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EDUCATION, EMPLOYMENT AND TRAINING COMMITTEE

Members present:

Ms KE Richards MP—Chair
Mr MA Boothman MP
Mr N Dametto MP
Mr J Lister MP
Mr BL O'Rourke MP
Mr JA Sullivan MP

Staff present:

Mr R Hansen—Committee Secretary
Ms R Duncan—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE OPERATIONS OF THE TRADING (ALLOWABLE HOURS) ACT 1990

TRANSCRIPT OF PROCEEDINGS

MONDAY, 25 OCTOBER 2021

Brisbane

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The committee met at 11.33 am.

JAMES, Mr Tony, Acting Deputy Director-General, Office of Industrial Relations, Department of Education

WILDIE, Mr Patrick, Assistant Under Treasurer, Queensland Treasury

CHAIR: Welcome and thank you very much for joining us here. Mr James, would you like to begin by responding to any of the points made by witnesses today?

Mr James: Thank you, Chair. First of all I acknowledge the traditional owners of the land on which we are meeting today and pay my respects to elders past, present and emerging. My colleague here, Mr Patrick Wildie, is, as you have said, the Assistant Under Treasurer for Queensland Treasury.

I thank the committee for the opportunity to present. I will be brief. In terms of responding to matters today, there has been a wealth of information put to the committee today, Chair, and there are a number of areas where there may be observations for us, but I would like to go through a very brief introductory statement and then it might actually line up the position that I would take to most of the submissions that the committee has received to date.

Again, I thank the committee for the opportunity to present on the impact of the 2017 amendments and in today's matter in relation to term of reference No. 3, which is the effect of trading hours regulations on the Queensland economy and on regional Queensland, and to respond to any questions that the committee may have including the economic analysis to the committee which we provided on 15 October. I will make my opening remarks brief because I know that time is short and I know that you will have questions.

Chair, I note the submissions made by interested stakeholders and the diversity of opinions offered. It demonstrates the dynamic nature of the retail sector and the myriad views and influences working within that sector. Consistent with national trends, there have been significant structural changes in the retail sector over the past two decades, including the increasing use of technology and also the shift to online retailing, and that has constrained retail employment growth in Queensland. More recently, the COVID-19 pandemic and related restrictions on community movements have significantly disrupted consumer spending patterns. I suggest these impacts have probably overshadowed the underlying drivers of growth over the last two years.

Overall, retail trade employment in South-East Queensland and regional Queensland have generally moved in line with each other and, further, the trend in retail employment growth both in South-East Queensland and regional Queensland appears to have been broadly similar both before and after the trading hours reform in 2017. There is no clear evidence of any discernible change in the quarterly retail turnover volume growth in the periods before and subsequent to the commencement of the trading hours act amendments in 2017. However, given the substantial changes in consumer spending patterns and economic activity more broadly since that time, and in particular through COVID, it is not possible to determine the extent to which outcomes in the sector may differ from those that may have occurred in the absence of the 2017 reforms.

Given the range of short- and long-term factors that work in the retail sector—and here is the rub for us, Chair—we consider it is not possible to effectively or accurately isolate the economic effects of changes in trading hours regulations made in 2017 from the broader economic trends impacting retail activity or employment in Queensland over the past five years. In saying that—that I cannot give you a definitive analysis of cause and effect of trading hours reforms made in 2017 and the economic performance in Queensland—I realise that I may not be particularly helpful to the committee.

CHAIR: I think that is reflective of our other submitters.

Mr James: I will leave it there. My colleague Mr Wildie and I will try to answer every question that the committee throws at us in regard to term of reference 3.

CHAIR: Mr Wildie, did you want to make an opening statement?

Mr Wildie: I would also like to acknowledge the traditional owners of the land on which we meet and pay my respects to elders past, present and emerging. I thank the committee for the opportunity to have input into the briefing. As Tony said—and I think it is outlined in the paper that the Department of Education submitted—analysis was undertaken to inform that paper, but the paper outlines analysis on a range of factors reflecting the performance of the retail trade sector, including looking at overall retail turnover, retail turnover by component, retail employment, both statewide and at a regional level, and online retailing.

