



Speech by
Grace Grace

MEMBER FOR BRISBANE CENTRAL

Hansard Thursday, 25 November 2010

FAIR TRADING (AUSTRALIAN CONSUMER LAW) AMENDMENT BILL

Ms GRACE (Brisbane Central—ALP) (8.32 pm): I rise to support the Fair Trading (Australian Consumer Law) Amendment Bill 2010. It is good to see national laws that cover both business and consumers. Obviously, I believe that consumers and businesses are fundamentally the same not only throughout Queensland but throughout Australia. I believe that an efficient, up-to-date law that guarantees uniformity is a step in the right direction and represents best practice.

The implementation of the Australian Consumer Law will provide for an increased range of enforcement options to the Queensland regulator. These provisions will be a benefit to Queensland consumers as the regulator will now have sufficient enforcement powers to provide a proportionate response to a range of breaches and contraventions of the Australian Consumer Law. This principle will apply equally across the broad spectrum of business behaviours ranging from large corporations to small businesses.

The introduction of the Australian Consumer Law will provide increased penalties of up to \$1.1 million for a body corporate and \$220,000 for other persons. These penalties were introduced into the Australian Consumer Law based on the Australian Law Reform Commission recommendation that penalties be increased from \$40,000 in the case of persons and \$200,000 in the case of a corporation. This is essentially a result of the Trade Practices Act 1974 forming the basis for the Australian Consumer Law.

Although there is a notable increase in penalty amounts, the Australian Consumer Law does not contain penalties which provide for imprisonment. Accordingly, penalties are higher to provide a deterrent effect through the regulator using disciplinary powers, such as seeking civil pecuniary penalties or adverse publicity orders. I think that is a step in the right direction. It should be noted that these amounts will be treated as a maximum penalty and will only be sought in those instances involving a serious contravention of the law.

The courts will also be in a position to impose an appropriate penalty that takes into account the size of the contravening business, the amount of loss or damage caused and the extent to which the business cooperated with any investigation. It is important that courts are provided the flexibility to impose penalties that deal with the most serious of breaches of the Australian Consumer Law, as well as minor technical breaches across all Australian jurisdictions.

In implementing the Australian Consumer Law, the Queensland Fair Trading Act will also be updated to reflect changes to the status of the Office of Fair Trading. The Fair Trading Act currently provides the statutory basis for the Office of Fair Trading and the Commissioner for Fair Trading and specifies their major functions and investigative powers.

Amongst other things, the Service Delivery and Performance Commission review of the Department of Tourism, Fair Trading and Wine Industry Development recommended the removal of the statutory role of the Office of Fair Trading. The Service Delivery and Performance Commission concluded that the legislative creation of the Office of Fair Trading limited government's flexibility to deliver consumer

protection and promotion services in the most appropriate way. The commission also indicated that there was no requirement that consumer protection services be provided independently from mainstream government.

As part of the implementation of the Australian Consumer Law, the statutory role of the Office of Fair Trading is removed, but the statutory role of the Commissioner for Fair Trading will continue to provide a focal point for consumer protection, education and training in Queensland. It should be noted that the Office of Fair Trading ceased to be a distinct operational unit in mid-2007 due to machinery of government changes and organisational restructures. This has not impacted on fair trading services. These amendments to be included as part of the implementation of the Australian Consumer Law will merely formalise this process.

I join Mr Deputy Speaker Powell in referring to some of the comments by the Scrutiny of Legislation Committee. I believe that those issues raised have merit to be raised but equally I also believe that the law and the minister will be able to provide ample information to justify the reasons the bill has been formulated in the manner in which it has been done. With those few comments, I commend the bill to the House.