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11 June 2020

The Hon Paul Fletcher MP
Minister for Communications, Cyber Safety and the Arts
Parliament House
CANBERRA ACT 2600

Via email: Paul.Fletcher.MP@aph.gov.au

CC: dlo@communications.gov.au

Dear Minister,

Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020 [F2020L00579]

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

Adequacy of consultation

Senate standing order 23(3)(d) requires the committee to consider whether those likely to be affected by an instrument were adequately consulted in relation to it. This principle is informed by subsection 17(2) of the *Legislation Act 2003*, which provides that, in assessing whether appropriate consultation has taken place in making the instrument, the rule-maker may have regard to the extent to which persons likely to be affected by the instrument had an adequate opportunity to comment on its proposed content.

The instrument amends the Australian Postal Corporation (Performance Standards) Regulations 2019 to implement a number of temporary changes to performance standards for the delivery of letters, and to temporarily exempt Australia Post from its retail outlet obligations. These changes aim to respond to the challenges faced by Australia Post during the COVID-19 pandemic.

The explanatory statement to the instrument notes that Australia Post was consulted in the development of the instrument. However, the committee is concerned that the explanatory statement does not indicate whether consultation was also undertaken with other persons and entities likely to be affected by the measures, including employees of Australia Post and their representatives, and persons and entities that regularly utilise postal services.

The committee would therefore appreciate your detailed advice as to:

- whether persons and entities likely to be affected by the measures in the instrument, including employees of Australia Post and their representatives, and persons and entities that regularly utilise postal services, were consulted before the instrument was made; or
- if not, why such persons and entities were not consulted.

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 25 June 2020.

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,

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Senator the Hon Concetta Fierravanti-Wells
Chair

Senate Standing Committee for the Scrutiny of Delegated Legislation



Federal Member for Bradfield Minister for Communications, Cyber Safety and the Arts

MC20-005829

Senator the Hon Concetta Fierravanti-Wells Chair Senate Standing Committee for Scrutiny of Delegated Legislation Parliament House Canberra ACT 2600

Dear Senator

I refer to your letter of 11 June 2020, on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation (the Committee), regarding the Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020 (the Amending Regulations).

The Committee sought further information on the consultations undertaken on the above amending regulations.

The Morrison Government is committed to supporting Australia Post to provide important postal services to all Australians.

The Government takes the need for consultation seriously. In the circumstances, it was – and remains – critical and responsible for the Government to provide Australia Post with urgent, temporary regulatory relief to allow it to manage its workforce, protect its people, control costs and still deliver the services Australian's need.

With many Australians working and learning from home due to the COVID-19 pandemic, Australia Post has experienced a significant surge in demand for parcel deliveries. Letter volumes are also in long term decline, with this trend accelerated by the impact of the pandemic.

Reduced aviation capacity, and movement and social distancing restrictions required to respond to the pandemic, have also had a significant impact on Australia Post's operations.

In response to a request from Australia Post to help it meet customer needs during COVID-19 by redeploying employees underutilised in letter delivery to its booming parcel delivery operation, the Government agreed to temporarily adjust elements of the Australian Postal Corporation (Performance Standards) Regulations 2019.

Under the changes, Australia Post has announced plans to retrain around 2,000 posties who were previously dedicated to handling and delivering letters, a shrinking market, and to redeploy them into roles supporting parcel delivery. To further support the growing parcels operations, around 600 new roles are also being created.

Australia Post continues to serve Australians with regular deliveries of letters and parcels to their home or business. Importantly, the delivery frequency of regular mail in regional, rural and remote Australia has not changed, and those customers with a PO Box will continue to receive their letters daily.

The Government consulted closely with Australia Post in developing the temporary arrangements so that they are targeted and reflect the current operating environment. Given the urgency and unprecedented circumstances, broader public consultation was not possible.

Australia Post also regularly engages with its workforce and their representatives about operational matters and will continue to do so. The Government has been advised that there will be no forced redundancies or reductions in take-home pay due to the new temporary arrangements. The Minister also personally met with union representatives on 27 April to explain the Government's rationale for the regulatory relief and to directly address their concerns.

