

Ms. Heather Neil
Chief Executive Officer
RSPCA Australia
PO Box 265
Deakin West ACT 2600

By email: rspca@rspca.org.au

Dear Ms. Neil,

Please find **enclosed** a submission prepared by the NSW Young Lawyers Animal Law Committee on RSPCA Australia's Puppy Farms Discussion Paper dated January 2010.

If you have any questions for the Committee, please contact me on 0421 843 961 or by email on alc.chair@younglawyers.com.au.

Yours sincerely,



Stephen Lee
Chair
NSW Young Lawyers Animal Law Committee

Animal Law Committee

Submissions regarding the RSPCA Australia
Puppy Farms Discussion Paper dated January
2010.

31 March 2010

INTRODUCTION

The NSW Young Lawyers Animal Law Committee (“Committee”) comprises of young lawyers, either under the age of 36 or in their first years of practice and law students, all of whom share a passion for the proper treatment and welfare of all animals.

The Committee has had an opportunity to read and consider the discussion paper authored by RSPCA Australia in respect of puppy farms and is pleased to provide its submission in response.

The Committee takes the view that large scale, indiscriminate breeding of dogs or other animals through operations commonly referred to as ‘puppy farms’, exposes animals to unacceptable levels of harm and involves an unethical prioritisation of commercial interests over the welfare of the animal.

There are a number of serious threats posed to both the welfare of animals and the dog breeding community through puppy farming, which include:

- Threats to the health of animals including an increased incidence of disease, parasites, worms, weakened bloodlines and other communicable illnessesⁱ.
- Increased mortality of the puppy due to early removal from the mother, as well as mortality of the mother as a direct result of over-breedingⁱⁱ.
- Developmental problems, socialisation issuesⁱⁱⁱ and other threats to the animals’ mental health as a result of a lack of engagement, training and general boredom.
- Threats to the general welfare of animals as a result of being kept in overcrowded environments including the inadequate provision of food, water, exercise space, grooming facilities and through the practice of caging and tethering animals^{iv}. Many of these practices can lead to breaches of the standards set out in the Animal Welfare Code of Practice Breeding Dogs and Cats NSW Department of Investment and Industry, as well as breaches of welfare standards established by the Prevention of Cruelty Act.
- Poor reflection on registered or reputable dog breeders who do not employ puppy farming tactics and supply animals through proper channels. Breeding is also performed without regard for maintaining the integrity of genetic standards^v.
- Wider community costs in the sense of increased incidences of abandonment and consequently, increased pressure on animal welfare and other organisations with respect to the care, rehabilitation and re-homing of abandoned dogs.

The Committee submits that puppy farming is an inhumane and cruel practice that should be eradicated. The Committee considers that there are a number of potential methods to assist in reducing and preventing the incidence of puppy farming:

- 1) Regulation of the manner in which pets can be sold, including banning the sale of animals in pet shops, through the newspaper or internet or other unverified sources. As an alternative, establish minimum standards to be complied with by any animal retailers.
- 2) Establishment of a publically accessible register of reputable breeders.

- 3) Development and institution of a new regime for regulating breeders, through licensing and the establishment of a mandatory code of conduct.
- 4) Increasing awareness and education in relation to the puppy farming and its risks, both for retailers and the public.
- 5) The establishment of a specific regulatory reporting framework.
- 6) Amendments to current legislation to make puppy farming a specific form of cruelty to animals with specific and increased penalties.

We now address these points in turn.

1. Regulation of the sale of pets

The Committee submits that the sale of pets through pet shops can be regulated in a number of ways.

An effective approach to reducing the incidence of puppy farming would be to ban the sale of puppies (and other animals) in retail pet shops. In most instances, pet shops have an inherent commercial interest in its operations and as a result, require a constant supply of puppies and/or other companion animals to generate turnover. The high demand for the supply of animals, and puppies in particular, can only be sustained by continuous and potentially unscrupulous breeding practices^{vi}. Given the profit-driven nature of the sale of puppies through pet shops, the more dogs that are sold, the higher the demand is for puppies bred by puppy farms.

Further, there is no requirement for pet shops to advertise the origin of the animals for sale. As a result, it is impossible to determine whether the animal has been bred through a registered, reputable and ethical breeder, which leads to prospective buyers without the ability to properly make a considered decision. This increases the instances of puppies being purchased whose origins have been derived from shady operators or bred through a puppy farm.

