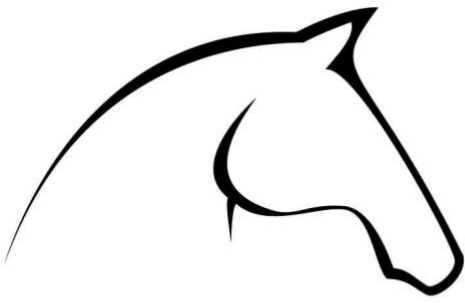


Submission to the Victorian Animal Care and Protection Bill

25 March 2024





THE COALITION FOR THE PROTECTION OF RACEHORSES Inc.

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Department of Jobs, Precincts and Regions
1 Spring Street
Melbourne Victoria 3000

RE: Submission for the Animal Care and Protection Bill – Exposure Draft

25 March 2024

Dear Madam/Sir,

Thank you for the opportunity to provide feedback on any risks or unintended consequences based on the language used or the structure of provisions in the draft Animal Care and Protection Bill that is to replace the Prevention of Cruelty to Animals Act 1986 (Vic).

CPR applauds the acknowledgement of sentience that forms a crucial part of the proposed new Act. CPR believes that all animals deserve protection, and should be given due moral consideration regarding their welfare. We also believe that all animals within a species should be given equal treatment, regardless of the uses to which they are put by humans.

The proposed new Act claims to provide new standards that are aligned to a modern society and to Australians' values towards animals. While this sentiment is commendable, the Bill fails to achieve this aim, because of the continuation of exemptions and exclusions for the most cruel and abusive industries, including horse racing (Approved industry arrangements Part 10, Division 2). The exclusions that would allow cruel treatment of horses used in racing, is inconsistent with the acknowledgement of horses as sentient beings, capable of feeling fear, pain, and the negative impacts of multiple deprivations in their daily lives, and the denial of positive experiences.

As such, we must urge you to address these exemptions and exclusions as they would have serious unintended consequences for the affected animals. We will elaborate our concerns in our attached submission.

Kind regards

Elio Celotto

President
Coalition for the Protection of Racehorses

Introduction

The Coalition for the Protection of Racehorses' (CPR) focus of interest is on racehorses, however our position is, that all horses, regardless of the uses to which humans make of them, ought to be treated equally.

We submit that the proposed Bill is already out of date, according to global and community standards, and will be poorly equipped for addressing increasingly important issues of animal treatment over the next 20 years.

The most vulnerable, and captive animals who are intensively used in several industries, will continue to be denied adequate consideration and legal acknowledgment of their sentience. That is, that although some changes have been made to current practice, it appears that the exempted industries, will still operate on a 'business as usual' basis. The proposal to exclude the cruellest industries from the Bill, are inconsistent with the recognition of animal sentience.

'Approved Industry Arrangements' must not allow the racing industry to 'regulate certain aspects of the care and protection of the animals' if these undermine the basic needs of a horse as per the Act and updated Code of Practice (CoP). The Racing Act was established to set up the racing industry. It is not an act concerned with the welfare of Thoroughbreds. The Australian Rules of Racing do provide some concern for the welfare of the horses, but once again, the focus is on the integrity of racing, gambling, and the public image of the industry, but not animal welfare in the first instance. Despite numerous public scandals involving failures in animal welfare, the Bill persists in giving the racing industry legislative authority for self-regulation of animal welfare.

We agree with the Sentient Animal Law Foundation's (2022) submission on the Plan, that the definition and application of welfare, presents a low level (Tier 2), (rather than a more advanced Tier 3 protection), that is not in keeping with the globally accepted Five Domains model. In other words, before the Bill is even passed, it will be out of date on the global stage, as well as with some other Australian states, thereby confining Victorian animals to far worse conditions, than if they lived elsewhere.

Academic literature is already addressing higher level issues such as animal consent (Fennell, 2022) and animal agency (Bergmann, 2019), further demonstrating that the proposed Bill is lagging far behind the rest of the world. Fennell for example, argues that "sled dogs and other animals do in fact speak for themselves through their emotions, preferences, behaviours, and physical state, and we have simply avoided their 'voices' because of ignorance and self-interest" (Fennell, 2022, p. 7).

