

September 21, 2012

Stephanie A. Wilkinson,
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, N.W.
Room H-113 (Annex X)
Washington, DC 20580

Re: Pet Medications Workshop, Project No. P12-1201

Dear Ms. Wilkinson:

On behalf of the American Society for the Prevention of Cruelty to Animals (ASPCA) and our 2.5 million supporters, thank you for the opportunity to submit comments on the current status of the pet medications industry and, in particular, the importance of prescription portability.

The ASPCA was the first humane society established in North America and today is one of the largest in the world. In 1866, Henry Bergh founded our organization on the belief that animals deserve respectful treatment and protections under the law. Headquartered in New York City, we maintain a strong national presence with programs that extend our anti-cruelty mission to communities across the country. We are a privately funded 501(c)(3) not-for-profit corporation that employs over 680 people nationwide.

Animal health is a cornerstone of the ASPCA's mission. In 1912, the ASPCA founded the Bergh Memorial Animal Hospital (BMAH) in New York City to provide high-quality, specialized and general medicine for pets, shelter animals, and the victims of animal cruelty. The ASPCA also operates the Animal Poison Control Center (APCC), the premier animal-oriented poison control center in North America. Based in Illinois, the APCC employs health professionals trained in veterinary toxicology who provide 24-hour veterinary diagnostic and treatment recommendations for animals exposed to potentially hazardous substances.

BMAH is fully accredited by the American Animal Hospital Association and is one of the largest, most advanced animal hospitals in the New York metro area. The hospital treats approximately 20,000 patients a year and employs 22 veterinarians including internists, cardiologists, and radiologists. BMAH provides high caliber veterinary care that is affordable and accessible to clients. Our staff recommends efficient courses of treatment and works with clients to design payment plans and affordable rates for specific procedures.

A. Affordable Pet Care Benefits Owners and Pets

The cost of pet care is an important consideration for pet owners and one that we encourage potential adopters to weigh carefully. New owners of an average-sized dog can expect to pay



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over \$1,500 in pet care costs the first year alone, including over \$230 in medical expenses. New cat owners can expect to pay over \$1,000 in the first year, including \$160 in medical expenses.¹

Because the cost of pet care has become increasingly worrisome for pet owners living on shrinking household budgets, our organization has sought ways for pet owners to cut costs without impacting the welfare of pets.² Keeping pet care affordable encourages pet ownership. A 2012 study conducted by the American Humane Association's Animal Welfare Research Institute found that veterinary costs were the number one reason among previous dog owners for not currently owning a dog.³ Thirty percent of previous dog owners and 25% of previous cat owners cited veterinary costs as the prohibitive factor.⁴ Among respondents who had never previously owned a dog, 24% reported that veterinary expenses were the main reason for not having a dog and 29% cited general maintenance expenses. Among respondents who had never previously owned cats, these numbers were 18% and 17% respectively.⁵ The expense of veterinary and general care is a significant inhibitor of future pet ownership.

The U.S. Pet Ownership and Demographics Sourcebook 2012, published by the American Veterinary Medical Association, shows that for the first time since 1991 fewer Americans have dogs and cats today than five years ago.⁶ Because the economic downturn is likely among the reasons for the decline, the ASPCA encourages the public to take steps to reduce the costs of pet ownership in an effort to keep animals out of shelters.

1. Helping pet owners cut costs

The ASPCA advises pet owners to shop around for affordable, quality pet care.⁷ When looking for caring, knowledgeable, and cost-effective veterinary care, consumers should consider multiple veterinary hospitals and ask about services provided and costs for routine visits. We highly recommend asking other pet owners to share recommendations and experiences when comparing fees.⁸

The ASPCA also encourages consumers to call local pharmacies or to look online for lower cost veterinary medicines. However, this cost-saving measure is only available to consumers who obtain written prescriptions from their veterinarians. While many veterinarians are happy to provide written prescriptions for clients to fill anywhere they choose, not all veterinarians offer this option.

¹ ASPCA "Pet Care Costs," available at <http://www.asPCA.org/Home/Adoption/pet-care-costs>.