Reflecting the unprecedented circumstances, the Government made the changes time limited, they are in effect until 30 June 2021. The effect of these temporary arrangements will be assessed before the end of the year to determine if it is necessary for them to stay in place for the full period. Any extension of the temporary relief measures would only be implemented after consultations with all relevant parties have been undertaken, and it would also be subject to a new disallowance period enabling Parliamentary oversight, as is appropriate.

Thank you for raising this matter with me. I trust this information addresses the Committee's concerns.

Yours sincerely

Paul Fletcher

27/6/2020



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22 July 2020

The Hon Paul Fletcher MP
Minister for Communications, Cyber Safety and the Arts
Parliament House
CANBERRA ACT 2600

Via email: Paul.Fletcher.MP@aph.gov.au

CC: dlo@communications.gov.au

Dear Minister,

Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020 [F2020L00579]

Thank you for your response dated 27 June 2020 to the Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee), in relation to the above instrument. The committee considered your response at its private meeting on 15 July 2020.

Your response has further assisted the committee in its consideration of the instrument. Nevertheless, the committee retains some scrutiny concerns about the matter outlined below, and has resolved to seek your further advice.

Adequacy of consultation

In your letter dated 27 June 2020 you explained that the government consulted closely with Australia Post in developing the temporary arrangements. You advised that while no broader public consultation was undertaken due to the urgency of the circumstances, Australia Post regularly engages with its workforce and their representatives on operational matters. You further advised that you met with union representatives on 27 April 2020 to explain the government's rationale for the regulatory relief and to directly address their concerns.

Whilst noting your advice, from a scrutiny perspective, the committee remains concerned as to the adequacy of the consultation conducted in relation to the instrument.

In this regard, the committee notes that evidence provided to the Senate Environment and Communications Legislation Committee in a public hearing on 8 July 2020 included differing accounts of the type, scope and nature of consultation undertaken with persons likely to be affected by the instrument.¹

In light of the information provided by you, and the evidence provided to the Senate Environment and Communications Legislation Committee, the committee requests your more detailed advice as to:

- the type, scope and nature of consultation undertaken in the drafting of the instrument with the following persons likely to be affected by the instrument:
 - members of the public;
 - customers of Australia Post, including small and large business customers;
 - Australia Post licensees;
 - employees of Australia Post and their representatives; and
 - other Australia Post stakeholders (e.g. through the Australia Post Stakeholder Council);
- whether any further consultation will be conducted in relation to this
 instrument, noting that it is intended that the measures will continue to be in
 force until at least 30 June 2021;
- the nature of consultation that will be undertaken in relation to plans to extend the duration of the instrument or the measures it contains; and
- whether the exemption granted by the Prime Minister from the need to complete a regulatory impact analysis for measures made in response to COVID-19 influenced the type, nature and scope of consultation undertaken in relation to the instrument.

On the basis of the information provided in response to this letter the committee will consider whether it may be appropriate to lodge a notice of motion for disallowance.

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.

Senate Environment and Communications Legislation Committee, Inquiry into the future of Australia Post's service delivery, *Proof Committee Hansard*, 8 July 2020.

Noting this, and to facilitate the committee's timely consideration of the matters above, the committee would appreciate your response by **29 July 2020**.

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



Federal Member for Bradfield Minister for Communications, Cyber Safety and the Arts

MC20-008814

Senator the Hon Concetta Fierravanti-Wells Chair Senate Standing Committee for Scrutiny of Delegated Legislation Parliament House Canberra ACT 2600

Dear Senator Fierravanti-Wells

I refer to your letter of 22 July 2020, on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation (the Committee), regarding the Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020 (the Amending Regulations).

The Committee sought further information on the consultations undertaken in drafting the Amending Regulations and plans for further consultation.

The Morrison Government consulted closely with Australia Post in drafting the Amending Regulations. As previously advised, I also met with Mr Shane Murphy, National President of the Communication Workers Union / Communications Electrical Plumbing Union (CEPU) on 27 April, at which time we discussed the temporary regulatory relief. Given the urgency, the Government did not consult with other groups in drafting the Amending Regulations.

From the start of the pandemic, I understand that Australia Post consulted with its workers, major customers and post office licensees on the operational impacts of COVID-19 on the business, and the steps it was taking to maintain postal services. Australia Post also consulted with its international peers – overseas designated postal operators in countries where the pandemic was further progressed.

