The Hon Catherine King MP

Minister for Infrastructure, Transport, Regional Development and Local Government
Member for Ballarat

Ref: MC24-004991

Senator Dean Smith
Chair of Standing Committee for the Scrutiny of Bills
Senator for Western Australia
Parliament House
CANBERRA ACT 2600

via: scrutiny.sen@aph.gov.au

Dear Senator Smith

Thank you for the Senate Scrutiny of Bills Committee's correspondence of 17 May 2024 regarding the New Vehicle Efficiency Standard Bill 2024 (the Bill).

I appreciate the time the Committee has taken to review the Bill, and have enclosed my response to the Committee's questions for its consideration **Attachment A**.

Yours sincerely

Catherine King MP

24 /6 /2024

Enc

PO Box 6022 Parliament House, Canberra ACT 2600 | Tel: (02) 6277 7520

Attachment A

Significant matters in delegated legislation

1.145 In light of the above, the committee requests the minister's detailed advice as to:

- **why it is considered appropriate and necessary to include the content of the offences in clauses 62 and 63 in rules rather than in the bill;**
- **whether there are appropriate legislative safeguards in place; and**
- **whether the approach taken is consistent with the Guide to Framing Commonwealth Offences.**

Chapter 2 of the *Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers* (the Guide) provides guidance on when delegating the content of an offence to an instrument may be appropriate. This includes where the relevant content involves a level of detail that is not appropriate for an Act. It is appropriate to include the content of clauses 62 and 63 in the rules as the Registry is an administrative tool to record the issuing of units and transactions involving units. The requirements and conditions of Registry accounts will therefore involve a high level of administrative detail, making it more appropriate to be specified in the rules rather than the Act. As an example of the type of requirements or conditions that could be set, the Bill contains two conditions that the Secretary may impose on a registry account in subclause 69(3), being retaining records for a period of 7 years and complying with requests from the Secretary to provide specified information that is relevant to the account.

Chapter 2 of the Guide also includes principles that should be applied in developing appropriate safeguards for offences containing content delegated to a subordinate instrument. These principles include that the content delegated to the subordinate instrument should be clearly defined in the Act, and further, that a mechanism is put in place to ensure that the subordinate rule is readily obtainable. There are appropriate safeguards in clauses 62 and 63 as the content is clearly defined and circumscribed in the Act, being conduct that either contravenes the requirements or the conditions of Registry accounts. Additionally, the rules will be readily obtainable by Registry account holders, and the general public, as the rules are a legislative instrument and will therefore be available on the Federal Register of Legislation. The offences in clauses 62 and 63 also affect an identifiable class of people, the holders of registry accounts, and these people will be consulted when changes are made to the rules covering registry accounts.

Privacy

1.151 In light of the above, the committee requests the minister's detailed advice as to:

- **what extent the bill provides for the disclosure or publication of personal information; and**
- **what safeguards are in place to protect this information, including whether the Privacy Act 1988 applies.**

As the committee has noted, provisions exist around the sharing and publishing of information. As the committee has correctly pointed out, these provisions will apply to corporations rather than individuals as virtually all vehicle type approvals are held by companies, and consequently do not involve the disclosure or publication of personal information. However, the *Privacy Act 1988* (Privacy Act) will still apply to the Bill so as not to infringe upon the privacy of any involved individuals.

The protections in the Privacy Act would also apply to the collection, use and disclosure of all personal information and sensitive information that is collected about individuals. For example, some personal information is likely to be required to identify those people who are those involved in running Registry accounts for their employers. While the nature of the light vehicle market means that most information collected will be about companies, nonetheless a Privacy Impact Assessment will be undertaken to assist in the identification of potential impacts the disclosure or publication of information may have on individuals.

THE HON DR ANDREW LEIGH MP

ASSISTANT MINISTER FOR COMPETITION, CHARITIES AND TREASURY
ASSISTANT MINISTER FOR EMPLOYMENT

Ref: MC24-010372

Senator Dean Smith
Senate Scrutiny of Bills Committee
Suite S1.111
Parliament House
CANBERRA ACT 2600

Scrutiny.sen@aph.gov.au

Dear Chair

Thank you for your correspondence of 27 June 2024, concerning the Excise and Customs Legislation Amendment (Streamlining Administration) Bill 2024 (the Bill).

I have attached a detailed response to the matters raised by the Senate Committee for the Scrutiny of Bills in the Committee's Scrutiny Digest 7 of 2024.

I trust that the information attached provides further context about the drafting of the bill and assists with the Committee's deliberations.

Thank you again for your letter.

Yours sincerely

Andrew Leigh

W: andrewleigh.com | E: andrew.leigh@treasury.gov.au | P: +61 2 6277 4140
Parliament House Canberra ACT 2600 Australia

Excise and Customs Legislation Amendment (Streamlining Administration) Bill 2024

In the Committee's *Scrutiny Digest 7 of 2024*, you sought my advice as to:

- the appropriateness of the penalties of two years imprisonment for proposed subsections 39K(1A) and 39M(2); and
- whether these penalties are broadly equivalent to similar offences in Commonwealth legislation and if not, why not.

The new offence provisions are the equivalent of existing provisions for other types of excise licenses and permissions under the *Excise Act 1901* (Excise Act). The penalties are appropriate sanctions to protect revenue in circumstances of manufacture or storage of excisable goods while a licence to do so is suspended, or removal of excisable goods on which duty has not been paid from premises not covered by a licence.

The new subsections 39K(1A) and 39M(2) substantially replicate existing subsections 39K(1) and 39M(1), immediately preceding them. The new subsections relate to suspension of a licence for specific premises or variation of a licence not to cover specific premises, rather than suspending or cancelling the whole licence. Under previous law, licences related to a single premise, with the ATO undertaking enforcement action against a specific premise by suspending or cancelling that premise's licence.

The streamlining amendments made by the Bill enable multiple premise licences held by a single person to be combined into one licence. As a result, new powers were introduced to suspend a licence in relation to specific premises or vary a licence so as not to cover specific premises. This preserves the current enforcement framework. For drafting reasons, new offences were created that relate to these new powers, but it is not intended that the substance of the enforcement arrangements or regulatory outcomes change. This is reflected in the identical penalties that apply for the new offences.

The penalties for these offences are consistent with existing offences in the Excise Act, as well as similar offences elsewhere in Commonwealth legislation that are designed to protect of excise or customs duty revenue.

The offences are consistent with the principles in the Attorney-General's Department Guide to Framing Commonwealth Offences, Infringement Notice and Enforcement Powers. In particular, for the reasons discussed, they are consistent with penalties for existing offences of a similar kind or of a similar seriousness (see principle 3.1.2).

W: andrewleigh.com | E: andrew.leigh@treasury.gov.au | P: +61 2 6277 4140
Parliament House Canberra ACT 2600 Australia

The Hon Jason Clare MP
Minister for Education

Reference: MC24-006881

Senator Dean Smith
Chair
Senate Scrutiny of Bills Committee
Suite 1.111
Parliament House
CANBERRA ACT 2600

By email: scrutiny.sen@aph.gov.au

Dear Chair

Thank you for your correspondence of 27 June 2024 regarding the Senate Standing Committee for the Scrutiny of Bills' consideration of the Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024 (the Bill).

The Committee has requested my advice on whether the Bill could be amended to omit subsections 14C(8), 14D(8), 14E(6) and 14F(6) so that legislative instruments made under subsections 14C(1) and (3), 14D(1) and (3), 14(E)1 and 14F(1) which operate to enable the Minister for Education to manage applications for registration of new providers and new courses, are subject to appropriate parliamentary oversight through the usual disallowance process.

Exemption from disallowance

1.115 In light of the above, the committee requests the Minister's advice as to whether the bill could be amended to omit subsections 14C(8), 14D(8), 14E(6) and 14F(6) so that legislative instruments made under subsections 14C(1) and (3), 14D(1) and (3), 14E(1) and 14F(1) are subject to appropriate parliamentary oversight through the usual disallowance process.

I note the Committee's concern that the legislative instruments proposed to be made under subsections 14C(1), 14C(3), 14D(1), 14D(3), 14E(1) and 14F(1) will be exempt from disallowance.

For the reasons set out below, I do not consider that the Bill should be amended to omit subsections 14C(8), 14D(8), 14E(6) and 14(F), and subject to the legislative instruments made under subsections 14C(1) and (3), 14D(1) and (3), 14(E)1 and 14F(1) to the usual disallowance process.

Unscrupulous providers entering the international education sector can pose significant risks to international students and threaten the social licence of the sector. Similarly, low quality courses with systemic issues do not leave international students with the quality education outcomes they deserve, harming the sector's reputation.

Sections 14C and 14D provide me with the power to determine that ESOS agencies must not, or may not, process applications made by providers for registration under section 9 of the *Education Services for Overseas Students Act 2000* (ESOS Act), or applications made by registered providers to add courses to their registration under section 10H of the ESOS Act. Any restriction on the processing of applications by an ESOS agency under instruments made under sections 14C and 14D is limited to 12 months' duration.

Sections 14E and 14F provide me with the power to determine that no applications are to be made by providers for registration under section 9 of the ESOS Act, or that no applications are to be made by registered providers to add courses to their registration under section 10H of the ESOS Act. The exercise of these powers will impact on the performance of an ESOS agency's functions and their resourcing arrangements. Providers may also make adjustments to their commercial operations and business plans in response to an instrument, to ensure that they are able to continue providing domestic focused education services.

It is not appropriate for the instruments made under subsections 14C(1) and (3), 14D(1) and (3), 14(E)1 and 14F(1) to be subject to disallowance. Subjecting these instruments to disallowance may cause uncertainty for the operations and functions of ESOS agencies, and for providers, as any instrument should be relied upon from the date it takes effect. The exemptions from disallowance for these legislative instruments are appropriate and necessary to give education providers confidence to make commercial decisions to respond to an instrument, and ESOS agencies confidence to divert resourcing to integrity issues. It is intended that these powers will only be exercised in limited circumstances, for example, where there are concerns relating to integrity or sustainability of the international education sector and urgent and decisive action is required.

The matters dealt with in the legislative instruments made under subsections 14C(1) and (3), 14D(1) and (3), 14(E)1 and 14F(1) should remain under Executive control (in this case, control of the Minister for Education). The primary purpose of the instruments is to support the functioning and operation of ESOS agencies and their role in regulating providers where integrity risks are present. Furthermore, I note that instruments made under sections 14C and 14D to pause the processing of applications are limited to 12 months' duration, to assist ESOS agencies in managing the immediate risk posed by new sector entrants and new courses. Such instruments will therefore be used as temporary, short-term administrative measures to appropriately manage applications. Noting the limited timeframe in which such instruments will apply, it is appropriate for it to remain under Executive control.

The use of these powers is also constrained by the requirements in proposed subsection 14G(1) requiring the Minister for Education to consult with Tertiary Education Quality Standards Agency, the National Vocational Education and Training Regulator, and the Secretary of the Department of Education. Further, the Minister must, under proposed subsection 14G(2), obtain the written agreement of the Minister who administers the *National Vocational Education and Training Regulator Act 2011* prior to making an instrument under the new sections.

I also note that the Department of Education has consulted with the Attorney-General's Department in relation to these instruments being exempt from the usual disallowance process.

I trust this information is of assistance.

JASON CLARE

11 / 7 / 2024

Attorney-General

Reference: MC24-032583

Senator Dean Smith
Chair
Senate Scrutiny of Bills Committee
Parliament House
CANBERRA ACT 2600

By email: Scrutiny.Sen@aph.gov.au

Dear Chair

I refer to the request of the Senate Standing Committee for the Scrutiny of Bills in Digest 7 of 2024 dated 26 June 2024, for further information in relation to the Criminal Code Amendment (Deepfake Sexual Material) Bill 2024.

I appreciate the time the Committee has taken to consider the Bill, and thank the Committee for the opportunity to address the comments raised in its initial scrutiny. Please see attached my response to the questions raised by the Committee.

I trust this information is of assistance.

Yours sincerely

THE HON MARK DREYFUS KC MP
12/7/2024

Encl. *Response to the Committee's questions on the Bill.*

Response to Senate Standing Committee on the Scrutiny of Bills

Scrutiny Digest 7 of 2024

1.71 In light of the above, the committee requests the Attorney-General's advice as to:

- **Whether a definition of the term 'sexual pose' can be provided;**

The inclusion of the language 'sexual pose' is not a new concept introduced by the Bill into the *Criminal Code Act 1995* (the Criminal Code). This language currently exists in the Criminal Code under the definitions of 'child abuse material' and the 'private sexual material' in section 473.1.
It has existed in the Criminal Code since the introduction of the child sexual abuse offences under the *Crimes Legislation Amendment (Telecommunications Offences And Other Measures) Act (No. 2) 2004.*

The Criminal Code purposefully does not define 'sexual pose'. This ensures that the application of offences such as those that apply to child abuse material and private sexual material can be interpreted in line with societal norms, and complexities relating to sexuality or sexualisation of persons where it relates to adults. A specific statutory meaning of 'sexual pose' could lead to conduct being criminalised that reasonable persons would otherwise accept over time requiring legislation to be updated frequently. The current approach relies on case law to determine how it is applied over time.

