

Inquiry into the Impact of Animal Rights Activism in Victoria

To whom it may concern,

I appreciate the opportunity to provide a submission to the Victorian Legislative Council Economy and Infrastructure Committee on the Impact of Animal Rights Activism.

I unknowingly supported animal cruelty for more than 30 years and would still be doing so were it not for the brave actions of whistleblowers. I had been unaware that (1) production animals are exempt from protection under the *Prevention of Cruelty to Animals Act 1986*, (2) current regulations fail to identify animal cruelty and (3) most incidences of animal cruelty are reported by whistleblowers. A lack of transparency surrounding standard practices in the animal agriculture industry mean that consumers are unable to make informed choices when purchasing animal products.

I appreciate the need for Members of Parliament Melina Bath, Roma Britnell and Bev McArthur to raise the concerns of their constituents who may rely on a lack of transparency regarding standard industry practice for their livelihoods. I grew up in a dairy farming community and my concern for animal welfare does not reduce my empathy for farmers. However, major reforms that promote transparency surrounding food production are required urgently and deterring whistleblowers does not present an effective long-term solution for the benefit of sustainable farming, the animals or the public.

I consider the Terms of Reference provided by the Legislative Council as follows:

a. The type and prevalence of unauthorised activity on Victorian farms and related industries, and the application of existing legislation;

First, I address *the type and prevalence of unauthorised activity on Victorian farms and related industries*:

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- Unauthorised activity is confined to structures dedicated to animal use, which are often large animal production facilities (CAFOs (concentrated animal feeding operations) or factory farms, Lymbery 2014). There is no evidence that whistleblowers have ever entered the homes of people (farm or abattoir owners or workers) who live near these facilities.
- The purpose of unauthorised activity in animal production facilities is to document the conditions of the animals; information that reflects the truth and is free from economic bias is not readily available to consumers and is obtained in the public interest.
- Public concern for animal welfare is growing (Productivity Commission 2016; Futureye 2019)
- Many animal welfare abuses have only been identified through the actions of whistleblowers.
- Animals may be rescued if they need veterinary care.
- There is no evidence that unauthorised activity has compromised biosecurity.
- Unauthorised activity is infrequent.

Second, I consider *the application of existing legislation*.

- Existing legislation addresses unauthorised activity adequately (e.g. trespass, theft, property damage).
- Penalties for trespass, theft etc. are a matter for the judiciary, not the parliament.
- Legislative provisions addressing animal welfare are inadequate because production animals are exempt from protection under the *Prevention of Cruelty to Animals Act 1986*.

b. The workplace health and safety and biosecurity risks, and potential impacts of animal activist activity on Victorian farms, to Victoria's economy and international reputation.

- There is no evidence to indicate that unauthorised activity by whistleblowers has ever caused a biosecurity hazard.
- Disease spread is normally caused by transfer of animals or pests between facilities (Lymbery 2014).
- Intensive farming involves keeping animals in crowded conditions and requires prophylactic use of antibiotics to minimise disease risk. Antibiotic use in animal agriculture is a key contributor to increased antimicrobial resistance worldwide (Lymbery 2014, and references therein).
- Whistleblowers are motivated by a concern for animal welfare and implement biosecurity measures (e.g. use of over-suits, gloves, masks; hand and footwear decontamination).

c. Animal activists' compliance with the Livestock Disease Control Act 1994, Livestock Management Act 2010, and the Prevention of Cruelty to Animals Act 1986.

- The *Prevention of Cruelty to Animals Act 1986* (POCTAA) fails to provide protection for animals regarded as “livestock” or “production animals”. Acts including castration, declawing, dehorning, tail-docking, mulesing, teeth-clipping, beak-trimming, nose-ringing and ear-notching would be subject to prosecution if they were applied to companion animals without pain relief, yet these acts may be applied to production animals with impunity.
- Codes of Practice for “livestock” animals are established under POCTAA; however, most of the Codes are voluntary not mandatory. Compliance with a Code is a defence against prosecution under the POCTAA. Under Section 9 of POCTAA it is considered an act of cruelty if a person:
 - “does or omits to do an act with the result that unreasonable pain or suffering is caused, or is likely to be caused, to an animal”, or
 - “is the owner or the person in charge of a sick or injured animal and unreasonably fails to provide veterinary or other appropriate attention or treatment for the animal”.