I note that in its evidence to the Environment and Communications Legislation Committee inquiry – *The future of Australia Post's service delivery* (the Inquiry), Australia Post noted that on 21 April 2020 it advised Mr Greg Raynor, Divisional Secretary, Communications Division of the CEPU of the Government's decision to make the Amending Regulations. In his evidence, Mr Raynor confirmed that Australia Post provided specific details in writing later that day.

Ms Angela Cramp, Executive Director of the Licenced Post Office Group, advised the Inquiry that she was made aware on 6 April 2020 by Ms Christine Holgate, CEO of Australia Post that Australia Post had written to the Government seeking regulatory relief.

Concerns were raised by Ms Lorraine Cassin Assistant National Secretary, Print and Packaging Membership Area, Australia Manufacturing Workers Union, that Australia Post did not consult with the print industry prior to the announcement of the temporary relief. Australia Post advised that following the announcement, it worked closely with bulk mailers, like the print industry, to establish an alternative priority timetable for bulk mail items. I note that the Real Media Collective's submission to the Inquiry supports the temporary changes

The Amending Regulations end on 30 June 2021 and will be reviewed later this year to determine if they remain in place for the full period. The Government review will examine:

- letter and parcel volumes and delivery speeds, including whether Australia Post has met its prescribed performance standards under the relief;
- community and business feedback to determine whether Australia Post is meeting the needs of the community and businesses during the COVID-19 pandemic;
- the impact on the Australia Post workforce; and
- other dependencies, such as developments in the aviation sector.

The Government will consider the views of stakeholders as part of the review, including the Australia Post workforce, Licenced Post Office franchisees, large and small businesses, and the print industry. I will write directly to representatives of these sectors seeking their views.

Australia Post will continue to consult over the coming months with both the community and businesses on the temporary changes and report to the Government on the responses received.

The Committee has also asked for advice on the nature of consultation that will be undertaken in relation to plans to extend the duration of the instrument or the measures it contains. The Government has no plan to extend the temporary regulatory relief. As a general comment, any extension of the temporary relief measures would only be implemented after consultations with all relevant parties have been undertaken, and it would also be subject to a new disallowance period enabling parliamentary oversight, as is appropriate.

The Committee has also asked whether the exemption granted by the Prime Minister from the need to complete a regulatory impact analysis for measures made in response to COVID-19 influenced the type, nature and scope of consultation undertaken in relation to the instrument. The amount of consultation that was possible was influenced by the unprecedented circumstances caused by COVID-19.

Thank you for raising this matter with me. I trust this information satisfies the Committee's concerns.

Yours sincerely

Paul Fletcher

30/ 7/2020



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3 September 2020

The Hon Paul Fletcher MP
Minister for Communications, Cyber Safety and the Arts
Parliament House
CANBERRA ACT 2600

Via email:

Paul.Fletcher.MP@aph.gov.au

CC:

dlo@communications.gov.au

Dear Minister,

Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020 [F2020L00579]

Thank you for your response of 30 July 2020 to the Senate Standing Committee for the Scrutiny of Delegated Legislation, in relation to the above instrument.

The committee considered your response at its private meeting on 2 September 2020. Whilst noting your advice, the committee remains concerned that the above instrument raises significant scrutiny concerns that should be brought to the attention of the Senate.

The committee's concerns are detailed in Chapter 1 of its *Delegated Legislation Monitor 10 of 2019*, available on the committee's website at:

https://www.aph.gov.au/Parliamentary Business/Committees/Senate/Scrutiny of Delegated Legislation/Monitor

In summary, from a scrutiny perspective, the committee remains concerned about the adequacy of consultation undertaken in relation to this instrument, particularly in light of the significance of the measures and the broad scope of people and entities likely to be affected by the changes.

In light of this, the committee requests that it be provided with updates as to the progress of future consultation on the instrument, including details of who has been consulted, any issues raised during the consultation, and any outcomes or action taken as a result of the consultation.

