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Panel on Food Safety and Environmental Hygiene

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 13 November 2012**

Regulation of pet trading

Purpose

This paper summarizes the concerns of the members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the regulation of pet trading.

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 purposes, 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. AFCD conducts inspections on licensed animal traders from time to time or in response to public reports for compliance check. Any trader breaching the statutory requirements renders himself liable to prosecution.

3. The Administration has introduced additional licensing conditions on pet traders selling dogs since 1 February 2010 to tighten the control over the sources

of dogs offered for sale. The additional licensing conditions stipulate that pet traders may only obtain dogs for sale from the following sources -

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

4. A review was conducted by AFCD in 2011 to assess the effectiveness of the additional licensing conditions in stopping illegal sourcing of dogs. It also identified areas where improvements were required in the legislation. At the Panel meeting on 10 April 2012, members were briefed on the findings of the review and the Administration's proposal to further regulate the pet trade and sources of pet animals offered for sale. The Administration's proposal sought to amend the Regulations to -

- (a) remove, for certain types of animals (initially dogs only), the existing exemption that a person might sell or offer to sell any animals kept by him as a pet or any offspring thereof without a licence;
- (b) introduce a permit system requiring any person breeding certain types of animals (initially dogs only) for sale to obtain either a Home Animal Breeder Permit or Commercial Animal Breeder Permit, depending on the scale of breeding;
- (c) increase the maximum penalty for illegal trading of animals, breaching of licensing conditions and other animal keeping

requirements; and

- (d) empower the Director of Agriculture, Fisheries and Conservation to revoke ATL or the animal breeder permits of animal breeders.

Deliberations of the Panel

5. The Panel held five meetings between 2008 and 2012 to discuss issues relating to the regulation of pet trading and received the views of deputations at one meeting. The deliberations and concerns of members are summarized below.

Regulation of animal breeders

6. Under the existing legislation, a person selling or offering to sell any animal kept by him as a pet or any offspring thereof did not need to apply for ATL. Many members pointed out that this might create a loophole for commercial breeders to operate under the guise of PPOs. As revealed in AFCD's review on the effectiveness of the additional licensing conditions, almost all dogs sold by the pet traders were less than five months old and over 70% of dogs were sourced locally from self-claimed PPOs. In members' view, such figures strongly suggested that the self-claimed PPOs were very likely not hobby breeders. They urged the Administration to plug the loophole of the so-called "hobby breeders" who kept four or less female animals on one premises, gave out the offspring of the breeding animals for red packets, but in fact sold the animals for gain.

7. The Administration reassured members that suitable measures would be put in place to regulate the activities of anyone who bred dogs for sale, regardless of the number involved. In addition, the definition of "sale of animals" would cover the giving out of the offspring of breeding animals for any returns, such as red packets and other presents. Appropriate wording would be used to avoid creating loopholes.

8. Members pointed out that some breeding workshops operated in the name of "home breeders" as they failed to meet the licensing requirements. They urged the Administration to put in place a clear licensing policy in order to

enable effective monitoring of the breeding workshops.

Codes of Practice for animal breeders

9. Members noted that the Administration would devise and issue two sets of codes of practice for commercial animal breeders and home animal breeders respectively. They considered that the codes of practice should cover the requirements for a minimum breeding age of female dogs and the maximum number of births for a female animal to give per annum. There was also a view that the Administration should require ordinary pet breeders to only allow their breeding female dogs to give birth once a year, as practised in New Jersey of the United States.

10. Noting that the codes of practice for commercial animal breeders and home animal breeders would be incorporated as licence or permit requirements after a suitable grace period, members requested the Administration to consult the stakeholders on the draft codes of practice. Consideration should also be given to including the codes of practice as part of the relevant subsidiary legislation.

Extending the licensing conditions to other animals

11. Members were advised that the Administration's proposal would address initially the breeding and trading of dogs only. This raised concern about the breeding and sale of cats. In some members' view, the Administration should introduce the proposed new measures for the trading of dogs and cats simultaneously. They sought information on the timetable for the extension of the proposed measures to cover the breeding and sale of cats.

12. According to the Administration, dogs comprised the largest share of the pet market and, based on the number of convicted and investigated cases, the welfare of dogs was compromised more often than other species. In this connection, the Administration would first introduce regulatory measures for the breeding and trading of dogs. A model for cats and other pet animals would be devised with reference to the experience gained on the implementation of the proposed measures for dogs.

Members' Motions

13. At the Council meeting of 16 January 2008, a motion without legislative effect was moved and passed with amendments urging the Administration to better control the sale and breeding of animals to protect pet owners and safeguard animal rights.

14. A motion without legislative effect was also moved and passed with amendments at the Council meeting of 3 November 2010 urging the Administration to formulate an "animal-friendly policy" to ensure that the rights of animals could be safeguarded.

Recent developments

15. On 3 October 2012, the Government released a consultation document on "Better Regulating Pet Trading to Enhance Animal Health and Welfare" and launched a public consultation exercise to solicit public views on the consultation document until 30 November 2012. The consultation document contains a number of proposals to better regulate pet trading, including the breeding and trading of dogs, in the interest of enhancing animal health and welfare. The proposals include the following improvement measures -

- (a) increasing the maximum penalty for illegal trading of animals under the Regulations from Level 1 (\$2,000) to Level 6 (\$100,000), and for breaches of licensing conditions of ATL from \$1,000 to a Level 5 fine (i.e. \$50,000), so as to more effectively deter animal traders and breeders from breaching the Regulations;
- (b) empowering the Director of Agriculture, Fisheries and Conservation to revoke ATL under the Regulations if the licensee is convicted of offences related to cruelty to and maltreatment of animals under the Prevention of Cruelty to Animals Ordinance (Cap. 169); and
- (c) requiring any person who sells dogs (including his own pet or the offspring of his pet) to obtain a licence or permit, depending on the nature of the operation and the number of dogs being kept or sold.

Relevant papers

16. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
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Committee	Date of meeting	Paper
Legislative Council	16.1.2008	Motion moved by Hon Albert HO on "Protecting the rights and interests of animals" Official Record of Proceedings (pages 212 to 258) Progress report
Panel on Food Safety and Environmental Hygiene	19.2.2008 (Item IV)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	13.5.2008 (Item VI)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	9.6.2009 (Item IV)	Agenda Minutes
Legislative Council	3.11.2010	Motion moved by Hon CHAN Hak-kan on "Formulating an animal-friendly policy" Official Record of Proceedings (pages 205 to 274) Progress report
Panel on Food Safety and Environmental Hygiene	14.6.2011 (Item VI)	Agenda Minutes

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	10.4.2012 (Item V)	Agenda Minutes

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