

## **EXPLANATORY STATEMENT**

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

#### *Competition and Consumer Act 2010*

#### *Competition and Consumer (Price Inquiry–Child Care) Direction 2022*

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–Child Care) Direction 2022* (the Direction) is made under subsection 95H(1) of the Act. The Direction requires the ACCC to hold a price inquiry into approved child care services.

The inquiry will support the Government’s commitment to promoting competition and good consumer outcomes in the child care services market, including by bringing more transparency to the pricing practices of child care providers.

Part 1 of the Direction provides the machinery provisions of the instrument, including the definitions.

Part 2 of the Direction provides the terms of reference for the inquiry and guidance on the matters to be taken into consideration. The ACCC must have particular regard to the costs incurred and prices charged by child care providers, how costs and prices differ in different circumstances, and factors affecting demand, supply and competition in the market. The ACCC must also consider the impact of these factors on the viability and profitability of providers and the impact and effectiveness of existing direct and indirect price regulation mechanisms in place.

The ACCC must give the Treasurer an interim report on the inquiry by 30 June 2023 and must provide a final report to the Treasurer by no later than 31 December 2023.

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

The Direction is a legislative instrument for the purposes of the *Legislation Act 2003*. In accordance with item 2 of the table in section 9 and item 3 of the table in section 11 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the instrument is not disallowable and does not sunset as it is a direction by a Minister to a person or body. It is appropriate that this instrument is not disallowable as it is a ministerial direction, and therefore executive control is intended. Similarly, the direction is intended to remain in place until the inquiry is completed or unless and until revoked by the Treasurer, and therefore it is appropriate that it not sunset.

The Direction commences the day after the instrument is registered.

## **Regulation Impact Statement**

The Office of Best Practice Regulation (OBPR) has been consulted (OBPR22-03036) and a regulation impact statement is not required.

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–Child Care) Direction 2022**

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–Child Care) Direction 2022* (the Direction) is a direction to the Chairperson of the ACCC to hold a price inquiry into approved child care services.

The Direction sets out the terms of reference for the inquiry. In conducting the inquiry, the ACCC must have particular regard to the costs incurred and prices charged by child care providers, how costs and prices differ in different circumstances, and factors affecting demand, supply and competition in the market. The ACCC must also consider the impact of these factors on the viability and profitability of providers and the impact and effectiveness of existing direct and indirect price regulation mechanisms in place. The ACCC must give the Treasurer an interim report on the inquiry by 30 June 2023 and must provide a final report to the Treasurer by no later than 31 December 2023.

#### **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.