EXOTIC AND WILD ANIMALS FOR PUBLIC DISPLAY: AN UNNECESSARY ENTERTAINMENT

Appendix D

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Overview

Purpose of paper
The purpose of this paper is to:

• Consider contemporary society’s attitude to wild animals in circuses and exotic animals in zoos, and their use in the production of television and film.
• Recommend changes to the Animal Welfare Act 1999 which reflect the growing concern for these animals and the legislative safeguards which need to be enacted to protect their welfare.
• Put forward proposals for the new Animal Welfare Strategy in line with these considerations which will ensure that issues relating to the welfare of exotic and wild animals are properly recognised.

This paper looks at the keeping of exotic or wild animals in three situations:
• Circuses.
• Public and privately owned zoos.
• Film and television productions.

There is no legislative definition of “exotic animal” in New Zealand law so, for the purpose of this paper, the World Society for the Protection of Animals (WSPA) adopts the definition of “exotic animal” in New Zealand’s Animal Welfare (Circuses) Code of Welfare 2005:

Exotic animals means any species which are not domestic, companion or farm animals and that have not been approved for general release under the Hazardous Substances and New Organisms Act 1996 but must remain in permanent containment (these animals are also known as “new organisms” under the Hazardous Substances and New Organisms Act).

For the purpose of this paper, WSPA adopts the definition of “wild animal” as “any animal which is of a species not commonly domesticated in New Zealand and usually found living wild in any country”.

WSPA’s proposals
WSPA proposes the following amendments to the Animal Welfare Act 1999 and for the following to be included in the Animal Welfare Strategy:

1. Start the process to amend the Circuses Code of Welfare so that there is a de facto prohibition on the keeping of exotic and wild animals in circuses.
2. Amend the Animal Welfare Act 1999 so that there is a statutory prohibition on the keeping of exotic and wild animals in circuses. This should form part of the current review of the Act.
3. Prohibit the importation of exotic animals by privately owned zoos.
4. Prohibit the importation of exotic animals by publicly owned zoos unless there is a clearly demonstrable plan for a species recovery programme.
5. Introduce a public consultation process for the importation of any new exotic large mammals which require large living spaces and complex environments (such as elephants, lions, tigers, bears and large primates) by a publicly owned zoo.
6. Severely restrict the use of wild and exotic animals in television and film productions.
WSPA’s policy

- WSPA is absolutely opposed to the taking and killing of wild animals for purposes not essential to humans or the welfare of the animals, particularly when they do not pose a threat to the safety and security of humans.
- WSPA is opposed to the use, confinement, exhibition or performance of animals for commercial gain and/or human entertainment.
- WSPA has serious reservations about the educational value of many existing zoological collections, including dolphinariums, and therefore does not consider that claims for the “educational value” of many animal exhibits can be justified.
- WSPA believes that animals should not be kept in zoological collections unless they form part of a valid conservation programme, the object of which is their eventual rehabilitation and release into the wild, and unless the animals can be kept in a “semi-natural” environment which meets their physiological and behavioural needs.
- Where the taking and/or keeping of wild animals is still permitted, WSPA believes that this should be strictly limited under licence and the most humane methods possible should be required.
- WSPA opposes the use of animals in sport or for entertainment when such use is contrary to the animals’ nature, or may involve suffering or otherwise adversely affect their welfare.
- WSPA is totally opposed to exhibitions or presentations of wild animals in circuses and travelling menageries.
- WSPA believes that, wherever animals are used in the making of films or television programmes or in the theatre, they must not be caused any suffering nor be portrayed in a manner demeaning to their species.
Ancient circuses

Circuses that display exotic or wild animals, and even domesticated animals, are on the decline around the world.

The circus had its origins in Ancient Roman times when savage animal spectacles were matched only by the brutality of gladiatorial contests. Preceding the Roman Empire, the Greeks staged chariot racing and the exhibition of animals. The Latin word “circus” comes from the Greek “kirkos” meaning “circle or ring”.

The more modern type of circus became popular in the late 19th and 20th centuries, with travelling shows in big tops pioneered by Barnum & Bailey’s “The Greatest Show on Earth”, which originated in the USA but travelled Europe at the turn of the 20th century.

Types of circus

In the 21st century there are three general types of circus.

The Barnum & Bailey / Moscow Circus type
These are hangovers from the 19th century travelling shows that kept exotic and wild animals as a travelling menagerie and/or to perform acts which are not part of the animal's natural behaviour. These circuses flourished after World War II, but their decline began after the advent of television and with the development of other large entertainment activities.

The Weber Bros type
These are circuses that may have featured exotic or wild animal acts but no longer do so. They often feature horse and pony performances, but many of the acts required by the equines are not dissimilar to practices undertaken during horse shows, equestrian events and even pony clubs. As they contain no exotic or wild animals these circuses fall outside the scope of this paper.

The Cirque du Soleil type
These are a modern type of circus whose appeal is expanding worldwide. They are noted for the extraordinary skills of their acrobats and other human performers, but contain no animals at all and have never travelled with animals. These circuses include the renowned Canadian company Cirque du Soleil, New Pickle Family Circus, Zirca Circus, Circus Oz, Flying Fruit Fly Circus and Circus Aotearoa. As they contain no animals these circuses fall outside the scope of this paper.

Circuses in New Zealand

The first circus known to have come to New Zealand was as early as 1856. At their peak in the 1950s and 1960s, three-ring circuses came mainly from Australia and included Solways and Wirth’s Circus.

The last international circus to come to this country which included exotic animals was the Moscow Circus in 1993. The Royal New Zealand SPCA unsuccessfully prosecuted the circus promoters, Edgleys, for failing to carry out the instructions of an animal welfare inspector. The prosecution was dismissed because of a technicality in the issuing of

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1 Some of the background information in this paper is derived from N.E. Wells, Animal Law in New Zealand, Thomson Reuters, Wellington, 2011.
inspectors’ warrants by the Ministry of Agriculture and Forestry (MAF) at the time. However, the Moscow Circus has not returned to New Zealand.

