

Email: fintech.sen@aph.gov.au

26 February 2021

The Chair
Select Committee on Financial Technology and Regulatory
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senator Bragg,

Further Submission on Rules as Code Following Evidence to the Committee:

We thank you for the opportunity we had to provide evidence to the Senate Select Committee on Financial Technology and Regulatory Technology on 11 February 2021 regarding Rules as Code.

We refer to the La Trobe LawTech call for a bold, government framework for collaborative public-private rule coding innovation and especially for a regulatory sandbox to support rule coding-projects, evaluate results and eventually support practical implementation. By means of this letter we wish to share further thoughts regarding such a framework and why it is required.

- 1 Regulatory rules are proliferating as regulators respond to an increasingly complex environment. Technology can enable regulators, regulated entities and the public to access relevant legal rules and enhance compliance.
- 2 Australia has an exciting opportunity to assume a leading role in coding legal rules, thereby supporting LawTech and RegTech and also increased digitalisation of government processes.
- 3 While some simple legal rules may be coded with confidence, there are limits to what can be achieved with the current level of technology. Further research is required to ensure increased accuracy and fairness, and also increased scale and speed of projects.
- 4 Data61, La Trobe LawTech and QUT undertake multidisciplinary research on coding of legal rules. Our Australian projects are however constrained by (i) the complexities of engaging the relevant government stakeholders to identify and support projects that would further the objectives of government and deepen research engagement, and (ii) enabling and assessing the implementation of research results.
- 5 A government innovation hub for coding of legal rules and a sandbox to enable the implementation and assessment of results are required if the Australian government wishes to support coding of legal rules. Such a hub could be located at the Digital Transformation Agency or at the Office of Parliamentary Counsel, but, either way, it would be beneficial to have both the Agency and the Office involved. The hub should ideally also

have a stakeholder forum of Commonwealth and State and Territory agencies and departments as well as research bodies.

- 6 The innovation hub can be tasked with:
 - a. Drafting a strategic framework for identification, funding, management and testing of coding innovation;
 - b. Identifying strategic projects and inviting requests and proposals;
 - c. Identifying and addressing regulatory and process barriers to projects and to implementation;
 - d. Enabling independent transparent assessment of results;
 - e. Monitoring and assessing implementation of results;
 - f. Organising coding techsprints; and
 - g. Fostering national and international collaboration.

- 7 La Trobe LawTech and Data61 developed a proof of concept on coding of elements of the Australian Spent Conviction Scheme. The [project](#), requested by the Australian Criminal Intelligence Commission and funded by the Data to Decisions Cooperative Research Centre (D2D CRC), was aimed at providing support for the processing of the nationally coordinated criminal history checks. In 2019–20, check submissions exceeded 5.6 million. Approximately 30% these check submissions are referred to the relevant police jurisdiction for further assessment and resolution (Australian Criminal Intelligence Commission [Annual Report 2019-20](#) (2020) p. 54). A digital solution could speed up checking processes while easing the administrative burden on police jurisdictions.

- 8 The innovation hub could analyse the results of projects such as these, engage the relevant government stakeholders on steps to be taken to develop a comprehensive digital solution and facilitate further research and development if this is viewed as a meaningful problem to be solved.

Thank you for the opportunity to make a further submission.

Yours sincerely

Professor Louis de Koker
B.luris, LLB, LLM, LLD (UFS), LLM (Cantab)
La Trobe LawTech
La Trobe Law School

Research Professor Pompeu Casanovas
UAB Director of Advanced Research
La Trobe LawTech
La Trobe Law School