

**STATE TRADING CONCERNS (AUTHORISATION) AMENDMENT REGULATIONS (NO. 2) 2009 —
DISALLOWANCE**

Motion

Pursuant to standing order 152(b), the following motion by Hon Ken Travers was moved pro forma on 25 May —

That the State Trading Concerns (Authorisation) Amendment Regulations (No. 2) 2009 published in the *Government Gazette* on 26 February 2010 and tabled in the Legislative Council on 3 March 2010 under the State Trading Concerns Act 1916, be and are hereby disallowed.

HON KEN TRAVERS (North Metropolitan) [7.33 pm]: In Western Australia the State Trading Concerns Act requires agencies to be authorised under that act to engage in commercial activities. The matter we are dealing with tonight is an amendment to the schedule to that act, which can be done by regulation, to allow for additional agencies to be added to participate in commercial activities. The State Trading Concerns (Authorisation) Amendment Regulations (No. 2) relates to two agencies—the Department for Communities and the Department of Transport. It is interesting that the two have been combined in one regulation and then after that we move on to a separate regulation that deals specifically with the Swan River Trust. The opposition's concerns are mainly focused on the Department of Transport in relation to the particular regulation that we are dealing with first.

Just to give members a bit of history, in the budget that came down for 2009–10 as part of the economic audit, there was a requirement for the then Department of Planning and Department of Transport to raise additional revenue by increased advertising. Budget paper No 3 mentioned a range of activities that those agencies would be expected to engage in, including billboard advertising, to generate additional revenue that would, over a period of time, rise to \$10 million per annum. As a result of those issues, the opposition sought to raise the issue and requested information on exactly how the government intended the Department of Transport and the Department of Planning would raise this money. Interestingly, the Department of Planning very quickly said that it had nothing to do with it and that it was all related to the Department of Transport, although the budget at the time did mention the two agencies.

One of the reasons I have particular concerns about it is that when we look at the amount of money that the Public Transport Authority raises, which has some 190-odd active billboards across the system on buses and a whole range of railway stations and the like in its infrastructure, we see that it has an extensive array of billboard advertising, and it does not raise anywhere near the order of \$10 million per annum. As an opposition, we have sought to get an understanding from the government about how it intended to raise this \$10 million. On every occasion that we have sought to try to get details about how the government intends to raise it and how it expects to achieve this \$10 million, we have been stonewalled. Tonight provides us with the last opportunity to get an understanding of that. I believe that before we pass this regulation, the government should give an explanation to this Parliament of what exactly its intentions are and how it intends to raise this \$10 million, which the passage of this regulation would allow to occur. If we do not get that explanation from the government, this house should oppose it until the government is able to come before this place and tell us how it intends to do it. I believe that most members in this place would not want to see a proliferation of billboards.

So far we have had the explanation from the government that one way in which it intends to raise the money is by placing billboards at the Fremantle and Hillarys boat harbours. The minister attacked me because I made up some drawings about what it would look like. I was quite clear to the media when I spoke to them that these were extreme examples. However, if we are talking about trying to raise \$10 million, that is the sort of thing we would need to do to get anywhere close to raising that amount, even with all the billboards that the PTA has. As I have said, with 190-odd billboards across the state, a couple of years ago the PTA raised in the region of \$3 million to \$4 million. We therefore need to have a greater understanding. I believe that the government has an obligation to give it to us. I believe this house is the place in which we can request the government to explain where it will place the billboards, how many it will have, and exactly what revenue the government expects to get. If members wanted to, I am happy to go through the history of all the questions that we have asked in this chamber, in estimates committees and the other place during previous sessions, which will detail where we have not been able to get the answer.

Another area in which the government has indicated that it intends to raise revenue is including advertising inserts in drivers' licences and vehicle renewals and receipts that are sent out. I believe that again we need to have an explanation from the government of how exactly it intends to do that. Are there any guidelines? Will the government allow political parties to pay for such advertisements? Is the government going to allow sex shops to put advertisements in the mail-outs? Will any policies and any rules be entailed as a result of the insertion of advertisements in the mail-outs of the Department of Transport? I have grave concern about this area, particularly now that we have removed the role of stickers on motor vehicles. If people receive their motor