This approach is broadly consistent with Commonwealth, state and territory comparative offences for child abuse material, and state and territory comparative offences for the non-consensual sharing of sexual images for adults.

- **Whether clarity can be provided as to whether existing subsection 473.1(1) applies to the offence under proposed subsection 474.17A(1); and**

There is no proposed or existing subsection 473.1(1) in the Criminal Code. However, if this refers to section 473.1, it sets out the definitions within the Criminal Code for telecommunications services offences under Part 10.6. The definitions will apply where offences refer to those terms. For example, under the proposed subsection 474.17A(1) of the Bill, terms that will have definitions under section 473.1 include *'carriage service'*, *'depict'*, *'material'*, and *'use'*.

- **Why the offence under existing section 474.17A of the *Criminal Code Act 1995* has been broadened to capture AI-Generated material as opposed to creating of a separate offence to prosecute such material.**

Part 10.6 of the Criminal Code is framed broadly to refer to the use of technology (i.e. the use of a carriage service). This ensures that the offences are technology neutral and can apply to existing and future technologies. It does not identify specific technologies (such as artificial intelligence technologies) as part of the operative text of the criminal offences.

It is proposed that the new offences capture both simulated and real material as ultimately what is being criminalised is the sharing of sexual material without consent. Both simulated and real material have a singular objective, similar penalties, similar harms, have similar exceptions and fundamentally criminalise conduct that impacts the privacy of individuals.

It is also noted that this approach is taken with other offences in the Criminal Code. For example, the definition in 473.1 of 'child abuse material' which applies to the child abuse material offence under section 474.22 covers both simulated and real image and video material, amongst other things.

1.78 As the explanatory materials do not adequately address this issue, the committee requests the Attorney-General's detailed justification as to why it is proposed to use offence-specific exceptions (which reverse the evidential burden of proof) in relation to the offence under proposed subsection 474.17A(1), and requests further guidance as to the operation of the exceptions.

Subsection 474.17A(1) sets out specifically what sexual material is for the purposes of the proposed new offence. There are a range of exceptions under subsection 474.17(3) to the transmission of this material without the consent to ensure the offence is targeted and proportionate and does not overly criminalise the sharing of sexual material for legitimate purposes.

It is appropriate to have offence-specific exceptions that reverse the evidential burden of proof from the prosecution to the defendant as the matters identified in each of the exceptions are expected to be peculiarly within the knowledge of the defendant, and it would be significantly more difficult and costly for the prosecution to disprove than for the defendant to establish the matter. Each of the exceptions are clearly identified on the face of the legislation, and explained within the explanatory material accompanying the Bill.

These exceptions are consistent with the exceptions for removal notices for the non-consensual sharing of intimate images in the *Online Safety Act 2021*.

Each of the exceptions and relevant examples are set out below.

Subsection 474.17A(3)(a)(i) – (ii) - *Where transmission is necessary for, or of assistance in, the enforcement of a law of the Commonwealth, a State or a Territory; Where transmission is necessary for, or of assistance in, the enforcement of a law of the Commonwealth, a State or a Territory*

- It is critical that a person be able to transmit sexual material for the purposes of criminal investigations and prosecutions. For example, where a law enforcement officer transmits sexual material that is subject to a criminal investigation to a prosecutor.
- It is also critical that others, such as regulators (e.g. Office of the eSafety Commissioner) be able to transmit sexual material with a law enforcement agency (such as the Australian Federal Police) who may be investigating whether the transmission of the material amounted to a criminal offence under the proposed new offences.

Subsection 474.17A(3)(b) - *Where transmission of the material is for the purposes of proceedings in a court or tribunal*

- Sexual material may be transmitted for the purposes of proceedings in a court or tribunal. For example, if a person applied to the Administrative Appeals Tribunal in relation to a decision to issue a removal notice under the *Online Safety Act 2021*, the eSafety Commissioner could electronically provide the Tribunal with the sexual material for the purposes of a review of the decision.

Subsection 474.17A(3)(c) - *Where transmission is for a genuine medical or scientific purpose*

- Sexual material may be transmitted for a genuine medial or scientific purpose. For example, an image taken of a person by a doctor to send to a colleague to discuss treatment options, where that image may otherwise amount to sexual material under the proposed new offences.

Subsection 474.17A(3)(d) - *Where a reasonable person would consider transmitting the material to be acceptable, having regard to a range of things sets out between subparagraphs 474.17A(3)(d).*

- This exception importantly introduces a reasonable persons' test to ensure that conduct that would otherwise be acceptable by a reasonable person is not subject to overly broad criminalisation. In applying this exception, a decision-maker will have regard to:

- The nature and content of the material,
- The circumstance in which the material was transmitted,
- The age, intellectual capacity, vulnerability, or other relevant circumstances of the person depicted, or appearing to be depicted, in the material,
- The degree to which the transmission of the material affects the privacy of the person depicted, or appearing to be depicted, in the material,
- The relationship between the person transmitting the material and the person depicted, or appearing to be depicted, in the material, or
- Any other relevant matters.

- This test is an objective test and the exception means that material considered socially acceptable to transmit, can in fact be transmitted, notwithstanding they may meet the meaning of sexual material under subsection 474.17A(1). For example, the exception may apply where:
  - A person has downloaded material that was published online and expected that consent was provided for the material due to the commercial nature of such material and its availability; or
  - Photographs of models that were specifically taken with permission for advertising or publication.
- The new offences are not intended to capture private communications between consenting adults or interfere with private sexual relationships. For example, a willing participant in a sexual relationship sending photos of themselves in a sexual pose to their willing partner.

1.79 In relation to the exception under proposed paragraph 474.17A(3)(d), the committee seeks the Attorney-General's justification as to why these matters have not been included as elements of the offence under proposed subsection 474.17A(1).

