

Senate Economics Legislation Committee

Inquiry into Foreign Investment Reform (Protecting Australia's National Security) Bill 2020; Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2020 [Provisions]

Public Hearing on 18 November 2020

Question on notice Productivity Commission

Senator O'NEILL: Do you have a view about the call-in power or the last-resort power? Do you have a view also about the Treasurer's capacity to order disposal of an asset whose acquisition the Treasurer has previously approved?

Mr Brennan: I confess I don't know as much about those as I should. I am aware of the fact that they are part of the bill, but they weren't things that we commented on particularly in the research paper. I can't even recall if they had been—maybe the call-in power had been announced. I am not sure if some of the other things had. It's not something I have a view on.

Senator O'NEILL: Ms Davidson, anything to say there?

Ms Davidson: No, nothing to add, as it's not something that we have looked at.

Senator O'NEILL: You would be aware that there is concern amongst people who have participated in this inquiry and have submitted that three years is, in their view, more than enough time for the Treasurer to get across whether an entity is complying, despite the fact that we know Alinta has had four and still isn't compliant. Perhaps it is, but we are not quite sure because it is not registered anywhere for us to see. Three years versus 10 is one of the arguments that's been put forward. Is 10 years too long to keep your eye on a foreign investor? Or is it not long enough? What's your view, having done this inquiry into foreign investment?

Mr Brennan: It's just not something I've looked at in a great deal of detail. I would have to think about it a bit further.

Senator O'NEILL: You might want to take that on notice.

Mr Brennan: I'll take that on notice, yes.

Response

In the research paper *Foreign Investment in Australia* (June 2020) the Productivity Commission noted that the Australian Government had just announced reforms to Australia's foreign investment policy, including the creation of a new 'call in' power to allow the Government to review an investment not otherwise required to be screened or notified, and a 'last resort' review power to reassess approved investments where subsequent national security risks emerge. The Commission did not examine these proposals and does not have a view on the trade-offs involved in having the last-resort power apply for a longer or shorter period.