vehicle licence renewal and with it a whole lot of junk mail that is all advertising, they may think that the contents of the package are just advertising and throw it in the bin and not notice their registration renewal sitting within the package. That is of grave concern to me. Will there be a limit? Will the government say that only one piece of advertising material will be allowed to be in any item that goes out? If a department can get 10 people to pay the department to put advertising material in an envelope, will the department allow 10 pieces of advertising or will it allow it to go in only with the receipts? These are the sorts of questions that the government should expect the opposition to ask before we pass regulations like these. We should have had a proper explanation from the government. As I say, the government has been asked numerous times to give us that explanation and has had numerous opportunities to do so, and we have not had one. I am hoping we will get a proper explanation from the government before we get to the vote on this bill tonight. If the billboards to be erected at the Hillarys and Fremantle boat harbours are to be only A1 size, let us have a clear commitment from the state government to that effect. If they are going to be billboards of the sort that we see on the side of the road—for instance, on the Public Transport Authority land along Guildford Road or in the city—let us have an explanation and let us make an informed decision as a house of Parliament.

This matter has been around for more than 12 months, and for a large part of that time the answers given to us by the government were along the lines of, “Look, we’re still in the planning and design stages and we’re still getting advice”. It has now been more than 12 months; the government clearly expected the department to raise about \$2.5 million in the first year and \$10 million per annum within three years. According to the budget papers, this year the amount is expected to be \$5 million, so the government must know what it is planning to do in this area; it must have an idea. I do not think that this house should pass these regulations to allow the Department of Transport to get into the area of advertising, without those criteria in place. If the government has a clear intention to limit the type of advertising, it should put that on the record. The same thing will apply when we get to the Swan River Trust. When I have spoken to officials from the Swan River Trust, they have been able to give me a clearer explanation as to why they need this, and I will talk about that when we get to that legislation.

We have had comments from officers of the Department of Transport during estimates hearings to say, “Yes, it will be a tough ask to try to raise the full \$10 million, but we are working on it and we are still progressing it”. We have now reached a decision time; we have now reached the time when we should expect from the government a clear explanation about how it is going to do it. If members want any evidence or if they want to have a look at it, I am more than happy to go through all the questions and all the answers, but I do not want to take up the time of the house. To go anywhere near raising even the \$2 million that was the expectation for the first year, we would require significant numbers of billboards at those sites and significant amounts of advertising mail-outs from the department. If the billboards are to be limited only to the Fremantle and Hillarys boat harbours it would be, in my view, impossible to raise the sorts of funds the government is talking about. Even if we were to build massive billboards across both those marinas, we would not raise \$10 million a year from those two sites.

The other question is: what are the other locations? I do not think this question will be picked up, but there are certainly strong rumours around town that Main Roads is looking at placing billboards along the sides of our highways. Again, I hope there will be proper public consultation and community engagement on that matter before the government proceeds. I do not think that these regulations we will be approving tonight will allow for that, but that is a question that could be legitimately confirmed or otherwise by the Minister for Transport. Main Roads may already have the power to place billboards on its land, but we need to know whether the government is going to seek to achieve its revenue streams through an advertising-led recovery of the state’s finances and whether it wants to make more money out of this state. I do not know whether the people of Western Australia want to see a sea of billboards on Department of Transport land or, for that matter, on Main Roads or Swan River Trust land. If we pass these regulations tonight, that is exactly what we will do, and we will have done it without ever having had a decent and proper explanation from the government about why it wants to do this, how it is going to do it, and where it is going to do it.

The government needs to give us a satisfactory answer to these questions, and I reiterate that it has had more than 12 months to do so; it has known for at least 12 sitting days that we would be debating this matter. I do not think it would come as any surprise to the government. I have asked for briefings from government agencies, and the government officers I have been briefed by know my position on this and my concerns about these regulations. I am concerned that they will open up a plethora of billboards across the state on Department of Transport land and a plethora of advertising mail-outs from the department. Without any guarantee, explanation of policy or commitment from the government that it will limit this, I am concerned about what a future government might do. At the very least, we should have some commitment from the government on the record before we pass these regulations to allow the Department of Transport into those areas.

HON LYNN MacLAREN (South Metropolitan) [7.46 pm]: I rise to support the very reasonable disallowance motion that Hon Ken Travers has placed on the notice paper. I am shocked and appalled at the notion that we could have a forest of billboards along our transport routes. I agree that Western Australians would not be very happy if that happened. We do not want to see this kind of unbridled advertising on our public lands and in areas where one really does not have a choice. We will be confronted with signals of rampant consumerism that, frankly, we do not need. I appreciate the disallowance motion that the member has put before us and the Greens (WA) support it. We are very concerned about how many billboards might be placed in these areas, and very concerned about what Hon Ken Travers has called the “advertising-led recovery” of funds. I can only hope that the government will provide us with the information being sought so that we may look at this matter having been more fully informed about the implications it will have for our public open spaces, our railways, our transport land and our river.

