The Senate

Economics Legislation Committee

Trade Practices Amendment (Liability for Recreational Services) Bill 2002

December 2002

© Commonwealth of Australia 2002

ISSN 1324-2830

Printed by the Senate Printing Unit, Parliament House, Canberra.

Senate Economics Legislation Committee

Core Members

Senator George Brandis, Chairman Senator Jacinta Collins, Deputy Chair Senator Grant Chapman Senator Andrew Murray Senator John Watson Senator Ruth Webber (Queensland, LP) (Victoria, ALP) (South Australia, LP) (Western Australia, AD) (Tasmania, LP) (Western Australia, ALP)

Substitute Members

Senator Allison replaces Senator Murray for matters relating to Resources portfolio.

Participating Members

Senator the Hon Eric Abetz Senator the Hon Ronald Boswell Senator Geoffrey Buckland Senator George Campbell Senator Kim Carr Senator John Cherry Senator Stephen Conroy Senator the Hon Peter Cook Senator the Hon Helen Coonan Senator Alan Eggleston Senator Christopher Evans Senator the Hon John Faulkner Senator Alan Ferguson Senator Jeannie Ferris Senator Michael Forshaw Senator Brian Harradine Senator Leonard Harris Senator Linda Kirk Senator Susan Knowles Senator Meg Lees Senator Ross Lightfoot Senator Joseph Ludwig Senator Kate Lundy Senator Brett Mason Senator Julian McGauran Senator Shavne Murphy Senator Marise Payne Senator Aden Ridgeway Senator the Hon Nick Sherry Senator Natasha Stott Despoja Senator Tsebin Tchen Senator John Tierney

(Tasmania, LP) (Queensland, NPA) (South Australia, ALP) (New South Wales, ALP) (Victoria, ALP) (Queensland, AD) (Victoria, ALP) (Western Australia, ALP) (New South Wales, LP) (Western Australia, LP) (Western Australia, ALP) (New South Wales, ALP) (South Australia, LP) (South Australia, LP) (New South Wales, ALP) (Tasmania, Ind) (Queensland, PHON) (South Australia, ALP) (Western Australia, LP) (South Australia, Ind) (Western Australia, LP) (Queensland, ALP) (Australian Capital Territory, ALP) (Queensland, LP) (Victoria, NPA) (Tasmania, Ind) (New South Wales, LP) (New South Wales, AD) (Tasmania, ALP) (South Australia, AD) (Victoria, LP) (New South Wales, LP) Secretariat Bronwyn Meredith, Principal Research Officer

Kathleen Dermody (Dr), Secretary Angela Lancsar, Executive Assistant

SG.64 Parliament House Canberra ACT 2600 Ph: 02 6277 3540 Fax: 02 6277 5719 E-mail: economics.sen@aph.gov.au Internet: <u>http://www.aph.gov.au/senate/committee/economics_ctte/index.htm</u>

Contents

Membership of the Committee	iii
THE REPORT	1
Conduct of the inquiry	1
The Bill	1
The Bill's objectives	2
Examination of the Bill	7
The role of the Trade Practices Act in personal injuries claims	7
Definition of recreational services	8
Waiver of gross negligence	9
Waivers and safety standards	9
Waivers - legal and practical difficulties	11
Minors and other vulnerable parties	12
Disclosure and section 52 of the TPA	13
Practical difficulties	14
Gross negligence	15
Conclusion	16
Recommendation	17
AUSTRALIAN DEMOCRATS MINORITY REPORT	19
REPORT BY LABOR MEMBERS	27
APPENDIX 1	
List of public submissions and additional information	33
APPENDIX 2	
Hearing and witnesses	35
APPENDIX 3	
Comment of Scrutiny of Bills Committee	37