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Senate Standing Committees on Legal and Constitutional Affairs
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Submission to the Senate Standing Committees on Legal and Constitutional Affairs in response to the Senate Inquiry into the Migration Amendment (Regulation of Migration Agents) Bill 2017.

Thank you for an opportunity to make this submission.

Restriction of individual choice..... Denial of the option to accept dual regulation and dual roles.

If this bill is to progress, is there any good reason for the prohibition on solicitors holding both an unrestricted or restricted legal practice certificate and maintaining annual registration as a migration agent with the Office of the MARA.

The prohibition impacts firms involved in Migration Advising. Many firms may employ both RMA's and practising solicitors or involve a mix in partnerships. There appear to be a myriad of unforeseen consequences. The "legal practice" definition in the regulation of legal practitioners will also constrain participation in not for profit community assistance centres and conduct of a barrister's practice.

Many professionals may be more than one thing. One can hold more than one occupation at once. And blend the roles at will. The legal practitioner option of holding a dual registration seems a reasonable solution.

However, the bill PROHIBITS holding both registrations at the same time. This is very very unusual restraint of personal freedom in this day and age. If one opts for dual registration it should be possible to do so, with care in managing the natural boundaries of both fields. Individual rights and freedom are in fact affected by the Bill's prohibition.

Financial Implications both State and Federal

There are financial implications for the Commonwealth in that the Office of the MARA will have less revenue annually with about 2000 fewer annual re-registrations. The State Legal Commissioners on the other hand will have increased duties in the area of administration of discipline to practising solicitors. Has the Commonwealth got state government buy-in for the increased role for state authorities? Or will the consumer suffer?

Loss of Equilibrium in the "migration advising market", deleterious to the consumer

Firstly, common sense dictates that without any Office of the MARA formalities in place, a solicitor in general practice from 1 July 2018 on, when facing a client requesting assistance with a visa, will be able to enter the



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migration field and offer that assistance. There would be a preponderance of new advisers who will be competing for work. And this without the filtration process of Office of the Mara registration which currently encourages targeted Continuing Professional Development in a complex field of advising. Skills involved are not necessarily legal skills but more organizational skills. A visa application is not necessarily a legal problem. Conveyancers, Patent Attorneys, Taxation Specialists, Superannuation Specialists also do not need to be holders of a legal practising certificate.

The loss of equilibrium for the market can come from an influx of new advisers who merely hold legal practising certificates. There are something like 65,000 plus such advisers in Australia who have not registered with the Office of the MARA previously and have not come under the specific requisite knowledge discipline that entails. I am advised there are currently approximately 6,500 registered migration agents at present. The Bill distorts the orderly conduct of migration advising and creates disequilibrium in the market.

In closing, it is submitted to the Senate Committee that in their deliberations on the Bill that the above factors be closely considered and that the Bill be rejected as inappropriate.

Sincerely

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