



**InfoTrack Second Supplementary Senate Committee
Inquiry into Micro-competition opportunities in the Australian economy in relation to e-
conveyancing**

20 October

We thank the Committee for the opportunity to submit this Second Supplementary submission to respond to recent submissions by PEXA made to the Committee. This should be read in conjunction with InfoTrack's Submission to the Committee and Supplementary.

1. PEXA misleading and inaccurate statements to the Committee

1.1. *PEXA do not support any form of competition*

During PEXA's hearing, it was asked on numerous occasions including by Senator Sharma and Smith about versions of competition it would support, including the ladder of investment to which the PEXA CEO responded:

Mr Cohen : Senator, I think the best form of competition is when two or more companies go out there and compete for customers by offering their own versions of a better product and service, which would mean that we would need to see a competitor invest at the same rate as PEXA to offer similar functionality—to offer their own innovative take on how to settle or lodge property rather than fusing their network to PEXA and then calling that competition. We think that's the flawed premise behind interoperability as it currently stands. A network of similar size, scale and functionality to PEXA, where we could agree on what information to exchange, would be a good starting point.

PEXA's response demonstrates that they clearly do not support any model that would enable true competition, which can only be enabled via interoperability. The PEXA CEO's statement is misleading as it does not consider the significant network effect and first mover advantage that PEXA enjoys as a monopoly. It also fails to recognise that Sympli has heavily invested in its own infrastructure.

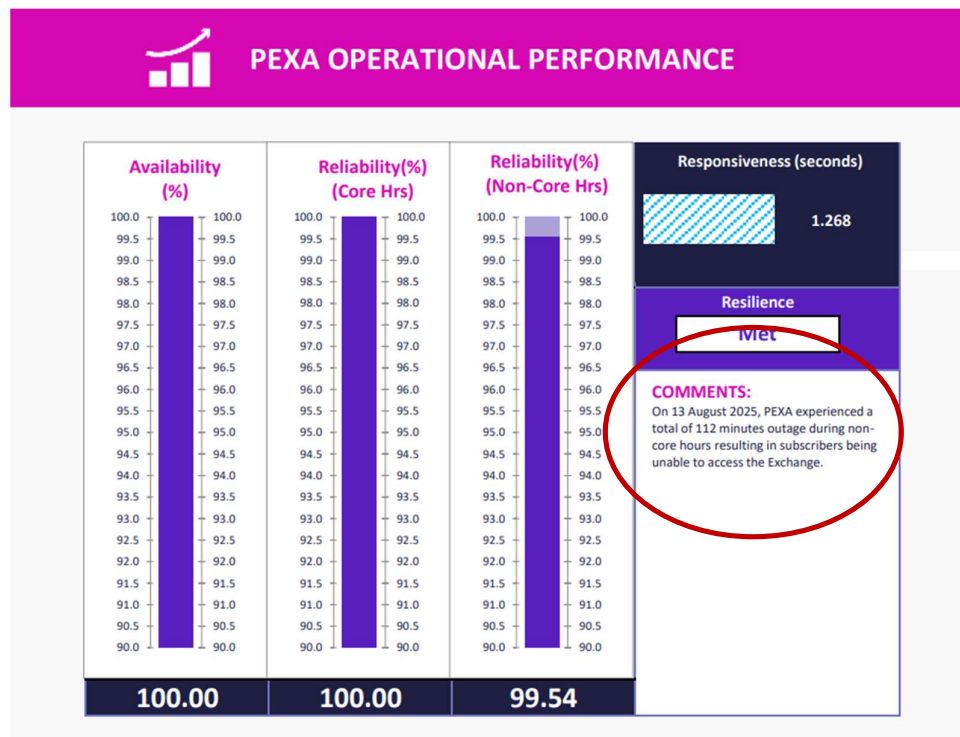
1.2. *PEXA CEO fails to disclose full national outage at hearings*

During PEXA's hearing, when asked by the Chair about the number of outages, the CEO of PEXA answered this:

*There are service interruptions, where an outage—a full system outage in relation to what you described—**has not occurred**. (emphasis added)*

In this case, Mr Cohen has provided incorrect information to the Senate Inquiry given PEXA reported that they sustained a full system outage on 13 August and would have had knowledge at the time that this outage had occurred. This was published on their PEXA monthly Dashboard August¹:

¹ <https://www.pexa.com.au/performance/>



This outage was also recorded as a 'National Full-Service Outage' by PEXA on their *System Incident History* page²:

		National Full Service Outage	Significant Service Disruption			
Service Availability			PEXA	State Land Registry Office	State Revenue Office	Financial Institution Integration
Jan '25	100%		2	1		3
Feb '25	100%		1			4
Mar '25	100%		2			
Apr '25	100%		1	1	1	1
May '25	100%		2	1		3
June '25	100%		1		2	2
July '25	100%			1		1
Aug '25	100%	1*			1	3
Sep '25	100%		1			1
Oct '25	100%					3

² <https://status.pexa.com.au/history>



1.3. **PEXA are required to retain workspace data indefinitely**

During PEXA's hearing Senator Darmanin asked about control of data. In relation to data retention, the following answer was provided by Ms Clare Gill:

"There's also a lot of data that's held by the land registry offices; sometimes it's perceived that we hold it, but we don't."

