



HUMANE SOCIETY INTERNATIONAL

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The Secretary
Legislative Council, Economy and Infrastructure Committee
Parliament House, Spring Street
EAST MELBOURNE VIC 3002

By email: aglawsinquiry@parliament.vic.gov.au

2 August 2019

Dear Sir or Madam,

RE: INQUIRY INTO THE IMPACT OF ANIMAL RIGHTS ACTIVISM ON VICTORIAN AGRICULTURE

Humane Society International (HSI) welcomes the opportunity to provide this submission to the Economy and Infrastructure Committee in relation to the Inquiry into the Impact of Animal Rights Activism on Victorian Agriculture.

We are the world's largest conservation and animal welfare organisation with over 10 million supporters, and are leaders in the movement to save wildlife and reduce cruelty to animals in farming and other industries. We have more than 25 years' experience in Australia working actively to assist government bodies and agencies to further the protection of animal welfare through appropriate regulations and enforcement.

HSI offers the comments below to the Committee on behalf of our 70,000 Australian supporters.

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

The type and prevalence of unauthorised activity on Victorian farms is generally quite limited, based on a review of media in relation to this issue. It would appear that there was a recent spike in action from animal welfare activists due to the one year anniversary of the release of the film "Dominion". It would not be accurate to say that this level of activity is usual, with reports of unauthorised activity appearing sporadically in media reports.

Furthermore, federal agriculture minister Senator Bridget McKenzie said the Government did not know how many farms had been broken into in the past year.¹ This statement would seem to imply that such data is not formally collected.

This unauthorised activity seems to commonly be carried out for the purpose of obtaining footage of animal welfare abuse, and occasionally are an attempt to free livestock from farms.

Unauthorised activity on Victorian farms is addressed comprehensively by existing legislation. The following are all crimes at the state level:

- Trespass,²
- Destruction of Property,³
- Single party surveillance,⁴
- Harassment via a carriage service,⁵
- Theft⁶ and Burglary.⁷

Biosecurity concerns of trespass onto agricultural land are also dealt with in the *Livestock Disease Control Act 1994* (Vic) and the *Livestock Management Act 2010* (Vic).

Incitement⁸ and conspiracy⁹ are dealt with in the *Crimes Act 1958* (Vic). If a person incites a crime or conspires to commit a crime then they may be found guilty even if the crime cannot be carried out.

Division 474, Subdivision C of the *Criminal Code Act 1995* (Cth) makes it an offence to use carriage services to make threats,¹⁰ menace, harass, or cause offence.¹¹ It also makes it an offence to use a telecommunications network to commit or facilitate offences against Commonwealth and State laws.¹²

These laws are sufficient to address the impacts of animal welfare activists on agriculture. If they are sufficient to address the crimes they pertain to outside of the context of agriculture, then they are sufficient here too. There is nothing inherent in agriculture that makes these offences worse than if they were to occur in any other setting.

We would also like to note, in relation to the wording of this Term of Reference, that “unauthorised activity” is often the only way to obtain footage or truthful information regarding the treatment of animals on farms. There are no effective legitimate avenues for the public to have transparent information regarding the food supply chain and the animal products they are buying.

¹ Kath Sullivan, ABC News (25 July 2019) ‘Greens back farm trespass, saying it can be ‘reasonable’ in defending animal welfare’. Retrieved from: <https://www.abc.net.au/news/2019-07-25/greens-back-civil-disobedience-on-farm-trespass/11345132>

² *Summary Offences Act 1966* (Vic) s9

³ *Ibid*

⁴ *Surveillance Devices Act 1999* (Vic) Part 2

⁵ *Crimes Act 1958* (Vic) s 21A(2)(b)

⁶ *Ibid* s74

⁷ *Ibid* s76

⁸ *Ibid* s321G

⁹ *Ibid* s321

¹⁰ *Criminal Code Act 1995* (Cth) s474.15-16

¹¹ *Ibid* s474.17

¹² *Ibid* s474.14

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;

It is arguable that unauthorised activity on Victorian farms could lead to workplace health and safety risk for employees as they may become distressed and fearful if trespassers are present in their workplace.

Biosecurity Risk from unauthorised activity on Victorian farms appears to also be minimal. We could not locate any instances of disease proliferation from animal activist activity on Victorian farms. As this is one of the most common arguments for stronger laws against animal activist trespass, there is little doubt that any such occurrences would have been widely publicised.

