Environment, Climate Change and Land Reform Committee

Wild Animals in Travelling Circuses (Scotland) Bill

Written submission from PACT

Background

Pact is the trade association that represents the commercial interests of the independent production sector across the UK. Pact has around 500 members including around 40 companies, largely small and medium sized businesses, based in Scotland across TV, film, digital, animation and children’s production.

The UK independent television sector is the second largest in the world, with revenues growing over the last ten years to around £3 billion in 2016.¹ UK TV exports are also a success story with international revenues from the sale of UK TV programmes and associated activities at £1.3 billion in 2015/16, up an impressive 10% from the previous year.

In 2015, the Scottish original production market was worth approximately £190 million, and has grown by 9% per annum since 2009.² Scotland now has a strong base of producers able to compete nationally and internationally across a number of genres.

Overall approach

Review of compliance with the licensing regime

Pact’s overall view is that the licensing regime that exists in England around animal protection in production is adequate and should be considered as a potential option for Scotland to operate. This has promoted a broader and safer regime which gives the public confidence on high standards of welfare. Currently in England anyone operating a travelling circus with wild animals must have a licence, as required by the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 (guidance here³).

These licensed circuses work to a system which promotes and insists on a certain level of standards, and requires regular inspections to check welfare standards and compliance with conditions. Under this legislation, it is an offence to run a travelling circus with wild animals without a licence – which can result in prison and a fine up to £5,000. In England you must have a licence if you run a travelling circus with wild animals that give performances or displays; this is to ensure a high standard of welfare is met and maintained. In more detail:

- When such a licence is applied for you must appoint a lead veterinarian who specialises in the wild animals used in your circus. Each licence has a fee

¹ Pact Census Independent Production Sector Financial Census and Survey 2016, by Oliver & Ohlbaum Associates Limited
² Building a Sustainable Independent Production Sector in Scotland, Pact (Nov 2015)
applied and attached to it a care plan for each animal, agreed with the lead vet.

- The licence includes the list of animals covered (with details of their unique identification or microchip number) locations of all animals covered by the licence individual record for each animal and with tour itinerary dates at each site

- An inspection must take place before a licence can be issued, which is to be paid for by the licence holder in England. A licensing panel then considers the application. After the first inspection when you apply for a licence, you have at least two further inspections during the year. One of these inspections will be unannounced.

Animal Health and Welfare (Scotland) Act 2006

This Act introduced a duty of care on those responsible for animals to look after their welfare. There is a provision under Clause 27 which allows Scottish Ministers by introducing regulations to implement such a licencing regime for the purpose of travelling circuses, which could include use on productions that may involve animals from a travelling circus.

Such ongoing compliance by way of licensing in Scotland and enforcement of care and protection of such animals would encourage confidence that those responsible are meeting the welfare needs of those animals in their care. Pact recommends that there be a review of this process, and would be pleased to be involved. This would also encourage the wider community of travelling circuses outside of Scotland and the UK, to adopt best practice and help promote and protect these animals by working to encourage other EU countries to implement workable safeguards promoting animal welfare. As the travelling circus definition is widely defined, interpretation could have unintended consequences and may result in animals being used from other EU countries with less safeguards, rather than leading the way in ensuring all animals are safeguarding and promoting best practice.

In response to questions outlined in the Committee’s inquiry:

1. **The ethical basis for the Bill, as opposed to animal welfare justifications**

Pact believes that all legislation should be evidence based. In 2007, the Wild Animals Travelling Circuses report by Prof Mike Radford, was asked to consider the welfare impact that travelling circuses had on animal welfare, and found that they did not have an impact.

Pact recognises the proposed ethical aims of the Wild Animals in Travelling Circuses (Scotland) Bill. We understand that the Scottish Government is pursing the Bill to make an ethical stand and that the Bill, they claim, will not have an impact in practice. However, our interpretation is that the draft Bill could have an impact. If the Scottish Government is determined to pursue the Bill for ethical reasons then both the definition of ‘wild animal’ and ‘travelling circus’ need to be narrowed and more tightly defined so that it does not impact on TV or film production, where animals are obtained from travelling circus for involvement in production. Pact is also concerned
that there is a wider ethical point which is Scotland should lead the way in safeguarding animals welfare in travelling circus and not move the problem so these animals receive little or no protection in other countries.

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

If the Bill is introduced in its current form, it could impact the production sector in two ways:

*Animal Supply*

If a total ban was introduced on the use of wild animals, the risk is that there may be a series of unintended consequences. The reality is that television and film production companies may then have to source animals from either:

a) **Zoos**; which would be traumatic for animals not accustomed to filming conditions.

b) **Abroad**; as animal welfare standards abroad are generally not as high as those observed in UK there is an unquantifiable moral argument against importing animals. Producers would rather work in a stricter environment within the UK, where a failure to comply with safeguarding legislation has consequences. Many of the filming conditions abroad fail to have laws which protect animals to the levels in the UK and producers are unable to guarantee that these standards are met despite their best efforts. Pact is also concerned that production companies which currently film in the UK and (subject to UK’s welfare standards) may choose to film abroad instead if opportunities no longer exist.

c) **Post production Visual Effects**: visual effects technology is sophisticated and it is possible for certain animals to be digitally inserted into a programme after a shoot. The use of visual effects can be very expensive (particularly for small and medium sized companies) but most importantly it is usually requires filming with the animal that will be depicted in order to generate the initial computer image and to capture how the animal moves and the affect of movement on fur etc.