At the turn of the 21st century, when the Animal Welfare Act 1999 commenced, there were three New Zealand circuses which contained exotic species: Whirling Bros, Ridgways and Circus Magic. Circus Magic closed in 2000 after an attempt to sell two chimpanzees to a Fijian circus owner fell through. Eventually, Lola (an old chimpanzee) and Buddy (her offspring) were shipped to a sanctuary in Samoa, where Lola fell sick soon after landing in the country and died just days later.

Cary Ridgway succumbed to pressure from animal welfare campaigners and allowed his remaining chimpanzees to be repatriated to the Chimfunshi Wildlife Refuge in Zambia. His brother Charlie Ridgway moved his Ridgways Circus to Australia and, with it, the last performing chimpanzee.

The last New Zealand circus with exotic animals toured under a variety of names: Whirling Bros Circus, Circus International and, more recently, Loritz Circus. Its sole exotic animal was a 39-year-old African elephant which was later taken in by Franklin Zoo, a private zoo in South Auckland.

There are now no circuses in New Zealand that keep exotic or wild animals.

**Code of welfare**

Investigations have shown that methods of training animals to “perform”, and the living conditions of circus animals, often cause them physical and mental suffering. In New Zealand, those responsible for the welfare of animals must ensure that they are provided with an “opportunity to display normal patterns of behaviour”. Also, any ill-treatment of animals falls short of the statutory obligation to provide for their physical, health and behavioural needs, which leaves circus proprietors vulnerable to prosecution since the Animal Welfare Act 1999 came into effect and this became a strict liability offence.

The previous law in New Zealand regarding animals was the Animals Protection Act 1960, which stated that prosecution of an offence required proof beyond reasonable doubt of a wilful act. To circumvent this, the Animal Welfare Act 1999 made six voluntary codes deemed codes of welfare which continued in force, and the code regarding circuses was one of these. Originally these codes of welfare had a lifespan of three years, but in 2002 that was extended until the end of 2004.

The *Animal Welfare (Circuses) Code of Welfare 2005* came into effect on 1 January 2005. It applies to New Zealand-based circuses as well as any international circus that brings acts containing animals to New Zealand. However:

- A circus operator must not acquire a circus animal unless it has the necessary staff and facilities to provide for the needs of the animal.
- Circuses must hold a minimum of two compatible individuals of a particular exotic species, unless a consulting veterinarian has advised that it is in the best interests of a particular individual animal to remain with the circus, or a circus animal dies leaving a solitary member of its own species.

The *Circuses Code of Welfare* also contains a minimum standard for disease and injury control which specifies:

- A daily check for signs of ill-health or injury.

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2 Animal Welfare Act 1999, s 4(c).
7 Minimum Standard No 1.
8 Minimum Standard No 11.
• Contractual arrangements with a consulting veterinarian experienced with each exotic species held.

This minimum standard will become increasingly difficult to comply with, as there are currently no veterinarians in New Zealand outside zoos with any competency in exotic animals.

A minimum standard for the transportation of circus animals specifies that:\(^9\)

• Vehicles must be strong enough to contain the animal, and must provide enough space to enable the animal to travel in a natural position without risk of injury.
• Vehicles must provide adequate ventilation.

Relevance to today’s situation

With the new Animal Welfare Strategy and the review of the Animal Welfare Act 1999, this is the perfect opportunity for the New Zealand Government to respond by introducing a complete prohibition on the keeping of any exotic or wild animals in circuses. This would bring New Zealand into line with other countries that have already enacted laws in this area. This change in legislation would have no financial effect on any business or entity, as no exotic or wild animals are currently held in any circus in New Zealand.

A code of welfare can restrict an activity but cannot prohibit it.\(^10\) With this in mind, WSPA recommends that a provision prohibiting the keeping of exotic and wild animals in a circus or the importation of animals for that purpose should be included in the review of the current Animal Welfare Act 1999.

In the meantime, some judicious amendments to the Circuses Code of Welfare would have the same effect.

Therefore, WSPA also recommends that the Circuses Code of Welfare be reviewed with the intention that clauses are added to Minimum Standard No 1 (Animal Acquisition and Holding) which state:

• An exotic or wild animal must not be imported into New Zealand for the purpose of being held in a circus.
• An exotic or wild animal must not be transferred from a zoo, or from any type of private ownership, to a circus.
• No exotic or wild animal must be used in or owned by a circus.

Consequential amendments would then be required to remove the species-specific standards in section 8 of the Code.

International opposition to circuses

Thanks to developments in science and the dissemination of information, the public’s understanding of animal welfare and its attitude to animals being kept in captivity for entertainment is changing. There has been a distinct tide against the keeping of wild and exotic animals in circuses, as the confined living conditions, constantly changing environment and requirements of performance cause suffering and stress to these animals.

Animals in circuses live most of their lives caged in tiny enclosures which contain no or limited environmental enrichment, unable to interact normally with other animals of the same species. They often demonstrate stereotypic and abnormal behaviour patterns indicative of prolonged stress and suffering. As circus animals do not contribute to any educational, conservational or scientific cause, their confinement and the requirement for them to perform have been concluded by many to cause unnecessary and insupportable cruelty.

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\(^9\) Minimum Standard No 12.
Worldwide circus bans

A significant number of countries have banned the keeping or use of exotic or wild animals in circuses.

Europe


Czech Republic: Nationwide ban on the use of certain species of animals in circuses – Animal Protection Act 1992 – Section 14a, Paragraph 1b.


