

Mr Joshua Morris
Chair
Standing Committee on Economy and Infrastructure
Parliament of Victoria
(by electronic delivery)

Dear Sir,

SUBMISSION TO THE STANDING COMMITTEE ON ECONOMY AND INFRASTRUCTURE
Inquiry Into the RSPCA Victoria

Please accept this submission to the Inquiry (below) on behalf of the members of Pets Australia.

Yours Faithfully

(by electronic delivery)

Dr Joanne Sillince BVSc (Hons) MBA
Chair
Pets Australia

5th March 2017



RESPONSE TO TERMS OF REFERENCE

Introduction

Pets Australia is pleased to respond, on behalf of its members, to the Inquiry. Pets Australia is the peak industry body representing both business and owners in the pet industry.

The Inquiry examines the appropriateness and use of the RSPCA's powers in relation to POCTA, the appropriateness of funding in the context of this and other RSPCA activities, and any other key matters.

There are around 18,000 pet businesses in Australia with location based around population density. This suggest that around 30% of pet businesses are found in Victoria.

Regulation of these businesses varies widely. POCTA is the main Act governing pet business and pet ownership, with some pet businesses additionally regulated under legally enforceable Codes of Practice (Pet Shops, Breeders, Racing, Shelters etc). A stunning % of pet businesses are not subject to Codes of Practice – pet sitters, pet walkers, pet minders, pet trainers, pet treat manufacturers etc. An equally large number of pet businesses operate under Codes of Practice that are virtually unenforced for the reasons below – small breeders, unofficial boarding operations, grooming salons, and even some small shelters and rescues. Enforcement of Codes of Practice is frequently overly focused on “the usual suspects” ie those who are under attack from animal rights groups.

Similarly this office receives regular reports of animals suffering cruelty and/or neglect, where the complainant reports that “nothing is done” by Council or RSPCA inspectors.

Importantly, there appear to be no statistics on the number of Audits under Codes (total number of audits and total number of businesses), no statistics on enforcement activities (prosecutions successful and unsuccessful, complaints resolved through education, prosecutions not taken etc). The RSPCA does publish excellent statistics in relation to shelters and euthanasia, which have fallen to an all time low.¹

1.0 RSPCA Objectives

To the right are the RSPCA Objectives. It is worth noting that:

1.1 Many on the list can have very wide and subjective meaning, particularly “protection” of animals, “humane” treatment of animals and even “animal welfare”. The RSPCA also proselytises the “5 Freedoms” mantra while admitting that they are at best poorly defined and at worst paradoxical.

1.2 Some objectives are clearly being ignored. For example, the activist campaign by RSPCA regarding “Battery” chickens, “Puppy Factories” or lobbying to ban Live Export are clearly NOT “sustaining an intelligent public opinion regarding animal welfare”. There is also a question as to whether

RSPCA Australia mission statement

To prevent cruelty to animals by actively promoting their care and protection.

RSPCA Australia vision

To be the leading authority in animal care and protection.

The objectives of the RSPCA in Australia are:

- To prevent cruelty to animals by ensuring the enforcement of existing laws at federal and state level.
- To procure the passage of such amending or new legislation as is necessary for the protection of animals.
- To develop and promote policies for the humane treatment of animals that reflect contemporary values and scientific knowledge.
- To educate the community with regard to the humane treatment of animals.
- To engage with relevant stakeholders to improve animal welfare.
- To sustain an intelligent public opinion regarding animal welfare.
- To operate facilities for the care and protection of animals.



“engaging with relevant stakeholders to improve animal welfare” might be frequently limited to a chosen few activist groups in relation to policy and legislation.

1.3 “Prevention of cruelty by ...enforcement of existing laws...” is by definition an oxymoron.

“Prevention” happens before an event and includes education, cultural definition and support, whereas “enforcement” happens only after an act of cruelty is committed.

Because of the above, and because the RSPCA relies so heavily on government funding, there is a risk of RSPCA being influenced by Ministers or governments who need support for any particular party position, rather than maintaining independence. This was most recently evidenced in the RSPCA *helping to announce* the short-lived Greyhound Racing ban in NSW, but there also may be examples in Victoria in the recent “Puppy Farm And Pet Shop Act” debacle.

