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Portfolio Committee No.4 – Industry

NSW Legislative Council

Submission to the Inquiry into the use of exotic animals in circuses and the exhibition of cetaceans in New South Wales

1. INTRODUCTION

The Animal Justice Party (AJP) was established in 2009 in response to growing public concern over the abuse, harm and mistreatment of non-human animals across Australia. We aim to give a political voice to animals, to pursue the vital issues of animal protection through Australia's political system and to encourage political parties to adopt animal-friendly policies. It is our stated policy to prohibit animals from being confined in circuses and marine theme parks.

The AJP welcomes the opportunity to comment on the use of exotic animals in circuses and the exhibition of cetaceans and thanks the committee for considering this submission.

2. EXECUTIVE SUMMARY

- 1) The 'captive animal industry' justifies its existence by claiming that it is not just providing entertainment but also education to the public. Exotic animals in captivity are significantly impeded from expressing their natural behaviours. There is no educational value in watching the display of dolphins dancing on their tails or lions jumping through hoops. The

real educative function is to inculcate in people, especially impressionable children, an ideology which views animals as objects to be used for our amusement. With the improvements in audio visual technology, nature documentaries and interactive graphics (including augmented or virtual reality) are a vastly superior way for children to learn about animal behaviours.

- 2) The exhibition of performing exotic animals in travelling circuses is a cruel and anachronistic relic from the 19th century and has no place in a modern society with today's understanding of animal sentience and capabilities.
- 3) The *Preventions of Cruelty to Animals Act 1979* should be amended to prohibit the exhibition of performing exotic animals in travelling circuses.
- 4) Circuses exhibiting exotic animals should have their exhibition licences revoked.
- 5) Exotic animals such as lions, monkeys, camels and macaques currently confined in circuses should be retired to wildlife sanctuaries as soon as practicable. In the alternative, if there are no sanctuaries available then transfer to a zoo is a compromise.
- 6) Given the complex needs and capabilities of cetaceans, it is impossible to meet their welfare needs in captivity and the *Prevention of Cruelty to Animals Act 1979* should be amended to prohibit the exhibition of cetaceans in marine park pools.
- 7) Any cetaceans currently in captivity that cannot be rehabilitated into the wild should be relocated into sea pens where and when available.
- 8) Captive breeding of exotic animals in circuses and cetaceans in marine parks should be prohibited.

TERMS OF REFERENCE

1. That Portfolio Committee No.4 – Industry inquire into and report on the use of exotic animals in circuses and the exhibition of cetaceans in New South Wales, and in particular:

(a) the welfare of exotic animals exhibited in circuses in New South Wales, with consideration of community expectation,

c) in light of the findings in (a), whether: (i) to allow the continuation of the practice of breeding of exotic animals for use in circuses for exhibition,

Public attitudes and community expectations

The AJP considers that it is cruel and unnecessary to use exotic animals for entertainment in circuses. Social attitudes towards animals have changed considerably since the first travelling

circuses of the nineteenth century plied their trade. Animals were once exhibited alongside human 'freak shows' in displays that today would result in expressions of horror and revulsion at the treatment of people with disabilities. That sense of revulsion is increasingly being expressed collectively by communities that are distressed and angry at the prospect of travelling circuses performing animals in their towns and suburbs.

Circus performance has undergone a significant shift in terms of public approval . RSPCA Australia quotes from a Mc Crindle research survey² which found that 68% of Australians are concerned or very concerned about the use of exotic animals in circuses. This proportion is even higher in young adults, with over 75% of Australians aged 18-25 years being concerned about the use of exotic animals in circuses.

It is this generational change that is leading the way for circuses established in the last twenty years to forego the use of animals and rely instead on the physical skill and attributes of human artistes. Cirque du Soleil, Flying Fruit Fly Circus and Spaghetti Circus are all successful without using animals in their performances. This has increased rather than limited their popularity.

Circus owners have attempted to argue that while exotic animal performances are entertainment, they are also educational for children. Given that the animals are not engaging in any normal behaviours during performances, it should not be described as educational. Indeed, it is concerning in that it teaches children to treat animals as objects for their entertainment.

Exotic animals suffer when kept in confinement

Exotic animals kept in confinement and used in circus performances are first and foremost wild animals that have been forced to adapt to and submit themselves to humans. They can never be considered to be domesticated like companion or farmed animals, even if they have been bred in confinement for several generations. Circus owners often claim that their captive-bred lions are just like large domesticated cats. This is incorrect, domestication occurs over many generations, selecting the most docile from each generation of a breeding population.