As Tony has highlighted, we did examine retail turnover over three periods to try to understand the difference across the three periods: one, the five years prior to September quarter 2017 before the introduction of the changes; the period between September quarter 2017 and December quarter 2019; and then the period from March quarter 2020, which I suppose was the period in which COVID was significantly impacting on the economy.

In summary—we want to keep highlighting the point—there was such a range of factors, both short and long term, that have been impacting the Queensland economy, the national economy and the global economy over the last few years, including in particular the unprecedented volatility experienced due to COVID, that it is not really possible to identify the impacts of specific factors on overall economic growth or overall economic performance or even the retail trade sector in general, because there was so much volatility over that period and so many other factors driving the outcomes across the retail sector and the economy more broadly.

CHAIR: We were just reflecting that there have been four years since the legislation was changed and 50 per cent of that time has been throughout the pandemic, which has certainly impacted every way we live our lives.

Mr LISTER: Thank you, gentlemen, for coming in. I appreciate your experience and insight. Mr Wildie, if I can ask you a question pertaining to the broader economic questions here and Treasury's view, we heard representatives from the Master Grocers Association and IGA say that there are structural advantages enjoyed by the larger players that on an otherwise level playing field disadvantage the smaller players. We also heard Ms Nolan talk about further deregulation attacking the diversity of retail offerings. What is the Treasury's view of the impacts of concentration of retail ownership in terms of the state economy but also local economies?

Mr Wildie: I am probably not in a position to give a view specifically on the impacts on the structure of the industry. The important thing is: if you have a look at what has happened with retail trade and any changes over those last few years, you can see that there was gradual growth in the retail trade sector that was evident before the changes and if you look at the 10 quarters of activity following the reforms, the average quarterly growth in the five years prior to September 2017 was 0.5 per cent and that was broadly the same in the period of the 11 quarters post that period up to December quarter 2019.

Basically, what we have seen are some longer term trends, for example since the global financial crisis. This obviously flows through to the structure of the retail trade sector in different ways. We have seen a period since the global financial crisis where there were generally subdued outcomes in aggregate household consumption growth for a period of time and that was driven by a range of factors. Then, basically, the period we have seen since COVID ironically has seen almost unprecedented not just volatility but also growth in some components of that expenditure.

Exactly how that feeds through I am probably not in a position to give a view on—whether one particular structure is more optimum than another one. It is really how the sector responds to those changing dynamics. As you can see over time, there is a lot of volatility and a lot of different factors that would impact on what the optimum structure is.

Mr LISTER: Allowing for a moment that the assertions that I referred to before are correct and if decisions by government allowed a greater concentration of ownership of retail, what could the economic implications of that be for the state and for regions? I am not asking about what we have seen but as an economic principle. I hope you might be able to avail me of your view there.

Mr Wildie: I cannot comment on government policy to the extent that it may or may not allow that.

Mr LISTER: Forgive me, sorry. Are you an economist, may I ask?

Mr Wildie: Yes.

Mr LISTER: As a general principle, is the concentration of retail offerings likely to be beneficial or a negative or a combination?

Mr Wildie: I think it is really a matter of how the sector would react. In certain circumstances you would think that different industry structures are going to provide a more optimal outcome than others. That would be across regions and sectors. I do not think it is a matter of a simple answer that a certain structure is or is not the optimum structure.

CHAIR: There are certainly many disrupters.

Mr Wildie: That is not just in the retail trade but in any sector of the economy.

CHAIR: I think retail particularly, though, with the disruption of online shopping. There are a whole range of influencing factors that impact on retail structure.

Mr BOOTHMAN: My question goes to an interesting point Mr Mickel made about penalties for those operating outside their trading hours. Do you have any comment on that?

Mr James: Trading hours themselves do not directly impact on penalty rates. They are administered through the—

Mr BOOTHMAN: I mean penalties for operating outside of allotted hours.

CHAIR: If somebody had their shop open and they should not be open.