1.4 Policy Hypocrisy

The RSPCA is also guilty of conflict of interest in a number of unique policy and commercial paradoxes, including but not limited to:

- 1.4.1 RSPCA supports, and is paid to enforce the Vic Code of Practice on Companion for the Operation of Breeding and Rearing Businesses under POCTA, but is simultaneously lobbying for elimination of Breeding and Rearing Businesses;
- 1.4.2 RSPCA is the agency responsible for enforcing the Vic Code of Practice for Pet Shops under POCTA, which specifically allows the sale of livestock, while at the same time lobbying for removal of pets from pet shops AND actually selling pets from their own pet shops in NSW.
- 1.4.3 RSPCA apparently enforces standards for Vic Racing Greyhounds under POCTA, while at the same time lobbying for the removal of the industry AND supporting the media publication of horror incidents like live baiting that they are charged with eliminating – a perfect failure of “*prevention...by enforcement*” by RSPCA.

Is it surprising that so many in the animal industries have a deep distrust of RSPCA??

There is now clear evidence of a shortage of dogs for families right across Australia and including Victoria. Very high prices for puppies, animals being shipped thousands of miles and a shortage of adoption dogs (for the last 5 years). That RSPCA is perpetrating misinformation about “puppy farms” is deeply concerning to all who believe that families should be able to love a dog.

1.5 It’s not all bad....

Having noted the above, there are some areas where the Vic RSPCA excels. Their rescue, rehabilitation and rehoming are second to none, so good in fact that in year 2015-6 the Vic RSPCA euthanased only **916 dogs and 3341 cats**¹; and using their national ratios as a guide, **85%** of these were euthanased for medical or behavioural issues, not because they could not be rehomed.

Most RSPCA inspectors work genuinely well under difficult circumstances (see below). Parts of the RSPCA knowledgebase are genuinely best practice, their seminars are well conducted and informative. Staff are generally approachable, deeply passionate and committed to the cause, although developing positive relationships with senior staff in Vic RSPCA has proven difficult in some respects, compared to



other states. Those pet business members to whom we have spoken generally regard the RSPCA *inspectorate* with respect, and have positive relationships overall.

However, these points of excellence tend to be overshadowed by the issues listed above, the management of the inspectorate under current agreements, and the RSPCA campaigns.

1.6 The Middle Ground Paradox

RSPCA is in the difficult position of being the “middle ground” in animal welfare debates. Unhindered by science or the responsibility to carefully manage government funds, radical “Animal Liberationists” hysterical protestations tap into the outrage industry and garner big \$\$ donations. The RSPCA has been forced into a position of lobbying at the edge of hysteria in order to get donations and media cut-through, while at the same time managing taxpayer funds in a responsible and serious way. All state RSPCA Boards will admit that they have lost donations to radical groups.

This is an unstable strategic position, because speaking “intelligently” about animal welfare results in screaming allegations of “going soft” from the radicals, but doesn’t win over businesses due to the trust issues above.

However the necessity to do this is incompatible with being a regulatory agent, and using the Federal Office of RSPCA as the “fall guy” for the more radical statements does not resonate with pet businesses or pet owners.

2.0 Government funding and the RSPCA.

Depending on the state or territory, the RSPCA may receive funding from governments for:

2.1 . Operating Pounds and Shelters directly or contracted to government agencies

There is no question that the RSPCA excels in this role, which directly meets the RSPCA objectives and is in keeping with the role of *Prevention Of Cruelty To Animals*. RSPCA operations nationwide have a depth of expertise and resources unequalled in Australia and excellent international networks that make pound and shelter operations generally close to worlds best practice.

2.2 Operating Education Programs

Again, this is RSPCA heartland and directly speaks to *Prevention of Cruelty*.

2.3 Operating Inspectorates to Investigate Cruelty Under Prevention of Cruelty to Animals Acts

RSPCA inspectors do the work that is abhorrent to the rest of society: dealing with the filth that cause deliberate harm to innocent animals. That inspectors are generally reasonable people is testimony to their passion and inherent belief in doing good works. Inspectors are generally well trained, but inspection can be highly variable due to poor calibration of interpretation of the Acts. New inspectors can be ideologically driven rather than pragmatic interpreters of the law. Generally inspectorates are operated by the RSPCA but apparently independent of it, technically reporting to the Minister. This creates significant problems that have been adeptly demonstrated many times: a Board member “on a Mission” instructs the inspectorate to “raid” particular businesses or industries and it is a credit to the inspectorate that they stay true to their independence and generally refuse to do so.



It is inappropriate to ask an inspectorate, either at RSPCA level or Council level, based on taxpayers funds to report to and be managed by a lobbying organisation, particularly one with increasingly radical views.

