



Department of Environment, Land, Water and Planning

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Anne Larkins
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Via email
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Dear Anne

Review of the Intergovernmental Agreement for an Electronic Conveyancing National Law

Thank you for the opportunity to provide comments on the Issues Paper. The comments relate to Sections 5 and 6.

Section 5

Regulatory control and compliance

Under MOR 5.3(i) an ELNO must comply with any reasonable direction by the Registrar for the purposes of the Operating Requirements.

Consistent with powers of other regulators, LUV agrees that the Registrars should be able to impose penalties for non-compliance beyond suspension and termination.

Financial settlement

This is a Constitutional issue as the Commonwealth regulates banking and finance. This is not a State or Territory responsibility.

Competition

LUV agrees that a cost/benefit analysis should be undertaken including consideration of:

- the alternative models to achieve a competitive environment
- any additional complexity
- risk and liability
- the impact on consumers.

Depending on the outcome, the following will need to be assessed:

- whether the Registrars have the power to regulate
- if yes, the extent of this power
- if no or partially, who does have the power to regulate.

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The MORs require a national ELNs and a minimum set of documents that will be added to.

When jurisdictional Land Registries have the capability to accept some or all instruments electronically, ELNOs should be required to lodge them within a specified timeframe.

LUV agrees that advice should be sought from an expert in economic regulation.

Interoperability

LUV agrees that a cost/benefit analysis should be undertaken including consideration of:

- the alternative models
 - any additional complexity
- risk and liability
- the impact on consumers.

Depending on the outcome, the following will need to be assessed:

- the Registrars have the power to regulate
- if yes, the extent of this power
- if no or partially, who does have the power to regulate.

Section 6

Regulatory and governance arrangements

LUV believes that the Registrars do not have the power to regulate the wider business environment. LUV notes section 40 of the ECNL which states:

The mere fact that an ELNO provides services that are additional to those provided by the ELN operated by that ELNO does not make the Registrar responsible for the regulation or operation of those additional services.

LUV supports analysis of who is best placed to regulate each of the areas outlined.

Governance Bodies

Option 1 - ARNECC acknowledges that it is insufficiently resourced.

Preliminary option 2 - as a statutory decision maker a Registrar could only be advised.

Preliminary option 3 – raises constitutional issues as a referral of powers from the States and Territories to the Commonwealth would need to be considered.

LUV believes the better option would be to appropriately resource ARNECC with people who have the necessary skills.

Funding a regulator

LUV believes that funding may need to be from a mix of consumers, Subscribers and ELNOs.

LUV agrees that the cost of the national data standards for both land registries and revenue offices should be recovered from ELNOs.

Industry wide competition

See Model Operating Requirements Version 5 for requirements relating to separation. LUV agrees that advice should be sought from an expert in economic regulation.

Please contact me if you wish clarification on any of these matters.

Yours sincerely

Ian Ireson

Ian Ireson
Registrar of Titles
Chief Executive Land Use Victoria

27/3/2019

