



Please quote: JE05/IGR

04 AUG 2005

The Secretary
Senate Economics Legislation Committee
Suite SG.64
Parliament House
CANBERRA ACT 2600

Dear Secretary

Inquiry into the Trade Practices Amendment (National Access Regime) Bill 2005

Thank you for providing the Queensland Government with an opportunity to comment on the Trade Practices Amendment (National Access Regime) Bill 2005 currently before the Commonwealth Senate.

The Queensland Government is generally supportive of the new measures incorporated in the draft legislation, and considers that they should enhance the national third-party access regime through the promotion of investment in essential infrastructure.

The draft Bill contains a provision which provides certain government-sponsored infrastructure projects with immunity from declaration where:

- there is a competitive tendering process for developing and operating the facility; and
- reasonable terms and conditions of access will be a key consideration in selecting the winning tender.

It is anticipated that competitive tendering will be likely to see any monopoly rents dissipated in reasonable terms and conditions for service users, rather than accrue to service providers.

However, it is not clear as to why the application of this provision has been limited to government-sponsored infrastructure projects which result in government ownership of the infrastructure. Potentially, there may be circumstances in which private-sector entities wish to tender out the construction and operation of essential infrastructure facilities while retaining ownership of the assets, and/or government sponsored tenders

result in private ownership of the infrastructure. For example, in the mid 1990s the Queensland Government conducted tenders for the license to operate and construct gas transmission pipelines to supply gas from south-west Queensland to south-east Queensland. These tenders included criteria relating to access terms and conditions and resulted in private ownership of the pipelines.

A failure to provide private sector firms with the same investment opportunities as governments are able to realise could conceivably act as a deterrent to private investment and, accordingly, a greater reliance on the public-sector to finance essential infrastructure. There does not seem to be a clear rationale as to why privately owned infrastructure is not able to access this immunity.

In this context, the Queensland Government considers that there may be some merit in extending the scope of this draft provision to allow private-sector projects to receive immunity from declaration under the access regime, on the same basis as their public-sector counterparts.

Should you have any questions in relation to this matter, please refer them to Dr Gary Ward, Director, Regulatory and Inter-Governmental Relations, Queensland Treasury. He may be contacted on telephone (07) 3238 3358.

I look forward to progressing the reforms to the national third-party access regime

Yours sincerely



Dr Leo Keliher
Director-General