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Economics References Committee
Senate Standing Committees on Economics
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Micro-competition opportunities in the Australian economy in relation to e-conveyancing

Dear Committee Secretary,

Thank you for the opportunity to make a submission to the Micro-competition opportunities in the Australia economy in relation to e-conveyancing inquiry.

Our submission is based on the principles of providing fairness and integrity in the payments system in Australia. We believe that interoperability between all Electronic Lodgement Network Operators (ELNOs) is the only way to ensure competition, innovation, minimisation of disruptions and better outcomes for users and consumers.

Purchasing and selling property, whether private or commercial is a cornerstone of Australia's economy. In 2023, property settlement values transacted by PEXA (Property Exchange Australia Ltd) were over \$814 billion.¹ There is an unacceptable risk of a single point of failure in the current e-conveyancing system monopolised by PEXA, with the overt support of Commonwealth Bank and the Australian Banking Association who appear to be putting shareholder interests above social licence.

The current system is plagued with outage incidents and denies genuine choice and competition benefits to tens of thousands of small legal and conveyancing businesses around the country. This bias towards the interests of big banks to the detriment of small business is played out in many other areas of the payments ecosystem such as retail card and account to account payments.

It is critical to ensure that the e-conveyancing process that has been mandated by the state governments is efficient, safe and cost effective for all parties involved, as well open to innovation and improvement. We welcome the intervention of the Federal Government in what has become a lucrative monopoly for publicly listed PEXA, facilitated by continuous delays by the states in moving competition and innovation forward.

Please do not hesitate to contact us if you would like to discuss anything further.

Your sincerely,

Warwick Ponder
Co-founder IPF

Brad Kelly
Co-founder IPF

¹ Iaria, M. 'Minister: Deadlines with penalties needed to keep interoperability on track'
<https://www.aicvic.com.au/minister-deadlines-with-penalties-needed-to-keep-interoperability-on-track/>

Independent Payments Forum – about us

The Independent Payments Forum (IPF) aims to affect real change in the payments system by listening, working with, and representing the voices who often go unheard in payments policy discussion, such as cash acceptance. Our mission is to amplify those voices and promote a fair and competitive payments landscape in Australia.

The robustness of the e-conveyancing market is important to all homeowners, investors and businesses who manage, buy and sell commercial properties.

IPF seeks to balance policy debate that is dominated by big banks and their associated businesses and partners. These well-resourced organisations have a stranglehold on payments policy discussion in Australia. They control industry forums that make recommendations to government on these issues, while also exerting influence on other policy and advocacy organisations via lucrative sponsorships, partnerships and lobbying.

This has caused lopsided policy debate which has resulted in further poor outcomes for most Australians. This is especially true in the e-conveyancing sector where participants have complained about the lack of competition and choice, the collapse of innovation, deteriorating service and relentless outages due, in no small way, to the overwhelming dominance of PEXA (Property Exchange Australia Ltd).

Current forum Participants



Executive Summary

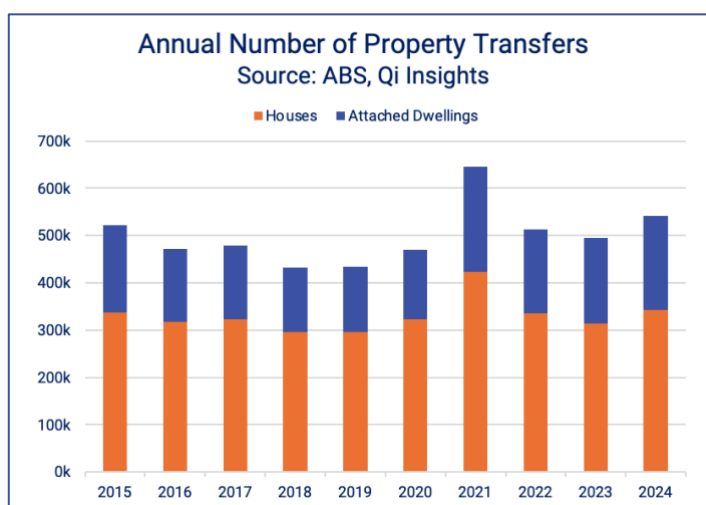
The buying and selling of property has long been considered a cornerstone of financial stability and prosperity in Australia.

Over the last ten years in the residential property market alone, there has been just over 5 million property sales (as measured by dwelling transfers via ABS Total Value of Dwellings data as at December 2024). That includes 3.31 million house sales and 1.69 million apartments / attached dwellings.

