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Inquiry Name: Inquiry into the RSPCA Victoria

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SUBMISSION CONTENT:

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1. THE APPROPRIATENESS AND USE OF ITS POWERS PURSUANT TO THE PREVENTION OF CRUELTY TO ANIMALS ACT 1986, INCLUDING IN THE CONTEXT OF ITS OTHER OBJECTIVES AND ACTIVITIES;

VICTORIA'S ANIMAL WELFARE SYSTEM FAILING

The animal welfare system in Victoria is FAILING miserably. The RSPCA is a non-profit organisation tasked with upholding the Prevention of Cruelty to Animals legislation and furthermore, the Minister for animal welfare is also the Minister of Agriculture which is an undeniable conflict of interest.

In order to have a functioning animal welfare system where animal welfare is central to all decisions made, there MUST be a separation of powers through the establishment of a truly independent office of animal welfare in Victoria. Animals suffer horrendously every day due to the completely dysfunctional animal welfare system in Victoria.

(Credit: World Animal Protection) In Victoria, section 9 of the Prevention of Cruelty to Animals Act 1986 creates a cruelty offence for causing unreasonable pain or suffering or for acts likely to cause such pain or suffering, including by failure to act. This applies to all vertebrates (including reptiles, birds and mammals after the mid-point of gestation) and to all adult decapod crustaceans. There is an exemption however for anything done in accordance with a legislated Code of Practice (section 6) or a livestock management standard.

THE POCTA Act 1986 Victoria and RSPCA

The purpose of the Prevention of Cruelty to Animals Act 1986 Victoria (POCTA) is S.1 "to (a) prevent cruelty to animals; and (b) to encourage the considerate treatment of animals; and (c) to improve the level of community awareness about the prevention of cruelty to animals.

However, this Act (legislative protection against cruelty to animals) does not apply to 'the slaughter of animals' or to 'the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching,

trapping, netting, marking, care, use, husbandry or management of any animal or class of animals which carried out in accordance with a Code of Practice'. [S. 6 (1b)] Nor is there protection during 'any act or practice with respect to the farming, transport, sale or killing of any farm animal which is carried out with a Code of Practice.' [S. 6 (1c)]

POCTA Victoria in this instance is a contradiction and an extreme failure to the animals in Victoria who are used, exploited and suffer horrendous amounts of legalised cruelty. It is only due to the efforts of non-profit organisations and others who constantly create public awareness, influence change and initiate improvements to the lives of factory farmed animals. RSPCA Victoria have been missing in every large public animal welfare story lately, unless they are making some comment after the fact. Furthermore, Codes of Practice should NEVER be allowed to supersede POCTA with their weakened and deliberately cruel standards whose sole purpose is the maximisation of profit and NOT animal welfare.

There have been many shocking acts of illegal animal cruelty to farm animals in Victoria which have been brought to the public's attention through non-profit organisations. The RSPCA, despite their duty to the prevention of cruelty to animals in Victoria, have been absent, the Agricultural Minister has also been derelict in her duty as the Minister for animal welfare in Victoria repeatedly.

Some examples of non-profit organisations exposing the cruelty in Victoria in factory farming: Refer Attachments.

1. Echuca, Victoria

Riverside Abattoir exposed by Animals Australia (Not RSPCA)

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

2. Girgarre, Victoria

Girgarre Piggery exposed by AussiePigs.com (Not RSPCA)

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

3. St Arnaud, Victoria

St Arnaud Piggery exposed by AussiePigs.com (not RSPCA)

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

4. Horsham, Victoria

Neuarpuir Shearing Shed exposed by PeTA (Not RSPCA)

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

5. Longwood, Victoria

Longwood Puppy Farm exposed by Animal Liberation Victoria (Not RSPCA)

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

6. Echuca, Victoria

Echuca Sales Yard exposed by Victoria NEEDS an Independent Office of Animal Welfare (not RSPCA)

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

7. Tooradin, Victoria

Tooradin Race track exposed by Animal Liberation and Animals Australia (not RSPCA)

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

8. Mornington, Victoria

ACE-HI Horse Ranch exposed by Help the horses at ACE-HI Ranch (not RSPCA)

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

9. Bairnsdale, Victoria

Ashmore Horse Haven exposed by Victoria NEEDS an Independent Office of Animal Welfare (not RSPCA)

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

10. Eltham, Victoria

RSPCA killed this horse through incompetence

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

11. Bulla, Victoria

Bruce Akers exposed by members of the public and the media (not RSPCA)

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

12. Heathcote, Victoria

Severe animal neglect exposed by IOAW (not RSPCA)

Refer Pictures in Attachment.