HON LJILJANNA RAVLICH (East Metropolitan) [7.47 pm]: Hon Ken Travers has put the Labor Party’s position on the record, and in his presentation he spoke at length about the section of the regulations that deals with the Department of Transport. What is concerning about these regulations is that they are not limited only to advertising and transport, and that signals that the government has a broader agenda here. Schedule 1 is amended by clause 4, and at clause 4(3) there is reference to the Department for Communities in which it refers to the sale by the Department for Communities of goods, information or intellectual property relating to community development. It also refers to the provision or sale by the Department for Communities of advertising opportunities or opportunities having a purpose similar to advertising, relating to community development, and the provision by the Department for Communities of training and management of advisory services relating to community development. Unfortunately there is no explanation about the nature of the sale by the Department for Communities of goods, information or intellectual property. What are the sorts of things that may be impacted upon by what we have before us? I find it concerning that the Economic Audit Committee made a number of recommendations about ways forward for the future, in which the private and public sectors would work more cooperatively together; there would be all sorts of delegations from the public sector to the private sector, and we would enter this brave new world of cooperation. That may well be the way this government wants to move forward, but it would make things considerably easier if we understood, for example, the real meaning behind what is proposed.

Also, at clause 4(4), for example, in schedule 1, part 2, under the item headed “Department for Communities”, there is the deletion of “information, publications”. Instead, we find the insertion of “information”. Therefore, in relation to the Department for Communities, it would read —

The sale by the Department for Communities of goods, information or intellectual property, relating to community development.

In the past, the reference to “information” was limited to “information, publications”. The sale of “information, publications” is quite different from the sale of “information”. What sort of information will be sold by the community, and who will it be sold to?

Hon Helen Morton: Did the honourable member see the comma after “information”?

Hon LJILJANNA RAVLICH: No. The parliamentary secretary may be able to advise us in respect of these matters. I concur with the points raised by Hon Ken Travers as to how this regulation and its changes impact upon the transport area. I also put on the public record my concern about changes vis-a-vis the Department for Communities.

HON PHILIP GARDINER (Agricultural) [7.51 pm]: I suspect that I do not speak for all Nationals but I certainly speak for some. I shall never forget my experience when I first went to London. I was walking down Piccadilly for the first time in the early 1970s and saw all the billboard advertisements across the street on the buildings, and I thought how ugly they looked. I rise tonight because I have some sympathy with the issue that Hon Ken Travers raised. I also respect that for each of us, advertising billboards, if they have any artistry, are a very individual taste. I do not want what I saw in Piccadilly, London, in 1972 reflected in our cities and towns, and even along our roads.

Probably since around the mid-1980s, streetscaping has become a profession in itself. I expect that streetscaping is mainly controlled under the jurisdiction of the local council in which it occurs, but these controls also apply to the way bus shelters are designed, where advertisements can be placed on them; how street signs are designed, including matters such as font and style; seats along streets or in parks; and tree guards. It is a consistent sight—that is, when it is done tastefully, it brings the city alive; when it is done poorly, it denigrates a place terribly.

We already see advertising on a number of our public vehicles—on our buses and taxis. As I recall, we do not have advertising on our trains. Rules apply to where signs can be placed on country roads. Sometimes the rules create no signage advantage because signs have to be a certain distance back from the edge of the road, except,

unfortunately, when it comes to an election. Who disobeys the rules most when it comes to an election? Once again, that advertising is ugly, even though we need to get information out about who we are. Rules are disobeyed when signs are placed on trees; I think that is irresponsible. I believe it is also illegal when it comes to the way Main Roads Western Australia applies its rules. We want billboards in our cities and by our roads, or wherever they might be in our metropolitan area, that represent some sense of style, some sense of dignity and some sense of modesty. I respect that each of our views will be different. We want some sense of artistry—not a crass, tawdry affair.

I have some sympathy with the motion proposed by Hon Ken Travers. I would like some assurance from the government, if it is under our jurisdiction, concerning how far we will go in terms of advertising and the tenor of what is proposed. I assume this Parliament has the jurisdiction to do that, but I also understand that city councils have their jurisdictional powers as well. I would like to hear what is expected to be put up so we can have a city which I think the vast majority of us would be proud of.

HON HELEN MORTON (East Metropolitan — Parliamentary Secretary) [7.56 pm]: Quite rightly, members have pointed out that the State Trading Concerns Act is enabling legislation. The legislation does not have specific information contained in it that determines how every bit of that will take place.

