

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Treasurer**

#### *Competition and Consumer Act 2010*

#### *Competition and Consumer (Price Inquiry–Digital Platforms) Direction 2020*

Section 95H of the *Competition and Consumer Act 2010* (the Act) provides that the Minister may require the Australian Competition and Consumer Commission (ACCC) to hold an inquiry into a specified matter or matters.

The *Competition and Consumer (Price Inquiry–Digital Platforms) Direction 2020* (the Direction) is made under subsection 95H(1) and provides a direction to the Chairperson of the ACCC requiring the ACCC to hold a price inquiry into the markets for the supply of digital platform services.

The inquiry will support the Government’s commitment to promoting competition and good consumer outcomes in the markets for the supply of digital platform services, including by proactively investigating and monitoring the factors that influence prices for the supply of digital platform services. As such, the Treasurer is requesting the ACCC hold a price inquiry into the markets for the supply of digital platform services.

Part 1 of the Direction provides the machinery provisions of the instrument, including the definitions. To assist with understanding the scope of the definitions of ***data brokers*** and ***digital content aggregation platforms***, the following are examples of suppliers currently operating as data brokers: Quantum, Experian, Oracle, Data Republic and Acxiom. The following are examples of current digital content aggregation platforms: Google News, Apple News and Flipboard.

Part 2 of the Direction provides the terms of reference for the inquiry and guidance on the matters to be taken into consideration. The inquiry will be held in relation to the specified goods and services within the markets for the supply of digital platform services including, digital advertising services supplied by digital platform services providers, and data collection, storage, supply, processing and analysis services provided by digital platform service providers or data brokers.

The ACCC must also regularly monitor the markets for the supply of digital platform services for the intensity of competition amongst suppliers, market trends that may affect suppliers’ market power, impact of innovation and technological changes, and developments in overseas markets.

The ACCC must give the Treasurer an interim report on the inquiry by 30 September 2020 and then every six months on observed changes since the last report and other relevant matters. The ACCC must provide a final report to the Treasurer by no later than 31 March 2025. The ACCC must not release any interim report for public inspection until authorised by the Treasurer in writing.

In accordance with section 17 of the *Legislation Act 2003*, the ACCC has been consulted on the terms of this Direction.

The Direction is a legislative instrument for the purposes of the *Legislation Act 2003*. However, the instrument is not disallowable and does not sunset (see *Legislation (Exemptions and Other Matters) Regulation 2015*).

The Direction commences the day after the instrument is registered.

A statement of Compatibility with Human Rights is at [Attachment A](#).

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Competition and Consumer (Price Inquiry–Digital Platforms) Direction 2020**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

Section 95H of the *Competition and Consumer Act 2010* (the Act) provides that the Minister may require the Australian Competition and Consumer Commission (ACCC) to hold an inquiry into a specified matter or matters.

The *Competition and Consumer (Price Inquiry–Digital Platforms) Direction 2020* (the Direction) is a direction to the Chairperson of the ACCC to hold a price inquiry into the markets for the supply of digital platform services.

The Direction sets out the terms of reference for the inquiry.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.