Law Council
OF AUSTRALIA

Office of the President

26 September 2025

The Hon Taylor Martin MLC
Chair
Select Committee on Competition
Reforms in Electronic Conveyancing
Parliament House
Macquarie Street
SYDNEY NSW 2000

By online portal.

Dear Chair

Competition Reforms in Electronic Conveyancing

The Law Council of Australia welcomes the opportunity to provide a brief submission to the Inquiry of the Select Committee on Competition Reforms in Electronic Conveyancing (**Committee**).

The Law Council reiterates its continued support for interoperability between Electronic Lodgement Network Operators (**ELNOs**). The Law Council is strongly in favour of competition between ELNOs, and considers that interoperability is integral to building competition in the market.

The Law Council notes that a number of the matters outlined in the Committee's Terms of Reference are currently being considered in the Australian Parliament by the Senate Economics References Committee as part of its inquiry into 'micro-competition opportunities in the Australian economy in relation to e-conveyancing'. As such, the Law Council attaches its submission to the Senate Inquiry for consideration by the Committee.

The Law Council has also had the benefit of reviewing the submission to the Committee by the Law Society of New South Wales (**LSNSW**). The Law Council broadly supports the positions expressed in the LSNSW's submission.

Should you require further information, please contact Mr John Farrell, Executive Policy Lawyer [redacted]

Yours sincerely

Juliana Warner
President

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7 March 2025

Senator Andrew Bragg
Chair, Senate Economics References Committee
PO Box 6100
Parliament House
Canberra ACT 2600

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

Dear Chair

Micro-competition opportunities in the Australian economy in relation to eConveyancing

The Law Council welcomes the opportunity to provide a brief submission to the Senate Economics References Committee about its inquiry into micro-competition opportunities in the Australian economy in relation to eConveyancing. This submission is based on input from the Law Council's National Electronic Conveyancing System Committee.

Noting the broad Terms of Reference for this inquiry, the Law Council reiterates its continued support for interoperability between Electronic Lodgement Network Operators (**ELNOs**). The Law Council is strongly in favour of competition between ELNOs and considers interoperability to be a non-negotiable feature of the eConveyancing market.

Interoperability would allow a subscriber (such as a lawyer) connected to one ELNO to conduct a transaction with a subscriber connected to a different ELNO. This would allow subscribers to choose the ELNO that is best for them and ensure that they are not required to subscribe to multiple ELNOs.

In the Law Council's view, this choice will encourage competition between service providers and, in turn, achieve more efficient outcomes for subscribers and their clients; maintain pressure on prices; and stimulate innovation in this fast-moving space. Whilst often assumed to only enhance competitive pricing, the more important factor is technical innovation that makes it easier for lawyers, especially those without a substantial conveyancing practice, to perform conveyancing transactions at much lower risk due to workflow functionality. There are examples of both user-unfriendly screens and system unreliability, which users currently have to tolerate for lack of a viable alternative ELNO. Only interoperability as part of true competition will unlock solutions to these practical impediments to lower cost conveyancing.

Regrettably, progress towards interoperability has been subjected to repeated delays. From an original commitment towards the first interoperable transaction by the end of 2021 and broader implementation in 2022, we are now well beyond the implementation timetable that had initially been agreed upon. Each setback has a compounding effect on the prospects of true competition in the eConveyancing landscape.

In June 2024, the Australian Registrars National Electronic Conveyancing Council (**ARNECC**) advised that a decision had been taken by the Ministerial Forum on eConveyancing that it

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would be pausing the interoperability program, citing issues raised by the banking industry that were beyond the control of the State and Territory Ministers.[1]

More recently, on 19 February 2025, ARNECC advised that it would be undertaking the following immediate steps to inform future direction:

- ARNECC is commissioning a further in-depth review of the functional requirements for interoperability. This will involve an independent consultant engaging with ELNOs and stakeholders to develop a functional scope for interoperability that is necessary to maintain an equivalent subscriber experience for interoperable and non-interoperable transactions.
- ARNECC is commissioning an updated cost/benefit analysis to test whether the direct connect interoperability model continues to be the most appropriate model. This review will take place at the same time as the functional requirements review.
- ARNECC will create a new governance structure to oversee the review program of work.[2]

The Law Council welcomes the recent re-commitment to interoperability. However, we reiterate our concerns that these reforms are now long overdue in a context where eConveyancing is mandatory. It is therefore critical that interoperability is prioritised and progressed without further delay.

A particularly important aspect is that intellectual property claims, and security and logistical concerns, have been cited as reasons for delaying the implementation of full interoperability. In the Law Council's view many of these claims deserve closer scrutiny.

Finally, the Law Council submits that ARNECC should not be the regulating body for any future Enterprise Service Bus (**ESB**) in view of the fact that its members, as registrars, would also be users of the ESB. The Law Council recommends that a federal regulatory body with a broader skill set than ARNECC allows for would be more appropriate to regulate eConveyancing going forward.

The Law Council would welcome the opportunity to further elaborate on these matters to the Committee. In the first instance, please contact Mr Nathan MacDonald, Deputy General Manager of Policy [redacted].

Yours sincerely



Juliana Warner
President

[1] ARNECC, '*Ministerial Forum: National eConveyancing*' (11 June 2024), <https://www.arnecc.gov.au/wp-content/uploads/2024/06/Ministers-Statement-Forum-11-June-2024.pdf>.
[2] ARNECC, '*Next Steps on Interoperability*' (19 February 2025), <https://www.arnecc.gov.au/wp-content/uploads/2025/02/Next-Steps-on-Interoperability-19-Feb-2025.pdf>.