We note that in several instances, the proposed Bill has adopted only the lowest level of welfare and conditions for animals, and is far from a globally accepted form of animal protection, and community expectations. In particular, the definition and application of sentience, cruelty and classes of exemption stand out as unacceptable in their current form.

Code of Practice for the Welfare of Horses

The current *Code of Practice for the Welfare of Horses* (CoP) must be revised and formed into enforceable Regulations. Without a comprehensive revision of the CoP, the new Animal Care and Protection Act will do little to nothing to improve the welfare of horses or protect horses against cruelty.

The proposed Bill fails to address any of the most apparent acts of cruelty that horses are routinely subjected to in the Victorian horse racing industry. At a bare minimum, the revised CoP for the Welfare of Horses must regulate that the acts of whipping (beating) a horse, tying a horse's tongue (unreasonable harm, pain, and distress), and forcing horses into jumps racing (unreasonable risk of harm, pain, and distress), are prohibited as acts of cruelty.

CPR submits that the Act must state that the revised *Code of Practice for the Welfare of Horses*, is mandatory and enforceable, and applies to all horses. These Regulations must be prioritized over the various racing industry acts and the Australian and Local Rules of Racing and must not be subject to “Approved Industry Arrangements”.

Sentience

CPR's position is, that sentience must not be subordinated to other Acts when it comes to decision-making about animal welfare.

We commend the government for its acknowledgment of animal sentience, but regret that it is at best, a shallow interpretation of a complex set of animal experiences. Sentience is mentioned only three times in the 245 pages of the proposed Bill, including once in the Table of Contents. At the very least, it could be expected that sentience would be addressed in other sections, to provide a basis for the development of welfare Regulations. For example, sentience should be incorporated into the sections on cruelty, to advise how sentience forms a part of decision-making.

The Bill mentions positive aspects of sentience only briefly, again, failing to provide guidance for the complexity of experiences, and how the treatment of animals must proceed. Fennell and Thomsen (2021, p. 5) for example argue that "[T]he fact that animals experience pleasure makes the case for their protection a moral concern, instead of merely managing pain and suffering which is an empirical one". Broom finds that sentience is thought to influence an animal's "physiological response that involve a return to homeostasis" (Broom, 2010, p. 6), thus being an integral aspect of basic welfare.

Through its exclusions, the Bill continues to treat most animals according to their human usage, thus failing to acknowledge the effects of an animal's biological functioning on sentience (Broom, 2010; O'Sullivan, 2007). The Bill should also acknowledge the unique experiences of species to inform the development of species-specific Regulations.

McManus et al. (2013, p. 147) describe how the argument of an extended life span and other benefits from the intensive care given to race horses outweighs their suffering is, "from a sentience-liberation perspective like trying to justify slavery on the basis that the slaves are treated well."

Individual members of a species must be treated equally with other members of their species

CPR's position is, that all animals ought to be treated equally, in comparison with other members of their species.

This position makes biological sense, and acknowledges the unique sentience, welfare needs and characteristics of their species. O'Sullivan (2007) argues that treating animals equally, avoids the difficult political task of trying to convince the general community to accept that animals experience sentience equally with humans.

Similarly, the principle of sentience applies equally to all horses, because their biological functioning is such that all members of a species have equal capacity to "(a) subjectively perceive their environments; and (b) to experience positive and negative physical and mental states" (Bill, Section 6, p. 16).

Consequently, the proposed Regulations, that will be based on the *Code of Practice for the Welfare of Horses*, should apply the standards of care equally to all horses. The Guide states on page 31, that the various codes of practice that attach to the current POCTA will be formed as enforceable Regulations. At present, the Code is a weak, ineffective instrument, that expects only to “encourage the considerate treatment of horses” (Code of Practice, 2019 p. iii).

CPR submits that the current *Code of Practice for the Welfare of Horses*, must be revised, and formed into enforceable Regulations. The Act must state that the revised *Code of Practice for the Welfare of Horses*, is mandatory and enforceable, and applies to all horses equally. CPR submits that the Act must not legislate the exclusion of horses used by the racing industry.

