

SELECTION OF BILLS COMMITTEE

REPORT NO. 13 of 2007

16 August 2007

MEMBERS OF THE COMMITTEE

Senator Stephen Parry (Government Whip, Chair)

Senator George Campbell (Opposition Whip)

Senator Andrew Bartlett (Australian Democrats Whip)

Senator Fiona Nash (The Nationals Whip)

Senator Rachel Siewert (The Australian Greens Whip)

Senator Steve Fielding (The Family First Whip)

Senator the Hon. Eric Abetz

Senator Joe Ludwig

Senator Julian McGauran

Senator Ruth Webber

Secretary: Richard Pye
 6277 3020

SELECTION OF BILLS COMMITTEE

REPORT NO. 13 OF 2007

1. The committee met in private session on Wednesday, 15 August 2007 at 4.17 pm.
2. The committee resolved to recommend—That—
 - (a) the Australian Securities and Investments Commission (Fair Bank and Credit Card Fees) Amendment Bill 2007 be **referred immediately** to the Economics Committee for inquiry and report by 17 September 2007 (see appendix 1 for statements of reasons for referral);
 - (b) the National Market Driven Energy Efficiency Target Bill 2007 be **referred immediately** to the Economics Committee for inquiry and report by 22 October 2007 (see appendix 2 for statements of reasons for referral);
 - (c) the **provisions** of the Trade Practices Amendment (Small Business Protection) Bill 2007 be **referred immediately** to the Economics Committee for inquiry and report by 5 September 2007 (see appendix 3 for statements of reasons for referral);
 - (d) the Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2007 be **referred immediately** to the Economics Committee for inquiry and report by 11 September 2007 (see appendix 4 for statements of reasons for referral);
 - (e) the **provisions** of the National Greenhouse and Energy Reporting Bill 2007 be **referred immediately** to the Environment, Communications, Information Technology and the Arts Committee for inquiry and report by 6 September 2007 (see appendix 5 for statements of reasons for referral); and
 - (f) the **provisions** of the Defence Legislation Amendment Bill 2007 be **referred immediately** to the Foreign Affairs, Defence and Trade Committee for inquiry and report by 5 September 2007 (see appendix 6 for statements of reasons for referral).
3. The committee resolved to recommend—That the following bills **not** be referred to committees:
 - APEC Public Holiday Bill 2007
 - Maritime Legislation Amendment Bill 2007
 - National Health Amendment (Pharmaceutical Benefits) Bill 2007.

The committee recommends accordingly.

4. The committee considered proposals to refer the Migration Legislation Amendment (Restoration of Rights and Procedural Fairness) Bill 2007 and the Same-Sex: Same Entitlements Bill 2007 to the Legal and Constitutional Affairs Committee, but **was unable to reach agreement on whether the bills should be referred.**
5. The committee agreed to reconvene to consider bills to be introduced on 16 August 2007, with a view to reporting again to the Senate later today.

(Stephen Parry)
Chair
16 August 2007

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Australian Securities and Investment Commission
(Fair Bank and Credit Card Fees)

Reasons for referral/principal issues for consideration:

Australians should not have to pay exorbitant bank penalty fees.
This bill will stop fee gouging by banks by:
- ensuring penalty fees are for cost recovery;
- boosting the powers of ASIC, etc.

Possible submissions or evidence from:

- Choice
- ASIC
- Australian Bankers Association
- etc.
- Consumer Action Law Centre

Committee to which bill is to be referred:

Senate Finance and Public Administration Committee

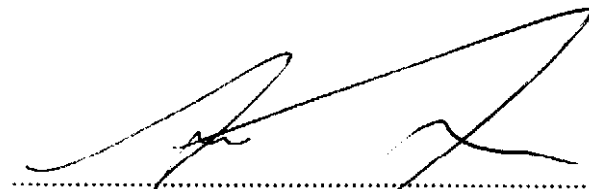
Possible hearing date(s):

5-7 September 07

Possible reporting date:

17 September 07

(signed)



Whip / Selection of Bills Committee member

8/8/07

APPENDIX 2



AUSTRALIAN SENATE

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: National Market Driven Energy Efficiency Target Bill 2007

Reasons for referral/principal issues for consideration:

To examine the provisions of the bill relating to definition of energy efficiency activities, monitoring and verification of energy efficiency savings, the energy efficiency improvement potential of the economy, the level of the energy efficiency target and the impacts to the economy and productivity benefits including impacts to GDP, inflation, employment and technology innovation.