Victorian Animal Welfare FAIL and RSPCA FAIL

RSPCA PROSECUTION POWERS

The RSPCA, is the primary law enforcement body of POCTA in Victoria, therefore, it is reasonable to expect that the RSPCA would devote a significant amount of resources to prosecution and seeking legal justice for the animals they defend. However, in reality, RSPCA Victoria prosecuted LESS than 1% of all animal cruelty complaints received. (Credit: RSPCA) Of the 19,461 animal rescues and cruelty offences reported, RSPCA finalized only 69 prosecutions (excluding those that were withdrawn before their appearance at court). This means that LESS than 1% of all cruelty reports are prosecuted in the Victorian animal welfare system. How is this justice for animals when there is a 99% chance that an animal cruelty offender will NOT be prosecuted?!

Victoria NEEDS an Independent Office of Animal Welfare to ensure that the animals receive the justice they deserve from the animal welfare system which is designed to protect them.

Refer Pictures in Attachment.

COURT ORDERED FINES DO NOT GO TO RSPCA

(Credit: RSPCA) RSPCA conducts and funds its own prosecutions. Occasionally, a court will order people found guilty of animal cruelty to make a donation to RSPCA Victoria, or order them to pay part of RSPCA Victoria's costs of conducting the case. However, all court-ordered fines (as opposed to donations or court costs) are paid to the Government, not to RSPCA Victoria..

This current approach is a disincentive for the RSPCA to take legal action if potentially there is limited financial reward but high financial cost involved. Victoria NEEDS an Independent Office of Animal Welfare where the law enforcement of animal cruelty is handled by a specialized department within the police. Under the current Victorian animal welfare system, the RSPCA has PROVEN with a 1% prosecutorial rate, that there is NO justice for animals when there is a 99% chance the offender WONT be prosecuted.

COURT LOSS COMES OUT OF RSPCA BUDGET

(Credit: RSPCA) Subsequent to year-end, the RSPCA was unsuccessful in an appeal of a judgement in the County Court of Victoria of \$1,167,000 relating to a finding of negligence. The cost of this judgement plus an estimate of legal expenses have been included in the financial statements for the year ended 30 June 2015..

The RSPCA is a charity and NOT a Government department, therefore it is not afforded the same protection as other Government welfare departments when they lose a court case against an abuser. This is a HUGE disincentive for the RSPCA to take legal action, and it DESPERATELY needs to change.

Victoria NEEDS an Independent Office of Animal Welfare so that the law enforcement of animal cruelty through POCTA is protected by adequate insurance and indemnity as other government departments are. Importantly, the Office would never be fearful to prosecute a breach of POCTAA because they were worried about a loss coming out of their budget.

MEASURING ANIMAL CRUELTY IN VICTORIA

How do we accurately measure animal cruelty in Victoria?

The statistics provided by RSPCA are confusing, whether intentionally or not, and do not show the true scale and scope of animal cruelty in Victoria. In fact, based on the RSPCA statistics, animal cruelty in Victoria appears to be grossly under reported. The result is that Victoria NEEDS an Independent Office of Animal Welfare.

1) RSPCA'S INTERNAL PROCEDURES TO RESPONDING TO REPORTS OF ANIMAL CRUELTY

Statistics from the RSPCA Annual Report Statistics (2015)

- 19,461 animal rescues and cruelty offences reported
- 10,740 Complaints received.

What is the difference between cruelty offences reported and complaints received? And why are there two categories for essentially the same issue but with a 9,000 difference between the two categories?