In order to tame them, infant animals in circuses are regularly separated from their mothers to be hand-reared by humans. Hand-rearing may make the animals less fearful towards humans and they may be described by their handlers as 'tamed' but they are wild in nature⁴. Removal from their mother, and subjected to hand-rearing increases stress-related behavior and can

² McCrindle (2015) RSPCA 2015 Brand Awareness and Perception. National representative survey of 2,011 Australians conducted in November 2015

⁴ Statement on ETHOLOGICAL NEEDS AND WELFARE OF WILD ANIMALS IN CIRCUSES September 2015 https://www.eurogroupforanimals.org/wp-content/uploads/Statementonwildanimalsincircuses_final4.pdf

cause an elevated and prolonged stress-response⁶. These effects can last into adulthood in terms of increased stress sensitivity.

A University of Bristol study in 2009 found that circus animals spend most of their day confined, with between 1 and 9% of the day taken up with performing or training and the remaining time spent in barren exercise pens⁷. There is no reason to believe that Australian circuses are any different. For at least 90% of their day, exotic animals such as lions that evolved to travel on the open savannah or monkeys that move at lightning speed throughout the forest are kept in small, barren, temporary pens that are set up on the featureless, dusty or muddy back paddocks of rural NSW⁸. In comparison, zoos provide more complex captive environments (naturalistic displays with appropriate substrate, plants, hiding places, perches) which aim to address behavioural problems stemming from the boredom of captivity by providing animals with an array of stimuli.

In 2019, circuses cannot justify keeping wild animals in sterile cages and pens or subjecting them to hours of travel on the back of trucks. It would be an animal welfare scandal if such practices were employed by zoos. Exercise pens are significantly smaller than approved zoo standards and guidelines for animal enclosures. Given that there is no difference between the needs of a lion in a zoo or a circus, what is the explanation or justification? The reality is businesses cannot be profitable travelling circus with pens the size of zoo enclosures. The circus animal welfare standards therefore allow for this anomaly based solely on that commercial imperative, which is a poor excuse.

It has been well documented that circus animals are at risk of developing debilitating 'stereotypies', which are repetitive behaviours caused by a captive animal's repeated attempts to adapt to their environment. Locomotory stereotypies include pacing and similar behaviours. Oral stereotypies include repetitive movements with the tongue or repeatedly biting an object. This category would include, for example, a stereotypy sometimes shown by primates that consists of the animal moving their body backwards and forwards while seated. Other stereotypies include excessive grooming, leading to hair loss and dermatitis.

Stereotyping behaviours in circuses is indicative of that the animal is experiencing poor welfare. Inadequate diet and housing conditions, the effects of repeated performances, can all lead to significant health problems. Circus animals travel frequently and the associated forced movement, human handling, noise, wagon movement and confinement are known stressors.

⁶ Ibid

⁷ Iossa G, Soulsbury CD & Harris S (2009) Are wild animals suited to a travelling circus life? *Animal Welfare* 18:129-140

⁸ Op Cit p2

Circuses are being consigned to history

Animal circuses are closing all around the world. The most famous, Ringling Bros and Barnum & Bailey made the decision to close in the United States after almost 150 years in the business. They attributed the closure to changing community tastes in entertainment, and the community's growing concerns regarding animal welfare.

Acknowledging the growing public concern, over forty councils in Australia have now banned exotic animal circuses from performing on council land. In NSW they include Parramatta, Lismore, Wingecarribee, Newcastle, Blue Mountains, Warringah, Woollahra, Hornsby, Pittwater, Manly, Randwick, Ku-ring-gai, Lake Macquarie, Liverpool and Camden. A number of other NSW councils are currently being petitioned to ban animal circuses on council land.

More than 45 countries have already banned or are transitioning to ban exotic animal circuses, citing animal welfare concerns as the main reason. Countries include Cyprus, Greece, Malta, Bolivia, Austria, Bosnia and Herzegovina, Croatia, Slovenia, Colombia, Costa Rica, El Salvador, Panama, Paraguay, Peru, Singapore, Israel and Mexico, Belgium, Bulgaria, and The Netherlands

The AJP urges the Inquiry to recommend that circuses no longer be granted licences to exhibit exotic animals, that the *Prevention of Cruelty to Animals 1979* prohibit such exhibits and that all exotic animals currently in circuses to be retired to wildlife sanctuaries or if that option is not available, to zoos.

2.(b) the welfare of cetaceans exhibited in New South Wales, with consideration of community expectation, (c) in light of the findings, whether:

(ii) there should be a phase out of the use of cetaceans for exhibition

Too smart to live in a tank

The AJP considers that cetaceans should not be kept in captivity, unless it is the only viable option for animals that have been captive-bred /raised or are unable to survive in the wild due to injury, disability or disease. Cetaceans are highly intelligent marine mammals with advanced cognitive abilities and complex social network and as such their behavioural needs cannot be met in captivity.

As far back as 1985¹⁰, the Dolphins and Whales Report by the Senate Select Committee on Animal Welfare recommended that no new 'oceanaria' should be permitted to keep cetaceans or capture wild cetaceans, with consideration of a phase out of cetaceans in captivity. Victoria

¹⁰ Dolphins and Whales in Captivity, Executive Summary. Senate Select Committee, Commonwealth Parliament 1985

was the only state which responded to the report by passing laws prohibiting the keeping of dolphins and whales. Sadly in NSW, a further 35 years has passed with cetaceans still being kept in captivity, including the recently deceased dolphin known as Bucky, who died after more than three decades in captivity.

