

Title: Welfare of wild animals in travelling circuses IA No: DEFRA1059 Lead department or agency: Defra Other departments or agencies:	Impact Assessment (IA)			
	Date: 08/02/2012			
	Stage: Consultation			
	Source of intervention: Domestic			
	Type of measure: Secondary legislation			
Contact for enquiries: circusanimalwelfare@defra.gsi.gov.uk				

Summary: Intervention and Options	RPC Opinion: AMBER
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£0.33m	£0.21m	£0.02m	Yes IN

What is the problem under consideration? Why is government intervention necessary?

There has long been concern about the use of wild animals in travelling circuses. Although the numbers of such animals remaining in circuses is small, there has been recent increased public concern about this issue, particularly about whether the more complex welfare requirements of wild animals can be met within the environment of a travelling circus. The evidence of welfare issues (that can be addressed), combined with the absence of any current specific legislative welfare protection for wild animals in travelling circuses, means that intervention in this area is necessary. However, the lack of robust scientific evidence on inherent and insurmountable welfare problems in circuses would make a ban vulnerable to legal challenge.

What are the policy objectives and the intended effects?

The primary policy objective is to introduce as a matter of urgency secondary legislation in England, using powers provided by the Animal Welfare Act 2006, to establish an effective licensing scheme to promote and ensure high standards of welfare for all performing wild animals in travelling circuses. Information from the operation of the regulations will also feed into the evidence base for any future policy considerations on the use of wild animals in travelling circuses.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Five options have been considered: - a total ban on all wild animals in travelling circuses; a partial species specific ban; a voluntary self regulatory system; a statutory regulatory system; or 'do nothing'. A previous consultation has shown there is little support, even from the industry, for the 'do nothing' option. The 'self regulatory' option also lacked support and was deemed impractical for such a small number of circuses. The Government has expressed sympathy with those who wish to see an outright ban but there are legal issues, combined with an absence of scientific evidence, that need to be considered before any sort of ban (including a species specific ban) could be successfully introduced. Therefore, while these issues are considered, the preferred option is to introduce secondary legislation to regulate the welfare of wild animals in circuses. The proposed legislation will set minimum standards to protect the welfare of wild animals in travelling circuses in England. These standards will be enforced by a licensing regime.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 01/2014					
Does implementation go beyond minimum EU requirements?				N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded:	
				Non-traded:	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Statutory licensing scheme for travelling circuses using wild animal acts

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: -0.332

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.058	0.031	0.332

Description and scale of key monetised costs by 'main affected groups'

Travelling circuses: One-off costs for: training staff (£42k), bringing facilities up to required standards (£15.5k), initial licence inspections (£13.3k); administration (£3.5k) and staff costs for inspections (£1.3k) - Total: £75.6k. Annual costs: licence renewals (£9.2k), routine veterinary visits (£4k), maintenance (£3k), administration (£2.2k) and staff costs for inspections (£1k) - Total: 19.4k. Circuses would recoup these costs by an increase in gate receipts of around 1% to 1.7%.

Other key non-monetised costs by 'main affected groups'

Potential impact on ticket prices to members of the public should circuses seek to cover the cost of meeting the licensing scheme by increasing ticket prices. Alternatively, circuses may decide to use fewer animals to reduce licensing costs, which might have an impact on numbers of staff employed and also on attendances.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

The public good benefit of licensing circuses has not been measured.

Other key non-monetised benefits by 'main affected groups'

Animal welfare benefit from higher standards of care and conditions. Societal benefit of ensuring higher standards of care for wild animals in circuses. Improved perception of circuses through having clear enforced standards in place.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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Costs and benefits have been generated under the assumption of full compliance. Various assumptions used to generate cost estimates - see evidence base for details.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.02	Benefits:	Net: 0.02	Yes	IN

Summary: Analysis & Evidence

Policy Option 2

Description: Total ban on all wild animals in travelling circuses

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -2.25	High: -2.66	Best Estimate: -2.46

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0.52	4.48
High	0.02	0.63	5.50
Best Estimate	0.01	0.58	5.00

Description and scale of key monetised costs by 'main affected groups'

Animal Welfare Organisations: Possible one-off costs of rehoming animals £0-20k and possible annual costs of caring for rehomed animals £260k-317k
 Circuses: Possible loss of revenue from a reduction in attendances £260k to £317k (assumed to be at least equal to the annual cost of caring for the animals)

Other key non-monetised costs by 'main affected groups'

Defra: Depending on scope of any ban, compensation to circuses may be required.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		0.26	2.23
High		0.33	2.84
Best Estimate		0.30	2.54

Description and scale of key monetised benefits by 'main affected groups'

Circuses: annual savings to circuses from no longer having to care for animals (if rehomed) £260-317k
 Animal Welfare Organisations: annual benefit from reduced number of inspections £4.0 - 12k

Other key non-monetised benefits by 'main affected groups'

None

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Costs and benefits have been generated under the assumption of full compliance but certain legal issues, combined with an absence of scientific evidence, would need to be addressed before this option, or any variation of the ban option, could be taken forward.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.6	Benefits: 0.3	Net: 0.3	Yes	IN

Evidence Base (for summary sheets)

1. Summary

1.1 Following a previous consultation on this issue, and after considering the current legal advice and scientific evidence on the matter, the Government has announced that it will introduce a new licensing scheme to safeguard the welfare of wild animals in travelling circuses. The licensing scheme will apply to travelling circuses in England only.

1.2 Four other options were considered for safeguarding welfare standards for wild animals in travelling circuses. These were: - a total ban on all wild animals in travelling circuses; a partial species specific ban; a voluntary self regulatory system; or 'do nothing'. All parties have agreed that 'doing nothing' is not a suitable option, with all parties wanting some action to be taken. The option of some sort of self-regulatory scheme was considered but, for the extremely small number of circuses involved, establishing a system that would be able to demonstrate that it was open, auditable and effective was found to be impractical on cost grounds (see paragraph 5.3 below). The option of a ban (including a partial ban) is still a possibility. However, legal issues (which are still being considered) combined with the absence of scientific evidence of irredeemable welfare problems in circuses, means that this option cannot be taken forward at this time. Ministers have therefore announced that they will be seeking to introduce statutory regulation for travelling circuses using wild animal acts. The costs of this option are set out below.

Table 1: Summary of costs to industry of licensing option

Cost type	Requirement	Cost for licensing option (£)	Paragraph Reference
One – off costs	Training costs	42,000	7.2 – 7.2.1
	Improvement to facilities	15,500	7.3
	Administrative costs	3,465	7.6.1
	Initial licence inspection costs	13,335	7.7 - 7.7.1
	Initial licence inspection staff costs	1,332	7.7.2
	Total One-off costs	75,632	
Annual costs	Maintenance of facilities	3,000	7.3.1
	Routine veterinary visits	4,050	7.5
	Administrative costs	2,165	7.6.1
	Annual licence renewal costs	9,225	7.7.1
	Annual licence renewal inspection staff costs	999	7.7.2
	Total annual costs	19,439	

1.3 The main benefits accrued due to these proposals will be in terms of improved animal welfare. For the small number of animals involved, the positive welfare impact could well be high. However, measuring the extent of this welfare improvement and its value to society is extremely difficult. There could also be benefits to circuses themselves as it is possible that introducing regulations that improved welfare standards for their animals may improve the public perception of the industry. Although calculating such a benefit will be difficult, we will be looking to the consultation process accompanying this Impact Assessment to see whether monetising such benefits is possible.

1.4 The licensing scheme will be administered centrally by Defra, using appropriately qualified veterinary inspectors to undertake inspections of circuses' winter quarters and the circuses themselves whilst they are on tour. The costs of administering the licence and carrying out the inspections will be recovered through the cost of the licence fee. Ministers have said that the Regulations will be brought forward by July 2012.

1.5 Having considered the statutory equalities impacts, the proposals put forward here would be expected to impact equally on all affected people and there would be no impact on gender, race or disability equity.

Scope of regulations - definitions to be used

1.6 For the purpose of these proposals the following definitions have been used:

“Wild animals” means animals not normally domesticated in Great Britain.

“Circus” includes/means any place where animals are kept or introduced wholly or mainly for the purpose of performing tricks or manoeuvres.

2. Background and Nature of the Problem

Size of the industry and history of debate

2.1 The number of wild animal acts travelling with circuses in England has been in steady decline for several decades. Precise figures for the numbers of wild animals and travelling circuses are difficult to obtain due to the lack of any specific regulations requiring such figures to be generated or maintained in any meaningful way. Figures obtained for an earlier Impact Assessment on this subject (published in December 2009 as part of a previous consultation “Consultation on the use of wild animals in travelling circuses”) indicated that for the summer 2009 season there were 4 circuses in the UK that used some 47 ‘wild animals’. Recent figures provided to Defra by PAWSI (Performing Animals Welfare Standards International) suggest that no more than 3 circuses are still using wild animal acts and the numbers of such animals is now below 40. It is acknowledged though that the precise numbers may vary as circuses have access to animal acts from overseas and can bring in new animals, either from abroad or from existing livestock, each season. Therefore the range of animals is likely to be between 35 and 50. This compares to the size of the industry as recently as 1997 where according to one animal welfare group there were some 124 ‘exotic’ or wild animals in the UK¹ being used in some 20 circuses².

2.1.1 From our stakeholder engagement work we understand that attendances for the 2011 season for the three remain travelling circuses using wild animals was estimated to be approximately 153,000. These figures include a number of complimentary and discount tickets given out by circuses to special groups, etc. Ticket prices for circus performances varies (with different prices for different seats, for example). The most expensive tickets can range from £18 to £20 for ringseat seats for adults, to cheaper tickets ranging from £7.50 to £11 for group bookings or concessions. Taking an average ticket price of £14.00 per attendee, and assuming that the approximate average attendance of 153,000 would consist of all paying customers, the maximum average annual turnover for the industry would be some £2,142,000. However, as we know that not all of the 153,000 attendees would necessarily pay a entry fee, we must assume that the turnover for the actual circuses is less than this figure. These figures would not include any additional revenue sources circuses may have.

2.1.2 Despite the relatively small numbers of wild animals used in circuses, the subject matter itself has long been a source of debate. Between 1921 and 1922, a Parliamentary Select Committee looked at the issues surrounding the treatment of animals in training, accommodation, transportation, and performance in circuses and the music hall. The findings of the Select Committee were the basis of the Performing Animals (Regulation) Act subsequently passed in 1925 (see paragraph 2.2.2 below). Despite the passing of the 1925 Act, several private Bills were introduced during the following decades attempting to prohibit the training and exhibition in circuses of certain species of animals. Debates in parliament on the use of animals in circuses have remained a common occurrence, the most recent being a Backbench Business debate on 23 June 2011 where the House of Commons agreed on a motion ‘directing the Government to use its powers under section 12 of the Animal Welfare Act 2006 to introduce a regulation banning the use of all wild animals in circuses to take effect by 1 July 2012’.³

2.1.3 During debates on the Animal Welfare Bill in 2006 the then Government agreed to look at the issue⁴, and agreed to bring forward a ban using delegated powers provided in the Animal Welfare Bill (now Act) on the use of certain non-domesticated species in travelling circuses subject to there being sufficient scientific evidence. To this end, an academic lawyer, Mike Radford, was appointed the

¹ Animals in Travelling Circuses: the science on suffering ADI 2006

² Animal Circuses and the Animal Welfare Bill ADI Nov 2004

³ Hansard 23 June 2011 Column 548

⁴ 8 March 2006 Column 60WS

Chairman of a 'Circus Working Group', whose remit was to provide, and consider, evidence relating to the transportation and housing needs of non-domesticated species. However, the report of the Chairman of the Circus Working Group (commonly referred to as the 'Radford Report'⁵) concluded that, after reviewing the available scientific evidence submitted, 'there appears to be little evidence to demonstrate that the welfare of animals kept in travelling circuses is any better or worse than that of animals kept in other captive environments'. Furthermore, in the absence of any compelling scientific evidence any attempt to ban the use of an animal using the delegated powers provided by the Animal Welfare Act would fail the test of proportionality, and primary legislation would be needed to 'have any realistic prospect of achieving a lawful ban'.

2.1.4 Following the findings of the Radford Report, a feasibility study was undertaken during 2008 to assess whether it would instead be practicable to regulate the use of wild animals in travelling circuses. The feasibility study involved two members of the Government's Zoo Licensing inspectorate visiting two of the circuses still using wild animal acts. On the recommendations of the inspectors who conducted the visits both circuses undertook improvements to their accommodation and travelling facilities in order to raise the standard of welfare of the animals. The study concluded that a regulatory regime could be devised and implemented following much the same process as used for the Zoo Licensing Act 1981.

2.1.5 Following the feasibility study, and further discussions with the circus industry and animal welfare groups the previous Government then issued a public consultation in December 2009 on how best to protect the welfare of wild animals in travelling circuses⁶. The 2009/10 Consultation considered three basic options for raising the standard of welfare for wild animals: a complete ban; voluntary self regulation; or compulsory statutory regulation. The consultation ran for 12 weeks, receiving almost 13,000 responses. Approximately 95% of the respondents expressed the view that a ban on the use of wild animals in travelling circuses was the best option to achieve better welfare standards for such animals.⁷

2.1.6 In May 2011, the current Government announced that, after considering both the results of the previous public consultation, as well as the legal issues, it would be seeking to introduce a new licensing regime for wild animal acts in travelling circuses⁸.

Current legislation

2.2 There are currently two main pieces of legislation that can be used to address the welfare of animals in travelling circuses: the Animal Welfare Act 2006 and the Performing Animals (Regulation) Act 1925.

2.2.1 The **Animal Welfare Act 2006** ("the 2006 Act") makes it a criminal offence for any person responsible for an animal to fail to provide for their animal's welfare needs. Under section 9 of the 2006 Act, a person responsible for an animal has a duty to provide for that 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 and disease. The 2006 Act also makes it a criminal offence to cause an animal any unnecessary pain or suffering.