Cruelty

CPR submits that the Bill should encompass more than the most acute forms of animal cruelty. Social media has increased the general community’s awareness of, and competence in assessing animal cruelty, and thus their expectations of adequate protections for animals have also expanded beyond the narrow range outlined in the Bill.

CPR submits that animals are subjected to cruelty that is not adequately encompassed by the Bill. Regan (2004) refers to the costs paid by animals because of different types of cruelty and violence, as ‘ultimate costs’ (death) and ‘enduring costs’ (also known as ‘deprivations’). Arcari (2023), refers to two main types – ‘fast violence’ and ‘slow violence’. Fast violence refers to those types of cruel human behaviours that the Bill currently acknowledges. These are most often extreme violent, highly visible acts perpetrated on animals, causing an immediate and severe threat to the animal’s life and welfare: beating, maiming, and killing for example.

Slow violence encompasses “the embodied effects of innumerable everyday practices and their constellations” (Arcari, 2023, p. 4). Frequent, minor acts, which may be in themselves insufficient to classify as ‘cruelty’ under the current ‘fast violence’ regime, cause life-long suffering, poor welfare outcomes and lead animals to an early death. This slow violence reflects the ‘deprivations,’ of an animal’s basic needs (Fennell & Thomsen, 2021; Regan, 2004). Horses can suffer for years, leading to a slow physical and psychological breakdown, as a result of inadequate conditions affecting every aspect of their lives: housing, diet, training, racing, and breeding regimes that conflict with their biological needs.

Captive animals are unable to escape these harmful situations or adjust using their normal biological adaptive mechanisms (Fennell & Thomsen, 2021). ‘Slow’ violence is insidious and is built in to the racing industry’s management of horses. Its practices cause damage to an animal gradually, and occur out of public view, but result in serious animal harm nonetheless.

CPR submits that animals are subjected to cruelty that is not adequately encompassed by the Bill. Remedies lie in species-specific enforceable Regulations that are designed to address everyday practices as well as more acute acts of cruelty and violence.

Unintended consequences

Consequences of failing to treat all members of a species as equal

Should 'Gary', (referred to in the Plan, 2022, p. 68), and other members of the racing industry, including trainers, jockeys, owners and perhaps the operators of racetracks, fail to apply the *Code of Practice for the Welfare of Horses/Regulations* to the horses in their care and control, they risk legal liability. CPR's (2023) *DeathWatch* report details that in 2022/2023, one Thoroughbred was killed on an Australian race track every two days.

Stewards' reports list systematic, and frequent examples of the injuries suffered by racehorses: EIPH, lameness, cardiac issues, respiratory issues, lacerations, the effects of whipping, the effects of over work and training manifesting as stress fractures - leading to death (CPR, 2023). All of these injuries result from acts of cruelty that are standard practice in racing.

Once the legislation and the Regulations specify that all horses are equal with respect to their welfare and treatment, then members of the racing industry must be faced with a risk of legal liability for actions which are defined as cruel, as clearly laid out in Sections 21 and 22 of the Bill.

Consequences of contravening the Act because of direct cruelty that has been inflicted on horses through racing

In this section we describe some of the most common acts of cruelty to horses on race day: tongue ties, whips, and jumps racing. These actions directly cause physical and psychological harm, pain, and distress to an animal. We describe two of the common effects of the forced racing of horses: exercise induced pulmonary hemorrhage (EIPH) and death. The way in which horses are raced, constitute acts of cruelty as specified in the Bill, Section 21 (1) – as below.

Even so, a single race event, cannot be isolated from other components of the system that inflict lifelong welfare damage to Thoroughbreds as a part of its day-to-day operations: an inappropriate feeding regime, isolated lives in stables with limited contact to other equines, overwork in racing and training, lack of adequate rest and recovery, and limited access to exercise freely at turnout. This is addressed in the next section.

Division 2—Acts of cruelty and aggravated cruelty

21 Act of cruelty

- (1) A person commits an act of cruelty upon an animal if—
 - (a) the person does or omits to do an act with the result that unreasonable **harm, pain or distress** is **caused, or is likely to be caused**, to an animal;
or

- (b) the person wounds, mutilates or beats the animal; or

Race day and the use of force

Negative reinforcement, that is, the use of pain and fear of pain, is a common method to force a horse to enter the barrier and race, rather than allowing the horse agency to make their own decision. Horses who do not want to race or enter the barrier, resist and are then described in Stewards' Reports as a problem horse: 'fractious', 'resentful' and 'difficult to load'.

