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Consultation on the use of wild animals in travelling circuses

December 2009

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Part I: This Consultation

Scope of this consultation:

1. This consultation is seeking views on how best to safeguard the welfare of wild animals in travelling circuses.
2. This consultation is not aimed at seeking evidence as to whether all animals in circuses should be banned. Nor is this consultation aimed at seeking evidence as to whether the use of wild animals in the performance industry should be banned. The Government is satisfied that the use of wild animals in the wider performance industry is not inherently cruel. The consultation draws a clear line between the use of wild animals in travelling circuses and the use of wild animals in the wider entertainment industry.
3. Animal welfare is a devolved matter. This consultation applies to the wild animals in travelling circuses in England only.

Impact Assessment

4. An impact assessment is included in this consultation and can be found at.....:

Basic Information:

To:	We would like to hear from: circus proprietors, circus industry bodies, audiovisual industry bodies, the wider advertising and entertainment industry, animal welfare groups, local authorities, veterinarians, and anyone else concerned about the welfare of wild animals in travelling circuses.
Body/bodies responsible for the consultation:	Defra - Animal Welfare Act Implementation Team
Duration:	12 weeks.
Enquiries:	Enquiries about the content or scope of the consultation can be addressed to Rebecca Kenner on 020 7238 5801, email animalwelfarecircusconsultation@defra.gsi.gov.uk Requests for hard copies can also be obtained from the above email address or Defra, Animal Welfare Act Implementation Team, Area 8B, No 9 Millbank, c/o 17 Smith Square, London SW1P 3JR or Tel: 020 7238 5801
How to respond:	To make it easier to contribute your views we have developed an online questionnaire, which can be found at: www.defra.gov.uk/corporate/consult/circus-wild-animals/ . Please send responses to either: Rebecca Kenner, Defra, Animal Welfare Act Implementation Team, Area 8B, No 9 Millbank, c/o 17 Smith Square, London, SW1P 3JR or email: animalwelfarecircusconsultation@defra.gsi.gov.uk clearly stating the name of the consultation in the subject header eg: Wild Animals -

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	Circuses.
Additional ways to become involved:	As these proposals affect only a small industry and discussions have already taken place with representatives of those affected, this will be a purely written exercise.
After the consultation:	A copy of the responses will be placed in the Defra library at Ergon House, London. We will also summarise all responses and aim to place this summary by date to be confirmed on our website at

Definitions

5. For the purpose of this consultation, we shall use the definition of wild animal used in the Zoo Licensing Act. This defines wild animals as: “a member of a species that is not normally domesticated in the British Islands”. A more detailed definition is provided in the Impact Assessment.
6. For the purpose of this consultation, we shall use the definition of circus used in the Zoo Licensing Act. This defines a circus as: “a place where animals are kept or introduced wholly or mainly for the purpose of performing tricks or manoeuvres at that place”. A travelling circus shall be defined by a circus not having a fixed place of residence for over six months of the year. A more detailed definition is provided in the Impact Assessment.

