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7 April 2005

The Secretary
Standing Committee on Legal & Constitutional Affairs
House of Representatives
Parliament House
CANBERRA ACT 2600

By email: laca.reps@aph.gov.au

Dear Secretary

Inquiry into Harmonisation of Legal Systems

The Australian Finance Conference (AFC), as a national finance industry association, welcomes the House of Representatives *Inquiry into the Harmonisation of Legal Systems* (the Inquiry) and appreciates the opportunity to comment on its Terms of Reference. Attached is a list of the AFC membership.

As the majority of our members provide finance services nationally and a number also operate in New Zealand, the AFC views the Inquiry as an important opportunity to address the significant impacts of competing commercial laws on our members' products, services and business operations within Australia and across the Tasman.

Inquiry Scope

The AFC notes the areas identified for consideration. We support, and would welcome, the Inquiry's consideration of statutes of limitations, legal procedures and service of process, evidence (including document retention requirements and electronic transaction laws) and partnership laws.

In addition, the AFC believes there is a compelling case for the terms of reference to include other areas of commerce. We request the Inquiry consider property securities, debt collection, finance broking and other related finance functions that impact adversely on our members' business efficiencies and compliance costs.

The table below outlines the key areas and related inconsistencies the AFC would ask the Inquiry to address.

Area	Inconsistencies, Inefficiencies
Debt Collection	<ul style="list-style-type: none"> • 8 differing statutes • Multiple licensing/registration requirements • Educational requirements • Debt Collection Guidelines – Commonwealth & State
Property Securities	<ul style="list-style-type: none"> • Many different statutes - Commonwealth, State and Territory • Registration requirements • Registration processes, some electronic, some paper based • Fee structures • Gaps in coverage and inconsistencies in application
Finance Broking	<ul style="list-style-type: none"> • 4 differing statutes • Licensing/Registration requirements • Commission structures • Broking contract requirements
Civil Debt Recovery	<ul style="list-style-type: none"> • Many different statutes • Process requirements • Judgment periods • Enforcement mechanisms • Remedies • Statute of Limitations Act inconsistencies

Harmonisation Approaches

The AFC also notes the Inquiry will consider a range of harmonisation approaches including the ‘template model’, which successfully underpins the national application of the Consumer Credit Code. Consideration should also be given to inter-governmental co-operative mechanisms, such as the Ministerial Council on Consumer Affairs (MCCA), that led to this approach.

New Zealand currently participates in MCCA deliberations. As a result, its consumer credit legislation is largely consistent with Australia’s, even if elements of the detail and documentation are different. AFC member companies who conduct business under the recently-commenced New Zealand credit legislation have commented the Australia influence on that legislation made for a relatively smooth implementation, with considerable consistency in systems and operations.

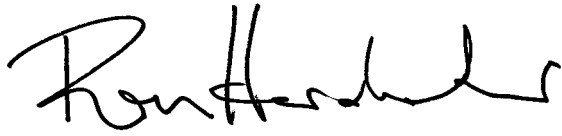
The AFC has experienced the benefits of collaboration between the States and Territories in the field of stamp duties, previously a complicated and inconsistent area. This situation necessitated constant recourse to legal advice and concerns about compliance challenges. The State and Territories collaboratively developed, and have legislated, a common regime for stamp duties on financial transactions, allowing for differences in the rate of duty and exemptions from duty.

Similar approaches are possible for other areas under consideration by the Inquiry. The AFC recommends the Inquiry identify existing, and potential, inter-governmental co-operative mechanisms, their scope and potential to effect the harmonisation process.

The AFC looks forward to participation in the Inquiry process and the outcomes it can achieve. We trust the Inquiry will be able to consider the areas raised, as harmonisation in these areas will result in significant benefits to our members, their customers, government and consumers as a whole.

Thank you for the opportunity to comment on the Terms of Reference.

Yours truly,

A handwritten signature in black ink, appearing to read "Ron Hardaker". The signature is fluid and cursive, with a large initial "R" and "H".

Ron Hardaker
Executive Director

Attachment: List of AFC member companies



AFC MEMBER COMPANIES

Adelaide Bank	Liberty Financial
Allco Finance Group	Lombard Finance
ATSIC	Mackay Permanent Building Society
Australian Finance Direct	Macquarie Leasing
Australian Integrated Finance	ORIX Australia Corporation
Automotive Financial Services	PACCAR
Bank of Queensland	Pioneer Permanent Building Society
BankWest	Profinance
Baycorp Advantage	RABO Equipment Finance
Bidgee Finance	RAC Finance
BMW Australia Finance	RACV Finance
Capital Finance Australia	RMG
Caterpillar Finance Australia	Select Automotive Finance
CBFC	Sharp Finance
CIT Financial	St. George Bank
Citigroup	Suncorp
Collection House	The Rock Building Society
DaimlerChrysler Financial Services	Toyota Financial Services
De Lage Landen	Volkswagen Financial Services
Dun & Bradstreet	Volvo Finance
Elderslie Finance Corporation	Westlawn Finance
Esanda Finance Corporation	Westpac
Focus Capital Group	Wide Bay Australia
Ford Credit Australia	Yamaha Finance
FundCorp	
GE Money	
GE Commercial Finance	<u>Professional Associate Members:</u>
General Motors Acceptance Corp	Automotive Global Insurance
Heritage Building Society	CridlandsLawyers
HP Financial Services	Experian
Integrated Asset Management	FCS Online
International Acceptance	Finzsoft Solutions
John Deere Credit	Horwath Consulting
Komatsu Corporate Finance	Voiceforce