2.4 Operating Inspectorates to Audit Animal Businesses Under Regulatory Codes of Practice

While there is a pressing need to increase the level of audits under Regulatory Codes, this is not happening because:

- Investigations of cruelty are complaint based: which means that particular breeders or pet shops that are the current target of pervasive animal liberationist groups may be audited literally weekly, while poor quality businesses who should be audited may be ignored because they are not the current target of activist groups;
- because RSPCA inspectors are so frequently sorting out with vexatious complaints and genuine individual cruelty cases, regular random inspection of businesses covered under Codes of Practice are ignored, and
- regular audits generally do not garner “news” which would generate media or donations, or support the political activities of the RSPCA. For example, the vast majority of dog breeders are not audited under the Code of Practice unless they are large commercial breeders: this conveniently allows the RSPCA to infer that small breeders are somehow higher quality than larger ones.

Auditing Breeders under a Code of Practice for Breeders while at the same time lobbying for wholesale removal of some groups of breeders regardless of quality is inappropriate.

Auditing Pet Shops under the Code of Practice for Pet Shops that allows live animal sales, while at the same time lobbying for wholesale removal of pets from pet shops regardless of quality is inappropriate.

In Victoria the situation is even worse, with Councils generally the delegated authority for inspections under the Codes of Practice. With poor networks in the animal welfare field, poor resourcing, poor training, and intimately integrated into the local communities, Council inspectors produce highly variable determinations under the Codes of Practice, are not independently controlled and some have brought perfectly legitimate pet businesses to closure. In some cases demonstrated Animal Liberationists have sought and gained appointment as Council inspectors and genuinely victimised quality pet businesses on ideological grounds.

To complete the complexity and poor outcomes, the Codes themselves are facilities focused rather than animal-focused, are not independent of Ministerial activity, many are tragically out of date and progress for review slow, and there is no mechanism for identifying major vs minor breaches.

It is hardly surprising that pet business confidence in the Codes of Practice and the Inspectors that enforce them is at an all time low.

2.5 Prosecution of cases under POCTA, including under Codes of Practice.

In most states there have been a number of celebrated cases or cruelty prosecutions by RSPCA resulting in acquittal but causing immense pain for the defendant. In some states costs cannot be awarded to the RSPCA, resulting in deep financial hardship for the defendant. In some cases RSPCA has failed to achieve desperately needed prosecutions of clearly problematic defendants. RSPCA is a Prevention Of Cruelty To Animals organisation, not a legal firm.



3.0 A New Model

Only 2% of the population (averaged, based on voting for animal welfare parties in 3 states) identifies as supporting “Animal Rights”, but taxpayer funding for the other 98% of the population is currently supporting (directly or indirectly) lobbying activities and policies that are not progressive and not focused on standards and enforcement.

The RSPCA is in the invidious position of being an inspection and enforcement agency for activities and sectors that it is actively trying to ban – a spectacular conflict of interest. In some industry sectors (eg chicken farming) the RSPCA is even making money from their activities through enforcements while simultaneously campaigning for removal of that industry.

There is an opportunity for a new model - where government funding instead supports an independent audit and inspection agency (possibly along similar lines to the APVMA), with enforcement powers and important key milestones oversighted by Parliament. This would be supported by Codes of Practice that are meaningful, animal focused and regularly and quickly reviewed.

There is a real need to reinstate the trust of consumers in the RSPCA (which has become deeply equivocal over the last decade), the trust of consumers in the regulation of animal industries, and the general consumers’ trust in Parliament to oversight animal welfare in Victoria and properly prosecute offenders without media hype and animal rights propaganda campaigns.

3.1 RECOMMENDATION: 1. Separate Inspection And Enforcement Activities Of RSPCA From Prevention Of Cruelty To Animals Activity, And Lobbying Activity; and Separate Inspection Activities from Councils from General Council Activity By Developing a New Independent Body.

This would require the formation of an independent Inspectorate, reporting to the Parliament, but with a Board which includes Government Representatives, RSPCA, AVA, Pets Australia, PIAA and Animals Australia.

3.2 RECOMMENDATION 2: Review and renew all current regulatory Codes of Practice, based on an animal welfare model and identifying major and minor breaches as well as “best practice” guidelines.

Inspectors from Council and RSPCA should be included in these reviews, which should consult broadly with pet businesses and breeders large and small, as well as animal welfare consultants and peak industry groups.

3.3 RECOMMENDATION 3: Prosecution of Cruelty cases and cases under the regulatory Codes of Practice, should be conducted by the Crown Prosecutor or through an independent agency.

3.4 RECOMMENDATION 4: Any agency which receives taxpayer funding should not be a lobbying or activist organisation regardless of agreement or otherwise with government or Ministerial policy.

Key:

APVMA: Australian Pesticides and Veterinary Medicines Authority (Cwth).

POCTA: Prevention of Cruelty To Animals Act

References

1. RSPCA National Statistics 2015-6
<https://www.rspca.org.au/sites/default/files/RSPCA%20Australia%20Annual%20Statistics%2015-2016%20.pdf>, searched 2nd March 2017