



PEOPLE FOR
THE ETHICAL
TREATMENT
OF ANIMALS

Australia

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**SUBMISSION ON THE VOICE FOR ANIMALS
(INDEPENDENT OFFICE OF ANIMAL WELFARE)
BILL 2015**

3 AUGUST 2015

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A. *About PETA Australia*

People for the Ethical Treatment of Animals (PETA) Australia is the local affiliate of the world's largest animal rights organisation, PETA US, which has over 3 million members and supporters worldwide. PETA is dedicated to establishing and protecting the rights of all animals, and operates under the simple principle that animals are not ours to eat, wear, experiment on, use for entertainment or abuse in any way.

PETA Australia works through public education, cruelty investigations, research, lobbying, celebrity involvement and protest campaigns to focus international attention on the exploitation and abuse of animals for their flesh, for their skins, as living test tubes in laboratories, and for "entertainment".

B. *General Comments on the scope of PETA's response to the Bill*

The Senate Rural and Regional Affairs and Transport Legislation Committee has invited PETA Australia to provide a submission as part of the Committee's inquiry process regarding the proposed Voice for Animals (Independent Office of Animal Welfare) Bill 2015. PETA's comments on the Bill are below.

Save for the handful of comments found at the end of this submission regarding specific sections in the Bill, PETA's observations regarding the nature and likely operation of the Bill are necessarily general in nature. The practical functioning of an Independent Office of Animal Welfare (IOAW) will inevitably evolve over time and PETA acknowledges that the scope of the current proposal addresses foundational elements such as establishment and core powers and functions. PETA has not addressed the procedural or mechanical aspects of the Bill in the below proposal; omission to comment on any particular such aspect or any of the proposed sections should not be inferred by the Committee to evince PETA's automatic endorsement of that aspect.

PETA's position on the Bill overall is one of support. We believe that the establishment of an IOAW is essential and justified, for the reasons outlined below, and a promise to the Australian public long overdue to be fulfilled.

As the Committee knows, PETA is an animal rights, rather than animal welfare, organisation. The core values contemplated by the "animals are not ours" mission statement detailed above mean that PETA urges every individual to embrace the adoption of a vegan lifestyle and the avoidance of choices that cause or can cause animals suffering. In short, when there is a kind option and a cruel option, we urge consumers to choose the kind one. Accordingly, PETA's position is that since it is impossible to exploit animals for human interests on the current scale of demand in a way that avoids suffering, animals should not be exploited for human interests in any way. PETA will always champion an animal rights approach and encourage consumers to turn away from animal-exploiting industries; while such exploitation continues, however, PETA concurrently works to minimise animal suffering. We therefore provide our comments in this submission on the potential of the proposed IOAW to work toward that end.

We support the passing of this Bill and urge the Committee to adopt a stance recommending this.

C. PETA's reasons for supporting the passing of this Bill and establishment of the IOAW

- 1. The Australian public is increasingly vehement in its demand for substantive change and real protection for animals.** It is plainly evident across the range of socio-political spheres that Australians are prioritising positive animal welfare outcomes on a daily basis.

As consumers, we are giving increasing weight to animal welfare considerations in our purchasing choices; as constituents, we are becoming increasingly vocal to our political representatives regarding the changes we want to see in the treatment of animals confined for human interests. The consumer realm is responding – farmers, manufacturers and retailers are tailoring their processes and products to conscious consumers, spruiking ‘higher welfare’ options and moving to phase out practices and housing conditions that are most intolerable to the consuming public.

But those steps are mostly piecemeal and inadequate to introduce meaningful, real change for animals’ lives and daily experiences, and the public knows it. It is a universally accepted value that animals confined, raised and killed for human use should live and die as ‘humanely’ as possible, but Australians’ faith in government and industries’ ability – and indeed willingness – to work towards that goal has been steadily eroded by an unbroken stream of revelations of not just malicious abuse but industry-wide failures to uphold minimum standards of care across farmed animal industries at home and abroad. That those revelations exclusively come from animal protection groups rather than any party proclaiming to care for ‘their’ animals is one of the key reasons for the public’s disillusionment with government and industries’ welfare efforts and highlights the urgent need for establishment of the IOAW.

