

**Submission
No 18**

**INQUIRY INTO ELECTRONIC CONVEYANCING
(ADOPTION OF NATIONAL LAW) AMENDMENT BILL
2022**

Name: Mr Richard Bootle
Date Received: 14 March 2022

Dear Committee

As a major player in the wheat industry during the removal of the Single Desk Monopsony from AWB, it became obvious that AWB was being attacked by 'wheat growers' who were also significant shareholders in its competitors. I mention this as I want you to be aware of the potential bias that may be informing debate on the subject of interoperability of ELNOs in the property law space. Our lawfirm, lawlab, is the largest truly national conveyancer, so I have a keen interest in this debate. Before I give opinion I would like to state for the record that neither myself, lawlab, Smartlaw or any of my related corporations own shares in either Sympli or PEXA.

My views:

1. Mandating destroyed competition in the industry: From the moment that PEXA obtained its first State mandate I have shouted to anyone who would listen that this was a terrible outcome for the industry. 'Property Settlement' went from one of the most competitive industries in Australia, with a handful of big agency players and literally thousands of lawyers and conveyancers who could attend and complete settlement on behalf of their clients to just one... PEXA. I'm reminded of a presentation by the then CEO who compared PEXA to the progress of the English railways and how they destroyed their competitors, the canals and roads, by their cost efficiencies. I asked this question that day: 'Why, if you are such a superior offering, did you have to lobby Government to grant you statutory mandates because your uptake by the industry was so low?' I'm still waiting for the answer. Interestingly, in QLD, which was sensible enough to refuse the sugar coated requests from PEXA to grant them a monopoly, PEXA still only hold 80% of settlements and until COVID, charged nearly half price in that State. My point is back to Economics 101: Monopolies are bad. There may be a space for 'natural monopolies' but Sympli have shown us that Electronic Settlements is not such a space.

2. You created this: NSW Government has to take responsibility for restoring competition because they directly destroyed it. I've attached a graph that shows the lead up to SA mandating PEXA (as I can't find the equivalent for NSW but I know it was broadly similar). You created the monster, you have the ethical responsibility to fix this.

3. PEXA's role in delaying this legislation: In July 2021 a bloated PEXA floated on a \$3 billion valuation based on its monopoly revenue of \$218 million and the promise of squashing its adjacent industries. Unfortunately for me, our businesses are one of the 'adjacencies', and our clients, the mums and dads who buy and sell houses, are the ones who will be increasingly hit up to feed this machine. PEXA's latest tactic was to provide a webinar on Interoperability on 16 February 2022 to all their subscribers where they promised the spectre of another ELNO (read 'Sympli') taking out the entire industry by going down, or in the dramatic words of the President of the Australian Institute of Conveyancers, Michelle Kent, '(leaving) families in moving trucks, locked out of houses'. Proving that once again someone within PEXA has a sense of humour (PEXA went down for 1hour 45mins on the day it listed), it was only 5 days later that PEXA went down for 5 hours. In an amazing piece of clairvoyance (or perhaps prior briefing by PEXA?) Ms Kent, in an email to the NSW Registrar General on 14 February 2022, mouthed many of the same concerns as PEXA's webinar to the industry including this gem: The legislation restoring competition 'fails to provide any cost, procedural or conveyancing practice

efficiencies'. I wonder has she ever read any of PEXA's prospectuses? I don't know what her relationship with PEXA is but I think it's really important practice for your committee to enquire into the shareholdings and paid relationships of all who would offer opinion on this topic.

4. Competition in the settlement industry must be restored as a matter of urgency: We need this legislation passed as quickly as possible because every day that it is delayed, value passes from consumers to the Monopolist. Looking at PEXA's annual results for FY21 we see that PEXA has a Gross Margin of 86.7% with an EBITDA margin of 50%! Only a monopolist could produce results like this, and monopolists attract investment which will then place PEXA in the position of going upstream and subsuming the entire industry, including our company, and all of the tens of thousands of lawyers and conveyancers who currently form the backbone of their communities.

Thanks so much for giving me this opportunity. I'm happy to join any face to face or videoconference discussion.