The proposed new offences concern the non-consensual transmission of sexual material.
The circumstances around the transmission of the material will be uniquely within the knowledge of the defendant, and it would be significantly more difficult and costly for the prosecution to prove that in any given case the nature and content of the material, the circumstances of the transmission, privacy impacts and other matters, was not reasonable according to socially acceptable standards.

Undue trespass on rights and liberties

1.85 In light of the above, the committee seeks the Attorney-General's justification as to why it is necessary for the prosecution to institute proceedings as a result of proposed subsection 474.17AB(5) for an offence under proposed subsection 474.17A(1) when a conviction is set aside under proposed subsection 474.17AB(4), noting that this would require a person to stand trial twice for the same factual circumstances when guilt as to the offence under proposed subsection 474.17A(1) would already have been established in a previous proceeding.

Proposed subsection 474.17AA(1) sets out the first of the new aggravated offences, namely where the transmission of sexual material without consent occurs, and, before the commission of the offence, three or more civil penalty orders were made against the person under the civil prohibition and civil penalty regime under the *Online Safety Act 2021*.

The proposed subsection 474.17AB(4) largely mirrors a similar provision under the existing offences. This subsection ensures if a conviction under subsection 474.17AA(1) is set aside due to one or more of the civil penalty orders being set aside or reversed on appeal, it does not prevent proceedings being

instituted against the person for the underlying proposed offence under section 474.17A or the other aggravated offence under subsection 474.17AA(5).

This provision critically preserves the ability for separate criminal proceedings to be undertaken against a defendant to hold them accountable for their actions where the grounds forming the basis for a conviction against subsection 474.17AA(1) have fallen away.

- For example, a defendant is convicted of an offence against subsection 474.17AA(1), then subsequently a successful challenge is made against one of the civil penalty orders that formed part of that conviction. While the conviction is set aside, it is appropriate that there be a possibility for criminal proceedings to be brought for the underlying criminal offence (section 474.17A) or for the creation or alteration of sexual material under the alternative aggravated offence under 474.17AA(5).

This is important and appropriate to ensure that perpetrators are held accountable for their conduct.

THE HON STEPHEN JONES MP

ASSISTANT TREASURER AND MINISTER FOR FINANCIAL SERVICES

Ref: MC24-010262

Senator Dean Smith
Chair
Senate Scrutiny of Bills Committee
Suite 1.111
Parliament House
Canberra ACT 2600

scrutiny.sen@aph.gov.au

Dear Senator Smith

Thank you for your correspondence concerning the Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024.

I have attached a detailed response to the matters raised by the Senate Committee for the Scrutiny of Bills in the Committee's *Scrutiny Digest 7 of 2024.*

I trust that the information attached provides further context about the drafting of the bill and assists with the Committee's deliberations.

Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024

Schedule 2 – Buy Now Pay Later

In the Committee's *Scrutiny Digest 7 of 2024*, you requested my advice as to:

- what safeguards are in place to protect personal financial information, including whether the *Privacy Act 1988* applies to all licensees entering into low-cost credit contracts;

Schedule 2 to the Bill amends the *National Consumer Credit Protection Act 2009* (the Credit Act) to bring buy now pay later (BNPL) contracts within the application of the Credit Act by establishing a new form of regulated credit known as "low-cost credit contracts" (LCCCs), of which BNPL contracts are a class. Part IIIA of the *Privacy Act 1988* (Privacy Act), supported by the *Privacy (Credit Reporting) Code 2014* (CR Code), provides privacy protections relating to credit reporting in Australia, including the use and disclosure of credit reporting information by credit providers as defined under section 6G of that Act. This includes an organisation or small business operator if they carry on a business, a substantial part of which is the provision of credit.

Part IIIA of the Privacy Act therefore applies to all licensees entering into a LCCC if they are a credit provider as defined by that Act, regardless of their annual turnover. While previously some LCCCs may have been considered a "non-participating credit provider" under section 6 of the Privacy Act and consequently exempt from certain requirements of Part IIIA, the proposed amendments in Schedule 2 to the Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024, now require LCCC providers to hold an Australian Credit Licence (ACL) and be subject to scalable responsible lending obligations (RLOs). Given that these requirements may include obtaining credit information about consumers, providers may no longer be considered "non-participating credit providers" and exempt from certain requirements of Part IIIA.

To the extent a licensee entering into a LCCC has an annual turnover of more than $3 million, they will also be subject to the other privacy protections under the Privacy Act, including the Australian Privacy Principles.

In addition to Part IIIA of the Privacy Act, part 3-2CA of the Credit Act forms part of Australia's Credit Reporting Framework which is designed to enable effective lending decisions by credit providers whilst ensuring the personal information of consumers is adequately protected. Currently, the core credit provisions mentioned are under review by the Attorney General's Department as part of the review of Australia's Credit Reporting Framework with a report expected before 1 October 2024.

Separate to the legislative framework outlined above, the Australian Finance Industry Association's (AFIA) BNPL Code of Practice also requires providers to treat information in accordance with AFIA's privacy policies and prevents the disclosure of information except in specified circumstances. The AFIA BNPL Code sets best practice standards for the sector and strengthens consumer protections and covers approximately 95% of the market.

Schedule 4 - Multinational tax transparency—country by country reporting

You also requested my advice as to:

- whether documents incorporated by reference under proposed subparagraph 3DA(7)(b)(iii) of the Taxation Administration Act 1953 will be made freely available to all persons interested in the law.

Schedule 4 amends the *Taxation Administration Act 1953* (TAA) to impose a new reporting obligation on certain large multinational enterprises. Proposed subparagraph 3DA(7)(b)(iii) of the TAA provides the power to make regulations to prescribe a document, or part of a document, that entities must have regard to (where relevant) in interpreting the information they are required to publish under the amendments.

Consistent with the documents currently referenced under proposed paragraph 3DA(7)(a) and subparagraphs 3DA(7)(b)(ii) and (ii) of the TAA, it is expected any documents prescribed by the regulations will be freely and publicly available to ensure entities can meet their reporting obligations. This reflects the intention that the interpretation materials are existing public documents, developed by public facing, standard setting organisations such as the Global Reporting Initiative (GRI) or Organisation for Economic Co-operation and Development (OECD).

The purpose of the regulation-making power is to allow the Government the ability to update the documents that may be used in interpreting the information entities are required to publish, as and when the standard setting bodies update their guidance, without needing to amend the primary legislation. For example, if the GRI or the OECD release updated guidance in addition to those documents already referenced under proposed subsection 3DA(7), the regulation-making power could be used to prescribe the updated guidance in a timely manner. Guidance released by the GRI or OECD is generally made freely available on their respective websites.