Clarification provided by RSPCA "The same system is used for each report and the report may refer to an animal caught in a fence (needing rescue) or it could involve a puppy farm (cruelty issues). The 10,740 complaints received indicates the total number of reports logged. Therefore for the 10,740 reports received, the actual alleged offences came to the larger figure of 19,461. For ease of reporting, the number of rescues and the number of animal cruelty offences are combined, but the breakup for that number is 10,470 and 19,314 respectively. A rescue is classified as an animal who needs assistance but no cruelty is involved, whereas a cruelty report is where the animal has been neglected or abused in some way. Re the Ararat horse seizure, this was treated as one report, but involves many alleged offences."

CONFUSING BECAUSE...

One complaint received can result in 100 cruelty offences reported, (eg Ararat horse neglect case), which inflates this number and then it appears the RSPCA responded to 19,461 cases of animal cruelty, which in reality is not the case.

Secondly, there might be 10 or more complaints made about the one instance alone of animal cruelty, which again seriously inflates the figure so it appears the RSPCA received complaints on 10,740 different instances of animal cruelty.

2) THE DEFINITION OF ANIMAL CRUELTY AND THE TIMES WHEN POCTAA DOES NOT APPLY

(credit: Lawyers for Animals) Section 6(1) of Victoria's Prevention of Cruelty to Animals Act 1986 states that the Act does not apply to: "Any act or practice with respect to the farming, transport, sale or killing of any farm animal which is carried out in accordance with a Code of Practice." Nor does the Act apply to: "... the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching, trapping, netting, marking, care, use, husbandry or management of any animal or class of animals ... which is carried out in accordance with a Code of Practice"...

This means that millions of farm animals daily endure housing conditions and acts of cruelty that would be illegal for a cat or dog. The codes of practice are policy documents endorsed by a Minister, and are not

subject to a democratic vote within Parliament, unless a motion is put for their disallowance..

Factory farmed animals are not represented in the RSPCA statistics on animal cruelty, because Victoria allows inhumane treatment of animals as long as it is for commercial purposes. So the many thousands of animals who are locked up, unable to move, living in darkness, force fed, denied socialization, denied vet care, suffering boredom and to have parts of their body mutilated all for the name of maximizing financial gain for businesses, are not included in animal cruelty statistics, because technically, it is not illegal. Nor are the animals who are subjected to cruel and inhumane medical experiments on them included in the RSPCA statistics on animal cruelty. The thousands of animals kept in cages, tested on, have cruel medical experiments conducted on them, living in pain, fear and suffering, all of which would be illegal if done to a domestic cat or dog.

3) THE ANIMAL CRUELTY COMPLAINTS WHICH RSPCA DO NOT RESPOND TO

The statistics provided by RSPCA do not include reports of animal cruelty to herds of animals with 10 or more in size, instead these reports are passed onto DEDJTR whose responsibility it is to respond to all complaints of this size.

Clarification provided by RSPCA “For livestock only with numbers 10+, this report is referred to another agency for actioning, ie. Department of Economic Development, Jobs, Transport and Resources (DEDJTR) as part of a Memorandum of Understanding (MOU) between DEDJTR and RSPCA Vic. When the report has been referred to an outside agency (ie. DEDJTR), it is then listed as ‘Finalised’ on RSPCA Vic Reporting system as ‘Forwarded to DEDJTR’ and no further action by RSPCA Vic Inspectorate occurs.”

CONCLUSION: RSPCA statistics DO NOT accurately reflect the true measure of animal cruelty in Victoria because so many animals are excluded. Victoria NEEDS an Independent Office of Animal Welfare.

2. THE APPROPRIATENESS AND USE OF FUNDING PROVIDED BY THE VICTORIAN GOVERNMENT, INCLUDING IN THE CONTEXT OF ITS OTHER OBJECTIVES AND ACTIVITIES;

RSPCA FINANCIAL SITUATION

Victoria NEEDS an Independent Office of Animal Welfare as the current animal welfare system is failing and animals are suffering and dying as a result. However, the answer is NOT simply to give RSPCA more money. The 2015 Financial report states “the RSPCA Victoria earned total income amounting to \$33,226,000,” therefore with an excess of \$30 million dollars annually, and not having to respond to herds of larger than 10 animals in size, it would appear that the RSPCA Victoria is in a strong financial position to use its extensive resources to maximize its capabilities as the protector and defender of animals.

