




Speech By
Andrew Powell

MEMBER FOR GLASS HOUSE

Record of Proceedings, 14 February 2017

**TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) (OFFENSIVE
ADVERTISING) AMENDMENT BILL**

 **Mr POWELL** (Glass House—LNP) (3.15 pm): There is one minister who has been very happy to see his colleague the member for Sandgate and, indeed, his colleague the Deputy Premier struggle with the Queensland Rail fail crisis and that is the Minister for Main Roads. He is happy because the spotlight is off him.

Mr BAILEY: I rise to a point of order. I do not believe in the first instance that the member is addressing the bill.

Madam DEPUTY SPEAKER (Ms Farmer): I did not hear what went on there so I am going to give the member for Glass House the benefit of the doubt and advise all members that they should speak to the bill.

Mr POWELL: As I was saying, he is happy the spotlight is off him so Queenslanders cannot see how ineffective he is. Today we have an ode to Mark Bailey, a bill that does as little as the minister who is presenting it. The government claims this will be the panacea to offensive slogans on our roads. In truth, it is not really worth the paper it is printed on. This is symptomatic of the Palaszczuk Labor government's ineffectiveness.

Mr Bailey interjected.

Mr POWELL: I will take that interjection from the minister and I will give him a history lesson in a moment if he sits back and relaxes. The Palaszczuk Labor government is clearly more interested in media stunts and press releases than coming up with a workable solution for what is a serious community concern. Let me be very clear from the outset: offensive slogans have no place in our society, nor in the state of Queensland, and we in the LNP want to see them gone. It is incredibly frustrating that this bill has been years in the making and now that it is here it falls so far short.

In answer to the minister's question as to what we were doing, let us have a bit of a history lesson. This has been waiting for a review that never happened. In 2015 the then attorney-general announced that the Queensland Law Reform Commission would review this issue. This Labor government can manage 150 reviews in two years but could not squeeze in one extra review to look at offensive advertising on our roads. Fast-forward a year and the Attorney-General was still talking about a review with nothing to show for it. In the end the government did what it should have done in the first place: it picked up where the LNP left off and used the parliamentary inquiry recommendations into sexually explicit outdoor advertising. Let us be clear: while this Labor government talked and talked and talked, the LNP had acted, had launched an inquiry, responded to the recommendations and started drafting legislation.

Government members interjected.

Madam DEPUTY SPEAKER: Order! The member is not taking any interjections. We will allow the member to speak.

Mr POWELL: The 2014 parliamentary committee recommended that the government establish a co-regulatory approach and recognise an industry body such as the Australian Association of National Advertisers. We accepted that; this government ignored it. The report highlighted a need to regulate an industry code of ethics. We supported the recommendation; Labor has ignored it. The key difference between the LNP's plan and Labor's inaction is that we were prepared to slap hefty fines on advertisers who flout the rules on purpose. The 2014 committee called for advertisements to be pre-vetted for advertisers who were repeat offenders. The LNP was investigating an option to make that a reality, because the alternative presented by Labor will see companies such as Wicked Campers exploiting the obvious loopholes. The 2014 inquiry also recommended the Australian Association of National Advertisers be given statutory authority to force compliance if companies were found to have breached codes or standards. We were in the process of drafting legislation when the election was called in 2015. This government could have easily picked up where we left off. It could have easily picked up the legislation that was being drafted, but instead it wasted time talking about reviews that never eventuated. Now we are looking at an ill-conceived bill and are really no closer to tackling offensive advertising.

The government claims that this bill will allow the Department of Transport and Main Roads to deregister a vehicle that does not comply with an Advertising Standards Bureau decision. Instead, rookie Minister Bailey has ensured that the Wicked Campers fleet can potentially relocate to New South Wales. Once they are registered in another state, these laws will not apply. Under Queensland law, they are not allowed to have their cars registered in another state if they operate out of Queensland, but even the TMR officers admitted to the committee hearing that it would be very difficult to enforce. At that committee briefing, in response to the member for Southport, the department officer said, 'We have no specific powers for vehicles registered interstate.' They also said, '... if they choose to operate out of New South Wales, under the current format there is no action that we can take against that vehicle.' The officer went on to say, 'It is difficult,' and further—

... it does not specifically deal with interstate registered vehicles. The legislation will not allow us to take any action.

The whole process to deregister a vehicle also relies on the Advertising Standards Bureau's complaint process, which leaves loopholes in this bill that you could drive a truck or perhaps a Wicked Camper through. It is a lengthy process that must be triggered in the first place by a complaint from a member of the public. It then follows the ASB complaints process. If the ASB issues a breach notice against the advertiser, the department can then issue a notice that they will be deregistered in 14 days if they do not comply with that ASB notice. The problem here is that there is no lasting penalty to accompany flouting the standards repeatedly. They can change the offensive slogan within 14 days, potentially with a whole new offensive slogan, but to remove that new slogan a whole new process would have to be started with the ASB.

Any time a member of the public makes a complaint against an offensive slogan on a vehicle, this is what will have to occur under the ASB complaints process: firstly, they have to make a written complaint to the ASB; secondly, the ASB assesses the complaint to determine whether it is within scope, that is, it must be defined in the code of ethics and show a potential breach of the code of ethics; thirdly, if the complaint is accepted, the advertiser is given the opportunity to respond to the complaint within at least seven days; fourthly, the case is then referred to the standards board, which makes a determination based on the code of ethics in the context of prevailing community standards; fifthly, if the board determines the advertisement breaches the code of ethics, the complaint is upheld and the advertiser will be notified and asked to respond to the determination, for example, by removing, discontinuing or modifying the advertisement and the ASB will then complete its final case report, publish it on its website and advise the advertiser by final letter. Finally, the advertiser then has 10 days to apply for an independent review if it is not satisfied with the standard board's determination. As I have said, if you replace one offensive slogan with another, the process starts all over again.

We are not the only ones with concerns. The Queensland Law Society raised a concern that new section 19N, titled 'Limitation of review', removes rights of review including internal, external and judicial review and that the courts may find legislation that prohibits or restricts review for jurisdictional error to be invalid. At the public hearing, the QLS stated—

Our fundamental concern, which I think was a point that you may have rightly made in the first place, was that, if the processes that the standards board uses are not as robust as they should be or if there are problems with the processes at that level, there is very little opportunity to do much about that later on in terms of an appeal or a review.

Another submitter to the committee process, Family Voice Australia, raised a concern that the proposed bill may have unintended consequences, submitting that the standards board has a level of subjectivity. Its submission questioned how advertisements will be assessed in the context of prevailing community standards. It provided the example of a case where an 'advertisement on a car supporting real marriage or the natural family could be subjected to an adverse finding by the ASB'. That is a direct

quote from their submission. The concerns that this bill might affect freedom of speech in relation to other issues, including political messaging, is concerning when the government's intention was, if we are to take the minister at his word, for this to target sexually explicit advertising.

What we have here is the Palaszczuk Labor government summed up in a bill: all talk, no action. The bill will not work and the department has admitted as much. The bill has not been thought through. It has been buck-passed between the Attorney-General and the Main Roads minister. The bill is a tokenistic attempt at solving the complex problem of removing offensive slogans from vehicles on our roads. This is the kind of bill that you get when you have an ineffective, do-nothing Palaszczuk Labor government in charge of the state.