

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Employment, Skills, Small and Family Business

Industry Research and Development Act 1986

Industry Research and Development (Supporting Small Business to Go Digital Post-COVID-19 Program) Instrument 2020

Purpose and Operation

Section 33 of the *Industry Research and Development Act 1986* (the IR&D Act) provides a mechanism for the Minister to prescribe programs, by disallowable legislative instrument, in relation to industry, innovation, science or research, including in relation to the expenditure of Commonwealth money under such programs.

The statutory framework provided by section 33 of the IR&D Act enables a level of flexibility to provide authority for Commonwealth spending activities in relation to industry, innovation, science and research programs. This allows the Government to respond quickly and appropriately to the need to implement innovative ideas and pilot programs on an ongoing basis and as opportunities arise. Prescribing programs in legislative instruments provides transparency and parliamentary oversight of Government programs and spending activities, whilst reducing administrative burden on the Commonwealth.

Once a program is prescribed by the Minister under section 33, subsection 34(1) allows the Commonwealth to make, vary or administer arrangements in relation to activities under the prescribed program. Arrangements may include contracts, funding agreements or other arrangements, and may provide for money to be payable by the Commonwealth to one or more third parties. The power conferred on the Commonwealth by subsection 34(1) may be exercised on behalf of the Commonwealth by a Minister or an accountable authority of a non-corporate entity, or by their delegate (under section 36).

The purpose of the *Industry Research and Development (Supporting Small Business to Go Digital Post-COVID-19 Program) Instrument 2020* (the Legislative Instrument) is to prescribe the Supporting Small Business to Go Digital Post-COVID-19 Program (the Program).

The funding for the Program has been secured through the 2020-21 Appropriation Bills. The Program provides \$7.47 million in 2020–21 as part of the Australian Government’s commitment to supporting small business to go digital.

The Program will fund a ‘Go Digital’ advertising campaign to promote the benefits of digital technology to small business, the Australian Small Business Advisory Services Program and other Australian Government services directed at supporting small businesses’ digital capability. As part of the same campaign, the Program will also fund the development and promotion of COVID-19-specific small business case studies highlighting the benefits of implementing digital technologies. The intended outcome of the Program is to encourage

small business owners to implement digital technologies that include an online element in their businesses.

'Go Digital' media campaign

Activities under the 'Go Digital' campaign will include:

- developmental research to inform the need for a communication campaign
- engagement of a creative agency to develop communication products and assets
- media buy and placement
- baseline, tracking and evaluation research, and
- communicating campaign information to special audiences (including culturally and linguistically diverse, Indigenous, regional and remote businesses, small businesses with a low digital maturity and women in business), on information such as:
 - Australian Government programs and services and where to access them (including promotion of expansion of the Australian Small Business Advisory Services Digital Solutions program (ASBAS-DS))
 - advice on accessing COVID-19 stimulus packages for small business, and
 - demonstrating benefits of small businesses adopting digital technology in their own business operations.

The purpose of the advertising campaign is to promote a broad 'Go Digital' message to small businesses and their trusted advisors, highlighting:

- the benefits of digital technology to small businesses
- what technological solutions are available with examples from real businesses that resonate with, and reflect the diversity of, small business owners
- how businesses are transitioning with the assistance of technology to stay viable, for example by moving online, digitalising payments or streamlining processes, marketing online or with social media, and using cloud technology to work remotely
- Australian Government support available (that has an online element), for example and not limited to, the ASBAS-DS program, on-line information on business.gov.au, the Digital Readiness Assessment tool and the Guide to Digital Transformation, and
- development of 25 COVID-19 specific small business case studies highlighting the benefits of 'going digital'.

Funding authorised by this Legislative Instrument comes from Program 4.1: Support for Small Business, Outcome 4. Details are set out in the *Portfolio Budget Statements 2020-21, Industry, Science, Energy and Resources Portfolio*.

The Program funding provides up to \$7.47 million through procurements on AusTender, in accordance with the *Commonwealth Procurement Rules* (<https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules>). Spending decisions will be made according to the Department of Industry, Science, Energy and

Resources financial delegations. Under the Program, covered procurements will be subject to the *Government Procurement (Judicial Review) Act 2018*.

The Program will not be subject to merits review as funding decisions involve funds being provided on a one-off payment basis to certain service providers, over other service providers.

The department is required to approach suppliers on the whole-of-government Campaign Advertising Supplier Register (CASR). The CASR is managed by the Communication Advice Branch (CAB) and contains communication experts interested in and having experience working on Australian Government advertising and information campaigns. Suppliers are being selected in collaboration with the CAB in the Department of Finance.

Persons who are otherwise affected by decisions or who have complaints about the Program will also have recourse to the Department. The Department investigates any complaints about the Program in accordance with its complaints policy and procedures. If a person is not satisfied with the way the Department handles the complaint, they may lodge a complaint with the Commonwealth Ombudsman.