McLean and McGreevy (2010a), argue that riders with superior skills have little need for external devices and negative controls over horses, and that training, and even matching of horse and rider can provide better outcomes. The most common negative and harmful techniques used to force a horse to race are described below. Under the Bill, all of these are classed as cruel and are therefore illegal.

Tongue ties

A 2016 survey of Australian trainers by Findley, Sealy and Franklin demonstrate that 85% of Standardbred trainers use tongue-ties (also common in Thoroughbred racing), with 23% reporting complications after the use of ties, including lacerations, swelling, bruising and head shyness. Other studies have also shown that tying a horse's tongue stresses them, causes ischemia, and can cause long-lasting damage to the horse's highly vascularised tongue (McLean & McGreevy, 2010b).

Tongue ties cause pain in racehorses. According to Section 21 (1) (a), application of a tongue tie is an illegal act of cruelty.

Whipping

'Beating' an animal is prohibited. Studies show that whipping causes pain to a horse (Tong et al., 2020), but this fact is still debated. CPR agrees with the submission of the Animal Defenders that, "where it is likely that an action would cause an animal harm, that action should be included even if scientific understandings of the effect of the actions on sentient animals are still evolving" (Animal Defenders, 2022, p.4). The case against whipping is further supported by research that shows beating a horse does not significantly increase the speed or placement in a race (Evans & McGreevy, 2011; Wilson, Jones & McGreevy, 2018). Thompson et al., (2020), make the case against whipping very clearly, as cited below:

Our findings refute the culturally entrenched belief that whip use is essential for racing integrity, particularly in relation to steering, safety and riding the horse out on its merits. In other words, we found nothing to commend the use of the whip in horseracing that could (a) be related to integrity, (b) counter the scientific evidence that whip use is a welfare concern or (c) alleviate increasing public discontent with horseracing (Thompson et al., 2020, p. 11).

More details can be found in CPR (2015) *Proposal for the phasing out of the whip in Australian Thoroughbred racing*.

Whipping (referred to as 'beating') in the Bill, Section 21 (1) (b), is a violent act of cruelty that occurs in all races. Those who beat horses are subject to legal liability. Whipping is as an act of cruelty suffered by almost every horse in every race: it is highly visible to the public, being broadcast on television and in social media. Given the acknowledgment of sentience in the Bill, it would be an inconsistent outcome of the legislation, that actions such as whipping/beating a horse were prosecuted as cruelty for some horses, but not all.

Exercise-induced pulmonary haemorrhage (EIPH)

One of the effects of the cruelty inflicted on horses during a race is EIPH: almost all horses suffer from it, to varying degrees while being raced (Sullivan & Hinchcliff, 2015). This condition goes mostly unnoticed, and therefore unreported on race day because it mostly occurs deep in the lungs and is therefore only detected via endoscopy.

Only 1.1% to 3.5% of horses show visible signs of bleeding, with blood at the nose (Sullivan & Hinchcliff, 2015). CPR's *DeathWatch Report (2023)* tracked EIPH when it is reported, and found stewards reported horses to be bleeding from one or both nostrils on 624 occasions. The limitations on racing due to a horse being diagnosed with EIPH, is ironic, given it is a condition that is caused by the demands placed upon the horses by racing (Sullivan & Hinchcliff, 2015).

Jumps racing

Jumps racing is inherently cruel, and was banned by NSW in 1997, under Section 4, Part 1 (2) of the *NSW Prevention of Cruelty to Animals Act*. Even South Australia succumbed to the lack of public interest, bad publicity for on track deaths and financial problems. It was banned in 2022. See more details in CPR (2016) *Jumps racing SA parliamentary inquiry submission*.

