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Committee Secretary
Joint Standing Committee on Migration
PO Box 6021
Parliament House
Canberra ACT 2600

By electronic upload

Submissions – Inquiry into the efficacy, fairness, timeliness, and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions

Dear Sir/Madam

Thank you for the opportunity to provide submissions addressing the terms of reference for the – *Inquiry into the efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions.*

We are pleased to provide these brief submissions to this inquiry.

Yours sincerely

Teresa Liu

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Solicitor**

1. ABOUT FRAGOMEN

Fragomen is one of the world's leading global immigration law firms, providing comprehensive immigration solutions to our clients. Operating from over 50 offices in 29 countries (with capabilities in more than 170 countries), Fragomen provides services in the preparation and processing of applications for visas, work and resident permits worldwide and delivers strategic advice to clients on immigration policy and compliance.

In Australia, Fragomen is the largest immigration law firm with over 110 professionals and support staff nationally, including Accredited Specialists in Immigration Law, legal practitioners, Migration Agents and other immigration professionals. With offices in Brisbane, Melbourne, Perth and Sydney, Fragomen assists clients with a broad range of Australian immigration services from corporate visa assistance, immigration legal advice, audit and compliance services, litigation and individual migration and citizenship applications.

Further information about Fragomen, both in Australia and globally, is available at:
www.fragomen.com.

Our submission relates to terms of reference (f) only at this time, with related short opinions to terms of reference (b) and (d).

2. GOVERNMENT POLICY SETTINGS REGARDING RELEVANT VISAS AND THE ROLE OF FAMILY REUNION IN THE MIGRATION PROGRAM

Immigration has always been a critical determinant to Australia's economic growth and social cohesion and has become vital in order to promote long-term population growth. Fragomen is pleased to provide a brief submission with respect to the importance of family reunion programs to supporting settlement in the skilled migration programs.

The guiding principles underpinning Australian migration policy set important parameters for successive Governments and are aligned with our core long-standing social values. In the context of family, immigration policy must be seen to be responsive to the needs of Australian citizens and permanent residents to reunite with close family. This is in 'recognition of kinship ties and the bonds of mutual dependency and support within families'¹.

Family visas serve our 'broader social obligations, supporting social cohesion and Australia's role as a global citizen'.² A strict economic analysis of the value or cost of the family visa program is not aligned with this underlying principle - they should not be measured first and foremost by their ability to produce any net economic gain but rather by a broader social and cultural context which considers the important role that family support plays in the successful long-term settlement of skilled migrants.

¹ See for example: Department of Home Affairs, *Procedures Advice Manual 3: GenGuideB - Non-humanitarian migration*, 'Visa application and related procedures', LegendCom stack 19/04/2021

² Migration Council Australia, 2016, *The Economic Impact of Migration*, p.17.
http://migrationcouncil.org.au/wp-content/uploads/2016/06/2015_EIOM.pdf

We believe that the importance of providing a pathway for skilled migrants to access the same family support available to Australians cannot be overstated, as it maximizes their ability to better settle into Australia and to economically contribute.

We acknowledge that agencies including the Productivity Commission have raised concerns regarding health and welfare costs of family migration; however, we believe the indirect economic benefits of family migration, including childcare and other free labour costs, are understated.

The Productivity Commission has argued that any positive benefits are mostly accrued by immediate family members (for example, the children of Parent Visa holders) and not by the Australian community more broadly³. However, there are positive effects on Australia's productivity if the presence of a Parent Visa holder in Australia means their child is able to work full-time in a double-income household. Indeed, this potential for productivity and additional economic contribution by the spouse of skilled and business migrants is assessed when applying for permanent residency whereby for example, the General Skilled Migration program allows for additional 'Partner' points where their partner meets skilled visa threshold requirements. The recent CEDA report, *A good match: Optimising Australia's permanent skilled migration*⁴ noted that employment rates among family migrants to be just shy of 70%. The CEDA report also indicated that a significant number of family visa migrants held at least a bachelor degree qualification⁵. Family visa policy settings should facilitate and maximize the prospect of realising this potential. Any revenue foregone is made up not only by the direct and indirect contributions made by the parent, but also over the lifetime of a more productive child.