Mr James: That definitely breaches the trading hours legislation. The industrial inspectorate within the Office of Industrial Relations does police trading hours. To be frank, we do monitor. I might just look to my colleague here and see if I can get what the latest fines have been. There have not been a lot of breaches or prosecutions in the last five years. You will recall that the Douglas Shire Council submission to the committee raised one of the times when our inspectorate had been to Port Douglas. I recall it quite vividly. They were called out over the May Day or Anzac Day long weekend in terms of looking at trading arrangements that were happening up there. There was no prosecution done. By and large, we do not tend to prosecute. I think we canvassed this when Tony Schostakowski and I last fronted the committee a fortnight or three weeks ago. There are fines available. I might just look across to my colleague here, who can advise me what the fines are open to be. It will not take him long, but if you like he can come back to me with that.

CHAIR: That will be fine, thank you.

Mr DAMETTO: Mr James, I have to disagree with you when you said in your opening comments that you did not have very much useful information to give our committee, because you highlighted something very interesting I had not thought about. That was the fact that for most of the last four years retail has been heavily impacted not only by COVID but also other contributing factors. Would you say at this point in time that playing with something that is a constant in the retail space could be dangerous for the future of the retail sector, especially with other variables out there?

Mr James: I think what our economic analysis has detailed quite clearly is that there are myriad factors that play in the retail sector. You will have seen from the submissions that have been made—there are lies, damn lies and statistics—that you can use economic data in particular ways. I think some of the submissions that have been made to the inquiry to date—and I take no issue with making the submissions, but I do point out that a lot of them work on an aspirational basis. A lot of them are under the assumption that there will be certain outcomes from doing this action, but there does not appear to be a lot of empirical evidence that supports hard economic data.

My colleague in Treasury has been really very clear in saying that we are not saying that trading hours changes do not have effects, but you have to consider whether they are in the margin and what are the other forces that are happening—it is a dynamic world—and whether it is dangerous to make changes in a moving world. Things are moving. I think trading hours are a broader question than the pure economics of it. I think there are other social dimensions that also need to be considered, but today we are talking about term of reference 3. I am unable to inform the committee whether pulling a lever in trading hours will pull a lever for increased or decreased employment or increased or decreased retail turnover or trade.

One thing I know as an economist is that you only make more when you increase aggregate demand. I have not seen a lot of data, although I know there are reports. I think the Harper report some years ago, which was a Productivity Commission report, indicated that broadly if you open trading hours up you would intuitively think there would be more foot traffic and there would be more sales. I am not sure about the degree of that—what the degree of the change would have to be in order to generate those things. In answer to your question, member—is it dangerous?—I think there are too many moving parts and it is impossible to say.

Mr DAMETTO: Thank you very much for your brilliant contribution.

Mr James: Chair, if I may, I have an answer to the member's question regarding the quantity of penalty if we find an offence for breach of the act. It is at section 42 of the Trading (Allowable Hours) Act 1990 under part 7, 'Offences and proceedings'. I thank my colleague Mark Hopgood for bringing it to my attention. I should have looked myself. A person found guilty of an offence under this act is liable, if the person is a body corporate, to a penalty of 200 penalty units—a penalty unit is currently \$137—and if the person is an individual a penalty of 40 penalty units.

CHAIR: With regard to the special events component of the legislation, I was wondering if you had any feedback or if the department has been engaged with the success or otherwise of special events or if there had been any issues raised in that regard in terms of seeking the permit, the application of the permit and the benefit to the Queensland economy in providing that permit.

Mr James: I think we covered that in our original submission. On 15 October I provided to the committee a bit of a run-down of the turnover time, which I think disclosed that the turnover from lodging an application to resolution was fairly quick. I think you will notice that almost all of them went through and only one was knocked back. I think you will find that a number of the submitters have raised questions around that, and I did hear John Mickel this morning as well.

In terms of the take-up of it, I think what was abundantly clear was that open slather 24/7 trading—in other words, making a particular area or region exempt for a particular short period of time—does not mean that everyone will go crazy, hell for leather, and trade 24/7. In fact, it is difficult to determine how much of the actual take-up there was beyond the announcement of the successful application.

My team monitored this throughout, from the moment the new legislation was brought in. We monitored the internet and trading hours of the major retailers. Whilst there was some take-up—and I think some of it is detailed in our original report—there certainly was not a huge take-up, but it did, I think, allow some flexibility in some regions, for example, the Weipa fishing competition. One or two of the submissions did talk to increased trade on occasions where that particular thing was issued.