The need for an independent overseer of animal welfare concerns will only continue to sharpen and grow in line with the public’s awareness of and concern for the treatment of farmed animals, and the role of such an overseer will inevitably expand beyond its current iteration in departments of agriculture – since, as outlined below, such departments are currently unable to adequately fulfil such a role, those failings will only become more apparent over time. The need for the IOAW is therefore immediate.

- 2. Animals currently have no advocate dedicated to their interests, and are being comprehensively failed by current structures.** The current system of animal welfare regulation and monitoring is woefully outdated and in need of fundamental restructuring that not only reflects the public’s shifting priorities but also demonstrates to the public that animal welfare needs are being independently considered and diligently addressed.

The current federal government is unapologetic in its relegation of animal welfare considerations to a matter of the lowest priority. The already paltry funding and

support for the Australian Animal Welfare Strategy has been withdrawn, the advisory committee disbanded, and the initiative wholly abandoned, allowing the federal government to effectively wash its hands of all welfare matters relating to animals within Australia and shunt all responsibility back to state and territory governments.

The federal government has instead turned its focus to bolstering initiatives that guarantee adverse welfare outcomes, seeking out new live export markets in countries with non-existent animal protection regimes and ignoring overwhelming evidence from existing markets that exported Australian animals are being handled and killed in ways repugnant to the Australian public.

The disconnect between government and industries' repeated claim that Australia is regarded as a "world leader in welfare practices", and the reality of where Australia is positioned on the global spectrum of meaningful protections for animals, is stark. World Animal Protection's Animal Protection Index, which ranks countries for their animal protection commitments and policies, classifies Australia with a C grade – putting it on par with Malaysia, India, the Philippines and France; countries such as New Zealand, Germany, and Chile are considered to outrank Australia in this regard.¹ It is worth noting that this mediocre grading was evaluated before the government abandoned the task of implementing national model codes of practice; perhaps we would now be downgraded to a D classification, joining Japan, Korea, Tanzania, Romania and Mexico in an acknowledgement of our inexcusable foot-dragging when it comes to actual reform.

One of the key reasons why Australia is seen as middling in our commitment to genuine animal welfare protections is our inertia in addressing some of the worst aspects of current farming practice that much of the industrial world has already phased out. Systems such as sow stalls and battery cages are now illegal throughout Europe yet remain broadly tolerated and unaddressed by Australian laws and industries. Rather than being, and being seen, as at the forefront of animal welfare, as a nation we are falling behind, failing the animals and failing the Australian people. Establishment of the IOAW would empower a body comparatively free of the federal government machinations that insulate rather than actively examine animal suffering and abuse. It would, as the Bill's title strives towards, give a voice to the millions of animals who live and die each day in Australia without any federal body championing their cause.

3. **Departments that currently have animal welfare policies and laws in their portfolio are conflicted out of administering them in any meaningful way.**
 - a. **The view that departments of agriculture can effectively address both industry and animal welfare concerns is fatally and demonstrably flawed.** The ministries and departments currently responsible for administering animal welfare measures at both a federal and state level are predominantly tasked with promoting and protecting agricultural industries

¹ See World Animal Protection Animal Protection Index API, accessible at http://api.worldanimalprotection.org/?_ga=1.248805575.175419997.1437553962

that cause the most widespread and ongoing animal suffering. All such departments make no secret of the fact that their first and foremost goal is to protect farmers' financial interests; instead they proclaim this with pride, and remain comfortable and complacent limiting their efforts on the welfare front to the occasional dismissive morsel of lip service when particularly egregious abuses are brought to light. The federal Department of Agriculture barrels on in its quest to expand Australia's live export trade, brushing aside the torrent of horrific abuse revelations from various destinations as fixable aberrations, wilfully astigmatic about the impossibility of effectively regulating the treatment of Australian animals in foreign countries.

The ingrained conflict of interest means that the misery and suffering that the vast majority of farmed animals experience throughout their lives is accepted as the 'necessary' norm by governmental departments tasked with minimising it; there is currently no dedicated body with a mandate to prioritise the interests of farmed animals. When government departments are tasked with both expanding and protecting animal industries at the same time as not just holding them accountable for the consequences of their actions but also pushing for reforms that would lead to improved welfare outcomes, protection of industry always wins out, as demonstrated by the last few decades of government torpor and buck-passing in this area.