² ASPCA, "Cutting Pet Care Costs," available at <http://www.asPCA.org/pet-care/pet-care-tips/cutting-costs.aspx>

³ "Keeping Pets (Dogs and Cats) in Homes: A Three-Phase Retention Study, Phase I: Reasons for Not Owning a Dog or Cat," American Humane Association, 2012 at 7.

⁴ *Id.*

⁵ *Id.* at 20.

⁶ 2012 U.S. Pet Ownership and Demographics Sourcebook (sneak preview) available at <https://www.avma.org/news/pressroom/pages/Sneak-preview-of-AVMA-Pet-Demographic-Sourcebook-at-2012-convention-in-San-Diego.aspx>.

⁷ ASPCA, "Saving Money on Vet Care," available at <http://www.asPCA.org/pet-care/pet-care-tips/saving-money-on-vet-care.aspx>.

⁸ See "Cutting Pet Care Costs," *supra* note 2.



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Having unfettered access to their pets' prescriptions gives consumers a choice about where they buy pet medications. As with many markets, more choice encourages competitive pricing. Lower prices for pet medications ease the financial burden on pet owners and ultimately benefit pets.

When it would benefit the client and patient, veterinarians at BMAH provide either written prescriptions or call in prescriptions to retail pharmacies for pet owners.⁹ Our veterinarians proactively suggest that clients fill prescriptions elsewhere if they know that doing so will be significantly less expensive. The ASPCA always counsels clients to avoid purchasing drugs from non-U.S. sources and to purchase drugs from reputable pharmacies, whether on or off-line.¹⁰

BMAH does not have data showing the frequency with which clients fill prescriptions outside of the hospital. However, given the choice to fill their prescriptions elsewhere, most BMAH clients will fill their prescriptions at the hospital dispensary simply as a matter of convenience.

The percentage of a veterinary bill devoted to the cost of prescription medications varies widely based on a number of factors, including the length of time the animal is hospitalized and the nature of the animal's condition. For some clients, medications may represent a relatively small expense. For those whose pets have chronic conditions that require ongoing medication, this cost can be significant. These are the pets and pet owners for whom prescription portability is especially important.

2. The relationship between poverty and euthanasia

Shelter-related euthanasia is the single leading cause of preventable death for dogs and cats in the United States.¹¹ Not surprisingly, the highest animal euthanasia rates are associated with areas of highest human poverty. In a study of Boston neighborhoods, cat mortality rates in shelters were 3.5 times higher in poor neighborhoods than in more wealthy neighborhoods.¹² The highest rates of cat death correlated with human premature death, a reliable indicator of social disparity in community health. However, evidence suggests that the availability of low-cost veterinary care can counteract this trend. South Boston, a lower-income neighborhood where cat mortality rates were 50% lower than expected, is served by a shelter providing low-cost veterinary services to the community. This surprisingly low mortality rate likely reflects the positive impact of access to low-cost veterinary care for low-income populations.¹³

The most economically disadvantaged populations own the most at-risk animals and as a result, the affordability of pet care is linked to animal health outcomes. The affordability of preventive medicine is particularly critical to protect against conditions that may be difficult and expensive to treat. In some areas of the South, the majority of dogs entering shelters test positive for

⁹ Certain animal medications do not exist for human use and can only be obtained from a veterinarian.

¹⁰ ASPCA "Pet Health Alert: FDA Issues Warning on Buying Pet Drugs Online," available at <http://www.asPCA.org/News/National/National-News-Detail.aspx?NDate=20101008&NType=National#News3>.

¹¹ Gary Patronek, "Mapping and measuring disparities in welfare for cats across neighborhoods in a large US city," American Journal of Veterinary Research, Vol. 71, No. 2, February 2010 at 161.

¹² *Id.* at 164.

¹³ *Id.* at 165.



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heartworm.¹⁴ Owners who cannot afford monthly preventive medications likewise cannot afford to treat the disease.

The social and economic disparities that affect human communities also create conditions that result in shelter intakes of stray, unwanted, injured, or ill pets. Veterinarians and policy-makers should take every available opportunity to make pet care as affordable as possible. Prescription release is a small but logical part of the solution.

3. H.R. 1406: The Fairness to Pet Owners Act

The ASPCA supports H.R. 1406, the Fairness to Pet Owners Act. This bill, introduced in the House last year by Reps. Jim Matheson (D-UT) and Lee Terry (R-NE), would give pet owners the right to receive copies of their pets' prescriptions and to more easily shop for affordable prices.

