Animal Defenders International
261 Goldhawk Road, London, W12 9PE
Tel. 020 8846 9777 Fax. 020 8846 9712
Email. campaigns@ad-international.org www.ad-international.org

Memorandum of Evidence: Animal Welfare Bill 2005
for the
Environment, Food and Rural Affairs Committee (EFRA)

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1. EFRA has invited interested parties to submit brief written evidence on the Animal Welfare Bill, asking that comments should be confined to any significant differences between the draft version and the Bill now presented. Below is the contribution from Animal Defenders International (ADI).

Clause 1: Animals to which the Act applies

2. This clause holds on the inclusion of cephalopods under the proposed Act. This is inconsistent with the Animals (Scientific Procedures) Act 1986. Since the Government's stated purpose with this Bill was to draw together disparate pieces of legislation and bring consistency and modern thinking into animal welfare law, this omission seems illogical.

3. Whilst ADI supports the provisions in Clause 1 that will allow other species to be included at a later date, it would seem logical to ensure that the new Act is up-to-date and in line with other legislation when it is first passed.

Clause 4: Unnecessary suffering

4. The section has changed considerably and although many of the changes appear to represent a tidying up, we are deeply concerned at the insertion of a new paragraph 4(3)(d); an industry-protection measure in an Animal Welfare Act – we refer to the insertion of the phrase "proportionate to the purpose of the conduct".

5. For many animals, this will negate the protection of the Act and continue the situation as it stands. For example it is currently legal to beat an animal in a circus (or to perform for film or TV) until it complies with what the trainer wants; it only becomes illegal if the trainer/handler continues to beat the animal after it has complied. This particular scenario was tested at the trial of Mary Chipperfield Cawley and her husband Roger Cawley (both were convicted of cruelty to other

animals). The court watched the violence used to train camels, guanacos, and elephants, and noted that, although those present did not like what they saw, it was currently legal. Likewise the violence caught on film with various other trainers (circuses and performing animals industry) remains legal.

6. An Animal Welfare Act should not allow that some level of beating, meted out as an industry norm (when no life is in danger) is "proportionate".

7. The purpose of this act is surely to bring a logical consistency towards the treatment of animals across various industries; provisions for this are dealt with in the licensing and proposed codes of practice.

8. It is entirely unnecessary and, we would argue, a significant shift in policy since the Draft, to make provision for suffering and violence in the commercial use of animals for the purposes of entertainment.

Clause 7: Fighting

9. ADI concurs with the query raised by the Royal Society for the Prevention of Cruelty to Animals (RSPCA) about this section – Defra needs to clarify whether there is a possible loophole with regard to viewing recordings of animal fights.

Clause 8: Duty of person responsible for animal welfare

10. This section has been significantly weakened since the Draft Bill. Section 3 in the Draft made specific and clear provisions which have disappeared, or been merged and weakened:-

11. 8(2)(e) has lost "diagnosis and treatment" – we would regard this as a significant loss since lack of veterinary care for animals travelling with circuses is a major problem. Animals with circuses travel when pregnant and give birth on the road; when injured or sick, animals are frequently treated by workers (ADI has videotaped evidence of this).

12. 8(2)(d): the emphasis on the need of group or herding species to live with members of their own kind has been lost – the company of an animal from a completely different species may be no company at all. Circuses frequently keep inappropriate animals together, or in sight of each other.

13. 8(3): This section has weighted the Act in favour of industry protection rather than animal protection. In place of the "abandonment" section in the Draft Bill, we have a clause about the purpose of the use of animals, rather than the protection of animals. Again, this is an inappropriate and unnecessary change of direction – a significant policy shift.

14. A recent MORI opinion poll has shown that the public unequivocally opposes the use of violence in the training of performing animals. Therefore anything that would be deemed cruel when done by an individual should also be illegal when carried out during training for a performance.

Clause 10: Regulations to promote animal welfare

15. Section 6 (2)(a) to (2)(c) in the Draft Bill provided a description of protection for animals in specific industries, followed by an outline of the basic needs in the construction of accommodation. Although what is now written is a broader 'catch-all' which might appear to be an improvement in that it allows for new uses of animals in the future to be included, it is in fact a significantly weaker proposal as a whole.

16. Subsection (2)(l) and (m) have been removed completely. These allowed for the consideration of the welfare of animals in light of a ***type of commercial use****:*
– provision for prohibiting the keeping of animals of a specified kind in specified circumstances;
– provision for prohibiting the use of animals of a specified kind for a specified purpose.

17. The removal of these provisions in the new Clause 10 means that no matter how much evidence might be put forward from studies, that there are some circumstances where animals simply should not be used because would do so would inevitably expose them to harm or suffering – there is no provision to act globally to protect them.

18. Any future regulations will be unable to achieve any significant affect n the way animals are treated. This appears to be at odds with the views of the public, Members of Parliament, and even suggestions by EFRA after its review of the Draft Bill.

19. To rely upon case law to build protection for these animals (as has been suggested) would leave many animals exposed. For example, most zoos in the UK agree that it is not possible to keep polar bears in the zoo environment in a way that keeps them healthy and happy, both physically and mentally. Responsible zoos do not keep them. But irresponsible, low-grade operations calling themselves zoos can continue to keep such animals.

