

Wild Animals in travelling Circuses: the Circus has still not left town

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On 23rd June 2011, a Backbench Business debate addressed the motion tabled by Mark Pritchard MP, Jim Fitzpatrick MP, and Bob Russell MP:

“That this House directs the Government to use its powers under section 12 of the Animal Welfare Act 2006 to introduce a regulation banning the use of all wild animals in circuses to take effect by 1 July 2012”.

there was an impending legal challenge to the established national ban on wild animals in circuses in Austria

The debate featured surprising revelations and accusations from Mark Pritchard MP regarding the pressure put on him by Government to drop or amend his motion¹; and overwhelming and spirited cross-

party calls for a ban, culminating in the unanimous support for the motion.

However, the Minister present in the Commons, James Paice MP, had repeated the refrain that there are “serious risks of legal challenge”² if a ban was to be put in place³ - the rationale being that there was an impending legal challenge to the established national ban on wild animals in circuses in Austria. However, since then, few details have emerged regarding the legal challenge in Austria, beyond confirmation that Circus Krone has brought a case against the Austrian Government in the national court.⁴ Nonetheless, the decision on this issue falls to the Austrian courts, and one might have thought would have no bearing on decision-making in Westminster.

No. 10 still talks of being “minded to ban”,⁵ and joins Ministers in referring only to the welfare of the 39 animals currently in circuses – seemingly disregarding the almost inevitable import of animals into the country and expansion of the range of species used if a ban is not put in place. Furthermore, it would appear

that the Government intends to proceed with a licensing regime “in the meantime”.⁶ However, it is difficult to imagine how a regulatory system could be implemented, only to be replaced with a ban at some point in the near future. It seems likely that whatever course of legislative action is decided upon will be with us for a considerable time to come, as to demand that the circus industry meets regulations, only to revoke their licences a short time later in the light of a ban is likely to present even more legal obstacles than already faced. Consequently, the Born Free Foundation is adamant that now is the time to ban.

Recently, there have been some changes at Defra: a new policy team and Lord Taylor of Holbeach replacing Lord Henley as Minister with responsibility for the welfare of wild animals. There is a chance that this represents an opportunity for a fresh outlook on the issue.

Defra has met briefly with several of the main NGOs involved in campaigning on this issue, but no drafts of the proposed regulations have been circulated to date. In fact, recent communications would

¹ OJ C 530, 23.6.2011, p. 549

² OJ C 530, 23.6.2011, p. 581

³ The Speaker did not accept a tabled amendment that called for a ban “as soon as all outstanding legal impediments have been resolved”. OJ C 530,

23.6.2011, p. 549

⁴ OJ C 530, 23.6.2011, p. 583

⁵ Letter from David Cameron to Virginia McKenna, 14th September 2011

⁶ Letter from David Cameron to Virginia McKenna, 14th September 2011

indicate that although Defra is looking into regulations, they await Ministerial instructions on how to proceed. A licensing system was originally anticipated to be in place by the end of the year.

There are several obstacles to a regulatory and inspection system for travelling circuses – obstacles that we believe are insurmountable in the pursuit of protection and promotion of animal welfare. For example, as circuses move site every one or two weeks, and each site may differ radically in size, amenities and infrastructure, common sense would dictate that inspections should occur at each site. However, it is apparent that such an inspection regime would be regarded by the authorities as unworkable and overly-burdensome.

The clear intention is that regulations would be based on general and species-specific standards. In general, there is a tendency for animal keeping standards to reflect current practice rather than best practice; and more importantly, most standards are based on “myth and tradition”, rather than being scientifically validated.⁷ Consequently, relying on pre-existing standards (from zoos, circuses etc. worldwide) to assist in drawing up standards for UK circuses is fraught with problems.

Discussion with Defra so far has indicated that whatever standards are implemented, Defra is determined that they must be considered to be achievable by circuses. The travelling circus environment and the itinerant nature of circuses place limits on improvements that could be achieved.

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As a result, we are convinced that insisting that standards are achievable will lead to little or no real change in animals’ welfare.

Finally, I return to the issue of science. So much of the debate has been predicated on animal welfare science, while the moral and ethical dimensions have been repeatedly over-ruled, seemingly in ignorance of the accepted underpinning of animal welfare as a “mandated science” that comprises an interplay between values and empirical evidence.⁸ Sadly, we still hear misrepresentations and misunderstandings of the science involved: James Paice MP was incorrect in stating that “The Radford review concluded in 2007 that no scientific evidence existed to show that circuses by their nature compromised the welfare of wild animals”.⁹ More accurately, the report of the Chairman of the Circus Working Group cited insufficient evidence, in the opinion of the Academic Panel.

It is one of Defra’s stated key policy outcomes “to ensure that all kept animals are treated appropriately and humanely”.¹⁰ It is difficult to imagine what is appropriate about the use of wild animals in circuses, regardless of what standards and inspection regime may be proposed.

Acknowledgments:

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⁷ Melfi V (2009). There are big gaps in our knowledge, and thus approach, to zoo animal welfare: a case for evidence-based zoo animal management. *Zoo Biology* 28: 574-588

⁸ Fraser D (2008). *Understanding Animal Welfare: The Science in it's Cultural Context*. Oxford: Wiley-Blackwell

⁹ OJ C 530, 23.6.2011, p. 583

¹⁰ Defra (2011). *Animal Welfare Evidence Plan 2011-2012*. <http://www.defra.gov.uk/publications/files/pb13487-ep-animal-welfare.pdf>