As the committee retains scrutiny concerns in relation to this instrument, the committee has resolved to give a notice of motion to disallow the instrument on 6 October 2020 for consideration and debate in the Senate 15 sitting days after that date. The information provided by you in relation to future consultation on the instrument will inform the committee's consideration of whether to withdraw the notice of motion to disallow the instrument.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the *Delegated Legislation Monitor*.

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

Yours sincerely,

Senatør the Hon Concetta Fierravanti-Wells

Senate Standing Committee for the Scrutiny of Delegated Legislation



Federal Member for Bradfield Minister for Communications, Cyber Safety and the Arts

MS20-000671

Senator the Hon Concetta Fierravanti-Wells Chair Senate Standing Committee for Scrutiny of Delegated Legislation Parliament House Canberra ACT 2600

Dear Senator Fierravanti-Wells

Thank you for your letter of 3 September 2020, on behalf of the Senate Standing Committee for Scrutiny of Delegated Legislation (the Committee), regarding the Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations (the Amending Regulations).

In your letter, you note that the Committee remains concerned about the adequacy of consultation undertaken in relation to the Amending Regulations.

In my letter of 30 July, I advised the Committee of the consultation that had been undertaken at that time and the additional consultation the Morrison Government will carry out during its review of the Amending Regulations to determine whether they should continue to be in place until 30 June 2021.

Consistent with my commitment to the Committee, I have written to representatives of the Australia Post workforce, Licensed Post Office franchises, large and small businesses, and the print industry. I have asked these key stakeholders for their views on the impacts of the temporary changes, whether the changes should remain until 30 June 2021, and the impact should the relief end earlier than planned.

The Government will consider the views of the above stakeholders, as well as feedback Australia Post receives during its consultations with the community and businesses about the temporary changes, in determining whether the regulatory changes should continue to 30 June 2021.

I can also advise that on 25 August 2020, the Senate Environment and Communications Legislation Committee's Report on the *Future of Australia Post's servery delivery* recommended that the Senate oppose the disallowance of the Amending Regulations. Opposing the disallowance would reflect the intention of the Memorandum of Understanding (MoU) signed between Australia Post and the Communications, Electrical and Plumbing Union on 7 July 2020. The MoU contains a commitment from the Union to actively and constructively support the temporary

changes set out in the Amending Regulations. This reflects that the Union, a major stakeholder to previously take issue with the Amending Regulations, no longer harbours concerns about the changes.

Moreover, the Committee noted that the majority of the more than 60 submissions received were supportive of the Amending Regulations. The Government will respond to that Committee's Report including the two separate minority reports later this year and I will provide a copy of the response to you.

I thank you and the Committee for raising this matter with me.

Yours sincerely

Paul Fletcher

7 19 2020



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12 November 2020

The Hon Paul Fletcher MP
Minister for Communications, Cyber Safety and the Arts
Parliament House
CANBERRA ACT 2600

Via email: Paul.Fletcher.MP@aph.gov.au

CC: dlo@communications.gov.au

Dear Minister,

Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020 [F2020L00579]

Thank you for your letter of 3 October 2020 to the Senate Standing Committee for the Scrutiny of Delegated Legislation providing an update in relation to consultation undertaken on the above instrument.

The committee considered your letter at its private meeting on 11 November 2020 and has resolved to seek a further update about the issues outlined below.

Adequacy of consultation

In your letter you advised that you have written to representatives of the Australia Post workforce, Licenced Post Office franchises, large and small businesses, and the print industry to seek their views on the impacts of the temporary changes, whether those changes should remain in place until 30 June 2021, and the impact should the changes end earlier than planned.

Your letter also notes that the Senate Environment and Communications Legislation Committee tabled a report on 25 August 2020, recommending against the disallowance of the instrument. You also advised that the Communications, Electrical and Plumbing Union no longer harbours concerns about the changes. You further explained that the government will respond to the Senate committee report and to the two minority reports later this year and that you will provide the committee with a copy of the response at that time.

The committee appreciates your constructive engagement on this issue. However, from a technical scrutiny perspective, the committee remains concerned about the ongoing adequacy of the consultation undertaken in relation to the instrument. In this regard, the

committee would appreciate a further update on progress of the consultation that is currently being undertaken.

In light of this, the committee requests that you provide it with a further update on the progress of consultation, including any issues raised during the consultation, and any outcomes or action taken as a result of the consultation.

