

4 December 2018

Jennifer Vincent
Independent Pricing and Regulatory Tribunal
2-24 Rawson Place
Sydney NSW 2000

By email: Jennifer.Vincent@ipart.nsw.gov.au

Dear Jennifer,

Submission on the Draft Terms of Reference for Independent Pricing and Regulatory Tribunal review of pricing regulation of Electronic Conveyancing Network Operators in NSW

LEAP Legal Software Pty Ltd (LEAP) welcomes the opportunity to provide comments on the Draft Terms of Reference for the Independent Pricing and Regulatory Tribunal's (IPART) review of pricing regulation of electronic conveyancing network operators in NSW.

Since 1992, LEAP Legal Software has helped small law firms work more efficiently and now more than 5400 law firms in Australia choose the LEAP Legal Practice Management Platform to run their business by providing a complete legal software solution for the small law industry, across all areas of practice.

Consistent Feedback from LEAP's client base, made up of over 20,000 users across over 5400 Law firms in Australia, has been that legal and conveyancing firms expect competition in the electronic settlement space, and are concerned that a monopoly position will have adverse effects on pricing, technological advancements, and ultimately the end user, their clients. LEAP clients have indicated that they are more likely to settle electronically if the time and efficiency gains are evident, the transaction fees make sense commercially and the transactions are secure. For the most part they believe lack of choice and competition will see slower advancements in all these areas, with the main concern being for their own clients, the end user. The legal and conveyancing market in Australia has long been accustomed to benefits derived from free market economics and expect the same from competition between electronic lodgement network operators (ELNOs).

Given the impending entry into the market of new ELNOs, and LEAP considers that IPART should consider both the current state and future state of the market. In particular, IPART should look to the likely state of the market in at least 2019-2020, considering the IPART report is anticipated to be finalised by June 2019.

Additionally, LEAP further suggests that, following its market review, IPART should first consider whether pricing regulation is appropriate having regard to the state of the market which will (or will be likely to) exist at the time such pricing regulation would be introduced. As mentioned above, LEAP also requests IPART to consider the benefits of free market economics will have on price and innovation in this market.

LEAP does consider, however, that the best interests of consumers and users of ELNOs should be considered in respect of issues such as competition, choice, redundancy and interoperability. In this

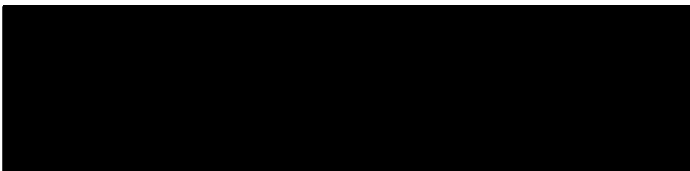


regard, LEAP echos the comments of ACCC Chairman Rod Sims¹ in that “consumers will lose” when there is only one player in the market that is the controller of the data set, and LEAP considers having multiple players in the market is the best way to mitigate this risk.

Considering the above, LEAP makes the following specific comments on the Draft Terms of Reference:

1. Task (a) requires IPART to consider the 'electronic conveyancing process'. It is not clear what is meant by the words 'electronic conveyancing process', and LEAP suggests that this language be reworded to make it clear whether this term refers broadly to the electronic conveyancing market generally or is more narrowly confined (for example, to the decisions of ELN operators (ELNOs) regarding their pricing settings).
2. Task (a) also requires IPART to consider only the 'current state' of the electronic conveyancing process. LEAP recommends that this be expanded to the 'current and future state', for the reasons expressed above.
3. LEAP submits that Task (a) should require IPART to consider:
 - a. the benefits of that multiple ELNOs will bring in fostering competition in what has been, to date, a market controlled by a private monopoly; and
 - b. the benefits of choice on user experience.
4. LEAP considers that an additional task should be added prior to the existing Task (b), which requires IPART to first consider whether a pricing regulatory framework will be appropriate in light of its findings concerning the current and future state of the market.
5. Further, Task (b) requires IPART to recommend an appropriate pricing regulatory framework and directs that the recommended framework should include a price cap. LEAP submits that the Terms of Reference should permit IPART to determine both the appropriateness of a framework and then the form that framework should take. LEAP urges IPART to consider the impact that a pricing regulatory framework will have on regular users of this service, particularly in the advent of increased competition. As such, LEAP suggests that this task should instead require IPART to 'recommend an appropriate pricing framework if IPART forms the view that a pricing framework is necessary and desirable. LEAP considers that it is imperative for its clients that competition in this market not be stifled.

LEAP would welcome the opportunity to engage further with IPART with respect to its submission.



Brendan Smart
Chief Executive Officer

¹ Simon Johanson, “Watchdog eyes electronic property transfer system over monopoly fears” *Sydney Morning Herald* 17 August 2018