EXAMPLES OF INEFFICIENT USE OF RSPCA RESOURCES

However, there are numerous examples when resources have not been allocated to maximum potential and animals have suffered as a result. For example, allegedly, there is only one after-hours inspector on duty, the Bulla case is an example of limited to no response from RSPCA inspectors over the weekends. Neighbours called the RSPCA over the weekend but were not given a response, therefore the Animal Cruelty Hotline was called, who contacted the police and took immediate action on the Sunday meanwhile RSPCA reacted on Monday.

There are no RSPCA inspectors in regular attendance at livestock saleyards, even though their ongoing presence is required, instead RSPCA attend if a direct report has been made on a specific issue only. The RSPCA do not have a physical presence in Geelong, the Western suburbs or regional Victoria, despite the same legal responsibilities towards animals and the animal welfare system. To be deficient in services outside of Monday to Friday, 9-5 and anywhere outside of metropolitan Melbourne given there was total income of more than \$30 million for 2015, means the issue is NOT simply an increase in funds. Instead the RSPCA need to better use what they have and focus on the animal welfare system with an animal centered approach as opposed to a human centered approach.

An alternative model which would ensure animals are the center of the animal welfare system would be the establishment of an Independent Office of Animal Welfare.

PROBLEMS WITH THE CURRENT SYSTEM

(Credit: Voiceless) Currently, the RSPCA sits within the Department of Agriculture which is responsible for the farming sector AND animal welfare. This arrangement is problematic and disadvantageous for animal welfare for a number of reasons:

- Conflict of Interest: The Department of Agriculture is incapable of legitimately acting in the best interests of animals when it simultaneously represents the interests of farmers (who unlike animals are able to vote).
- Industry influence: Industry representatives have disproportionate influence over the animal welfare standardsetting process, resulting in welfare standards being established that fail to adequately protect animals and function to reinforce existing industry husbandry practices..

SOLUTION: An Independent Office of Animal Welfare

AN ALTERNATIVE MODEL: AN INDEPENDENT OFFICE OF ANIMAL WELFARE FOR VICTORIA

The establishment of an Independent Office of Animal Welfare (the Office). The Office could potentially act similar to the current DHHS model which oversees the rescue and rehabilitation of young people through the welfare system and simultaneously working within the police department for law enforcement. The suggestion is for the Office to report to the Attorney-General.

The Office would have two branches, Branch One: rescue, rehabilitation and community education, this branch would essentially be the RSPCA except it would be free from any law enforcement duties. As a result this Branch would be able to form strong, long lasting relationships with the community and rescue groups and really create a ground swell at the front line for genuine prevention of cruelty towards animals. (Credit: RSPCA) The vast majority of the Inspectorate's work involves educating animal owners about how to take better care of their animals. However, in some cases, Inspectors were obliged to issue Notices to Comply, seize animals and/or prosecute owners.

Branch Two: Law enforcement: who would concentrate solely on charging offenders and prosecution through the POCTAA. This branch would be within the police force and reporting to the IOAW, thereby giving inspectors equal powers to police.

The management of the Office would be responsible for the coordination and development of the animal protection standards, including facilitating the conversion process of the Model Codes of Practice to Standards and Guidelines.

The requirement of the Minister to table reports in Parliament would provide much needed political representation for animals and facilitate political debate on animal protection issues.

The Office would be protected in statute, including it's funding and independence.

RSPCA's official position is the support of an Independent Office of Animal Welfare, both federally and at the State levels.

In New York they have already taken steps and separated the powers of law enforcement AWAY from the charity ASPCA and the results are a triple increase in animal cruelty arrests.

3. ANY OTHER CONSEQUENTIAL MATTERS THE COMMITTEE MAY DEEM APPROPRIATE

1. An independent office of animal welfare – RSPCA Australia position

Refer Picture in Attachment.

2. An independent office of animal welfare – Australian productivity commission position

Refer Picture in Attachment.

3. An independent office of animal welfare – the New York experience

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File1:

File2:

File3: