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Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 10 April 2012**

Proposed measures to further enhance regulation of the pet trade

Purpose

This paper gives an account of the past discussions on the regulation of pet trade by the Panel on Food Safety and Environmental Hygiene ("the Panel") and related information.

Background

2. According to the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B) ("the Regulations"), all animal traders, including those engaged in breeding of pet animals for trading purpose, must obtain an animal trader licence (ATL) issued by the Agriculture, Fisheries and Conservation Department ("AFCD") and comply strictly with the statutory requirements concerning accommodation, living conditions, provision of food and water, pest control, etc. for their animals as stipulated in the Regulations as well as the relevant licensing conditions. Any trader breaching these requirements is liable to prosecution without the need to prove that an act of cruelty has already been committed.

3. AFCD formed a consultative group in 2007 with representatives from the pet trade, kennel clubs and animal welfare groups to study how the Prevention of Cruelty to Animals Ordinance (Cap. 169) ("PCAO") and the related laws could be improved to better safeguard animal welfare.

4. AFCD conducts inspections on licensed animal traders on its own initiative from time to time or in response to public reports, with a view to ensuring animal traders' compliance with the licensing conditions that aim to safeguard the health of the animals for sale. Animal traders who are found to be in breach of the licensing conditions could be liable to a fine and suspension of licence. Over the past two years, AFCD has conducted over 11 000 inspections to animal trading premises and successfully prosecuted over 25 cases.

Past discussions by the Panel

5. The Panel discussed issues relating to regulation of pet trade at its meetings on 19 February 2008, 13 May 2008, 9 June 2009 and 14 June 2011.

6. At its meeting on 19 February 2008, the Panel was briefed on the Administration's preliminary proposals to amend PCAO and the Regulations as follows -

Proposed amendments to PCAO

- (a) empowering a Senior Veterinary Officer to release any live animal seized or otherwise dealt with under PCAO for which it is impractical to keep in captivity;
- (b) replacing the power to request destruction of animals involved in a cruelty case by the offender with the right to surrender such animals to the Government;
- (c) empowering a Senior Veterinary Officer to issue directions to the owner or keeper of animals to require certain measures to be taken in order to safeguard the animals' welfare;

- (d) empowering a Magistrate to order the forfeiture of an animal and/or disqualify a person who has been found guilty of any offence related to animal abuse from keeping all or specified kinds of animals for a specified period of time;

Proposed amendments to the Regulations

- (e) increasing the maximum penalty for illegal trading of animal from \$2,000 to \$100,000 and for breaching of licensing conditions from \$1,000 to \$50,000;
- (f) empowering the Director of Agriculture, Fisheries and Conservation to revoke the licence of an animal trader if the latter had committed various animal welfare related offences;
- (g) prohibiting the sale of animals or birds with infectious disease to the public; and
- (h) revising the licensing conditions to require animal traders to source animals from legitimate sources (AFCD would first implement the new licensing conditions in the dog trade and consider extending the new licensing conditions to other animal traders, depending on the practicality involved for different species of animals).

7. While welcoming the Administration's legislative proposals, some members considered that abandonment of animals should be made an offence under PCAO. Concern was also raised that people might take advantage of the loophole in the Regulations as persons selling animals kept by them as pets or offspring of their pets were not subject to regulation. There was a call for the early implementation of the revised licensing conditions for animal traders prior to the introduction of legislative amendments.

8. At its meeting on 13 May 2008, the Panel was briefed on the Administration's proposed amendments to the licensing conditions for pet shops involved in dog trading. Seven deputations also attended the meeting to give views on the matter.

9. Members noted the stipulation of the new conditions of an ATL that pet shops might only obtain dogs for sale from four sources, namely -

- (a) dogs legally imported into Hong Kong;
- (b) dogs bred by dog breeders with valid ATLs;
- (c) dogs obtained from other pet shops with valid ATLs; and
- (d) dogs obtained from persons selling their pets or offsprings of their pets.

In the case of 9(d), the pet shop had to obtain AFCD's prior approval for such transaction. This sought to prevent commercial breeders from putting themselves forward as ordinary pet owners, thus evading their statutory responsibility. Approval would be given only if there was sufficient documentary proof from a practicing veterinarian that the dog being sold was the offspring of a dog covered by a dog licence and was properly vaccinated. In addition, the seller should only keep a single dog breed with not more than two entire bitches.

10. Whilst expressing support for the proposed amendments in principle, members were unconvinced that the measures to prevent commercial breeders from putting themselves forward as ordinary pet owners, mentioned in paragraph 9 above, were sufficient. Members requested the Administration to also require ordinary pet breeders to only allow their breeding bitches to give birth once a year, as practised in New Jersey of the United States.