2.2.2 The **Performing Animals (Regulation) Act 1925** requires anyone who trains or exhibits animals to register with a local authority, stating details of the animals involved. The Act also gives powers to local authorities to enter premises. However, the Act does not set down any particular welfare requirements for animals used in performance.

2.2.3 The welfare of animals during transportation is covered by **Council Regulation (EC) No 1/2005**. However, it is Defra's view that the transport of circus animals is not within the scope of the Regulation when the animals can be described as travelling in their permanent housing. This position has been adopted in order to ensure consistency with Article 37 of the EC treaty and has the support of the European Commission. The transport of circus animals not travelling in what can be described as their permanent place of housing is therefore within the scope of the Regulation. Where circus animals fall outside the scope of the Regulation, protection under Article 4 of **The Welfare of Animals (Transport) (England) Order 2006** applies. The 2006 Act also applies while animals are being transported in England.

⁵ <http://archive.defra.gov.uk/foodfarm/farmanimal/welfare/documents/circus-report.pdf>

⁶ Defra: Consultation on the use of wild animals in travelling circuses: December 2009

⁷ <http://archive.defra.gov.uk/foodfarm/farmanimal/welfare/documents/responses.pdf>

⁸ "Tough new licensing regime for wild animals in circuses" Defra 13 May 2011

2.2.4 In addition to the above pieces of legislation, there are two further pieces of legislation that set down standards or conditions for keeping 'wild animals' – the **Zoo Licensing Act 1981** and the **Dangerous Wild Animals Act 1976**. However, both Acts specifically exempt circuses from their remit.

Views of the public, animal welfare organisations and the Circus industry

2.3 As indicated above, 95% of those who responded to the 2009/10 consultation on circus animals expressed a preference for a complete ban. While the outcome of that consultation can only be regarded as representative of the opinion of those people who were interested enough in the subject to respond to the consultation (and not necessarily representative of the views of the wider general public) it can be deduced from both the correspondence Defra regularly receives, as well as occasional opinion polls that have been undertaken on this subject that, where expressed, public opinion would support a ban on the use of wild animals in circuses⁹. That said, the 2009/10 consultation also showed that some 30% of respondents felt that visits from an appropriately trained inspector would safeguard the welfare for wild animals in travelling circuses.

2.3.1. Figures provided to Defra in 2007 estimated that attendances at the four travelling circuses still using wild animal acts during that season were approximately 320,000. For 2010, attendances for the three remain travelling circuses using wild animals was estimated to be 121,000 and for 2011 153,000 (these figures include complimentary tickets given out by circuses).

2.3.2 Animal welfare groups and a number of veterinary organisations support a ban on the use of wild animal acts in circuses. Arguments put forward by these groups are varied but mainly centre on the difficulty of a circus environment ever being able to provide for the more complex welfare needs of wild animals. While the 2006 Act requires these needs to be met, welfare groups tend to argue that it is difficult to build a case against circuses under the 2006 Act because the travelling nature of circuses makes it difficult to gather the necessary evidence.

2.3.3 Those circuses that still use wild animal acts, and their representative bodies, dispute the view that circuses, by their very nature, cannot support the welfare needs of wild animals. They argue that their animals are regularly inspected (by government inspectors, local authorities and particularly by animal welfare groups where the latter have asked and been given permission to look at the animals), and point to the relatively small number of successful prosecutions brought against circuses. The industry themselves have expressed a desire to be subject to statutory regulation to allow them to demonstrate that they can meet acceptable welfare standards. Responses to the 2009/10 consultation from the industry showed the statutory regulation was, for them, the preferred option even over self regulation, which they regarded as likely to be more costly than statutory regulation as well as lacking the necessary independence and transparency.

Legal issues

2.4 The Government has expressed sympathy with those who wish to see a ban on wild animals in circuses. However, as part of any consideration of a possible ban, Ministers have had to weigh the possibility of whether any such ban would be vulnerable to legal challenge. Minister Paice set out during a Westminster Hall debate on 8th June 2011 (*Hansard: 8 June 2011:Column 87WH*) the Government's views on why a ban would be vulnerable to such a challenge:

“Our advice is that any ban on travelling circuses would be vulnerable to a legal challenge both from a circus in another member state on the basis that it contravened the services directive—it is worth emphasising that... we believe that circuses buy-in or hire acts from other circuses for part of the season, so that could apply to overseas circuses—and from both European and UK-based circuses under the Human Rights Act 1998. Without strong evidence that a ban is needed for welfare reasons, it is likely that a challenge would be successful. Radford concluded that we do not have that evidence on the welfare reasons.

Article 16 of the services directive requires that we would have to meet three legal tests for a ban: non-discrimination, necessity and proportionality. A ban would meet the non-discrimination test, but we believe that it would fail the necessity and proportionality test because there are means of protecting

⁹ for example, one conducted by Ipsos MORI on behalf of the RSPCA in October 2006 found 63% of people agreed that the use of wild animals in circuses should be banned, including 43% who agreed strongly - <http://www.ipsos-mori.com/researchpublications/researcharchive/2549/Public-views-on-the-use-of-wild-animals-in-circuses-in-England.aspx>

animals other than with an outright ban. A ban based solely on ethical grounds would be difficult to justify under the services directive, for public policy reasons. A ban can only be used if there is

“a sufficiently serious threat to a fundamental interest of society”.

That is not met when we are considering approximately 39 animals in three or four circuses. Under the Human Rights Act, circuses could mount a challenge under article 1 of protocol 1. Any limit on the use of a person’s possessions must be proportionate to the aim of the action being taken. It is difficult, on the basis of the welfare evidence, to justify a ban as a proportionate response.”

2.4.1 Without new evidence of irredeemable welfare problems any ban on welfare grounds on the use of wild animals performing in travelling circuses is likely to be found to be disproportionate. The Government is continuing to assess the legal obstacles to a ban.

Film and Television

2.5 The focus of these proposals is on addressing the welfare standards of wild animals performing in travelling circuses not other performing wild animals that may be used by the audio-visual industry (films, television and advertising). While we are aware that some wild animals used by circuses have been used by the audio-visual industry, we are not aware of any welfare concerns regarding wild animals used generally in films, television or adverts. The 2009/10 consultation specifically asked about the use of circus wild animals in other industries and whether there would be an impact on other industries if wild animals in circuses were banned. The results of the consultation showed that some 70% of respondents felt that wild animals in travelling circuses did not have skills that made them more suitable than other animals for work in the audio-visual industry, and a similar number felt that a ban would not have an impact on other industries. While some respondents did argue that as circus animals are trained to interact with people, and are used to music, lights, cameras, and travelling, they are more suitable for work in the audio-visual industry, Defra is satisfied that the film industry has sufficient non-circus animal suppliers so that any circus focused regulations would not interrupt the supply of wild animals to the film and television industry.

3. Justification for Intervention

3.1 It is held that animal welfare is a public good¹⁰, and improving animal welfare will generate societal benefit. Certainly, there is no doubt that there is much public and political concern about the welfare of wild animals in travelling circuses, as the results of 2009/10 public consultation and recent parliamentary debates have demonstrated. It is clear that public and parliament expect action to be taken on this issue, preferably the introduction of a ban.

3.2 However, there has been very little scientific research about this subject. The information that is available is not always of high quality and the sources are not always reliable. A thorough literature review for any peer-reviewed scientific papers on circus animal welfare since the Radford Report was produced has found no new evidence and the Academic Panel that reviewed the evidence submitted as part of the Radford Report considered that the evidence provided then was not sufficient to support a ban on non-domestic animals in circuses. In the view of Radford there appears to be little evidence to demonstrate that the welfare of animals kept in travelling circuses is any better or worse than that kept in other captive environments.

3.3 While there is currently a lack of sufficiently robust evidence of inherent and insurmountable welfare problems, there is evidence of isolated welfare problems at circuses that, in line with the findings of the 2008 feasibility study, could be addressed through further intervention over that available solely under existing legislation. These problems are not necessarily unique to just travelling circuses, and can be found where other animals are kept, but could include, for example: accommodation being an inappropriate size or build, insufficient environmental enrichment, or lack of health care programmes for the animals.

3.4 As mentioned above (paragraph 2.3.2), welfare groups believe that cases are difficult to bring against circuses under the 2006 Act because of a circus's travelling nature. While Defra does not accept that this is necessarily the case, we do accept that the uniqueness of the circus environment, including the changing of sites, acts and personnel, means that that environment may pose additional welfare risks that are not present in other areas where wild animals are kept. Certainly, the Radford Report found that the provisions of the 2006 Act alone do not provide sufficiently clear and robust standards of what is and what is not required of circuses with regards to animal welfare and that relying exclusively on section 9 of the 2006 Act would be unsatisfactory for a number of reasons¹¹.

3.5 The Performing Animals (Regulation) Act 1925 also, as mentioned above, does not prescribe any welfare standards for animals used in performance so, again, this legislation does not set out what is required of circuses with regards to animal welfare.

3.6 As also highlighted above (paragraph 2.2.4) there is an anomalous lacuna in laws covering wild animals when they are used in a circus. The same animals kept in a zoo or in a private collection are covered by bespoke legislation whereas no such legislation exists for wild animals in circuses. Similarly, the welfare during transport of circus animals is not always covered by the relevant EC transport rules.

3.7 The circus industry themselves have long called for statutory intervention on circus animals in order for them to more effectively rebut what they believe are ill-founded and often emotive comments regarding the training and keeping of circus animals.

3.8 The Government accepts that some sort of intervention in this area is both necessary and overdue. While Ministers have expressed sympathy with those who wish to see a ban on wild animals in circuses, and have not ruled out this option in the longer term, the legal issues surrounding a ban mean that pursuing a ban is not an immediate possibility. Unless these issues are addressed, any ban introduced would be at risk of a successful legal challenge that could delay or even prevent a ban's implementation. Therefore, in view of the sustained public concern about the maintenance of acceptable standards of care and husbandry in travelling circuses, the Government has signalled that it will proceed with the introduction of a licensing regime that will stop circuses from using wild animals if they cannot provide for the welfare needs of those animals.

¹⁰ Defra's Evidence Investment Strategy: 2010-2013 and beyond 2011 Update Annex 2: Defra Evidence Plan Summaries: Animal Welfare

¹¹ The report of the Chairman of the Circus Working Group October 2007 Section 7.1.4

4. Objectives for Intervention

4.1 Using powers provided under the 2006 Act, Defra intends to introduce secondary legislation in England as a matter of urgency to establish an effective licensing scheme to promote and ensure high standards of welfare for all performing wild animals in travelling circuses.

4.2 The Government has not ruled out a future ban on wild animals in travelling circuses and knowledge gained from the licensing scheme may be used to supplement the evidence base on the welfare standards of travelling circuses in England for any future policy considerations.

5. Other options considered

5.1 The 2009/10 consultation Impact Assessment outlined 5 initial options before considering 3 of these in detail. The initial 5 options were:

- 0) maintaining the status quo - 'do nothing'
- 1) a statutory regulatory system for wild animals in travelling circuses;
- 2) a total ban on all wild animals in travelling circuses;
- 3) a voluntary system of self regulation for wild animals in travelling circuses; or
- 4) a partial, species specific ban on some wild animals in travelling circuses.

Do nothing or a partial ban

5.2 The options for a partial ban (4) or for 'doing nothing' (0) were discounted early on in the 2009/10 consultation Impact Assessment (however, option 0 forms the baseline for the cost benefit analysis against which other options have been assessed). It remains the case that there is no support for maintaining the status quo and the Government agrees that intervention is still justified (paragraphs 3.1 to 3.8 above). The option of a partial ban was also discounted as it was thought that this would be both extremely costly to establish and maintain; and would not necessarily raise the welfare standards of all wild animals in circuses. There was also the concern that other species of wild animal could be imported and used in order to replace the species that had been banned. A species specific ban remains an impractical option while there is a lack of scientific evidence on whether the welfare needs of any species of wild animals in circuses can or cannot be met.

Self Regulation

5.3 A self regulatory system was also considered as part of the 2009/10 consultation impact assessment. Only some 3% of the responses to the consultation agreed that circuses would be best placed to regulate welfare standards for wild animals in travelling circuses. Defra has previously looked seriously at how a self-regulatory system could be devised, including working with the industry and welfare groups to see how and whether such a system could work. It is highly unlikely that any self-regulatory system could ever be devised that would balance the needs of being able to demonstrate that it was open, auditable and effective to welfare groups with the need to be affordable and agreeable to the industry. In other areas of animal welfare, UKAS accreditation (United Kingdom Accreditation Service) has been used to demonstrate that a self regulatory system was open, auditable and effective¹². However, UKAS accreditation would be prohibitively expensive and impractical for just three or four circuses. There is currently no recognised industry body that could be easily adapted to act as a regulator for the purposes of a UKAS accredited self-regulatory regime. Such a body would have to be established, with the likely costs to the industry that would entail, and then that body would need to devise acceptable inspection standards and seek UKAS accreditation for both the standards and its inspection processes. Enforcement of those standards would then need to be routinely enforced by the inspection body. It has not been possible to establish the likely total costs involved but they are likely to be disproportionate to the size of the industry.

5.4 As stated in the 2009/10 consultation impact assessment, representatives from the circus industry wish to see a robust system of regulations incorporating required standards of animal welfare enforced by an independent inspection regime that will stand up to public and parliamentary scrutiny. The results of the previous consultation and subsequent discussions show that they still do not believe a self regulatory system could provide this.

¹² The Welfare of Racing Greyhounds Regulations 2010 provides an example of how a UKAS accredited self regulatory system can operate .

A total ban

5.5 As mentioned previously, the Government has not ruled out the possibility of introducing a ban on the use of wild animals in travelling circuses at some point in the future. The potential costs and benefits of a total ban were examined in detail in the 2009/10 consultation impact assessment. No evidence was submitted during the previous consultation to suggest that the costs and benefits set out in that previous impact assessment were substantially incorrect. A copy of the 2009/10 consultation Impact Assessment is annexed to this Impact Assessment and table 2 below sets out those costs and benefits (updated for 2010/2011 prices) of the option of a ban as set out in the 2009/10 consultation. However, unlike the 2009/10 Impact Assessment, we have assumed the cost saving to circuses from no longer having to care for animals that have been rehomed would be the same as the cost to welfare organisations for caring for the same animals. We have also for this Impact Assessment included a basic estimate of the possible cost to circuses from a potential loss of revenue that might occur should there be a ban of the type set out in the 2009/10 Impact Assessment. We have assumed that the loss of revenue would be at least equal to the cost to circuses of caring for the animals. This is only an indicative figure and for any future ban we would need to consider in more detail the possible impacts on circus revenues, including the type of ban proposed as well as the effect on attendances (and possibly ticket prices) at effected circuses.

Table 2 – Summary of monetised costs and benefits of a possible ban option

Cost / benefit type	Item	Cost (£) (updated for 2010/11 prices)
Transitional costs	Welfare organisations rehoming animals (if necessary)	£0 – 20k
	Welfare organisations caring for rehomed animals (if rehoming necessary)	£260-317k
Annual Costs	Loss of revenue to those circuses using wild animals (assumed equal to cost of caring for wild animals)	£260-317k
	Cost saving to circuses from no longer having to care for animals that have been rehomed	£260-£317k
Annual Benefits	Cost saving to welfare organisations of reduced number of inspections	£4.0-12k
	Total annual benefits	£264-330k
Net Annual Benefit (excl transitional costs)		(-)£190k to £-370k

5.6 A number of respondents to the 2009/10 consultation did question the assumption that animals would need to be re-homed in the event of a ban, arguing that a ban would not necessarily require a change of ownership merely a change of use. Circuses themselves have suggested to us that they would not necessarily give up ownership of their animals, but might seek to keep the animals at their winter quarters (or 'home base') on a permanent basis, which might entail additional costs to the circus above the costs of looking after the animals on tour. It is by no means the case that the type of ban envisaged in 2009 would be the type of ban eventually put forward. The introduction of a ban could take different forms, including a phased in ban, or a ban that would prevent only new animals from performing in a circus. In the event that any ban required all wild animals acts to stop performing immediately, and required the animals to be rehomed, we would also need to consider the issue of possible compensation to circus owners, including the possible impact to the revenue of those circuses that use wild animals. However, as explained above in paragraph 2.4 there are legal issues that make any sort of ban at this time vulnerable to legal challenge. Therefore, for this Impact Assessment, we have not set out a preferred vision of a ban or a detailed estimate of its likely costs and benefits. If a ban in future is proposed then this will require separate legislation and a full Impact Assessment looking at the costs and benefits in detail for the type of ban proposed will be undertaken then. Therefore we will be taking forward the remaining option of introducing a statutory regulatory system for wild animals in travelling circuses.

6. Preferred option

A statutory regulatory system

6.1 In May 2011, Defra Ministers announced that they would be introducing a new licensing regime for wild animal acts in travelling circuses that will require adherence to tough welfare standards. The licensing scheme would be enforced through inspections by Government-approved vets.

6.1.1 The 2009/10 consultation showed that some 30% of respondents supported an option where visits from an appropriately trained inspector would safeguard the welfare for wild animals in travelling circuses.

Licensing scheme and standards proposed

6.2 The proposed scheme entails a licensing regime that will cover any travelling circus in England that wishes to use wild animals. Subject to normal clearance procedures, we plan to introduce the licensing scheme via secondary legislation, making use of the powers provided by section 13 of the 2006 Act.

6.2.1 The licensing regulations will establish a regime for licensing circuses such that a travelling circus may not use wild animals without a licence. Unless licensed, the activity of using wild animals in a travelling circus will be an offence under section 13(6) of the 2006 Act. The draft regulations will further give legal effect to a set of general welfare standards, that includes general standards, and any additional standards specific to a species or use, by creating a set of licensing conditions. Breach of an individual licensing condition can result in enforcement action. The licence will identify the person with ultimate responsibility for the animals in the circus environment, who will be subject to any enforcement measures should they prove necessary. The cost of administering the scheme will be met by the circuses themselves through the cost of the licence fee, which will be set to allow costs to be recovered. The administration of the scheme will be undertaken by Defra, but for the very small number of circuses involved costs should not be significant. No local authority new burdens are being created. However, more stringent regulation and standards should allow for more effective enforcement if unacceptable practices are found. Local authorities will also be able to report any concerns and provide evidence to Defra circus inspectors if appropriate.

Length of licence

6.2.2 The Animal Welfare Act allows for the duration of a licence to be set at the discretion of the inspectorate up to a maximum of 3 years. We would anticipate initial licences to be for a year, while inspectors get to know each circus and develop confidence in the management of each circus. The length of future licences can then be varied according to any risks assessed by the inspector. At this stage we have no way of knowing what risks inspectors may find that would influence the setting of future licence lengths. Therefore, for this Impact Assessment we have assumed that annual renewals will be required every year. We will look at this as part of the roadtesting of the draft standards as part of the consultation process.

6.2.3 A licensed travelling circus would need to obtain a variation to their licence before introducing new wild animals. There would be a cost associated with the variation, but costs could be minimised where the introduction of the animals coincides with planned inspections or licence renewals.

Inspection Regime

6.2.4 Inspectors will be appointed by the Secretary of State. Assuming a 1 year licence, each licence period will require at least one announced inspection of the winter quarters, at least one announced inspection of the circus on tour and at least one unannounced visit during the licence period, all of which would have been paid for under the cost of the licence.

Welfare standards

6.2.5 We plan to make each licence conditional to adherence with a set of rigorous welfare standards which cover all aspects relevant to animal welfare in a travelling circus environment. These bring together for the first time best practice from sources produced by Government, industry and welfare organisations both in UK and internationally in relation to captive wild animals in a format that clearly sets out the expectation that we are placing on industry and that will underpin strict licensing, inspection and enforcement.

6.2.6 The proposed standards will be set out in the public consultation document published alongside this Impact Assessment. Clarification about what should be done to fulfil the conditions will be set out in

accompanying guidelines, and where additional consideration must be made for a specific species, this too will be set out in accompanying guidelines. The conditions are summarised below:

Licensing conditions in the SI:

- Staff and training

To ensure that a responsible person is in charge of the travelling circus at all times and ensures compliance with the welfare standards.

To ensure that sufficient numbers of competent people (suitably trained and experienced) are supervising and caring for the animals at all times. The carers must fully understand and meet the welfare needs of the animals. The circus must ensure only suitable people can undertake training, display and performance with a wild animal.

To ensure that unsuitable people (such as those that have animal welfare related convictions or that are not sufficiently competent) do not have access to wild animals.

- Veterinary involvement

To ensure that a specialist vet has been consulted on the welfare needs of the animals and has agreed the care plans (see below) for the animals.

To ensure that adequate veterinary care is provided at all times.

- Care plans

Records must be kept for all animals in the travelling circus and be available wherever the animals are, and that will form a key part of the management of the travelling circus and the inspections process.

To ensure that written plans for key aspects of the welfare and care of animals are developed and followed, for the life of the animal in the travelling circus, including:

Stock records: which document the important particulars about each animal, including important factors in the provision of care and welfare;

Detailed care plans: which must be prepared in advance and be agreed by a specialist vet and involve other experts as appropriate. They are to be followed at all times, and must set out specific needs of the animals, identifying where appropriate the needs (including social needs) of groups and individuals in the travelling circus. The care plans will need to set out important provisions that will be made including on diet, behavioural and environmental enrichment, breeding policy, retirement plan (which will set out for every animal what will be done if an animal is no longer able to travel with the circus or if the circus no longer plans to use an animal in display, training and performance), veterinary provision and records;

Daily management records: which document key activities, observations and adjustments which are made on a daily basis to ensure that each animal's welfare needs are met; and

Other records will be kept to document key aspects of the travelling circus that has key welfare consideration attached such as on travel / journeys, staff interacting with animals, risk assessment prior to using animals for certain activities.

- Welfare in accommodation, environment and enrichment

Which requires care plans to be followed and to ensure that accommodation is suited to the animals and environmental factors that would affect the welfare of the animals are appropriately managed, as well as ensuring that accommodation is free from hazards.

- Welfare during display, training and performance

Which sets strict conditions on the use of animals for activities including display, training and performance and ensures that nothing is done to cause any distress, pain or injury of any kind or that clearly contradicts the welfare needs and behaviours of the animals involved.

- Welfare in transport

Which sets strict requirements on the way that animals are transported, to ensure that welfare needs are met.

Species specific guidelines and supporting guidance:

- Species specific guidance

Additional guidance will be produced that set out the welfare needs that must be satisfied for different species (which is especially important where a species of animal has significantly different welfare needs to domestic animals) and will set out detail about suitable provision of food and water, appropriate environment, veterinary care, training and transport. The guidance will aid understanding of what should be achieved in practice and assist in delivering the intended outcomes.

- Supporting guidance

Guidance will also include more detail to offer clarity about what should be taken into consideration and delivered in order to satisfy the welfare standards, which will tie in with the species specific guidelines.

7. Costs and Benefits of the preferred option

Costs

7.1 Potential costs for a regulatory regime were set out in the 2009/10 consultation Impact Assessment (which has been annexed to this Impact Assessment). No evidence was submitted to that consultation that suggested the likely costs were substantially incorrect. These costs have been reconsidered for this Impact Assessment. We would welcome any views or evidence on the likely costs during the public consultation on these proposals. As part of the stakeholder engagement process we will be using a zoo licensing inspector appointed by the Animal Health and Veterinary Laboratory Agency (AHVLA) to visit each circus to 'roadtest' the standards. Feedback from this exercise will help identify more accurately the costs of these proposals and this information will be used to refine the necessary final stage Impact Assessment. For the purposes of this Impact Assessment we have assumed all three circuses currently using wild animal acts will continue to do so after the regulations come into force, but that no new circuses will seek to use wild animals.

Training circus staff

7.2 The regulations will require that staff in charge of animals must either have suitable experience or knowledge, or acquire appropriate qualifications. From early 2012 there is likely to be a vocational qualification available under the Qualification Credit Framework (QCF) suitable for circus managers, trainers or workers – QCF Animal Care and Management in Entertainment and Education. None of the courses will be college based, with learners assessed purely in the workplace. Courses are completed during a 2 year period, and can be completed in a shorter period of time depending on the speed of the learner. As the courses are still in development, likely course costs have yet to be calculated. However, it is envisaged that the costs should be no more than those for the previous NVQ in Animal Training and Management in Circus Education course. Costs for those courses varied between level of NVQ obtained, but generally the fee for an entire course for 2010/2011 was between £1,300 and £2,200 per applicant. In some cases, QCFs may be free (for under 19s or for apprenticeships for example). It has been assumed that, as most of the learning is based around the work itself, there will be no significant time needed for learners to be away from work.

7.2.1 The number of circus employees taken from the 2009/10 consultation impact assessment was thought to be in the region 80 people. However, a number of these members of staff were purely seasonal or freelance and would only be recruited on a temporary basis. Defra understands that the number of permanent directors or workers across the three circuses still using wild animals acts is approximately 24. It is likely that most of these personnel will have suitable experience so as not to require further qualifications. However, for this Impact Assessment, we have assumed that all 24 will require training, and that the typical cost of a qualification per employee will be £1,750. The total one-off cost of training could be up to **£42,000**. This figure is likely to be at the very top of the range for possible costs. It is likely that not all staff will require further qualifications. The public consultation on the proposals plus the work of the inspector 'roadtesting' the standards will hopefully produce a more robust figure.

Improvements to the accommodation and transport facilities for wild animals

7.3 The proposed regulations set out a number of minimum standards for the physical facilities used by circuses (at winter quarters, during travel and at each temporary site). Using information from the 2008

feasibility study we understand that one circus spent approximately £7,500 and another £8,000 on changes and improvements after the visits from the Zoo Licensing Inspectorate, in order to bring the accommodation of their wild animals up to standard. The standards proposed in these regulations are similar to the standards required by Zoo Licensing Act, so the cost to raise welfare standards sufficiently could be assumed to be between £7,500 and £8,000. Considering there is one other circus that is currently using wild animals, and assuming the two circuses that have already made improvements to their facilities only have to make more minor further improvements to meet the new standards (for this Impact Assessment we have assumed the cost would be no more than half of the original improvement work) it could be calculated that the cost for three circuses to bring their accommodation up to the welfare standards required by these regulations to be between £15,250 and £15,750. Therefore we have used a mid range value of **£15,500** as an estimate of this likely one-off fixed cost.

7.3.1 As long as the circuses maintain their standards, these should be one-off costs in the first year of the legislation. We have further assumed that it would cost each circus approximately **£1,000** per year to maintain their equipment so that it continues to comply with the legislative standards. However, as explained previously, we are using an inspector to 'roadtest' the standards on the three circuses. This work will provide much more detail of the actual costs involved in meeting and maintaining these standards.

Permanent identification of animals

7.4 The proposed standards require all wild animals to be permanently identified. This will be by either microchip or similar means of permanent identification (i.e. tattoo). The typical cost of microchipping a large animal, for example, a horse, is between £25 and £35. This does not include any cost of sedation that might be necessary to chip or tattoo a dangerous animal such as a big cat. However, we understand that it is already industry best practice to have animals permanently identified and that most of the animals already in circuses are already permanently identified. Therefore, we do not envisage there will any one-off costs as a result of this requirement. Likewise, as permanent identification is already industry best practice we also do not anticipate any recurring costs for any new acts introduced into circuses. As illustrated above, the number of wild animal acts in circuses has declined rather than increased in recent years, and we do not anticipate these regulations will reverse that overall trend. We will seek to test these assumptions during the consultation stages and the 'roadtesting' of the proposals'.

Routine veterinary visits

7.5 Travelling circuses will be required to ensure that adequate veterinary care is available for the animals. We do not envisage additional costs for issues such as emergency care and treatment, as this should already take place; if it is not, it would likely already constitute an offence under the 2006 Act. However, we will expect routine visits from a suitable veterinarian broadly in line with the requirements under the Zoo Licensing Act for a small zoo. That would necessitate a visit every three months at which time the animals would need to be examined and the care plans reviewed (particularly in terms of aspects of care such as diet, enrichment, social needs and any further veterinary support that may be needed) in addition to veterinarian involvement outlined in paragraph 7.6.1 below. It may not be necessary for the same person to carry out each of the routine visits, and we envisage costs of between £300 and £600 a day for the type of work involved in a visit depending on the veterinarian used, with each visit lasting between 1.0 and 1.5 days (allowing for c. 2 to 3 hours examination, 1 hour to review paperwork with the circus and 2 hours to write up and issue findings in hard copy, plus travel time) depending on the number of animals and types of species in each travelling circus. That would indicate additional cost of between £900 and £1,800 per year per circus, at a total of between £2,700 and £5,400 for all three circuses. We have assumed a mid range value of **£4,050** for all three circuses.

Administrative costs for circuses

7.6 The proposed standards include a number of requirements for records to be kept (stock lists, authorised staff lists, journey plans etc) as well as programmes or protocols to be developed (health care plans, breeding and retirement programmes, etc). We understand from our stakeholder engagement that circuses do currently keep records, including stock lists, staff lists, as well as inoculation programmes and worming regimes, etc. However, the circuses generally do not attempt to breed from their animals so breeding is mostly not an issue. Likewise, we understand that none of the circuses have active retirement plans – as the animals are usually kept by circuses until they are no longer fit for travel. Circuses themselves also have to complete paperwork for other inspection regimes (health and safety, entertainment licences, etc) so will be familiar with having to seek permissions and be inspected. Despite this, it is likely that circuses will be required to produce new records and plans beyond their current level of record keeping.

7.6.1 We have produced a preliminary estimate of the time it would take a circus to complete these Information Obligations (IOs). We have estimated that the development of the initial care plans and other 'stand alone' documents could take up to 40 hours (or the equivalent of one week) to develop or put in place. For care plans, there may be the need to involve a specialist veterinarian, for probably a day's work. This could cost between £500 and £700. For this Impact Assessment we have assumed a mid range value of £600 per day. For the other recurring record keeping requirements we have estimated that these should take each circus approximately one hour per week to complete. Using the hourly cost of time for leisure and sports managers set out in the UK Standard Cost Model of £13.88 (including 30% overheads) it has been calculated that the one-off administrative burden associated with this licensing requirement (including involvement of a specialist veterinarian for one day) would be **£3,465** for the three circuses. The recurring administrative burden for subsequent years would be 52 hours per year per circus at £13.88 per hour or **£2,165** for all three circuses.

7.6.2 We would welcome any evidence from the public consultation on the likely costs of the administrative burdens. The inspection work we are undertaking to 'roadtest' the standards will also seek to more accurately estimate the likely costs of these burdens.

Inspections by the designated circus inspector

7.7 As explained in paragraph 6.2.4, we anticipate that there will be at least three inspections per an annual licence – one of the winter quarters, once on tour, and a further 'spot check'. For the purpose of this Impact Assessment, we have made the following assumptions:

Inspection assumptions

- 1) The initial winter quarters inspection visit would take 1 day (to include travel to and from the premises) and could involve one overnight stay.
- 2) The 'on tour' inspection visit would take 1 day (to include travel to and from the site) and could involve one overnight stay.
- 3) The unannounced 'spot check' would take 1 day (to include travel to and from the site) but may not need an overnight stay.
- 4) ½ day to be allocated for report writing and correspondence with the circus owner after each inspection visit.
- 5) Where improvements are required, a follow-up visit would take a further ½ day (to include travel to and from the winter quarters or site), with a further ½ day allocated for issuing authorisation after the follow-up visit.
- 6) The following rates for inspectors (based on the rates paid to Secretary of State Zoo Inspectors) would be used:-
 - a) The daily cost of an inspector is calculated to be £580 (8 hours at £72.53 per hour) exc VAT.
 - b) Travel expenses at £100 per visit (train fare or mileage at 45p per mile).
 - c) Day subsistence ceiling rate of £5 for one meal and night subsistence ceiling rate of £75 for outside London.

7.7.1 The table below calculates the likely inspection costs in the first year based on the assumptions noted above:-

Table 3: Inspection costs incurred in first year

Item	Daily/unit cost (£)	Days/units per inspection	Inspections per circus per year	Circuses	Total (£)
Initial Inspection	580	1	1	3	1,740
On tour inspection	580	1	1	3	1,740
Unannounced spot check	580	1	1	3	1,740

Travel Cost	100	1	3	3	900
Meals	5	1	3	3	45
Overnight subsistence	75	1	2	3	450
Report writing and correspondence	580	0.5	3	3	2,610
Follow-up visits	580	0.5	2	3	1,740
Travel Cost	100	1	2	3	600
Meals	5	1	2	3	30
Authorisation	580	0.5	2	3	1,740
Total					13,335

Note: It has been assumed that after the first year circuses are compliant with the standards and no follow-up visits result.

For each circus, this amounts to **£4,445** for the initial annual licence/authorisation process. Subsequent renewal inspections, assuming full compliance, will cost for each circus **£3,075** (the cost of the first full licence, £13,335, without any of the associated costs of follow-up visits, £4,110). The cost of the inspection process will be transferred from the Inspectorate to the circuses via the cost of the licence fee, which will be set to be fully cost recoverable. As mentioned in paragraph 6.2.2. above, we have assumed for this Impact Assessment licences will be renewed annually.

7.7.2 Circus staff may also need to be present during inspections. However, circuses often involve family members who may not be paid on an hourly basis and we do not have any information about the pay of circus employees. For the purposes of this Impact Assessment we have assumed one member of staff will need to be available to accompany the inspector at all inspections. As outlined in paragraph 7.7 above we have assumed that there will be 3 full day inspections and, for the first year, two half day follow-up inspections. This amounts to some 32 hours needed for the first licence and 24 hours needed for annual renewal licences (assuming full compliance). Again, using the hourly cost of time for leisure and sports managers set out in the UK Standard Cost Model of £13.88 (including 30% overheads), this would amount to £444 per circus for the first licence, and £333 per circus for subsequent licences. For all three circuses this amounts to **£1,332** for the first year, and **£999** thereafter.

7.7.3 The introduction of a licensing scheme for circuses is likely to lead to a number of allegations of infringements by members of the public and animal welfare organisations. These allegations would need to be investigated, and the investigations would involve a visit to the circus by an inspector. Assuming such a visit would on average take a day, each visit would cost £680 (£580 as the daily cost of an inspector plus £100 travel expenses). If the allegation of infringement is founded, and results in 'formal' enforcement action being necessary, then the circus would be charged this amount. If the allegation is unfounded, it would be unreasonable to expect the circus to pay for the cost of the visit. The cost of the visit would therefore have to be absorbed by Defra. It is possible that the cost of one unfounded visit could be covered by the cost, already set aside through the licence fee, of one unannounced 'spot check' (see paragraph 7.7 above). However, for this Impact Assessment we have assumed any unfounded visits would be additional to a 'spot check' visit. Assuming that in the first three years on average there would be 2 unfounded visits per month (one for each town for each circus), we estimate that, for a tour of 7 months Defra needs to initially budget **£28,560** per year for such visits. After the first three years, when the licensing regime has shown itself to work, we would further assume that the number of unfounded visits would fall to 1 per month, requiring Defra to budget **£14,280** for such visits, and then after a further three years to one per season, requiring Defra to set aside **£2,040** for undertaking these visits. For this Impact Assessment, we have assumed that there will be full compliance by the circuses and therefore there will be no 'founded' visits.

7.8 The table below summarises the total calculated cost of the licensing system as well as the resulting NPV.

Table 4: Costs of proposed licensing system

Year	0	1	2	3	4	5	6	7	8	9	Total
Inspection	0	13,335	9,225	9,225	9,225	9,225	9,225	9,225	9,225	9,225	87,135
Staff inspection time	0	1,332	999	999	999	999	999	999	999	999	9,324
Training	0	21,000	21,000	0	0	0	0	0	0	0	42,000
Facility upgrade and maintenance	15,500	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	42,500
Routine veterinary visits	0	4,050	4,050	4,050	4,050	4,050	4,050	4,050	4,050	4,050	36,450
Administrative	3,465	2,165	2,165	2,165	2,165	2,165	2,165	2,165	2,165	2,165	22,950
Unfounded Visits (cost to Defra)	0	28,560	28,560	28,560	14,280	14,280	14,280	2,040	2,040	2,040	134,640
Total Costs (inc costs to Defra)	18,965	73,442	68,999	47,999	33,719	33,719	33,719	21,479	21,479	21,479	374,999
NPV	18,965	70,958	64,411	43,292	29,384	28,390	27,430	16,882	16,311	15,760	331,786

Circuses with wild animals would need to increase their revenue from gate receipts by about 1% a year to cover additional costs to their businesses from licensing or about 1.7% to cover all costs (including those incurred by Defra) of the proposed regulations.

Unquantified Costs

7.9 A licensing regime as proposed here will increase the costs of using wild animals in travelling circuses. Circuses may respond by using fewer wild animals which could have consequences on the number of circus employees. If any employees are solely used in connection with wild animals, then the future of these employees could be at risk if they cannot be found alternative employment within the circus. Fewer animals might also impact negatively on attendances at the circuses.

Benefits

7.10 The welfare benefits of the standards of the preferred licensing option are described below, although it should be recognised that they are often difficult to quantify.

Monetised benefits

7.10.1 No monetised benefits for the preferred option of a licensing scheme have yet been identified. While none were identified for this option for the 2009/10 consultation, a small number of responses did suggest that putting the circus industry on a clear robust regulatory footing may allay some of the genuine public concern that has been generated by the regular allegations of poor welfare aimed at circuses. This in turn may result in increased attendances for circuses using wild animal acts. It is possible (although there is no supporting evidence in the literature) that improved welfare standards for wild animals in circuses will improve the public perception of the industry and contribute to increased popularity over time. Although such a benefit will be difficult to quantify, it can be assumed that an industry that is licensed is likely to be more able to attract new, more discerning audiences than an industry that has no apparent regulation. We would welcome any evidence and suggested monetised benefits for this possibility plus any other possible monetised benefits from the latest consultation or from the inspection work we are undertaking to 'roadtest' the standards.

Non monetised benefits

7.10.2 The proposed licensing measure will result in animal welfare benefits that are difficult to quantify. There will be animal welfare benefits through the likely provision of: improved permanent and temporary accommodation for the animals, combined with possible better opportunities to express normal behaviour; better trained staff handling the animals; and, through the requirement for all the animals to be permanently identified, improved traceability. The requirements for each animal to have a health care programme with more routine veterinary inspections, breeding programmes and retirement plans will also significantly improve the welfare of the animals used. Therefore, the positive welfare impact on the small number of animals involved could well be high. However, it is incredibly difficult to accurately measure the extent of this welfare improvement (on what is a very small number of animals) and its value to society.

Break even benefits

7.10.3 Although the benefits of improved animal welfare have not been monetised, it is possible to put into context the magnitude of the annual public good benefit that would need to occur for this option to be cost benefit neutral (ie so that costs exactly equal benefits). Assuming that one-off costs are spread evenly over the 10 year period under consideration, and then by adding this to the annual costs, we can calculate that the overall net cost to will be £37,000 a year for the licensing option at constant prices. If the benefit accrues only to circus attendees (about 150,000 a year) this makes a benefit per attendee of 25p each. If all (13,000) respondents to the 2009/10 consultation received a benefit from licensing then to equate with costs it would need to be £2.85 per consultee per annum. If benefits are spread even more widely as would be expected then the break even benefit would be lower eg if each family recognised the benefit of the licensing system then to break even the benefit would need to be about 0.2p per family per year – clearly a negligible amount.

Risks and assumptions

7.11 The assumptions used to estimate the costs of the preferred option are set out in the text above.

7.11.1 It is recognised that there are gaps in the evidence base, especially in the lack of monetised benefits. For the final stage Impact Assessment we anticipate that some of these gaps will be filled through the consultation and stakeholder engagement process, especially the visits by an inspector to roadtest the proposed standards. We do not intend to measure the general public's willingness to pay for a licensing system (indicative of the public good benefit) as we consider the cost and effort of doing so to be disproportionate.

7.11.2 There is the risk the implementation of the regulations is ineffective or enforcement of the regulations proves difficult. This could in turn heighten concerns about the welfare of wild animals in circuses which could undermine the efficacy of the preferred option. As mentioned above, we will be working with a zoo inspector during the consultation stages on these proposals to ensure the standards we will require are enforceable and that a proportionate and pragmatic enforcement approach is developed. We will also undertake an early preliminary review of the regulations to help demonstrate that they are working effectively.

7.11.3 There is also a risk that the preferred option is not acceptable to Parliament in which case the licensing scheme would not come into force. While Defra would continue to assess the legal obstacles to a ban, the lack of a licensing scheme would potentially weaken the evidence base for any such future considerations.

8. Implementation and enforcement

8.1 As part of the stakeholder engagement work for the current consultation we will be using an appropriately qualified zoo licensing inspector to help roadtest the draft standards. Ministers have announced that they want the regulations in place by July 2012 and it is hoped that by having an inspector in place early this will allow the circuses sufficient time to make any changes to meet the proposed standards for when the regulations come into force. The inspector will also help to complete the final stage Impact Assessment for these regulations by providing information on the actual changes circuses will need to make both structurally and to their current animal care plans and records. Draft guidance will also be published as part of the consultation package and will be issued before the Regulations come into force.

8.2 Subject to approval by Parliament by July 2012, we currently envisage that the Regulations would come into force on the next common commencement date – 1 October 2012. As most circuses will be coming to the end of the 2012 touring season it is likely that the Regulations will require a licence to be in place before the next touring season begins in early 2013. This will allow the initial licensing inspection to take place at circuses winter quarters whilst the animals are being kept at those sites during the winter of 2012/2013.

8.3 At this time, we plan for the licensing scheme to be administered centrally by Defra. Local authorities are required to submit to Defra a copy of the registration certificate that they issue under the Performing Animals (Regulation) Act 1925 (see paragraph 2.2.2 above). The registration certificate will

allow the circus inspector to confirm whether the circus has any wild animal acts and would therefore be required to seek a licence before they could continue to operate with those animals.

8.4 For when the Regulations come into force, Defra will be looking to appoint a small number of inspectors from the Secretary of State's approved list of Zoo inspectors to carry out inspections on behalf of the Secretary of State to enable Defra to issue circus licences. Costs associated with routine inspections will be borne by the circuses themselves through the licence fee. We are still considering enforcement mechanisms, but it is also likely that any licensing infringements will be enforced centrally through Defra, rather than involving any local authority where any offence may have occurred.

One-in, One-out (OIOO)

8.5 No new primary or secondary UK legislation which imposes costs on business or civil society organisations ('IN'), can be brought in without the identification of existing regulations with an equivalent value that can be removed ('OUT'). For the purposes of OIOO, the introduction of a new licensing regime for circuses will be counted as an 'IN'. The estimate of the equivalent net annual cost to business of the 'IN' is set out below. The cost of this 'IN' will be sourced from Defra's 'bank' of existing regulatory 'OUTs'

8.5.1 We estimate that the value of the 'IN' to be about £24,000 a year including transitional costs.

Micro business exemption

8.6 The May 2011 budget included a three-year moratorium (ending 31st March 2014) on new domestic regulations within the scope of OIOO that affect micro-businesses, ie those with fewer than 10 employees, or those just starting up. The impact of these proposals on micro-businesses is discussed as part of the Small Firms Impact Test carried out as part of this Impact Assessment (see section 11.3 below). As part of the normal clearance process we have sought and been granted a waiver to the micro-business moratorium.

9. Review of regulations

Review and Sunset clauses

9.1 The proposed licensing scheme will be subject to both the Review and Sunset clauses required in all new domestic legislation that imposes a regulatory burden on businesses. These will be contained as appropriate in the draft Statutory Instrument. In line with the new requirements the regulations, if approved, will be subject to a full review no later than 5 years after they have come into force. There will also be a preliminary review conducted on the effectiveness of the regulations after the first set of annual licenses issued have expired (likely to be January 2014, assuming the first licenses are issued in January 2013). This preliminary review will look at how successful the circuses have been in meeting the licensing conditions and whether there have been any particular areas of difficulty. Depending on the size of the industry then, Defra may consider publishing aggregated figures on how the licensing conditions have been met. Furthermore, depending on Defra's continuing assessment of the legal obstacles to a possible ban on the use of wild animals in circuses, it is possible that a review of the Regulations may happen sooner than the 5 year deadline. Evidence from the functioning of the proposed licensing scheme may be used either way in future considerations of a ban on the use of animals in circuses, and the regulations themselves might be used in parallel with any future ban.

10. Conclusions

10.1 The Government believes that the implementation of the preferred option of introducing a licensing scheme for wild animals in travelling circuses in England will make a significant improvement to the welfare standards of those animals. The option of a ban has not been ruled out. However, the current lack of irredeemable welfare problems in circuses makes such an option not practical in the short term. The proposed licensing scheme can be implemented much more quickly than any ban, will not be vulnerable to legal challenge and will therefore raise standards for wild animals in circuses much more quickly.

11. Specific Impact Tests

Statutory Equality Duties

11.1. An initial screening of these proposals has not revealed any statutory equalities impacts. The proposals put forward here would be expected to impact equally on all affected people and there would be no impact on gender, race or disability equity.

Economic impacts

Competition Assessment

11.2 The four Office of Fair Trading (OfT) competition assessment filter questions have been considered and no significant impact on competition between suppliers has been found. Impact on consumers, where it occurs, was also found likely to be minimal. Details of the considerations are provided below.

Directly limits the number or range of suppliers

11.2.1 Under the first OfT test of whether these proposals directly limit the number or range of suppliers, none of the proposals would award any exclusive rights to supply, lead to a single or restricted group of suppliers gaining a contract; or introduce a fixed limit on the number of suppliers. However, our preferred option does create a licensing scheme, which in theory could lead potential entrants into the industry to reconsider their entry into the market. However, given the licensing option does not propose to limit the number of licences that can be issued, we do not expect licensing to prohibit entry into the market. The licensing standards require a number of licensing conditions to be met that we believe are the minimum standards required to promote the welfare of wild animals in travelling circuses and should be obtainable by any supplier wishing to enter the market. We anticipate that the costs of meeting the licensing conditions will affect both current circuses and new entrants equally. The licensing scheme will be self-funded through the cost of the licence. The incentives of complying with the licensing regime (which can allow a longer licensing period of up to 3 years) will outweigh the incentives for non-compliance. The maximum penalty for operating without a licence will be imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000, or both. The offence of operating without a licence can also lead to a circus operator being disqualified from being party to an arrangement under which he is entitled to control or influence the way animals are kept.

Indirectly limits the number or range of suppliers

11.2.2 On the second OfT test of whether these proposals indirectly restrict the number of suppliers, primarily through their impact on supplier's costs, it is the case that the impact of our preferred option will affect suppliers (new and existing) equally as the same standards will apply. As there is only a very small and dwindling number of existing suppliers it is already the case that the market is deterring entry to new suppliers. It is unlikely that any supplier considering entry into the market will be deterred (or indeed encouraged) by the introduction of the preferred option of a new licensing scheme. Therefore, there is likely to be little effect on competition here although, in common with all cost increases, there is a potential for current suppliers to reconsider their position in the market.

Limits the ability of suppliers to compete

11.2.3 On the third OfT test of whether these proposals limit the ability of suppliers to compete, the standards set out in the preferred option do not control or substantially influence the price a supplier may charge. There is competition amongst circuses between those who still use wild animal acts, those who use domesticated animals only, and those who use no animals at all. There is likely to be an increase in costs to circuses that use wild animal acts, and these circuses may decide to cover these costs, for example, by imposing a small increase to the price of admission to the public to the circus. However, the preferred option also does not limit the scope for innovation to introduce new products or supply existing products in a new way, so circuses that use wild animal acts will still be able to differentiate themselves in the market from those circuses that do not use wild animal acts. As part of the licensing conditions we will be requiring circuses to submit their planned itinerary. The ability to perform in a town first is an important factor in the success of a circus visit, so each circus' itinerary is an important piece of information to them. However, any such information submitted to the inspector will be treated in confidence.

11.2.4 The preferred option also does not limit sales channels a circus can use, restrict the ability of circuses to advertise their product or limit a circus's choice of organisational form. However, the minimum standards will influence the characteristics of the product supplied by setting minimum animal welfare standards. These standards are justified to safeguard both the welfare of the animals used as well as reassuring consumers that safeguards are in place. Consumers are unable to monitor the quality

of the care of the animals when they are not visible at the circus and these proposals ensure that consumers can have more confidence in the product they are watching.

Limits suppliers' incentives to compete vigorously

11.2.5 On the final OfT test of whether these proposals limit suppliers' incentives to compete vigorously, the preferred option does not: exempt suppliers from general competition law; require or encourage the exchange between suppliers of information on prices, costs, sales or outputs; or increase the cost to customers of switching between suppliers. There is no effect on competition under this test.

Small Firms Impact Test

11.3 These proposals will impact on small and micro businesses. Information provided to Defra for the 2009/10 consultation Impact Assessment suggested that the three circuses currently using wild animal acts each employ approximately between 20 to 30 people. However, a large proportion of those employed would be family members or seasonal, i.e. not full time, employees. The three travelling circuses still using wild animal acts fall within the definition of a small or micro business. Because of the extremely small numbers of circuses being regulated any form of exemption to the proposals would render any regulations meaningless. Therefore, as mentioned above in paragraph 8.6, Defra has sought an exemption from the Government moratorium restricting new regulations applying to micro businesses announced in the 2011 budget.

11.3.1 We have contacted all the circuses previously and sought their views. We also welcomed views from circuses to the 2009/10 consultation. Previous responses and engagement from circuses and their representatives indicate that they would welcome new regulations that would require them to be inspected. This, they believe, would allow them to demonstrate they can comply with a system that safeguards the welfare of the wild animal acts in their care.

11.3.2 During the consultation process we will be seeking to make further contact directly with all three circuses currently using wild animal acts to discuss in depth how they will be able to meet the standards set out in the preferred licensing option. The results of this consultation will be fed into the final stage impact assessment.

Environmental Impacts

Greenhouse Gas Assessment

11.4 These proposals do not affect an activity or sector that may have a significant impact on emissions of greenhouse gases, and therefore a full carbon impact assessment has not been conducted.

Wider Environmental Issues

11.5 The preferred option may require the construction of, or alterations to, a small number of buildings at circus winter quarters. No other environmental issues have been identified.

Social Impacts

Health and Well-being

11.6. An undertaking of the Department of Health's health and well-being screening questions for the health impact assessment does not show that the proposals put forward here will have any significant impact on human health, related lifestyle variables or the demand on health and social care services. We do not therefore propose to undertake a full health impact assessment for this Impact Assessment.

Human Rights

11.7 There are no human rights issues raised by the preferred option.

Justice Impact Test

11.8 It has been agreed by the Ministry of Justice that these proposals will have minimal impact on the justice system.

Rural Proofing

11.9 The preferred option is unlikely to have a different or disproportionate impact on rural areas due to particular circumstances or needs.

Sustainable Development Impact Test

Stage 1

1. Environmental Standards

1a. Are there any significant environmental impacts of your policy proposal (see Wider Environment Specific Impact Test)?
Yes <u>No</u>
If the answer is 'yes' make a brief note of the impacts below:
N/A

1b. If you answered 'yes' to 1a., are the significant environmental impacts relevant to any of the legal and regulatory standards identified?
Yes No
If the answer is 'yes' make a brief note of the relevant standards below:
N/A

If you answered 'yes' to 1b, have you:
1c. Notified the Government Department which has legal responsibility for the threshold and confirmed with them how to include the impacts appropriately in the analysis of costs and benefits?
N/A
1d. Informed ministers where necessary?
N/A
1e. Agreed mitigating or compensatory actions where appropriate?
N/A

2. Intergenerational impacts

2a. Have you assessed the distribution over time of the key monetised and non-monetised costs and benefits of your proposal? This assessment can be included in your Evidence Base or put in an annex.
<u>Yes</u> No
See table 4 above.

2b. Have you identified any significant impacts which may disproportionately fall on future generations? If so, describe them briefly.
Yes <u>No</u>

If you answered 'yes' to 2b. , have you:

2c. Informed ministers where necessary? If so, provide details.

N/A

2d. Agreed mitigating or compensatory actions where appropriate? Provide details.

N/A

Stage 2

3. The purpose of the second stage is to bring together the results from the impact assessment with those from the first stage of the SD test. The following questions are intended to reflect the uncertainties in the cost benefit analysis and help you consider how to proceed in the light of further evidence from the first stage of the SD test.

3a. Indicate in the appropriate box whether the balance of monetised costs and benefits is:

Strongly positive	Moderately positive	Roughly neutral / finely balanced	Moderately negative	Strongly negative
			✓	

3b. Indicate in the appropriate box whether the balance of non-monetised costs and benefits is likely to be:

Strongly positive	Moderately positive	Roughly neutral / finely balanced	Moderately negative	Strongly negative
	✓			

3c. Indicate in the appropriate box whether the results of the SD questions 1-3 are, on balance, likely to be:

Strongly positive	Moderately positive	Roughly neutral / finely balanced	Moderately negative	Strongly negative
	✓			

3d. Indicate in the appropriate box whether, overall, the balance of the monetised and non-monetised costs and benefits and the sustainability issues is considered to be:

Strongly positive	Moderately positive	Roughly neutral / finely balanced	Moderately negative	Strongly negative
		✓		

3e. Provide an explanation of the final result from 3d, explaining, for example, how you have compared monetised and non-monetised costs and benefits and how you have resolved any conflicts between the cost-benefit results and the SD results.

The proposals considered impact only on a very small number of businesses and therefore will have no discernable impact on sustainable development.

Summary: Intervention & Options

Department /Agency: DEFRA	Title: Impact Assessment of the regulation of wild animal acts in travelling circuses	
Stage:	Version:	Date: 21st December 2009
Related Publications:		

Available to view or download at: www.defra.gov.uk

Contact for enquiries: [REDACTED]

Telephone: 0207 238 [REDACTED]

What is the problem under consideration? Why is government intervention necessary?

The specific welfare requirement of wild animals may not be compatible with the unique operating environment of a travelling circus. At the request of interested parties the Government is seeking a proportionate solution that will ensure that these welfare needs are met. In addition, ensuring the proper care and adequate welfare of these animals provides an intrinsic societal benefit.

What are the policy objectives and the intended effects?

The policy objective is to raise the standards of welfare for wild animals in travelling circuses. The options could range from a complete ban on the use of wild animals to voluntary, self-regulation, but the effects of these options would be to ensure the welfare of wild animals in circuses.

What policy options have been considered? Please justify any preferred option.

Five options have been considered:

- 1) A total ban on all wild animals in travelling circuses
- 2) A partial, species specific ban on some wild animals in travelling circuses
- 3) A voluntary system of self regulation for wild animals in circuses.
- 4) A statutory regulatory system for wild animals in travelling circuses
- 5) Maintaining the status quo.

The options have been evaluated in relation to Option 5.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

A review would take place 5 years after any regulation/ban came into force.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Jim Fitzpatrick..... Date: 10.12.09

Summary: Analysis & Evidence

Policy Option: 1	Description: A complete ban on the use of wild animals in circuses
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups'.		
	One-off (Transition)	Yrs	Animal Welfare Organisations: (a) One-off cost of re-homing/removing the animals from the travelling circuses - £0 - 19.1k. (b) Annual cost of caring for re-homed animals - £251 - 306k (p.a.)	
	£ 0 - 19.1k	1		
	Average Annual (excluding one-off)	Cost	Total Cost (PV)	
£ 251 – 306k		£ 1.13m – 1.38m		
Other key non-monetised costs by 'main affected groups' Potential impact upon wider film and television industry due to lack of appropriate animals available				

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups'		
	One-off	Yrs	Circuses: (a) Annual benefit from no longer having to pay for the care of wild animals in their circuses in the event of re-homing – £125 – 306k (p.a.) Animal welfare Organisations: (a) Annual benefit from reduced number of inspections - £3.84 – 11.5k (p.a.)	
	£ 0			
	Average Annual (excluding one-off)	Benefit	Total Benefit (PV)	
£129 – 318k		£ 583k - 1.44m		
Other key non-monetised benefits by 'main affected groups' Animal welfare benefit due to no longer having to live in inappropriate conditions and travel long distances. Societal benefit due to ensuring proper care and adequate welfare of exotic animals.				