Victoria remains the only Australian state to allow the continuation of jumps racing. Racegoers do not like to see horses dying on the track, and so most races have been moved out of the metropolitan area, conveniently out of sight, to country regions. It is well known that jumps racing places a risk of death that is almost 20 times that of flat racing (Boden et al., 2006). The toll placed on jumps horses is illustrated in the findings of Ruse et al. (2015), that only 37% of 2012 jumps horses, raced in jumps in 2013.

Death on race day

CPR's (2023) *Deathwatch* report identifies 168 Thoroughbreds who died on track or shortly after as a direct result of racing. Some were killed in their first ever race at two or three years of age. The most common injury was a catastrophic front limb injury. Others collapsed and died from 'unknown' reasons. Some bled to death, some suffered spinal injuries, while others died from a fractured skull or cardiac failure.

In short, the overworking of horses in racing to the point of pulmonary bleeding and catastrophic injury results from cruel practices in training and racing.

Consequences of contravening the Act as a result of cruelty that has been inflicted on horses over the long term

In this section, we describe how horses are caused harm because of poorly informed and inadequate management practices, that are visited on horses on a day-to-day basis over their entire racing lives. We argue that these acts are cruel and therefore illegal under Section 22 (3).

We refer to activities that fall into the 'slow violence' category: activities that cause harm to horses through daily management practices including diet, housing, training, and breeding regimes. These processes are cruel to horses because they cause continuous pain, distress, and loss of autonomy for their entire lives. Horses suffer long term chronic conditions, that gradually wear them down.

Section 21, (2), classes as cruelty, "**a single act or omission or accumulate through more than one act or omission**". (See below).

Division 2—Acts of cruelty and aggravated cruelty

22 Act of cruelty

- (2) A person commits an act of cruelty upon an animal if—
 - (a) the person does or omits to do an act with the result that unreasonable **harm, pain or distress is caused, or is likely to be caused**, to an animal; or
 - (b) the person wounds, mutilates **or beats the animal**; or
- (3) For the purposes of subsection (1)(a), the harm, pain or distress may be constituted **by a single act or omission or accumulate through more than one act or omission**.

Some of the negative welfare conditions in horses, that result from practices that are classified as cruel, enacted over lengthy periods of time are described below. These are also described in our *Submission to Thoroughbred Aftercare Welfare Working Group* (CPR, 2020).

Housing

The accommodation in which horses are kept whilst being used to race is entirely inappropriate - they are confined to stalls for up to 22 hours per day. The inability to graze, combined with their feeding regime, leads to most race horses having painful stomach ulcers (Begg & O'Sullivan, 2003).

Horses can also suffer from inflammatory airway disease caused by excessive exercise as well as agents such as dust, allergens and endotoxins whose sources include bedding, feed, loosebox materials, and sources outside the loosebox such as debris from swept laneways, stable corridors, human and mechanical activity (Linklater et al., 2000).

Because they are unable to socialize and move freely, many stabled racehorses will develop abnormal behaviours such as wood chewing, box walking (round and round the stall), windsucking (gripping an object with their teeth and sucking in air) and weaving (swaying the head, neck and forequarters from side to side) (Malikides & Hodgson, 2003).

Diet

Almost all racehorses suffer from gastric ulcers due to the high nutrient diet, and lack of opportunity to graze, that fails to acknowledge horse's natural behaviours as grazing animals (Begg, & O'Sullivan, 2003). Horses suffer daily pain and distress as a result. That is, while the feed may be 'sufficient' it is not 'appropriate' because it does not suit the horses' biological needs.

Deprivation of social needs

Horses are social, herd animals, who need companionship and interactions with other horses, yet they are forced to spend most of the day housed in single stalls. This kind of limitation is a form of cruelty by depriving the animals of ways to express their natural needs and instincts, denies positive effects, and creates negative experiences (Jones & McGreevy, 2010).

Additionally, being unable to graze and move freely, and unable to interact and socialize naturally with other horses is detrimental to both their physical and mental wellbeing (Linklater et al., 2000). Stallions forced into the breeding industry suffer social deprivation, lack of choice in selecting a mate, and are frequently transported from one stud to another to provide 'services'.