11. At the Panel meeting on 9 June 2009, members noted from the Administration the following implementation details of additional ATL conditions -

- (a) the Administration had assisted animal breeders to apply for ATL and re-examined quarantine status of potential sources of supply from outside Hong Kong;
- (b) for dogs imported or acquired from licensed pet shops/breeders (paragraph 9(a) to (c) above refers), pet shops

were required to ensure that the dogs were either covered by valid import permits or documents indicating that they came from licensed pet shops or breeders;

- (c) for dogs acquired from bona fide private pet owners (paragraph 9(d) above refers), pet shops were required to ensure that the dogs held valid dog licences or were offspring of a licensed dog as stated in a veterinary certificate, and to obtain a declaration from the private pet owner that he/she kept a single breed of dogs and not more than two bitches not neutered to minimize abuses;
- (d) all pet shops were required to keep all documents detailing the sources of dogs acquired and make them available for inspection by staff of AFCD or authorized agencies; and
- (e) the Administration had liaised with private veterinarians and obtained their understanding of the new arrangements and the need for them to provide the necessary veterinary certificates.

12. Noting that the proposed introduction of the above additional licensing conditions for pet shops only involved dog trading, there was a call for extending these conditions to other animals, most notably cats. Some members also expressed concern over the euthanization of dogs and cats by AFCD, and they considered it necessary to regulate the breeding of animals by private pet owners.

13. At its meeting on 14 June 2011, the Panel was advised that to ensure effective control of the pet trade, AFCD put the licensing conditions of pet shops under constant review and update them as necessary. For instance, the licensing conditions for pet bird traders were amended in 2007 to prohibit selling of sick birds and to require that all birds have to come from approved sources in order to prevent avian influenza. Additional licensing conditions were also imposed in February 2010 that all dogs sold in pet shops must come from legitimate sources in order to tighten up control over the sources of dogs on sale. Imported dogs sold in pet shops must now have valid import permits issued by AFCD.

14. Members also noted that for dogs sourced from private pet owners, documentation must show the valid licence of the dam, the microchip number and a declaration from the pet owner. These documents must be kept on the premises for a minimum of one year. AFCD has established a dedicated special task force to follow up on the verification of the requisite documents. Since the additional conditions have come into effect, AFCD had kept a close watch on the implementation by regularly (on average once a month) inspecting the licensed pet shops. Members were informed that AFCD was conducting a review to determine if the additional licensing conditions need to be amended and whether similar conditions should be extended to other pet animals in light of the prevailing situation and actual needs. The review was tentatively scheduled for completion by the end of 2011.

15. Members were advised that AFCD would strengthen its enforcement actions against illegal animal trading activities or breach of licensing conditions. In view of the growing trend of pet ownership in Hong Kong, AFCD was considering enhancing regulation on the pet trade, including -

- (a) increasing the penalty for illegal trading and breaching of licensing conditions by amending Cap. 139B to enhance the deterrent effect;
- (b) making any offences related to cruelty to an animal or bird committed by an ATL holder subject to revocation of his or her licence; and
- (c) devising and issuing Codes of Practice for pet businesses such as trading, breeding, boarding, etc. to ensure that such businesses were conducted in line with the latest animal welfare standards with emphasis on the concept of duty of care.

16. Members expressed concern about "hobby breeders" who engaged in pet breeding for trading purpose by taking advantage of the loophole under the existing legislation.

17. According to the Administration, it had proposed amendments to the Regulations to tighten the control over pet breeders. For example,

documentary proof was required from a practising veterinarian that the dog being sold was the offspring of a dog covered by a dog licence and was properly vaccinated; and the seller should only keep a single dog breed with not more than two entire bitches. The Administration was keeping a close watch on the effectiveness of these new measures in combating illegal animal trading activities, and would report to the Panel in due course on whether further control on pet trade was required.

Motion debates in the Council

18. At its meeting of 16 January 2008, the Legislative Council ("LegCo") held a motion debate on safeguarding animal welfare during which Members urged the Administration to better control the sale and breeding of animals to protect pet owners and safeguard animal rights.

19. At the Council meeting of 3 November 2010, a motion debate on formulating an "animal-friendly policy" was held. During the debate, Members also called for improvement on the existing management mechanism for the sale and registration of animals, including reviewing the licensing and regulatory mechanism for the sale and breeding of pets and stepping up the monitoring of the sources of animals, so as to combat problems such as unlicensed animal breeding and illicit animal import.

20. In its progress report on the motion submitted to LegCo in January 2011, the Administration stated that PCAO provided proper protection of animal welfare and prevented unlawful acts of cruelty to animals. The Administration would review from time to time whether the existing legislation could adequately protect animal rights according to the values of the public and the needs of the society. The additional conditions attached to ATLS were tightened in February 2010. At present, all animal traders, including animal breeding centres and pet shops, must obtain ATLS issued by AFCD and strictly comply with the relevant licensing conditions and the code of practice.

Relevant papers

21. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
30 March 2012

Relevant papers on regulation of the pet trade

Meeting	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	19.2.2008 (Item IV)	Agenda Minutes CB(2)1061/07-08(01)
	13.5.2008 (Item VI)	Agenda Minutes CB(2)1849/07-08(04) CB(2)1849/07-08(05)
	9.6.2009 (Item IV)	Agenda Minutes CB(2)1755/08-09(03)
	14.6.2011 (Item VI)	Agenda Minutes CB(2)1995/10-11(07) CB(2)1995/10-11(08)
Legislative Council	16.1.2008	Official Record of Proceedings Pages 212 - 258 (Motion)
	3.11.2010	Official Record of Proceedings Pages 205 -274 (Motion) Progress report