

**Coalition Senators' additional comments to the report of the Economics
Legislation Committee on its inquiry on the drafts settled with
state/territory officials, of the Business Names Registration Bill 2011
and related bills**

1.1 Whilst the Coalition broadly supports the intent behind the bills and to a significant extent, the way the Government seeks to implement that intent through these bills, the Coalition does consider that the evidence presented to the committee during this inquiry has highlighted a number of shortcomings in the exposure drafts, most of which have been comprehensively discussed in the Chair's report.

1.2 These issues include:

- the introduction as part of the national business name register of new and harsher restrictions on non-government entities accessing register information for purposes that such information is currently available in most if not all states and territories;
- probate law and jurisdictional issues relating to clause 40 of the bill;
- potential difficulties relating to trademarks;
- the failure to address the risks associated with 'opportunistic registrations';
- the failure to address the potential positive outcomes available from adding 'unsatisfied judgments' to the database;
- the need for an education campaign to explain the changes to stakeholders; and
- the provisions and associated regulations of the Business Names Registration (Fees) Bill 2011.

1.3 Not considered in the Chair's report, but highlighted by the evidence, was a further issue related to the 'grandfathering' of existing business names where identical or very similar names currently exist in different states and the manner in which they would be transferred onto a new single national database. This issue also presents potential real issues that should be addressed prior to the enactment of the bills.

1.4 Although the Chair's report effectively discussed these issues (other than the grandfathering issue) and did recommend the Government consider these issues, the Coalition does not support the Chair's conclusions as to the relative priority that should be attached to solving these problems prior to the legislation being enacted.

1.5 It is the view of the Coalition that it is better to take a little longer to ensure that proposed legislation is the best that it can possibly be and that unintended consequences are eliminated so far as possible, prior to its enactment. The priority provided by the Chair to the timelines arbitrarily imposed by COAG agreement (which can be changed by agreement) should not override the principle that the legislation should be the best it possibly can.

1.6 Accordingly, as the Inquiry process has highlighted a number of shortcomings in the Bills, it is the view of Coalition Senators that these shortcomings should be addressed as a matter of priority prior to the bills being introduced for the consideration of Parliament.

Senator David Bushby
Deputy Chair, Senator for Tasmania

Senator Alan Eggleston
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