Possible submissions or evidence from:

Origin Energy
Truenergy
AGL
Australian Greenhouse Office
Department of Industry Tourism and Resources
Business Council for Sustainable Energy
Energy Performance Contracting Association of Australia

Committee to which bill is to be referred: Economics Legislation Committee

Possible hearing date(s):

Possible reporting date: 22 October 2007

Australian Democrats Whip



THE SENATE
CANBERRA ACT 2600

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Trade Practices Amendment (Small Business Protection) Bill 2007

Reasons for referral/principal issues for consideration: Consideration of the bill as necessary. See attached

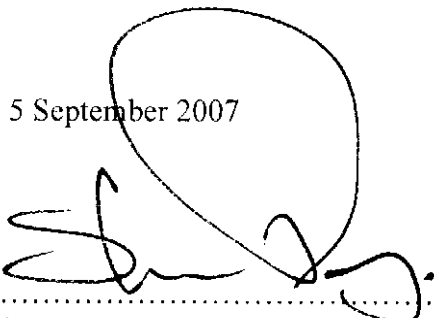
Possible submissions or evidence from:

Committee to which bill is to be referred: Economics

Possible hearing date (s):

Possible reporting date: 5 September 2007

(signed)


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Whip/Selection of Bills Committee member

TRADE PRACTICES AMENDMENT (SMALL BUSINESS PROTECTION) BILL 2007

This Bill amends section 87 of the Trade Practices Act 1974 to allow the Australian Competition and Consumer Commission to take legal action on behalf of persons who have suffered or are likely to suffer loss or damage as a result of unlawful secondary boycotts.

Currently, the ACCC cannot take such action even though it is able to do so in relation to all other forms of anticompetitive conduct under Part IV of the Trade Practices Act. There is no good reason for excluding secondary boycott conduct. The Government believes that people affected by unlawful secondary boycotts should have access to the same remedies as people suffering loss or damage as a result of all other forms of anticompetitive conduct under Part IV of the Trade Practices Act.

The relevant secondary boycott provisions are contained in sections 45D and 45E of the Trade Practices Act.

A secondary boycott involves action by two or more people acting in concert, which prevents a third party, such as a potential customer or supplier, from dealing with or doing business with the target. The innocent third party, who has nothing to do with the dispute which is the subject of the direct boycott, suffers loss or damage as a result of the boycott.

Sections 45D and 45E of the Trade Practices Act deal with two types of secondary boycotts. Section 45D prohibits two persons from acting in concert to hinder or prevent a third person from supplying or acquiring goods or services from the target of the boycott, where the purpose or likely effect of the conduct is to cause substantial loss or damage to the business of the target.

Section 45E prohibits a person from making an agreement with a trade union for the purpose of preventing or hindering the supply or acquisition of goods or services between that person and the target of the boycott.

At present, the ACCC is able to investigate and prosecute unlawful secondary boycotts under sections 45D and 45E, but it cannot bring representative actions. That is, the ACCC cannot seek compensation for damages on behalf for parties affected by a contravention of the provisions.

On previous occasions when Parliament has considered extending representative actions to these provisions, the debate has centred on whether the provisions themselves should form part of the Act or whether they should be reclassified as questions of industrial relations.

On this issue, the Government's position is clear: this is a matter of competition policy, because trade is adversely affected in the market affected by an unlawful boycott. Secondary boycotts can have a significant impact on our economy. They

disrupt trade, they reduce output and they inhibit competition. It is important that we provide a strong disincentive for those people who would target, intimidate and bully small business by applying a secondary boycott to that business.

As the provisions are part of the Trade Practices Act, it makes sense to allow the ACCC to have consistent enforcement powers across all the provisions in Part IV.

In relation to concerns about extending the ACCC's capacity to take representative actions, it should be emphasised that the Government's changes will not create a new cause of action. Unlawful secondary boycotts are already prohibited by the Trade Practices Act, and the ACCC can currently obtain substantial penalties against parties who contravene sections 45D and 45E. These reforms are about enabling the ACCC to bring a representative action seeking compensation and other remedies.

The ACCC takes into consideration a number of factors in determining whether it will bring a representative action, including the resources available to those affected to bring their own action. Therefore, these reforms will be of particular benefit to Australian small businesses that often do not have either the time or resources to commence legal action.

For over 10 years, the Government has committed itself to implementing reforms which provide fairer outcomes for small business. This commitment is in recognition of not only the significant contribution small business makes to our economy, but also of the fact that the nearly two million Australian small businesses often lack the power and resources to take action when they experience unfair treatment. This is particularly so in relation to secondary boycotts, as small businesses operating on tight margins and with limited cash flows find it difficult to bear both the cost of the secondary boycott and the burden of initiating legal proceedings.

As a result of this Bill, those who would inflict economic damage on small Australian businesses under s 45D and 45E of the Act will no longer be able to do this with impunity. Instead, they will be held to account for the economic damage that they cause as the ACCC will, for the first time, be able to bring a representative action on behalf of those small businesses.

The Government reaffirms its commitment to stand up for small business against thuggery and intimidation. It is vital, both for our economy and our way of life.

These amendments will achieve greater consistency in the administration of the Trade Practices Act and provide Australian small businesses with greater protection from unlawful secondary boycott conduct.



APPENDIX 4

THE SENATE
CANBERRA ACT 2600
SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill *Offshore Petroleum And (Misc Measures) Bill 2007*

Reasons for referral/principal issues for consideration:

- The effect of repealing Section 327 of the Act.*
- The duration of production licences in the light of amendments to the Act.*
- Confirm the desirability of those provisions aimed at improving the operation of the Act.*

Possible submissions or evidence from:

Request submissions on the above.