Similarly, competition is cornerstone of our vibrant economy, providing businesses and consumers with choice as well as driving innovation, efficiency and pressure on pricing.

Sadly, today's e-conveyancing market in Australia is devoid of competition.

While e-conveyancing has been mandated for all business and consumers property settlements by state and territory governments responsible for these important transactions, the market is dominated by one player – PEXA.



PEXA was created in a 2008 Council of Australian Governments (COAG) agreement to create a national electronic conveyancing system to eventually replace paper-based property settlement services.

By 2012, all states and territories (except ACT) had signed up to the initiative and PEXA was allowed to operate as a monopoly, even after its sale and privatisation in 2018 and subsequent public listing in 2021.

PEXA now operates as a monopoly Electronic Lodgement Network Operator (ELNO). PEXA has no network redundancy or process for other ELNOs to have interoperability with its networks.

Currently, the Australian Registrars' National Electronic Conveyancing Council (ARNECC) is only organisation that could loosely fit the description of a regulatory body responsible for e-conveyancing.

It was established to facilitate the implementation and ongoing management the framework for electronic conveyancing of real property in Australia but has so far failed to create an interoperability system that is open to competition.

The decision to develop national interoperability specifications for e-conveyancing was made official in 2021 but its deadline for completion at the end of 2025 appears unachievable due to delays.

Although ARNECC oversees e-conveyancing, it has stated that interoperability delays were “beyond the remit of states and territories to address effectively”.² Without the power or ability to make decisions regarding interoperability and to progress competition in the e-conveyancing market, it remains an inequitable and unsuitable system.

PEXA and the banks (the Commonwealth Bank has a 25% stake) successfully lobbied ARNECC to delay interoperability, maintaining PEXA's monopoly over e-conveyancing services while creating uncertainty for competitors and risking their investments.

These are familiar bullying tactics deployed in the payments industry to delay competition and over complicate necessary change in networks in areas such as Least Cost Routing, contactless rollout, blended pricing, surcharging and the BECS decommissioning.

Other industry players have noted that ARNECC is under resourced and lacks the expertise to supervise and institute the Interoperability Program (IoP) under such conditions.

Regulators, watchdogs and government ministers all agree on the importance of competition to promote innovation and lower prices.

It is time to end the monopoly of PEXA and legislate for and promote competition in the e-conveyancing market which presides over such an important part of the Australian economy.

The constant delays and excuses for holding back competition do not pass the pub test or Australian's expectations for a fair go.

Recommendations:

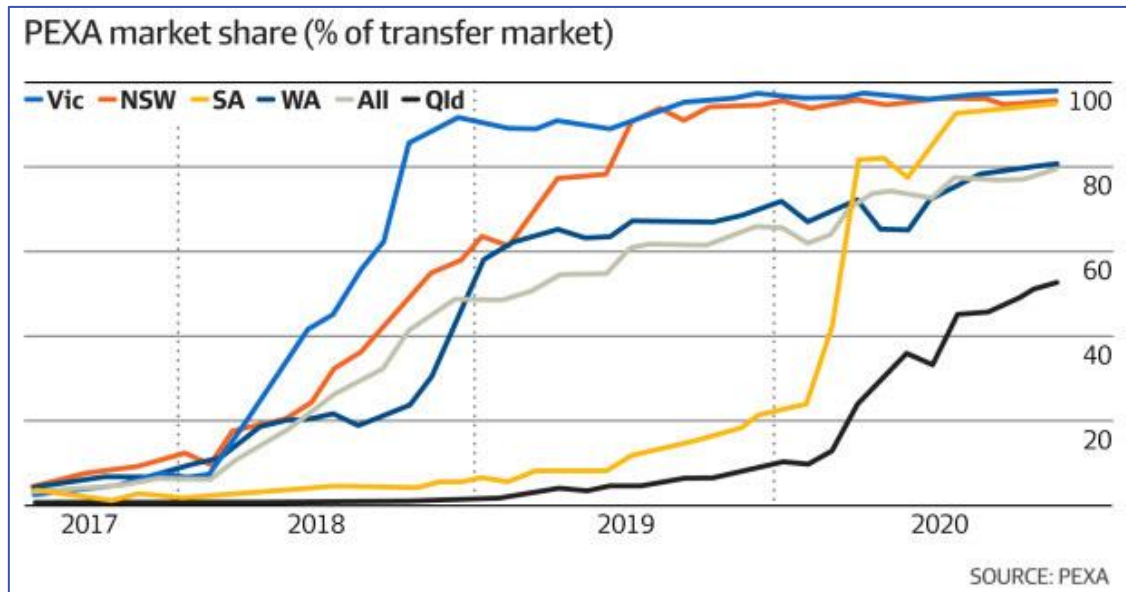
1. An appropriate Federal Minister and regulatory body or bodies are handed responsibility for the e-conveyancing market to ensure full interoperability is introduced in 2026, enabling competition.
2. That appropriate frameworks, legislation and regulatory oversight are put in place to ensure the operation of a competitive market in e-conveyancing.
3. That the Federal Government embraces the promotion of innovation, efficiency and better outcomes in e-conveyancing through “service-based competition through interconnected resilient networks”.