*Economic impact*

Due to the high cost of importing and/or using visual effects, it is likely that UK TV and film production companies would be obliged to make the most of tax credits available abroad and shoot productions involving wild animals overseas should a ban on wild animals performing in circuses come into effect. The production sector uses circuses animals for the purposes of filming because they are accustomed to the conditions of performance and human contact.

Big Talk Productions is a BAFTA TV and BIFA award winning production company that recently filmed over 200 animals for their period drama based on a war veteran who liberated circus animals and created the UK’s first zoo without bars.
Commissioned by the BBC, Big Talk’s programme was broadcast in a primetime Sunday evening position. With a budget of £7.2 million, the drama qualified for the high-end tax credit and demonstrates how a ban on wild animals in travelling circuses could have wider reaching economic and moral implications that were not explored in Defra’s Impact Assessment on ending the use of wild animals in circuses⁴.

For example, Big Talk might have had to look into making ‘Our Zoo’ in another country with a competitive tax break in which filming with circus animals was still possible. The Scottish Government may want to consider the impact of a complete ban on future productions to be filmed in Scotland by UK, US or other international companies and the impact on Scotland as a filming location supported by Creative Scotland production funds.

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

The policy memorandum to the draft Bill mentions that other countries have robust animal welfare standards in place for travelling circuses rather than an outright ban. Pact believes that the Animal Health and Welfare (Scotland) Act 2006 is sufficient to cover any animal welfare concerns and implement a licensing which encourages welfare, safeguards, conservation, protection and education of wild animals whether in travelling circus or otherwise, and we feel that all the tools made available in the legislation should be used to their full capacity.

It is in the interests of TV and film companies to ensure that they are meeting high standards of animal welfare when they source animals, and with the animals they work with. Legislative provisions in Scotland would give them assurance ensure that wild animals benefit from funds of the licensing regime promoting conservation and preservations.

The Welsh government is also looking at the issue of addressing concerns of animal welfare in travelling circuses. Rather than imposing a ban, Wales are improving their regulation standards⁵. We believe this is a more proportionate response that both ensures there is a high standard of animal welfare in travelling circuses, and whilst also ensuring the production sector has access to animals for film and TV that are accustomed to human contact and working to educate the public on their protection and safeguards in the UK and abroad.

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

The current definitions of ‘wild animal’ and ‘travelling circus’ are too broad and may capture for example reindeer farming, travelling lama and travelling camels. Pact understands such animals do in fact travel around Scotland giving children and adults the opportunity to experience and learn about these animals. This would be captured under ‘travelling circus’ and needlessly criminalise producers rather than

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safeguard animals. The supply of animals will be affected, which in turn will impact on TV or film production.

Pact is open to further conversations with the Scottish Government to narrow the definition of both ‘wild animal’ and ‘travelling circus’ to minimise the impact on animal supply and the production sector.

In the previous draft Bill in Westminster on banning the use of wild animals in circuses, the term ‘circus’ was not clearly defined. If the Bill is to go ahead then we encourage the Scottish Government to liaise with DCMS and learn the lessons from the previous draft Bill. This will help ensure that filming of a TV or film production will not fall into the scope of the legislation.

5. **Proposed culpability**

Pact is has no comments on this particular point.

6. **The effectiveness of proposed powers of enforcement**

As previously outlined, we believe the powers available in the current Animal Health and Welfare (Scotland) Act 2006 are sufficient to address concerns raised.

*Impact on Scotland as a production centre*

If the Bill came into effect, the offence of using wild animals in travelling circuses would only apply to Scotland and not in any of the other nations of the UK for the time being. If wild animals who are accustomed to performance, having performed within a circus, only exist in the rest of the UK, production companies may be forced to relocate their productions (rather than travel the animals to Scotland which may be unnecessarily distressing) producing a disproportionate disincentive to film in Scotland, and in turn failing to protect and safeguards these animals effectively.

The Scottish indie production sector is in a good place at the moment and has the potential to be a strong and sustainable production centre in the future. Pact is concerned that imposing further restrictions, or banning entirely, the use of wild animals in production could result in production and employment opportunities moving elsewhere either within the UK or overseas entirely. Pact would however welcome a review of the safeguards in place to ensure there is a system which guarantees compliance with these protections, and means producers can have confidence that those working with animals are required to keep to a high standard of care.