Bone fatigue

Recent studies by Professor Chris Whitton and his team at the Melbourne University Equine Centre demonstrate that bone fatigue is the leading cause of catastrophic injury in racehorses. Recommendations include significantly increasing the frequency and duration of rest without training and racing (Whitton et al., 2013 & *Whitton Presentation*). There are currently no limits on how often a horse can be

raced, nor are there requirements for spelling frequency or duration. CPR's *DeathWatch* reports demonstrate that catastrophic limb injuries are the leading cause of **death on the racetrack**. The racing industry is knowingly overworking horses to the point of serious injury, most often, if not always, resulting in death.

CPR strongly recommends that all horses be treated equally under the new Act, and that Regulations for the welfare of horses is mandatory and enforceable. Actions that cause horses harm when conducted on a regular basis over the long term and which cause immediate pain, distress, and welfare, with more serious harm in the long term are cruel under the definitions of the Bill.

Breeding

The intensive, factory farming model of the racing industry causes many problems for individual horses, and plays a major part in wastage.

The greed for profit from breeding and racing faster horses, has meant that Thoroughbreds have been structurally weakened over the past two centuries. Selective breeding from the 'speed gene', has had some success, but has now reached its limit. Horses have paid for this focus on a single characteristic of their breed, in that they have become more fragile and liable to catastrophic breakdown (Bower et al., 2012; Denny, 2008; McManus et al., 2013).

As McManus et al. (2013, p. 139) state, "The 'speed gene' enables horses to race in a manner that exceeds their physiological and anatomical limits, but only under the strictly controlled conditions of organized racing." The racing industry has campaigned to confuse these two issues: the capacity of Thoroughbreds for speed, and being forced to race out of fear and pain, and not because they love racing.

The animals involved in breeding are confined to conditions that deprive them of their needs and which cause them distress. Mares may be 'retired' from racing, and moved into breeding where they are forced to birth a foal every year until they are exhausted. Stallions live solitary lives, and are transported frequently, with virtually no time for interactions with other horses, including those with whom they are forced to 'service' (McManus et al., 2013).

Victoria's Onsite Humane Euthanasia Program (OHEP)

We are particularly concerned for the welfare of racehorses, who will be subject to **on-farm slaughter**, which has been recently introduced as part of the racing industry's attempt to find a convenient way to deal with their animals.

Victoria Racing's *Onsite Humane Euthanasia Program* (OHEP) currently approves onsite slaughter of any horse that is declared by the owner to be "exhibiting dangerous behavior which makes the horse unsuitable for re-homing" and any horse where "re-homing has been unsuccessful following a minimum of two (2) genuine attempts".

CPR submits that the reasons for slaughter as described above are illegitimate and that any onsite euthanasia of a horse must be conducted by an equine

veterinarian based on their professional - not the owner of the horse - assessment that euthanasia is the only humane option for the horse.

It is also notable, that the Code of Practice provides vague and weak conditions through which a horse may be killed. A person need only be 'competent' – but not a veterinarian, and not formally trained or qualified to kill a horse.

Revision of the Code of Practice for the Welfare of Horses must take into account the circumstances, and genuine need for euthanasia, before a horse may be killed.

Social license and community expectations

Community values for animals, and attitudes towards their use and treatment are changing rapidly in Australia and across the globe. As we note above, the proposed Bill provides only a relatively low level of animal protection, compared with other Australian states and other countries. CPR believes that the Victorian community expects better.

In the face of publication of racehorse deaths over the past several years, the racing industry itself has expressed concern about the potential loss of their 'social license'. Studies in Australia and the United Kingdom have confirmed a decline in racetrack attendance, with on-track deaths having a negative impact on public opinion of racing (Buraimo et al., 2020; Duncan, Graham, & McManus, 2018.)

Exclusions - “Approved industry arrangements”

The racing industry must be declassified as an exempt industry, and thereby allow for the welfare of horses used by the racing industry to be incorporated to this Act. The proposed animal welfare Act must not be subjugated to other acts and Regulations, such as those in horse racing. It is inconsistent for the Act to acknowledge animal sentience, to claim it is providing a legal basis for animal welfare, and to then legalise cruel treatment of some animals, because they live in industries that use cruelty as their basic business model.

