The Captive Animals’ Protection Society is a UK-based charity, working to end the exploitation of animals for entertainment. Established in 1957, CAPS has been working to end the use of animals in circuses for 60 years, alongside other NGOs and concerned members of the public. We have carried out investigation work, research, public outreach and political lobbying on this issue. We are pleased to support any restriction on the use of animals in circuses.

As requested below we have outlined evidence or comments on the Draft Bill in preparation of presenting to the Environment, Climate Change and Land Reform Committee of the Scottish Parliament on 13th June 2017.

**The ethical basis for the Bill, as opposed to other justifications such as animal welfare**

As an animal protection organisation which has worked on the issue of animal circuses for 60 years, we have witnessed society’s opinion changing towards animals and the ways they are used in entertainment. Whilst we experience a range of reactions to our different campaigns, the use of animals in circuses is always met with solid objections, for welfare and strongly held ethical reasons. The wild and free nature of wild animals in particular, their ‘telos’ as described by the Government, plays a large part in why people feel the manipulation of these animals to perform unnatural tricks or behaviours is ethically unacceptable.

As the Government have pointed out in its policy memorandum, this issue has been a “source of longstanding unease by the public.” Their own public consultation has shown the public’s support of a ban on the use of wild animals in travelling circuses. In our experience when campaigning, many people are surprised to hear that any circuses exist in the UK which use animals, seeing it as out of date and cruel. We therefore welcome a ban based on ethical grounds, however also believe there are serious reasons for a ban on welfare grounds and refer to the report published by the Welsh Government “The Welfare of Wild Animals in Travelling Circuses”.

This extensive report concludes that the “evidence would support a ban.... on animal welfare grounds.”

Overall, we would state there is much existing evidence, much of which the Government has acknowledged, to ban the use of wild animals in travelling circuses on ethical grounds.

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The effectiveness of the creation of an offence to prevent wild animals being used in travelling circuses in Scotland

We agree that this would be the most effective approach to protect animals who are already or may be used in travelling circuses

Alternative approaches to preventing the use of wild animals being used in travelling circuses

We do not believe any other approach would be sufficient to protect animals. We would not support a licensing system such as the one currently in effect in the UK.

We believe allowing the use of animals in this industry to continue, however regulated, does not address the ethical concerns shared by the public or the welfare concerns we believe are inherent to the industry.

The definitions of key phrases in the Bill such as “wild animal”, “animal”, “circus operator” and “travelling circus”

Domesticated
We are concerned about the definition of the term ‘domesticated’ as outlined in S.(2)(2) of the proposed Bill:

“For the purpose of subsection (1) [which defines the term “Wild Animal”], an animal is of a kind that is domesticated if the behaviour, life cycle or physiology of animals of that kind has been altered as a result of the breeding or living conditions of multiple generations of animals of that kind being under human control”.

We feel this definition may be open to challenge from those within animal industries who believe or may argue that, the breeding of a wild species in captivity for a few generations can be classed as ‘domesticated’. This would be incorrect as the domestication of animals is a significantly long process which takes place over hundreds of years and results in distinctive genetic differences in the animal from the original wild species. This genetic change will lead to changes, one of which is behavioural. A change in behaviour alone is not a sign of domestication.

For example, a wild animal which has been kept in a cage from birth may exhibit some behaviours that are different from their wild counterparts but this does not mean the animal is no longer wild, or now ‘domesticated’. It would be a result of their captivity or ‘taming’. There are recognised distinctions which define wild, domesticated and tamed animals and we feel the definition of the term ‘domesticated’ as it stands in the Bill, confuses these.

We would therefore recommend this definition is removed or an alternative sought from a reputable source. The definition of ‘wild animal’ should be enough to define which animals the Bill applies to. This definition has been used with success in the Zoo Licensing Act 1981.

Circus
We understand it has been outlined that there is no need for a formal definition of ‘circus’ to be included in the Bill, based on the historic and practical understanding of what this term means and, to a lesser extent, legal precedent on the matter. We welcome this with caution as, while recognising that a broad definition with opportunity for the courts to ensure that a narrow definition does not arbitrarily exclude businesses which, to all intents and purposes, are circuses, is a positive thing, we are cognisant that, in the same manner lack of definition may result in the same outcome. As such, we look forward to working with the Scottish government in the event that, once implemented, it is found that the Bill requires further clarity on the definition of what is and what is not a circus (whether in the form of formal guidance on the matter or by other means).

Proposed culpability
We agree with the proposed culpability outlined.

The effectiveness of proposed powers of enforcement
We agree with the proposed powers of enforcement outlined.

Further comments

Domestic animals

We understand that the Government consultation focused just on the use of wild animals but we believe there are strong grounds for domestic animals to be included in a ban. Whilst there may be some difference in public opinion between the use of wild and domestic animals in circuses, we find from our campaigning work that people do oppose the use of domestic animals in this way. Every year we support people who choose to campaign locally against the use of domestic animals in circuses including horses, cats, dogs and budgies. When speaking with the general public many of them state their opposition to all animals in circuses, not just wild. The ethical argument that making animals perform tricks is demeaning, the long hours on the road and the investigation work carried out by NGOs showing the housing of domestic animals in circuses, have led to these opinions. We urge the Government to take these opinions into account too, if not in this Bill but in a future Bill.

Static circuses

We are disappointed to see that static circuses have not been included in the Bill. Whilst there may be some arguments that better facilities can be provided for the animals at static premises, the same ethical arguments apply that making wild animals perform tricks teaches disrespect for animals and there is no arguable benefit. We are aware there are no static circuses in Scotland at present but feel it would be better to include those in the Bill to close any doors which may remain open to allow this kind of circus to exist in future.

Other travelling animal entertainment businesses

Whilst we understand the Government only consulted on animal circuses, from an ethical point of view we oppose the use of animals in other travelling entertainment,
such as mobiles zoos, falconry etc., and see the obvious parallels between these industries and animal circuses. We therefore strongly urge the Government to look at addressing these industries also and are pleased to note their commitment to doing so.