² Kane, A. 'Treasury minister slams delays to interoperability', The Adviser, <https://www.theadviser.com.au/tech/45891-treasury-minister-slams-delays-to-interoperability>

Competition

Monopolising e-conveyancing

As the chart below clearly shows, PEXA effectively has no significant competition in the e-conveyancing market in Australia.



IPF supports the 2024 statement of Assistant Minister for Competition, Dr Andrew Leigh: “The prices that Australians pay for e-conveyancing could be lower if we had competition in the market, and with housing affordability a major issue, the idea that we would continue with a privatised monopoly doesn’t seem in line with the competition principle”.³

Given the number of recent outages and the impacts, Dr Leigh’s comment that “monopolies tend to overcharge and underdeliver”⁴ shows this principle in practice. PEXA’s monopolistic position has not come about through merit. Rather, it has inherited a privileged position as a monopoly as a recipient of an ill-timed and rushed mandate from government prior to efficient and effective competition. It is critical that this market failure is corrected quickly.

By its actions, PEXA appears to be deliberately stopping or at least delaying competition, slowly damaging its competitors and maintaining a monopoly.

To achieve this, it has extensively used highly paid lobbyists, including former NSW Labor Premier Morris Iemma via Iemma Patterson Premier Advisory and crisis management firm Clive & Cato, while also having the active support of banking lobbyists, the Australian Bankers Association.

³ Bell, M. 2024, ‘Federal Assistant Competition Minister Andrew Leigh says states need to end PEXA monopoly’ *The Australian*, <https://www.theaustralian.com.au/business/companies/federal-assistant-competition-minister-andrew-leigh-says-states-need-to-end-pexa-monopoly/news-story/06bb7f20d241d36af272277d096892b0>

⁴ Loussikian, K. 2024 ‘Could this be the country’s stupidest public policymaking debacle?’, *Australian Financial Review*, <https://www.afr.com/companies/financial-services/could-this-be-the-country-s-stupidest-public-policy-making-debacle-20240705-p5jrqv>

Similarly, PEXA has used legal firms to aggressively defend its position, threatening legal action in the NSW Supreme Court when the regulator wanted PEXA to cap its prices and not block competitors, and state registrars with legal action in the interests of protecting its intellectual property claim that have not been substantiated.

It is currently public knowledge that PEXA has made legal threats against ARNECC and the major banks on a loose basis of intellectual property ownership.⁵ These threats have had the practical result of delaying and stifling the reform, resulting in poor outcomes for small businesses and the broader Australian economy.

These tactics are deployed by in other parts of the payments ecosystem to delay competition and over-complicate necessary change. We have seen this strategy repeated many times in areas such as Least Cost Routing, the contactless rollout, blended pricing, surcharging and the BECS decommissioning.

Lack of pricing transparency

NSW Productivity and Equality Commission highlighted in its June 2024 market report into eConveyancing that, “There is a lack of transparency relating to prices charged to different subscribers⁶”.

The report goes onto say that “As the margins from mortgage lending are thin, any price discrimination could be a source of competitive advantage for the banks, with potential concerns for competition in that market.”⁷ Given the shareholding makeup of PEXA, this lack of transparency is very concerning.

While PEXA quotes its \$137 transaction fees, there appears to be significant additional set up costs and platform subscriptions fees for the platform’s users.⁸

Despite the promise of digital technology driving down prices, PEXA can raise its fees by CPI despite not having inputs that are necessarily driven by inflation and gaining increasing economies of scale as its customer and revenue base grows.

Complexity of pricing is another tactic used regularly in the payments industry to disadvantage small businesses and is often called out by regulators including the Reserve Bank of Australia in relation to interchange and scheme fees on cards and more recently for end user fees in account to account payments.

