



18 November 2022

Interoperability Pricing for Electronic Lodgment Network Operators
Independent Pricing and Regulatory Tribunal

Submitted via email: [REDACTED]

CC: [REDACTED]

Dear Ms Williams,

Interoperability pricing for Electronic Lodgment Network Operators: Issues Paper 2: October 2022

The Australian Banking Association (**ABA**) welcomes the Independent Pricing and Regulatory Tribunal's (**IPART**) ongoing engagement regarding the development of an interoperable e-conveyancing regime.

The ABA and its members remain supportive of the realisation of a functioning interoperable e-conveyancing market. A functioning interoperable e-conveyancing market should benefit subscribers and other stakeholders, including everyday Australians. Considerable effort has been made to date, and much work remains before interoperability becomes a reality.

The ABA notes that the terms of reference for IPART's review is limited to the "*pricing regulatory framework for interoperable transactions **between** Electronic Lodgment Network Operators (ELNOs)*" (emphasis added). However, Electronic Lodgment Networks (ELNs) bring together many varied participants with some participants, such as banks, playing multiple roles in electronic lodgements and conveyancing transactions more broadly. As such, an analysis of an ELNO pricing regulatory framework should consider the historical, current and future, involvement and contribution of all ELN participants, not just ELNOs. This is also consistent with terms c) and f) in the review's terms of reference:

c) Costs (including operating and relevant capital costs) and risks incurred by different participants in an interoperable transaction and who should bear these costs

f) Any other matter the Tribunal considers relevant

The ABA and its members are broadly supportive of IPART's draft decisions. However, interoperable design is yet to be articulated in sufficient detail for banks to analyse the cost and risk impacts. When this is known, we encourage IPART to consider more broadly the implications of its recommendations on all e-conveyancing market participants, paying particular attention to the potential additional capital and operating cost consequences of subscribers, some of which have little negotiating power.

Further detail on the banking industry's views on the review are contained in Appendix A.

If you require further information or would like to discuss any of the content of this letter, please do not hesitate to contact me on [REDACTED].



Australian Banking
Association

Regards,



Brendon Harper

Policy Director
Australian Banking Association

About the ABA

The Australian Banking Association advocates for a strong, competitive and innovative banking industry that delivers excellent and equitable outcomes for customers. We promote and encourage policies that improve banking services for all Australians, through advocacy, research, policy expertise and thought leadership.



Appendix A

Competition should not increase user costs

The ABA is supportive of draft decision three:

3. Subscribers who participate in an interoperable transaction should not pay more than subscribers in a single ELNO transaction, so an interoperable transaction fee for performing the role of RELNO should not be passed through to a PELNO's subscribers as a separate charge.

In considering the appropriate fees that should be charged by a Responsible Electronic Lodgment Network Operator to a Participating ELNO, and the appropriate regulation, it is important that the overall goals of moving to a multi-ELNO market are not forgotten. Increased competition, via additional ELNOs participating in the Australian market should not, for example, result in higher fees for subscribers.

Banks as subscribers, vendors and service providers

Banks play multiple roles in e-conveyancing markets: banks are subscribers to ELNOs but they also provide services to market participants, including, for example, the provision of trust accounts and payments services. A bank may provide payment and trust account services, even when they are not a party to a particular transaction.

To be able to provide these services and to assist the development of an interoperable market, banks have made considerable investments. This has included providing dedicated personnel and expertise, in addition to building physical and technical capabilities. These expenses, some of which could be considered 'sunken costs' and some are ongoing costs, have already increased as banks prepare for a multi-ELNO/interoperable market.

It is impossible for banks to estimate the likely or possible increase in ongoing costs from moving to a multi-ELNO market, given the considerable uncertainty regarding the future level of service and functionality. The ABA notes that this uncertainty appears likely to remain for some time and it remains unclear when associated costs will fall.

Given these dynamics and the complexities of relationships of participants in the e-conveyancing market, including the ongoing costs of participants, the ABA has some reservations with the draft decision one:

1. The costs of establishing and maintaining interoperability should be recovered from an ELNO's subscribers through ELNO Service Fees

The ABA recommends that IPART consider more broadly the costs of establishing and maintaining interoperability for all market participants. Payment systems and trust onboarding are bespoke for each ELNO and may require design changes to cater for interoperability. These could result in large capital expenditure as well as ongoing expenses for banks that are integral to the e-conveyancing market.