



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

PROOF

**TRADE PRACTICES AMENDMENT
(CLARITY IN PRICING) BILL 2008**

Second Reading

SPEECH

Tuesday, 11 November 2008

BY AUTHORITY OF THE SENATE

SPEECH

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Questioner
Speaker Polley, Sen Helen

Source Senate
Proof Yes
Responder
Question No.

Senator POLLEY (Tasmania) (6.21 pm)—*The incorporated speech read as follows—*

The Rudd Labor Government introduced the Trade Practices Amendment (Clarity in Pricing) Bill 2008 to tackle the problem of hidden fees and charges for consumer products. I am sure this bill will be welcomed by Australians because it will provide consumers with a much clearer choice when purchasing products or services.

In these times of global financial stress, this Government understands that every little bit counts when it comes to the family budget.

The bill would amend the Trade Practices Act 1974 to require that where a business makes a price representation to a consumer, and that amount is less than what the consumer will actually have to pay to acquire the goods or services, the business must also prominently state a total price as a single figure. The changes will only apply to all print, television and radio advertisements.

We believe that it is inappropriate for a business to represent that a product costs a certain price and then use fine print disclaimers to reveal additional mandatory taxes, fees or other charges. The Rudd Labor Government believes that businesses that do not provide a total price, for example, those who choose to exclude taxes from their advertised price, may gain a competitive advantage over businesses that provide full price disclosure to consumers. We believe this is unfair to those business's who do the right thing by their consumers, and this is just one reason why this piece of legislation is so important.

This Government is committed to ensuring that consumers are not given the impression that something is cheaper than it really is—we want to empower consumers to be fully informed about what they buy.

The key features of the proposed changes are:

- Firstly, there will be a requirement for a single price: On enactment of this bill, there would be a requirement to specify the final price as a single figure. This must include all amounts that are quantifiable at the time of advertising. Where the total amount is not known, the minimum price must be disclosed as a single figure.
- Secondly, the price must be prominently displayed: the single figure must be displayed clearly. Also, the single figure must be displayed at least as prominently as the most prominent of the other components of the price. This is because

the total amount payable is usually the figure of the most importance to the consumer.

- Thirdly, the new provisions are intended to apply to the advertising of consumer goods only. It is not intended to apply to price representations between businesses or between businesses and government.

An exposure draft of the bill was released for public consultation in March of this year. We received a number of submissions and based on comments received from a range of businesses and consumer advocates, the Government believes the bill will not impose unnecessary compliance burdens on businesses.

Throughout the stakeholder consultation process, it was argued that including postage and handling costs would create additional compliance burdens, particularly for online businesses, for little consumer benefit. We are of the belief that genuine postage and handling costs are a concept that is relatively well-understood by consumers.

Therefore, the bill provides that the charges for sending the goods from the supplier to the consumer do not need to be included in the total prices. However, if the postage cost is known by the business, and postage is compulsory, the provision requires that the business disclose that price in their representation, either as part of the total price or as a separate component.

The Member for Hindmarsh, Steven Georganas, commented in his second reading speech on this matter that:

“... the previous government looked at this issue during the course of its time in government. The Howard government announced that in the first half of 2005 it intended to do something about component pricing. A year later it released a draft bill and explanatory memorandum for public consultation. The bill was up on the Treasury website for some years, but the issue was allowed to drift without the prospect of any form of resolution”.

This Government believes that was an irresponsible thing to do. We are simply doing what is fair for consumers. This is yet again another example of the Rudd Labor Government doing the right thing by working families. As Minister for Competition Policy and Consumer Affairs, and Assistant

Treasurer, Chris Bowen said in his second reading speech of this bill earlier this year,

“It is fundamental that every consumer knows how much they are going to pay when they make a purchasing decision”.

He went on to say:

“It is not appropriate that additional compulsory fees and charges are disclosed in fine print disclaimers, particularly when those additional compulsory charges may be significantly larger than the component price that is highlighted.”

Gone are the days when consumers have to wonder what fees and charges are going to be added when they actually agree to buy something. This bill gives clarity and certainty to buyers throughout Australia.

The Government, however, understands that in some cases the final price may depend on factors beyond a businesses control, which is why the bill requires the total price to be stated only where a minimum total price is quantifiable at the time of the representation concerned. In addition, the amendments will not apply in respect of financial services, where detailed disclosure requirements already exist. Ultimately, the bill targets misleading “component pricing” practices.

Component pricing is the practice of advertising prices as the sum of multiple component parts, for example as \$X plus \$Y. Component pricing can create an impression that a product is being offered for sale at a lower price than it actually is.