In the post-pandemic recovery phase, global competition to attract migrants will only increase. We need to be able to innovate and adapt our migration framework in order to secure what is described as a central component of Australia's future prosperity⁶. The prospect of skilled migrants being in a position to secure permanent residence for family members may be the driving factor in the choice of Australia as a permanent destination. The sustained demand for non-contributory parent visas despite the limited number of places available, has not effectively deterred the demand, with the pipeline for these applications now sitting in excess of 30 years. This highlights the importance and value that is placed on this family reunion category despite the inflated processing times.

Further, we must not overlook that the success of our migration program is the result of a balanced approach⁷. Promoting family migration, for example, means that skilled migrants will not simply view Australia as a utilitarian approach to work – it becomes a place to settle permanently as a family and not just to earn an income⁸. This is critical for regional migration programs, whereby family migration increases the prospects of successful and permanent settlement in regional areas by forming enduring community and familial roots where the skilled worker would otherwise be migrating with little or no established support networks in their place of settlement.

³ Productivity Commission, *Migrant Intake into Australia*, Inquiry Report No. 77(2016) 473.

<https://www.pc.gov.au/inquiries/completed/migrant-intake#report>

⁴ <https://www.ceda.com.au/Admin/getmedia/150315bf-cceb-4536-862d-1a3054197cd7/CEDA-Migration-report-26-March-2021-final.pdf> at figure 1.5

⁵ Ibid at figure 1.7

⁶ Ibid, p.24.

⁷ Ibid

⁸ Professor Peter McDonald, 2013, 'The role of family migration in Australia's permanent migration program'. Policy Discussion Paper, Australian Demographic and Social Research Institute, the Australian National University, p.13.

We question whether proper consideration has been given to the lost taxation revenue and ancillary consumer spending associated with skilled migrants who leave when they are unable to secure reasonable and timely migration outcomes for their close family.

Need for greater flexibility within current family visa subclasses

A practical issue within the current family visa program is the separation between the 'onshore' and 'offshore' family visa programs and in particular, the lack of flexibility for applicants who find themselves in different locations at time of application and time of decision. This issue has been exacerbated by current protracted processing times across all family visa programs which we additionally feel are too lengthy, and COVID-19 travel restrictions. For example, processing times within the Partner visa program is now 24-27 months from lodgement and for Prospective Marriage applications is 18-29 months. The Carer Visa program, which provides entry for proposed carers of Australian relatives with long-term medical conditions and currently comprises the majority of visa places under the 'Other Family' visa program, has current processing times of approximately 4.5 years. Processing times of this length are untenable for a program which has the policy intent to provide support to Australians who have been assessed as requiring assistance which cannot be reasonably be otherwise provided in Australia. Similarly, the long processing times for partner and prospective marriage visas can have a negative impact on family relationships and cause mental health issues as a result of the long separation periods and the delay in couples being able to make plans for their future together.

Under the current visa criteria, applicants for the temporary Partner (Subclass 820) and the Partner (subclass 309) visas must be in the same location both at the time of application and at lodgement, that is, subclass 820 applicants must be *in Australia* at time of application and decision and subclass 309 applicants must be *outside Australia* at both points in time.

Whilst certain concessions have been recently implemented by the *Migration Amendment (2021 Measures No. 1) Regulations 2021*, these are temporary in nature and only benefit a limited number of offshore family visa applicants who are in Australia during the specified 'COVID-19 concession period'. The concessions do not, for example, benefit onshore family visa applicants who departed Australia during processing and due to border closures, have been unable to return. This includes Partner visa applicants who have subsequently become eligible for the grant of the permanent Subclass 801 visa during the lengthy processing of their visa application, however due to the application of subclause 801.221(2)(a) which requires the applicant to first be granted a subclass 820 visa before they can be granted the permanent Subclass 801 visa, their application cannot be finalized until they return to Australia.

Fee concessions under the Partner visa program

The cost of current Visa Application Charges for Partner visas can be prohibitive for certain sponsors, particularly those with refugee backgrounds or with carer responsibilities. Similar to fee concessions currently available under the Citizenship program, consideration should be made as to providing fee reductions for lower income sponsors, for example, where the Australian sponsor holds a Health Care or Pensioner Concession Card issued by Centrelink.