National Competition Policy Amendments (Commonwealth Financial Penalties) Bill.

Second Reading

Mr BOB CARR (Maroubra—Premier, Minister for the Arts, and Minister for Citizenship) [3.59 p.m.]: I move:

That this bill be now read a second time.

I must share with the House the comments of the honourable member for Upper Hunter during question time. He said the provisions of this bill are unnecessary because the Liquor Act currently restricts the grant of licences to convenience stores and service stations. What a big, exciting revelation by the honourable member for Upper Hunter. Now we know why Luna Park went bust when he was in charge of it! Poor George got it wrong: that restriction applies under section 49C (3) of the Act only to stores in rural and remote areas. We are, first, broadening the definition of "convenience store" to include milk bars, corner stores and mixed businesses, and, secondly, introducing an absolute ban on the grant of a licence to a service station irrespective of location. By the way, what about the performance of the honourable member for Epping earlier? He is now testing the excellence of services provided by paramedics in New South Wales.

The simple purpose of the National Competition Policy Amendments (Commonwealth Financial Penalties) Bill is to enable New South Wales to avoid penalties being imposed by the Federal Government on the advice of the National Competition Council [NCC]. Every member of this House will be aware that the Commonwealth is compelling New South Wales to change the way we regulate these industries or forfeit $51 million in competition payments because the NCC has deemed us "non-compliant" under the National Competition Principles Agreement. That $51 million represents 20 per cent of the competition payments due to New South Wales, and the threat will continue to hang over us unless we do the NCC's bidding.

Now, $51 million is a lot of money. It is double the value of this year's class size reduction plan or enough money to hire 750 new nurses. It is a tough, unfair penalty. We have ploughed through nearly 200 pieces of legislation since 1995, reforming them along the way to meet competition requirements. We have led the way on major energy, water and transport reforms, which is what competition policy was said in the early 1990s to be all about. These reforms have helped make Australia's gross domestic product 2.5 per cent higher than it would have been otherwise and they have made the average household income about $7,000 a year more than it was at the start of the 1990s. Yet despite our exemplary record the NCC has made this assessment of New South Wales. We have made numerous submissions to the council expressing our deep displeasure, and we have provided detailed assessments, as required by the National Competition Principles Agreement. In September last year I wrote a letter to the Prime Minister—to which I referred earlier in the House—saying that if the Federal Government applied the penalties we would have no alternative but to implement the reforms.

Let me start with the liquor industry. It may have escaped the attention of the NCC, but during last year's election campaign we announced a summit on alcohol abuse—and it was held last August. In light of that we very sensibly delayed making any changes to our liquor laws pending the outcomes of that summit. This is not about an unwillingness to comply; it is about an incomplete reform that is still being developed by the Government and our stakeholders, because we said we wanted to involve the community in our work. Despite that very cogent explanation, which we patiently put before the Commonwealth, New South Wales faces one of the heaviest national competition penalties. Given the substantial harm associated with alcohol abuse and the clear support for tight regulation that came out of the Alcohol Summit, we strongly support the maintenance of a robust liquor regulatory regime. However, the National Competition Council continues to hold that the current needs test in the Liquor Act restricting the number and location of liquor outlets is being used by existing liquor licensees to restrict competition.

Therefore, this bill will make changes to the Liquor Act's licensing provisions that we think will be sufficient to satisfy the Commonwealth while hopefully maintaining the integrity of our liquor licensing system. The bill will replace the needs test with a rigorous and comprehensive social impact assessment process. It will also change the way that fees for liquor licences are determined in line with National Competition Council [NCC] demands. More importantly, the bill will impose an absolute ban on the sale of alcohol through petrol stations and expand the current restrictions on the sale of alcohol by broadening the definition of convenience stores to include corner shops, mixed businesses, and milk bars while retaining special exemptions for small towns and remote areas. We will not allow the Commonwealth's demands to result in a proliferation of liquor outlets across New South Wales if we can possibly prevent it. These amendments will commence on or before 1 July this year.

I turn now to the poultry meat industry. The NCC's doctrinaire approach is evident in its approach to this industry. This is an industry in which the processors rather than the growers have the bulk of market power. When we think of the level of hard work and investment put in by the State's 330 chicken growers we can appreciate that it is only fair that

they have a reasonable degree of protection in a tough marketplace. That is why in New South Wales an industry committee sets base prices and approves agreements between poultry growers and processors for the supply of poultry. However, the National Competition Council is set upon decentralising our practical, effective system of grower-processor contract negotiations. We therefore reluctantly concede the abolition of the existing Poultry Meat Industry Committee's power to set standard rates for poultry supplied by growers to processors.

Our bill also abolishes the existing requirements that contracts between growers and processors be approved by the committee. It will now be up to individual farmers and processors as to how they negotiate contracts and what those contracts will contain. The bill refocuses the industry committee on facilitating contract negotiations rather than on its previous role of assessing whether prices and contract terms are reasonable. While this model removes the prescriptive role of the industry committee, the Government has made sure that the Act retains important protection for chicken growers. Our legislation will, for example, retain the right of chicken growers to bargain collectively with individual processors, preserving the negotiating power of the many small individual growers in their contract negotiations with a few large processors.