Hungary: Nationwide ban on the use of wild-caught animals in circuses – Governmental Decree 222/2007 (VIII.29) Section 12(3).


Poland: Nationwide ban on the use of wild-born animals in circuses – Animal Protection Act (1997) Article 17(1).

Serbia: Nationwide ban on the use of wild animals in circuses – Animal Welfare Law – Article 7(35).

Sweden: Nationwide ban on the use of certain species of animals in circuses – Animal Welfare Ordinance – Section 35.

Central and South America


Paraguay: Nationwide ban on the use of wild animals in circuses – Resolution 2002/12, June 2012.

Peru: Nationwide ban on the use of wild animals in circuses – Law number 29763 – Forestry and Wildlife Law.

Asia


Israel: Nationwide ban on the use of wild animals in circuses.

Singapore: Nationwide ban on the use of wild animals in circuses.

Taiwan: Nationwide prohibition on the import or export of protected wildlife for circuses.
Municipal or state bans

A number of countries have local bans on circuses.

**Argentina:** Local bans on the use of animals in circuses in over 20 cities including a ban in the city of Buenos Aires.

**Australia:** Local bans on the use of animals in circuses in several towns including Parramatta and Lismore.

**Brazil:** Local bans on the use of wild and domestic animals in circuses in the districts of Rio de Janeiro, São Paulo, Pernambuco, Paraíba, Rio Grande do Sul, Espírito Santo, Mato Grosso do Sul, and Alagoas.

**Canada:** Local bans on the use of animals in circuses in over 20 municipal jurisdictions.

**Chile:** Local ban on the use of wild and domestic animals in circuses in the city of Santiago.

**Colombia:** Bogotá has banned the use of wild animals in circuses as of June 2012. Also, following a vote in Congress to end the use of animals in circuses nationwide, the Bill has now moved to the Senate, with two further votes required for it to become law across the country.

**Ireland:** Local bans on the use of animals in circuses in Cork and Fingal.

**New Zealand:** A number of local authorities have banned circuses from public parks but have no authority to ban circuses on private land.

**Spain:** Local bans on the use of animals in circuses in several towns including the capital cities of Catalonia (Barcelona, Tarragona, Lleida, and Girona) and San Fernando de Henares (autonomous community of Madrid).

**UK:** Over 200 local authorities have bans on animal circuses (more than two thirds of these ban all performing animals, the remainder ban only wild animals). Public consultation showed that 94.5% of the public support a ban on wild animals in circuses, and in 2011 the Government announced that this law would be enacted soon.

**USA:** Local bans on the use of animals in circuses in over 25 cities, located in 12 states throughout the East and West Coasts.
Zoos

Introduction

Menageries and zoological gardens have existed in various cultures since the Egyptians first established them around 2500 BC. The Roman elite collected exotic animals from all over the empire to supply the animal spectacles in the Coliseum. The first tigers, which were a gift from an Indian rajah to Caesar Augustus, ended up in the Coliseum. Emperor Trajan (AD 53–117) celebrated the Roman conquest of Dacia with 123 consecutive days of games in which 11,000 animals were slaughtered including lions, tigers, crocodiles, bulls, stags, elephants, rhinoceros, giraffes and snakes.

Opposition to zoos in the past has been largely critical of the concrete and iron bars type of zoo which was prevalent up to the latter part of the 20th century and which still exists in many countries around the world today. Within countries which have for some time recognised the importance of ensuring the welfare of animals kept in confinement, the zoo industry has over recent years adopted a more enlightened approach to displaying animals, with an emphasis on open enclosures, conservation and rehabilitation programmes, and education.

The role of zoos

Modern zoos have several functions including those related to recreation, entertainment, education, wildlife conservation and research. The education and conservation functions are recognised as being increasingly valuable, especially as natural habitats for wildlife decrease.

However, zoos have a number of limitations – most notably, it is difficult and expensive to provide even part of the richness of experience, freedom of movement and quality of life that the animals would experience if left in natural populations in the wild. Captive situations restrain an animal’s natural movement, foraging, feeding, hiding, escaping and mating behaviours, and restrict appropriate (or allow inappropriate) social interactions.11

The standard of zoos varies across the world. While some provide more complex captive environments (naturalistic displays with appropriate substrates, plants, hiding places, perches, etc) which are able to mitigate the behavioural problems often associated with the stresses of being held in captivity, other zoos keep animals in terrible conditions and barren environments, with additional stresses caused by visitors to the attraction from whom they are unable to escape. The latter type of zoo does not usually serve any education or conservation purpose.

The World Association of Zoos and Aquariums (WAZA) produced a code of ethics as an instruction to its members. This code details the circumstances under which it is acceptable to exhibit animals and states that “All exhibits must be of such size and volume as to allow the animal to express its natural behaviours”. WAZA states that, where wild animals are used in presentations, such shows “must: (a) deliver a sound conservation message, or be of other educational value, (b) focus on natural behaviour, (c) not demean or trivialise the animal in any way”.12

New Zealand zoos

In New Zealand, most of the traditional wildlife parks have been upgraded and have a focus on conservation and/or rehabilitation, which complements the country’s tourist industry and

reputation as an ethical and natural place. Nonetheless, it is disappointing that a number of zoos still contain exotic animals simply as a tourist attraction and with no focus other than making money – for example, Paradise Valley Springs, Zion Wildlife Kingdom, Reptile Park and Butterfly Creek.

Privately owned zoos are considered by many to be circuses without wheels. There is no commitment to the principles of conservation and education put forward by WAZA. Public entertainment is clearly the priority, at the expense of the welfare of the animals. Private zoos which are focused on making money often provide unsuitable living conditions for the animals they keep and put profits before welfare.

