



MEDIA RELEASE

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**PRODUCTIVITY COMMISSION DOES NOT SUPPORT COMPULSORY
PRO BONO**

The National Pro Bono Resource Centre welcomes comments made by the Productivity Commission earlier this week in its draft report on Access to Justice Arrangements indicating that it does not consider compulsion an appropriate means of bolstering pro bono legal services, and recognises that pro bono plays only a small but important role in assisting disadvantaged Australians to obtain legal services.

The Centre supports the measures suggested in the report to remove constraints and barriers to pro bono legal work being done by Australian lawyers. The recommendations include entitling parties represented on a pro bono basis to seek an award for costs, authorising holders of all classes of practising certificate to work on a volunteer basis, introducing free practising certificates for retired or career-break lawyers providing pro bono services either through a Community Legal Centre or a project approved by the National Pro Bono Resource Centre, and courts granting protective costs orders to parties involved in matters of public interest against government.

“Given the evidence of great unmet legal need in Australia, it is a waste of potential pro bono capacity to have obstacles in the way of lawyers who are willing to help by giving their services for free. For example the Centre has recently advised several in-house legal teams wishing to start a pro bono project that there were no options for them to do so due to the current practising certificate regime in their jurisdiction”, said John Corker, Director of the National Pro Bono Resource Centre.

“Much progress has been made in Australia in the past five years to remove constraints facing lawyers who wish to take on pro bono legal work but, as this report demonstrates, there is plenty more that can be done” Corker said. “We welcome the recommendations contained in the Productivity Commission’s draft report, which support several areas of reform advocated for by the Centre and others for several years”.

The report also makes recommendations in relation to the role that government can play in encouraging the legal profession to undertake pro bono legal work.

“The Centre views as particularly useful the Commission’s recommendations that governments have a ‘pro bono coordinator’ (as exists in Victoria) who coordinates requests from firms for clearance of conflict of interest matters, and that other governments follow the Victorian and Commonwealth government’s lead in including a pro bono aspirational target as part of the requirement for firms to tender for government legal work”, Corker said. “These arrangements have worked well to encourage firms to engage in pro bono work and should be closely considered by other governments.”

The ‘Pro bono services’ chapter of the draft report can be found [here](#).

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Background

The National Pro Bono Aspirational Target (“Target”) sets a voluntary goal of at least 35 pro bono hours per lawyer per year. The most recent performance report on the Target found that



the pro bono performance of signatories improved the longer they had been signatories. It also found that a factor in the rapid increase in the number of signatories over the past two years has been the integration of the Target into the pro bono provisions in the application process for the Commonwealth Legal Services Multi-Use List for purchasing legal services, which requires agencies to consider each applicant's pro bono contribution when awarding tenders.