



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

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I, Jim Chalmers, Treasurer, give the following direction to the Australian Competition and Consumer Commission.

Dated                    28 October 2022

Dr Jim Chalmers  
Treasurer

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## Part 1—Preliminary

### 1 Name

This instrument is the *Competition and Consumer (Price Inquiry—Child Care) Direction 2022*.

### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under the *Competition and Consumer Act 2010*.

### 4 Definitions

Note: Expressions have the same meaning in this instrument as in the *Competition and Consumer Act 2010* as in force from time to time—see paragraph 13(1)(b) of the *Legislation Act 2003*.

In this instrument:

**approved child care service** has the meaning given by section 194G of the *A New Tax System (Family Assistance) (Administration) Act 1999*.

**child care subsidy** has the meaning given by section 3 of the *A New Tax System (Family Assistance) Act 1999*.

**goods** has the meaning given by subsection 95A(1) of the Act.

**inquiry** has the meaning given by subsection 95A(1) of the Act.

**not-for-profit** has the same meaning as it has in the *Charities Act 2013*.

**price** has the meaning given by subsection 95A(1) of the Act.

**services** has the meaning given by subsection 95A(1) of the Act.

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***State or Territory authority*** has the meaning given by subsection 95A(1) of the Act.

***supply*** has the meaning given by subsection 95A(1) of the Act.

***the Act*** means the *Competition and Consumer Act 2010*.

## Part 2—Price inquiry into child care services

### 5 Commission to hold an inquiry

- (1) Under subsection 95H(1) of the Act, the Commission is required to hold an inquiry into the market for the supply of child care services. The inquiry is *not* to extend to any of the following:
  - (a) the supply of a good or service by a State or Territory authority;
  - (b) reviewing the operation of any Australian law (other than the Act) relating to approved child care services, except as necessary to consider the matters set out in section 6; and
  - (c) reviewing the operation of any program funded by the Commonwealth, or any policy of the Commonwealth (other than policies relating to competition and consumer protection, and in considering the matters set out in section 6).
- (2) For the purposes of subsection 95J(1), the inquiry is to be held in relation to goods and services that are approved child care services.
- (3) Under subsection 95J(2), the inquiry is *not* to be held in relation to the supply of goods and services of that description by a particular person or persons.

### 6 Directions on matters to be taken into consideration in the inquiry

Under subsection 95J(6) of the Act, the Commission is directed to take into consideration all of the following matters in holding the inquiry:

- (a) the costs incurred by providers of goods and services covered by subsection 5(2), including:
  - (i) the cost and availability of labour; and
  - (ii) the use of land and related costs; and
  - (iii) finance and administration costs; and
  - (iv) regulatory compliance costs; and
  - (v) the cost of consumables; and
- (b) the prices charged, since 1 January 2018, by providers of goods and services covered by subsection 5(2), including:
  - (i) price changes following the commencement of the *Family Assistance Legislation Amendment (Cheaper Child Care) Act 2022*; and
  - (ii) price changes as a result of Commonwealth policies that have the objective of lowering child care costs to consumers; and
- (c) how costs and prices differ by:
  - (i) provider type (for example, commercial and not-for-profit); and
  - (ii) provider size (for example, providers operating a single child care centre and providers operating multiple child care centres); and
  - (iii) type of child care services provided (for example, centre based day care, outside school hours care, family day care and in home care); and
  - (iv) age and characteristics of the child in child care; and

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- (v) geographical location (for example, urban, regional, and remote); and
- (vi) level of competition present in the market for the supply of child care services; and
- (vii) overall quality rating of the child care services provided, as assessed against the *National Quality Standard* (as at 1 February 2018) under the National Quality Framework, as published on the Australian Children’s Education and Care Quality Authority website; and
- (d) factors affecting demand, supply and competition in the market for child care services, including:
  - (i) the extent and existence of supplier practices and strategies in response to the existing government funding arrangements and regulatory settings; and
  - (ii) the impacts on the market from the coronavirus known as COVID-19, including the impact of the temporary coronavirus response measures contained in the *Child Care Subsidy Minister’s Rules 2017*; and
- (e) the impact of the above factors on child care provider viability, quality and profits; and
- (f) the impact and effectiveness of existing price regulation mechanisms and any impediments inherent in those mechanisms to their effective operation.

### **7 Directions as to holding of the inquiry**

Under subsection 95J(6) of the Act, the Commission in holding the inquiry is directed to give to the Treasurer an interim report on the inquiry by no later than 30 June 2023.

### **8 Period for completing the inquiry**

For the purposes of subsection 95K(1) of the Act, the inquiry is to be completed, and a report on the matter of inquiry given to the Treasurer, by no later than 31 December 2023.