

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Competition and Consumer Act 2010

Competition and Consumer (Price Monitoring—Petroleum Fuels) Direction 2022

Subsection 95ZE(1) of the *Competition and Consumer Act 2010* (the Act) provides that the Minister may give the Australian Competition and Consumer Commission (ACCC) a written direction to monitor prices, costs and profits relating to the supply of goods or services by persons in an industry, and to give the Minister reports on the monitoring. Subsection 95ZH(1) of the Act provides that the Minister may also give the ACCC a written direction to give special consideration to matters in exercising the ACCC's powers and performing the ACCC's functions under Part VIIA of the Act.

The purpose of the *Competition and Consumer (Price Monitoring—Petroleum Fuels) Direction 2022* (the Direction) is to require the ACCC to monitor the prices, costs and profits relating to the supply of goods or services by persons in specified industries. These industries are involved in the supply of petroleum fuels, or in the supply of services related to the supply of petroleum fuels.

The Direction also requires the ACCC to give special consideration to monitoring the prices, costs and profits relating to the supply of petroleum fuels and related services by persons in the industries specified in the Direction.

The Direction requires the ACCC to monitor prices, costs and profits for a period of three years, and to report to the Treasurer every three months on the monitoring during that period.

The Direction is in the same form as the *Competition and Consumer (Price Monitoring—Petroleum Fuels) Direction 2019* (the Previous Direction), which was made on 16 December 2019. The monitoring and reporting period covered by the Previous Direction expires at the end of 31 December 2022.

The Direction has been developed in consultation with the ACCC.

Details of the Direction are set out in [Attachment A](#).

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 price monitoring is completed or unless and until revoked by the Treasurer, and therefore it is appropriate that the Direction does not sunset.

The Office of Best Practice Regulation (OBPR) has been consulted (OBPR22-03779) and a regulation impact statement is not required. The measure has a low impact on compliance costs.

The Direction commenced the day after the instrument is registered.

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

Details of the *Competition and Consumer (Price Monitoring—Petroleum Fuels) Direction 2022*

Section 1 – Name of the Direction

This section provides that the name of the Direction is the *Competition and Consumer (Price Monitoring—Petroleum Fuels) Direction 2022* (the Direction).

Section 2 – Commencement

The Direction commenced on the day after the instrument was registered on the Federal Register of Legislation.

Section 3 – Authority

The Direction is made under the *Competition and Consumer Act 2010* (the Act).

Section 4 – Schedules

Section 4 provides that each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Section 5 – Definitions

Section 5 provides definitions of expressions used in the Direction.

The industries referred to in section 4 are defined by reference to the Australian and New Zealand Standard Industrial Classification 2006 (ANZSIC) published by the Australian Bureau of Statistics (1292.0). ANZSIC is used as a standard means of classifying business units into industry sectors.

The references to ANZSIC are as that document was revised and in force at the time the Direction commenced. At the time the Direction was registered, this document was freely available on the Australian Bureau of Statistics' website (<http://www.abs.gov.au>).

Section 6—Object

Section 6 states the object of the instrument, which is to continue the ACCC's monitoring and reporting on the prices, costs and profits relating to the supply of petroleum products and related services in the petroleum industry in Australia.

Section 7—Commission to monitor prices

Section 7 directs the ACCC to monitor prices, costs and profits relating to the supply of goods or services by persons in specified industries. These industries are involved in the supply of petroleum fuels, or in the supply of services related to the supply of petroleum fuels.

The ACCC is required to monitor prices, costs and profits of the following industries:

- the fuel retailing industry;
- the petroleum product wholesaling industry;
- the petroleum fuel manufacturing industry; and
- the bulk petroleum storage sub-industry;

The ACCC is required to monitor prices, costs and profits for a period of three years, and to report to the Treasurer every three months on the monitoring during that period.

The Direction is given under subsection 95ZE(1) of the Act.

Section 8—Direction to give special consideration to specified matters

Section 8 directs the ACCC to give special consideration to monitoring the prices, costs and profits relating to the supply of petroleum fuel products and services related to the supply of petroleum fuel products when conducting the price monitoring required by the direction in section 6.

Section 8 also directs the ACCC to give special consideration to the object of the Direction when exercising its powers and performing its functions under the Act as required by the direction in section 6.

This direction is given because persons in the industries specified in the Direction in section 7 may also supply other goods and services that are not necessarily relevant to the core object of price monitoring of petroleum fuel products in Australia.

The Direction is given under subsection 95ZH(1) of the Act.

Schedule 1—Repeals

Schedule 1 repeals now inoperative directions relating to the monitoring of prices, costs and profits relating to the supply of petroleum fuels and related services.

Statement of Compatibility with Human Rights

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

Competition and Consumer (Price Monitoring—Petroleum Fuels) 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

The purpose of the *Competition and Consumer (Price Monitoring—Petroleum Fuels) Direction 2022* (the Direction) is to require the Australian Competition and Consumer Commission (ACCC) to monitor the prices, costs and profits relating to the supply of goods or services by persons in specified industries. These industries are involved in the supply of petroleum fuels, or in the supply of services related to the supply of petroleum fuels.

The Direction gives effect to the Government’s decision that the ACCC continue to monitor and report on the prices, costs and profits relating to the supply of petroleum products and related services in the petroleum industry in Australia.

The Direction also requires the ACCC to give special consideration to monitoring the prices, costs and profits relating to the supply of petroleum fuels and related services by persons in the specified industries.

The Direction requires the ACCC to monitor prices, costs and profits for a period of three years, and to report to the Treasurer every 3 months on the monitoring during that period.

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.