Further, any documents prescribed by the regulations would be subject to disallowance and therefore would be subject to appropriate Parliamentary scrutiny. Pursuant to section 17 of the *Legislation Act 2003*, additional documents that are proposed to be included through regulations would also be subject to appropriate consultation.

Schedule 6 - National skills and workforce development payments

You also requested my advice as to:

- whether proposed subsection 12A(3) can be removed to allow for appropriate parliamentary oversight of ministerial determinations through the usual disallowance process;
- whether the bill could place a limitation on the amount of funds that may be appropriated or duration in which it will exist for;
- whether the standing appropriation is subject to a sunset clause and, if not, whether it would be appropriate for such a clause to be included in the bill; and
- what mechanisms are in place to report to the Parliament on any expenditure authorised by the standing appropriation.

Schedule 6 amends the *Federal Financial Relations Act 2009* (FFR Act) to support Commonwealth payments to the States and Territories (States) in accordance with the National Skills Agreement and any successor agreements.

Proposed subsection 12A(3)
As noted in the explanatory memorandum, the Minister's determination is a legislative instrument that should not be subject to disallowance. Proposed subsection 12A(2) provides that the Minister may determine an amount to be paid to a State for that financial year for the purpose of making a grant of financial assistance to that State to be spend in accordance with the skills and workforce development agreement.

In accordance with subsection 44(1) of the *Legislation Act 2003*, these determinations are not subject to disallowance because they facilitate the operation of an intergovernmental scheme involving the Commonwealth and a State and are made for the purpose of that scheme.

The exemption from disallowance is justified on the basis that the determinations support an intergovernmental agreement which has been entered into between the Commonwealth and the States (the National Skills Agreement). It would undermine Commonwealth/State relations and create significant uncertainty if the Commonwealth Parliament could unilaterally disallow annual determinations that support a multilateral multi-year agreement, for which the States expended funds on the understanding of reimbursement by the Commonwealth provided the conditions for the funding were met. If the determinations were subject to disallowance, it would undermine confidence in the intergovernmental agreement and may discourage ongoing cooperation from the States.

The exemption from disallowance is also consistent with other payment arrangements provided for under the FFR Act, such as national health reform payments (section 15A).

Appropriation of funds
Section 22 of the FFR Act provides a standing appropriation for certain types of payments to the States. The amendments in Schedule 6 propose to include the national skills and workforce development payments under this appropriation.

It would be impractical to place a limitation on total funds appropriated under section 22, or funds specifically appropriated for national skills and workforce development payments. Payments made to the States under the FFR Act generally depend on the terms set out in the relevant agreement between the Commonwealth and the States, and often rely on indexation updates at Budget and MYEFO. It would be difficult to predict a State's entitlement in advance. If a limitation were imposed based on an estimate, there would be a risk that the appropriation would not provide sufficient funds for the Commonwealth to meet its obligations under the relevant agreement.

The appropriation provided by section 22 is not subject to a sunsetting clause. This reflects the ongoing financial contribution the Commonwealth makes to States under the Intergovernmental Agreement on Federal Financial Relations.

As Schedule 6 only relates to national skills and workforce development payments, it would be inappropriate to amend the bill to alter the operation of the standing appropriation provided for by section 22, which relates to several other payment arrangements not considered as part of the Bill.

To provide Parliament with oversight of the amounts appropriated under section 22, the Minister generally determines, by legislative or notifiable instrument, amounts to be paid to States for particular payment types each financial year. In relation to national skills and workforce development payments, this is provided by proposed subsection 12A(2).

The Budget Papers provide detailed breakdowns of Commonwealth State funding arrangements in order to provide the Parliament with full transparency on these ongoing funding matters.

Senator the Hon Katy Gallagher

Minister for Finance
Minister for Women
Minister for the Public Service
Senator for the Australian Capital Territory

REF: MC24-002507

Senator Dean Smith
Chair
Senate Scrutiny of Bills Committee
Parliament House
CANBERRA ACT 2600
Via email: scrutiny.sen@aph.gov.au

Dear Chair Dean

I refer to the request received from the Senate Scrutiny of Bills Committee (the committee) on 27 June 2024 regarding Appropriation Bills (Nos. 1 and 2) 2024-2025 and Appropriation Bills (Nos. 5 and 6) 2023-2024. I note that these bills have now passed the Parliament and subsequently commenced.

The committee has sought my advice as to how the combined cap of $1 billion to the additional amounts (Advance to the Finance Minister or AFM) that may be allocated by the Finance Minister in Appropriation Bills (Nos. 1 and 2) 2024-2025 was determined; whether alternative approaches could be considered in striking the appropriate balance between the necessity of the Parliament authorising and scrutinising expenditure and addressing genuine emergency situations; and whether explanatory statements to AFMs could include a statement justifying the urgent need for expenditure that is not provided for, or is insufficiently provided for, by the relevant Appropriation Bills.

Since March 2020, the AFM provisions in annual Appropriation Acts have been set at an extraordinary level, primarily due to the unique and evolving nature of the COVID-19 pandemic. The *Appropriation Acts (Nos. 1 and 2) 2023-2024* returned the AFM provisions to conventional (pre-2020) levels and included an appropriate increase to reflect the passage of time since the normal levels were last adjusted in 2008-09. There has been no change to the AFM provisions in 2024-25 compared to 2023-24: $400 million in Appropriation Act (No. 1) and $600 million in Appropriation Act (No. 2). Accordingly, I am satisfied that the current AFM provisions are appropriate and not significantly higher than the AFM provisions in pre-pandemic years.

While AFM determinations are not subject to disallowance, the Senate standing order 23(4A) enables the Senate Standing Committee for the Scrutiny of Delegated Legislation, for the purpose of reporting on its terms of reference, to consider instruments made under the authority of Acts of the Parliament that are not subject to disallowance. A detailed explanation of reasons for why it is appropriate for AFM determinations to be exempt from disallowance is provided in explanatory memoranda to annual Appropriation Bills.

I would also like to assure the committee that explanatory statements to AFM determinations already include an explanation of the urgent need for expenditure that is not provided for, or is insufficiently provided for, by the relevant Appropriation Acts. For example, I refer the committee to the explanatory statement to the *Advance to the Finance Minister Determination (No. 6 of 2021-2022)*, the last AFM determination made.