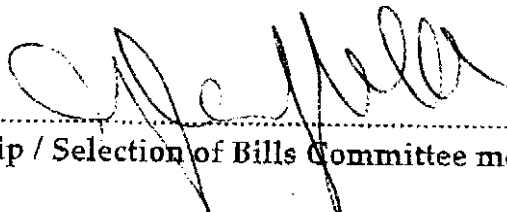
Committee to which bill is to be referred:

Economics

Possible hearing date(s):

Possible reporting date: *11 SEPT '07*

(signed)


Whip / Selection of Bills Committee member



THE SENATE

CANBERRA ACT 2600

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: National Greenhouse and Energy Reporting Bill 2007

Reasons for referral/principal issues for consideration: Consideration of the bills as necessary.

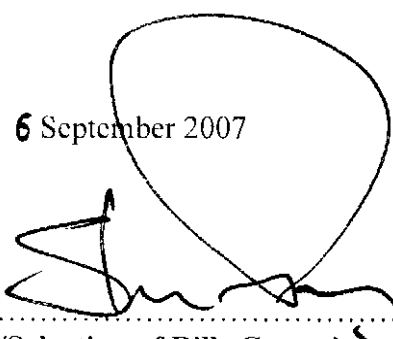
Possible submissions or evidence from:

Committee to which bill is to be referred: Environment, Communications, IT and the Arts

Possible hearing date (s):

Possible reporting date: 6 September 2007

(signed)


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Whip/Selection of Bills Committee member

NATIONAL GREENHOUSE AND ENERGY REPORTING BILL

- The Bill:
 - Establishes a single, national framework for reporting greenhouse gas emissions, abatement actions and energy consumption and production by corporations from 1 July 2008.
 - Eliminates unnecessary costs currently imposed on the Australian economy through streamlining duplicative reporting requirements under a patchwork of separate state, territory and national reporting programmes.
 - Enables the secure sharing of nationally consistent data, under robust security and confidentiality protection arrangements, between the Australian Government and state and territory governments to better inform the climate change response and energy policies of all governments.
- The Australian Government will invest over \$26 million over five years to implement the national reporting system.
- Key features of the system are:
 - a single online entry point for reporting based on the Online System for Comprehensive Activity Reporting (OSCAR), which is recognised as a world class application;
 - public disclosure of company level greenhouse gas emissions and energy data for the first time;
 - consistent and comparable data provided to government for policy making; and
 - reporting thresholds that avoid capturing small business.

Thresholds and timing for reporting

- The first reports under the new national streamlined system will be due in October 2009. Companies will report greenhouse gas emissions and energy use and production for the preceding 12-month period from 1 July 2008 to 30 June 2009.
- Companies emitting more than 125,000 tonnes of greenhouse gases or using or producing more than 500 terajoules of energy will be required to report at the start of the new system, as will facilities emitting more than 25,000 tonnes of greenhouse gases or using or producing 100 terajoules of energy.

- The threshold for companies will be phased down over time to 50,000 tonnes of greenhouse gases or 200 terajoules of energy used or produced, to allow new reporting companies to prepare for their reporting requirements. The facility threshold will remain the same.

Relationship to Emissions Trading

- The Bill underpins the Australian Emissions Trading system, announced by the Prime Minister on 17 July 2007.
- Robust data reported under the Bill will provide sound information to inform decision making during the establishment of the trading system, including permit allocation and incentives for early abatement action.

Development of the Bill

- Introduction of this Bill gives effect to the April 2007 Council of Australian Governments (COAG) decision to establish a mandatory National Greenhouse Gas and Energy Reporting System.
- The design of the national reporting system is consistent with the proposal developed through the COAG and consulted on during October 2006 with all levels of Government and industry.



THE SENATE
CANBERRA ACT 2600
SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill National Greenhouse and Energy Reporting Bill 2007

Reasons for referral/principal issues for consideration:

Arbitrary nature of Thresholds - Part 2, 13

Possible submissions or evidence from: Emissions Trading Experts -
State Governments, Academics, Economists

Committee to which bill is to be referred: ECIFA

Possible hearing date(s):

Possible reporting date:

(signed)

[Signature]
Whip / Selection of Bills Committee member

15/8/07



THE SENATE

CANBERRA ACT 2600

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Defence Legislation Amendment Bill 2007

Reasons for referral/principal issues for consideration: Consideration of the bill as necessary.

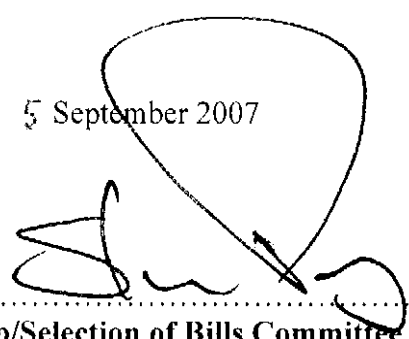
Possible submissions or evidence from:

Committee to which bill is to be referred: Foreign Affairs, Defence and Trade

Possible hearing date (s):

Possible reporting date: 5 September 2007

(signed)


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Whip/Selection of Bills Committee member