The Committee submits that similar risks are inherent in the sale of animals over the internet or through improperly identified public advertisers^{vii}. There is no specific system for the regulation of such sales, the origin of the animals, or the protection of their welfare. Again, the commercial nature of offering an animal for profit increases the need for turnover, and therefore increases the risk that private, unidentifiable operations are employing inhumane and excessive breeding practises in order to meet demand^{viii}.

As an alternative to an outright ban of the sale of puppies by pet shops or improperly identified private vendors, the Committee submits that pet shops and private vendors should be subject to increased regulation that would better protect the interests and welfare of animals, and decrease the risk of puppy farming practices.

The Committee suggests that there are a number of potential options available, including:

- a) A mandatory code of practice requiring the advertisement of the origin of any animals for sale and the details of the breeder, health checks and a "cooling-off" period.
- b) The banning of the sale of dogs through pet shops sourced from breeders or operations that are not properly registered.
- c) The mandatory licensing of private vendors, in conjunction with improved regulation of the dog breeding industry, and the requirement that all licence numbers and details of the operation be included in any advertisement.

- d) An accreditation system based on an annual audit of pet shops, and the sources of the animals being on sold.

2. Register of breeders

The Committee understands and supports the significant value in setting up a register of breeders of companion animals on grounds of public interest and the protection of the community. The Committee further considers that the registration of certain information regarding the breeders into a register, or alternatively an essential condition of granting the licence to a breeder, would render this initiative a success.

Breeders should be requested to include details such as their business address, licence number, breed association numbers, ACN numbers, number of respective animals housed and their breeds. A detailed register of breeders would also encourage a transparent and accountable companion animal trade which would give valued recognition and deserved credibility to those breeders who carry on a respectable and welfare-compliant business.

It is further submitted that a register would promote high professional standards expected of the industry and would promote pride in animal welfare standards by distinguishing breeders according to measureable data such as feedback, information on the breeds of animals produced and identifying buyers. It would also be worthwhile to consider including additional, albeit potentially damaging, information on the register such as any previous convictions in relation to animal welfare or cruelty legislation or breaches of relevant Codes of Practice, as well as any previous or current investigations by animal welfare organisations.

3. Increased regulation of breeders

The Committee submits that a licensing system should be introduced by local government for permission to breed domestic animals for profit. In order for this to be effective, the issuing of licences should be conditional upon compliance with the relevant Code of Practice which sets out minimum enforceable standards. It is also submitted that, at the time of application, local councils should take into account any previous or current breaches of animal cruelty legislation, investigations or court proceedings. It is preferable that relevant Acts and Regulations specify mandatory terms and conditions in appropriate language, rather than providing local government with complete discretion in issuing, revoking, suspending or transferring licences.

Similarly, the drafting and amendment of future and existing relevant Codes of Practice should demonstrate that requirements must be taken seriously by breeders. The Committee recognises that the investigation and enforcement of such animal welfare legislation will require additional resources and enforcement powers, and submits that this should be the responsibility of local government. It is submitted that conditions of licensing would include the power of local government to make periodic inspections of licensed premises (which would be funded through increased licence fees) and to conduct detailed audits which may subsequently be provided to animal welfare organisations, such as the RSPCA, for further investigation. The Committee notes that in the USA alone, a number of states have successfully passed laws which require inspections of breeding facilities and minimum standards of care^{ix}.

4. Increased education

The Committee submits that education and increased awareness amongst the public and the retail industry is vital to the eradication of puppy farming and over-breeding of dogs for profit. Such information would include the incidence and nature of puppy farming, as well as the risks that puppy farms pose to the health, welfare and quality of life of dogs.

CONSUMERS

The Committee submits that the education of consumers about the nature and effects of puppy farming would have an immediate effect on the incidence of puppy farming. If consumers are made aware of the conditions in which puppies are 'farmed', including the long term, health, social and other problems that such animals can experience, consumers will be able to make an informed decision about where they source their pet. An understanding of the cruel and inhumane practice of over-breeding would, on balance, decrease the incidence of puppy farming, particularly if more consumers are informed and elect not to purchase a pet from a pet shop or other identified vendor. As a result, demand for the 'product' will decrease and breeders will have less incentive to continue to mass produce dogs^x.

