



Coexisting in change

By Tom Goudkamp

As Australian states are adopting voluntary membership of their legal professional bodies, law societies are responding by introducing changed fee structures and upgraded services to retain their relevance. Practitioners reviewing these changes are likely to take the opportunity to consider the role of other legal associations and whether other organisations can meet their needs.

While the interests of lawyers are best advanced by strong uniform representation, legal professional bodies have suffered from two inherent difficulties. As both regulator and 'union', law societies are sometimes unable to fearlessly and vigorously defend the interests of *all* their members. The interests of members and the duty to government as delegated regulator can present the societies with a difficult dilemma. State law societies and bar associations must also attempt to represent the entire spectrum of their membership, making them too broad a church to effectively advocate in every member's interest on all issues.

In recent years, state and federal governments have made radical changes to the common law in response to a perceived crisis in the insurance industry. Law societies responded to this erosion of fundamental legal rights by appropriately balancing a concern for individual rights with the interests of

members whose insurance clients were benefiting from the reforms. But in a world where big government, big business and big insurance can afford powerful lobbyists and expensive public relations consultants, there is a vital role for other professional associations to uncompromisingly tackle fundamental issues of principle.

The Australian Lawyers Alliance – APLA as it then was – was able to respond with much greater force, making submissions in every state and territory and appearing before the Ipp Review Panel and Senate inquiries. The High Court recently heard *APLA Ltd and Ors v Legal Services Commissioner of NSW and Anor*. The plaintiffs' case challenges the constitutional validity of a NSW ban on advertising by personal injury lawyers, demonstrating our commitment and ability to professionally challenge unjust reform in the courts, as well as in parliaments.

While originally conceived and developed as a group for plaintiff personal injury lawyers, the Lawyers Alliance creed is broadly stated: 'to protect and promote justice, freedom and the rights of the individual'. Injury law permits a more or less neat divide between practitioners dealing predominantly in plaintiff work, and those acting for defendants. The enduring tension is between ordinary people, and the insurers, governments and corporations that challenge their right to fair compensation. The Lawyers Alliance – and APLA before it – has argued relentlessly on behalf of

plaintiffs in this uneven contest.

There are other legal arenas where a similar divide between the interests of individuals and the big end of town is equally evident. Labour lawyers see this in ongoing struggles against a government and a business sector determined to undo decades of progress in industrial relations. Criminal lawyers daily confront reductions and abrogations of basic civil liberties. Migration lawyers see firsthand the federal government's active role in stripping back this country's commitment to international humanitarian instruments, and thereby undermining the rights of individuals.

Initiatives such as the Law Council funding Lex Lasry QC's visit to Guantanamo Bay last year demonstrate that the law societies and bar associations remain relevant, and can deliver a powerful message.

But there are other debates in which the Australian Lawyers Alliance defends individual rights and opposes limits on freedoms dictated by the interests of big government and big business. We offer a formidable means of influencing those debates in a way that complements the work of the traditional lawyers' groups. ■

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