

26 March 2009

Mr John Hawkins  
Secretary  
Senate Standing Committee on Economics  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

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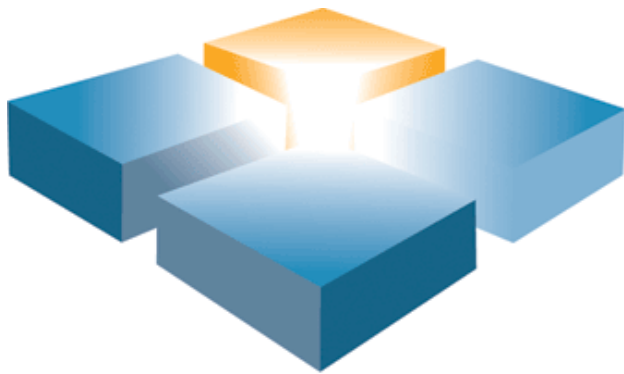
Dear Mr Hawkins

Please find attached the Chamber of Commerce and Industry Queensland's submission to the Senate Standing Committee on Economics Inquiry into the Exposure Drafts of the Legislation to Implement the Carbon Pollution Reduction Scheme.

Yours sincerely



Beatrice Booth  
**President**



CHAMBER OF  
COMMERCE &  
INDUSTRY  
QUEENSLAND

**Chamber of Commerce and Industry Queensland  
Submission to the Senate Standing Committee on  
Economics Inquiry into the Exposure Drafts of the  
Legislation to Implement the Carbon Pollution  
Reduction Scheme**

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## **I. INTRODUCTION**

The Chamber of Commerce and Industry Queensland (CCIQ) welcomes the opportunity to comment on the exposure draft of the legislation which will implement the Carbon Pollution Reduction Scheme (CPRS).

CCIQ is the peak business organisation in Queensland, representing the interests of 25,000 businesses and 135 chambers of commerce across the State (a more detailed overview of CCIQ's membership is provided in Appendix 1). All of these businesses will be impacted to some extent, either directly or indirectly, by the CPRS. As such, CCIQ has an interest in the exposure draft of the CPRS legislation.

While CCIQ has chosen to directly comment on the exposure draft, the organisation is also a founding member of the Australian Chamber of Commerce and Industry (ACCI) and strongly supports the views that ACCI has expressed in its submission to this inquiry.

## **II. GENERAL COMMENTS**

Queensland business acknowledges that it has a social responsibility to minimise the impact that its activities have on the environment. It is also aware that it needs to work co-operatively with all levels of government and the wider community to address important environmental issues such as climate change.

CCIQ considers that a well designed emissions trading scheme can potentially provide an efficient, effective and nationally consistent mechanism for reducing Australia's greenhouse gas emissions. CCIQ is therefore supportive, in principle, of the establishment of the CPRS. That said, CCIQ is acutely aware that the introduction of the scheme will require significant structural change over the longer term and that this will have serious ramifications for some businesses and regions, the Australian economy and the wider Australian community. Accordingly, it is essential that the CPRS is designed and implemented in a very careful and considered manner, with sufficient inbuilt 'safety valves'.

The CPRS legislation will play a pivotal role in determining whether this outcome is achieved. It is important therefore that the final legislation, if passed by the Australian Parliament, establishes a clear and effective framework for the administration of the scheme. This framework must be flexible enough to respond to foreseeable challenges such as price volatility and market manipulation. It should also minimise, to the greatest extent possible, any associated cost and compliance burdens for business.

It is also critically important that both the Australian Government and the Australian Parliament provide the business community with sufficient certainty regarding Australia's climate change response. Businesses need certainty on this issue so that they can assess the likely impacts of that policy response and respond accordingly. In particular, the cost implications of the policy response are integral to the major long-term planning, financing and investment decisions of many businesses. There is no doubt that some of their decisions are almost certainly being delayed at the moment until a firm, binding decision on Australia's climate change policy has been made by the Australian Parliament.

It is important to note however that certainty is not contingent on the CPRS coming into force without delay. It simply requires the Australian Government and the Australian Parliament to put

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the relevant legislative and administrative framework in place as soon as possible and to provide a clear commitment as to the commencement date for the CPRS. Once that occurs, business will have sufficient certainty to plan for the future regardless of whether the start date of the CPRS is 1 July 2010 or 1 July 2012 or later. As noted above CCIQ consider that the CPRS start date should be aligned with the implementation of equivalent measures by Australia's major international competitors.

