

Submission to the Senate Standing Committee on Legal and Constitutional Affairs

Inquiry into Access to Justice

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Submitted by:



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The terms of reference for the inquiry into **Access to justice** require the committee to have particular reference to:

- a. the ability of people to access legal representation;
- b. the adequacy of legal aid;
- c. the cost of delivering justice;
- d. measures to reduce the length and complexity of litigation and improve efficiency;
- e. alternative means of delivering justice;
- f. the adequacy of funding and resource arrangements for community legal centres; and
- g. the ability of Indigenous people to access justice.

Scope of this submission

This submission does not specifically deal with each of the above terms of reference, but focuses on public access to information about the law as an essential element of access to justice and support for the rule of law.

The Australasian Legal Information Institute (AustLII – www.austlii.edu.au) is Australia's only provider of free access to essential legal information (legislation, case law and law reform) from all Australian jurisdictions, and also provides access to other key legal information such as all treaties to which Australia is a party. AustLII is therefore Australia's only free-access national legal information service, and has become an essential component of Australia's information infrastructure.

AustLII's operations therefore have a significant impact on the ability of members of the Australian public to be able to access legal information through the provision of its online free-access public library of legal materials, and therefore on access to justice. Hence, AustLII would like to make the Committee aware of both, how AustLII assists to ensure in the words of the Attorney-General that the "justice system is fair, transparent, simple, affordable and accessible"¹, and the limited resources that it has to carry out that task on a national basis.

Details of AustLII's operations are contained in its Annual Report 2007, available online at www.austlii.edu.au/austlii/reports/2007/AustLII_AR_2007.pdf.

AustLII's provision of free-access legal information

AustLII provides free-access to all of its 284+ legal databases containing legislation from all Australian jurisdictions, cases, law reform reports, treaties, law journals and other legal information. In many instances, AustLII is the sole free-

¹ (Robert McClelland, Attorney-General, Speech presented to the Qld Law Society Symposium, 28 March 2009 and accessible from the Attorney-General's website under speeches)

access online provider of decisions, including most notably decisions of the High Court of Australia. Currently there are 40 courts and tribunals for which AustLII is the sole free-access online provider.

Usage of AustLII

AustLII receives on average over 700,000 hits per day (including weekends), with its identified users being approximately equally divided between the education (such as universities), commercial (such as barristers, law firms and businesses) and government (such as government departments) sectors. It has the number one market position for online legal information. In 2008, AustLII was the #1 website in the Business and Finance - Legal industry based on market share of Australian Internet visits during 2008. Please see a copy of Hitwise's March 2009 monthly report in Appendix One.

Funding Model

AustLII was established in 1995 as a joint facility of the University of New South Wales and the University of Technology, Sydney. AustLII was primarily funded through grants from the Australian Research Council. Demand for AustLII's services and its increase in number of databases necessitated a change to its funding model. By 2007, the size of AustLII's operations became too large to rely on grant funding alone, which does not fund continued maintenance of existing legal databases. AustLII altered its funding model so as to include a wider contributor base from its content providers and users to support its operations. This has been successfully sustained in 2008. AustLII's contributors can be found on its sponsorship page at: www.austlii.edu.au/austlii/sponsors/. Each year AustLII needs over \$1 million to maintain its existing databases and this amount increases each year as data and number of users increase. Further funds are required to build new services.

Funding from courts and tribunals

Whilst some courts and tribunals contribute funding to AustLII to assist it to maintain, operate and keep up to date the information it provides to the public, this is very limited. For the calendar year 2008, courts and tribunals contributed \$129,300 (not relating to new development work), of which \$70,300 is from courts and tribunals that do not publish their own decisions for free-access online. Most of this funding is from Commonwealth courts and tribunals.

Despite AustLII relieving to a significant extent the obligation of many judicial bodies to ensure that their decisions are made available to the public, makes many other legal documents more easily accessible to the public and that strong use of AustLII is made by the community, including government, government provides limited funding to AustLII to assist it to maintain, operate and keep up to date the information it provides to the public.