For Hon Ken Travers' information, the reason there are two separate pieces of legislation is that schedule 1 refers to the government agencies, or what is referred to as financial entities as government agencies, and schedule 2 refers to statutory corporations. That is why schedules 1 and 2 are in different sections.

Hon Ken Travers: I was suggesting maybe three would have been better so we treat each separately.

Hon HELEN MORTON: It is enabling legislation that enables the government to minimise the cost of services to government basically through generating revenue from the intellectual property that government owns, the exploitation of its expertise and to allow government to generate revenue from sponsorship and advertising.

In case people are unaware of the legislation, 18 different agencies are currently listed in schedule 1. The Department for Communities and the Department of Transport are two of them. All the other agencies are already able to undertake the sorts of activities that we are talking about.

Hon Ken Travers: That is only the case if they are listed for advertising.

Hon HELEN MORTON: Hang on. Of those 18 agencies, 14 came in as regulations during the term of the Labor government. The former government and this government recognise the importance of this enabling legislation to enable government agencies to undertake what has been prescribed. Most of it is the same. The Department for Communities talks about “the sale by the Department for Communities of goods, information”, and so did the Department for Community Development. The former Department of Consumer and Employment Protection and the Department of Environment and Conservation talk about similar things, as does the former Department of Industry and Resources. Lots of information talks about the range of services and activities that government agencies can undertake to generate that sort of revenue. It would be hard for me to imagine how we would not want that to happen in terms of, say, the Department of Health, when it has many opportunities to generate revenue under the sorts of things that it does. The area of safeguard, if that is what members opposite are looking for, is that sponsorship guidelines will need to be followed and ministerial approvals will need to be given. Hon Ken Travers suggested that under this enabling legislation, government notices might be able to include advertisements for brothels, or for sex shops, or whatever it was. It would be very, very unlikely that that would receive approval from the minister.

Hon Ken Travers: The PTA already allows Sexpo to advertise on its billboards. That is why I gave you that example.

Hon HELEN MORTON: As I have said, they will need to meet the sponsorship guidelines that have been determined.

The Department for Communities has identified a number of opportunities for generating revenue from the sale of publications and from the conduct of training courses by its officers. However, officers will require authorisation to do that. Officers will not be allowed to raise revenue for their agency unless that is done under this enabling legislation. There is no intention that the department will use this power to disclose any personal information about people and thereby incur the risks that members may be concerned about.

Hon Ljiljanna Ravlich raised a concern about the Department for Communities and the deletion of the word “publications”. There is a comma between the word “information” and the word “publications”. A publication is actually a good. Therefore, the word “publications” is repetitive and unnecessary. This is purely a housekeeping amendment. If the member looks at the other areas within the regulations, she will find that that is also how each of those other areas has been treated.

Hon Ljiljanna Ravlich interjected.

Hon HELEN MORTON: It suggests that publications are goods that are produced by the department, and “goods” is listed there.

The State Trading Concerns Act requires that these agencies put these regulations in place. As I have said, the purpose of these amendment regulations is to add these agencies to a list that already exists. It will merely replicate the range of services that are already listed in the regulations and enable these agencies to undertake those activities that allow them to generate revenue. It is not as specific as saying that there will be a billboard here or a billboard there. That will be left to the discretion of the relevant department.

Hon Ken Travers: But the Department of Transport is required to raise \$10 million. You know that from the estimates. You answered a question on that when we were debating the Treasurer’s Advance Authorisation Bill. How is it going to raise that \$10 million?

Hon HELEN MORTON: I will repeat my comment and say that this is a piece of enabling legislation undertaken by Treasury. I am not going to pinpoint for Hon Ken Travers in minute detail how \$10 million—or \$5 million or \$2 million—is going to be raised. I am saying that this legislation is required in order to enable any department to raise any revenue. We are seeking that this disallowance motion not be supported.

HON KEN TRAVERS (North Metropolitan) [8.02 pm]: — in reply: I did not jump to my feet, because I had hoped that maybe a government minister would get up —

Hon Simon O’Brien: You got up pretty quickly!