CCIQ also remains strongly of the view that Australia risks damaging the international competitiveness of its businesses (both import-competing and exporting) by implementing an earlier and more wide-reaching emissions trading scheme than other countries. This may create considerable incentives for businesses to shift their production to countries which do not impose a price on carbon. As the Australian Government and the Australian Parliament are no doubt aware, the loss of this production would have a serious impact on Australia's terms of trade as well as the availability of employment in both large businesses and service industries.

It will also achieve very little, if anything, in terms of emissions reductions as the relevant emissions will simply be shifted from Australia to another country. Indeed, there is a real risk that this outcome may actually be detrimental to the environment as the production processes in the alternative location may be more emissions-intensive than those employed in Australia. CCIQ therefore considers that it is imperative that Australian action on climate change, including the implementation of the CPRS, mirrors that undertaken by other major industrialised countries. This will ensure that Australia maintains its international competitiveness whilst also making a meaningful contribution to global efforts to address climate change.

In addition to these general comments on the CPRS, CCIQ has some key concerns about certain aspects of the draft legislation and these are outlined in more detail below.

### **III. SPECIFIC COMMENTS ON THE *CARBON POLLUTION REDUCTION SCHEME BILL 2009***

#### **1. Commencement Date**

CCIQ considers that the draft *Carbon Pollution Reduction Scheme Bill 2009* ('the CPRS Bill') should be amended to delay the commencement date of the CPRS until 1 July 2012 at the earliest or such time as Australia's major competitors implement equivalent measures.

CCIQ generally supports the proposed CPRS but is opposed to the proposed start date. The performance of the Australian economy has deteriorated significantly over the last six months and it is inevitable that it will be in recession in the near future. This tough economic climate is placing significant pressure on Queensland businesses, with many struggling to maintain staffing levels and to remain viable. The last thing that businesses (especially small and medium businesses) need in these challenging circumstances is any additional cost impost; in particular, an increase in the cost of a wide range of products as a result of the introduction of the CPRS.

Any such cost increase will simply place unnecessary and unwelcome additional pressure on many businesses at a time when they are already grappling with lower revenue, tighter margins and a reduced ability to pass costs through to consumers. It will also increase the risk of business failures and delay any eventual economic recovery. While it is impossible to predict when the current downturn will end, the Queensland and Australian economies are unlikely to have fully recovered by mid-2012. CCIQ therefore considers that it would be most unwise to persist with a proposed commencement date of 1 July 2010. In CCIQ's view, the downside risks are simply too great and

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the Chamber therefore believes that the date should be delayed as this will allow the economy and individual businesses time to recover from the current downturn before the imposition of what is effectively an indirect tax on carbon.

Delaying the start date of the CPRS will also enable the Australian Government to undertake more detailed modelling on the impact of the CPRS on small and medium-sized businesses. At this stage, the focus of the modelling has been almost solely on the emissions-intensive, trade-exposed (EITE) sector and consumers, with scant attention paid to the vast majority of Australian businesses which are small and medium-sized. This is despite the fact that these businesses play a very important role in the Queensland and Australian economies and are likely to face cost increases in essential inputs such as electricity and other carbon-intensive goods as costs imposed by the CPRS flow through the economy.

Given that, CCIQ considers that it is unacceptable that more detailed modelling on the impact of the CPRS on these businesses (particularly those which are engaged in energy-intensive activities or heavily reliant on carbon-intensive inputs) has not been undertaken and released to date. In CCIQ's view, this information is essential if one is to gain a complete picture of the CPRS and its likely impact on the Australian community. It is also important to note that many small and medium-sized businesses are not as well placed as the EITE sector and large businesses to deal effectively with the impacts of the CPRS.

## **2. National Caps and Gateways (Part 2 of the draft CPRS Bill)**

CCIQ considers that the draft CPRS Bill should be amended to give the independent scheme regulator the responsibility for setting the scheme caps and gateways, with the Australian Government (and ultimately the Australian Parliament) retaining the responsibility for setting the key medium-term and long-term emissions targets.

CCIQ is of the view that the milestone medium-term and long-term targets such as those proposed for 2020 and 2050 will largely dictate the scheme caps and gateways thereby limiting the ability of the scheme regulator to act in a manner which is inconsistent with the intentions of the Australian Government or the Australian Parliament. Clear directions about the matters the scheme regulator must consider in setting the annual caps and gateways could also be included in the relevant legislation.