Any zoo which contains dangerous exotic or wild animals has an obligation to the animals, its staff and the public to observe at least minimum standards in health and welfare at all times. Allowing private zoos responsibility for these animals without the oversight and ability to control daily functions (as is the case with publicly owned zoos) means that standards are less likely to be maintained when financial and other pressures mount.

In addition, zoo owners, including territorial authorities, are able to make decisions on the importation of exotic animals with ease and without proper consultation with experts or the wider public. In 2010, Auckland City Council decided to import two elephants from Sri Lanka despite international opposition. The reasons for that opposition are set out in a letter to the Council dated 20 September 2010.13

It is WSPA’s view that any zoo which does not adequately provide for the welfare needs of the animals it keeps, and does not have a clearly demonstrable plan for conservation and education, should face a moratorium on importing or acquiring any new animal or replacement animal.

**Welfare of exotic animals**

Exotic animals are of particular concern with regard to their confinement in zoos, due to limitations in being able to replicate all aspects of the natural environment where they came from. Even exotic animals that have been bred for generations in captivity are known to suffer if they are prevented from performing highly motivated behaviours, and still show a need to perform certain activities seen in their wild counterparts.14

All animals in zoos deserve to live in a suitable environment with adequate social interaction and enrichment to alleviate stress, but society has an increased responsibility for exotic animals which are likely to need a more complex environment and have greater welfare requirements. Any decision to import or house these animals in New Zealand should be thoroughly considered, and only publicly owned zoos which can be properly overseen should be able to import these animals if certain criteria are met.

Welfare considerations in respect of the importation of exotic animals are as follows.

**Movement of animals**

Any movement of zoo animals needs to be carefully considered and properly decided, with the assistance of experts and taking account of public opinion, as there are obvious and serious potential welfare impacts not only on the animal in question but also on any group which it is being moved from or into.

**Disposal of “surplus” animals**

Overpopulation and overbreeding are common problems in zoos which can compromise welfare. The disposal of surplus animals by zoos represents a significant concern for the animals’ welfare and acts against the conservation ideal of reputable zoos. Wherever

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13 See Appendix 1.
possible, animals should be reintroduced into the wild. Any form of transfer of animals from zoos to circuses, laboratories or animal traders must be prohibited.

Disease transmission
The transmission of diseases is thought to occur faster and be more commonplace in captivity than in the wild. When exotic animals are brought into zoos there is the risk of the current zoo stock being exposed to exotic pathogens from the new animals. In addition, any exotic disease brought into a zoo by an animal could be transmitted by zoo attendants and visitors. There are also concerns that highly stressed animals which have had to endure transportation and are attempting to adapt to their new environment are more prone to infections themselves, which puts their welfare at risk.

Wild-caught animals in zoos
The transfer of animals from a wild or free-ranging environment to a captive one, the separation of social animals from their groups and families, and the transfer of territorial animals from their home range into unfamiliar environments cause severe stress to animals. The capture of animals from the wild for the purpose of transfer to zoos should be explicitly prohibited unless it is for the animal’s benefit.

Code of welfare
Zoo proprietors were vulnerable to prosecution when the Animal Welfare Act 1999 came into effect on 1 January 2000 as there is a statutory obligation to ensure that animals are provided with an “opportunity to display normal patterns of behaviour”. As a zoo cannot duplicate all normal patterns of behaviour for exotic animals, the keeping of animals in zoos generally results in a shortfall of the obligations laid down by law.

To circumvent this, the Animal Welfare Act 1999 made six voluntary codes deemed codes of welfare which continued in force, and the code regarding zoos was one of these. Originally these codes of welfare had a lifespan of three years, but in 2002 that was extended until the end of 2004.

The Animal Welfare (Zoos) Code of Welfare 2005 came into effect on 1 January 2005. In addressing the physical, health and behavioural needs of animals in a zoo, the Code provides relevant minimum standards.

Normal patterns of behaviour
It is difficult, if not impossible, to provide opportunities to display normal patterns of behaviour for each species held in a zoo. The Zoo Code of Welfare provides no inspection system which ensures that the minimum standards are being complied with or even how the zoo entity intends to provide these opportunities.

Wild animal rehabilitation
Most publicly owned New Zealand zoos have species recovery programmes that involve the rehabilitation and release of wild animals, particularly protected species. However, it cannot be said that every animal in a zoo is part of a species recovery programme. Most are not. There are few, if any, privately owned zoos with species recovery programmes.

19 “Zoo is a site on which animals are kept for public exhibition, education, conservation, research or entertainment and usually will hold a range of exotic (new organisms), domestic and native species. For the purposes of this code, a zoo also includes a containment facility approved under the Biosecurity Act 1993 for the purpose of holding animals in containment, and includes animal parks and aquariums.” Animal Welfare (Zoos) Code of Welfare 2005, section 1.9.
20 See Appendix 2.
Privately owned zoos

There are a number of zoos in New Zealand displaying exotic animals which are not in public ownership. These privately owned zoos present specific concerns in relation to animals. The main problems relate to unreliable funding, lack of oversight for all welfare issues and no responsibility to react to public concerns for animals, all contributing to worrying welfare standards for the animals.

For example, Paradise Valley Springs in Rotorua has held African lions since the 1970s. Originally the wildlife park housed retired circus lions born in Australia, but for over 20 years it has been breeding lions. According to its website, “Some former cubs and members of the pride have been donated to other Wildlife Parks and Zoos throughout New Zealand and to Australia”.21 The wildlife park prides itself on allowing visitors to touch and photograph lion cubs, and its ethos is that the public is able to get very close to the big cats. Its publicity material states that it is “the only place in New Zealand where you can pat a Lion Cub”.

WSPA believes that these are totally inappropriate activities which allow unnecessary handling of these vulnerable animals and do not provide any educational value for the public. Animals are being irresponsibly bred at Paradise Valley Springs merely to provide a tourist attraction, and an obvious concern is the fate of the cats when they are no longer cute cubs that can be petted and what happens to them when the numbers exceed the space available.