The primary impact of unauthorised activity on Victoria's economy and international reputation comes from the risk of exposure of the mistreatment of farm animals. This impact is not the fault of activists but rather the fault of low animal welfare standards and lack of transparency in the food production process. The Victorian agriculture industry should not be economically gaining by obscuring information regarding the animal welfare of farm animals. It is worthwhile to note that Australia currently has a C in global animal welfare ranking¹³ – meaning our animal welfare practices leave much to be desired.

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

There is no inherent characteristic of animal activism activity that is not compliant with the *Livestock Disease Control Act 1994* (LDCA), *Livestock Management Act 2010* (LMA), or the *Prevention of Cruelty to Animals Act 1986*.

Some individuals, however, have been found to be in breach of these acts by removing livestock from farms.

If livestock are stolen it is likely that the perpetrator will be in breach the LDCA if they remove identifying tags from livestock¹⁴ and fail to have the appropriate identification code for their property.¹⁵ It is also possible that during a trespass action, a person may be entering a restricted declared area and therefore in breaches of Pt 3 Div 2 of the LDCA, although we could not find any reports of this occurring to date. It is also an offence to knowingly endanger people, animals, or risk the spread of disease under the LMA unless acting in the public interest.¹⁶ It would be prudent to note at this point that there is precedent which states that exposing animal welfare infringements may be within the public interest.¹⁷

¹³ <https://api.worldanimalprotection.org/country/australia>

¹⁴ *Livestock Disease Control Act 1994* (Vic) s94(2)

¹⁵ *Ibid* s9B(1)

¹⁶ *Livestock Management Act 2010* (Vic) Div 6 Part 5 s50

¹⁷ *Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd* [2001] HCA 63

Under these laws, individuals are held accountable for the impact of their activism, and have indeed been prosecuted accordingly. The most recent example of this is Cara Garrett who was fined and ordered to pay compensation for removing a goat from a café in Gippsland.¹⁸

It can be said that generally, the activities of animal activists are compliant with the Livestock Disease Control Act 1994, Livestock Management Act 2010, and the Prevention of Cruelty to Animals Act 1986. However, if necessary there are provisions within these acts, and many other acts, that will enable the prosecution of reckless and dangerous behaviour.

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

The criminal liability of those who incite, conspire, and/or use carriage services to harass and/or commit crime (including incitement and conspiracy) is discussed above in (a)

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

In Australian jurisdictions there have been varying responses to the matter of unauthorized activity on agricultural land. At the federal level, an amendment to the *Criminal Code Act 1995* (Cth) has been proposed.¹⁹ In NSW penalties for trespass on agricultural property have been increased.²⁰

A review of related media in international jurisdictions reveals that farm trespass is not a concern that is exclusive to Australia. Responses to this issue seem to be divided, much like they are within our own jurisdiction. It was also noted that in the past few years many states in the US had tried and failed to implement “Ag Gag” laws.²¹

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; and

HSI is of the view that there is sufficient scope under existing law to effectively protect farmers’ privacy, business interests, and biosecurity. It is clear from media reports that the common sentiment within the agriculture industry is that individuals who trespass are not

¹⁸ Zach Hope, The Age (13 April 2019) ‘You’re a walking talking corpse’: Vile threats toward vegan activist’. Retrieved from: <https://www.theage.com.au/national/victoria/you-re-a-walking-talking-corpse-vile-threats-toward-vegan-activist-20190411-p51d2z.html>

¹⁹ *Criminal Code Amendment (Agricultural Protection) Bill 2019*

²⁰ Tim Fookes and Cecilia Connell, ABC News (22 July 2019) ‘Protesters face tougher fines of up to \$400,000, potential jail time as NSW beefs up farm trespass laws’. Retrieved from: <https://www.abc.net.au/news/rural/2019-07-22/nsw-beefs-up-farm-trespass-laws/11330674>

²¹ Eliza Barklay, NPR (27 December 2013) ‘2013 Was The Year Bills To Criminalize Animal Cruelty Videos Failed’. Retrieved from: <https://www.npr.org/sections/thesalt/2013/12/19/255549796/2013-was-the-year-every-new-ag-gag-bill-failed>

punished severely enough. However if this is indeed the case, this is a matter of sentencing and not a limitation of the legislation as it presently exists.