The Australian Government received legal advice in 1999, in the context of the introduction of the Goods and Services Tax (GST) that section 530 of the Trade Practices Act required displayed prices to include any GST payable.

Implicitly, it was understood that Section 53C would also prohibit other forms of component pricing (eg price representations which exclude compulsory ‘taxes, fees and charges’, ‘levies’ or ‘surcharges’), unless a single figure price was also specified. The Government considers that consumers should be able to readily identify the price they will pay for a product or service. This enables consumers to easily compare prices between like products or services and make informed purchasing decisions.

This is a measure that should have been implemented a long time ago. We, as a Government, do not want to see consumers fall into a trap of being forced to buy something at a price higher than they were expecting. This bill amends the Trade Practices Act to prohibit corporations from using a component price when making a representation as to the price of a good or service. Businesses must prominently specify the single figure price a consumer must pay to obtain the product or service, to the extent that a single figure price is quantifiable at the time of making a representation.

This bill does not prohibit component pricing, provided that a single figure price is also displayed. The limitations on

the use of component pricing imposed by the bill would not apply to representations made exclusively by businesses to other businesses or governments.

The changes are intended to protect consumers from misleading advertising. A common example of component pricing is evident when one buys an airline ticket, particularly online.

Airlines often offer cheap rates in their advertisements; however, once you add up the additional taxes, credit card fees and additional baggage fees, a consumer may discover they have no saved any money at all. This certainly is an irritating experience.

Other consumers may be lured into looking at cut price vehicles, unaware that the price advertised does not mention the on- road costs. This bill seeks to clarify these issues. It is the fair thing to do. It will protect Australians and ensure they can shop around for a fair deal without having to stop to read the fine print.

The Australian Competition and Consumer Commission received 430 complaints over confusing component pricing last year. In addition, Consumer Affairs Victoria has received around 250 complaints so far this calendar year. Many other consumers were likely misled, but did not complain to a regulator. This bill signifies The Rudd Labor Government’s commitment to the protection of consumers. This clearly is a government for all Australians.

Tony Zappia, the Member for Makin, commented in his speech on this bill that “Consumers look to government for protection in relation to their purchases, and both State and Federal governments have a responsibility in consumer law. As we all know, consumers do not always read or understand the fine print that often accompanies purchase agreements”. He is quite right. That is why I am pleased that the Rudd Labor Government has put this piece of legislation up for debate. I believe it is quite overdue.

Mr Zappia went on to say, “The vast majority of businesses that operate ethically will have no objection to these changes; in fact, they will welcome this bill, because it will probably weed out the rogue operators from within their industry. The consumers, however, will certainly benefit from this bill because it provides clarity and certainty in how much a good or service will actually cost them”.

The Rudd Government is delivering on another important pro-consumer reform that the previous government never had the courage to push ahead with.

Chris Trevor, the Member for Flynn correctly noted in his comments on this bill that:

“All too often, with recent modern methods of corporate communication and advertising, we see a figure promoted as the price and, ultimately, the expected cost to the consumer to acquire this product, only to be bombarded with fine print, asterisks, notes, disclaimers and other notable quirks and gimmicks used to hide the actual cost that the consumer must pay.

It would be fair to say that, as we trained in the law often say, the devil is in the detail.”

The Government understands that the average mums and dads in our community are not lawyers. We also understand and recognise that mums and dads, the working families of Australia, do not have time to sit down and make complex comparisons between products and their prices. The Government is serious about empowering consumers and strengthening the consumer’s right to know the total price of a good or service. No longer will consumers feel ripped off when they suddenly discover that what they thought they were paying doesn’t take into account hidden taxes and charges.

These reforms will mean that consumers will know the total price they will have to pay for goods and services that they buy. The government is not interested in placing an undue burden on business or trying to fix a problem that doesn’t exist. The proposed bill represents a much welcome and long- overdue correction to the current method of doing business.

It provides a clear correction to a system that was letting consumers down, particularly the most vulnerable of consumers in our communities. Once this bill is passed, I will be proud to go back into my community and tell my constituents that comparing prices for goods and services will now be easier.

To me, this legislation is all about giving a fair go to consumers. A fair go for all is a value that has never gone out of fashion in this country. At the same time as giving a fair go to consumers, the Government has made an effort to ensure this will not affect businesses too much. We have struck the right balance. I request those opposite vote in favour of this legislation to help the working families of Australia be able to make good purchasing decisions. No Australian consumer deserves to be ripped off by unscrupulous business owners. Consumers should not be lured into buying a product or service and then slugged with additional costs. This is a good move by the Government and I commend this bill to the Senate in its entirety. I encourage those opposite to do the same.