Finally, I would like to provide an update to previous advice to the committee that the Department of Finance (Finance) would consider, where possible, enhancing the guidance on information which may be provided as part of measure descriptions in budget papers and/or portfolio budget statements in relation to measures that have been marked as 'not for publication' (nfp). For the 2024-25 Budget, measure descriptions published in Budget Paper No. 2 included additional detail in relation to measures marked as nfp.

I trust this advice will assist the committee in its consideration of Appropriation Bills (Nos. 1 and 2) 2024-2025 and Appropriation Bills (Nos. 5 and 6) 2023-2024.

Yours sincerely

Katy Gallagher

16 JUL 2024

The Hon Michelle Rowland MP

Minister for Communications
Federal Member for Greenway

MC24-011206

Senator Dean Smith
Chair
Senate Standing Committee for the Scrutiny of Bills
Suite 1.111
Parliament House
CANBERRA ACT 2600

Scrutiny.Sen@aph.gov.au

Dear Senator Dean

I am writing in response to the Senate Standing Committee for the Scrutiny of Bills comments in Scrutiny Digest 8 of 2024 regarding the Communications Legislation Amendment (Regional Broadcasting Continuity) Bill 2024.

The Bill proposes to amend the *Broadcasting Services Act 1992* (BSA) and the *Radiocommunications Act 1992* (RCA) to support continued access to television broadcasting services in regional Australia, and enable broadcasters to operate more efficiently in terms of their transmission networks.

The current licensing arrangements for the transmission of broadcasting services are relatively rigid and unable to accommodate more innovative and cost-efficient ways of providing services to audiences. With commercial broadcasters in particular facing an increasingly challenging operating environment, this inflexibility in the current transmitter licensing framework is preventing them from minimising their investment outlays and realising costs savings over time.

The amendments in Part 2 of Schedule 1 to the Bill address this lack of flexibility and would permit the consolidation of transmitter licence arrangements in certain circumstances. Specifically, these amendments would allow the Australian Communications and Media Authority (ACMA) to declare that a single transmitter licence issued under subsection 102(1) of the RCA may authorise the transmission of the broadcasting service or services of two or more broadcasting licences in a given licence area. Proposed subsections 102AE(5) and 102AE(6) relate to the making of rules to give effect to this Part.

- Proposed subsection 102AE(5) would provide that the ACMA may, by legislative instrument, make rules prescribing operational matters for the making of consolidation requests and declarations.
- Proposed subsection 102AE(6) would provide that the Minister may, by legislative instrument, give directions to the ACMA in relation to the exercise of its rule-making powers under subsection 102AE(5).

The Committee has requested advice as to why it is necessary and appropriate for instruments made under proposed subsection 102AE(6) – Ministerial directions relating the making of rules by the ACMA – to be exempt from disallowance and sunsetting.

This approach is consistent with the *Legislation (Exemptions and Other Matters) Regulation 2015*. Item 2 of section 9 and item 3 of section 11 of the Regulation provide that an instrument that is a direction by a Minister to any person or body is not subject to, respectively, disallowance or sunsetting. Instruments of this nature fall under the classes of exemption provided for in the Regulation because they recognise the executive control intended in these circumstances (as relevant to operational matters).

In the case of subsection 102AE(6) of the Bill, it will be important for any Ministerial direction made under this provision to deliver certainty and continuity over time. Investment decisions by broadcasters typically have a time horizon of a decade or more, particularly with respect to transmission equipment and related infrastructure. If broadcasters are to consolidate their transmission arrangements, it is critical that they have certainty regarding policy settings that may impact those decisions.

It is therefore appropriate in this circumstance for Ministerial directions relating to rules made by the ACMA with respect to transmitter consolidation to be exempt from disallowance and sunsetting. However, Parliament will have the capacity to scrutinise any rules made by the ACMA. An instrument made under proposed subsection 102AE(5) would be a legislative instrument, and therefore subject to normal disallowance processes and sunsetting arrangements.

In combination, this approach will provide clear policy direction for all potentially affected parties while enabling normal Parliamentary scrutiny and sunsetting arrangement to apply to any rules that may be made in relation to transmitter consolidation.

I trust this information will be of assistance to the Committee in its consideration of the Bill.

Yours sincerely

Michelle Rowland MP

22 / 7 / 2024

The Hon Michelle Rowland MP

Minister for Communications
Federal Member for Greenway

MC24-011211

Senator Dean Smith
Chair of Standing Committee for the Scrutiny of Bills
Senator for Western Australia
Parliament House
CANBERRA ACT 2600

Scrutiny.Sen@aph.gov.au

Dear Senator

Thank you for your email of 4 July 2024 regarding a request for information about issues identified in relation to the *Telecommunications Amendment (SMS Sender ID Register) Bill 2024.*

The questions posed by the Committee, and information in response are provided below.

1. *whether consideration was given to providing, on the face of the bill, that only non-discretionary decisions, or non-discretionary aspects of the specified decisions set out in proposed section 484J of the Telecommunications Amendment (SMS Sender ID Register) Bill 2024 may be subject to automated decision-making*

Proposed section 484J allows for the use of computer programs to assist certain kinds of the Australian Communications Media Authority's (ACMA) decision making functions relating to the Register. This is to facilitate the efficient registration of sender identifications on the Register and the expected high volume of applications (for both entities and also sender notifications).

During development of the Bill, detailed consideration was given to the type and nature of decisions that could properly be subject to automated decision-making (ADM). The Attorney- General's Department, which is leading the development of a framework in which ADM in government services can operate, was consulted regarding the automated decision- making provisions.

As noted in the Explanatory Memorandum, it is intended that only non-discretionary decisions based solely on objective criteria would be automated under proposed section 484J. Only the decisions listed in proposed section 484J (2) may be authorised by the Chair to be automated.

This ensures that the outer parameters of what action potentially could be in the scope of administrative action undertaken by a computer program are clear, i.e:

- making decisions relating to the acceptance and refusal of applicant approvals under proposed subsections 484F(5) or (6); or
- making decisions relating to acceptance and refusal of sender identification applications under proposed subsections 484G(4), (6) or (7); or
- giving notices of decisions under proposed subsections 484F(8) or 484G(8); or
- doing, or refusing or failing to do, anything related to making a decision under proposed subsections 484F(5) or (6) or 484G(4), (6) or (7).