Key Assumptions/Sensitivities/Risks Costs and benefits have been generated under the assumption of full compliance. Various assumptions used to generate costs and benefit estimates – see evidence base for details. Time period of analysis 5 years to match review period; policy implementation date: 2010.

Price Base Year 2009	Time Period Years 5	Net Benefit Range (NPV)	NET BENEFIT (NPV Best estimate)
		£ (-)819k - 303k	£ (-)258k

What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	2010/2011			
Which organisation(s) will enforce the policy?	Local Authorities			
What is the total annual cost of enforcement for these organisations?	£ Nil			
Does enforcement comply with Hampton principles?	No			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	N/A			
What is the value of changes in greenhouse gas emissions?	Negligible			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ Not yet known	Decrease of	£ N/A
Net Impact		£ Not yet known	

Key: **Annual costs and benefits: Constant Prices** (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 3	Description: Voluntary self –regulation on the use of wild animals in circuses
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COSTS	ANNUAL COSTS			Description and scale of key monetised costs by 'main affected groups'. Circuses: (a) One-off costs for training staff to bring the standard of welfare in line with the regulations £99k-158k. (b) One-off costs for improvements in the facilities for wild animals to bring the standard of welfare in line with the regulations £30k-32k.
	One-off (Transition)	Yrs		
	£ 130 – 190k	1		
	Average (excluding one-off)	Annual	Cost	
£			Total Cost (PV)	£ 130 - 190k
Other key non-monetised costs by 'main affected groups'				

BENEFITS	ANNUAL BENEFITS			Description and scale of key monetised benefits by 'main affected groups'.
	One-off	Yrs		
	£			
	Average (excluding one-off)	Annual	Benefit	
£			Total Benefit (PV)	£
Other key non-monetised benefits by 'main affected groups' Animal welfare benefit from appropriate care and living conditions. Societal benefit of ensuring the proper care of wild animals.				

Key Assumptions/Sensitivities/Risks Costs and benefits have been generated under the assumption of full compliance. Various assumptions used to generate costs and benefit estimates – see evidence base for details. Time period of analysis 5 years to match review period; policy implementation date: 2010.

Price Base Year 2009	Time Period Years 5	Net Benefit Range (NPV)	NET BENEFIT (NPV Best estimate)
		£ (-)190 – (-)130k	£ (-)160k

What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	2010			
Which organisation(s) will enforce the policy?	N/A			
What is the total annual cost of enforcement for these organisations?	To be assessed			
Does enforcement comply with Hampton principles?	No			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ 0			
What is the value of changes in greenhouse gas emissions?	£ 0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)		
Increase of	£ Not yet known	Decrease of	£N/A	Net Impact	£ Not yet known

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 4	Description: Statutory regulation on the use of wild animals in circuses
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COSTS	ANNUAL COSTS			<p>Description and scale of key monetised costs by 'main affected groups'.</p> <p>Potential regulator: (a) Annual cost of inspections to ensure that regulations are being adhered to - £7.68-11.5k (p.a.)</p> <p>Circuses: (a) One-off costs for training staff to bring the standard of welfare in line with the regulations £99k-158k. (b) One-off costs for improvements in the facilities for wild animals to bring the standard of welfare in line with the regulations £30k-32k.</p>
	One-off (Transition)		Yrs	
	£ 130k – 190k			
	Average (excluding one-off)	Annual Cost		
	£ 15.3k – 26.9k		Total Cost (PV)	£ 164k - 242k
<p>Other key non-monetised costs by 'main affected groups' One off cost to regulatory body of training an inspector to be qualified to undertake inspections, not possible to monetise at present – further details in evidence base.</p>				

BENEFITS	ANNUAL BENEFITS			<p>Description and scale of key monetised benefits by 'main affected groups'</p>
	One-off		Yrs	
	£			
	Average (excluding one-off)	Annual Benefit		
	£		Total Benefit (PV)	£
<p>Other key non-monetised benefits by 'main affected groups' Animal welfare benefit from appropriate care and living conditions. Societal benefit of ensuring the proper care of wild animals.</p>				

Key Assumptions/Sensitivities/Risks Costs and benefits have been generated under the assumption of full compliance. Various assumptions used to generate costs and benefit estimates – see evidence base for details. Time period of analysis 5 years to match review period; policy implementation date: 2010.

Price Base Year 2009	Time Period Years 5	Net Benefit Range (NPV) £ (-)242k – (-)164k	NET BENEFIT (NPV Best estimate) £ (-)203k
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What is the geographic coverage of the policy/option?				England			
On what date will the policy be implemented?				2010			
Which organisation(s) will enforce the policy?				Not yet known			
What is the total annual cost of enforcement for these organisations?				To be assessed			
Does enforcement comply with Hampton principles?				No			
Will implementation go beyond minimum EU requirements?				N/A			
What is the value of the proposed offsetting measure per year?				£ 0			
What is the value of changes in greenhouse gas emissions?				£ 0			
Will the proposal have a significant impact on competition?				No			
Annual cost (excluding one-off)	(£-£)	per organisation	Micro	Small	Medium	Large	
Are any of these organisations exempt?			No	No	N/A	N/A	

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)		
Increase of	£ Not yet known	Decrease of	£N/A	Net Impact	£ Not yet known

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

Summary:

- Concerns have been raised by both MPs and animal welfare organisations (including the RSPCA, the Born Free Foundation, Captive Animal Protection Society and Animal Defenders International) over the standards of welfare of wild animals performing in travelling circuses (this does not include; zoos, safari parks, static circuses or private keepers). In the summer season 2009 there were 39 wild animals being used by four circuses in the United Kingdom.¹³ In the last three years there have been no more than 47 wild animals used in travelling circus performances. Existing law makes it an offence for owners/keepers to fail to provide for the needs of their animals. It is also an offence to cause unnecessary suffering to an animal. However, living conditions provided by travelling circuses are likely to be unpredictable; it is thought Government intervention is therefore required to raise the standards of welfare to a consistently acceptable standard.
- We have considered five options for raising the minimum standard of welfare for wild animals in travelling circuses; 1) a complete ban on the use of wild animals in travelling circuses 2) a partial ban for the use of wild animals 3) voluntary regulation of the use of wild animals in circuses 4) statutory regulations of the use of wild animals in circuses and 5) maintaining the status quo.
- Option 2) a partial ban on the use of wild animals in circuses was considered, so as to exclude the animals most unsuited to travelling circuses (possibly elephants and big cats). This option was dismissed after consideration as it was thought that this would be both extremely costly to establish and maintain and would not necessarily raise the welfare standards of all wild animals in circuses. Likewise, in imposing a species specific ban there was also the concern that other animals, including those less suited to circus life, would be imported and used in order to circumvent the ban. Animal welfare organisations were also concerned that animals such as the camel, which are domesticated in other countries but are listed in the Dangerous Wild Animals Act, would be allowed to continue performing in circuses when they are one of the species that, in their view, is subject to sub-standard welfare. The industry side also made it clear that drawing up a list of the permitted and not permitted animals would be unfeasible.
- It was agreed by all parties that option 5) maintaining the status quo was not a suitable option in raising and safeguarding the standard of welfare for wild animals in circuses. "Business as usual" was not seen as a suitable option as it would not address the concerns raised by both the circus industry and animal welfare organisations over the welfare standards of wild animals in travelling circuses. Therefore the remaining three options to be considered are; 1) a complete ban 3) voluntary regulation and 4) statutory regulations. An assessment of these three options has been included in this Impact Assessment. All three options have been assessed in relation to a baseline of Option 5, maintain the current status quo. A summary of the costs of the three options is provided here.

Summary monetised costs and benefits for each option:

Cost/benefit type	Item	Option 1	Option 2	Option 3	Paragraph Location
One-Off costs	Welfare organisations re-homing animals (if necessary)	£0-19.1k	£0	£0	21-24
	Circuses training staff	£0	£99.6-158k	£99.6-158k	51-53
	Circuses improving facilities	£0	£30-32k	£30-32k	54
	Total One-off Costs	£0-19.1k	£130-190k	£130-190k	
Annual costs	Welfare organisations caring for the re-homed animals (if re-homing necessary)	£251-306k	£0	£0	
	Competent authorities inspections to ensure regulation is being complied with	£0	£0	£7.68-15.3k	55-57
	Total Annual Costs	£251-306k	£0	£7.68-15.3k	
Annual benefits	Cost saving to circuses from no longer having to care for animals that are re-homed	£125-306k	£0	£0	27
	Cost saving to welfare organisations of	£3.86-11.5k	£0	£0	28-29

¹³ Please see Annex I for list of circuses using wild animals and the animals being used.

	reducing number of inspections				
	Total Annual Benefits	£129–318k	£0	£0	
	Net Annual Benefit	(-)£177k – 67.3k	£0	(-)£7.68– (-)15.3k	

Additional points:

5. The net annual benefit range of Option 1 shows that there could be an annual net benefit or an annual net cost of this policy option. This reflects the broad ranges we have estimated for the costs of caring for re-homed animals and the cost savings of no longer having to care for re-homed animals. This is something that we will seek to refine during the consultation process.
6. It must be stressed that the annual cost of caring for the re-homes animals would not remain at this level for many years and would depend on the lifetime of the animals. This cost is based on the assumption that all 38 animals were re-homed. As many of these animals are elderly, this cost would gradually reduce to zero as the animals died.

Background and nature of the problem:

7. There have been increasing concerns over the welfare standards of wild animals used in travelling circuses. During the passage of the Animal Welfare Bill in 2006 there was much discussion over the welfare standards of the wild animals that are used in travelling circuses. Currently there are 38 wild animals being used in four circuses. It was agreed during the debates of the Animal Welfare Act that the use of wild animals in travelling circuses would be banned, subject to there being sufficient robust scientific evidence.
8. It was agreed that since animal welfare is a scientific discipline, in order to ban wild animals, there would need to be suitably robust scientific evidence that the welfare of wild animals was compromised as a result of being part of a travelling circus. In 2007, an academic lawyer, Mike Radford, was appointed the Chairman of a Circus Working Group. The remit of the Circus Working Group was to provide, and consider, evidence relating to the transportation and housing needs of non-domesticated species. The report of the Circus Working Group (the Radford report) concluded that there was not sufficient scientific evidence to justify a ban on wild animals in travelling circuses.
9. Animal welfare organisations sought alternative legal opinions as to the outcome of the Radford report. These independent legal opinions argues that the Radford report was flawed and found that it was possible to ban the use of wild animals in travelling circuses on the basis of available evidence.
10. After the publication of the Radford report, a feasibility study was undertaken to assess the practicality of regulating the use of wild animals in circuses, as it is “agreed” by all interested groups that the use of wild animals in circuses cannot continue as it is now. As part of the feasibility study two members of the Zoo Licensing Inspectorate visited two of the circuses using wild animals. Inspectors from Animal Health also made a follow up visit. On the recommendations of the inspectors who conducted the visits, both circuses undertook improvements to their accommodation and travelling facilities, in order to raise the standard of welfare of the animals.
11. Having seen the final reports of the Zoo Licensing Inspectors who carried out the feasibility study and having had subsequent discussions with the industry side and welfare organisations, it is agreed that some form of action is long overdue to protect wild animals being used in circus performance.
12. Animal welfare organisations have many arguments as to why wild animals in circuses should be banned. One of which is that it is extremely difficult to build a case against circuses using the Animal Welfare Act 2006 because it is not easy to gather evidence when a circus is constantly on the move. We do not accept that this is necessarily the case, but we do believe that the uniqueness of the circus environment, including changing acts and personnel, means that they may pose risks that are not present in other areas where wild animals are kept.

Existing legislation:

13. The Animal Welfare Act 2006 (AWA). The 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 the 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, and need it has to be housed with, or apart from, other animals and its need to be protected from any pain, suffering, injury and disease. The AWA also makes it a criminal offence to cause an animal any unnecessary pain or suffering.
14. The Dangerous Wild Animals Act 1976 (DWAA). The DWAA was reviewed in 2007. While the species list is valuable to discussion of the definition of a wild animal, the DWAA is primarily considered as legislation to protect the public. There are basic welfare requirements that must be met in order to obtain a license, but the DWAA does not apply to circuses.
15. The Zoo Licensing Act 1981. (ZLA) Travelling circuses have a specific exemption from the Zoo Licensing Act; however the Zoo Licensing Act provides a starting point from which to work when considering future regulations. For example, the current Zoo Licensing Act could be used as the standards for a travelling circus's permanent quarters. Ben Bradshaw, Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs when the Animal Welfare Act was debated said "In drawing up proposals for secondary legislation we intend to ensure a clear read across between zoo licensing standards and those standards that we will require from permanent circus premises."¹⁴ The Circus Working Group also highlighted other areas of the ZLA that could be useful when drawing up future regulations.
16. The Performing Animals (Regulation) Act 1925. This states that anybody who wishes to have performing animals must be registered by their Local Authority and establishes power to enter premises. It does not address the welfare requirements of any performing animals.

