

37 Gawler Crescent
DEAKIN ACT 2600
02-62731054/0427975500
dijohnstone@bigpond.com
25 May 2008

Animal Welfare Standards Public Consultation
PO Box 196
DICKSON ACT 2602
consultation@animalwelfarestandards.net.au

Dear AHA

I am writing as an RSPCA member, and in my private capacity, to comment in the public consultation process about the Draft Land Transport Standards and the accompanying Regulatory Impact Statement (RIS).

Draft standards

I strongly support all RSPCA positions for changes to the Draft Standards and in particular that the following requirements be reflected:

- That time off water is reflected in the species-specific Standards as the 'normal time' with exceptions only permitted following additional considerations for longer travel.
- That all people in the transport process must be aware – or made aware – of the time that animals have been without water, regardless of the time to be travelled, and take appropriate measures to ensure that the maximum time allowed off water is not exceeded.
- That the Standards must allow for a pre-transport spell period (i.e. water and rest) to be provided to the following categories of animals, where it is in their interest to transport them: livestock that are pregnant, have recently given birth, are lactating or with young at foot; immature livestock as defined for each species; livestock mustered from extensive areas or that are unaccustomed to handling; livestock that are stressed or fatigued from mustering or handling; and weak livestock.
- That the loading density tables currently included in the species-specific Guidelines be included in the relevant species' Standards.
- That the vertical clearance clause be strengthened so that, if an animal has to stand with its head down, then at least its back or withers do not come into contact with overhead structures.
- That this Standard includes dragging of animals by one leg and that the exception for sheep, goats and pigs under three months old be removed.
- That the use of electric prodders be banned in favour of alternative handling aids such as flappers, rattlers, or canes with flags and other low-stress stock-handling techniques.
- That humane destruction be carried out immediately or, if not, at the first opportunity and in the interest of the animal concerned. All efforts must be made to avoid unnecessary handling of moribund animals that are unable to walk.

I also address two specific issues below.

Bobby calves

I am concerned at the ability of these very young and vulnerable animals to withstand the rigors of transport and that they are often transported in sub-standard vehicles. I strongly support the RSPCA position that the minimum age at which bobby calves can be transported should be at least 10 days old, that the time interval between farm and abattoir should not exceed 10 hours and, regardless of destination, that they should be transported in vehicles that provide them with thick bedding and room to lie down. The livestock producer argument of additional cost (presumably to feed and house the calves for a longer period and upgrade transport) does not stand up against the significantly greater cost to these young animals on animal welfare grounds of being transported at 5 or even 8 days.

2.

Definitions

On the definition of “risk to welfare of livestock”, I strongly support the view of animal welfare agencies that the definition should include reference to “pain and suffering”. There should also be a definition of “reasonable”, which appears in a number of definitions, including in “reasonable action”. Without such a definition, the use of “reasonable” as a defence on animal welfare complaints is wide open to abuse.

Regulatory Impact Statement

The RIS indicates the intention of the proposed standards is to “establish a basis for developing and implementing consistent legislation and enforcement across Australia” and that “there is likely to be a net benefit to livestock welfare as a result of the implementation of the proposed standards”. The Draft Standards could indeed deliver additional animal welfare benefits, but for this to happen there needs to be a legislated approach to the standards and guidelines, adequate enforcement of provisions and national legislation.

Legislated approach to outcomes

As indicated in the RIS, “State and territory governments have the main responsibility for implementing animal welfare law” and “if endorsed by the Primary Industries Ministerial Council (PIMC), (the standards) will be adopted or incorporated into regulations by the various jurisdictions, after which compliance with the standards will become mandatory”. However it is not intended that Ministerial agreement be sought to regulate guidelines.

While national standards are a welcome development, there will not be “a net benefit to livestock welfare” if the standards and guidelines are neither endorsed nor enforceable. Thus it is imperative that there be a recommendation to the PIMC that the PIMC endorses the standards and any unregulated guidelines be regarded as interim, to be reviewed at future PIMCs against an ongoing agenda of endorsing guidelines as standards.

Resources

There will be no “net benefit to livestock welfare” if there are inadequate resources to enforce a legislated outcome. The RIS states that “most state and territory departments advise that there is unlikely to be any significant increase in enforcement costs of the proposed standards relative to the base case”. This is very worrying as it appears to indicate that governments see no need to increase enforcement resources that are currently inadequate. In the RSPCA’s excellent account of issues for land transport of animals

http://www.wspa.org.au/ldt_handlewithcare/images/x_images/publicfiles/Report_LDT.pdf (which should be required reading for DAFF and PIMC decision makers) it is clear inadequate enforcement by State and Territory jurisdictions is a major problem for animal welfare. I draw your attention specifically to the Section “assessing non-compliance in land transport” (pages 15 and 16.)

If the new national standards are to be credible, resources issues cannot be simply left to State and Territory bureaucracies. At best there should be national legislation with national enforcement resources. However at very least, enforcement should be a standard item on the agenda of the PIMC. Ideally a national and well-resourced national facility (in DAFF?) should monitor compliance with the national standards across jurisdictions and report to the PIMC on a regular basis. If compliance proves inadequate, this issue would need to be addressed at future PIMC meetings. Perhaps some system of regularly naming and shaming those jurisdictions that do especially badly might have some impact?

National legislation

PIMC-endorsed national standards have the potential to provide consistency of legislation, but the transmutation of the endorsed standards into State and Territory regulations risks significantly reducing the national advantages, producing inconsistencies between jurisdictions, potential watering down in some areas given “local circumstances”, loopholes for enforcement and differences of implementation – all of which reduce any possible “net benefits to livestock welfare”.

3.

There is a strong case on land transport (cross-border trade) and animal welfare grounds for national legislation incorporating the standards and this **MUST** be a recommendation to the PIMC. Such legislation is now constitutionally possible (using the Corporations Power). The alternative would be for national legislation by reference (i.e. a Parliament in one – State - jurisdiction passes national legislation which is adopted by reference in all others) or by uniform legislation in all jurisdictions. Any of these approaches are feasible should there be political will to implement them.

National legislation is absolutely essential if there are to be credible outcomes from this Inquiry and to address community concern that the issue of animal welfare be genuinely addressed in the Inquiry process. National legislation should be put in place within at least two years of the endorsement of the standards by the PIMC.

Yours sincerely

Di Johnstone