

MEETING OF ALL PARTIES TO THE INTERGOVERNMENTAL AGREEMENT (IGA) FOR AN
ECONVEYANCING NATIONAL LAW, REPRESENTED BY THEIR RESPECTIVE MINISTERS
AND/OR DELEGATES

7 SEPTEMBER 2020

Ministerial direction on a competitive market structure in the eConveyancing market

On 7 September 2020, all states and territories supported the principle of requiring interoperability between Electronic Lodgment Network Operators (ELNOs) in the Electronic Conveyancing National Law (ECNL). In addition, New South Wales, Queensland, South Australia and Western Australia further agreed to develop the technical and regulatory regime for legislation to be in place by mid-2021, with the aim to have the solution live as soon as practicable, and by no later than the end of 2021. Tasmania noted that it was taking steps towards implementing e-conveyancing locally.

Interoperability links ELNOs to enable a user (conveyancer, lawyer, or financial institution) to be a subscriber to one ELNO and transact with a user of another ELNO, without having to subscribe to both.

The Commonwealth Assistant Minister for Superannuation, Financial Services and Financial Technology supported this decision.

Mr Sims, Chair, ACCC, provided clear guidance on the importance of keeping to this timeframe to support the market's transition to competition—to avoid entrenching a monopoly with foregone opportunities for innovation, lower costs and improved quality of service.

The President of the Australian Institute of Conveyancers considers interoperability essential for competition between ELNOs.

The President of the Law Council of Australia strongly supports interoperability, and highlights the urgency of a solution, to enable the “consumer choice” objective to be realised.

The CEO of the Australian Banking Association (ABA) also strongly supports competition between ELNOs to deliver cost savings, security and efficiency for users. Due to the length and scale of the investment required, the ABA supports a clear, nationally-coordinated timetable for implementing interoperability.

This decision considers several key reports since 2018, including ACCC, IPART and Dench McClean Carlson reviews, and recently the Centre for International Economic analysis showing that benefits outweigh the costs of implementing interoperability.

The technology design for interoperability is being developed with industry experts and wide-ranging representation from private operators, conveyancers and lawyers, financial institutions and regulators, against agreed criteria that prioritise security of the land title system, and allowing for new operators to emerge in the future.

At its core, the National eConveyancing Interoperability Platform will be based on an APIs based solution, consistent with the National API Design Standards – as endorsed by all jurisdictions.

The ECNL will be amended to require interoperability, including the necessary allocation of rights and obligations between ELNOs, and with appropriate scrutiny of the systems supporting interoperability.

Governments thanked national industry peak bodies, operating ELNOs and ARNECC for their contribution to the work involved in developing the national regime.

Ministers emphasised the importance of working with industry to deliver this reform in a secure and timely way, and have tasked ARNECC with bringing the solution to fruition.

Ministers agreed in principle to working towards the following dates:

- **September to November 2020:** consult on draft regulatory approach and draft Bill for updating eConveyancing National Law to require interoperability between ELNOs
- **November 2020:** Governments to consider updated draft Bills and provide final agreement
- **February 2021:** introduce the Bill to NSW and once passed, amended legislation is automatically adopted in ACT, Qld and Vic.
- **From February 2021:** remaining jurisdictions submit corresponding legislation to their parliaments.
- **Mid-2021:** legislation in place
- **Ongoing:** developing of technology and testing for interoperability with an aim of being live as soon as practicable and by no later than the end of 2021.