Importantly, each of the specific decisions listed in this provision are mandatory. In each case, if specific criteria are met, the ACMA must take certain actions. As a result, it is clear on the face of the Bill that subsection 484J(2) does not authorise automated decision-making for discretionary decisions.

Further, the Bill clearly separates non-discretionary decisions which may be automated and which are listed in proposed section 484J(2) from other discretionary decisions requiring evaluative judgment (see response to question 2 below).

2. *whether the additional criteria to be set out in legislative instruments to be considered under proposed sections 484F and 484G will be limited to non-discretionary matters noting that they will form the criteria for a decision subject to automated decision-making*

The Bill is intended to create the head of power for the Register to be created and establishes the framework for the operation of the Register and its administration and to maximise flexibility of the future operation of the Register and given the highly dynamic nature of scams.

It should be noted that merely because the Bill allows for automated decision-making, does not mean that all administrative actions covered by proposed section 484J would be made by a computer program.

The additional criteria that may be prescribed by the ACMA under proposed section 484L for the purposes of certain requirements for the purposes of paragraph 484F(3)(d); or 484G(2)(c); or criteria for the purposes of proposed paragraphs 484G(4)(a) or 484G(4)(b) would not change the overall nature of decisions under proposed subsections 484F(5) or (6). These proposed subsections are framed as mandatory decisions. ACMA must accept or refuse an application if all the applicable requirements and criteria are or are not met.

Additional requirements or criteria that may be prescribed by the ACMA and applicable for automated decision making would necessarily be limited to objectively ascertainable matters, such as factual matters, with regard to the non-discretionary decisions under proposed sections 484F and 484G.

The EM provides commentary on possible type of criteria that might be determined by the ACMA for sender identification applications. For example, at p.28 of the EM states:

> *…the ACMA may determine that applications for sender identifications must:*
>
> - *specify that a sender identification be no greater than a certain number of characters in length; and/or*

- *specify a limit on the number of sender identifications that may be included in a single application.*

The EM also notes that under proposed paragraph 484L(1)(d) criteria may require that an applicant has a 'connection' or a valid use case to the sender identification sought in the application. Here, the ACMA could potentially formulate objective criteria which includes, for example, whether the sender identification sought by the applicant matches the applicant's brand name.

These are matters that could most likely be determined by a computer program, without human intervention. It should be noted that much of the detail regarding the Register's end state and operation is yet to be determined, including specific requirements and criteria that will sit in these determinations (which will be in the form of disallowable legislative instruments). In any case, the determinations – if made – will be subject to Parliamentary scrutiny.

There are classes of decisions relating to the Register which would involve evaluative judgments or discretion, and these intentionally are not authorised to be 'administrative action' (within the meaning of proposed section 484J(2)) as these decisions could not properly be made by a computer program.

These decisions are:

- proposed section 484H, which confers discretionary power on the ACMA to remove an entry from an SMS Sender ID if the entry is offensive or misleading or deceptive, is a spoofing sender identification; or it would be appropriate in all the circumstances to remove the entry; and
- proposed subsection 484F(7) which provides that the ACMA may in writing revoke an approval if the ACMA is satisfied that it would be appropriate in all the circumstances to do so; and
- proposed subsection 484J(4) which confers discretionary power on the ACMA to substitute a computer-made decision that is incorrect, or where the ACMA is satisfied that the sender identification is a spoofing sender identification.

Thank you for taking the time to write to me on this matter.

Yours sincerely

Michelle Rowland MP

23 / 07 / 2024

THE HON JIM CHALMERS MP
TREASURER

Ref: MC24-010260
Wednesday 7 August 2024

Senator Dean Smith
Chair
Senate Scrutiny of Bills Committee
Suite 1.111
Parliament House
Canberra ACT 2600

scrutiny.sen@aph.gov.au

Dear Senator Smith

Thank you for your correspondence on 27 June 2024 concerning the Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024.

I have attached a detailed response to the matters raised by the Senate Committee for the Scrutiny of Bills in the Committee's *Scrutiny Digest 7 of 2024*.

I trust that the information attached provides further context about the drafting of the bill and assists with the Committee's deliberations.

Yours sincerely

The Hon Jim Chalmers MP

Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024

Standing appropriation

In the Committee's Scrutiny Digest 7 of 2024, you sought my advice as to:

- why it is necessary and appropriate to include a standing appropriation (rather than providing for the relevant appropriations in the annual appropriation bills);
- whether the standing appropriation is subject to a sunset clause and, if not, whether it would be appropriate for such a clause to be included in the bill; and
- what mechanisms are in place to report to the Parliament on any expenditure authorised by the standing appropriation.

Division 7 of Part 1 of Schedule 1 to the Bill establishes a funding mechanism for the purposes of crisis resolution. It would be rare for a situation to arise which would cause the special appropriation to be drawn down. It is also likely that a crisis in a clearing and settlement facility would move rapidly.

Crisis resolution powers are only ever intended to be used in extenuating circumstances. The enhanced regulator powers in Schedules 2 and 3 of the Bill would assist in preventing relying on the crisis resolution powers in Schedule 1.

Before a legislative instrument can be made to authorise expenditure, a condition denoting an imminent crisis in a CS facility (outlined in section 831A) must be satisfied.

The nature of the regime is such that it would not be appropriate to sunset the standing appropriation. Certainty in the regime promotes market stability and market confidence that critical services will continue. Sunsetting of the special appropriation could contribute to market instability because a tool in the crisis resolution toolkit would be removed on sunset. The standing appropriation is the most effective way to maintain industry (and indirectly the market) confidence in the resolution regime.

Safeguards are in place. In addition to satisfying the crisis condition mentioned above, any appropriation would require the written agreement of the Finance Minister before the Treasurer can make a legislative instrument to authorise use of standing appropriation.

An authorisation or amendment under this provision will commence at the time it is made, and is exempt from section 42 of the *Legislation Act 2003*. This is appropriate given such an instrument would be made only in exceptional circumstances of a crisis, requiring prompt action and certainty. The legislative instrument will be tabled in Parliament in accordance with the requirements of the *Legislation Act 2003*, which provides appropriate transparency to Parliament in the event that an appropriation is made under this power.

Henry VIII clause

You also sought my advice as to:

- why it is necessary and appropriate for proposed sections 791C and 820C of the bill to empower delegated legislation to create exemptions from Parts 7.2 and 7.3 of the *Corporations Act 2001*; and
- why it is necessary and appropriate for ASIC to be able to grant exemptions from the application of Parts 7.2 and 7.3 of the *Corporations Act 2001* on an ongoing basis.

