

EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Competition, Charities and Treasury

Competition and Consumer Act 2010

Competition and Consumer (Price Notifications–Aeronautical Services to NSW Regional Airlines) Declaration 2023

The object of the *Competition and Consumer Act 2010* (the Act) is to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection.

Section 95Z of the Act sets out offences in relation to the supply of notified goods or services by a declared person. In general terms, offences apply where a declared person supplies notified goods or services at a higher price than the highest price they charged for the goods or services in the same locality, or elsewhere in Australia if they did not supply the goods in that locality, in the previous 12 months. Section 95Z also provides defences for these offences. The Australian Competition and Consumer Commission (ACCC) has administrative responsibility for these provisions.

Section 95X of the Act provides that the Minister may declare goods or services of a specified description to be notified goods or services and may also declare a person to be, in relation to goods or services of a specified description, a declared person.

The *Competition and Consumer (Price Notifications–Aeronautical Services to NSW Regional Airlines) Declaration 2023* (the Declaration) declares services consisting of the provision of aeronautical services and facilities to regular public transport air services, operating wholly within the State of New South Wales, to be notified services. The Declaration also declares Sydney Airport Corporation Limited to be a declared person in relation to such services, to the extent that they are provided at Sydney (Kingsford-Smith) Airport.

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

A separate instrument, the *Competition and Consumer (Prices Surveillance–Aeronautical Services to NSW Regional Airlines) Direction 2023*, directs the ACCC to give special consideration to increases in the price of aeronautical services and facilities that are declared to be notified services by this Declaration. That direction applies to notified services that are provided by Sydney Airport Corporation Limited.

The Act does not specify any particular matters that the Minister must be satisfied of before making this Declaration.

Public consultation on this Declaration was not undertaken as it extends the existing price notification arrangements contained in the *Competition and Consumer (Price Notifications–Aeronautical Services to NSW Regional Airlines) Declaration 2022*, which applied from 1 July 2022 to 30 June 2023. However, consultation was undertaken with Sydney Airport Corporation and affected regional airlines on the proposal to extend the current arrangements by another three years prior to the making of this Declaration.

The price notification arrangements are extended for another three years, which will allow the Government time to review the arrangements in light of any findings made from the Aviation White Paper, which is expected to be released by the Government in 2024.

The Declaration is a legislative instrument for the purposes of the *Legislation Act 2003*, and is subject to disallowance and sunseting.

The Declaration commenced on 1 July 2023.

The Declaration applies from 1 July 2023 and ceases to have effect on 30 June 2026.

The Declaration is repealed on 1 July 2026.

The Office of Impact Analysis (OIA) has been consulted and considers that the Declaration is unlikely to have a more than minor impact, therefore an Impact Analysis is not required (OIA23-05001).

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

Details of the *Competition and Consumer (Price Notifications–Aeronautical Services to NSW Regional Airlines) Declaration 2023*

This attachment sets out further details of the *Competition and Consumer (Price Notifications–Aeronautical Services to NSW Regional Airlines) Declaration 2023* (the Declaration). All references are to the Declaration unless otherwise stated.

The Declaration extends the operation of the *Competition and Consumer (Price Notifications–Aeronautical Services to NSW Regional Airlines) Declaration 2022* (the previous declaration) for a further three years. Other than the extended duration, the Declaration has substantially the same effect as the previous declaration.

Part 1—Preliminaries

Section 1 – Name

This section provides that the name of the instrument is the *Competition and Consumer (Price Notifications–Aeronautical Services to NSW Regional Airlines) Declaration 2023*.

Section 2 – Commencement

This section provides that the Declaration commences on 1 July 2023.

Section 3 – Authority

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

Section 4 – Schedules

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

Section 5 – Definitions

This section contains the defined expressions that are used in the Declaration.

The Declaration specifies that the term ‘ABN’ has the meaning given by the *A New Tax System (Australian Business Number) Act 1999*.

The Declaration also specifies that the term ‘the Act’ means the *Competition and Consumer Act 2010*.

Part 2—Price Notifications

Section 6 – Notified services

This section provides that, for the purposes of Part VIIA of the Act, services consisting of the provision of aeronautical services and facilities to regular public transport air services, operating wholly within the State of New South Wales, are declared to be notified services.

Section 7 – Declared persons

This section provides that Sydney Airport Corporation Limited is a declared person in relation to notified services under section 6 of the Declaration to the extent that such services are provided at Sydney (Kingsford-Smith) Airport.

The section identifies Sydney Airport Corporation Limited by reference to its ABN (62 082 578 809).

Part 3—Application

Section 8 – Cessation and repeal

This section provides that the Declaration ceases to have effect on 30 June 2026 and is repealed on 1 July 2026.

This section satisfies the requirement in subsection 95X(4) of the Act, which requires that the Minister specify the time when a declaration that a person is a declared person ceases to have effect.

Schedule 1

Schedule 1 to the Declaration repeals the *Competition and Consumer (Price Notifications—Aeronautical Services to NSW Regional Airlines) Declaration 2022*, which applied from 1 July 2022 to 30 June 2023.

Statement of Compatibility with Human Rights

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

Competition and Consumer (Price Notifications–Aeronautical Services to NSW Regional Airlines) Declaration 2023

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 legislative instrument declares services consisting of the provision of aeronautical services and facilities to regular public transport air services, operating wholly within the State of New South Wales, to be notified services. The legislative instrument also declares Sydney Airport Corporation Limited to be a declared person in relation to such services, to the extent that they are provided at Sydney (Kingsford-Smith) Airport.

The effect of these declarations is that Sydney Airport Corporation Limited will commit an offence under section 95Z of the Act if it increases the price of the notified services specified in the legislative instrument beyond a price that it had charged for those services in the previous 12 months.

The legislative instrument extends the existing price notification arrangements contained in the *Competition and Consumer (Price Notifications–Aeronautical Services to NSW Regional Airlines) Declaration 2022* for a further three years.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms as Sydney Airport Corporation Limited is not a natural person.

Conclusion

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