Whilst PEXA claim they do not hold onto any data, this is again misleading as the Model Operating Requirements (MOR) states that an ELNO must indefinitely hold workspace data:

19 DATA AND INFORMATION OBLIGATIONS

19.1 Retention

The ELNO must indefinitely retain and retrieve and provide to the Registrar within 10 Business Days of the Registrar's request to provide:

- (a) all Workspace Data; and
- (b) all Electronic Workspace Documents, whether:
 - (i) Digitally Signed or not; or
 - (ii) Lodged or not with the Registrar or the Land Registry; and
- (c) all Notifications; and
- (d) for each Subscriber, each Document and Record received or created by the ELNO in connection with the Subscriber's or User's registration in the ELN.

1.4. **PEXA commercialise property data**

PEXA was also asked by Senator Canavan whether PEXA sold any of its data to which Mr Cohen replied:

"From the PEXA Exchange, we do not sell property data. That is correct. We have two separate businesses that deal specifically in property insights. They do not use PEXA data; they do not access the PEXA data; they do not monetise it any way. They are completely standalone and separate."

Whilst PEXA stated that they "do not use exchange data" for its Digital Solutions business, reports published by PEXA under their "Content Hub" regularly source "PEXA" as the source of their information, and a variety of their investment documents (including their 2021 IPO Prospectus) states their intention to enrich their data offerings through information from the PEXA exchange.

1.5. **PEXA offer unapproved value-added service**

In a further session with the State Registrars, Senator Canavan asked Titles Queensland:

"I have heard allegations that PEXA's dominant role in the marketplace gives it access to data that, otherwise, yourselves, the registries, would have. Do you end up in any way competing against PEXA in the control of data or the value of the information that you would otherwise receive from property transactions?"

Mr Witkowski, from Titles Queensland provided the following answer: *"If an ELNO wishes to use the data that they receive from a jurisdiction for any other purpose, we would characterise that as a*



value-added product, and they'd need to seek the permission of their respective jurisdiction to do something different with that data.

Despite this, InfoTrack has submitted that PEXA have now operationalised an API Workspace Notification Service. PEXA have worked with Industry “Banks” to build this API as their interests are aligned. This API provides Data unique to the title register and negates the need to purchase Land Titles throughout the mortgage process. This is a non-approved service is directly competitive to the Title Registers in Australia and will result in a reduction in revenue.

```
<Description>Positive Title Activity Check result returned for Title: 12614053
in Workspace: PEXA20501230812.
</Description>
<Details>
  <LandTitle>
    <LandTitleReference>14011</LandTitleReference>
    <PropertyDetails>
      <LandDescription>LOT 3354</LandDescription>
      <PropertyAddress></PropertyAddress>
    </PropertyDetails>
    <TitleActivityCheck>
      <DocumentReference>
        <DocumentType>MORTGAGE</DocumentType>
        <LrDocumentId>9876737</LrDocumentId>
        <DocumentStatusDetails>
          <DocumentStatusTimestamp>2020-07-
19T20:59:52.000Z</DocumentStatusTimestamp>
          <DocumentStatus>REGISTERED CURRENT</DocumentStatus>
        </DocumentStatusDetails>
      </DocumentReference>
    </TitleActivityCheck>
  </LandTitle>
</Details>
```

1.6. Single Point of Failure confirmed by Department of Home Affairs

PEXA throughout the hearing played down the risk that a single point of failure presents the industry and contend that *“Multiple ELNOs will not provide useful redundancy in practice”*. InfoTrack would like to bring attention to the late submission by the Department of Home Affairs who state:

“Outages within the PEXA Exchange could delay settlements and foreseeably cause significant downstream impacts during a severe incident.”

Regardless of PEXA’s false assertions about interoperability *increasing risk*, experts including the Department of Home Affairs have explained that PEXA is a single point of failure and outages would have significant impact on the economy. InfoTrack have also provided examples to the Committee of instances where a bank issue has impacted PEXA, and Sympli has continued to be operational and has been able to settle property transactions.

InfoTrack welcomes the Department of Home Affairs’ providing a definitive word on this topic.

1.7. PEXA is expanding into AML/CTF

PEXA have now made public statements that they are building an AML Solution and InfoTrack understands that they have registered a business. This is a troubling development and one that deserves closer inspection by ARNECC and the ACCC. Enabling PEXA to offer upstream AML solutions



Tower 2, Level 21 International Towers
200 Barangaroo Avenue, Sydney NSW 2000
www.infotrack.com.au

would effectively allow PEXA to 'book end' the property transaction and foreclose on other Australian companies. InfoTrack asks that the Committee consider this significant development in their deliberations and recommendations.