AWUEQ submission

Inquiry into the Revenue and Other Legislation Amendment Bill 2014

January 2015

INTRODUCTION

The Australian Workers' Union of Employees, Queensland (AWUEQ) represents over 13,000 public service members delivering frontline services in local government, health and disabilities services.

The Revenue and Other Legislation Amendment Bill 2014[1] is of particular interest to the AWUEQ given the significant changes proposed to the Queensland Competition Authority (QCA) Act 1997. The proposals seem to be designed to facilitate the opening up of public services to competition, put competition before the needs and interests of Queensland's residents and communities, and significantly weaken the transparency processes integral to the QCA and its independence from the Government. The changes do not seem to appropriately value the broader role Government and public services play in Queensland's communities and render Queensland's residents merely 'consumers'.

Below is our submission setting out our concerns and identifying areas which we believe need further clarification or consideration, in view of the potential repercussions they could have for the quality of Queensland's public services.

PROPOSED AMENDMENTS TO THE QUEENSLAND COMPETITION AUTHROITY

1. QCA's independence

The proposed change of name from the QCA to the Queensland ***Independent*** Pricing and Productivity Authority is currently misleading given the many changes that are proposed which would diminish the Authority's current levels of independence from the State Government. These include:

- Clause 68 replaces pt 3, divs 1A and 2.[2] The Minister may declare a business activity to be a monopoly business activity "whether or not anyone has made a request'. **The AWUEQ would like to see assurance that appropriate checks and balances will be in place to ensure that any declaration of a monopoly business activity is reached using clearly defined and fixed criteria and free from conflicts of interest so that the process is fair and transparent and not subject to political or personal agendas.**

[1] https://www.legislation.qld.gov.au/Bills/54PDF/2014/RevenueLAB14.pdf
[2] https://www.legislation.qld.gov.au/Bills/54PDF/2014/RevenueOLAB14E.pdf

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- Clause 76 amends section 24[3]:"In referring monopoly business activity for an investigation, the Minister may direct the authority to have regard to certain stated matters, information or assumptions in conducting the investigation and making recommendations….In referring a monopoly business activity to the authority, the Minister may direct the authority to explicitly consider and make recommendations about whether it should be subject to price determination." **This clause suggests that instead of being a fixed, criteria based process, the investigation of monopoly business activity and any subsequent recommendations about price determination could be based on political and personal "matters, information or assumptions" that the Minister has put forward. This clearly undermines the independence and transparency of the process and of the system's foundations.**

- Clause 85 inserts new pt3, div 5[4]: "the Minister has the final discretion to decide whether or not to refer a monopoly business activity to the authority for a pricing determination. In making the decision, the Minister should consider evidence as outlined in 16(2) and have regard to the matters in s 26. The Minister may also consider other factors such as government policy and the costs and benefits of applying regulation….Should the Minister decide to refer the monopoly business activity to the authority for a pricing determination, the Minister may state the pricing period. The Minister may also direct the authority to undertake the pricing determination in a stated way, including complying with certain matters or using certain information or assumptions."

  Again this clause gives the Minister influence - and explicitly political power ("factors such as government policy") - which is simply not in keeping with the work of an independent authority, carrying out what should be independent assessment based on clearly defined criteria and evidence.

2. Matters to be considered by authority for investigation (new Clause 77)

The AWUEQ is particularly concerned and confused by the proposed changes to the matters to be considered by authority for investigation: Clause 77 replaces section 26

[3] https://www.legislation.qld.gov.au/Bills/54PDF/2014/RevenueOLAB14E.pdf
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and amends the list of the matters the authority must have regard to when conducting a pricing investigation.[5]

The changes propose to omit a clearly defined list of matters (section 26[6]), which include for instance: "social welfare and equity considerations including community service obligations, the availability of goods[s", "legislation and government policies relating to ecologically sustainable development"; "legislation and government policies relating to occupational health and safety and industrial relations". These are important issues which not only enable fair and transparent assessments across the board by their prescription but also are vital to ensure Queensland's communities and residents are able to access services that work for them, which are of high quality and take into account broader community needs.

Yet the proposal is to scrap these matters and maintain only three: "(i) the need for efficient resource allocation; and (ii) the need to protect consumers from abuses of monopoly power; and (iii) the need to protect the legitimate business interests of entities carrying on monopoly business activities".[7] This would result in a narrow approach to the delivery of public services and to those accessing them merely as 'consumers'. It overlooks the role public services play in building, providing for and improving communities and the effect that the delivery of these services can have on social, environmental and employment laws for example. Worryingly, the new clause inserts an additional matter which states the authority "may have regard to anything else the authority considers relevant".[8] This latter insertion means that the process will not be fair, open or transparent, and instead will allow for a large amount of subjectivity in what information and evidence will be used in each assessment.

3. Transparency and timely release of information (new Clause 92)

Under Section 55 of the current legislation the Minister must ensure that within 2 days after receiving a report, a copy of the report is available for public inspection.[9] This section enables the public to have access to timely information relating to the services they pay for and use. Section 56 outlines the "special circumstances" when a report might be delayed and reasons must be given.[10]

[5] https://www.legislation.qld.gov.au/Bills/54PDF/2014/RevenueLAB14.pdf
[6] https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/Q/QldCompAuthA97.pdf
[7] https://www.legislation.qld.gov.au/Bills/54PDF/2014/RevenueLAB14.pdf
[8] Ibid
[9] https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/Q/QldCompAuthA97.pdf
[10] Ibid

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Yet the proposed legislation seemingly seeks to minimise public transparency and accountability by enabling the delay of the publication of reports by the Minister for up to at least 90 days. The AWUEQ is very confused about how this helps democracy and transparency and to what end it is the public interest to delay the release of such information to the public. Why is it necessary to allow the Minister to withhold this report whilst he/she considers it? What under the current arrangements, whereby the public can access it after 2 days and the Minister can consider it for up to 90 days, is not working?

4. Pricing determinations which increase prices (Clauses 85, 37H and 86)

Section 85, 37H under the proposed new legislation states[11]: "If a pricing determination may have the effect of a price increase for customers that is higher than the rate of inflation, the authority must— (a) implement a price path for the introduction of the price increase to moderate its impact on customers; or (b) if it decides not to implement a price path, state its reasons for not doing so in the determination".

The AWUEQ is confused by this clause as it is not clear why pricing determinations would increase. Our concern is that this legislation is being formed with the interests of business, not Queensland residents who pay for and use these services. Why would it be in the interests of Queensland residents to have to pay more to access these services?

Clause 86 reiterates the idea that somehow it is better for Queensland residents that competition comes before their needs and economic constraints.[12] It seeks to prevent government agencies from "not charging prices that fully reflect costs" or from "not earning commercial rates of return on the activity". This Clause supposes that all Government services must be delivered at cost or commercial rates. Yet, as has long been custom, services can be subsidised by the tax payer in the interest of the public good. Government and public service provision does not and should not equate to commercial activities as they provide communities with more than simple consumable goods. The support, advice, range of services and community hub they provide are invaluable and frequently worthy of subsidisation to ensure that every Queenslander can access the services they need.

[11] https://www.legislation.qld.gov.au/Bills/54PDF/2014/RevenueLAB14.pdf
[12] Ibid

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