HSI is also concerned that any greater restriction on reporting, whistle blowing, or exposes on the subject of animal welfare in agriculture will only create more secrecy in an industry with so little transparency already. By limiting public access and evaluation of this industry any further, Victoria would actually risk greater animal welfare infractions and potentially increase the likelihood of direct animal welfare action such as trespass.

In light of this, we submit that the clearest way to increase protections for farmers is to increase opportunities for information regarding the food production process and welfare of animals to be known to the public without having to obtain it by “unauthorised” means.

HSI would like to see mandatory animal welfare reporting requirements imposed on livestock and animal product producers. These reports should contain information in relation to producer compliance with animal welfare standards and guidelines and be made readily available to the public. HSI submits that increased **transparency** will reduce the need for individuals to seek information in unauthorised ways.

HSI recommends mandatory **CCTV** be installed in slaughterhouses, abattoirs, and in factory farming facilities. England has recently implemented this practice.²² HSI submits that by allowing the public to see animal welfare practices in agriculture will deter the mistreatment of animals as well as reduce the need for individuals to trespass.

HSI strongly recommends the implementation of **improved animal welfare standards** in conjunction with **improved monitoring and enforcement** in order to hold producers to account for the treatment of their animals. Such a step would also require **support for farmers from industry** in order to meet and maintain higher standards on animal welfare. If industry and government action is being taken to effectively monitor and enforce high animal welfare standards, individuals are less likely to take justice into their own hands.

g. additional comments

This inquiry is framed in such a way that it paints animal activism and its impact as unequivocally negative. However, we would like to note that positive outcomes have flowed from the actions of animal welfare activists. By way of recent example, protests at Lakesland Farm in NSW lead to a formal RSPCA investigation and a conviction for serious animal cruelty.²³ At Bridgewater Farm in Victoria, the acts of a whistleblower exposed horrific acts of cruelty leading to public outrage and the firing of involved contractors.²⁴

Furthermore, public sentiment is shifting. In a study for the Federal Department of Agriculture and Water Resources, *Australia's Shifting on Farm Animal Welfare*, Future Eye found that 95% of people view farm animal welfare to be a concern and 91% want at least some reform

²² <https://www.gov.uk/government/news/cctv-becomes-mandatory-in-all-abattoirs-in-england>

²³ Jenny Noyes, SMH (30 April 2019) 'Lakesland egg farmer convicted of serious animal cruelty'. Retrieved from: <https://www.smh.com.au/national/nsw/lakesland-egg-farmer-convicted-of-serious-animal-cruelty-20190430-p511pt.html>

²⁴ Latika Bourke and Darren Gray, SMH (17 June 2019) "Hate it when their heads come off": footage reveals cruelty at egg farm'. Retrieved from: <https://www.smh.com.au/business/companies/hate-it-when-their-heads-come-off-footage-reveals-cruelty-at-egg-farm-20190615-p51xyj.html>

to address this. Their research 'indicates a fundamental community belief that animals are entitled to the protection of relevant rights and freedoms, closely aligning with activist sentiment. The public has a clear expectation for effective regulation to uphold these freedoms and expect highly transparent practices, regulation and enforcement.'²⁵

HSI does not condone illegal acts to be carried out in the name of animal welfare. Unauthorised activity on farms being carried out by some individuals is dealt with sufficiently by existing law at the state and federal level.

It is notable that in response to increased animal activist protest there has been no move by the government to bolster existing animal welfare laws in order to hold farmers accountable for mistreatment of animals. It is pertinent to recall that the vast majority of producer breaches of animal cruelty laws and standards would not be public knowledge without the efforts of whistleblowers and direct activism - activism which has at common law been found to be squarely within the public interest and therefore legal.²⁶

HSI is of the view that the only way to protect farmers, prevent unauthorised activity, and preserve the wellbeing of animals is to improve transparency and increase welfare standards.

Please forward any correspondence in relation to these submissions by email to rhiannon@hsi.org.au. I can also be contacted anytime on (02) 9973 1728

Yours sincerely,



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²⁵ Commodity or Sentient Being? Australia's shifting mindset on farm animal welfare, Future Eye 2018

²⁶ Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd [2001] HCA 63