Part II: Summary of the current situation

Background

7. This consultation is being delivered as a part of the Government's ongoing work on animal welfare, which began with the passage of the Animal Welfare Act in 2006.
8. Defra works to protect the welfare of farm animals and animals used for entertainment, recreation, companionship, sport, work and captive wild animals. We aim to ensure that all kept animals are treated appropriately and humanely, and that those who interact with animals have the necessary skills and knowledge to meet their responsibility for the welfare of their animals. The ways in which we work are set out in the Animal Welfare Delivery Strategy (2007) and include: developing policy based on sound scientific research, practical experience and other relevant evidence; promoting the necessary skills and knowledge to ensure appropriate standards of animal welfare; allowing economic markets to operate transparently so that customers are able to make informed choices; compliance with welfare rules, underpinned by efficient and effective enforcement; and promoting agreement of globally accepted animal welfare standards.
9. As far as we know, there are currently 38 wild animals being used in four travelling circuses across England. Concerns have previously been raised by animal welfare organisations, members of both Houses of Parliament and members of the public over the welfare standards of these animals.
10. Defra held a public consultation on the Animal Welfare Bill between January and April 2002 which received responses regarding the welfare standards of wild animals in travelling circuses.
11. At present there are no specific animal welfare regulations for wild animals in travelling circuses. However, wild animals used in travelling circuses do fall under the scope of the Animal Welfare Act 2006 (for further information on the Animal Welfare Act, please see paragraphs 17-19).
12. During the passage of the Animal Welfare Bill in 2006, the need for protection of the welfare of wild animals in circuses was debated a number of times. It was agreed, after these debates, that the use of wild animals in travelling circuses would be banned, so long as there was sufficient scientific evidence to do so.¹
13. A Circus Working Group was therefore set up in 2007 to consider evidence relating to transportation and accommodation of wild animals in travelling circuses, and establish whether or not there was justification for a ban. Mike Radford, an academic lawyer, was appointed Chairman of this working group. The Circus Working Group published a report in 2007 (the "Radford report") which found that there was not robust scientific evidence to justify a ban on the use of wild animals in circuses (for further information please see paragraphs 20-23).

¹ "I intend to use a regulation under clause 10 of the Animal Welfare Bill [now section 12 of the Act] to the use in travelling circuses of certain non-domesticated species whose welfare needs cannot be satisfactorily met in that environment", Ben Bradshaw, Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs, 8th March 2006.

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14. A feasibility study was undertaken after the publication of the Radford report, to assess whether it would be practical to regulate the use of wild animals in circuses (for further information please see paragraphs 24-25).
15. Defra has engaged with stakeholders extensively on this subject. Defra officials have held meetings with representatives from the circus industry, welfare organisations and the Department for Culture, Media and Sport to discuss wider welfare matters and how wild animals in travelling circuses could be better protected.
16. Having completed the feasibility study and discussions with members of the circus industry and animal welfare organisations, it has been agreed that the next step is to issue a public consultation on the protection of the welfare of wild animals in travelling circuses.

Animal Welfare Act 2006

17. The Animal Welfare Act 2006 (AWA) makes it a criminal offence for any person responsible for an animal (be they owners or keepers) to fail to provide for their animals' welfare. Under Section 9 of the AWA, a person responsible for an animal has a duty to provide for an animal's needs, which include; its need for a suitable environment, its need for a suitable diet, its need to be able to exhibit normal behaviour patterns, its need to be housed with, or apart from, other animals and its need to be protected from any pain, suffering, injury or disease. The AWA also makes it a criminal offence to cause an animal any unnecessary pain or suffering.
18. The AWA applies to all vertebrate animals, and therefore covers wild animals in circuses. However, both the circus industry and animal welfare organisations believe that the environment provided by travelling circuses is both unique and variable and as such further action is required, above the AWA, specifically to safeguard the welfare of wild animals in travelling circuses.
19. The 2006 Act provides powers to the Secretary of State to introduce regulations for activities which involve animals. Both the circus industry and animal welfare organisations consider that further welfare protection is required for wild animals used in performance in travelling circuses. The welfare standards of wild animals in circuses have been a public concern for a number of years and these concerns were expressed during debates in Parliament on the Animal Welfare Bill.

The Radford report

20. In June 2006, the Circus Working Group was established and tasked with considering the evidence so as to decide whether or not wild animals should be banned from being used in travelling circuses. They were asked to focus on evidence on the transportation and housing needs of wild animals, as these were considered to be the factors that differentiated wild animals in circuses from wild animals being kept in other situations.
21. The Circus Working Group assessed evidence on the basis that to ban wild animals from travelling circuses, there must be sufficient scientific justification that the welfare of wild animals was compromised by being part of a travelling circus.