Definitions and the scope of the consultation:

17. For the purposes of this consultation and ongoing discussion, the same definition of "wild animal" shall be used as for the work of the Circus Working Group, namely "a non-domesticated animal is a member of a species that is not normally domesticated in the British Islands; that is to say, a species whose collective behaviour, life cycle or physiology remains unaltered from the wild type despite their breeding and living conditions being under human control for multiple generations."¹⁵
18. The Zoo Licensing Act 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."¹⁶ The Dangerous Wild Animals Act uses a similar definition: a circus "includes any place where animals are kept or introduced wholly or mainly for the purpose of performing tricks or manoeuvres."¹⁷ The Performing Animals Welfare International (PAWSI) Circus Code of Welfare defines a circus as: "a group of animals under the same ownership or control and that is usually a mobile entity that primarily performs for public exhibition and may also be displayed for educational purposes."¹⁸ For the purpose of this consultation, the definition of travelling circus will be that used in the Zoo Licensing Act, in conjunction with the fact that in order to be a "travelling" circus, a circus must not have a fixed place of residence for over six months of the year.
19. It is important to note the difference between wild animals performing in a travelling circus and other performing wild animals. This consultation makes a clear distinction between the two and is not consulting on the banning or regulating on the use of wild animals in the audio-visual industry or in the keeping of wild animals by private collectors. Likewise, this consultation does not include any wild animal unless it is in the performance of a travelling circus. To clarify, in the debates on the Animal Welfare Act, Ben Bradshaw said: "The ban will apply to travelling circuses only – zoo

¹⁴ 8th March 2006, col 60WS.

¹⁵ Wild Animals in Travelling Circuses; the Report of the Chairman of the Circus Working Group, Mike Radford, Section 2.2.

¹⁶ Zoo Licensing Act 1981, Section 21, Para 1.

¹⁷ Dangerous Wild Animals Act 1974, Section 7, Para 4.

¹⁸ Circuses Code of Welfare 2006, Performing Animals Welfare International, section 1.9.

performances, performances in the audio-visual industry and performances in static circuses will not be affected.”¹⁹ For example, the use of reindeer that are owned by a static circus proprietor which take part in a Christmas parade are not part of the scope of this consultation, so long as they are based at permanent premises and are not included in the circus performance during the travelling season.

Consideration of each option (including costs):

Option 1) a complete ban on wild animals in circuses:

20. Section 12 of the Animal Welfare Act allows the Minister/Secretary of State to make such provisions as he thinks fit for the purpose of promoting the welfare of animals for which a person is responsible. Under this legislation a complete ban on wild animals in travelling circuses could be introduced. Alternatively, a ban could be secured through Primary Legislation.
21. Animal welfare organisations have made it clear and are in agreement that a complete ban on the use of wild animals in circuses is the only option they support. Welfare organisations have full time staff assigned to the work created by the use of wild animals in travelling circuses. However, in the event of a ban, welfare organisations have informed us that these staff would be assigned to another area within the organisation and would not lose their jobs.
22. Representatives from the circus industry are strongly opposed to a ban on the use of wild animals in circuses. They are in agreement that if wild animals were prohibited from being part of their circus performance that revenue would fall and employees would be forced to leave. Circus owners do not believe that it would be possible to find alternative work for employees within their circus.

Re-homing animals

23. In the event of a ban any wild animals in circuses would need to be removed from the circus and potentially re-homed. Circus owners have said that they would not want them to be re-homed to a sanctuary/zoo and would take responsibility of the re-homing themselves. However, if re-homing of animals were necessary, due to circuses no longer being able to afford to keep them for example, animal welfare organisations have agreed that they would provide re-homing facilities and would pay for the re-homing themselves, from dedicated fundraising activities.
24. We requested and received information from the RSPCA, the Born Free Foundation and Animal Defenders International on the financial and logistical implications of the re-homing and ongoing care of the banned animals. They believe that homes could be found for all the animals within the UK or Europe. The RSPCA envisaged that transport vehicles, manpower and provisions of animals during their journey to new homes in the UK would be provided by the circuses. On the basis that a journey by road to a location in the UK or Europe would take no more than two days one way, plus a maximum of one day travel within the UK, each return journey would cost approximately £1.47k.²⁰
25. The RSPCA recommends that animals from the same circuses be re-homed to the same location, to avoid separating companions. On the basis that there are currently 38 wild animals being used in circuses, 13 return journeys would be required, costing approximately £19.1k.
26. Whilst this is likely to be the cost for transporting some of the animals to new homes within Europe, it is likely to be an overestimate of the cost of re-homing all of the animals. As a result £19.1k has been set as an upper bound on these costs. To reflect our current uncertainty in these costs, £0 has been set a lower bound on the cost. Therefore, the total one-off cost to welfare organisations of transporting animals to new homes within Europe is between £0 and 19.1k
27. In the unlikely event that no home was available in the UK or Europe and flights were required, there would be a cost to airlines or transporting animals (sponsorship deals with airlines have borne the cost of flights for all relocations undertaken by the BFF.) The costs incurred by animal welfare organisations would therefore be that of building suitable crates to transport the animals, which would not cost more than £2000. It should be stressed that it is extremely unlikely that animals would have to be re-homed outside Europe and is much more probably that most of the animals could be re-homed within the UK.

Caring for re-homed animals

¹⁹ 8 March 2006, col 60WS.

²⁰ For further details on this calculation, please see Annex III.

28. Any re-homed animal would also need to be cared for in their new homes. The costs of keeping wild animals vary depending on the species and location. However, the RSPCA and BFF were able to provide us with estimates for some species, and we have estimated the costs for other species. Table 1 sets out the costs of caring for re-homed animals. The total cost to welfare organisations is between £251k and £306k per annum.

Table 1: Cost to welfare organisations of caring for re-homed animals per annum

Animal species	Cost per animal	Number of animals	Total cost per species
Big Cat	£3,794 ²¹	13	£49.3k
Elephant	£37,657 ²²	4	£134k
Zebra	£4,415 - £6,500 ²³	5	£22.1 - 32.5k
Snake	£214 ²⁴	6	£1.28k
Ankole	£2,899 - £12,461 ²⁵	1	£2.90 - 12.5k
Crocodile	£2,899- £12,461 ²⁵	2	£5.80 – 24.9k
Camel	£4,415 - £6,500 ²³	8	£35.3 - 52.0k
	Total	39	£251 - 306k

29. In the event of re-homing animals, there would be a cost saving for circuses that no longer have the cost of caring for wild animals in their circuses. At this stage, we do not know the scale of this cost saving for circuses so we have estimated it from the costs to welfare organisations of caring for re-homed animals, Table 1. Assuming that the cost saving to circuses is between 50 and 100% of the costs incurred by animal welfare organisations, this represents a benefit to circuses of between £125 and 306k per annum.

Fewer inspections by animal welfare organisations

30. In the event of a ban, it would be necessary to continue inspecting circuses on an ad hoc basis, to ensure that the ban was being adhered to. It is expected that if a wild animal was performing animal welfare groups and Defra would be made aware of it, but it would still be appropriate for animal welfare organisations to undertake an annual inspection. Given that welfare organisations currently inspect each circus 2-4 times per annum, we expect that in the event of a ban the annual number of inspections would decrease by 1-3 per circus per annum. There are four circuses that currently have wild animals, so in total there would be 4-12 fewer inspections per annum.

31. As an estimate, a veterinary officer from Animal Health trained to conduct inspections costs £120 per hour. On the basis that each inspection would have used a whole day of an inspector's time, the cost saving would be £960 for each inspection no longer needed. This represents a total benefit to welfare organisation of a reduction in ad hoc inspection would be between £3.86 and 11.5k per annum.

Possible costs to circuses

32. As mentioned previously, if a ban were to be imposed, there would be job losses within the circus industry, which would represent a cost. Likewise, circuses would have the cost of removing

²¹ Estimated from the annual cost per animal at Shamwari Sanctuary, South Africa, and accounting for the difference between cost of living between South Africa and England.

²² AZA Elephant Manager's Meeting, Orlando, Florida, 10-21 January 2005. Costs averaged \$57,900, which is approximately £33,468 (using the exchange rate from the time of the meeting in 2005). Adjusting for inflation, using the CPI, this is approximately £37,657 in current prices (October 2009)

²³ For both zebras and camel, costs are not readily available. So the estimated cost of caring for a domestic horse in a private household per year has been used as a proxy

²⁴ Insurance = £150, food = £5.30/month = £63.50

²⁵ For both ankoles and crocodiles, costs are not readily available. A range has been calculated, using the interquartile range of the annual costs of caring for the other animal species; it is extremely unlikely that the costs of caring for ankoles and crocodiles will fall outside this range.

equipment/travelling facilities/accommodation that was no longer necessary. It is not possible to calculate the potential costs of this at this time, but these would be monetised for the final impact assessment.

33. At this stage, we do not know what the impact of a ban on the use of wild animals in travelling circuses would have on circus revenues. This will depend upon the effect of the ban on the number of visitors to circuses and the effect on ticket prices. This is something that we will try to monetise for the final impact assessment.

Potential effect of a ban on the wider entertainment industry:

34. There have been concerns raised by the circus industry that if wild animals were to be completely banned from circuses this would have an adverse effect upon the wider film and television industry. Industry argues that animals in circuses are able to do “close work” that other animals would have to be trained to do. Information regarding the use of circus animals in the audio-visual industry has been requested and received, but we are awaiting more detailed evidence of the use of the animals in the last five years.²⁶
35. In discussions with DCMS, officials do not oppose a ban on the use of wild animals in travelling circuses, so long as a distinct and clear line is drawn between wild animals in travelling circuses and wild animals kept by static circuses or private keepers.
36. The argument that a ban on wild animals in circuses would have a substantial impact on the wider entertainment industry has been largely dismissed by animal welfare groups, reasoning that there are static animal suppliers that would be able to supplement any animals that were no longer available from circuses.
37. Likewise, it is our understanding from the circus industry that some, if not all, of the affected circuses would consider being static suppliers of wild animals to the film and television industry. We understand that there are two static suppliers already in existence. It must be stressed, as already mentioned in paragraphs 16 and 29 that animals kept by static suppliers and used in the audiovisual industry would be outside the scope of this consultation and would not be affected by a ban on wild animals in circuses.

“Break even” benefits

38. Although the benefits of improved animal welfare have as yet not been monetised, it is possible to broadly estimate the magnitude of annual benefit per animal that would have to occur for this option to be cost benefit neutral. Using the costs and benefits that we have been able to monetise so far, it is possible to calculate what the public value would need to be to make Option 1 cost-benefit neutral. As the costs and benefits of this option differ across species, different species will require different “break even” benefits. The annual “break even” benefits required to make this policy worthwhile are as follows Using the simplified assumption where the one-off costs are spread evenly over the 5 year period under consideration, and then by adding this to the annual net costs, we can calculate the annual “break even” benefits required to make this policy worthwhile:

Animal species	“Break even” benefit required per animal per annum
Big Cat	£800
Elephant	£8,220
Zebra	£956
Snake	-£94.6 ^(a)
Ankole	£577
Crocodile	£577
Camel	£955

²⁶ Officials from DCMS have provided evidence that in the last ten years American films using animals that have been made in Britain have had a combined UK spend of approximately £1.8 billion. However, it should be pointed out that this figure does not differentiate between wild animals and domesticated animals and applies to animals from all sources – not just circuses.

Average Benefit required	£1,710
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(a) This represents a small cost required, due to the comparatively low costs of caring for snakes being offset by the larger cost savings to animal welfare organisations

Options 3) and 4) Voluntary self regulation and statutory regulation:

39. In the case of voluntary self regulation the circus industry would be setting their own welfare standards which they would be responsible for enforcing and controlling. In the case of statutory regulation, we wish to consult on who/what would be an appropriate body/organisation to create and enforce any regulations.
40. There have been concerns raised that in the event of regulation some circuses may cease operating in the UK and may relocate to Europe. It is our understanding that none of the four circuses that currently use wild animals in their performances have any intention of relocating outside of the UK. As mentioned in paragraph 37, officials understand that in the event of a ban and possibly under regulations, some, if not all of the affected circuses would instead consider moving into the static animal supplier industry.

Self regulation:

41. Voluntary arrangements avoid Government and judicial involvement, as they do not require establishing official enforcement arrangements and new statutory sanctions. An organisation such as PAWSI (Performing Animals Welfare Standards International) is set up to provide such a system; however there are issues as to why PAWSI may not be an appropriate regulator. In the case of any regulation of wild animals in circuses, there would need to be a clear distinction between performing circus animals and animals in the wider performance industry. At present PAWSI is a group which represents not only circuses, but also members of the audiovisual industry. To be a credible body for regulation, PAWSI would have to be restructured so as to clearly separate the circus and audiovisual industry.
42. Our understanding is that PAWSI would not want to regulate and do not believe it feasible to regulate circuses alone, but would wish to regulate a wider spectrum that took in the film and television industry.
43. UKAS accreditation (United Kingdom Accreditation Service) would help to provide assurance to interested parties, including animal welfare organisations that self-regulation arrangements are open, clear and transparent and that decisions are made objectively. In order to demonstrate that a self-regulatory system was open and auditable, officials would recommend obtaining UKAS accreditation. Whether it is financially practical to obtain UKAS accreditation for the regulation of only 38 animals is unclear and would be for a potential self regulator to decide.
44. A self-regulatory system would also need to demonstrate an ability to work with animal welfare organisations, such as the RSPCA. Current indications are that animal welfare organisations would not feel comfortable working with any self-regulatory body as their preferred option is a complete ban.
45. Preliminary discussions with some members of the circus industry indicate that there are differing views on the potential success of any self-regulatory system. Those not in favour of self-regulation see it as an 'easy way out' and not having the motivation to constructively improve the welfare of wild animals in circuses.
46. The preferred option of these members of the industry is for the establishment of a new circus licensing authority which would have similarities with the zoo licensing procedure by be operated completely separately and with standards appropriate to circuses and not necessarily appropriate to zoos. This body could comprise of representatives from the circus industry, zoological veterinarians, representatives from Defra and also from animals welfare organisations.
47. These representatives from the circus industry wish to see a robust system of regulations incorporating required standards of animal welfare enforced by an independent inspection regime that will stand up to public and parliamentary scrutiny. Regulations would also need to be drawn up in consultation with specialist vets and would need to be specific to circuses within the United Kingdom. They do not believe a self regulatory system could provide this.

