

Law Council response to COAG Interim Report

The following statement can be attributed to Mr Glenn Ferguson, President, Law Council of Australia.

- On 27 November, the Law Council of Australia held a Directors' meeting to discuss the progress of the COAG National Legal Profession Reform project with particular emphasis on the National Legal Profession Taskforce Interim Report on Key Issues and Findings (the Interim Report).
- In a letter to the Commonwealth Attorney-General dated 29 November 2010, the Law Council on behalf of its constituent bodies conveyed their concern and disappointment that the legal profession will not be given the opportunity to examine the new Draft National Law and Rules.
- The Law Council's Directors were unanimous in the view that it is absolutely vital that the profession see and comment on the revised legislative package (including the Inter-Governmental Agreement) before COAG signs off on the details of the reform.
- As a result, the Law Council has requested the legislative package be released to the profession so it can examine the details of the national regulatory scheme being advanced by the Taskforce.
- The legal profession's support for the COAG Reform proposal has been strong and unwavering since COAG announced its decision to include this issue on its micro-economic reform agenda – however, this support is predicated on an effective reform regime that will truly deliver to the profession the ability to conduct legal practice on a national basis and a simplified regulatory regime.
- At the 27 November meeting the Law Council Director's considered eight key issues within the Interim Report, including:
 1. constitution of the National Legal Services Board;
 2. need for a National Legal Services Ombudsman;
 3. need for SCAG policy directions;
 4. role of SCAG in disallowing National Rules;
 5. application of certain provisions to 'commercial or government' clients;
 6. centralisation of admissions applications;
 7. conduct of compliance audits; and
 8. funding for the proposed national regulatory bodies.
- The Law Council considered and accepted the proposals outlined in the Interim Report in relation to issues 2, 3 and 4 – however, there are a number of key issues which cannot be supported until the detail of the legislative package is made available.

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- The Law Council has indicated that it will defer its decision in relation to issues 5, 6, 7 and 8 until it has seen the proposed legislative detail and how these matters are dealt with in the new draft Bill.
 - In relation to the composition of the Board, the Law Council has continuously expressed support for the option advanced by the Council of Chief Justices for the selection of the Chair of the Board.
 - The Law Council continues its support for this method of selecting the Chair of the Board along with, of course, two members of the Board to be nominated by the Law Council and one by the Australian Bar Association. This remains the Law Council's preferred position.
 - However, the Law Council has also considered the Taskforce revised position on the composition of the Board and has determined that it can accept the Taskforce compromise position for filling the position of Chair of the Board.
 - The Law Council considers it essential that any new regulatory scheme for the regulation of the legal profession should be supported by Chief Justices and strongly urges Attorneys-General to work with the Council of Chief Justices to find an appropriate solution.

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