



24 June 2021

Senator the Hon Simon Birmingham
Minister for Finance
Parliament House
CANBERRA ACT 2600

Via email: financeminister@finance.gov.au

CC: DLO-Finance@finance.gov.au; plc@finance.gov.au;


Dear Minister,

Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development and Communications Measures No. 2) Regulations 2021 [F2021L00409]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all disallowable legislative instruments against scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument, and the committee seeks your advice in relation to this matter.

Parliamentary oversight

The instrument inserts new table item 475 in the table in Part 4 of Schedule 1AB to the Financial Framework (Supplementary Powers) Regulations 1997 to establish legislative authority for government spending on the Tourism Aviation Network Support Program (the TANS program).

The explanatory statement to the instrument explains that the TANS program will provide grant funding to Australian airline operators to enable them to offer discounted fares for flights to and from identified regions affected by the downturn in international and domestic tourism resulting from the COVID-19 pandemic. The explanatory statement also states that the TANS program is part of the government's \$1.2 billion *Tourism and Aviation's Flight Path to Recovery* package. However, the explanatory statement does not specify how much of this funding is allocated to the TANS program.

Further, although the explanatory statement states that funding for the TANS program will be included in the 2021-22 Infrastructure, Transport, Regional Development and Communications Portfolio Budget Statements, in those statements the program funding is listed as "not for publication".¹ The explanatory statement also states that "due to ongoing contract negotiations

1 Infrastructure, Transport, Regional Development and Communications Portfolio, *Portfolio Budget Statements 2021–22*, p. 45.

with airlines, it is not appropriate to make the final funding amount for the TANS program publicly available at this stage".

The committee notes that the scrutiny of instruments made under the *Financial Framework (Supplementary Powers) Act 1997* is a key aspect of parliamentary scrutiny and control of Commonwealth expenditure. In this regard, the committee is concerned that the non-disclosure of the funding amount may inhibit Parliament's capacity to effectively scrutinise such instruments.

The committee therefore requests your advice as to:

- **whether it is intended at any point in the future to inform the Parliament as to the amount of funding that is expected to be expended on the TANS program; and**
- **if not, a more detailed justification as to why the amount of funding should not be published and not disclosed to the Parliament, noting the importance of effective parliamentary oversight of executive expenditure.**

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **8 July 2021**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation