

Media Statement



Tuesday, 22 December 2020

Law Council response to Committee's final report into the Litigation and Class Action Industry in Australia

All comments by Law Council President, Pauline Wright.

"The Law Council agrees in principle with a number of the 31 recommendations made in the Parliamentary Joint Committee on Corporations and Financial Services' final report on Litigation Funding and the Regulation of the Class Action Industry in Australia.

While the Australian class actions are generally working well, a number of the recommendations provided in the report offer an opportunity to improve the system.

The Law Council fully supports the Committee's view that the potential benefits of permitting contingency fee arrangements do not outweigh the risks.

The Law Council is particularly pleased to see that the Committee has called for Government to legislate to address the lack of clarity in common fund orders, and we are keen to work with Government as part of this process.

The Law Council notes that the Committee has supported our call for the Federal Court to be given greater power to oversee class actions; however, an over-reliance on the Federal Court, one that is currently overstretched and underfunded, is problematic.

Further resourcing of the Federal Court system is required, particularly if it is to have exclusive jurisdiction for *Corporations Act 2001* or Australian Securities and Investments Commission (ASIC) matters.

The Law Council also strongly opposes any further incursion into the regulation of Australian legal practitioners (as discussed in Recommendation 20, 21, 22 and 28).

Legal practitioners are already among the most regulated professionals in the country. Class action litigation lawyers, whether they be solicitors in firms or barristers, are subject to more than usually intensive court oversight of their conduct.

The Law Council supports the application of the Australian Financial Services Licence regime to funders and is keen to work with the Government, ASIC and industry to develop a regime that is more fit-for-purpose than the Managed Investment Scheme regime."

ENDS

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