




Speech By
Ray Stevens

MEMBER FOR MERMAID BEACH

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QUEENSLAND COMPETITION AUTHORITY AMENDMENT BILL

 **Mr STEVENS** (Mermaid Beach—LNP) (4.52 pm): I rise to speak on the Queensland Competition Authority Amendment Bill 2018, which seeks to amend the Queensland Competition Authority Act 1997. The bill aims to update access criteria that is used to ascertain whether access regulation should be applied to a particular service under Queensland's third-party access regime. The three services that are currently declared under this regime are the rail transport services provided by Aurizon Network's Central Queensland coal network, coal handling services at Dalrymple Bay Coal Terminal and rail transport services provided by Queensland Rail's intrastate passenger and freight network.

The bill was brought to the parliament by the Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships, who advised that the bill clarifies and enhances access criteria and focuses it in a way that is appropriate to economically significant natural monopoly infrastructure. The bill was referred to the Economics and Governance Committee, which conducted a public hearing and briefing on Monday, 5 March and accepted input and submissions from the Queensland Treasury, the Queensland Resources Council, Aurizon Network Pty Ltd and the Dalrymple Bay Coal Terminal User Group.

The legislation amends the test for regulation from one that considers the 'private profitability' of duplication of facilities to one that uses a natural monopoly test to ascertain whether facilities would be 'uneconomic to duplicate'. In this way, the bill focuses on addressing the complications and inefficiencies in current access criteria relating to unnecessary duplication of infrastructure that is a natural monopoly.

The bill aims to put Queensland on par with the national access regime following changes made in October 2017 to the Commonwealth's Competition and Consumer Act 2010. Bringing Queensland's legislation into line with the national access regime helps to enable efficient and coordinated methodology relating to access regulation and also addresses the risks of jurisdictional overlap. We were advised by departmental officers and even by the Law Society that the main difference between this legislation and the federal legislation in this regard is the size and nature of the particular projects. This is reflecting national legislation which is a good outcome from the COAG point of view.

The bill also includes provisions that aim for more timely regulatory processes, especially relating to the development of access undertakings. The bill aims for more transparency and accountability in time frames provided to authorities for statutory decision-making. Should the authority fail to make decisions within this time frame, the proposed amendments would require them to detail reasons for the failure and provide an indication of how the authority plans to make the decision as soon as practicable. At a public briefing for the inquiry into the bill on 5 March 2018, the Economics and Governance Committee raised concerns about the unintended consequences of moving away from the private profitability test toward the natural monopoly test, particularly to duopolies that would, in the absence of a significantly competitive environment, be profitable to develop.

In a public hearing, the committee heard from representatives from the Queensland Resources Council who advised that, while they understand the need for an update of access criteria to reflect national changes, those updates may have adverse effects on the resources industry. Those effects—namely, regulatory uncertainty—would be further exacerbated by the approaching declaration date of services like the Central Queensland coal network, the Dalrymple Bay Coal Terminal and Queensland Rail's intrastate rail network which is set at 8 September 2020. QRS asserted that, should access criteria be amended as proposed in this bill, the goalposts will effectively be slightly changed, creating a period of uncertainty for the industry. QRC also raised the risks of the proposed amendments causing a lack of regulatory certainty and subsequent negative effect on the chances of investment in Queensland.

As part of the inquiry into the bill, Queensland Treasury has responded to the Queensland Resources Council and stipulated that extending the date of declaration would not be advantageous as the process of extension would involve similar costs, time and assessment as the QCA's review of the declaration. Treasury advised that there is a revocation process in place which enables access providers to seek revocation of a declaration at any time, so extending the declaration would not necessarily provide an alternative to the uncertainty envisaged by the QRC.

The committee also received a submission from the Aurizon Network and heard from an Aurizon representative in the public hearing of 5 March, wherein concerns were raised relating to changes to primacy of pricing principles in the proposed amendments to the current legislation. Whereas in the explanatory notes for the previous QCA regulations it was stipulated that 'pricing principles must provide overriding guidance', the explanatory notes for this bill state that each principle does not need to be met in every instance. Aurizon therefore raised concerns about a perceived reduced importance given to the pricing principles and the possible damaging financial implications of this.

The bill adjusts the focus of access criteria slightly away from pricing principles and on to areas as outlined by the Treasury such as users, owners and the public interest test. In Queensland Treasury's first briefing to the committee it was stipulated that pricing principles remain a significant consideration in access criteria. However, they are considered as one of many factors that affect decision-making under this bill. An additional submission was made to the committee by the Queensland Law Society, which advised that no concerns were found with the drafting of the amending provisions.

Although the committee understands the concerns of QRC and Aurizon, ultimately the Queensland Competition Authority Amendment Bill is necessary in reflecting national changes. It is important to bring our state legislation into line with the national access regime to ensure coordination and efficiency in access regulation. It is also important to avoid the risk of an overlap between jurisdictions. Additionally, the bill is appropriate in its provisions for more timely regulatory processes and the strengthening of authorities' obligations in meeting statutory decision time frames. Further, by adjusting focus away from private profitability and toward assessments of whether it would be uneconomical to duplicate facilities, the proposed amendments ensure that access criteria is purposefully directed at economically significant natural monopoly infrastructure.

The committee was unanimous in its support for the passing of this bill after due and proper consideration. I am pleased with all matters that were brought to the committee's attention. There were no matters left unanswered in determining the new direction for this legislation. I will be pleased to support this bill through the House.