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22. The Circus Working Group did not consider photographic or video evidence, as it was decided that while photographic evidence of one incidence of cruelty in a circus can be distressing, it is not proof that circuses are inherently cruel.
23. Having considered the evidence provided by both animal welfare organisations and the circus industry, in October 2007 the Radford report concluded that there was not enough scientific evidence to ban the use of wild animals in circuses.

The Circus Feasibility Study

24. As part of the circus feasibility study, the Zoo Licensing Inspectorate visited two of the circuses that use wild animals. They visited both of the circuses during the summer touring season and one of the circuses during the winter at their permanent quarters.
25. The zoo inspectors made recommendations to the circuses of changes that could be made to improve the welfare of their wild animals. A follow up visit from veterinary inspectors from Animal Health found that both circuses had undertaken these improvements.

Part III: Proposed Actions

Possible options

26. Defra initially considered five options for raising the standard of welfare for wild animals in travelling circuses:
- a) A complete ban on the use of wild animals in travelling circuses;
 - b) A partial, species specific, ban on the use of wild animals in travelling circuses;
 - c) Voluntary, self-regulation of the use of wild animals in travelling circuses;
 - d) Compulsory statutory regulation of the use of wild animals in travelling circuses; and
 - e) Maintaining the status quo.
27. During discussions with key stakeholders, it was agreed by all parties that option (e) maintaining the status quo, was not a suitable option. "Business as usual" would not address welfare concerns raised by the circus industry, animal welfare organisations and the public and would not raise the standard of welfare for wild animals in travelling circuses. This option will not be considered for consultation.
28. Option (b) a partial, species specific, ban on wild animals in travelling circuses, was also considered, to enable those animals that were most unsuited to circus life (possibly elephants and big cats) to be removed from travelling circuses. This option was considered and discussed with key stakeholders, who were largely in agreement that this was not feasible. A species specific ban was seen to be extremely costly to establish and maintain and might not necessarily raise the welfare of all wild animals in circuses.
29. Animal welfare organisations were concerned that a species specific ban could also lead to animals that were even more unsuited to circus life being imported and used in circuses in order to circumvent the ban. The circus industry also made it clear that drawing up a list of permitted and non-permitted animals would not be feasible.
30. Therefore, having considered the possibility of a species specific ban with stakeholders, this option was dismissed.
31. We are now proceeding with three options for consultation:
1. A complete ban on the use of wild animals in travelling circuses (referred to throughout the document as option 1).
 2. Voluntary self-regulation of the use of wild animals in circuses (referred to throughout the document as option 2).
 3. Compulsory statutory regulation of the use of wild animals in circuses (referred to throughout the document as option 3).

Q1: Do you think that there are any species of wild animal which it is acceptable to use in travelling circuses? If so, which, and why?

Option 1: A complete ban on the use of wild animals in circuses

32. The following section (paragraphs 32-7) explains the arguments for and against option 1, a complete ban on the use of wild animals in circuses. The potential financial impacts of a complete ban are then considered (paragraphs 38-42).
33. Key animal welfare organisations in England and Wales have agreed that a complete ban on the use of wild animals in travelling circuses is the only option they feel they can support.
34. However, the circus industry strongly opposes a ban on the use of wild animals in travelling circuses. The industry is in agreement that if the use of wild animals were prohibited, their revenue would fall and some employees would be forced to leave.
35. If there were a complete ban on the use of wild animals in travelling circuses, all 38 animals that are currently being used in travelling circuses would have to cease performing in the travelling circus and be relocated to permanent premises.
36. Circus owners have made it clear that they would take responsibility for the re-homing of the animals themselves and would not want to see animals removed from their care and relocated to zoos or sanctuaries. However, if re-homing of animals were necessary, for example due to circuses no longer being able to afford to keep them for example, animal welfare organisations have agreed they could finance and provide facilities for the re-homing.
37. If the re-homing of banned circus animals were necessary, animal welfare organisations have also agreed that they would meet the costs of the ongoing care of any re-homed animals. These costs would most likely be covered by dedicated fund raising activities.

