I wish to express vigorous opposition to the following draft bills:

Currency (Restrictions on the Use of Cash) Bill 2019 and Currency (Restrictions on the Use of Cash) (Consequential Amendments and Transitional Provisions) Bill 2019

These bills represent an unmitigated assault on the economic freedom of people living in Australia as they are intended to curtail civil rights and liberties. These proposed laws are designed to punish individual Australians and restrict their freedom to make choices about their money, such as deciding to conduct transactions without using the banking system or choosing to conduct their economic affairs in private.

It is extremely concerning that these proposed laws are anti-competitive, since cash transactions are an alternative to using the banking system in Australia. The motivations of the Commonwealth are questionable as it appears to be implementing laws which would force citizens to use a service offered by a particular industry which has only recently been shown to have acted against the best interests of its customers.

Inexplicably these proposed laws breach principles which have been espoused and lauded by successive Liberal and National party coalition governments for decades and effectively undermines the Australian competition policy championed for many years.

Although the Commonwealth, and its Black Economy Taskforce, has attempted to provide sufficient evidence that the proposed laws would have a measurable impact on the black economy, whether from tax avoidance or illegal activities, it has failed to do so.

In stark contrast to the Commonwealth’s claims is the position held by Friedrich Schneider, Professor of Economics at Kepler University, who has stated that “cash has a minor influence on the shadow economy, crime and terrorism, but potentially has a major influence on civil liberties”and concludes that those “calling for the limitation or abolishment of cash argue that tighter and more comprehensive state control over individuals’ financial flows and funds will effectively fight crime, shadow economy and terrorism. But in my opinion we have weak empirical evidence.”

Schneider also makes the point that Sweden – where cash use has been severely restricted - still has a sizeable shadow economy; something the Australian Commonwealth claims cannot happen after these proposed laws are introduced.

Additionally, the proposed laws would prevent citizens from making choices that would allow them to avoid negative interest rates - for which the ASX is already preparing - when they are imposed by the Reserve Bank of Australia at some point in the near future.

It is telling that academic and institutional economists, as well as elements of the global banking industry, have been demanding that the role of cash in the world’s economy be either significantly reduced or eliminated, given that the use of cash is currently unable to be controlled by governments and has the ability to undermine the intent to impose negative interest rates.

Unsurprisingly the IMF have argued that since official interest rates have dropped around the world, deep negative interest rates of approximately -4% may be required if a global economic recession or global economic shock were to eventuate.

Since the RBA has failed to resist this trend and dropped Australia’s official cash rate to 1%, this will inevitably lead to the implementation of a negative interest rate when the Australian economy is affected by such a recession or global shock.

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It seems likely that the proposed legislation is only the first step in a series of escalating measures from the Commonwealth as it continues to infringe on the rights of Australian citizens and businesses to remain independent of the banks and the RBA’s monetary policy.

This concern is supported by the failure to be transparent since Division 2 of Part 2 of the draft exposure version of the bill is missing. There is no doubt that concerned citizens ought to be able to see the full version of the bill during the current Treasury consultation round if they are to make informed comment.

Some explanation is also required regarding the Commonwealth’s reasons for the exemptions to the cash transaction ban being in a legislative instrument and not in the proposed bill. One explanation for this is that it gives the government of the day significant flexibility to remove the exemptions without any scrutiny by Parliament and, thus, undermines Australia’s democracy.

Of greater concern is the uncertainty created with regard to physical gold and silver bullion. The current draft indicates that the cash ban covers physical currency as defined in the Anti-Money Laundering and Counter-Terrorism Financing Act 2006. This definition refers to currency which is ‘legal tender’ without providing specifics as neither the proposed bill, the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 or the Currency Act 1965 provides any clear guidance.

Of most pressing concern is the issue of how the Commonwealth intends to enforce this proposed cash transaction ban. The following need to be clarified: which Commonwealth institution will be charged with enforcing this law; what enforcement techniques will the Commonwealth use to monitor activities to identify when prohibited cash transactions above the limit are conducted; what will the Commonwealth’s budget be to enforce the proposed law.

In summary:

* the proposed bill is a gross abuse of Australian economic and civil liberties
* the Commonwealth has failed to establish that the proposed cash ban will have any impact on the “black economy”
* the proposed bill will stymy the freedom of Australians to avoid the economic burdens imposed by the banking system and negative interest rates

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References:

Royal Commission, 2019 *“Misconduct in the Banking, Superannuation and Financial Services Industry”.*

Schneider, F, 2017 “Restricting or Abolishing Cash: An Effective Instrument for Fighting the Shadow Economy, Crime and Terrorism”.

International Monetary Fund, 2018 *“Monetary Policy with Negative Interest Rates: Decoupling Cash from Electronic Money”.*

International Monetary Fund, 2019 *“Enabling Deep Negative Rates: A Guide”.*

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