



The Veterinary Institute for Animal Ethics

## **Submission to the Senate Rural and Regional Affairs and Transport Legislation Committee's Inquiry into the *Voice for Animals (Independent Office of Animal Welfare) Bill 2015***

Sentient welcomes the opportunity to comment on the *Voice for Animals (Independent Office of Animal Welfare) Bill 2015*, introduced into the Senate by Federal Greens Senator Lee Rhiannon. We support this Bill with the suggested amendments outlined in this submission.

### **Sentient's view**

As an independent association of veterinarians and associates solely dedicated to animal welfare and ethics, Sentient has long held serious concerns about the inadequacies of the current animal welfare and related regulatory frameworks in Australia. In particular, the scope of laws and their enforcement is undermined by the conflicts of interest that naturally arise when the agencies responsible for administering and enforcing the legislation have, as their core business aims, the promotion and profitability of the industries they are attempting to regulate.

For example, the Commonwealth Department of Agriculture, which administers legislation regulating live export, and the state and territory departments of primary industry that administer animal welfare legislation, have significant conflicts of interest between their dual responsibilities of promoting agriculture and trade, and promoting and protecting animal welfare.

We have seen repeatedly that where the interests of animals conflict with those of industry, animal welfare is the casualty. There have been numerous instances in the live animal export trade where the Department of Agriculture has failed to implement penalties, such as loss of export licences, for serious breaches of the Australian Standards for the Export of Livestock (ASEL), and also of the Exporter Supply Chain Assurance System (ESCAS). The lack of adequate enforcement of animal welfare legislation by the jurisdictions is also well recognized (but is not the subject of this Bill).

For these reasons, Sentient joins other animal welfare organisations in supporting the establishment of an Independent Office of Animal Welfare (IOAW) as a Commonwealth statutory authority with responsibility for animal protection in Commonwealth regulated activities. Although the Commonwealth laws currently have no animal cruelty or welfare offences, the Australian Government has specific powers in relation to external trade and treaties that encompass some animal welfare issues. It also has legislative responsibility concerning the live animal export trade, export abattoirs, and animals in quarantine.

Unfortunately, the current Bill does not propose that the IOAW would administer and enforce those parts of the Commonwealth legislation that have welfare impacts, and as such, does not directly address Department of Agriculture's existing conflicts of interest. It is, however, a powerful first step to manage these conflicts by providing oversight by an independent agency. Additionally, this would send a strong message that such oversight is also needed in the jurisdictions. Ideally, of course, state and territory animal welfare



legislation should be administered and enforced by independent agencies, such as IOAWs, instead of departments of agriculture (as is currently the case).

Furthermore, the IOAW is urgently needed to fill the policy and leadership void that resulted from the Coalition Government's axing of the Australian Animal Welfare Strategy (AAWS), including its advisory committee, in 2013. The aim of the AAWS was to assist in creating a more consistent and effective animal welfare system. Importantly, its working groups had broad stakeholder representation and covered six animal groups:

- [Animals in Research and Teaching](#)
- [Native and Introduced Wildlife](#)
- [Animals Used for Work, Recreation, Entertainment or Display](#)
- [Aquatic Animals Working Group](#)
- [Livestock and Production Animals](#)
- [Pets and Companion Animals](#)

This loss was compounded by the Government's decision in the same year to remove the Primary Industries Ministerial Council (PIMC) from the Council of Australian Governments (COAG). In turn, this led to the dissolution of the Animal Welfare Committee (AWC) that advised it broadly on animal welfare policy and legislation.

While it is true that PIMC was replaced by AGMIN, which seeks advice from the Animal Welfare Task Group (consisting of representatives from departments of agriculture), this arrangement is an informal one between the jurisdictional ministers for agriculture. In addition, its remit is restricted to development and progress of livestock welfare standards.

Sentient would like to see the eventual establishment statutory authorities similar to the IOAW at the state and territory level, but in the meantime, we recommend that the aims of this current Bill be extended to allow the IOAW to harmonise animal welfare and related laws of the Commonwealth, states and territories, as suggested in Section 9, (c) (ix). The IOAW would then also have the role of a policy body and 'think-tank' that, via consultation and discussion, could influence a broader range of animal welfare issues than those for which the Commonwealth government has strict legislative responsibility.

### **Suggested amendments**

Recommendation: expand title – 'A Bill for an Act to establish a Commonwealth statutory authority with responsibility for protecting animal welfare in Commonwealth regulated activities, and for related purposes, ***and to assist in creating a more consistent and effective Australian animal welfare system***'.



## Part 1 – Preliminary

### 3 Definitions

Recommendation: need to include the following - Live Export Advisory Group (referred to in Section 9 (3)(d) (i)); Australian Animal Welfare Strategy (referred to in Section 9 (3) (b)), ASEL and ESCAS (referred to in Section 9 (2)(a) & (b), respectively); and the Department (referred to in Section 9 (4)). 'Livestock Standards functions' should be amended to **regulatory functions**, or a similar term (see comments below for Section 9(2)). Part 2 – Office of Animal Welfare

## Part 2 – Office of Animal Welfare

### 6 Constitution

'The Office consists of:  
(a) The CEO';

Recommendation: IOAW would be best served by an Independent Commissioner (IC) who answers only to a Minister administratively, rather than by a CEO, who is a servant of the government. If this is adopted, all references to CEO in the Bill need to be amended accordingly. Furthermore, the Minister must not be the Minister for Agriculture given the conflict of interest that is inherent in this portfolio. The CI should report administratively to the Attorney General (AG), and if the IOAW is to be housed inside any department, it should be the AG's Department to ensure independence.

