher risk profile (e.g. licensed animal traders and commercial animal breeders) will be inspected more frequently than home animal breeders. We will also introduce a Code of Practice covering the space, ventilation, lighting and exercise regimes, etc. under the permit system. The requirements for Commercial Breeder Permit holders will be more stringent than those for Home Breeder Permit holders. This will ensure that the dogs are kept under acceptable welfare standards. A comparison showing the existing licensing regime and the proposed regime is at **Annex**.

16. Under existing legislation, DAFC may attach to a permit such conditions as he thinks fit for the proper regulation of breeding animals for sale. We propose that all breeder permit holders have to use specified identification means, such as microchips, to identify their breeding dogs and offspring derived from them. A dog breeder permit holder will need to provide his permit number and the microchip number of the dogs to an animal trader during the sale transaction.

17. Furthermore, we propose to require all animal breeder permit holders and animal traders for dogs to include their permit / licence numbers on any advertisements, promotion materials or website when they offer their animals for sale. As such, a breeder may sell his dogs online, in the print press, by word of mouth or directly to a licensed animal trader, but all related publicity materials, offers for sale and sale documents must clearly show his breeder permit number. Failure to show the permit number will constitute a breach of permit conditions and could lead to revocation of one's permit.

18. The above proposed requirement of requiring a breeder to declare his permit number during sales activities will prevent those without permits from being able to trade. AFCD will be able to verify details such as breeds available and permit numbers against a database to ensure they are

correct. Those who sell dogs without a permit will be liable to prosecution.

19. To tie in with the above proposed animal breeder permit system, we would make corresponding changes to the permitted sources of dogs from which pet shops may acquire, so that pet shops will no longer be allowed to source their dogs from PPOs without licence or permit. They may only obtain dogs for sale from one of the following sources –

- (a) legally imported; or
- (b) other licensed animal traders; or
- (c) animal breeders with either a Home Animal Breeder Permit or Commercial Animal Breeder Permit. Animal traders must record the breeder's name, address and animal breeder permit number as well as the microchip number and breed of the bitch for checking by AFCD officers.

20. Overall, the above proposals to regulate animal breeders will enable AFCD to develop an extensive database for animal breeders who breed animals for sale. With regular visits to and inspections of home breeders, we will be able to demonstrate to the public that the welfare of dogs which are raised by home breeders has been maintained and they can therefore purchase a dog knowing that the bitch has been kept in satisfactory conditions prior to purchase. In this respect, we believe that these proposals will also facilitate the breeders' sale of animals by enabling them to trade properly according to the required animal welfare standards, thus improving their credibility in the eyes of the public.

Increase of penalties under Cap. 139B

21. As explained in paragraph 11 above, the maximum penalties in Cap. 139B for illegal trading of animals and breaching of licensing conditions are inadequate to achieve a sufficient deterrent effect. In this connection, we propose to amend Cap. 139B to increase the maximum penalty for illegal trading of animals from Level 1 (\$2,000) to Level 6 (\$100,000) and that for breaching of licensing conditions or other animal keeping requirements from \$1,000 to Level 5 (\$50,000).

Empowerment of DAFC to revoke Animal Trader Licences

22. In order to stop unsuitable persons from running animal trading businesses, we propose to amend Cap. 139B to provide additional power for DAFC to revoke the animal trader licences of licensees or the animal breeder permits of animal breeders. Circumstances warranting revocation of licence / permit include offences related to cruelty to and maltreatment of animals under the Prevention of Cruelty to Animals Ordinance (Cap. 169), as well as repeated breaches of the conditions attached to the ATL, Home or Commercial Animal Breeder Permits.

Codes of Practice

23. Apart from regulatory and enforcement measures, we will also issue Codes of Practice for pet businesses and home breeders covering trading, breeding and boarding aspects. This will ensure that animal welfare standards are kept up to date. We believe such Codes of Practice, which will be incorporated as licence or permit requirements after a suitable grace period, can provide guidance to pet traders, breeders and keepers as well as potential pet owners on the welfare needs of animals. The Codes of Practice will be developed in consultation with AWAG and relevant stakeholders.

WAY FORWARD

24. We will consult all relevant stakeholders on the proposals and, taking into account the feedback we receive, formulate detailed legislative proposals.

ADVICE SOUGHT

25. Members are requested to note and advise on the proposals in this paper.

**Food and Health Bureau
Agriculture, Fisheries and Conservation Department
April 2012**

**Comparison Between Current Requirements and
Proposed Requirements**

Category	Current Requirement	Proposed Requirement
Pet Shop	Animal Trader Licence	Animal Trader Licence
Commercial Pet Breeder	Animal Trader Licence (with special conditions regulating the breeding activities)	Commercial Animal Breeder Permit (in place of Animal Trader Licence)
Private Pet Owner with 1-4 entire female dogs breeding for sale	Nil	Home Animal Breeder Permit
Private Pet Owner with 5 or more entire female dogs breeding for sale	Nil	Commercial Animal Breeder Permit
Private Pet Owner selling his own pet	Nil	Animal Trader Licence