Prohibition on the importation of exotic animals

WSPA insists that the current review of the Animal Welfare Act 1999 and the new Animal Welfare Strategy presents a real opportunity for New Zealand to improve its welfare standards for animals kept in captivity. We strongly suggest that provision is made so that:

- Private zoos and animal collectors are expressly prohibited from importing exotic animals.
- Publicly owned zoos are prohibited from importing exotic animals unless there is a clearly demonstrable plan for a species recovery programme.
- Local authorities are not able to import large mammals which require large living spaces and complex environments (such as elephants, lions, tigers, bears and large primates) for public zoos without the consent of the Government and following a formal process of public consultation.

The criteria on which the Ministry for Primary Industries (MPI) bases its decision with regard to the second and third points above must aim to ensure that the physical, emotional and mental needs of the individual animal will be met, and should be based on sound scientific and ethical judgement. The welfare of the animal should not be compromised in order simply to allow the public access to the animals or for entertainment purposes.

Each importation request should be considered on a case-by-case basis and all applications self-funded. Public notification should also be added as part of the process.

Due to concerns around the standards and long-term funding of private zoos, it is also felt that the transferring of animals from public to private zoos should be expressly prohibited, otherwise private zoos could simply exploit this loophole which prohibits them from adding further exotic animals from overseas to their collections.

21 http://www.paradisev.co.nz/.
Film and Television Productions

Introduction

The birth of the film industry in the late 19th century brought a new means of animal exploitation. Animals were easily obtained for use in the production of television and film and – as they did not require payment and were not able to complain about their conditions – were seen as disposable. Many thousands of animals were killed or seriously harmed while on set, both during filming and off camera.

The RSPCA (covering England and Wales) was sufficiently concerned as early as the silent era of film-making to take action:22

Many scenes in films have, in the past, shown that either cruelty has been inflicted on animals in the making of them or that the films themselves cannot exert anything but harmful effect in their callous disregard of animal suffering: an influence that must be wholly bad, especially in the case of young audiences. Accordingly, the Society, in 1913, made representations to the Film Censor, Mr. Redford, shortly after his appointment. It will be understood that he is not an official appointed by Government but holds his position and is paid for by the cinema trade for their own protection. He undoubtedly carries out a useful task.

When the Rt. Hon. Edward Shortt, K.C., was President of the Board of Censors, he appointed in 1935 a Film Consultation Panel, on which the R.S.P.C.A. was represented, for the purpose of reviewing films containing animal scenes. It is significant that the very first film viewed by this panel was unanimously rejected.

The Society also tried to grapple with the problem through Parliament and in 1937, the Cinematograph Films (Animal) Act came into force. This measure, which was presented by Sir Robert Gower and Lord Cautley, laid it down that no person shall exhibit to the public any film, if in connexion with its production, any scene was organized or directed in such a way as to involve the cruel infliction of pain or terror on any animal or the cruel goading of any animal to fury.

American westerns

In the United States, “Wild West Shows” were brought to the silver screen as early as 1911. There was no protection for horses, which were without doubt the most abused animal in the movie industry. A cruel method of causing horses to trip used widely in the Hollywood movie industry was the running-w wire:23

It was named for an old range method of breaking wild horses in which they were tied to a moving wagon with a long rope. If they fought the line or tried to run in a different direction, the moving wagon simply pulled them down.

In the movies, the practice was modified and became deadlier. Piano wire was attached to a horse’s front legs with a leather strap and then run up through a ring on the saddle horn, where it was secured; the other end of the wire was connected to a buried stake. On cue, the horse would begin to run, and the rider would jump just before the wire ran out, and the horse took a hard and often fatal fall. In 1936, 125 horses were rigged with Running Ws for the bog scene in The Charge of the Light Brigade, which was shot in the Mojave Desert and starred Errol Flynn. At the call of “Action” the cavalry took off across a dry lakedbed, but when the wires were triggered, the stunt quickly turned into a bloody pileup, each horse tripping and falling headfirst into the horses ahead of it. By the time it was over, many animals and riders were seriously injured, and twenty-five horses had died – either killed in action or destroyed later because of broken legs. “I never saw so many good men and horses smashed up in one day in all my years in the picture business,” stuntman Jack Montgomery told his family that night over dinner. “I’ve

23 D. Stillman, Mustang; the Saga of the Wild Horse in the American West, Boston, Houghton Mifflin Co, 2008.
always thought those Humane Society people with their ‘reps’ snooping around on every set or location were a bunch of busybodies. But by God, today every cowboy on the set stood behind the rep when he set up a howl.”

Such a collective action startled producers; it violated the code of the West, in which everyone and every critter took care of himself. And it was the first time that stuntmen – unsung cast members like the horses who routinely got killed during performances – had joined together in protest about conditions on a movie set, a concern that fuelled the growing call for an actors’ union. Meanwhile, Errol Flynn had gone public with the story of what had happened in the making of The Charge of the Light Brigade. In spite of the ensuing outcry for reform, many more horses would die before new guidelines moved through the approval process and Hollywood began following a stricter code for treatment of equine actors.

Later movie productions

The 1970 USA production of the movie Patton involved a controversial scene where General Patton was depicted shooting some donkeys that were impeding the progress of the American army through Sicily. It was alleged by a film extra that the crew killed the animals with strychnine, and had also clubbed a donkey to death and blown up a horse by tying dynamite to its belly. The movie was shot in Spain and was not subject to any monitoring by an animal welfare group.