20. In the case of travelling circuses it has been shown over the course of many studies that, given the circumstances, it is simply not possible for travelling circuses to provide their animals with the space, environmental enrichment, companionship, and diet that would provide good welfare and maintain them in a healthy and happy condition. For example, animals must be loaded onto transporters when the circus breaks down to move on. Although the journey may only last for a few hours, the animals must stay in their transporters until the workers have completely set up the big top and stable tents, usually the next day. This has resulted in animals remaining in their transporters of periods of up to 30 hours (which would be unacceptable if they were farm animals). The very circumstance of the travelling circus industry drives the abuse.

21. The changes made in this new Clause 10 will create a situation where basic standards of animal welfare are different across different industries, which is confusing and illogical. We believe it will cause confusion amongst the general public, and possibly result in contradictory decisions by magistrates in different areas.

22. To allow for significantly differing standards of welfare does not draw together the legislation, update it and make it consistent, as the Government intended.

23. Subsection 10(c) makes provision for the establishment of one or more bodies with functions relating to animal welfare advice, and follows on from 6(q) in the Draft. Although this is not a change as such, and we support it in principle, we are concerned that there is no clarification in the Explanatory Notes. A body such as an Animal Welfare Committee would need authority to draft up codes and progressively move forward the legislation in line with current scientific knowledge. However, the Government's intention is unclear and in the light of the removal of key elements of the "regulation" section, more detail is urgently needed.

Clause 11: Licensing and registration (and Clauses 21-23)

24. We believe that the current provisions for both licensing and registration are confusing. There should be just one, simple, system that everyone can understand. We strongly favour one simple licensing system with attendant regulations.

25. Regulations and codes of practice to protect the welfare of animals should not be derogated for the reason that an individual, a small business, or a small sanctuary does not have the means (either financial or organisational) to reach the standard. This is to be an Animal Welfare Act. If an enterprise cannot attain acceptable standards of animal welfare, they should not be allowed to keep animals.

Clause 12: Codes of practice

26. If these codes are to have any meaning, they must be consistent across the different industries covered by this Act.

27. It is illogical and confusing to both public and industry if different standards are made for different industries. For example the transport regulations for farm animals prohibit some of the common practices found in travelling circuses. Regulations for animals kept in zoos, or as hobby pets such as show ponies or dogs, should not be significantly different from animals kept in circuses or with other performing animal suppliers.

Clause 30: Disqualification

28. ADI is in support of the view of the International League for the Protection of Horses (ILPH), that paragraph 30(2) sub paras (a) to (d) should include the words "or using". This would have the effect of preventing someone disqualified from keeping or owning a horse, from riding it as well – this is an important protection.

Regulatory Impact Assessment, Annex A:
Proposal to regulate trainers and suppliers of performing animals

29. Para 2 states that: *"Defra veterinarians consider that there is a lack of scientific evidence to support the view that any particular form of entertainment involving animals is by its very nature cruel and therefore should be prohibited. However, there is a considerable amount of anecdotal evidence that suggests that welfare standards in some instances fall below acceptable standards."*

30. However, successive studies and filmed observations have shown that welfare of animals in circuses is severely compromised: Kiley-Worthington in 'Animals in Circuses', 1989, found that all species observed exhibited signs of abnormal behaviour and that some were shut in their wagons for over 90% of the time. Creamer & Phillips in 'The Ugliest Show on Earth', 1998, found that various species spent 75-99% of their time in their wagons (dependant upon species, from horses to elephants).

The current situation:

31. The current Bill fails to address the fact that voluntary industry codes of practice have failed to prevent any of the abuses exposed within the performing animals industry. Our opposition to the proposed circus industry code can be summarised thus:-

    - the code put together by the Association of Circus Proprietors (ACP) and being proposed for the circus industry has been written by a ringmaster who saw nothing wrong in the actions of Mary Chipperfield Cawley at her trial, yet Cawley was subsequently convicted of cruelty;
    - the code is long on concept and short on detail – it is fanciful and unrealistic;
    - the ACP only represents a minority of the circus industry in the UK – not all circuses are members;
    - the ACP has no money, infrastructure or power to regulate the industry or enforce standards;
    - the Cawleys were both members of the ACP until their conviction.

32. Roger Cawley was in fact a Government Zoo Inspector at the same time that he was instructing his elephant keeper to keep his own elephants permanently chained in a barn, with no exercise. Voluntary codes have been tested in the industry and found wanting – it is only legislation with teeth that will genuinely protect these animals.

Travelling circuses versus other performing animal suppliers

33. It is necessary to differentiate between commercial animal training centres (for TV, advertising, films etc) and travelling circuses. It is now generally acknowledged that it is not possible to adequately provide for the needs of animals if they are living in temporary accommodation and moving locations from week to week for most of the year. Static circuses on permanent sites, however, should in theory be able to raise their standards to those at least equally zoos.

34. Nevertheless an enormous amount of evidence remains on videotape depicting the violence that is generally used to maintain control over performing animals, in particular, exotic (or wild) animals, especially those considered dangerous. In order to get these unwilling animals to move from one mark to another on a film set, it is considered necessary to whip, hit, shout, scream, beat, deprive of food or intimidate them in some way. This needs to be addressed clearly and separately to the issue of animals in travelling circuses.

35. Many trainers have moved from circuses to supplying animals for television, advertising and the movie industry, taking with them the same attitude and practices in training and animal husbandry. Eradicating the inevitable animal suffering of the travelling circus is a simple step, but steps must also be taken to eradicate social deprivation, abuse and violence in the performing animal industry as a whole.

Jan Creamer and Tim Phillips
Chief Executive **Campaigns Director**
Animal Defenders International