

Progress with a competitive market structure in the electronic conveyancing market – joint Ministerial and ACCC statement – 1 July 2021

Commonwealth Ministers

- Senator the Hon. Jane Hume, Minister for Superannuation, Financial Services and the Digital Economy
- The Hon Michael Sukkar, Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing.

State and Territory Ministers

- The Hon. Victor Dominello MP, New South Wales Minister for Digital and Minister for Customer Service
- The Hon. Vickie Chapman MP, South Australia Deputy Premier, Attorney-General, Minister for Planning and Local Government
- The Hon Shane Rattenbury MLA, Australian Capital Territory Attorney-General
- The Hon Selena Uiibo MLA, Northern Territory Attorney-General and Minister for Justice
- The Hon. Scott Stewart MP, Queensland Minister for Resources
- The Hon. Jacquie Petrusma MP, Tasmania Minister for Police, Fire and Emergency Management, Minister for Parks and Minister for the Prevention of Family Violence
- The Hon. Richard Wynne MP, Victoria Minister for Planning, Housing and Multicultural Affairs
- Hon. Dr Antonio De Paulo Buti MLA Minister for Finance; Lands; Sports and Recreation; Citizenship and Multicultural Interests

Australian Competition and Consumer Commission

- Mr Rod Sims, Chair, Australian Competition and Consumer Commission

Statement:

Ministers acknowledged the progress made on facilitating interoperability between Electronic Lodgment Network Operators (ELNOs) under the Electronic Conveyancing National Law (ECNL), through development of the technical framework and designing the regulatory regime.

Ministers noted the announcement by the Australian Registrars National Electronic Conveyancing Council (ARNECC) that it is working towards a refinance between two financial institutions, Titles Queensland, two ELNOs and involving one landowner as the first interoperable transaction.

Ministers acknowledged that achieving this transaction in December 2021 depends upon implementation of the ECNL updates and development of the technical solution, and that the requirement for consultation with governments and industry may impact this timeframe.

Ministers further acknowledged the need for industry certainty on the regulatory framework and note:

- ARNECC members are working with the Parliamentary Counsel's Committee to finalise draft amendments to the ECNL.

To support stakeholder consultation on the draft changes, Ministers will seek jurisdictional approvals to release the draft Bill to stakeholders at the earliest opportunity.

Once the Bill is finalised, each State and Territory needs to approve the final amendments before NSW can submit the updated Bill into the NSW Parliament. Changes to the NSW Act are implemented automatically in the ACT, Queensland, Tasmania and Victoria. Other jurisdictions (South Australia, Western Australia and the Northern Territory) need to take separate steps.

- In July, ARNECC proposes to release a consultation draft of the amended Model Operating Requirements for industry consultation.
- Ministers welcome the ELNOs working together to negotiate their bilateral interoperability agreement.

Ministers noted that significant progress has been on the technical design. Industry and government officials have developed the initial version of the Application Programming Interface (API) specification describing communication between ELNOs and are now refining this specification to a baseline level. Ministers acknowledged the key role of industry in developing this technology.

Ministers also noted that discussions on implementation have commenced among ELNOs and expert jurisdictional representatives, and that other stakeholders (initially financial institutions and Titles Queensland for the first transaction, then other land registries and revenue offices) would be brought into these discussions as required over time.

Ministers thanked national industry peak bodies, operating ELNOs, ARNECC, Revenue Offices, the eConveyancing Committee and other jurisdictional experts, for their input to the development of the interoperability regime.

Next steps

Parties are working towards:

- **July 2021:** releasing draft Model Operating Requirements for consultation.
- **Third quarter 2021:** releasing draft ECNL to industry with decision Regulatory Impact Statement; all jurisdictions to finalise governmental approvals.

NSW intends to table the Bill in Parliament, once all jurisdictional governmental approvals have been obtained.

- **December 2021 or first quarter 2022:** first interoperable transaction, being a refinance relating to property in Queensland.
- **2022:** commence incrementally implementing interoperability across all documents and jurisdictions that support electronic conveyancing.

ARNECC is informed by the National Industry Interoperability Panel made up of Registrars or their nominees and jurisdictional experts, representatives from the Australian Banking Association, Australian Institute of Conveyancers, Law Council of Australia, ELNOs, the major four banks and a number of other banks. The Australian Competition and Consumer Commission is an observer to this consultation process, and the Digital Transformation Agency is a member of the Panel's technical working group.

All States and Territories reaffirmed their support of interoperability between ELNOs and a competitive electronic conveyancing marketplace.
