



Speech by

Hon. T. M. MACKENROTH

MEMBER FOR CHATSWORTH

Hansard 13 April 1999

YEAR 2000 INFORMATION DISCLOSURE BILL

Hon. T. M. MACKENROTH (Chatsworth— ALP) (Minister for Communication and Information and Minister for Local Government, Planning, Regional and Rural Communities) (12.37 p.m.): I move—

"That the Bill be now read a second time."

The year 2000 problem—or Y2K, as it is commonly known—is a major challenge for many businesses and Government agencies. It is a management problem which we understand has the potential to cause extensive disruption to the economy and to the community at large if not adequately addressed before the end of this year. The Queensland Government is committed to minimising the greatest risks posed by Y2K.

To this end, this Government has implemented a rigorous framework for managing the problem within departments and reporting on the readiness of both Government agencies and providers of essential services, such as electricity and water. Inadequate rectification could cause a very broad range of services to fail. At the same time, insufficient public information concerning the extent of any risk of service failure could cause the community to overreact and undertake unnecessary and costly contingency measures, with detrimental economic and social effects.

Encouraging information sharing is an important element in dealing with the Y2K problem. Businesses, Government agencies and individuals need accurate information on which to base contingency plans. Likewise, those organisations that are lagging in rectification can benefit from information, such as the outcomes of Y2K testing shared by those more advanced. But disclosing information regarding Y2K problems or readiness could, under certain circumstances, expose that person or organisation to potential legal action.

The extent of potential liability varies, but it is fair to say that there is a general perception that making statements about Y2K problems is a high risk activity. Consequently, businesses and Governments have been reluctant to date to reveal their Y2K preparedness to other organisations or to provide assistance by sharing information.

The absence of this information flow means the Y2K preparedness of some organisations is incomplete. A lack of meaningful information inhibits a range of activities, including checking the status of critical supply chain partners. Lack of information from utilities about continuity of services such as power, water and communications is a matter of particular concern.

The Bill before the House today is intended to encourage the exchange of information about Y2K problems, rectification efforts and readiness. It does so by providing a limited form of protection against liability for errors in certain Y2K statements. In other words, the Bill seeks to provide greater certainty to organisations wishing to disclose Y2K readiness statements and other information to their clients and the public.

The Bill provides protection for a limited time and a limited range of activities. The protection it provides is confined to acts of good faith, so as to seek to retain certain basic standards of conduct. Protection from civil liability for a Y2K statement will be limited to written disclosure statements that are clearly identified and authorised and that relate specifically to the Y2K problem and data processing and other activities designed to mitigate the consequences of problems relating to that processing.

Protection will also extend to a person republishing an original Y2K disclosure statement. The immunity does not excuse deliberate and misleading acts in the provision of information to the public. For example, the legislation will not provide protection from civil action relating to—

Y2K disclosure statements which are made recklessly or known to be materially false or misleading;

actions instituted by consumers in relation to goods or services purchased following inducements provided by a year 2000 disclosure statement, such as where a product or service fails as a result of a year 2000 service failure;

Y2K disclosure statements made in the context of entering into a contract;

Y2K disclosure statements made in the context of obligations imposed by a contract or a Commonwealth, State or Territory law; or

proceedings, or the exercise of regulatory or enforcement power, by a regulator or enforcement body.

In addition, a Y2K disclosure statement will not be taken to amend a contract unless the parties agree otherwise. Provisions of the Bill will not alter any intellectual property rights.

In today's regulated marketplace, laws regulate the provision of information. Providers of information need to be careful about the information they provide or risk exposure to legal liability on a number of fronts. The laws in this area are intended to place certain obligations and responsibilities on the providers of information, but those laws may have inhibited the exchange of information about Y2K.

This Bill seeks to modify the law relating to the provision of information, but only where Y2K information is concerned. That modification seeks to strike a balance. It eases the risks associated with the provision of Y2K information but, at the same time, it leaves certain legal controls in place. In this case, the public interest in facilitating greater availability of information on the potential disruption to critical service sectors such as public utilities, manufacturing, finance, transport and communications gives us adequate justification to provide limited immunity from prosecution or proceedings on the basis of statements made in good faith.

By encouraging the exchange of information, we can help to ensure organisations and individuals undertake adequate contingency planning measures targeted at areas of real risk, rather than comprehensive planning based on "worst-case" scenarios. As a related benefit, greater disclosure of information by those agencies and organisations which have completed their rectification work will assist those organisations which still have some way to go in terms of their own preparations.

In an environment that involves entities competing to find new and innovative ways to solve the Y2K problem, this Bill seeks to highlight the need for that competition to be framed in a spirit of responsible cooperation. It places the common aims of Government, industry and the community at the forefront of Y2K readiness.

This legislation is a component of the Queensland Government's broader response strategy for addressing the Y2K problem and complements the year 2000 information disclosure legislation recently passed by Federal Parliament. To promote consistency in the application of this national legislative framework, it is proposed that the Queensland legislation commence retrospectively at 27 February 1999, this being the day on which the Commonwealth legislation commenced. Every State in Australia is doing the same. This is to avoid a situation whereby a person acting in good faith and in accordance with legislative provisions in one jurisdiction could be deemed to be liable in another.

The Government trusts this legislation will receive support from all members as a show of determination, faith and goodwill by the Parliament in the Y2K information disclosure process. I commend the Bill to the House.