## Part 3—Chief Executive Officer, staff and consultants

### Division 1—Functions of the CEO

### 9 Functions of the CEO

#### *CEO's functions*

- (1) 'The CEO has the following functions:  
(a) the Livestock Standards functions referred to in subsection (2)';

Recommendation: the term 'Livestock Standards functions' is potentially confusing. It may be taken to refer to the 'Land Transport Standards', the 'ASEL', or the proposed new Animal Welfare Standards and Guidelines for sheep and cattle. It also does not allude to Commonwealth legislation regulating export abattoirs and animals in quarantine. As such, 'Livestock Standards functions' should be replaced with **Regulatory functions**.

#### *Livestock Standards functions*

- (2) 'The CEO has the following functions (the **Livestock Standards functions**)'  
Recommendation: amend to **Regulatory functions**\*



**\* live export, export abattoirs and animals in quarantine.**

*Reporting functions*

Recommendation: amend (3) (c) to 'undertaking inquiries, commissioning research and preparing reports ~~about~~ **on pertinent** issues **including**:

(vii) the importation of animals and animal products into Australia;

Comment: this must include the importation of ingredients for cosmetics and other substances that include animal products;

(x) animal welfare issues that arise in respect of Model Codes of Practice for the welfare of animals';

Comment: this should read ***animal welfare issues that arise in respect of Standards and Guidelines, and Model Codes of Practice for the welfare of animals;***

(xi) considering academic and scientific research relevant to any of the issues outlined in subparagraphs (i) to (x);

Comment: this must also include monitoring compliance with Commonwealth laws relating to live export and animal welfare, and publishing such reports regularly (eg., tabling in Parliament).

Recommendation: amend (3) (d) to 'undertaking inquiries and preparing reports about the activities and effectiveness of ~~the~~ **related committees including**:

- (i) Live Export Advisory Group; and
- (ii) Office of Animal Welfare Advisory Committee'.

Recommendation: amend (4) (a) to:

- (i) monitoring compliance with Commonwealth ~~animal welfare~~ laws ***relating to live export, export abattoirs, and animals in quarantine;***
- (ii) the enforcement of Commonwealth ~~animal welfare~~ laws ***relating to live export, export abattoirs, and animals in quarantine;***
- (iii) the effectiveness of Commonwealth ~~animal welfare~~ laws ***relating to live export, export abattoirs, and animals in quarantine;***

Furthermore, there needs to be mandatory reporting of animal welfare incidents by the Department of Agriculture to the relevant state or territory regulators to facilitate investigation and possible action under jurisdictional animal welfare laws (currently this occurs only in relation to export abattoirs). The IOAW also needs to ensure compliance with this under Section 9 (4).



## 10 Minister may give directions to the CEO

Recommendation: the Minister involved must NOT be the Minister for Agriculture, and this should be specified throughout the Bill. Furthermore, any directions given to the CEO (or IC, as we recommend) must be restricted to administrative matters and be publicly available.

## Division 3 – Terms and conditions of the CEO's appointment

### 16 Outside employment

Recommendation: 'The CEO must not engage in paid employment outside the duties of his or her office ~~without the Minister's approval~~'.

We submit that the CEO (or CI) should not be permitted to engage in outside employment, as this has the potential to detract from the position. This still allows the CEO to give lectures etc. in his or her official capacity, as long as no payment is received.

### 17 Disclosure of interests

Recommendation: ***The CEO must not have commercial interests in any animal industry or trade regulated by The Department of Agriculture.***

## Part 4 – Office of Animal Welfare Advisory Committee

### 25 – Functions of the Committee

'The Committee has the following functions:

- (a) at the request of the CEO – to report to and advise the CEO in relation to any of the CEO's functions referred to in section 9';

Recommendation: add: ***'and be able to initiate giving advice to the CEO (or CI)'***

### 26 – Membership of the Committee

'The Committee consists of the following members:

- (a) the CEO;
- (b) each of the following:
  - (i) 3 members representing non-governmental animal welfare organisations;

Suggestion: This must include RSPCA Australia and Animals Australia

- (ii) 1 member representing consumer groups;
  - (iii) 1 member representing scientists specialising in animal welfare issues;

Recommendation: as most animal and veterinary scientists are funded by industry, it may be difficult to find an independent person.

Notwithstanding this, the member should be an animal or veterinary scientist who is independent of industry and has demonstrated expertise





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in animal welfare research, teaching or advocacy, and has related higher qualifications;

- (iv) 1 member representing ethicists specialising in animal welfare issues;
- (v) 1 member representing the Department;
- (vi) 1 member representing commercial producers, or commercial purchasers, of animals or animal products;

Recommended addition:

- (vii) 1 member representing the veterinary profession;**

(c) not more than 2 other persons, as the CEO considers appropriate’.

Recommendation: add a clause that no more than 50% of members may be affiliated with industry to ensure a balance on the Committee.

## 27 – Procedures of the Committee

This section lacks any mention of how the Committee will operate. For instance, will decisions be reached by vote or by consensus? If decisions are reached by voting, the balance of the committee will be crucial. Will the CEO/IC have the deciding vote? It may be worth considering the consensus system outlined in the Australian Code for the Care and Use of Animals for Scientific Purposes (8<sup>th</sup> edition, 2013)<sup>1</sup>. This would appear to be a more sophisticated approach to deciding on issues of animal welfare due to their typical complexity, and also offers a model that facilitates discussion, learning and openness to change.

Regards,

Dr Rosemary Elliott,  
President, on behalf of Sentient, The Veterinary Institute for Animal Ethics

10<sup>th</sup> August 2015

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[https://www.nhmrc.gov.au/\\_files\\_nhmrc/publications/attachments/ea28\\_code\\_care\\_use\\_animals\\_131209.pdf](https://www.nhmrc.gov.au/_files_nhmrc/publications/attachments/ea28_code_care_use_animals_131209.pdf)