Whistleblowers have identified sick and injured (or dead) animals, despite the duty of care provisions of both the Codes and POCTAA.

d. The civil or criminal liability of individuals and organisations who promote or organise participation in unauthorised animal activism activities.

- Individuals and organisations who promote or organise participation in unauthorised activities seek to raise public awareness of (1) standard practices in the agriculture industry and (2) animal cruelty so that consumers can make informed decisions (Futureye 2019).
- If production animals were protected by animal welfare legislation, if robust animal welfare legislation was enforced (e.g. through CCTV), and if the public were aware of standard industry practice, there would be no need for unauthorised activities.
- There is a moral imperative to represent those who cannot represent themselves (e.g. Joy 2010).

e. Analyse the incidences and responses of other jurisdictions in Australia and internationally.

Ag-Gag Laws are anti-whistleblower laws that apply to the agriculture industry; they have been described as “corporate attempts to keep consumers in the dark” (Potter 2017).

- Efforts to introduce Ag-Gag Laws at the Australian Federal level have been unsuccessful but they have been introduced at the State level by stealth (e.g. through an amendment to the Biosecurity Act in New South Wales, and an amendment to the Surveillance Devices Act in South Australia).
- Ag-Gag Laws have been introduced into several states in the USA and many more have failed to pass (Gibbons 2017). Utah, Idaho, Iowa, and Wyoming have overturned their Ag-Gag Laws because they were deemed unconstitutional. Legal challenges to Ag-Gag Laws are ongoing in Arkansas, North Carolina and Kansas.
- Conclusions of the High Court of Australia (2001) suggest that if Ag-Gag Laws were introduced in Australia, they would be subject to legal challenge.

f. Provide recommendations on how the Victorian Government and industry could improve protections for farmers’ privacy, businesses, and the integrity of our biosecurity system and animal welfare outcomes, whether through law reform or other measures.

A report titled “Australia’s Shifting Mindset on Animal Welfare” commissioned by the federal Department of Agriculture and Water Resources states that the department “currently has very limited powers over farm animal welfare”, raising the potential for “outrage [...] if the community sees the government as not responding to concerns and expectations” (Futureye 2019). Moreover, it emphasises that the majority of Australians care about animal welfare; a survey of 1,521 people showed that 95% of respondents viewed farm animal welfare with concern, and 91% wanted reform to address this.

- Further criminalising the actions of whistleblowers without seeking to reform animal protection laws will not prevent unauthorised activity.
- Australia has a poor standing regarding animal welfare compared to other countries and there is huge scope for improving animal welfare outcomes.

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- In addition to increased animal protections under legislation, and mandatory animal protection standards, several approaches could improve animal welfare and minimise unauthorised activities, for example (Futureye 2019):
 - public education about standard practices in the agriculture industry,
 - CCTV in animal production facilities (including factory farms and abattoirs)
 - an independent animal protection agency to ensure compliance with animal protection standards
- Transparency requires clear and precise food labelling e.g. “hens are stocked at a density of 1 bird per m² and are slaughtered at 18 months (natural lifespan is 10 years); male chicks are killed at birth” (ACCC 2018).
- The State of Victoria has an opportunity to become a world leader by supporting the transition of animal farmers to sustainable plant-based farming that feeding rapidly growing demand for plant-based food (Reese 2018).

Conclusion

Globally, the public’s views on animal sentience (the capacity to experience suffering and pleasure) are shifting; animal sentience is recognised in European Union law, in New Zealand’s Animal Welfare Act, and in a draft ACT Animal Welfare Act here in Australia. Victoria is at a crossroads and it has an opportunity to choose the path ahead: a path that strives to maintain the status quo at all costs, or one that promotes transparency and seizes innovative technologies to support a transition to sustainable future free from animal suffering and exploitation.

References

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