



Australian Government

Office of the Australian Information Commissioner

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Committee Secretary
Senate Economics Legislation Committee
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Parliament House
Canberra ACT 2600

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Submission to the Inquiry into the Treasury Laws Amendment (Mergers and Acquisitions Reform) Bill 2024 [Provisions]

Dear Committee

The Office of the Australian Information Commissioner (OAIC) welcomes the opportunity to make a submission to the Senate Economics Legislation Committee's inquiry into the Treasury Laws Amendment (Mergers and Acquisitions Reform) Bill 2024 (Bill).

The OAIC is an independent Commonwealth regulator within the Attorney-General's portfolio, established to bring together three functions: privacy functions (protecting the privacy of individuals under the *Privacy Act 1988* (Cth) and other legislation), freedom of information (FOI) functions (access to information held by the Commonwealth Government in accordance with the *Freedom of Information Act 1982* (Cth) (FOI Act)), and information management functions (as set out in the *Australian Information Commissioner Act 2010* (Cth)).

As the Australian Information Commissioner, my role includes promoting open government to better serve the Australian community and ensuring that information held by government is a national resource that should be managed for public purposes. The FOI Act enshrines the right of access to information under Art. 19 of the *Universal Declaration of Human Rights*. The objects of the FOI Act include: to require agencies to publish information; provide a right of access to documents; and increase scrutiny, discussion, comment and review of the Government's activities.

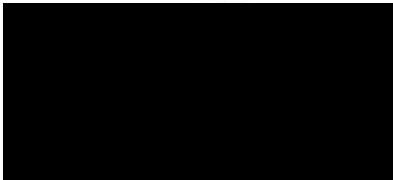
I understand that the Bill amends the *Competition and Consumer Act 2010* (CCA) to reform the merger review process by replacing existing informal review and formal authorisation processes, enforceable through Federal Court proceedings, with a mandatory administrative system for domestic acquisitions. This will involve a two-phase system of review by the Australian Competition and Consumer Commission (ACCC), as well as the availability of merits review by the Australian Competition Tribunal. The Bill also requires the ACCC to keep a public register of notified acquisitions.

I am supportive of the policy intent of the Bill to improve the transparency and predictability of the merger control system. Mergers and acquisitions have significant implications for the Australian economy and can have both beneficial and harmful impacts on consumers. Measures to improve the transparency of decision-making in respect of proposed acquisitions will promote sound governance and better public outcomes, ensuring that the Australian community can have confidence that notified acquisitions are subject to strong and independent regulatory oversight.

In particular, the proposed establishment of a public register of notified acquisitions will ensure the community is given timely information about acquisitions, including any determinations made and a statement of reasons. This will support the right to access information and will complement protections under the FOI Act.

I also welcome the Bill's intent to promote integrity and good decision-making by providing for merits review of decisions by the Competition Tribunal. Administrative review is integral to our democratic values and rights. Ensuring the right of review by a Tribunal with appropriate competition expertise will further enhance the quality and transparency of decision-making in respect of proposed acquisitions and promote government accountability.

Yours sincerely



Elizabeth Tydd
Australian Information Commissioner

21 October 2024