

Senate Standing Committee on Economics
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio
Inquiry into the foreign investment proposals
2019 - 2020

Division: Foreign Investment Division
Topic: The act and the publishing of a decision
Reference: Spoken

Question:

Senator PATRICK: In the New Zealand act, it talks about it almost in negative, opposite terms as opposed to the Australian act—or the way in which you're describing it, at least. The New Zealand act says you can publish everything except if it doesn't comply with their official secrecy act or one of their acts that give a reason not to publish.

Ms Kelley: Our act is not worded in that way, as you're aware.

Senator PATRICK: Sure.

Ms Kelley: As I was saying, like the tax conditions, are there some similar approaches we can take with other conditions? We are actually going to get some advice around that.

Senator PATRICK: I might take this offline with you. I know it's a sensitive area, but I will foreshadow: one option open to me is to simply seek, under FOI, a decision and a set of conditions and have it dealt with perhaps judicially in the AAT, for example, unless you can point to perhaps some case law where that's already been tested.

Ms Kelley: We'd have to take that on notice.

Answer:

We are not aware of any case law that has tested the interaction between the *Freedom of Information Act 1982* and the protected information provisions of the *Foreign Acquisitions and Takeovers Act 1975*.