

Our ref:PLC:CBgl200323

20 March 2023

Interoperability Pricing for Electronic Lodgment Network Operators
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop
Sydney NSW 1240

By [online submission form](#)

Dear Sir/Madam,

Interoperability pricing for Electronic Lodgment Network Operators – IPART Draft Report

The Law Society of NSW appreciates the opportunity to comment on the IPART Draft Report, Interoperability pricing for Electronic Lodgment Network Operators (“Draft Report”). We note that the Draft Report is the third step in the IPART’s investigation, which includes consideration of whether fees should be charged by the Responsible Electronic Lodgment Network Operator (“ELNO”) to a Participating ELNO, and if so, the basis of those fees. The Law Society’s Property Law Committee has contributed to this submission.

The Law Society broadly supports the 11 draft recommendations set out on pages 6 and 7 of the Draft Report. We are pleased to note draft recommendation 8.b. “that subscribers who participate in an interoperable transaction should not pay more than subscribers in a single ELNO transaction.” This principle has been articulated in the previous Issues Papers published by the IPART, and we support its inclusion as one of the formal recommendations made by the IPART in the Draft Report. In our view, this recommendation is fundamental in fostering the progression towards interoperability and any price differential would likely be counterproductive.

In respect of recommendation 5, we suggest that consideration could be given to adjusting the regulatory period and timing of the review of interoperability fees currently specified, given the extension of the interoperability timetable documented in the most recent Ministerial Statement published by the Australian Registrars’ National Electronic Conveyancing Council (“ARNECC”).¹ The effect of the Ministerial Statement, which we note was released after the Draft Report, is that the timetable for interoperability has been delayed, with the expected date for the Day 1 interoperable transaction having been postponed from March 2023 to September 2023, with consequential but as yet undefined

¹ Ministerial Statement from the Ministerial Forum: National Electronic Conveyancing - Towards a sustainable, competitive national electronic conveyancing market, published on the ARNECC website on 9 March 2023 <https://www.arnecc.gov.au/wp-content/uploads/2023/03/Ministers-Statement.pdf>.

delays to production releases of interoperability functionality. Under the revised timetable, operational interoperability may have only recently commenced in 2024-25, making it difficult to conduct the proposed review in accordance with the timeframe currently specified in recommendation 5.

Review of ELNO service fees

We note that the original Terms of Reference provided to the IPART have been amended such that the IPART has been asked to undertake a review of ELNO service fees as a second task. The timeline for the commencement of this review has been reproduced on page 5 of the Draft Report. Consistent with our suggestion made above, consideration may also need to be given to extending this timeline, having regard to the timeline outlined in the most recent Ministerial Statement.

If you have any further questions in relation to this submission, please contact [REDACTED]
[REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]
President