It was not until the 1980 movie Heaven’s Gate was shot in Montana that the film industry started to self-regulate its use of animals. The film included a real cockfight, several shocking horse trips, and a horse blown up with a rider on its back. The public backlash prompted the Screen Actors Guild (SAG), the Alliance of Motion Picture and Television Producers, and the American Humane Association to cooperate on monitoring the use of animal actors. However, this arrangement only applies to filming in the State of California or where a member of SAG is cast in the production.

Around the world it tends to fall to each country to regulate the use of animals in its film and television industry, either though self-regulation or by statute.

Filming in New Zealand

New Zealand was not a prolific producer of feature length movies until the latter part of the 20th century with the success of The Lord of the Rings trilogy. Nonetheless, New Zealand has for some time been sought after as a location for its scenery, not only by American productions but more recently as the backdrop for Bollywood (Indian) movies.

However, the treatment of animals used in filming has been a source of concern for some time. During the filming of Wild Horses, a 1984 movie about the Kaimanawa horses, unsubstantiated allegations surfaced that a horse had been injected with a sedative to cause it to fall while at full gallop. Attempts by the Royal New Zealand SPCA to monitor the use of animals in that movie were frustrated by the movie’s producers.

The Lord of the Rings trilogy has propelled New Zealand into the mainstream of international film and television production. A number of factors contribute to this: a pool of technical talent, the lower cost of production and the spectacular locations. With productions of film and television on the rise, it is essential that standards to monitor the use of animals in productions in this country are created and independently overseen. At present only one organisation, the Animal Welfare Institute of New Zealand (AWINZ), has experience in providing independent support and monitoring of New Zealand productions.

Major production companies and producers of note are electing to involve independent animal monitors in both the pre-production planning and the use of animal actors on set and on location, but, for those who are not so considerate of the animals they are using, it is important that regulatory standards are set and upheld.
Regulatory control

There is currently no regulatory control of the use of animals in film and television productions in New Zealand with regard to ensuring their welfare. While a code of welfare for animals used in film and television productions is currently in development, it will not have the force of law until it is gazetted by the Minister for Primary Industries after a recommendation by the National Animal Welfare Advisory Committee.

Both AWINZ\(^{24}\) and the Screen Production and Development Association of New Zealand\(^{25}\) have produced codes of practice for the use of animals in film and television productions. Neither is a statutory code of welfare but both provide useful guidelines.

Animal Welfare Act 1999

It could be argued that there is some protection for animals used in filming under the general standards laid down in the current Animal Welfare Act 1999. While this is true, the current detail is not sufficient to cover all situations which are likely to arise during filming.

It is the responsibility of the person in charge of the animal to ensure that its needs are met (i.e. its physical, health and behavioural needs) and that the animal is not ill-treated. Pressure from the director of the production company to put an animal at risk in order to get a particular shot could expose the person in charge to liability for ill-treating the animal. While the director would not be the primary person who ill-treated the animal, he or she could still be culpable as being a party to any offence.

Wild and exotic animals used in filming

Wild and exotic animals are often used in the television, film, music video and advertising industries despite the advanced techniques of computer generation and motion capture. There are significant concerns regarding the welfare of these animals kept in captivity and used for these purposes, including the following.

The environment of the “set”

Noise, bright lights, unusual smells, unfamiliar people and the film set are all unavoidable stressors for animals used in the television and film industries and would detrimentally impact most animals, especially wild or exotic species. Such stressors can cause short-term and chronic behavioural effects (such as aversion, alarm, increased vigilance, aggression or stereotypical behaviours) and physiological effects (such as increased heart rate and cortisol levels in urine).\(^{26}\)

Training

Training animals to respond in a particular way when prompted by cues often relies heavily on physical domination and fear to ensure constant attention and compliance.\(^{27}\) Injuries can be caused by inappropriate handling, and by training animals to perform unnatural tasks and assume unnatural positions.\(^{28}\) Most wild and exotic animals would not usually interact with humans when left in their natural environment, always preferring to flee (where possible) than to remain and face potential conflict. “Training” does not rid these animals of these wild instincts, which have to be suppressed; depression, aggression or lethargy are commonplace among wild animals required to “perform” in captivity.

\(^{24}\) AWINZ, Code of Standards for the Use of Animals in Film and Television Productions, Auckland, AWINZ, 2009.


To make potentially dangerous wild animals “safe” to handle, it is usually necessary to hand-rear them from a very young age. In some cases this requires the animal being removed from its mother shortly after birth (often at around 2 or 3 days old in the case of tigers and other large cats). This causes tremendous stress for both the mother and her offspring, and can have negative effects on the health and behaviour of the offspring. Some animals also have teeth, claws or other body parts removed or altered so that they cause less of a risk to the handlers and those participating in the filming.29

Extensive travelling
Animals used in filming industries are frequently transported on long journeys to accommodate location requirements. The forced movement, human handling, noise, cage motion and increased confinement constitute sources of stress for a captive wild or exotic animal.30 They often spend many hours confined to travelling crates in between filming “takes”, causing the animals additional distress and frustration.31

Housing and restriction of natural behaviours
In captivity, many species of wild and exotic animals are not provided with the opportunity to perform their natural behaviours, as they are often restricted in their movement, foraging, feeding, fleeing from stressors, mating behaviours and social interaction. For example, on film sets it is often unavoidable that animals are housed in inadequate cages and with limited environmental enrichment, resulting in significant negative consequences for behaviour and welfare. The behavioural restrictions on animals used in these industries are increasingly being recognised as having a serious negative impact on captive wild animals’ cognitive and normal social development and health.32

“Retirement”
What happens to the animals when they are no longer “usable” or required in filming is a concern. It is predominantly younger animals that are used in the film, television and advertising industries, and, once they have outgrown their “photogenic” stage or become difficult to handle, these animals face an uncertain future. For example, in captivity a tiger can live for over 20 years and is very expensive to feed and house securely in a suitable environment. It is therefore unlikely that the companies which supply lion and tiger cubs, for example, will provide a safe and suitable retirement for all the animals they breed. Many unwanted animals end up in zoos, private animal collections or laboratories or are euthanased.33

Limiting the use of wild and exotic animals in filming
With increasing technological advances, the use of most animals in the filming of media productions should be redundant. With the specific and very serious concerns for the welfare of exotic and wild animals in these situations, WSPA believes that the review of the Animal Welfare Act 1999 and the new Animal Welfare Strategy provides a perfect opportunity for their use in the production of television and films to be strictly limited.