Financial markets have a diversity of participants. The provision has been drafted broadly to ensure that entities intended to be covered are not able to avoid the regime due to a technicality. However, this may result in the law capturing entities where regulation through Parts 7.2 and 7.3 would not be appropriate or effective. The power to grant exemptions is intended to be used if it is identified that a certain entity ought not to be covered by those provisions.

Proposed sections 791C and 820C repeal and replace the current exemption power that is exercised by the Minister, however these powers have been delegated to ASIC under the *Ministerial Powers (ASIC) Delegations 2021*. These amendments make the procedure for exemptions clear on the face of the law that the power is exercisable by ASIC.

The Ministerial powers delegated to ASIC has resulted in exemptions being granted to various market licensees and CS facilities. Entities that have previously been exempted include minor entities that would be technically captured by the licensing regime such as low volume financial markets, and certain participants in the RBA's central bank digital currency pilot project.

It is necessary and appropriate to permit delegated legislation to create exemptions from Parts 7.2 and 7.3 of the *Corporations Act 2001*. As the regulator, ASIC has the appropriate knowledge and information to determine whether it is appropriate for an entity to be regulated under Parts 7.2 or 7.3. These instruments are subject to disallowance should either House of Parliament take a different view about a particular exemption. It would be impractical to amend primary legislation to provide details of an exemption from specified obligations each time a situation arises where an exemption would be appropriate. This power to provide for exemptions in delegated legislation already existed in the *Corporations Act 2001*, but previously sat with the Minister rather than ASIC. When this power was introduced, the intention was to provide the Minister with a more effective and efficient regulatory regime by allowing a more tailored regulation of financial markets and clearing and settlement facilities.

It is also necessary and appropriate for ASIC to be able to grant these exemptions on an ongoing basis to ensure that ASIC has a range of powers that would be appropriate for any situation. The exemptions can be varied, revoked or the time period of the exemption can be shortened. However, time-limiting the delegated powers more generally would unduly constrain the regulatory framework and introduce an inappropriate level of uncertainty. It is more appropriate that ASIC considers the appropriate timeframe for any exemption from these parts on a case by case basis, having regard to the particular facts and circumstances.

Limitation of judicial review

You also sought my advice as to:

- how judicial review is intended to operate in this circumstance to provide an effective remedy to an affected person when there has been a failure to meet procedural requirements on ASIC's part; and
- whether any other remedies are available to affected persons in this instance.

The requirement for ASIC to consult is to provide the opportunity for affected parties to comment on the CS facility rules. A policy goal of the regime is to provide a stable and certain regulatory environment for CS facilities. If ASIC fails to consult with the public, the RBA or any other person or body, the CS facility rules will continue to have effective operation and are not invalidated. This provides certainty to the market that a failure, or alleged failure, to meet procedural requirements will not put in question the effective operation of the rules.

This approach is consistent with similar schemes in the Corporations Act (see for example Part 7.3A) where failure to satisfy a certain step in a decision-making process would ultimately not invalidate the exercise of power.

Significant penalties; significant matters in delegated legislation

You also sought my advice as to:

- whether justifications can be provided for the appropriateness of the criminal penalties in Schedules 2 and 4 of the bill, whether these offences are broadly equivalent to similar offences in Commonwealth legislation, and if not, why not; and
- why it is necessary and appropriate for proposed subsection 826L(2) to allow for the regulations to set civil penalties of up to 3,000 penalty units for an individual and 15,000 penalty units for a body corporate, rather than including these penalties on the face of the bill.

These offenses are equivalent to similar provisions in the Corporations Act, where failure to comply with CS facility rules are consistent with failure to comply with the market integrity rules under section 798K of the Act.

Specifying these penalties in delegated legislation is justified on the basis that changes may need to be made with respect to rapidly changing market dynamics. Either House of Parliament can disallow these instruments.

The Regulations may specify infringement notices as an alternative to civil proceedings for these rules. The Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers (the Guide) suggests an appropriate penalty amount under an infringement notice is 20 per cent of the maximum financial penalty applicable to the primary offence, but should not exceed 12 penalty units for an individual or 60 penalty units for a body corporate. However, for these offences of a corporate and financial nature, the maximum infringement notice penalty amounts significantly exceed 12 penalty units, which is appropriate to provide a sufficient deterrent for these offences.

The maximum infringement notice penalty amounts for the CS facility rules exceed 20 per cent of the maximum financial penalty applicable to the offence in order to act as a sufficient deterrent. The new penalty strikes an appropriate balance between providing an adequate deterrent from misconduct and an efficient mechanism to avoid a breach going to court, and ensuring payments of penalties under infringement notices do not simply become a cost of doing business.

The maximum financial penalty applicable to the offence is now 3,000 penalty units for individuals and 15,000 penalty units for body corporates, and is consistent with the market integrity rules under section 798K of the Act.

Allowing ASIC to specify the penalty up to the maximum is not consistent with the Guide, however this is appropriate given that ASIC has the ability to make these rules. The maximum penalty for the CS facility rules could significantly exceed the amount appropriate for the contravention in question, as some breaches of the rules may be considered lower-level breaches. The maximum penalty amount would not be appropriate for these lower-level breaches. Allowing ASIC to set the penalty up to the maximum allows for a more appropriate penalty to be set.

THE HON RICHARD MARLES MP
DEPUTY PRIME MINISTER
MINISTER FOR DEFENCE

Ref No: MC24-001302

Senator Dean Smith
Chair
Senate Standing Committee for the Scrutiny of Bills
Parliament House
CANBERRA ACT 2600

Dear ~~Chair~~ Dean

Thank you for your correspondence of 27 June 2024 relating to the *Defence Amendment (Parliamentary Joint Committee on Defence) Bill 2024* (the Bill).

The Scrutiny of Bills Committee sought information from me relating to certain provisions of the Bill. I note a response to the Committee was not possible prior to the Bill being debated in the Senate. I can advise that the Bill was not agreed to by the Senate on 4 July 2024 and is not proceeding.

Should the Government choose to reintroduce the Bill in the future, Defence will take the Committee's concerns into consideration in its policy and drafting process and provide a detailed response to the Committee through the formal processes.

I trust this information is of assistance to the Committee and thank the Committee for its work on the Bill.

Yours sincerely

RICHARD MARLES

13/8/24