Can the law help us to tackle genetic diseases that affect the welfare of dogs?

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Abstract

Some pedigree and other dogs suffer from serious genetic health problems. It is sad to acknowledge that this is not new. Dogs have been exposed to an increasing number of hereditary diseases for decades. Some of the diseases are the result of naturally occurring processes that result in mutations and the close linkage of undesirable traits with desirable ones, others, however, are the result of choices made by breeders and owners about what is desirable for the dog breed. An owner with a sick dog, has recourse to consumer’s legislation should they wish to get some of the money back that they paid for the ‘defective’ animal. Consumer’s law is based on EU standards, and does give the owner some opportunities to litigate. This paper explains EU legislation, and provides an overview of the opinion of (Dutch) judges regarding cases involving animals with genetic defects. Legal and veterinary perspectives do not always work together in a satisfactory manner. The need for further legislation to prevent the continued breeding of dogs with serious genetic defects is discussed.

Keywords: animal welfare, consumer’s law, dog-breeding, hereditary diseases, lawsuit, pedigree dogs

Introduction

Dogs with inherited defects can be extremely upsetting for their owners. The frustrations about the dog’s illness, combined with veterinary costs, may act as an incentive to take the case to court, to sue the breeder for the production of the ‘defective’ animal. But does that help? Does the option of a lawsuit help the dog that is experiencing pain and distress? How are sick pedigree dogs judged in lawsuits? Is the breeder fully liable for every disease or abnormality a dog develops? And what information do we get from these lawsuits about the welfare of pedigree dogs? Do such lawsuits work as an incentive for an increase in the welfare of dogs, or should we think of other options? This study details the law and legislation applicable to dogs, and discusses the implications for animal welfare.

Dogs with defects

The issue of dogs suffering from inherited diseases has been recognised for decades (eg Ministry of Agriculture 1988). An important point in this paper is the distinction between ‘chosen’ and ‘not-chosen’ diseases. Let us assume that the normal lifespan of a dog varies from ten to fifteen years, in reasonable health. This normal dog is born without veterinary intervention, can breathe, see, hear, smell, eat, drink, walk, bark, in short, show all the biologically essential functions to survive as a mammal, and also shows the functions which are essential for a dog (and in line with the principles described for farmed animals by the Brambell committee [Brambell 1965; PDSA 2011]).

In some dog breeds, many individuals suffer from serious impairments of those functions. One of the best known examples, is breathing difficulties in brachycephalic breeds; those with a disproportional wider skull, short muzzles and protruding eyes (Bannasch et al 2010). These problems are now common and referred to as ‘brachycephalic respiratory syndrome’ (eg UFaw 2011). Other health problems seen in such breeds involve the eyes, joints, skin and the birthing process. The recent BBC documentary, Pedigree Dogs Exposed (BBC 2008) showed many of these types of health impairments. These problems did not occur by accident, but because ‘we’ human beings deliberately chose to breed dogs with short noses, bulbous protruding eyes, skulls too small to hold the brain (Rusbridge 2007), extreme wrinkles and other malformations that are a threat to a dog’s health and welfare (Bateson 2010).

At the same time, we have bred other breeds in colours and types that match show standards or owner’s wishes, like the popular chocolate-coloured Labrador retriever. In themselves, those physical appearances do not threaten health. However, breeding focused on appearance often involves inbreeding (CAWC 2006, 2008, 2009; Klein Swormink 2011). Inbreeding greatly increases the risk of genetic diseases (Gubbels & Scholten 2005; APGAW 2009; Peelman 2009).