




Speech By  
**Andrew Powell**

**MEMBER FOR GLASS HOUSE**

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### **TRADING (ALLOWABLE HOURS) AMENDMENT BILL**

 **Mr POWELL** (Glass House—LNP) (5.32 pm): I rise to address the Trading (Allowable Hours) Amendment Bill 2017. I personally and the LNP as a party is unashamedly pro small business. It was in many ways rather ironic that the original debate on this bill commenced only one week after we celebrated Small Business Week here in Queensland. Boy, did we celebrate it in the electorate of Glass House! As I mentioned previously, we held our second annual 'Glassies'—the Glass House Small Business Awards—in partnership with Commerce Caboolture, the Glasshouse Country Chamber of Commerce, Maleny Commerce, the Montville Chamber of Commerce and the Palmwoods Community and Business Association. Nearly 100 small businesses were nominated, and more than 50 employees across the electorate received over 1,300 votes combined from people in and around the electorate of Glass House.

When we originally debated this bill I had an opportunity to read into *Hansard* and reflect on all of the winners of those Glassie awards. I particularly want to acknowledge our gold winner employee of the year, Rhylie Coutts, who works at the IGA in Wamuran, and Ben and Renae, the business of the year gold winners. They own Renae's Pantry, which is a small slow-food concept grocer that takes food produced in the backyards of mums and dads around the Palmwoods district and sells it to others from their small store in the Palmwoods CBD. I want to reflect on Ben's acceptance speech, because if I had my phone handy I would have taped it. It summed up why he does what he does as a small business owner and why I am unashamedly pro small business. He talked about the support they provide to the community and the support they in turn receive back from the community and why, despite not having the big turnovers that some of the bigger corporations do, they know that they are giving back to our community in a way that the big corporates simply cannot.

If I can put it another way, I will read into *Hansard* some comments I received from an owner of a small to medium sized business in the electorate of Glass House. They said—

The wealth (profit and jobs) sucked out of communities which these days finds its way to Sydney and Melbourne Head Offices is helping to kill small communities. I firmly believe that for every dollar spent at our [store] we get a beneficial multiplier worth between \$4 and \$6 to the community. This benefit comes from the extra locals we employ, the local tradies we contract to do our work, the money we donate to local community groups, the massive support for local suppliers, many of whom get their start at [our store]. The big [companies] just do not provide this level of local benefit.

I concur wholeheartedly. We are unashamedly pro small business, but we in the LNP are also pro competition, pro consumer choice and pro free market. How do you correlate the two principles, and why would we therefore have opposed the legislation? I think we need to start at the macro level. As a mate said to me, 'This is a competition question and should be handled by the feds. The state is being forced to legislate to save small business and that is simply not fair.' I would have to agree with that mate.

I do believe that this is largely a federal issue, and therefore I would like to refer to a speech by one of the local federal MPs on the Sunshine Coast, Mr Ted O'Brien, which he gave in March this year when speaking to the Competition and Consumer Amendment (Misuse of Market Power) Bill 2016, because I think it explains how the conflict between supporting small business and competition has arisen. The member for Fairfax said—

The bill seeks to deal with one of the fundamental challenges in free market economies everywhere, which is to ensure that competition flourishes. Competition inherently creates winners and losers, and, at a Darwinian level, that is what the free market is all about.

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Herein lies the challenge that this bill seeks to address. The competitiveness of the marketplace—the opportunity to fight, to win, to lose—must be protected. This requires acknowledgment of the fact that, if one misuses the power they accrue as a result of winning in the marketplace, then in doing so they compromise the process of competition itself, thus weakening the competitiveness of the very market in which they operate. This concept of balancing the right of companies to compete with them having a commensurate responsibility not to misuse the power they accrue in the process, to my mind, is an attempt to address what Lord Acton pointed out nearly 130 years ago—that power tends to corrupt, and absolute power corrupts absolutely. Monopolistic power is the antithesis of competition, for it tempts the misuse of power—and that, I hope all members would agree, is something our laws must militate against.

He went on to say—

What flowed from that commitment of the Menzies government was a historic piece of legislation, the Trade Practices Act 1965, which sought to establish principles of fairness in business across a very broad canvas, but especially in relation to this issue of appropriate use of market power and constraints on the misuse of market power by the then emerging big operators.

Since 1974 until here and now, section 46 of the act, which has now become the Competition and Consumer Act, has sought to define 'misconduct' in relation to the use of market power through two legal tests. The first involves the question of whether the entity was taking advantage of its market power, and the second involves an entity's intent. That is the question of purpose—whether the purpose of an activity seeks the elimination or the cause of substantial damage to a competitor, or the prevention of another entity entering the market, or the deterrence of a person from engaging in anticompetitive conduct.

He continued—

It is the purpose test that has really been assessed as the key failure of the current regime, due to it being too difficult to prove and too specific in its application. How do you prove one's purpose in doing something? How do you prove what one's intent is?

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Essentially, this bill seeks to address these flaws in the existing act by swapping the test of 'intent' or 'purpose' with a test of 'effect'. What is more, it is to relate not so much to an activity by one powerful firm towards another single entity, but rather to the question of whether such activity adversely impacts the competitive process. In other words, what counts is whether the little guy actually gets done over by the big guy, regardless of whether the big guy says he meant it or not. If, when this happens, competition is lessened, or is likely to be lessened, then that is enough for it to be against the law.

Mr O'Brien concluded with this, and I echo his words—

I say this as an unashamed, unabashed disciple of the free market and of free trade. Trade that is not fair is trade that is not free. I will repeat that for the benefit of the minister—

Trade that is not fair is trade that is not free.

That sums it up perfectly. We have a competitive situation that the federal government has sought to address through changes to the Competition and Consumer Act, and I echo those words.

Let me move to a micro level. If time had permitted I would have read into *Hansard* the contribution of one of my local IGA owners, Ms Roz White. Her initial assessment of the bill as it stands before us now—and I acknowledge that the minister is moving some amendments—was absolutely scathing, and on that basis no-one in their right mind could accept the bill before the House. Similarly John Brown, the owner of the Mitre 10 in Maleny, contacted me the minute this came out and said, 'Please, please, please oppose it.'

I am distraught—absolutely distraught—that despite taking on board some of the concerns of Roz White and other owners of IGAs the minister and the government have again neglected those small independent hardware operators like John Brown in Maleny. They have been hung out to dry. There are no benefits in the amendments that are being proposed tonight, so they will continue to be done over by large competitors. I only hope that the changes made by our federal colleagues in Canberra will allow those operators to challenge market share where market share is being misused and used by the large competitors to distort the market to a point where we get no competition at all.

Today I am standing up for those small business owners like Roz White, like Ben and Renae at Renae's Pantry, like John Brown at Maleny's Mitre 10 because they are what make our communities tick and they are the ones who employ amazing locals like Rhylie Coutts at the IGA in Wamuran. Therefore, in its current form, I have considerable opposition to the bill. I will watch very carefully as we discuss and move amendments later on and will be guided by how successfully they address those primary concerns raised by locals in the electorate of Glass House.