Horse racing is one of these industries that are inherently cruel, and treat their animals primarily as profit-earning assets, without due care and acknowledgment of their sentience and their biological needs. The Racing Act is not an animal welfare act – it was designed to establish the racing and gambling industry. Combined with the self-regulation of the industry through the Australian and Local Rules of Racing, the racing industry has been once again, handed a virtual *carte blanche* when it comes to their treatment of racehorses.

The racing industry has demonstrated multiple times, that it fails to act in the best interests of horse welfare. Acts of cruelty on the racetrack, can be seen on television almost every day – horses being whipped, breaking down, distressed, injured, collapsing during and after races. CPR's annual *Deathwatch* report details, not only deaths, but the injuries suffered by these horses, yet despite numerous horse welfare scandals reported in the media, the deaths on Melbourne Cup Day and at the Meramist slaughterhouse in Queensland, this new Act will hand the industry legislative support for its operations.

Industry arrangements and exclusions facilitate non-transparency for the racing industry's operations. CPR's Deathwatch reports notes that Victoria is notable among Australian states, in hiding some of the impacts on horses to the public by the frequency of failure to disclose the reasons for death on track, for removing publicly available footage of falls, particularly in jumps races. Despite regular and repeated efforts, the industry has steadfastly refused to disclose details about the fates of 'Retired' horses, broodmares, and foals. As noted above, the Onsite Humane Euthanasia Program allows owners to simply hide the killing of horses for reasons little better than convenience.

CPR strongly objects to the continuation of exclusions for certain industries.

Unintended consequences of industry exemptions in the Act

The proposal to exempt some industries from the Act will be a legislated inconsistency that will weaken the public's perception of the Act, for the protection of animals. The Act fails the government promises to the public, for improved race horse welfare, in the wake of recent and ongoing scandals in racing and other animal-using industries.

CPR submits that the racing industry must not be given legislative approval to regulate the welfare of racehorses, and to engage in cruel practices at any level in its various operations: breeding, training, and racing.

Welfare and cruelty must be governed by an independent body

CPR strongly recommends that compliance and enforcement of welfare and cruelty must be governed by an independent body. In addition, there ought to be a ministry of animal protection/welfare; and an animal crime division of law enforcement. Members of an expert and advisory committee must also be independent of the racing industry.

Conclusion

CPR applauds the acknowledgement of sentience that forms a crucial part of the proposed new Animal Care and Protection Act. However, by only applying the lowest standards of care and protection, the Bill will be out of date on the global stage, as well as with some other Australian states, even before the Bill is passed.

Most importantly, the draft Bill in its current form includes elements which out-right contradict the very purpose of the Bill, which is to provide all animals with a more appropriate minimum standard of care and protection against cruelty:

- The proposal to exclude the cruellest industries from the Bill are inconsistent with the recognition of animal sentience. The racing industry must not be given legislative authority to self-regulate aspects of care and protection of the animals in the industry via the 'Approved Industry Arrangements'. Horse racing is not a so-called essential animal industry. Its sole purpose is to provide people with entertainment and an opportunity to gamble. As such, the horse racing industry must not be exempt from providing their horses with the same minimum care and protection against cruelty as any other horse in Victoria.
- The proposed Bill fails to state that the revised *Code of Practice for the Welfare of Horses* must apply equally to all animals within a species regardless of the uses to which they are put by humans. The revised CoP must be mandatory and enforceable and apply to all horses. The regulations within the CoP must be prioritized over the various racing industry acts and the Australian and Local Rules of Racing and must not be subject to 'Approved Industry Arrangements'.
- The proposed Bill fails to address any of the most apparent acts of cruelty that horses are routinely subjected to in the Victorian horse racing industry. At a bare minimum, the Bill must state that the acts of whipping (beating) a horse, tying a horse's tongue (unreasonable harm, pain, and distress), and forcing horses into jumps racing (unreasonable risk of harm, pain, and distress), are prohibited as acts of cruelty.

If we are going to consider a bill recognising animals as sentient, it is inconsistent and in fact unethical to exclude certain animals simply out of human convenience. Animals are either sentient, or they are not. Despite the obvious ramifications for industries such as horseracing, if we are to evolve as a society, we must consider all animals as being equal regardless of their species and the human purpose they serve.

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