Computer generation and motion capture now counter any argument for the need to use live exotic animals in film and television productions. The worrying and increasing practice

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30 J. Hartung (2003), Effects of transport on health of farm animals, *Veterinary Research Communications* 27 Suppl 1: 525-527.
by private owners and some New Zealand zoos to hire out these animals for film and television productions and live entertainment is morally questionable, and should not be tolerated in a country which prides itself on having some of the best welfare standards for animals in the world.

If wild and exotic animals are imported for use in filming only to be re-exported when the production has finished, not only are there fundamental welfare failings but this is also contrary to the principles of conservation and safeguarding native species against the spread of zoonotic diseases. Moving animals internationally simply to use live creatures in productions not only puts the animals under enormous stress but also runs a high risk of introducing unwanted organisms that could affect animals already here.

The use of wild and exotic animals in media productions should be viewed with concern by the MPI. High standards must be delivered from production companies in relation to the use of any animal, and the MPI should explore why there is a necessity to use such animals in each production. The welfare of any animal, especially wild and exotic species, should not be risked for the sake of entertainment.
Appendix 1

Letter to Auckland City Council dated 20 September 2010

We the under-signed are writing to you about the recent decision of the Auckland City Council to support the expansion of the Auckland Zoo to allow the acquisition of additional Asian elephants. We urge you to reconsider this decision in light of the following information:

1. **No urban zoo in the world can adequately cater to the needs of elephants.** Sound science tells us that elephants are social animals that spend their lives in and around families of closely related individuals, moving across vast areas. Family life cannot be created in a zoo and there is growing evidence that simply placing unrelated elephants together does not simulate natural social life. Urban zoos can neither provide sufficient space for elephants, nor sufficient environmental complexity.

2. **Importation is highly expensive and logistically complex.** Auckland Zoo could only acquire additional elephants by importing them from overseas. The only sources are existing zoo breeding programs or populations of elephants in the Asian countries in which elephants live naturally.

3. **Removing elephants from existing zoo programs will neither assist the sustainability of zoo elephant populations nor assist the welfare of the elephants involved.** Existing zoo populations of Asian elephants, internationally, are not self-sustaining because of a combination of insufficient genetic diversity and skewed age structure.

4. **Removing elephants from Asian countries is unethical.** The recent importation of elephants from Thailand to Australia revealed a range of issues including the current impossibility of proving that imported elephants are actually captive born and not plundered from the wild.

5. **The attempted importation of elephants to New Zealand would generate great international controversy.** The good name of both the City of Auckland, and of New Zealand as a country, will be damaged.

6. **Building for urban elephants is always more expensive than initially estimated.** Even attempting to create basic living conditions for a "herd" of elephants in Auckland Zoo will be extremely expensive. The estimate of $NZ13 million is almost certainly an under-estimate. The National Zoo in Washington has recently spent an astonishing $US50 million [$NZ65.85 million] on basic and inadequate facilities for a proposed total of nine elephants. In Australia, the Melbourne Zoo and Sydney's Taronga Zoo each spent in excess of $AU15 million [$19.5 million].

7. **Elephants are very expensive to keep.** The ongoing maintenance of elephants in urban zoos has been estimated to cost not less than $NZ100,000 per specimen per year, not including the maintenance of facilities and capital depreciation. To maintain a "herd" of 10 elephants, not less than $NZ1 million per annum should be allocated.

8. **Urban elephants are NOT a sound investment.** It has been demonstrated that elephants in an urban zoo are not a permanent draw-card sustaining high zoo visitation over time. The birth of elephant calves can result in peaks in visitor numbers but over time such attractions fade and in the long-term they are not cost-effective.

9. **Elephants do not fit the Auckland City “brand”.** Elephants can be readily experienced in many places around the world and their presence in Auckland Zoo would not enhance Auckland or New Zealand as a destination for visitors.

We urge you to reconsider the Council's decision to support the acquisition of Asian elephants by Auckland Zoo. The elephant Burma should be sent to live with other elephants in an open-range zoo or sanctuary.
Yours sincerely,

Mr Will Travers, Chief Executive Officer, Born Free Foundation, UK
Mr Adam Roberts, Executive Vice President, Born Free Foundation USA
Dr Cynthia Moss, Director, Amboseli Trust for Elephants, Kenya
Dr Keith Lindsay, Amboseli Trust for Elephants, UK
Dr Joyce Poole, Director, Elephant Voices, Norway and Kenya
Dr Robert Atkinson, Head of Wildlife, RSPCA, UK
Ms Carol Buckley, Elephant Aid International, USA
Ms Catherine Doyle, Director, Elephant Campaign, In Defense of Animals, USA
Mr Don Elroy, Stop Animal Exploitation Now, USA
Ms Glenys Oogjes, Executive Director, Animals Australia
Mr Jorge Basave, International Fund for Animal Welfare, Australia
Ms Verna Simpson, Humane Society International, Australia
Mr Hans Kriek, SAFE, New Zealand
Mr Bob Kerridge, National President, RNZSPCA, New Zealand
Ms Bridget Vercoe, Country Manager, WSPA, New Zealand
Dr Mel Richardson, Consultant Wildlife Veterinarian, USA
Mr David Hancocks, Architect and Design Consultant, Australia
Ms Lisa Kane, Coalition for Captive Elephant Wellbeing, USA
Ms Amy Mayers, Vision Communications, USA
Mr Peter Stroud, Zoological Consultant, Australia
Appendix 2


