



Competition and Consumer (Price Inquiry— Water Markets in the Murray-Darling Basin) Direction 2019

I, Josh Frydenberg, Treasurer, give the following direction to the Australian Competition and Consumer Commission.

Dated: 8 August 2019

Josh Frydenberg
Treasurer

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Part 1—Preliminary

1 Name

This instrument is the *Competition and Consumer (Price Inquiry—Water Markets in the Murray-Darling Basin) Direction 2019*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
|---------------------------------|--|--------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. | |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Competition and Consumer Act 2010*.

4 Definitions

Note: Expressions have the same meaning in this instrument as in the *Competition and Consumer Act 2010* as in force from time to time—see paragraph 13(1)(b) of the *Legislation Act 2003*.

In this instrument:

carryover arrangement has the meaning given by subsection 1.07(1) of the *Basin Plan 2012*.

exempt supply has the meaning given by subsection 95A(1) of the Act.

goods has the meaning given by subsection 95A(1) of the Act.

infrastructure service has the meaning given by subsections 12.47(5A) of the *Basin Plan 2012*.

inquiry has the meaning given by subsection 95A(1) of the Act.

intervalley transfer has the meaning given by subclause 3(1) of Schedule D to the Murray-Darling Basin Agreement.

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Murray-Darling Basin has the meaning given by the *Water Act 2007*.

Murray-Darling Basin Agreement has the meaning given by Part 1A of the *Water Act 2007*.

Note: The text of the Murray-Darling Basin Agreement is set out in Schedule 1 to the *Water Act 2007*.

services has the meaning given by subsection 95A(1) of the Act.

supply has the meaning given by subsection 95A(1) of the Act.

the Act means the *Competition and Consumer Act 2010*.

trade has the meaning given by subsection 1.07(2) and (3) of the *Basin Plan 2012*.

tradeable water rights has the meaning given by the *Water Act 2007*.

water market intermediary has the meaning given by subsection 1.07(1) of the *Basin Plan 2012*.

Part 2—Price inquiry into water markets in the Murray-Darling Basin

5 Commission to hold an inquiry into water markets in the Murray-Darling Basin

- (1) Under subsection 95H(1) of the Act, the Commission is required to hold an inquiry into markets for tradeable water rights relating to water in the Murray-Darling Basin. The inquiry does *not* extend to any of the following:
 - (a) seeking to identify the social and economic impact of water trading on communities in the Murray-Darling Basin;
 - (b) considering the effectiveness of water buy-backs for environmental purposes;
 - (c) the supply of a good or service that is an exempt supply.

Note: The matters referred to in paragraphs (a) and (b) fall within the scope of other inquiries.

- (2) Under subsection 95J(1), the inquiry is to be held in relation to goods and services of the following description:
 - (a) tradeable water rights; and
 - (b) services facilitating the trade of tradeable water rights, including those offered by water market intermediaries; and
 - (c) infrastructure services in relation to tradeable water rights.
- (3) Under subsection 95J(2), the inquiry is *not* to be held in relation to the supply of goods and services by a particular person or persons.

6 Directions on matters to be taken into consideration in the inquiry

Under subsection 95J(6) of the Act, the Commission is directed to take into consideration the following matters in holding the inquiry:

- (a) market trends since 2012, including demand for water, changes in the location where water is used, the quantity of water traded, water availability, changes in water users and their communities, development of new trading products, and the number of participants and sectors participating in the water markets;
- (b) the role of carryover arrangements, and the trading of water allocations which have been carried over, on water markets;
- (c) the role and practices of market participants, including water brokers, water exchanges, investment funds and significant traders of water allocations and entitlements;
- (d) the availability to the public of information on water market activities and tradeable water right holdings;
- (e) the timeliness, accuracy, and completeness of public information released on water market activities and tradeable water right holdings, including true trade price reporting and the types of trade (for example, immediate purchases, forward contracts, leases);

Section 7

- (f) barriers to entry, expansion and exit, including transaction costs;
- (g) the management of constraints on the storage or delivery of water, including adjustments made to give effect to trades and intervalley transfers.

7 Directions as to holding of the inquiry

Under subsection 95J(6) of the Act, the Commission is directed to do the following in holding the inquiry:

- (a) seek and consider the views of participants involved in water markets and other persons directly involved in water markets;
- (b) recommend options to enhance markets for tradeable water rights relating to water in the Murray-Darling Basin, including options to enhance the markets' operations, transparency, regulation, competitiveness and efficiency;
- (c) give to the Treasurer an interim report on the inquiry by 31 May 2020.

Example: Participants involved in water markets, and other persons directly involved in water markets, include irrigation farmers, investors, water brokers, water exchanges, water registries and other service providers facilitating the trading of water, environmental water holders, urban water authorities, other infrastructure operators, and market advisors and analysts.

8 Period for completing the inquiry

Under subsection 95K(1) of the Act, the inquiry is to be completed, and a report on the matter of inquiry given to the Treasurer, by 30 November 2020.