Communications power

The Legislative Instrument specifies that the legislative power in respect of which it is made is the communications power (section 51(v) of the Constitution). Section 51(v) of the Constitution empowers the Parliament to make laws with respect to 'postal, telegraphic, telephonic and other like services'.

In that regard, funding provided under the Legislative Instrument will support a media campaign to be run on radio, television, social media and print media to promote and encourage small business owners to take up the use of digital technology with an online element for their small businesses.

Authority

Section 33 of the *Industry Research and Development Act 1986* provides authority for the Legislative Instrument.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, the Attorney-General's Department has been consulted on this Legislative Instrument.

In the development of the Supporting Small Business to Go Digital Post-COVID-19 Program extensive consultation took place with:

- The Department of the Prime Minister and Cabinet
- The Department of Home Affairs
- The Digital Transformation Agency
- The Department of Agriculture, Water and the Environment
- The Treasury

- The Department of Foreign Affairs and Trade
- The Department of Finance
- The Department of Infrastructure, Transport, Regional Development and Communication
- Attorney-General's Department
- Office of Best Practice and Regulation, and
- The National Indigenous Australians Agency.

Regulatory Impact

It is estimated that the regulatory burden is likely to be nil (OBPR reference number 42491).

Details of the *Industry Research and Development (Supporting Small Business to Go Digital Post-COVID-19 Program) Instrument 2020*

Section 1 – Name of Instrument

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Supporting Small Business to Go Digital Post-COVID-19 Program) Instrument 2020*.

Section 2 – Commencement

This section provides that the Legislative Instrument commences on the day after registration on the Federal Register of Legislation.

Section 3 – Authority

This section specifies the provision of the *Industry, Research and Development Act 1986* (the IR&D Act) under which the Legislative Instrument is made.

Section 4 – Definitions

This item provides for definitions of terms used in the Legislative Instrument.

Section 5 – Prescribed Program

This section prescribes the Supporting Small Business to Go Digital Post-COVID-19 Program (the Program) for the purposes of section 33 of the IR&D Act.

The Program will fund an advertising campaign to encourage small businesses to go digital post COVID-19, including the development and promotion of COVID-19 specific small business case studies highlighting the benefits of ‘going digital’, the promotion of the Australian Small Business Advisory Services Program, and the promotion of other Australian Government services directed at supporting small businesses’ digital capability.

Section 6 – Specified Legislative Power

This section specifies that the legislative power in respect of which the Legislative Instrument is made is the power of the Parliament to make laws with respect to postal, telegraphic, telephonic and other like services (within the meaning of paragraph 51(v) of the Constitution).

Statement of Compatibility with Human Rights

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

Industry Research and Development (Supporting Small Business to Go Digital Post-COVID-19 Program) Instrument 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

The purpose of the Legislative Instrument is to prescribe the Supporting Small Business to Go Digital Post-COVID-19 Program (the Program).

The Program provides funding for a “Go Digital” advertising campaign, including funding for:

- (a) the promotion of:
 - (i) the benefits of digital technology to small business; and
 - (ii) the Australian Small Business Advisory Services Digital Solutions Program; and
 - (iii) other Australian government services directed towards supporting small businesses’ digital capability; and
- (b) the development and promotion of COVID-19-specific case studies of small businesses, highlighting the benefits of implementing digital technologies.

The Program encourages small business owners to implement digital technologies that include an online element.

Human rights implications

The Instrument engages with the following conventions:

1. *Convention on the Elimination of all Forms of Discrimination Against Women, and*
2. *Convention on the Elimination of All Forms of Racial Discrimination*

Articles 2, 3 and 11 of the Convention on the Elimination of all Forms of Discrimination Against Women recognises the dignity and worth of the human person and in the equal rights of men and women.

Article 2 of the Convention on the Elimination of All Forms of Racial Discrimination recognises the right to full and equal enjoyment of human rights and fundamental freedoms without distinction of any kind, in particular race, colour or national origin.

The program will involve the promotion of benefits of digital technology to small business, the Australian Small Business Advisory Services Program and other Australian Government

services directed at supporting small businesses' digital capability, including to women in business, culturally and linguistically diverse (CALD) business owners, and Indigenous business owners.

In particular, the targeted promotion of available advisory services through the Australian Small Business Advisory Services Program to women, CALD and Indigenous business owners will ensure these groups have a better knowledge of the support available to them. This assists the development and advancement of women, CALD and Indigenous business owners, supporting their access to employment and economic security.

Conclusion

This Legislative Instrument is compatible with human rights as it has a positive effect on the applicable human rights.

Senator the Hon Michaelia Cash
Minister for Employment, Skills, Small and Family Business