



The Hon Christian Porter MP
Attorney-General
Minister for Industrial Relations
Leader of the House

MC20-028479

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation
sdlc.sen@aph.gov.au

31 AUG 2020


Dear ~~Senator Fierravanti-Wells~~

Thank you for your letter of 27 August 2020 regarding the Competition and Consumer (Industry Codes—Dairy) Regulations 2019 (the Dairy Code). I appreciate the time you have taken to bring the Committee's concerns to my attention.

I understand that the Committee is concerned that the civil penalty provisions in section 11 of the Dairy Code lack the clarity necessary to enable persons and entities to understand their obligations and the consequences of non-compliance. I also note the Committee's concerns about 'the pursuit of regulatory flexibility via the imposition of broadly drafted good faith provisions at the expense of legal clarity and certainty', and the request that I inquire into good faith obligations in Commonwealth legislation.

I appreciate the Committee's concerns about the issue, and agree that this is a matter which should be subject to further inquiry, subject to settling appropriate terms of reference. As you note, however, the matter raises complex, systemic issues, and the scope of the inquiry will need to be carefully examined. For instance, it will be necessary to consider whether the scope of the inquiry should extend to the duties of company directors under the *Corporations Act 2001*—or indeed the duties of officers of unions and employer organisations—and to draft terms of reference accordingly.

Such consideration necessarily takes time. Accordingly, while I consider the matter warrants inquiry, I do not anticipate I will be in a position to commence an inquiry by the date nominated in your letter. In the interim, I encourage the Committee to withdraw its disallowance motion, noting that disallowance of the Dairy Code could risk creating precisely the lack of clarity over the obligations of farmers and processors on the ground that your request seeks to avoid.

I have copied this letter to the Treasurer, the Hon Josh Frydenberg MP, and the Minister for Agriculture, Drought and Emergency Management, the Hon David Littleproud MP, given their responsibilities for the Dairy Code.

Thank you again for bringing the Committee's concerns to my attention.

Yours sincerely



The Hon Christian Porter MP
Attorney-General
Minister for Industrial Relations
Leader of the House

CC. The Hon Josh Frydenberg MP, Treasurer
The Hon David Littleproud MP, Minister for Agriculture, Drought and
Emergency Management



Senator the Hon Anne Ruston

**Minister for Families and Social Services
Senator for South Australia
Manager of Government Business in the Senate**

Ref: MB20-000954

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation
Parliament House
CANBERRA ACT 2600

Dear  ~~Senator Fierravanti-Wells~~

Thank you for your further consideration to my response of 31 August 2020 to the Senate Standing Committee for the Scrutiny of Delegated Legislation regarding the Coronavirus Economic Response Package (Deferral of Sunsetting – Income Management and Cashless Welfare Arrangements) Determination 2020 (the Determination) and the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019 (the Bill).

It has always been the Government's intention to consider the Bill as early as is practical. However, a number of factors have contributed to the current timing in considering the Bill. The priority for the Parliament remains legislation to support the response to the COVID-19 pandemic. Further, Parliamentary drafting resources have been focused on COVID-specific legislation, which has impinged the ability to draft Government amendments to the current Bill.

While consultation with stakeholders, including the Family Responsibilities Commission, took place in relation to the appropriate length of the extension period, the inability to undertake further consultation with the more than 23,000 impacted participants, many in remote Australia, and other stakeholders due to travel restrictions and community closures has impacted the timing of considering this Bill.

Finally, I have been in conversations with Labor and the crossbench to provide necessary information about the Bill and the Cashless Debit Card program more broadly to ensure they are fully informed on the impacts of the Bill.

The Government is committed to completing consultations and having drafting completed in time for reintroduction in the Budget sitting period. I also seek the usual 15 sitting days before the disallowance motion lodged on 31 August 2020 is considered.

The extension of the operation of the Cashless Debit Card in all existing sites and Income Management in the Cape York region, Queensland, for six months under the Determination has provided certainty to stakeholders and participants. Without this extension, participants would have experienced significant disruption to their financial arrangements, such as scheduled payments and transfers, at a time when access to on-the-ground support is limited due to travel restrictions and social distancing requirements.

Should the Committee seek to have the Determination disallowed and this motion is agreed to, there would be immediate and potentially serious impacts on program participants. Long-standing financial arrangements put in place by participants would be invalidated, leading to declined payments for scheduled bill repayments and rental transfers. If the Bill is subsequently passed, the cessation and subsequent reapplication of restrictions on participants within a short period of time is likely to create difficulties and confusion for participants.

I trust this information demonstrates the necessity of the Determination and the Government's commitment to consider the Bill as early as is practical.

Yours sincerely



✓ Anne Ruston

1 / 9 / 2020



Senator the Hon Anne Ruston

**Minister for Families and Social Services
Senator for South Australia
Manager of Government Business in the Senate**

Ref: MB20-000954

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation
Parliament House
CANBERRA ACT 2600

Dear Senator Fierravanti-Wells

Thank you for your letter of 26 August 2020 on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation regarding the Coronavirus Economic Response Package (Deferral of Sunsetting – Income Management and Cashless Welfare Arrangements) Determination 2020 (the Determination) and the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019 (the Bill).

The extension of the operation of the Cashless Debit Card in all existing sites and Income Management in the Cape York region, Queensland, for six months under the Determination has provided certainty to stakeholders and participants. Without this extension, participants would have experienced significant disruption to their financial arrangements, such as scheduled payments and transfers, at a time when access to on-the-ground support is limited due to travel restrictions and social distancing requirements.

As outlined in my letter of 29 June 2020, consultation was undertaken on the Determination including with the Family Responsibilities Commission in relation to the operation of Income Management in the Cape York region and in existing Cashless Debit Card sites with stakeholders and other community members.

The Committee has requested further information regarding whether the Bill can be scheduled for debate in the Senate during the current sitting fortnight.

The priority for the Parliament remains legislation to support the response to the COVID-19 pandemic. However, the Bill is currently before the Senate and will be scheduled for consideration as early as is practical.

Should the Committee seek to have the Determination disallowed and this motion is agreed to, there would be immediate and potentially serious impacts on around 13,000 program participants. Long-standing financial arrangements put in place by participants would be invalidated, leading to declined payments for scheduled bill repayments and rental transfers. If the Bill is subsequently passed, the cessation and subsequent reapplication of restrictions on participants within a short period of time is likely to create difficulties and confusion for participants.

The Determination also supports the local decision making that underpins the Income Management model in the Cape York region. Without the Determination in place, the Income Management component of the joint Commonwealth and Queensland Government Cape York Welfare Reform measure, delivered through the Families Responsibilities Commission (FRC) (a Queensland Government statutory authority), would cease and the operations of the FRC would be substantially disrupted. The FRC has been jointly funded by the Commonwealth and Queensland Governments since 2008.

I trust this information demonstrates the necessity of the Determination and the Government's commitment to consider the Bill as early as is practical.

Yours sincerely



/Anne Ruston

31 / 8 / 2020