Q2: Do you think that a ban on the use of wild animals in travelling circuses is the best option to achieve consistently better welfare standards for such animals?

Q3: If a complete ban were introduced, how much time do you think travelling circuses should be given to stop using their wild animals?

Q4: If a complete ban were introduced, what do you think should happen to the animals at the time the ban becomes effective?

Q5: Do you think that travelling circuses should be prevented from obtaining any further wild animals?

Possible financial impacts of a ban:

38. A ban on wild animals in travelling circuses would result in there being less need for animal welfare organisations to conduct assessments on circuses. We would expect monitoring to be undertaken on an ad hoc basis, to ensure that a ban was being adhered to; however, these would not be of the same frequency as current visits. The

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reduced number of visits might result in a financial saving for animal welfare organisations.

39. If a ban were imposed, circuses involved believe there would be job losses and circuses would have to remove equipment that was no longer necessary. This would result in a financial cost to the circuses.
40. Circuses believe that if wild animals were removed from their circus performance, fewer people would attend, resulting in a loss of revenue. Animal welfare organisations believe that the opposite would be true, and that more people may attend circuses if there were no longer wild animals being used.
41. The circus industry has raised concerns that if wild animals were banned from travelling circuses, this could have an effect upon the wider film and television industry. They argue that circus animals are trained and handled in such a way that they are able to do unique “close work”, involving closer contact with actors/doubles.
42. Animal welfare organisations have argued that wild animals are used in a minority of productions and if absolutely necessary, can be sourced from private keepers and trainers.

Q6: If a complete ban were introduced, how often do you think travelling circuses should be inspected to ensure compliance?

Q7: How do you think a complete ban on wild animals might affect the revenue of the travelling circuses affected?

Q8: Do you think that wild animals from travelling circuses have skills which make them more suitable than other wild animals for work in the audiovisual industry? Why?

Q9: Do you think that a complete ban on wild animals in travelling circuses could have an impact on other industries? If yes, which industries, what effect and why?

Regulation

43. Having discussed option 1, a complete ban on the use of wild animals in travelling circuses, the next sections will consider the options of regulation. Firstly considering the various stipulations that could form part of any regulations (paragraphs 44-49) and then addresses the different ways in which a form of regulation could be implemented (50-59).

Ways of raising the standard of welfare:

44. In the event of either form of regulation, voluntary or statutory, there are a number of ways in which the welfare of wild animals in travelling circuses could be safeguarded through regulation. Paragraphs 44-49 list potential options that could become part of any regulatory system. Questions pertaining to the options of regulation will be throughout the section.

45. A code of practice, either voluntary or statutory, could stipulate that a circus had to comply with any number of regulations. Possible regulations have been discussed with the circus industry and animal welfare organisations and are listed below.

46. A possible way of raising the standard of welfare of wild animals could be for workers to undertake appropriate training in animal husbandry and training. PAWSI (Performing Animals Welfare Standards International) has set up a National Vocational Qualification in Animal Training and Management, which is run at Sparsholt Agricultural College. Some circus employees have already begun these courses.

47. Circuses could also be required to keep detailed, regularly updated veterinary records for every wild animal performing in their circus.

48. In discussions with the circus industry it was agreed that an effective way to regulate the use of wild animals in circuses and safeguard their standards of welfare could be for an inspector with appropriate experience of wild animals to undertake regular inspections of their housing and travelling accommodation.

49. Another way in which voluntary or compulsory regulations could safeguard the standard of welfare for wild animals in circuses could be for circuses to comply with a code of practice, either statutory or voluntary. This code could stipulate the conditions in which wild animals needed to be kept, could place restrictions on how far animals should travel and could restrict how many hours an animal can be in their travelling accommodation for.

Q10: Do you think that travelling circus employees undergoing training would be an appropriate measure to help raise the standard of welfare of wild animals in circuses?