CCIQ considers that the approach proposed in the draft CPRS Bill (the Australian Parliament would set the targets, gateways and annual caps) creates greater uncertainty for the business community as it brings political considerations into the decision-making process. There is a real risk that a future Australian Government may need to settle for a sub-optimal compromise position on either the caps or gateways in order to secure their passage through the Parliament. While CCIQ acknowledges that the draft Bill does include some 'fall back' provisions which will enable default caps to be implemented in the event that the Parliament does not agree with the Government's proposed caps, the Chamber considers that this outcome is still less than desirable as the default caps may not be the optimum outcome either.

In CCIQ's view, it would be more appropriate if the caps and gateways were set by the independent scheme regulator as this would avoid the potential for sub-optimal outcomes. It would also improve business and community confidence in the caps and gateways as the decisions would be based solely on technical and economic considerations.

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### **3. Coverage (Part 3 of the draft CPRS Bill)**

At this stage, CCIQ is comfortable with the coverage of the CPRS as proposed in the draft legislation. CCIQ considers however that the broadest possible coverage is crucial to ensuring that the costs of emissions reduction are minimised and distributed on an equitable basis. Consequently, while CCIQ acknowledges the unique challenges associated with including agricultural emissions in the CPRS, CCIQ believes that it is important that these emissions are eventually incorporated into the scheme if possible as they represent a significant proportion of Australia's overall emissions.

If this is not possible, CCIQ considers that the Australian Government should implement alternative measures to ensure that businesses in the agricultural sector bear their fair share of the burden of reducing Australia's greenhouse gas emissions. CCIQ is therefore supportive of the Australian Government's stated intention to ensure that the CPRS has, in the longer term, maximum practical coverage of Australia's greenhouse gas emissions and emitters.

### **4. Emissions-Intensive Trade-Exposed Assistance Program (Part 8 of the draft CPRS Bill)**

CCIQ considers that it is important that the CPRS does not have an adverse impact on the international competitiveness of Australian firms. CCIQ notes that targeted compensation has an important role to play in ensuring that any such adverse outcomes are either avoided or minimised. That said, CCIQ does have some concerns about the proposed compensation arrangements.

Firstly, the imposition of an arbitrary set of thresholds increases the potential for market distortions. For example, a business which fails to satisfy the relevant threshold will miss out on any compensation. It may however be competing against another domestic business which just satisfies the relevant threshold and is therefore eligible for compensation. The second business may potentially gain a taxpayer-funded competitive advantage over the first business by virtue of the compensation arrangements. CCIQ considers that the compensation arrangements for the CPRS must be carefully designed and closely monitored following implementation to ensure that they do not create this type of market distortion.

Secondly, while CCIQ is strongly supportive of assistance for trade-exposed industries, the Chamber notes that the needs of this sector must be balanced against the needs of other businesses and the wider community. Increasing the assistance provided to the emissions-intensive, trade-exposed sector will shift more of the emissions reduction burden onto the rest of the business community. It is therefore important that the assistance arrangements facilitate, to the greatest extent possible, an equitable sharing of the emissions reduction burden across the entire Australian community.

CCIQ also welcomes the proposal to require businesses that cease emissions-intensive, trade-exposed activities to return permits which have been allocated for free but which cannot be attributed to production prior to the cessation of the relevant activities. CCIQ considers that this approach will reduce the likelihood of some businesses accepting free permits and then subsequently shifting production offshore.



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## **5. Information-Gathering Powers (Part 17 of the draft CPRS Bill)**

Clause 296 of the draft Bill is very wide in terms of the information or documents which may be demanded by the Authority and imposes civil penalties upon people who do not comply with its requirements. CCIQ questions whether the power to request information needs to be this wide for the Authority to fulfil its responsibilities and notes that the broad wording may increase the likelihood of the power being used in manner not intended by the Parliament. CCIQ respectfully suggests that some consideration should be given to limiting the power to the specific circumstances in the Act where the provision of certain information will be required. For example, information relating to emissions levels, permits or the potential commission of an offence under the Act.

## **6. Independent Reviews (Part 25 of the draft CPRS Bill)**

The introduction of the CPRS is a major economic reform and it will have serious ramifications for individuals, businesses and communities across Australia. It is therefore essential that the CPRS is designed and implemented in a very careful manner and that appropriate review mechanisms are in place to enable any problems to be identified and resolved in a timely manner. CCIQ considers that four years is quite a long period of time for the scheme to operate without review, particularly given the nature of the reform and its potential impacts. In CCIQ's view, two or three years is sufficient time to assess the operation of the CPRS and an earlier review period will enable the Australian Government to promptly identify and rectify any problems with the scheme. CCIQ therefore recommends that the draft legislation should be amended to require the initial review of the CPRS to be undertaken within two or three years of the scheme's commencement.