Currently, there is a patchwork of state laws on prescription release for pet medications. A few states require veterinarians to provide prescriptions automatically. Other states require prescriptions to be released only upon request. Many states are silent on the matter. This bill would harmonize state laws to provide one consistent guideline for veterinarians. Most importantly, a federal law would provide a uniform framework to guide consumer expectations. Those who stand to benefit from cost-savings should be aware that they have the option to seek out lower prices.

Pet medicines are regulated by several federal agencies, including the Food and Drug Administration and the Drug Enforcement Administration, making their sale, distribution, and availability a federal issue. Additionally, pet medicines sold through Internet pharmacies are subject to interstate commerce laws. A federal law would facilitate consumer choice and promote pricing competition.

The Fairness to Contact Lens Consumers Act, which was signed into law in 2003, provides a helpful precedent to the Fairness to Pet Owners Act. FTC issued the "contact lens rule" in 2004 to implement the new law.¹⁵ As the Commission no doubt recalls, prior to implementation of the Fairness to Contact Lens Consumers Act, consumers in the contact lens market had to contend with higher prices because doctors were unwilling to release prescriptions or verify prescriptions to outside vendors. The new law required prescribers to give all patients, even those who didn't request one, a copy of their contact lens prescription following an exam.

In its testimony to Congress, FTC supported the expansion of consumer choice, stating, "the availability of contact lens prescriptions benefits consumers because it gives patients the option of purchasing contact lenses from sellers other than the eye care practitioner who wrote their prescription."¹⁶ In the years since the statute was passed, the contact lens market has grown

¹⁴ Conversation with Dr. Emily Weiss Ph.D, CAAB, Vice President, Shelter Research and Development, ASPCA.

¹⁵ 16 C.F.R. Part 315

¹⁶ Statement of Howard Beales, the Director of the Federal Trade Commission's Bureau of Consumer Protection to the U.S. House of Representatives Subcommittee on Commerce, Trade, and Consumer Protection, September 12, 2003.



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considerably. Consumers now have more choice of contact lens providers, and contact lenses are more affordable. We anticipate a similar outcome with pet medications.

As in the contact lens context, the additional administrative costs associated with veterinary prescription release will be minor. When the Fairness to Contact Lens Consumers Act was under consideration, FTC testified that “the costs associated with a contact lens prescription release requirement are likely to be quite low.”¹⁷ The administrative costs for a prescription release requirement in the pet medications market should be similarly low for practitioners.

By opening up the market for pet medications to more competition, the Fairness to Pet Owners Act will make a positive difference in the lives of many animals. Seventy-eight percent of all dogs and 47% of cats in this country have been given some form of medication in the last year.¹⁸ Giving their owners access to the lowest cost medications will help them lead healthier lives and prevent more expensive treatment in the future.

B. Price Transparency is Critical to Informed Decision-Making by Pet Owners

Consumers should have access to the information necessary to make informed choices. Some veterinarians claim that mandatory prescription release will lead to higher veterinary care costs because the sale of medications currently offsets the price of veterinary care. The affordability of veterinary care should not be tied to where the client decides to purchase medications. Pet owners should have the freedom to shop around for both affordable veterinary care and affordable veterinary drugs.

Consumers denied information about the cost of medications and services could be paying unnecessarily high prices. Being able to compare costs is essential for seeking the best care at the best price. Veterinarians who provide good value should not be disadvantaged by providing consumers with the information they need to make important financial decisions. Consumers appreciate practitioners who understand and support the connection between being a smart shopper and a responsible pet owner.

Thank you for your time and attention to this very important issue. Caring for our pets, though sometimes costly, is one of life’s most joyful and rewarding experiences. Any effort to make this experience financially accessible to more people will benefit pets, pet owners, and animals waiting for loving homes. We strongly support your efforts to explore this issue. Please let us know if we can provide any further information.

Sincerely,



Deborah Dubow Press
Regulatory Affairs Manager

¹⁷ *Id.*

¹⁸ American Pet Products Association National Pet Owners Survey, 2011-2012 at 23.