Q11: Do you think that travelling circus owners should have to produce, on demand, veterinary records for the wild animals performing in their circus?

Q12: Do you think that visits from an appropriately trained inspector would safeguard the standard of welfare for wild animals in travelling circuses?

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Q13: If visits were required, what should be the minimum circus inspection frequency per year? Why?

Q14: Do you think that inspectors should undertake unannounced inspections of travelling circuses?

Q15: Do you think that a code of practice for keeping wild animals in travelling circuses could effectively safeguard their welfare? If yes, who do you think should write it?

Q16: Do you think that the hours and the environment in which circus animals travel should be restricted? If yes, what should these restrictions be?

How regulation might work

Option 2: Voluntary self-regulation of the use of wild animals in travelling circuses

50. In the event of voluntary self-regulation (option 2), the circus industry would be setting their own welfare standards which they themselves would be responsible for enforcing and controlling. Self-regulation by circuses would require no Government or judicial involvement, as there would be no form of official enforcement arrangements.
51. Performing Animal Welfare Standards International (PAWSI) has advocated a self-regulatory system. However, PAWSI represents animals from both the circus industry and the audiovisual and does not provide a clear distinction between the two. A clear separation between wild animals in circuses and other performing animals would be essential for any regulatory body.
52. Any regulatory body formed by circuses would also need to demonstrate that it was clear, transparent and that decisions were made objectively, both to animal welfare organisations and the general public. United Kingdom Accreditation Service (UKAS) accreditation would provide assurance that any system of regulation was open and auditable.
53. It would also be necessary for a self-regulatory system to be able to work with animal welfare organisations, such as the RSPCA. Current indications are that animal welfare organisations would not be comfortable working with a self-regulatory body as their preferred option is a complete ban.
54. There are, however, differing views within the circus industry over how appropriate and achievable a system of self-regulation would be, in terms of raising the standards of welfare of wild animals in circuses.

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55. Those against voluntary self regulation want regulations to be robust and enforceable. They believe regulations should incorporate high standards of welfare alongside an independent inspection regime that would stand up to the scrutiny of the general public. They do not believe a system set up and regulated by the circuses themselves could provide this.

Q17: Do you think that circuses themselves are best placed to regulate welfare standards for wild animals in travelling circuses?

Q18: If self-regulation is supported, should a regulatory body be accredited by the United Kingdom Accreditation Service or an equivalent body (please state)?

Option 3: Compulsory Statutory regulation of the use of wild animals in travelling circuses

56. In the event of compulsory statutory regulation (option 3), the Government or an alternative body would set welfare standards and would be responsible for enforcing and controlling them. In the event of non-compliance, there would be measures/penalties that could be enforced.
57. During discussions with the Local Authorities Coordinators or Regulatory Services (LACORS) it became apparent that it would not be practical for local authorities to regulate circuses. Their travelling nature would make it difficult and expensive for a single local authority to inspect them and it is unlikely that local authorities would have staff which had the appropriate experience to inspect circuses. On the basis that there are only four circuses in England that use wild animals, it is neither proportionate nor practical for local authorities to regulate them.
58. Enforcement possibilities were also discussed with the Local Better Regulation Office (LBRO). LBRO suggested using the Primary Authority Scheme. This scheme could overcome many of the difficulties that were presented by local authorities when attempting to regulate a travelling circus.
59. The Primary Authority scheme would allow circuses to register with one local authority, who would then be responsible for issuing a license for keeping wild animals, subject to regular inspections. This Primary Authority could then provide guidance and advice to any local authority undertaking inspections while the circus was travelling. The cost of this inspection could be recovered by the local authority from the circus's Primary Authority. The LBRO also hosts a secure database to which all local authorities have access, which would allow transferral of information on inspections and would enable a consistent approach to the enforcement of any regulations.

Q19: Do you think the use of no more than 50 wild animals in travelling circuses merits action? If yes, what action?

Q20: Do you think that there is an existing body that is appropriate to enforce any regulations on the use of wild animals in travelling circuses? If so, which and why?