## **IV. GENERAL COMMENTS ON THE EXPOSURE DRAFT LEGISLATION PACKAGE**

### **1. Disclosure of Information**

CCIQ notes that there are a range of clauses within the draft Bill and its companion exposure draft legislation which allow for the public disclosure of emissions-related information. CCIQ notes that some of the information collected under the CPRS will be commercially sensitive as it will reveal key details of a company's market share, production levels or supply arrangements. CCIQ considers that it is crucial that this information is only publicly disclosed where that disclosure is a fundamental prerequisite for the effective operation of the scheme.

Where the disclosure is a fundamental prerequisite, CCIQ considers that there must be very clear and unequivocal guidelines as to which information is to be disclosed and the circumstances in which it is to be disclosed. CCIQ also considers that there must be very clear deterrents in the relevant legislation to ensure that unauthorised disclosure does not occur.

CCIQ also notes that some of the provisions in the draft legislation allow the Australian Climate Change Regulatory Authority to disclose commercially sensitive information to independent third parties. For example, clause 48 of Part 3 of the exposure draft of the *Australian Climate Change Regulatory Authority Bill* allows the Authority to disclose commercially sensitive information to a 'foreign government body' or an 'international climate change body'. CCIQ notes that the Australian Government is very unlikely to be able to ensure that any commercially sensitive information provided to independent third parties located overseas is only used for the agreed specific use. There is therefore a risk that the competitiveness of an Australian business may be damaged by the unauthorised release of commercially sensitive information.



CCIQ considers therefore that the release of commercially sensitive information to international climate change bodies and foreign governments should be very tightly controlled and only occur where it is absolutely essential. Given the potential risk, CCIQ believes that the legislation should be tightened to place strict limits and provide clear guidelines on the circumstances in which sensitive commercial information can be provided to international bodies, foreign governments and non-government domestic third parties.

## **V. Contact Information**

If you wish to discuss any aspect of CCIQ's submission in more detail, please contact Sarah Kearney, Senior Policy Advisor, on (07) 3842 2253 ([skearney@cciq.com.au](mailto:skearney@cciq.com.au)) or Nick Behrens, General Manager – Policy, on (07) 3842 2279 ([nbehrens@cciq.com.au](mailto:nbehrens@cciq.com.au)).

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## **Appendix 1 – CCIQ Membership Profile**

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## > Chamber of Commerce & Industry Queensland Profile



CHAMBER OF  
COMMERCE &  
INDUSTRY  
QUEENSLAND

Chamber of Commerce & Industry Queensland is the state's peak industry body, representing the interests of 25,000 businesses, across all industry sectors and in all regions. We champion business to gear up for the future today with the right set of solutions for success in tomorrow's world.

Chamber of Commerce & Industry Queensland is a non-government organisation that seeks to work with Government and other groups to shape Queensland's economic and social environments in a way that promotes business growth and community prosperity.

Chamber of Commerce & Industry Queensland is called upon by thousands of enterprises to deliver a broad range of business services including business representation, business compliance, business skills, business safety, business sustainability, business connections and business globally. We are commercially-minded and expertly-qualified.

Chamber of Commerce & Industry Queensland is a founding member and influential partner of the Australian Chamber of Commerce and Industry (ACCI) and part of the worldwide network of Chambers of Commerce and affiliated business service organisations.

Chamber of Commerce & Industry Queensland has in excess of 3,700 members across 8 regional offices and represents over 135 local chambers of commerce and 60 trade and professional associations.

Our vision is to invigorate business success in Queensland.

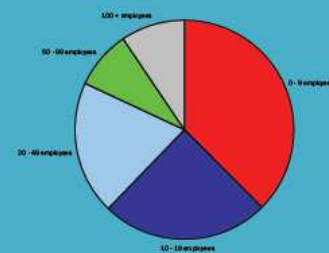


The diversification of Chamber of Commerce & Industry Queensland's membership is illustrated in the following charts:

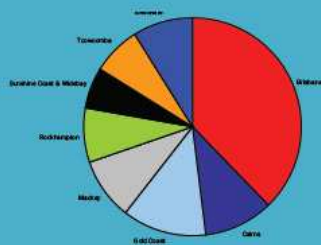
Commerce Queensland members by Industry



Commerce Queensland members by Employment Size



Commerce Queensland members by Region



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