In NSW the only cetaceans in captivity are the four dolphins left at Dolphin Marine Magic in Coffs Harbour, recently renamed Dolphin Marine Conservation Park. In recognition of the change in community attitudes, the business owners are seeking funding to move the dolphins to a sea pen to improve the quality of life for the dolphins. The change in name from “Magic” to “Conservation” is a clear indication that the public expectations have evolved so that the sole focus can no longer be on human entertainment, it must include welfare considerations for the cetaceans and other marine animals kept in the tanks.

Artificial environments such as barren, shallow, chlorinated pools, often segregated from other dolphins, are incapable of providing the high level of stimulation required for cetaceans that evolved to live in large inter-generational family pods and travel the ocean¹². Dolphins are capable of travelling over 100 km a day and engage in wave surfing and deep diving, none of which is possible in shallow tanks. There is no possibility of engaging in such basic dolphin behaviour as wave surfing, deep diving or sprint swimming.

In any exhibition of dolphins, the design of the enclosures reflects a sorry compromise of competing interests: ensuring that the captive animals are visible to the paying public; easy cleaning; and meeting the needs of the dolphins to dive, rest and avoid public contact when over-stimulated. Accordingly, the pools are not designed primarily for the dolphin’s behavioural needs.

It has been said that confining a cetacean to a marine pool is the equivalent of expecting a human to live happily in a bath tub. However it is more accurate to describe it as akin to a human being confined to a small, empty house where for two hours a day you are required to perform for and interact with the public whether you like it or not. The performance routine is repeated ad nauseum, so there are limited opportunities for novel stimuli. Other than that, you pace the empty rooms as you struggle to maintain your physical and mental health.

Captivity is stressful for cetaceans

As stated in an RSPCA Australia review¹⁴; “Studies have shown that dolphins in captivity can suffer stress resulting in appetite loss, ulcers, and increased susceptibility to disease due to changes in their social grouping, competition over resources and unstable social structures. A

¹² RSPCA Australia <https://kb.rspca.org.au/knowledge-base/what-is-the-rspcas-view-on-keeping-dolphins-in-captivity/>

¹⁴ Ibid

recent study showed significantly lower cortisol levels in dolphins retained in open facilities compared to dolphins in closed facilities with the conclusion that this may be due to open facilities providing more space and diverse stimuli.”

No requirement for captivity to engage in research

Given the improvements in technology for the research of marine animals in their natural environment¹⁶, there is no justification for keeping cetaceans in captivity for purely research purposes. By way of example, a leading dolphin researcher, Dr. Denise Herzing has spent the last 25 years studying a pod of wild dolphins off the coast of the Bahamas. She is able to view and record the dolphins engaging in a range of natural behaviours such as feeding, playing, fighting, mating, giving birth and adapting to change in the environment. No show can match this depth.

The world moves towards a ban on cetaceans in captivity

As stated by RSPCA Australia¹⁷,” Over the past decade, animal welfare groups have campaigned strongly to raise concerns regarding the keeping of cetaceans in captivity as understanding of the needs of these complex animals and the difficulty to adequately provide for them in captivity has grown. As a result, audience attendances at marine shows in some parts of the world have declined significantly with associated business enterprises suffering financially. In 2016, the US National Aquarium announced it would transfer their remaining eight dolphins to an ocean refuge by 2020 which will provide a much more natural environment.”

PETA notes that¹⁹: “Governments around the world are recognizing that dolphins, orcas, and other cetaceans do not belong in tanks. Chile, Costa Rica, and Croatia all have banned the keeping of cetaceans in captivity. In 2013, India’s Ministry of Environment & Forests banned the keeping of captive dolphins for public entertainment. Other countries, including Brazil, Luxembourg, Nicaragua, and Norway, have highly restrictive standards that make it nearly impossible to keep cetaceans in captivity. The last dolphinarium in the U.K. closed more than 20 years ago.”

The Animal Justice Party urges the Inquiry to recommend that marine theme parks no longer be granted licences to exhibit cetaceans, that the *Prevention of Cruelty to Animals Act 1979* be amended to prohibit such exhibits and that all dolphins currently held captive in such parks be

¹⁶Wild Dolphin Project, Dr Denise Herzing,
http://www.wilddolphinproject.org/dev/?option=com_content&task=view&id=4&Itemid=4

¹⁷ RSPCA Australia Op Cit

¹⁹ PETA, Aquaria and Marine Parks, <https://www.peta.org.uk/issues/animals-not-use-entertainment/aquaria-marine-parks/>

retired from exhibition and where possible, relocated to sea pens if they cannot be released into the wild.

Signed

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Animal Justice Party

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