I note that the information that you provide in relation to future consultation on the instrument will inform the committee's consideration of whether to withdraw the notice of motion to disallow the instrument which, based on the current sitting pattern, must be considered by the Senate no later than the first sitting day of 2021.

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. Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **26 November 2020**.

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



Federal Member for Bradfield Minister for Communications, Cyber Safety and the Arts

MS20-000855

Senator the Hon Concetta Fierravanti-Wells Chair Senate Standing Committee for Scrutiny of Delegated Legislation Parliament House Canberra ACT 2600

Dear Chair

Thank you for your letter of 12 November 2020 on behalf of the Senate Standing Committee for Scrutiny of Delegated Legislation (the Committee) regarding the Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No.1) Regulations 2020.

The Committee has requested a further update on the progress of consultation, including any issues raised during the consultation, and any outcomes of action taken as a result of the consultation.

In my letters to you of 27 June, 30 July and 3 October 2020, I indicated that the Government would review the effect of the temporary arrangements before the end of the year and that this review will be informed by consultation with key stakeholders. The review will determine whether the temporary arrangements continue until 30 June 2021.

As advised in my letter of 3 October, I wrote to 33 stakeholders seeking their views on the temporary regulatory relief, including representatives of Australia Post's workforce, Licenced Post Office franchisees, large and small businesses and the print industry. I have received 18 representations as part of this consultation, with a range of views put forward. Australia Post has also been consulting consumers on the temporary changes, and will provide the results of its surveys to Government.

In addition to considering the views of stakeholders, the review is considering:

- letter and parcel volumes and delivery speeds, including whether Australia Post has met its prescribed performance standards under the relief;
- the impact on the Australia Post workforce; and
- other dependencies, such as developments in the aviation sector.

I will advise the Committee of the outcomes of the review at the earliest opportunity.

You also requested the government's response to the Senate Environment and Communications Legislation Committee report on the inquiry into the Future of Australia Post's service delivery. The report was tabled on 25 August 2020 and the government is considering its response. I expect to table the response shortly and I will provide the Committee with a copy at that time.

Thank you for raising this matter with me. I trust this information addresses the Committee's concerns.

Yours sincerely

Paul Fletcher

3/14/2020



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10 December 2020

The Hon Paul Fletcher MP
Minister for Communications, Cyber Safety and the Arts
Parliament House
CANBERRA ACT 2600

Via email:

Paul.Fletcher.MP@aph.gov.au

CC:

dlo@communications.gov.au

Dear Minister,

Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations [F2020L00579]

Thank you for your letter of 3 December 2020 to the Senate Standing Committee for the Scrutiny of Delegated Legislation providing an update in relation to consultation undertaken on the above instrument.

The committee considered your letter at its private meeting on 9 December 2020. The committee's comments are detailed in Chapter 1 of its *Delegated Legislation Monitor 14 of 2020*, available on the committee's website at:

https://www.aph.gov.au/Parliamentary Business/Committees/Senate/Scrutiny of Delegated Legislation/Monitor.

In summary, in light of your advice that consultation with relevant stakeholders and consumers has commenced, and your undertaking to advise the committee of the outcomes of the ongoing review of the temporary arrangements, the committee has concluded its examination of the instrument and resolved to withdraw the notice of motion to disallow the instrument.

The committee also notes that the instrument was made in response to the COVID-19 pandemic. The committee's views in relation to COVID-19 related delegated legislation are set out in detail in the interim report of the committee's inquiry into the exemption of delegated legislation from parliamentary oversight. The interim report highlights the importance of ensuring parliamentary oversight during times of emergency and notes that COVID-19 serves to shine a light on the deeper, systemic issues which inhibit Parliament from effectively overseeing delegated legislation at all times, not just during emergencies.

The committee will continue to closely monitor COVID-19 related delegated legislation in the future to ensure that it complies with the recommendations set out in the interim report.

A copy of the committee's interim report is available at:

https://www.aph.gov.au/Parliamentary Business/Committees/Senate/Scrutiny of Delegated Legislation/Exemptfromoversight/Interim report.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the *Delegated Legislation Monitor*.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email at 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