- b. **The recent AAWS reform proposals illustrate the inescapable hazards of these conflicts.** A recent illustration of the consequences of this intimate relationship is the drafting and decision-making processes involved in the now-abandoned development of the Draft Australian Animal Welfare Standards and Guidelines for Sheep, and the sister guidelines relating to cattle. The proclaimed aim of both documents was to improve welfare outcomes for the animals; stating such an aim was as far as the drafting process and resulting documents went in contemplating real improvement. The drafting committee unabashedly acceded to industry influence in both the overall parameters, structure and classification of the proposed standards and guidelines, and also demonstrated throughout the specific standards themselves that the documents were written by and for the industries purported to be ultimately regulated by them. Pecuniary interests and the efficiency of shortcuts in large-scale farming operations tainted virtually every aspect of the process and the proposed regimes.

The consultation and drafting process for the documents actively strove to exclude welfare stakeholders; the RSPCA objected to the lack of meaningful participation afforded to the welfare groups consulted,² and a member of the drafting committee bemoaned that reviewing public comments on the documents would be burdensome as "welfare organisations will propose contrary positions to what is in the standards and they will mobilise their members to participate in public

² Sabina Locke, "RSPCA attacks proposed animal welfare standards", ABC Rural, 25 October 2012

consultation”.³ Instead of taking note of such widespread objection as an indicator that the proposed standards fell short in their stated aim of improving welfare outcomes, representatives from the committee took the position that “[i]t's important that the livestock industries have ownership of these standards and guidelines”,⁴ and surrendered to industry demands that many of the most essential and fundamental minimum standards of care outlined in the documents be relegated to the status of unenforceable “guidelines”. The Regulatory Impact Statement published in association with the documents pertaining to sheep noted that “[t]he non-enforcement of the recommendations (guidelines) is a fundamental premise on which industry engagement and support for this process is based.”⁵

The urgent need for the IOAW is obvious; without an independent body focused on advancing the basic needs of farmed animals, industry will continue to have little trouble engineering and perpetuating legislative regimes that allow them to write their own rule books and ensure that any inconvenient or economically unattractive practice that might alleviate suffering is classified as a luxurious choice rather than an imperative.

- c. **The IOAW is essential to ensuring that animal welfare mandates are afforded a greater degree of political continuity and consistency.** Leaving animal welfare concerns in the hands of partisan agricultural ministries also leaves animal welfare matters vulnerable to the muddled lobbying about of portfolios that can occur in periods of transitioning and restructuring.

The handling of PETA US’ complaint regarding abuse in Victorian shearing sheds is a prime example. At the time of the complaint’s submission, investigation of breaches of cruelty laws powers was vested in the then Department of Environment and Primary Industries in Victoria – already a problematic scenario for the reasons above, with inbuilt concerns about the ability of a department tasked with protecting agricultural interests to freely conduct an independent and vigorous investigation. More than a year after the complaint was submitted, it is still being investigated, but following the restructure of Victorian ministerial portfolios, now by the Department of Economic Development, Jobs, Transport and Resources. That the public is expected to believe that a Department tasked not just with protecting farming interests but also fostering job growth, administering industrial relations, promoting tourism, regulating Victoria’s ports, and promoting road safety is the optimal warden of farmed animals’ interests is absurd.

While the limited functions of the proposed IOAW mean that the above scenario would not necessarily see improvement upon its establishment, having a permanent, dedicated federal body tasked with review and

³ Deanna Lush, “Short time to consider welfare laws”, *The Land*, 15 September 2012.

⁴ *Ibid.*

⁵ Animal Health Australia, ‘PROPOSED AUSTRALIAN ANIMAL WELFARE STANDARDS AND GUIDELINES – Sheep – Consultation Regulation Impact Statement’, p 21, available at <http://www.animalwelfarestandards.net.au/sheep/consultative-process/>

reporting on laws and processes specific to animal welfare is a step in the right direction.