PEXA’s platform business delivered margins of 56% to shareholders in the first half of the 2024-2025 Financial Year. Its financial position is already so comfortable, it announced a \$50 million share buyback in February 2025.⁹

⁵ Kruger, C. 2024 ‘Competition watchdog probes \$800b online property monopoly after banks threat’ , *The Sydney Morning Herald*, <https://www.smh.com.au/business/companies/competition-watchdog-probes-800b-online-property-monopoly-after-banks-threat-20241122-p5ksxh.html>

⁶ NSW Productivity and Equality Commission, 2024, *eConveyancing market Study*, <https://www.productivity.nsw.gov.au/sites/default/files/2024-06/20240628-econveyancing-market-study.pdf>

⁷ *ibid*

⁸ PEXA, ‘Pricing’, <https://www.pexa.com.au/pricing/>

⁹ PEXA, 2025, ‘Improved operating performance, up to \$50m on-market buy-back’, [https://www.pexa-group.com/static-media/2025/02/2025-Half-Year-Results-ASX-Announcement-sm-1740691326.pdf](https://www.pexa-group.com/static/media/2025/02/2025-Half-Year-Results-ASX-Announcement-sm-1740691326.pdf)

Failure of regulatory bodies to achieve interoperability

ARNECC has failed to deliver on its promise of ensuring interoperability of the e-conveyancing market by the end of 2025, an endeavour that began in 2018.

ARNECC paused the work on the project in June 2024 and in February 2025, announced another review:

*ARNECC is commissioning an in-depth review of the functional requirements for interoperability. This will involve an independent consultant engaging with ELNOs and Subscribers to develop a functional scope for interoperability that are necessary to maintain an equivalent subscriber experience for interoperable and noninteroperable transactions.*¹⁰

These continued delays have further prolonged and entrenched PEXA's monopoly, continuing and furthering the risk of a single point of failure in a market that is crucial to the Australian property industry and consequently the broader economy. The delays have also had a detrimental impact on potential competitors who are investing substantial sums of money to develop technology and service differentiation to be competitive against a well-established 'first mover' business.

The NSW Productivity and Equality Commission in its June 2024 market report into eConveyancing¹¹ acknowledged:

- *The current regulator, ARNECC, faces challenges with its structure and resourcing that constrain its ability to deal with issues both today and in the future. Further, it lacks the necessary financial settlement and competition expertise to oversee the market.*
- *The Australian Competition and Consumer Commission, as Australia's competition regulator, is best placed to lead the ongoing market oversight and monitoring of the e-conveyancing market in Australia.*

Outages

PEXA's position as an monopoly in the e-conveyancing market has created a single point of failure with the potential to destabilise the entire Australian property industry and banking services that are crucial to the Australian economy.

Due to the premature e-conveyancing mandates, if PEXA's system were to fail, there is no alternative system in place for property transactions to occur. This could lead to people losing their life savings and place insurmountable pressure on families, small businesses and the banks that are frequently labelled "too big to fail".

¹⁰ ARNECC, 2025, 'Next Steps on Interoperability', <http://arnecc.gov.au/wp-content/uploads/2025/02/Next-Steps-on-Interoperability-19-Feb-2025.pdf>

¹¹ NSW Productivity and Equality Commission, 2024, *eConveyancing market Study*, <https://www.productivity.nsw.gov.au/sites/default/files/2024-06/20240628-econveyancing-market-study.pdf>

With Australia being so reliant on its real property market, this would be devastating for the economy.

As an unacceptable risk as a single point of failure, PEXA has admitted to having 95 outages in the 12 months to Feb 2025.¹² It blames the range of other institutions it connects with including the Reserve Bank of Australia, the Australian Tax Office, state Land Titles offices and banks for most of them. It claims that only 10 outages were directly on PEXA's own network.¹³

According to PEXA's own website, the system had 10 service issues in January 2025 alone.¹⁴ These outages ranged from Payment File Response issues to login issues. One login issue on January 10, lasted for over four hours. A Payment File Response issue is listed as commencing on January 17 at 3:29pm and not being resolved on January 20 at 10:35am.

Banking Day noted major outages on January 13 and January 22 when major bank connections with PEXA failed.¹⁵

PayDay News has highlighted a case of an elderly couple affected by an outage in February 2025.¹⁶ The outage in February caused a delay in their property settlement, creating great distress and them leading them to cancel tradesmen booked for work at their new home.