Hon KEN TRAVERS: I had hoped that a government minister would get up and give us at least some vague explanation of the government’s intentions with this bill. The parliamentary secretary was quite right to say that this piece of enabling legislation has been used by both sides of politics to allow governments to engage in trading operations. I did not come into this place and say that that is wrong. I did not say that the government is wrong for seeking to find legitimate ways of raising additional money through sponsorship. When we get to the next regulation, I will be happy if we can get a commitment from the government about what its intentions are for the Swan River Trust. If we can get such a commitment, we may even withdraw that disallowance motion. But it is extremely arrogant of the government and of the parliamentary secretary to come into this place and say that this house should pass enabling legislation that will allow the government to put in place advertising billboards. We clearly know that that is the government’s intention, because that is on the public record. We know also that the government still expects to raise \$5 million this financial year and \$10 million next financial year from that advertising. All we are asking for is an explanation of what the guidelines and the protections will be. We want to ensure that there will not be a plethora of billboards all over Department of Transport land and all over the government land that would be covered by these amendment regulations. As I pointed out earlier, the PTA, with its 190 billboards, and with all its buses and all its railway stations, has not been able to raise even the \$5 million—certainly that was the case two years ago—that the government expects the Department of Transport to raise this financial year.

Yes, this is enabling legislation. My point is that if we cannot get those commitments and guarantees from the government about its intentions with this enabling legislation, we should not put this legislation in place. If the government were to come back with clear guidelines about what type of advertising it is going to accept, what the volume of that advertising will be, and how much advertising will be put into departmental mail-outs, that would be a different kettle of fish. If the government were to say that all advertising will be limited to an ad that is no bigger than an A0-size poster at the Hillarys and Fremantle boat harbours, we might say that is okay; we will allow the government to put through this enabling legislation. But the government and the parliamentary secretary have not done that. The parliamentary secretary came into this place and said very arrogantly, “We’re not going to tell you. Just give us the powers.”

Hon Ed Dermer: It is keeping secrets.

Hon KEN TRAVERS: Yes. The government is saying, “We haven’t told you for 12 months, and we’re not going to tell you tonight either.” I suspect that the government is assuming that it has the numbers. Maybe it does have the numbers. I agree with Hon Phil Gardiner. I hope that as a member of the alliance government he will be able to keep the government under control if this bill is passed tonight with the support of the National Party. I hope that the National Party will make sure that we do not end up with a plethora of advertising billboards. However, I suspect that a problem will arise once this enabling legislation has gone through this house. I say that because there are no commitments or guarantees on the public record about the government’s intentions with this legislation. I suspect that even if the minister were to give us those commitments, once this enabling legislation has been passed by this house, the minister’s agency could go out tomorrow and ignore those commitments. I would hope that the agency would be honourable and would not do that. But, no, the government is not

even prepared to go that far. The government just says, “Trust us. Give us the enabling legislation, and we will do it.”

The planning protections that apply to government-owned land are not the same as those that apply to privately-owned land. The parliamentary secretary is right. This is enabling legislation. It is enabling legislation that will give these government agencies carte blanche to do what they like, without any guarantees and without any protections. We know that this government has placed an obligation on the Department of Transport to find \$5 million from advertising this year and \$10 million from advertising next year. I do not see how the department will be physically able to do that, without giving us a plethora of advertising material every time we get a letter from the department, and without putting a plethora of billboards at every Department of Transport site. But, no; the government will not even give us explanation of its intentions with this legislation. It is not as though this matter has come up only in this year’s budget. It came up also in last year’s budget—over 12 months ago. It is the height of arrogance and the height of hypocrisy on the part of this government. We did not come in here and say, “This is a matter of principle; we will defeat this legislation, because the government should not be involved in any form of trading.” We have asked for an explanation and a guarantee that we will not see a plethora of advertising by government departments. What we see regularly from this government is the height of arrogance. All the government can say is, “We do not need to tell this chamber anything; therefore, we are not going to tell it anything.”

We will have to wait and see what the outcome of this legislation will be. However, I say to the house that until that we get those commitments and guarantees from this government, we should not support this disallowance motion. We should not allow the government to put in place this enabling legislation until it is prepared to give the house not only those commitments and guarantees, but also the policies. The government’s sponsorship policy will not cover advertising. I therefore urge members to support this disallowance motion.

Question put and a division taken with the following result —

Ayes (12)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Robin Chapple

Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina

Hon Lynn MacLaren
Hon Ljiljanna Ravlich
Hon Ken Travers

Hon Giz Watson
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

Noes (17)

Hon Liz Behjat
Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Wendy Duncan

Hon Brian Ellis
Hon Donna Faragher
Hon Philip Gardiner
Hon Alyssa Hayden
Hon Col Holt

Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O’Brien

Hon Max Trenorden
Hon Ken Baston (*Teller*)

Pairs

Hon Jon Ford
Hon Sally Talbot
Hon Linda Savage

Hon Nigel Hallett
Hon Nick Goiran
Hon Phil Edman

Question thus negatived.