- d. **The RSPCA is not, and can never be, an adequate stand-in for a dedicated federal body tasked with championing reform and enforcement.** It is worth addressing here the inevitable argument that the proposed Office is unnecessary because animal welfare concerns and breaches are already adequately addressed by bodies such as the federal and state RSPCAs. While it is true that in some areas the RSPCA is empowered to investigate and enforce cruelty laws (though not in many cases instances of cruelty to farmed animals, where suffering occurs on the largest scale), by their own admission the RSPCA is perpetually underfunded and –resourced and subject to a barrage of industry and political pressures to both stay silent on matters that farming interests feel entitled to entirely self-regulate and also to shy away from prosecutions that would have wider potential consequences for established industry practices. While the establishment of an independent Office would not supplement prosecution and enforcement functions, it is essential to analyse and report on farmed animals’ experiences comparatively free of these pressures and to push for reforms that are unpalatable to industries chronically resistant to change. In sum, the IOAW can be a driver of policy in a way and to an extent that charities like the RSPCA cannot.

4. The IOAW would fulfil crucial roles currently absent from governmental functions. PETA’s observations above regarding the need for the IOAW focus on the problems and shortfalls of the current state of affairs; we have outlined below our further observations not just regarding the void it would serve to fill but also what such an Office could potentially achieve and contribute to Australia’s treatment of animal welfare matters in its overarching roles of promoting reform, working to harmonise disparate federal and state regimes, and holding government accountable for its actions to address welfare concerns.

- a. **Independence.** The IOAW would stand as an independent proponent of welfare-focused policy and action and provide a perspective on those matters comparatively untainted by political and industrial maneuvering. This benefit is a plainly obvious one and crucial for the reasons already outlined in detail above.
- b. **Crucial federal focus.** The IOAW’s main focus would be exercising its duties and powers in relation to federal legislation that affects animal welfare – in particular, as explicitly contemplated by the Bill, reviewing and monitoring live export standards and ESCAS, and policies relating to the commercial slaughter of kangaroos, as well as various functions in relation to the Commonwealth’s animal welfare policy overall. It would therefore be a driver of reform and improvement in some of the areas that most sorely need it – even those who profit from the live export industry would be hard pressed to argue that the Commonwealth government is reacting to the increasingly apparent failings of the current system in a way that satisfies either side of the debate.

- c. Harmonisation and consistency.** As touched on above, both farming interests and animal welfare groups lament the structure of the current regime that sees the vast majority of welfare-related matters legislated at a state and territory level. The fragmented laws and policies foster uncertainty and hinder attempts for nationwide reform, as well as confident application of such laws in enforcement, prosecution and sentencing contexts.

While the IOAW will not be taking on any drafting or enforcement functions currently vested at a state level, nor principally be focused on reviewing and shaping state-level welfare laws, it will nonetheless be positioned as a shaper of welfare policies nationwide and as the Bill notes may conduct inquiries and prepare reports regarding the possible harmonisation of federal and state-level welfare laws. Such priorities have been actively rejected by the current federal government and their reinstatement would open up a discussion of the importance of welfare concerns across the board, as well as potentially highlighting where various state and territory laws fall conspicuously short of the national public's expectations. Taking up the mantle of continuing to develop the discarded Australian Animal Welfare Strategy could also result in some improvements for farmed animals if the Office were successful in truly positioning welfare concerns as a central priority of the strategy and were able to shepherd into being a strategy that reflected the national public's desire for meaningful reform.

- d. Transparency.** An area of omnipresent and growing frustration for animal protection groups and the consuming public alike is the secretive manner in which federal government agencies and industry bodies conduct themselves or are perceived to conduct themselves in relation to decision-making processes and responses to inquiries and crises. The federal government is going to increasingly outrageous lengths to shield itself from scrutiny when it comes to such matters as the handling of asylum seekers and detained refugees, and with the Committee's recent recommendation that the repugnant Criminal Code Amendment (Animal Protection) Bill 2015 be passed with one minor amendment it is evident that government intends to further protect itself and industry from scrutiny in this arena as well.

The establishment of the IOAW is essential to shine at least some light in the darkest corners of animal-exploiting industries. It will through its research, review and reporting functions provide crucial insight into the functioning and inevitable failings of ESCAS and other attempts at assuring welfare in the live export industry, a welcome contrast to the current government and industry goal of strangling the flow of relevant information to the public. That its functions in this area will extend to scrutiny of and reporting on all aspects of federal welfare policies will provide at least some assurance to the Australian public that a comparatively objective eye is being cast over the federal government's policies and practices applicable to the animals confined for their consumption.