Consumers should also be provided with information about puppy farms as well as practical tips to identify puppy farm dogs, how to identify responsible breeders and what steps to take if they suspect that their pet's health or behavioural problems are a result of being bred in a puppy farm.

The Committee submits that animal welfare organisations should take a united approach to the education of the public in relation to these dangers. One option is to establish and maintain a register of facilities that meet basic animal welfare standards. Such a register would assist consumers in identifying facilities with ethical and humane practices and encourage best practice in the commercial dog breeding industry. The Committee submits that such a register could be incorporated into the proposed Register of reputable breeders (see point 2) and could be maintained on behalf of the animal welfare organisations by either the RSPCA, or otherwise in conjunction with local councils.

Another achievable education initiative is the mandatory display of notices by pet shops (such as websites and/or in newspapers where pets are generally advertised for sale) warning members of the public about the risks of purchasing an animal whose origin or breeder is not identified. Such measures would encourage intending purchasers to consider the background of the animal and may compel them to make further enquiries.

The Committee also submits that animal welfare groups could take a united approach through joint preparation of an educational booklet or material which could be distributed throughout a network of animal welfare websites, veterinarians, councils and breeders. Again, the availability of information about the nature of puppy farming and its effects on animals is, in the Committee's submission, an invaluable method of reducing the puppy farming trade.

RETAILERS

The Committee submits that retailers should be encouraged to take responsibility for sourcing puppies from dog breeding facilities that comply with the relevant code of practice, and recognise that this may require additional educational initiatives.

Options for raising awareness and increasing education of retailers include the implementation of a campaign to educate retailers generally about the risks and unacceptability of puppy farming. Further, it could also educate retailers and provide information about how to identify puppy farmers or dogs which may have been sourced from puppy farms.

The Committee submits that animal welfare groups, co-ordinated by the RSPCA, could conduct a series of seminars or publish a fact sheet specifically targeting retailers. As a result, retailers will be in a better position to assist in educating consumers by providing basic information about puppy farms and indentifying reputable breeders.

5. Reporting

In conjunction with increased education of both retailers and consumers, the Committee submits that a more formal framework should be put in place for the reporting of suspected puppy farming operations.

The Committee submits that this could be achieved through establishment of a dedicated email address or phone number with an authority such as local councils, having investigative obligations and reporting requirements to the RSPCA.

Details of the relevant scheme should be the subject of mandatory advertisement in pet shops, online or in newspapers advertising pets for sale. Provision should also be made for anonymous reporting if required.

6. Changes to current legislative framework to make puppy farming a specific offence of cruelty to animals

There has been an increased focus on using legislation to assist and control puppy farming in recent years. In the USA, the 2008 Farm Bill was passed to restrict the importation of puppies under six months of age for resale, thereby limiting the turnover of puppies being on sold by puppy farms^{xi}. Further attempts have been made, with varying degrees of success, to introduce a licensing system that provides greater regulation to commercial breeders^{xii}.

The Committee submits that current Australian legislation should be amended to create a disincentive for puppy farming practices, through changes of the Prevention of Cruelty to Animals Act making puppy farming a specific criminal offence, with increased penalties including both imprisonment and fines. For example, a recent prosecution in Tennessee, USA resulted in a puppy farm operator being convicted on 14 counts of aggravated animal cruelty and 16 counts of misdemeanour animal cruelty, and sentenced to 10 years imprisonment^{xiii}. The Committee submits that The Prevention of Cruelty to Animals Act should deal with puppy farming as an aggravated form of cruelty and impose penalties accordingly.

The Committee is of the view that such changes could be successfully incorporated into existing legislative framework and that these proposed amendments would not require a significant alteration to current investigation and prosecution frameworks.

Conclusion

The Committee has identified a number of bases on which it submits that puppy farms should be eradicated. The Committee reiterates the practice of puppy farming as a cruel, inhumane and exploitative means of breeding animals for profit. A number of suggestions for reducing the incidence of puppy farming have been set out with a view to its overall eradication and the Committee would welcome the opportunity to contribute to further discussion.

NSW Young Lawyers Animal Law Committee

Contributors:

Zuleika Duncombe
Leilah Farahat

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REFERENCES

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