Standing Committee of Attorneys-General (SCAG) consideration

AustLII formally brought the lack of government funding for hosting and maintaining content and government usage to the attention of the Commonwealth and NSW Attorney-Generals' departments in December 2008 for referral to SCAG. AustLII submitted to the Commonwealth and NSW Attorney-Generals' departments an extensive report including financials to support its request for specific funding. AustLII has not yet been advised whether or not AustLII's government funding proposal has been considered.

Conclusion

To again quote the Attorney-General, "without proper access to the law, there can be no access to justice"².

AustLII is the only national free-access provider of legislation and case law from all Australian jurisdictions. As an important element of Australia's national information infrastructure and the largest provider of public access to legal information, AustLII considers that all Australian governments should make a reasonable contribution toward the costs of its ongoing operations and maintenance. AustLII appreciates that the Senate Standing Committee on Legal and Constitutional Affairs does not deal directly with matters concerning funding, but considers that it is important that the Committee be made aware of infrastructure affecting access to justice which is at present under-resourced.

AustLII submits to the Committee that government funding on a national basis should be provided to support the national legal information infrastructure that only AustLII provides. Such funding would assist in ensuring that AustLII is able to continue to provide a free-access service and that service remains of a high quality. With such assistance, AustLII will be able to better support access to justice to the community through the provision of free-access legal information online.

² (Robert McClelland, Attorney-General, Speech presented to the AsianLII conference, 24 February 2009 and accessible from the Attorney-General's website under speeches)

Appendix One

Based on Hitwise Australia data

Hitwise Website Report for Australasian Legal Information Institute (AustLII)

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Rank by Market Share of Pages Viewed to all sites in the 'Legal Cat' Custom Category

'Australasian Legal Information Institute (AustLII)' ranked 1st by page impressions in the 'Copy of Legal Cat' online industry of the 76 websites that were ranked by Hitwise in the 'Copy of Legal Cat' online industry for March, 2009.

The table below shows the websites ranked near Australasian Legal Information Institute (AustLII) in the 'Copy of Legal Cat' online industry for the month of March, 2009 based on page impressions.

Rank	Website	Domain	Market Share	Feb '09	Jan '09
1.	Australasian Legal Information Institute (AustLII)	www.austlii.edu.au	29.27%	1	1
2.	Victorian Department of Justice	www.justice.vic.gov.au	9.43%	2	2
3.	Lawlink NSW	www.lawlink.nsw.gov.au	6.71%	3	4
4.	ATO Legal Database	law.ato.gov.au	4.32%	4	5
5.	Slater & Gordon	www.slatergordon.com.au	4.20%	5	3
6.	NSW Legislation	www.legislation.nsw.gov.au	4.00%	6	7
7.	Lawpoint	www.lawpoint.com.au	3.27%	7	6
8.	LexisNexis	www.lexis-nexis.com	3.15%	8	9
9.	Queensland Law Society	www.qls.com.au	2.76%	9	8
10.	Commonwealth of Australia Law	www.comlaw.gov.au	2.65%	10	13
△	11. The Courts Administration Authority	www.courts.sa.gov.au	1.77%	15	11
△	12. Queensland Courts	www.courts.qld.gov.au	1.76%	13	12
▽	13. Department of Justice and Attorney-General	www.justice.qld.gov.au	1.72%	11	10
△	14. Church Copyright Licence	www.ccli.com	1.61%	23	22
△	15. Free Patents Online	www.freepatentsonline.com	1.51%	17	16
△	16. Attorney-General's Department	www.ag.gov.au	1.49%	18	17
▽	17. CCH Australia	www.cch.com.au	1.47%	12	14
▽	18. Law Institute of Victoria	www.liv.asn.au	1.46%	14	18
▽	19. Law Society of New South Wales	www.lawsociety.com.au	1.35%	16	15
▽	20. Family Court of Australia	www.familycourt.gov.au	1.20%	19	19
△	21. Tasmanian Legislation	www.thelaw.tas.gov.au	0.87%	30	27
▽	22. Federal Magistrates Court of Australia	www.fmc.gov.au	0.84%	20	23
▽	23. Legal Aid Queensland	www.legalaid.qld.gov.au	0.76%	22	26
△	24. FindLaw Australia	www.findlaw.com.au	0.74%	25	25
△	25. The Law Handbook South Australia	www.lawhandbook.sa.gov.au	0.74%	28	28

Note: DNR = Did Not Rank



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