Australian Banking Association

Review of Electronic Lodgement Network Operator service fees

IPART

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Australian Banking Association

Table of Contents

Key Recommendations 2
ABA submission to Review of Electronic Lodgement Network Operator service fees 3

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Key Recommendations

1. IPART should continue to regulate Electronic Network Lodgement Operator (ELNO) service fees, to ensure ongoing reasonable prices for subscribers and consumers.
2. Any additional costs associated with the Interoperability (IOP) Program should not be passed on until the review of the Program is completed and the program direction is known and achieved.
3. Future processes for reviewing and adjusting ELNO service fees should be informed by ARNECC's policy direction, including any decision to pursue alternative policies to IOP.

Policy Lead: [redacted]

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.

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ABA submission to the Review of Electronic Lodgement Network Operator service fees

Purchasing a home is one of the most significant financial decisions a person will make in their lifetime. The introduction of eConveyancing across jurisdictions in Australia has substantially improved the conveyancing process and delivered significant benefits to both industry and consumers, including time and cost savings, as well as improved transaction accuracy.[1] It is therefore important that the regulatory settings surrounding eConveyancing are fit for purpose.

The Australian Banking Association (ABA) welcomes the opportunity to provide feedback on IPART's Review of Electronic Lodgement Network Operator (ELNO) service fees, which is detailed below.

The ABA is supportive of the ongoing regulation of ELNO fees

IPART's previous review of ELNO service fees in 2019 was conducted in the context of a highly concentrated market. Accordingly, IPART considered how to protect customers from excessive prices, whilst enabling ELNOs to recover efficient costs. IPART found that PEXA's prices were reasonable and recommended maximum ELNO prices be set at PEXA's current prices, with an annual growth rate capped at CPI. Importantly, IPART also recommended facilitating competition in the ELNO market through regulators introducing Interoperability (IOP), which IPART considered would drive innovation and lower costs.[2]

The ABA and banks have actively engaged with the IOP Program since its inception in 2019, dedicating resourcing and time to support the Program's development. However, despite years of effort by both government and industry, due to significant issues identified in the Program's governance and scope IOP has not yet been delivered and the Program is currently paused.[3]

Noting this, and the associated ongoing concentration of the ELNO market structure, the ABA remains strongly supportive of continued price regulation for ELNO service fees. This will help ensure that prices remain reasonable for both subscribers (i.e. financial institutions and conveyancers), and most importantly, end consumers.

Additional costs associated with the IOP Program should not be passed on until the review of IOP is complete

At this stage, the ABA does not consider it appropriate for any costs associated with IOP Program to date to be passed on to subscribers (and ultimately end consumers) beyond the existing CPI-capped annual growth rate.

IPART's 2019 review considered that ELNOs should be able to *'pass through as an additional charge the efficient costs of implementing interoperability'*, but acknowledged that these costs were not yet known.[4] Part of the justification of passing on these costs was the anticipated associated benefits to subscribers and consumers expected from competition, including innovation, dynamic efficiency, and lower costs.

As noted above, despite years of effort by a range of parties, IOP has not yet been delivered and the Program is currently paused subject to several reviews to determine next steps. This means any anticipated benefits to subscribers and consumers have not been realised, and the 'efficient costs' of

[1] NSW Productivity and Equality Commission, *eConveyancing market study*, June 2024, pg. 14 https://www.productivity.nsw.gov.au/sites/default/files/2024-06/20240628-econveyancing-market-study.pdf
[2] IPART, *Review of the Pricing Framework for Electronic Conveyancing Services in NSW,* November 2019, Executive Summary.
[3] In June 2024 ARNECC paused the design, build, and test working groups for the IOP Program, and has commissioned a number of reviews to inform next steps in the Program.
[4] IPART, *Review of the Pricing Framework for Electronic Conveyancing Services in NSW,* November 2019, Executive Summary.

delivering IOP remain unknown. The ABA considers it would be a poor outcome if, after six years of work, the only result of the IOP Program was increased costs for subscribers and consumers, particularly noting that a key intended benefit of competition is lower costs.

Given the current uncertainty regarding the future of the IOP Program, the ABA considers that no additional IOP-related costs should be passed on by ELNOs until the Program review is complete and the program direction is known and achieved.

For example, we note the recent fees being charged to ELNOs by the National Electronic Conveyancing Data Standards. We understand that these fees stem from ARNECC's Interoperability Program. In our view, it is inappropriate for the costs of the Interoperability Program to be passed on without any clear path towards implementation.

It may be appropriate for IPART to consider enhanced price regulation approaches in the future

IPART has asked stakeholders for feedback on future review and adjustment processes for ELNO service fees. The ABA notes that while ARNECC remains supportive of introducing competition through IOP, the Program is currently paused and the pathway forward is uncertain. As such, it is difficult to determine with confidence what future fee review and adjustment processes should entail.

As the ABA has previously stated, given the passage of time since the IOP Program was first announced and its inability to deliver an end-state, it is appropriate for ARNECC to now consider alternative models that could also deliver benefits to consumers.[5] One viable alternative option to introducing competition through IOP is enhanced price regulation, which may achieve similar cost savings for consumers without the complexities and risks associated with IOP.

If ARNECC were to instead pursue enhanced price regulation, the ABA considers that IPART, as NSW's independent and evidence-based pricing regulator, would play a key role in designing an appropriate ongoing pricing framework for ELNO service fees. This framework would need to balance reasonable pricing, efficient costs, the promotion of ongoing investment, and other relevant factors.

[5] ABA submission to Senate Economics References Committee, Micro-competition opportunities in the Australian economy in relation to eConveyancing, 14 March 2025.