- e. **Standing as a key centralised information resource.** The Bill notes that one of the CEO's functions will be to make the Office a Centre of Excellence, acting as a custodian and distributor of information about federal welfare issues. The range of potential benefits that development of such an asset could create is diverse: demonstrating to foreign trading partners that Australia is taking steps towards the goal of being a world leader in animal welfare in action rather than just words; bolstering the Australian public's confidence in the setting of federal welfare policy knowing that knowledgeable advisors had provided meaningful input; providing a consistent touchstone for the states and territories in reviewing and adapting their welfare policies; providing a solid foundation of material from which all stakeholders could generate frank, informed debate, and beyond.

One of the key benefits that establishing the Office as a Centre of Excellence may provide is working towards the goal of ensuring that the Minister is provided with relatively objective, evidence-based advice, in contrast to the current practice of allowing industry to drive policy-setting based on economics, convenience, and tradition. Industry conventionally dismisses animal protection groups' and the public's objection to standard farming practices that cause immense suffering on the basis that those objections are based in "emotion" rather than "science". In reality, however, actual rigorous scientific enquiry, analysis and input are rarely prioritised in the setting of national welfare policies, and certainly not in the context of focusing on the science of farmed animals' capabilities, experiences and capacities for physical and emotional suffering.

As we saw most recently illustrated in the development of the draft AAWS related to sheep and cattle, decision-making committees and drafting bodies are typically populated by industry stakeholders, with token consideration given to the input of welfare groups, veterinary associations, and animal scientists alike. Where scientific enquiry is undertaken, even where publically funded, the parameters are crafted by industry to ensure the topics pursued and conclusions reached will support rather than challenge the status quo. Moreover the findings of many studies that are conducted remain unavailable to the public and shielded from peer review. PETA hopes that the Office's proposed information resource functions will serve to remedy these issues. Further considerations of proposals such as the establishment of a dedicated 'Australian Animal Welfare Research Centre' subdivision within the Office, a version of which was contemplated by the AAWS R&D Advisory Group's 2007 report,⁶ are warranted.

⁶ Australian Animal Welfare Strategy Research & Development Advisory Group, 'Animal Welfare R&D for Australia – The Path Forward', 20 November 2007

D. Comments on particular proposed sections of the Bill

As noted at the outset PETA supports the passing of this Bill and the establishment of the IOAW. Our few comments on specific provisions of the Bill are as follows:

1. **Section 10: Minister may give directions to the CEO.**

Section 10 provides that the Minister may, by legislative instrument, give directions to the IOAW CEO about the performance of the CEO's functions, and that the CEO must comply with such directions. While the section does note that such directions "must be of a general nature only", the potential for abuse of this power does give us pause and we believe it is worth considering some further clarification or limit-setting in regards to this section.

For instance, "The CEO is not to exercise any of the CEO's functions as they might apply to the farming of pigs" is a direction of a general nature. While that is perhaps a fanciful example unlikely to transpire, it is an illustration of the potential for the abuse of this power with a view to undercutting the core mission of the Office, given that the CEO is obligated to comply with the given directions and has no explicit avenue of administrative appeal contemplated in the Act.

2. **Section 20: Termination of appointment**

Section 20 provides that the Minister may terminate the appointment of the CEO for, among other things, "misbehaviour". PETA's view is that while an exhaustive list of scenarios that might qualify as misbehaviour of course cannot and should not be included in this section, an illustrative one characteristic in statutes containing such ductile terms should be considered, to inject some objectivity into the assessment. This would be especially beneficial given s 10 discussed above – presumably the CEO's refusal to comply with directions given under that section that the CEO considers to be unreasonable or given in bad faith could, absent clarification, constitute misbehaviour here.

Subject to the above comments regarding ss 10 and 20 PETA urges the Committee to recommend passing of the Bill. PETA hopes that the establishment of the IOAW will be a springboard for much-needed nationwide reform that introduces at least a little relief in the lives of Australia's farmed, confined and abused animals.