PEXA claims that it has minimal outages, in fact in its last financial results it claimed to have "100% uptime". The monopoly's persistent claims about its platform uptime elucidates one salient trend: PEXA plainly puts its shareholders above its social, economic and regulatory responsibilities in supporting a more resilient and competitive market.

As much as PEXA attempts to minimise its outages and disruptions, any outage during such major transactions has a significant impact on real people. As there are no alternatives, people are left in limbo and often out of pocket. This can cause deep financial, emotional and psychological stress. This is the real, human risk of allowing for a single point of failure caused by an entrenched monopoly. Denying tens of thousands of small businesses the opportunity to choose an alternate ELNO provider means that they, and their everyday clients, are stuck with the risk of a single point of failure and a lack of market resiliency.

The Model Operating Requirements from ARNECC require that:

"The ELNO System must be available to its Subscribers (including those services dependent on functionality needing external communications and systems except when those external communications or systems are not available) for 24 hours per day, seven days per week and 52 weeks per year, exclusive of Scheduled Maintenance, to be assessed monthly."; and

*"The ELNO System must be available for:
(a) not less than 99.8% during Core Hours; and
(b) not less than 99% during Non-Core Hours,
assessed monthly."*¹⁷

¹² Sainsbury, M. 2025, 'The devastating human impact of PEXA settlement outages', *PayDay News*, <https://payday-news.beehiiv.com/p/the-devastating-human-impact-of-pexa-settlement-outages>

¹³ *ibid*

¹⁴ PEXA, 2025 'Incident History', <https://status.pexa.com.au/history>

¹⁵ Rogers, I. 2025, "PEXA in a pickle", *Banking Day*, <https://www.bankingday.com/pexa-in-a-pickle>

¹⁶ Sainsbury, M. 2025, 'The devastating human impact of PEXA settlement outages', *PayDay News*, <https://payday-news.beehiiv.com/p/the-devastating-human-impact-of-pexa-settlement-outages>

¹⁷ ARNECC, 2025, *Model Operating Requirements*, Schedule 2, <https://www.arnecc.gov.au/wp-content/uploads/2025/02/Model-Operating-Requirements-Version-7.1-Clean.pdf>

Currently PEXA self-reports outages. It is clearly not best practice that a monopoly network and service provider is not externally monitored. Due to PEXA's proven track record of prioritising its shareholders over small businesses and everyday home buyers and sellers, there is no clear incentive for this entrenched monopoly to support a more resilient and competitive market.

Expansion into new markets and the potential for vertical integration

With more than 90% of the e-conveyancing market now captured, PEXA now has an imperative to seek other revenue streams. It has targeted two markets:

1. Replicating its Australian business in the UK. It has also mentioned Canada and New Zealand as other potential markets
2. The market for property data and research in Australia.

ARNECC prohibits vertical integration, however, practitioners have expressed concerns that PEXA may begin moving into adjacent markets in the future.

While PEXA continues to make public statements hewing closely to the regulators wishes, critics point to the company's strategy in the United Kingdom where it has purchased a leading conveyancing firm as well as a novel online marketplace for conveyancing services,¹⁸ the NSW Productivity and Equality Commission has voiced concerns about the lack of competition in e-conveyancing stating:

*"In the longer term, a lack of competition in the eConveyancing market could have implications in adjacent markets, with the potential for an ELNO to use its market power and unfair competitive advantage to move into the related sectors such as banking, conveyancing, and property data."*¹⁹

Conclusion

Competition is vital to improve service and market resiliency, drive innovation and keep prices low. IPF urges the Federal Government to intervene in the e-conveyancing market to ensure that:

1. An appropriate Federal Minister and regulatory body or bodies are handed responsibility for the e-conveyancing market to ensure full interoperability is introduced in 2026, enabling competition.

¹⁸ PEXA, 2023, 'PEXA group to strengthen UK expansion with acquisition of Smoove PLC', <https://www.pexa-group.com/content-hub/news/pexa-group-acquisition-of-smoove-plc/>

¹⁹ NSW Productivity and Equality Commission, 2024, eConveyancing market Study, <https://www.productivity.nsw.gov.au/sites/default/files/2024-06/20240628-econveyancing-market-study.pdf>

2. That appropriate frameworks, legislation and regulatory oversight are put in place to ensure the operation of a competitive market in e-conveyancing.
3. That the Federal Government embraces the promotion of innovation, efficiency and better outcomes in e-conveyancing through "service-based competition through interconnected resilient networks".

For further information about IPF's submission please contact Warwick Ponder or Brad Kelly.