The bill will also ensure that registered agreements between growers and processors are authorised under the Commonwealth Trade Practices Act, protecting the agreements from any legal challenge. It will enable individual growers to opt out of collective bargaining if they choose. We will retain the strong regulatory support for growers through the oversight role of the industry committee. These are not amendments of our choosing. I want the State's chicken growers to know that we have done everything we can to maintain as much as possible of the old system. We are doing everything we can to stop poultry growers being squeezed by the big processors. These amendments will commence on 30 June this year.

The Dental Practice Act 2001 and the Optometrists Act 2002 currently restrict the ownership of dental and optometry practices, with some exemptions when consumer protection is assured. The New South Wales Government believes this is a balanced approach, but again the crusaders at the National Competition Council and the Federal Treasurer—who was not overruled by the Prime Minister—have branded our fair, practical system as anticompetitive. The bill therefore reluctantly provides for the removal of restrictions on the ownership of dental and optometry practices. At the same time the bill retains health and safety protections and prohibits employers from directing or inciting a dentist or optometrist in their employ from engaging in unsatisfactory professional conduct, including overservicing.

The pharmacy industry is another area in which successive New South Wales governments have retained sensible regulation. The dispensing of often dangerous drugs needs an ethical, patient-centred approach. That is why the Pharmacy Act 1964 contains various restrictions, including restricting the entry of new friendly societies into the market and restricting ownership to pharmacists. These provisions prevent unrestricted corporate consolidation in the pharmacy sector and ensure that consumers are protected. The National Competition Council is—surprise, surprise—not happy with this, and the Prime Minister and the Federal Treasurer have fallen into line. Whose fault is it? I can reveal to the House—this is an exclusive—that the Pharmacy Guild is meeting right now with the Prime Minister because the pharmacists know where responsibility for this lies. The Pharmacy Guild has gone straight to Canberra and is meeting with the Prime Minister this afternoon. So we have kept to the minimum of what we think is necessary to keep the NCC, the Federal Treasurer and the Prime Minister at bay.

The bill removes the cap on the number of pharmacies that pharmacists may own and the restrictions on the entry of new friendly societies, but it does not allow for unbridled corporate consolidation of pharmacy ownership. This reflects the Government's view, which is apparently shared by the Prime Minister, who describes himself as "a strong supporter of maintaining the tradition of pharmacies owned and operated by pharmacists". If the Prime Minister believes in that, he should lift the penalty, reverse his Federal Treasurer's policy, and return the money—send us a cheque. That is the way to get this legislation pulled out of the Chamber: send us a cheque.

If the Commonwealth continues to regard our amended legislation as inconsistent with competition policy there will be more painful decisions on the way. This legislation could still fail the NCC test, and if John Howard and Peter Costello support the implementation of the NCC recommendations, there will have to be, I repeat, more painful decisions and we will be forced to return to this legislation and amend it accordingly. Could anyone believe that farm debt mediation—the requirement that a bank mediate with a farmer before evicting him or her—has attracted the attention of the NCC, with the initial support of the Federal Government? I cannot believe that their overzealous approach would aim at this. The silence of the National Party on this is remarkable. The Farm Debt Mediation Act provides farming families in financial trouble with the welcome right to attempt mediation before lenders move to "enforce their security", which usually means evicting people from their farms.

To remove any misunderstanding, when I use the familiar acronym "NCC", members on my side of the House know that I am not invoking the organisation with a long history based in Melbourne called the National Civic Council. When the National Competition Council first looked at this it did not regard our legislation as being in the public interest. Such is its purest view of competition, it wanted us to overturn the Act.

After a concerted campaign by our friends in Country Labor—good old Country Labor comes in like the cavalry in western movies; the cry for assistance goes up, Country Labor is there, on their horses, flags flying, bugles sounding, leading a revolt in country New South Wales—Canberra was forced to back down and now is only insisting on two changes to the Act. Another win for Country Labor. One change provides that if the Rural Assistance Authority finds that a lender has not attempted to mediate in good faith, the lender must wait 12 months before enforcing its security.

The second change provides for the review of Rural Assistance Authority decisions by the Administrative Decisions Tribunal.

While removing these provisions to satisfy the insatiable demands of the Commonwealth, the bill retains our fair and cost-effective system of farm debt mediation that has protected farming families during tough times. I thank my Country Labor colleagues for their enthusiastic support for the fight on this front. This is one piece of legislation I wish I never had to introduce: a shotgun law introduced under the threat of a $51 million penalty resulting from the overzealous application of competition policy and the animus of the Federal Treasurer intent on enforcing NCC recommendations and a Prime Minister who ignored my plea—an eloquent plea, I might say, if one reads my letter of September last year—to not fine New South Wales and not force us to undertake the actions I have just outlined.

The Government has calibrated, as best it can, the provisions of the bill so they will have the least possible impact on New South Wales families, while at the same time preserving essential services from a $51 million cut we simply cannot afford. I reluctantly commend this bill to the House and urge the Commonwealth Government and the National Competition Council to take a more balanced view of competition policy.