Minimum Standard No 6 – Food and Water
(a) Zoo animals must receive adequate quantities of food and nutrients to enable each animal to
   (i) maintain good health;
   (ii) meet its physiological demands; and
   (iii) avoid metabolic and nutritional disorders.
(b) Dietary supplements must be given where food or the environment does not provide essential elements.
(c) Where appropriate to the species, all animals must have continuous access to drinking water that is palatable and not harmful to health.
(d) Food and drinking water must be provided in such a way as to allow each animal easy access to sufficient quantities, to prevent undue competition and injury, and to prevent the risk of contamination.
(e) Daily checks must be made of the effectiveness of all self-feeding and automated feeding and watering systems.
(f) The feeding of live prey must not be used unless there is no suitable alternative to meet the nutritional needs of the predator, and where the cost (through distress) to the prey is significantly outweighed by the benefit to the predator.
(g) Toxic substances must not be kept in food preparation or storage areas.

Minimum Standard No 7 – Physical Environments
(a) The method of containment must not cause harm to the animals.
(b) Water-filled or dry moats used for containment must have a means of escape back to the enclosure for animals falling into them.
(c) Animals in terrestrial environments must be provided with:
   (i) sufficient shelter and shade to provide protection from extremes of wind, rain, flooding, temperature and glare for their comfort and welfare;
   (ii) levels of temperature, ventilation, lighting (both levels and strength), and quietness suitable for the comfort and well-being of the particular species;
   (iii) dry areas which are freely draining.
(d) Animals in aqueous environments must be provided with:
   (i) water of temperatures, salinity, oxygenation, and pH that is appropriate to the species;
   (ii) water which is free of harmful pollutants;
   (iii) enclosures which are durable, watertight, non-porous, non-abrasive, non-toxic and easily cleaned;
   (iv) protection from waste-water and excessive runoff from land and buildings entering the pools.
(e) Animals using both aqueous and terrestrial environments must have appropriate access to areas of both environments and be able to move from either environment without difficulty.
(f) Enclosures must be designed, constructed and maintained so as to –
   (i) be out of range of any neighbouring exhibits housing predator species or territorial animals if this causes distress; and
   (ii) provide space, refuge areas or barriers giving individual animals the opportunity to isolate themselves from other animals in the enclosure and the public gaze; and
   (iii) provide appropriate areas, materials and substrate for animals to construct nests and beds, and safely incubate or give birth to their young and raise them if breeding is possible; and
   (iv) not allow unsupervised public access where that access is likely to lead to harm to the animals; and
(v) prevent the animal from escaping where its welfare is likely to be compromised outside the enclosure.

**Minimum Standard No 11 – Normal Patterns of Behaviour**

(a) A behavioural and environmental enrichment programme appropriate to the species must be developed and implemented for each species of animal held.

(b) Facilities and provision for normal patterns of behaviour must take into account growth in animals and must be capable of satisfactorily providing for their needs at all stages of their growth and development.

(c) All animals must be given an opportunity appropriate to their species to exercise daily in an area with provision for behavioural enrichment.

(d) Animals must not be routinely tethered except for safety or demonstration reasons, in emergencies, or to facilitate management practices directly benefiting the animal. The tether must not cause physical or prolonged psychological harm.

(e) Pinioning involving significant muscle, tendon, or bone damage to the wing must only be undertaken by a veterinarian and with appropriate pain relief for the bird.

(f) Animals removed from their enclosures for interaction with the public must have been trained or habituated for such interaction and be under the direct control of an animal keeper who has the appropriate ability, knowledge, and professional competence to ensure that such interaction is managed properly.

(g) If animals are trained or perform, –
   
   (i) the techniques used must be appropriate for the species and the individual animal’s physical and mental capabilities; and
   
   (ii) sessions must be of a length of time determined by the animal’s reaction and condition but without over-working the animal; and
   
   (iii) food deprivation and/or electric prods must not be used; and
   
   (iv) methods must be based on immediate positive reinforcement; and
   
   (v) training and command implements must be used in such a manner that does not cause unreasonable or unnecessary pain, injury or distress to an animal.

**Minimum Standard No 12 – Fear and Distress**

(a) Animals must be handled and managed only by, or under the supervision of, appropriately qualified and experienced staff.

(b) Handling must be done with care in order to protect the animal’s welfare and to avoid unnecessary discomfort, stress and physical harm.

(c) Any direct physical contact between animals and the visiting public must be for restricted periods of time and under conditions consistent with the animal’s welfare and not likely to lead to distress.

(d) Animals must not be forced to perform where this would cause them undue stress or negatively impact on their physical or mental health.

(e) Animals temporarily accommodated away from others must not be separated for such a period of time that would cause difficulties when reintroduced to their group unless required for veterinary treatment.

(f) Alternative provisions, such as modifying the physical or social environment, or relocation to a more acceptable enclosure, must be made for individuals or species showing chronic signs of distress related to their environment and management.

**Minimum Standard No 14 – Wild Animal Rehabilitation**

(a) Rehabilitation of wild animals must be carried out in such a manner that –
   
   (i) the health of existing zoo animals is protected; and
   
   (ii) it does not cause unnecessary pain or distress by prolonging the lives of animals that are obviously diseased, injured or stressed and have little prospect of recovery.

(b) Wild animals must not be exhibited while being rehabilitated unless the animal is not subjected to distress associated with being exhibited and all other standards of this code are met.

(c) When a wild animal is returned to its natural habitat, care must be taken to ensure it is not released in circumstances in which it is likely to suffer unnecessarily.