



Speech by

Hon. D. HAMILL

MEMBER FOR IPSWICH

Hansard 13 April 2000

QUEENSLAND COMPETITION AUTHORITY AMENDMENT BILL

Hon. D. J. HAMILL (Ipswich—ALP) (Treasurer) (11.31 a.m.): I move—

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

The purpose of this Bill is to amend the Queensland Competition Authority Act 1997, the QCA Act. In 1997, the QCA Act established the Queensland Competition Authority, the QCA, as Queensland's State-based competition regulator, charged with regulatory responsibility for—

the State's monopoly prices oversight regime for Government monopoly business activities;

the State's third-party access regime; and

the State's competitive neutrality complaints mechanism.

The Bill amends the QCA Act by—

extending the coverage of the State's monopoly prices oversight and third-party access regimes to local government business activities and facilities;

establishing a deterministic prices oversight regime for private water suppliers;

clarifying the principle of competitive neutrality as it applies to Government business activities; and

making miscellaneous amendments, mainly to the State's third-party access regime.

These amendments will provide essential safeguards against the possible misuse of market power by suppliers of essential industry inputs, particularly water, by way of exploitative pricing. Together with the existing competition frameworks and safeguards in the QCA Act, they will ensure that the Queensland economy has the greatest opportunity for economic development and to enjoy the maximum benefits from that development.

The first component of the Bill extends the existing prices oversight regime for State Government business activities to cover monopoly or near monopoly businesses owned by local governments. Many monopoly government business activities provide essential utility services, for example water supply, to the community and have a critical impact on the efficiency of those industries which are reliant upon these essential inputs. In the absence of a competitive market, however, it is important that there be an independent oversight of prices in order to ensure that services are provided at the most efficient level possible and at the most efficient price.

Accordingly, this Bill will establish an independent mechanism to investigate whether a local government business which is in a position of market power is engaging in pricing practices which represent a misuse of that power. However, in recognition of the fact that local governments have responsibilities to all members of their community, the regime allows owner governments to make the final pricing decision for their businesses, based on QCA recommendations. In this way, the regime allows a local government to make decisions about pricing that reflect all of the economic and social policy objectives which it may wish to achieve by way of pricing.

In this respect, the Bill does not contain mechanisms to reduce the delivery of community service obligations, nor does it force government businesses to abandon the provision of these

services. Moreover, the Bill contains specific requirements that a comprehensive range of public interest matters be considered before a decision is made about pricing reform.

The application of the State's third-party access regime to local government will place local government infrastructure on the same footing as privately owned infrastructure under the regime. That is, the infrastructure will only be affected if it meets all of the relevant criteria and only after extensive consultation with the affected owner. In this respect, the Bill provides for an additional step of consultation in that the Ministers must allow 90 days for a local government to make submissions to the responsible Ministers regarding a proposed declaration.

The objective of the third-party access regime is to promote competition by allowing third parties to utilise a service provided by a natural monopoly facility in order to compete in another market. Access is designed to balance the benefits to the public in having competition and the legitimate business interests of the owner of a facility.

The second component of the Bill establishes a deterministic prices oversight regime for private water suppliers. The establishment of such a regime is necessary to counter the possibility of misuse of market power by way of, for example, the hoarding of water or monopoly pricing in the supply of water by private water suppliers.

The Bill establishes a regulatory framework which allows private sector water suppliers to operate freely in the market on the basis that if they misuse their market power an aggrieved party may seek compulsory arbitration with an enforceable outcome. This framework, based on the commercially focused negotiate/arbitrate model used in the third-party access regime, provides maximum flexibility for the market to operate with minimum interference by government. In this respect, it provides the most appropriate regulatory framework for private operators.

The regime will complement other proposed reforms to the regulatory structure for the Queensland water industry relating to the allocation, management and trading of water, and regulation of service quality and safety matters.

It is important to note that the regime will only apply to those persons or organisations which are in the primary business of supplying water, or associated services, and only if they hold a position of market power. In this respect, the regime will not cover every person or business who is in a position to supply water to another person. For example, it does not cover those people or businesses who may hold an allocation, or allocations, of bulk water and who may be in a position to supply spare water to a neighbouring business, for example a neighbouring farm or other business dependent upon water.

It is intended that this coverage be reviewed in the context of the proposed water trading regime. For example, it is possible that, with the advent of the trading regime, a person or organisation could purchase water allocations in a water supply system such that they hold a position of market power. While this of itself is not an undesirable situation, it is necessary to ensure that the person or organisation does not misuse that market power by hoarding water for speculative purposes or charging prices which are well in excess of what the market would otherwise set.

As noted earlier, water is an essential commodity for many industries and it is critical that supply not be distorted by market power issues. The prices oversight regime for private sector water suppliers will be especially important in the rural and regional areas of Queensland which are heavily reliant on reasonably priced water for irrigation and other primary producer purposes.

The third component of the Bill amends section 38 of the Act as it relates to the application of competitive neutrality to declared Government significant business activities. This amendment ensures that the Queensland Government retains control of the competitive neutrality agenda under the National Competition Policy.

It ensures that the principle of competitive neutrality complies with the requirements of clause 3(4)(b) of the Competition Principles Agreement. It ensures that Government businesses are required to pay a fee to neutralise any cost of funds advantage that they might have because of their Government ownership or control. They are also required to pay tax equivalents and to comply with the same procedural and regulatory controls as their private sector counterparts.

These amendments ensure that decisions about payment of community service obligations and subsidies are rightfully decisions for elected Government, given the wide range of factors involved. It is important that Governments are ultimately responsible for determining appropriate levels of service provision, rather than unaccountable economic regulators.

This component of the Bill makes miscellaneous amendments to QCA Act, mainly in relation to the State's third-party access regime. The amendments to the access regime are necessary to enhance the effectiveness of the regime, thus promoting the economic development benefits that flow from effective third-party access to natural monopoly infrastructure.

The other key miscellaneous amendment that the Bill makes is to amend the time frame within which the Ministers must respond to QCA recommendations from 30 days to 90 days. This amendment

will permit the Ministers to fully consider the QCA's recommendations and consult with relevant portfolio Ministers.

In conclusion, the policy objectives which have driven the development of the Bill are of increasing importance—namely, the desire to have a safeguard by way of an independent oversight of prices charged by private water suppliers and local government business activities that hold market power. Although the number of private water suppliers is small, the scope of their operations is significant and the potential for the emergence of other private suppliers is strong, especially in the context of the proposed water trading regime. The increasingly commercial focus of local government water businesses underlines the desirability of regulatory oversight of their pricing practices. It is essential that these amendments be in place to provide an independent regulatory mechanism for overseeing pricing practices.

The development of the Bill has been the subject of extensive consultation with a wide range of organisations. Particular care has been taken to ensure that the prices oversight regime for private water suppliers would be as commercially focused as possible, while still providing adequate and accessible safeguards for water users.

Ultimately, the safeguards which this Bill will implement will facilitate reforms which will result in growth in the economy, providing more jobs and higher living standards for Queenslanders. However, the fulfilment of both State and local government social objectives will not be compromised.

It is in Queensland's interest that there be a safeguard for pricing by local government business activities and private water suppliers. Both of these sectors provide essential inputs into a substantial sector of the Queensland economy, particularly businesses in rural and regional parts of the State. It is important that there be appropriate checks on the way that these inputs are priced by suppliers who are, in many cases, in positions of market power or are monopoly suppliers. The refinement of the third-party access regime will also be in Queensland's long-term interests by facilitating competition and efficient service delivery for major sectors of the Queensland economy, thus assisting regional and economic development.

I commend the Bill to the House.