I also note some of the concerns I think of the SDA, where they talk about the breadth of the submission. We did see some submissions that took in a huge regional area that went beyond the actual time of the event. I am not advocating for policy change here—that is not my role; that is actually your role—but I will say that the cultural advice is very broad. It does allow a lot of flexibility for the short term.

CHAIR: It was interesting to look at those that had been approved and see the diversity of scale. The Commonwealth Games and the air show are very different beasts, in my mind. That is why I was reflecting on the criteria and what that looks like and what those impacts are, because I think major events versus special events are possibly something that is a little bit—

Mr James: True. If you look at the commentary from the commission in determining these matters, it has had a very clear interpretation of the legislation, which really means you can take the scale of Commonwealth Games through to the melon festival, which I know got a mention this morning.

CHAIR: I noticed the melon festival. It will be the most well known festival in Queensland.

Mr BOOTHMAN: Back to my original question: how many businesses actually have been issued with a breach for operating outside of those trading hours?

Mr James: In what period?

Mr BOOTHMAN: Since the changes were made back in 2017.

Mr James: I would suggest it is probably zero. I can confirm that for the committee, but I would recall if we had a prosecution and nothing springs to mind. We have an information line, and by and large the department has traditionally moved to get assurances from retailers and traders that they will not breach. You usually pick it up by advertisement or by one of the competitors.

CHAIR: Is there a warning process? If a breach has been identified, are there touchpoints that allow rectification prior to—

Mr James: There is not a formal warning process, but that is how we often operate. We do not leap to prosecution. It has been our normal arrangement to contact the potential trader who may be working unaware of the law and seek an undertaking that they will not breach the trading hours. If they then wish to argue, that would leave open options for the department.

Mr O'ROURKE: Mr Mickel was talking about having to apply for exemptions. If you flipped it the other way, what would be the ramifications if we did not have to apply for rectifications to those trading hours?

Mr James: Are you suggesting that we have fixed trading hours? Are you suggesting that we have deregulated trading hours?

CHAIR: Do you mean that you do not have to apply for a special event? Just because it is a special event, whatever that period of the special event is, it is just exempt over that period without going through the red tape of applications?

Mr James: I would say it would depend on what is a special event, and therein lies the rub. I believe the Commonwealth Games was clearly mentioned when the minister introduced the amendments, but we have moved on to the annual agricultural show in the regions. We had the lunar festival, the melon festival. I do not in any way contest the significant cultural importance of them, but globally, in Queensland and in local economies I think that is what you would have to grapple with.

CHAIR: I do not believe there are any further questions.

Mr James: There has been a lot of talk about petrol stations.

CHAIR: Were you looking it up in the newspaper back in the day, too?

Mr James: Mark and I were cadets back in the late 1970s and very early 1980s. We used to work in a thing called the petrol roster room. It had a giant map with coloured pins, and that is how we used to move the petrol roster around.

Mr LISTER: 'It's the Golden Fleece on Smith Drive that you have to go to this weekend!'

Mr James: I remember it well. Thank you for indulging me with that.

CHAIR: I note that we have placed one question on notice, which is to confirm there were no breaches between 2017 and now—

Mr James: No penalties, Chair. I cannot say there—

CHAIR: Sorry, not breaches but penalties. I am sorry; you are right. If you could come back with the answer to that question for us by Monday, 1 November, that would be wonderful.

Mr DAMETTO: Madam Chair, can I add something to that if you do not mind?

CHAIR: Certainly.

Mr DAMETTO: You are going to provide us with the details of how many penalties we have handed out. As part of that, are you able to also provide us with how many breaches?

Mr James: The reason I made that distinction is that a breach can occur and I will never know about it. If you wanted to look at the number of trading hours inquiries we have had, I cannot say that they are breaches but I believe we do keep statistical data on that sort of information. Chair, I will undertake to come back to the committee with as much information as I can in terms of the departmental interface over trading hours.

CHAIR: Thank you very much. Thank you to our parliamentary broadcast staff, thank you to Hansard and thank you to our secretariat. A transcript of these proceedings will be available on the committee's inquiry webpage in due course. I declare this public briefing closed.

The committee adjourned at 11.58 am.