Part IV: Impact Assessment

60. An Impact Assessment can be found at as part of this consultation exercise. The Impact Assessment presents and evaluates the relevant evidence on the positive and negative effects of the various options we have considered.
61. Impact Assessments are required for all Government interventions affecting the private sector, the third sector and public services. Their preparation and publication ensure that those with an interest understand and can challenge:
- why the Government is proposing to intervene;
 - how and to what extent new policies may impact on them; and
 - the estimated costs and benefits of proposed and actual measures.
62. They also give affected parties an opportunity to identify potential unintended consequences.
63. We would be interested to receive any views on the Impact Assessment, particularly on the estimated costs and benefits of our proposals and – if you are replying on behalf of a circus – how these proposals may impact on you.

Part V: Responding to this consultation

64. We welcome your views on any aspects of the proposals contained in this consultation. We are particularly interested to hear your views on the specific questions asked throughout this consultation. A summary list of these questions can be found at Annex A.

We are not consulting on whether the use of wild animals in circuses should continue unchecked, maintaining the current status quo.

Please fill in our online questionnaire at:

www.defra.gov.uk/corporate/consult/circus-wild-animals/.

Or send comments to:

Rebecca Kenner – Defra,
Animal Welfare Act Implementation Team,
Area 8B, No 9 Millbank,
c/o 17 Smith Square,
London
SW1P 3JR

Or email: animalwelfarecircusconsultation@defra.gsi.gov.uk clearly stating the name of the consultation in the subject header eg: Wild Animals - Circuses.

Or fax: 020 7238 6009 clearly stating the name of the consultation and addressed to the Animal Welfare Act Implementation Team.

Annex A: Summary of questions:

1. Do you think that there are any species of wild animal which it is acceptable to use in circuses? If so, which and why?

Option 1:

2. Do you think that a ban on the use of wild animals in travelling circuses is the best option to achieve consistently better welfare standards for such animals?
3. If a complete ban were introduced, how much time do you think travelling circuses should be given to stop using their wild animals?
4. If a complete ban were introduced, what do you think should happen to the animals at the time the ban becomes effective?
5. Do you think that travelling circuses should be prevented from obtaining any further wild animals?
6. If a complete ban were introduced, how often do you think travelling circuses should be inspected to ensure compliance?
7. How do you think a complete ban on wild animals might affect the revenue of the travelling circuses affected?
8. Do you think that wild animals from travelling circuses have skills which make them more suitable than other wild animals for work in the audiovisual industry? If yes, why?
9. Do you think that a complete ban on wild animals in travelling circuses could have an impact on other industries? If yes, what effect and why?

Options 2 & 3:

10. Do you think that travelling circus employees undergoing training would be an appropriate measure to help raise the standard of welfare of wild animals in circuses?
11. Do you think that circus owners should have to produce, on demand, veterinary records for the wild animals performing in their circus?
12. Do you think that visits from an appropriately trained inspector would safeguard the standard of welfare for wild animals in travelling circuses?
13. If visits were required, what should be the minimum circus inspection frequency per year? Why?
14. Do you think that inspectors should undertake unannounced inspections of travelling circuses?
15. Do you think that a code of practice for keeping wild animals in travelling circuses could effectively safeguard their welfare? If yes, who do you think should write such a code?
16. Do you think that the hours and the environment in which circus animals travel should be restricted? If yes, what should these restrictions be?

Option 2:

17. Do you think that circuses themselves are best placed to regulate welfare standards for wild animals in travelling circuses?
18. If self-regulation is supported, should a regulatory body be accredited by the United Kingdom Accreditation Service or an equivalent body (please state)?

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Option 3:

19. Do you think the use of no more than 50 wild animals in travelling circuses merits action? If yes, what action?
20. Do you think that there is an existing body that is appropriate to enforce any regulations on the use of wild animals in travelling circuses? If so, which and why?