Options for statutory regulation:

48. The Animal Welfare Act allows the Secretary of State to make a code of practice to be made (approved by parliament) for the purpose of providing practical guidance in respect of any provision made by or under the 2006 Act including section 9 (duty of any person responsible to for an animal to ensure welfare). Regulations could be introduced in this way.
49. During discussions with LACORS (Local Authorities Coordinators of Regulatory Services) the possibility of using Local Authorities as the body which could regulate circuses was discussed. However, it became clear that this option would not be feasible. The travelling nature of circuses would make it difficult to a single local authority to inspect them, with an inspector having to travel to each location across the country. The alternative would be to create a system of sharing information and costs between the local authorities in which the circuses performed. However, this is an expensive and burdensome option for only four circuses. Therefore, any regulatory body which were to enforce statutory regulations would have to be a nationwide organisation, such as Animal Health. Likewise, if each circus were to be inspected and regulated by the local authority in which its permanent premises were, this would result in each relevant authority having to have an inspector that was trained and sufficiently experienced in dealing with wild animals. Considering there are only four circuses with wild animals it would potentially require substantial amount of training for very few actual inspections.
50. The possibilities of regulation were also discussed with LBRO (Local Better Regulation Office). LBRO agreed that it was not practical for local authorities to act as the regulatory body, due to the travelling nature of circuses and the need to share information on the circuses between local authorities. However the LBRO were able to suggest the use of a Primary Authority system as an alternative. This scheme could potentially overcome the issues that would be faced by regulation simply through a single local authority.
51. Under the Primary Authority scheme, each circus could form a relationship with one local authority that would then be responsible for providing the circuses with advice and guidance and for the issuing of a license, subject to whatever inspections were in place. The primary authority could then liaise with other local authorities and could provide guidance when it came to carrying out any spot checks on circuses premises while travelling. In addition the cost of local authorities undertaking these inspections could be recovered under the Primary Authority agreement between the primary authority and the circus.
52. LBRO also hosts a secure Primary Authority database to which all local authorities have access. This could provide the system in which information on the circuses could be stored and would provide the means of transferring information between authorities. This would allow a consistent approach to the enforcement of any regulations.
53. The Primary Authority scheme was launched in April 2009 so is a relatively new initiative. There are areas of the scheme that have not necessarily been tested, however officials from the LBRO are confident that it could provide a system of regulation/licensing for circuses and would be happy to work with officials and circus owners to create such a system.

Costs:

Training circus staff

54. We recognise the valuable work done by PAWSI in setting up the City and Guilds NVQ in Animal Training and Management in Circus Education. This is run by Sparsholt Agricultural College in Hampshire and will soon change to Qualification Credit Framework. The cost of these courses varies between level of NVQ obtained, but is between £1,200 and £1,900 per applicant.²⁷
55. Similarly, the number of circus employees was taken from last count to be 35 at the Great British Circus, 25 at Jolly's and 23 at Circus Mondeo. In total, at present, travelling circuses using wild animals employ 83 people. The total one-off cost of training is between £99.6k and £158k. It is our understanding that some members of circus staff have already begun to undertake these qualifications.

²⁷ Information taken from the course guide, Animal Training and Management, Sparsholt College.

56. Whether or not it is decided to go down a statutory system of regulations or voluntary self regulation, we consider that staff should be encouraged to increase their skills through following accredited courses, such as NVQ training.

Improvements to the facilities for wild animals

57. As regulations are unclear it is difficult to gauge how much it would cost, if anything, for circuses to bring the accommodation of their animals up to the required standard of welfare. However, using information from the feasibility study we know that one circus spent approximately £7,500 and another £8,000 on changes and improvements after the visits from the Zoo Licensing Inspectorate, in order to bring the accommodation of their wild animals up to standard. Using the assumption that it is unlikely that any regulation will require a higher standard of welfare than the Zoo Licensing Act, the cost to raise welfare standards sufficiently would be between £7,500 and £8,000. Considering there are four circuses that currently use wild animals, it could be calculated that in order for circuses to bring their accommodation up to the welfare standard required by regulation, either voluntary or statutory, would be between £30k and £32k.

Inspections by the competent authority

58. It has been agreed that under any form of regulation it would be necessary to inspect each circus both at the permanent premises and while on tour. It would also be appropriate to have a "spot check" inspection while the circus was on tour. As an estimate, a veterinary officer from Animal Health trained to conduct inspections costs £120 per hour. On the basis that each inspection would use a whole day of an inspector's time, each inspection would cost £960. There are four circuses that currently have wild animals, and each would require 2-3 inspections per annum. The cost of regular inspection would be between £7.68k and £11.5k per annum.
59. In order for an inspector to undertake visits to circuses, they would need to be suitably experienced in inspecting wild animals and would have skills and experience equal to that of a Zoo Licensing Inspector. It is possible that in the event of statutory regulation there would be a need for a regulatory body/system to employ a suitable inspector, as they may not already be in place. Alternatively, a veterinary officer already in situ may require further experience/training in order to adequately inspect a circus premises.
60. Having contacted Animal Health, they were able to inform us of the training requirements/criteria which a veterinary officer wishing to be a Zoo Licensing inspector had to match (attached in annex II). There are no specific training courses; however, any new inspector would have to join an experienced inspector on three visits before inspecting alone. The expenses of these visits would be covered by Animal Health. In addition, Animal Health organise an annual training seminar for Zoo Licensing Inspectors, which delegates must pay to attend. At present inspectors are only encouraged to attend, however, Animal Health are considering making attendance mandatory for all inspectors. As the inspection needs of any potential regulatory system are not yet known, it is not possible to calculate a cost for providing new inspectors
61. The RSPCA has indicated that they would wish to continue inspecting circus premises in the event of regulation being imposed. On the basis that they would wish to inspect as often as at present the RSPCA would incur no additional costs of inspecting circuses compared to option 5, maintaining the status quo.

Admin burden for circuses

62. In the event of any regulations, it is likely that a condition would be to include veterinary records of all animals owned or kept by the circus. Likewise there would be an increased admin burden due to the time spent by staff accompanying inspectors on visits and completing any qualifications. This would increase admin burdens, but it is not yet known by how much. The potential cost of the increase on admin burdens will be quantified in a final impact assessment.

"Break even" benefits

63. As with Option 1, although the benefits of improved animal welfare have as yet not been monetised, it is possible to broadly estimate the magnitude of the annual public value that would need to occur for these options to be cost benefit neutral. For Options 2 and 3, we anticipate that the costs and benefits are the same across all species. So using the simplified assumption where the one-off costs are spread evenly over the 5 year period under consideration, and then by adding this to the annual costs, we can calculate that the annualised overall net cost will be £31,930 for Option 2

and £41,530 for Option 3. This makes the annual “break even” benefits required to make these policies as follows:

- Option 2: £819 per animal per annum
- Option 3: £1,065 per animal per annum

Competition Assessment:

64. In assessing the competition aspects of any proposed action, four key questions need to be addressed: whether the proposals directly limit the number or range of suppliers, whether they indirectly limit the number or range of suppliers, whether they limit the ability of suppliers to compete, and whether they limit suppliers’ incentives to compete vigorously.

Limits the number or range of suppliers; or indirectly limits the number or range of suppliers

65. In the event of a ban on all wild animals in travelling circuses (Option 1), if these circuses left the industry then the proposal would directly limit the number of circuses. If these circuses did not leave the industry, the range of travelling circuses would be limited to suppliers that do not use wild animals.

66. In the event of self-regulation or the regulation of the use of wild animals in circuses (Options 2 and 3), the proposal is unlikely to directly or indirectly limit the number or range of suppliers.

67. Furthermore, it is anticipated that all three options will affect existing circuses and potential entrants into the circus industry equally. Although it is possible that it could lead potential entrants into the circus industry to reconsider before entering the market.

Limits the ability of suppliers to compete; or limits suppliers’ incentives to compete vigorously

68. A ban on all wild animals in travelling circuses (Option 1) is likely to increase these circuses’ incentive to compete with travelling circuses that do not use wild animals. This is because circuses would no longer be able to use wild animals to differentiate themselves from other circuses.

69. Self-regulation or the regulation of the use of wild animals in circuses (Options 2 and 3), is unlikely to affect these circuses’ ability and incentive to compete with other travelling circuses.

70. The three options considered would affect all travelling circuses in the same way, and therefore would not affect their ability to compete within this sub-sector of the circus industry.

Small firms impact test:

71. These proposals will impact small businesses. All travelling circuses can be considered to be small firms. We have contacted all four circuses which currently have wild animals to discuss the impact of the proposals. One of the circuses and a representative from Performing Animals Welfare Standards International have been actively involved in these discussions. Furthermore we would welcome any input from circuses during the consultation process.

72. It is clear that all four circuses are concerned about the possibility of a ban. A ban would result in a loss of revenue and jobs, consequently, all the circuses are opposed to a ban. However, the circuses have all been unanimous in their wish to introduce regulations so as to show they are involved in a system that safeguards a higher standard of welfare for the wild animals in their shows.

73. Circuses would be willing and able to cover the cost of any inspections that were involved in a regulatory framework and are well experienced in being inspected by other bodies such as local authorities and the RSPCA.

74. An introduction of regulations which covered such subjects as animal medical records, feeding records or more training for their staff would create a higher administrative burden, but circuses are willing to undertake this than accept the alternative of a ban. We would welcome any further input from circuses during the consultation process.

Legal Aid:

75. These proposals will have no appreciable impact on the courts, tribunals or judges.

Sustainable:

76. Analysis of the “stretching the web” filter indicated a neutral effect of these proposals on sustainable development.

Carbon Impact Assessment:

77. These proposals may have an extremely minor effect on the emissions of greenhouse gases, due to preventing the repeated transport of large animals. However, the number of these animals is so small that the impact would be negligible; therefore a full carbon impact assessment has not been completed.

Other Environmental Issues:

78. No other environmental issues have been identified.

Health Impact Assessment:

79. As this proposal will not have any significant impact on human health, related lifestyle variables or demand on health and social care services a health impact assessment is not required (Department of Health – Screening Questions for health impact assessment).

Race, Gender and Disability equality assessments:

80. A screening of the proposals against a checklist of questions as part of the Equality Impact Assessment has revealed that there is no impact on equality issues.

Human Rights:

81. There are no human rights issues raised by these proposals.

Rural Proofing:

82. These proposals are unlikely to have a different or disproportionate impact in rural areas due to particular rural circumstances or needs.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annex I:

List of wild animals used by UK circuses in the summer 2009 season:

Great British Circus:

- 5 lions
- 7 tigers
- 7 camels
- 1 zebra
- 3 elephants

Bobby Robert's Super Circus:

- 1 elephant
- 1 camel

Circus Mondeo:

- 3 zebras

Peter Jolly's Circus:

- 2 crocodiles
- 1 zebra
- 1 ankole
- 6 snakes

Annex II:

Criteria for inclusion on the Secretary of State's list of zoo inspectors

This paper sets out the criteria to be met by all successful applicants to the Secretary of State's list of zoo inspectors.

The Zoo Inspectorate

Section 8 of the Zoo Licensing Act 1981 provides for the establishment of the Secretary of State's list of zoo inspectors and that the list should comprise two parts.

The first part (List 1) comprises:

Veterinary surgeons and practitioners with experience of animals of the kinds which are kept in zoos or which might be so kept, with competence to advise on implementation in zoos of the conservation measures required by the Act.

The second part (List 2) comprises:

Persons competent to inspect animals in zoos, to advise on their keeping and welfare, and to advise on implementation in zoos of the conservation measures in zoos required by the Act and to advise on management of zoos generally.

The standard criteria

The proposed standard criteria are set out below:

1. Applicants should be currently be engaged in the zoo field.
 - For inclusion on List 1, this effectively means a vet familiar with current practice in zoo medicine. Additionally for inclusion on List 1, applicants must be a registered member of the Royal College of Veterinary Surgeons.
 - For inclusion on List 2, this effectively means an experienced zoo curator or director.
2. Applicants should have significant direct experience in the field (expected to be a minimum of five years).
3. Applicants should possess the skills necessary to conduct a professional inspection, acting with courtesy and respect at all times, and complete a comprehensive report in a timely manner, without prejudice.

The core competences to fulfil point 3 are:

- Knowledge of the zoo licensing legislation, guidance and process.
 - Competence in the subject areas covered by the Zoo Licensing Act (animal husbandry and veterinary care, conservation and education measures in zoos, health and safety)
 - Active experience
 - Professional behaviour and conduct (see Annex 1 on Defra's core values)
 - Communication skills, both oral and written
 - Timeliness
 - Teamworking
4. In accordance with section 9 of the Zoo Licensing Act 1981, successful applicants must be approved by Defra (on behalf of the Secretary of State) following consultation with representatives of the British Veterinary Association (BVA) and the British and Irish Association of Zoos and Aquariums (BIAZA).

Clearly the criteria set out in the legislation must be satisfied but, in exceptional circumstances, it may be necessary for Defra to waive certain of these expanded criteria, for example, to allow recruitment of specialists in minority fields where satisfactory candidates meeting all the criteria are unavailable. In such circumstances, Defra would consult with BVA and BIAZA as set out in criteria 4 above.

Other points

It is necessary to maintain a list with sufficient spread of expertise so recruitment may focus on particular areas of expertise, for example, in keeping of particular species groups.

It is also desirable to maintain a list with sufficient geographical spread around the country. The Inspectorate can function most effectively with the regulatory burden minimised if inspectors have a shorter distance to travel to inspections. Recruitment may therefore focus on particular regions of the country to ensure adequate geographical coverage.

Annex III: Further details of calculations:

Calculations for cost of transporting the re-homed animals:

Fuel costs calculated on the running costs of an articulated lorry – fuel consumption = 1 litre/2 miles

Distance travelled each day = 286 miles per day

Cost of diesel per litre - £1.10 ¹

Cost of travel for three days = 3 x [1.1 x (286/2)] = £471.90

Cost of return journey = 943.80

Return ferry journey for lorry, Dover to Calais = £521.70 ²

Total cost for round trip = £1465.50

¹ Average cost of diesel on 18th November 2009 (www.petroprices.com)

² P&O ferries quote on 20th November 2009 for return trip, Dover-Calais, for vehicle length 10.51-12.50m = £444 + VAT = £521.70