

National Legal Profession Reform

view of Law Council of Australia President

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The legal profession is the most over-regulated profession in Australia.

Jurisdictional differences make it very difficult to practise law efficiently on a national scale. These differences and overly-prescriptive regulatory schemes all add to the compliance burden for lawyers and increase the costs of legal services for consumers.

This is why the Law Council welcomed the Council of Australian Governments' (COAG) decision earlier this year to add national legal profession reform to its micro-economic reform agenda.

The National Legal Profession Taskforce has been working to create a new legislative framework for the regulation of the profession since April. The taskforce's regulatory framework paper has been a positive development, but as all lawyers know, the devil will be in the detail.

The legal profession awaits with great interest the details of the new regulatory system.

Moving to a truly national, uniform regulatory framework is in the best interests of lawyers and consumers. It will simplify regulation so that it is easier and less expensive, and support the development of a

national profession that can grow and expand within Australia and overseas.

Simplifying regulation means taking the hard work done in recent years on harmonisation to its next logical stage. In doing so, we want to see a uniform national regulatory framework, based on simplified laws, which will ease the compliance burden and reduce costs and complexity.

Reforms to the legal profession must also benefit consumers. The new system will need to ensure only competent, fit and proper people are entitled to practise law.

It must also allow consumers to receive adequate information about legal costs and the processes to make informed decisions, and there must be a complaints-handling and discipline system that ensures complaints are resolved quickly and fairly.

And when things go wrong, adequate mechanisms must exist to provide redress to consumers.

The taskforce has a challenge of crafting a nationally uniform and simplified regulatory framework that satisfies all of these requirements.

However, the one requirement that stands above all others is the

independence of the profession.

An independent legal profession that promotes the administration of justice and defends liberty is a vital component of the rule of law.

As High Court Chief Justice Robert French said recently *"The touchstone for judging any regulatory regime must be its capacity to serve the public interest in maintaining a strong, independent, competent and ethical body of legal practitioners"*.

It is vital to allow members to set the professional conduct standards and to play a part in the profession's regulation. The new system must accept these fundamental propositions.

We broadly support the idea of a national board with the legal profession represented through the LCA.

The LCA supports the role of state and territory bodies in day-to-day regulation, pursuant to the national standards. However, we expect that the introduction of national standards will lead to a rationalisation of the number of regulatory authorities to reduce the cost of regulation.

We also support the proposal for a national ombudsman to administer a national complaints-handling framework, provided that it leads to reduced costs of managing complaints and allows consumer disputes to be investigated and resolved more quickly and effectively. ↓

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