



**EARTHCARE
(HK) Limited
地球仁協會**

香港中環郵政總局信箱 11546 號
GPO Box 11546, Central Post Office, Hong Kong
電話 Tel: (852) 25780434
電子郵箱 email: care@earth.org.hk
電腦網頁 URL: <http://www.earth.org.hk>

Director of AFCD
Agriculture, Fisheries and Conservation Department
HKSAR Government
Email: Cap139B_amendment@afcd.gov.hk / mailbox@afcd.gov.hk

Legco Secretariat
Legislative Council
HKSAR
Email:

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By Email Only

Public consultation on proposals to better regulate pet trading

Background

The Food and Health Bureau (FHB) and the Agriculture, Fisheries and Conservation Department (AFCD) launched a public consultation in October 2012 on proposed measures to better regulate pet trading in the interest of enhancing animal health and welfare.

The Government has recently reviewed the operation of the pet trade, the related enforcement action and legislation and proposed a number of improvement measures, including but NOT limited to:

(a) increasing the maximum penalty for illegal trading of animals from Level 1 (\$2,000) to Level 6 (\$100,000), and for breaches of licensing conditions of the animal trader licence 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 the animal trader licence if the licensee is convicted of offences related to cruelty to and maltreatment of animals; and

(c) requiring any person who sells dogs (including his own pet or the offspring of his pet) to obtain a licence or permit.

Dark Figure of Crime and The Serious Lack of Effective Laws and Regulations

Over the years, there has been growing awareness of issues related to animal rights, health and welfare in the local community.

The HKSAR Government should attach great importance to safeguarding animal rights, public health, animal health and animal welfare and to prevent abuses of animals.

As the first animal rights NGO in Hong Kong, we have witnessed a lot of cruelties in the pet trade.

There is a serious problem of dark figures of crime regarding animal cruelty in the pet trade.

Earthcare has experienced and witnessed first-hand the deadly disaster due to a lack of effective regulations regarding the breeding and selling of dogs, cats, kittens and puppies.

Existing laws provide little protection against abuses of animals or deterrent measures for offenders who were prosecuted, not to mention those who are never reported or become known to the press or public.

Under the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap 139B) (the regulations), any person who sells, or offers to sell, animals or birds has to obtain an Animal Trader Licence (ATL), unless that animal or bird is kept by him as a pet or any offspring thereof. The Director of Agriculture, Fisheries and Conservation may attach appropriate conditions to an ATL to ensure effective control. However the so-called conditions are totally ineffective in animal protection, deterrence, detection and prosecution.

The crimes regarding smuggling is not mentioned or tackled in any effective way.

The proposed amendments to the Animal Trader Regulations (Cap. 139B) are welcomed but they are NOT adequate in terms of animal welfare, deterrence and law enforcement.

Difficulties to detect abuses of "Hobby Breeders" and Ethical Issues

There is no way a licensing system could detect the abuses by hobby breeders proactively.

The problems of (b) and (c) are that: firstly, it is very difficult to detect proactively whether someone has been breeding dogs and then selling them later privately.

Secondly, even if the proposed measures were passed as legislation, the AFCD staff would have immense difficulties to monitor breeding in private homes, not to mention control abuses!

What happen to the scenario if a private breeder never applies for a licence? How can AFCD know that such a situation occurs without any citizen reporting or complaint?

The issue of privacy and effective monitoring is not properly addressed at all by the AFCD.

It is foreseeable that the abuses and cruelties towards animals would continue even if and after these proposals were accepted and passed.

It is in the right direction to increase the fine dramatically regarding proposal (a) above but there would be no deterrence if the problem is not exposed at the first place.

There should be no home breeding for profit permitted under any category as this is no different from rape when bitches were made to have several litters a year and even one litter is not acceptable.

Earthcare objects any licensing for any private breeding UNTIL the problems of abandoned animals are solved in HKSAR.

Regulation and Control of Pet Shops

Although pet shops are currently covered by existing laws, the laws are not being enforced properly. It is not uncommon to find puppies that are young and sick are kept in cages that are small. There are many abandoned dogs from pet shops (because they are sick or weak or do not look good enough to be attractive "products") that have never been vaccinated/treated and have no license or registered owners.

Proposal (b) above is useful regarding this issue. However, if there is not enough manpower to check and professional training to collect evidence, the laws will continue to be ineffective!

The problems of imported dogs has always been a problem - on the surface, there are systems to make sure that they come from licensed traders overseas - however, the dark sides of the trade overseas have been exposed for a long time! This issue has NEVER been properly addressed in any effective way.

It is in the right direction to increase the fine dramatically regarding proposal (a) above but the fine is a peanut to a business.

The current proposals fail to address the issue at all.

The Unethical Issues of Breeding Animals For Sale

The licensing scheme does not provide protection of the animal regarding the maximum number of female animals which may be kept under a licence for sale or breeding purpose (private or licensed traders), a maximum number of litters each female animal is permitted per year and a maximum number of times each female animal may be "raped".

What happen if one person "applies" for more than a license under the 'disguise' of various types of incorporation of a limited company, sole proprietor or partnerships?

The male animal is not covered under the existing and proposed legal amendments.

There is a lack of any quality control standards and minimum standards of care.

Lack of Effective Long-Term Public Policy and Planning

The AFCD "prides" herself on coordinating more people to apply for licenses to become traders or breeders "LEGALLY". However this is a total failure in long-term policy to prevent more abuses due to animals abandoned by selfish or irresponsible people (under marketing strategies and promotion of the business).

Earthcare objects any more licensing for any individuals, companies, traders or breeders UNTIL the problems of abandoned animals are effectively tackled in HKSAR.

Prevention is better than curing a life that's already seriously injured or mutilated – and HKSAR laws fail to tackle this problem at all!

Conclusion

With a lack of effective laws, adequate number of properly trained staff and resources etc., the AFCD is continuing to turn a blind eye to unethical abuses of animals.

The proposed amendments (though on the right track) were destined to fail, due to the serious loopholes in the proposed laws and existing circumstances.

There is a need for strict liability for all cases of cruelty towards animals and abuses against animals.

Given the huge amount of witness accounts and immense cruelties involved, revoking of licence is NOT a solution at all.

The business owners should be criminally liable with imprisonment terms and principles of strict liability should be incorporated in all laws and regulations regarding the pet trade.

Thank you very much for your kind attention.

Yours faithfully,

NG Wai Yee Andrea
President
Earthcare
Tel: 25780434 /