INFORMATION BROKERS & LAW STATIONERS ASSOCIATION

22nd February 2008

Dear National Steering Committee Member

Let me confirm that the IBLSA is 100% supportive of a National System to deliver Electronic Conveyancing, and, any suggestion that the "Broker Model" is an "alternative" to the National System is inaccurate.

Our recent discussions and proposal merely seek to further clarify the LSP role, thus providing an extension to the existing National System, as well as address a number of issues our Members have identified in the National Business Model (NBM) and National Funding Model (NFM):

1. The development of a formal **Take-Up** strategy to allow informed investment and development decisions.
2. The introduction of **"Transitional Instruments"** to encourage take-up by rewarding EC participants.
3. The need to fully **define the role of a LSP** including mechanisms to create a sustainable market.
4. The **technology requirements of a LSP** for a National Solution.

I would like to take this opportunity to table these issues formally to the National Steering Committee in order to gain support for NECO to refer them to the NPT for further detailed analysis.

1. Take-Up Strategy

The IBLSA believes the NFM[1] is seriously flawed in the assumptions as to the take-up rate and the drivers to encourage take-up.

The NFM has been developed on the basis that 9% of all in-scope transactions will be processed by EC in Year 1 and will grow to 90% in Year 4 for each jurisdiction.

The model goes on to describe these rates as ***conservative***.

The IBLSA believes these are extremely ***optimistic*** values for the following reasons:

- For an in-scope transaction to be able to be processed by EC all parties associated with that transaction need to be EC enabled.

- The number of parties that are involved in any given EC transaction type differ (see Table 1)

[1] National Funding Model Section 7.3

- When there are multiple parties to a transaction the probability that the other party is, or parties are, EC enable needs to be considered.

- The statistical probability the a transaction will be settled via EC when there are few EC participants is low.

- Increasing the participation rates requires additional investment that needs to be included in the Funding Model.

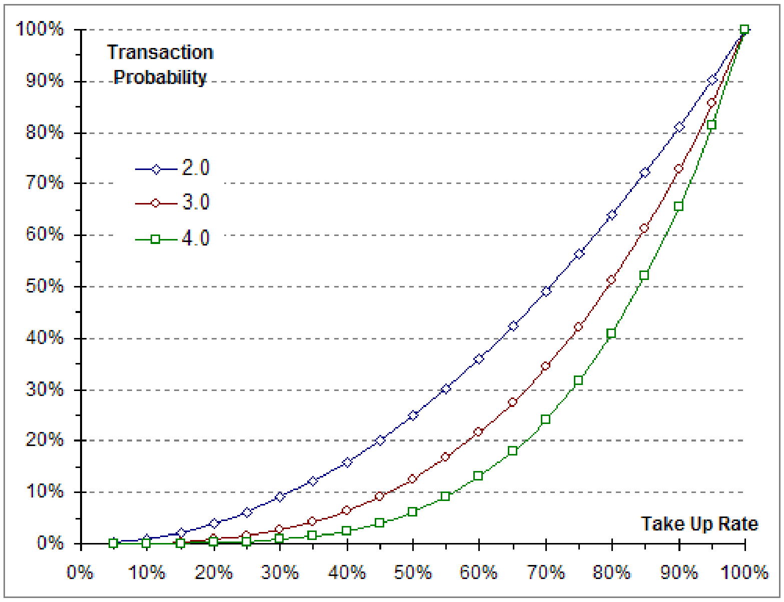
Table 1: Parties involved in an EC transaction

Transaction Type	Vendor Solicitor	Outgoing Mortgagee	Purchaser Solicitor	Incoming Mortgagee
D		X		
T	X		X	
M				X
DT	X	X	X	
DM	X	X		X
TM	X		X	X
DTM	X	X	X	X

Assuming each party has an equal probability of being EC enabled the Take-Up rate can be computed using the following algorithm $R=T^{1/n}$

n= Number of parties
T= Transactions
R= Take-up Rate

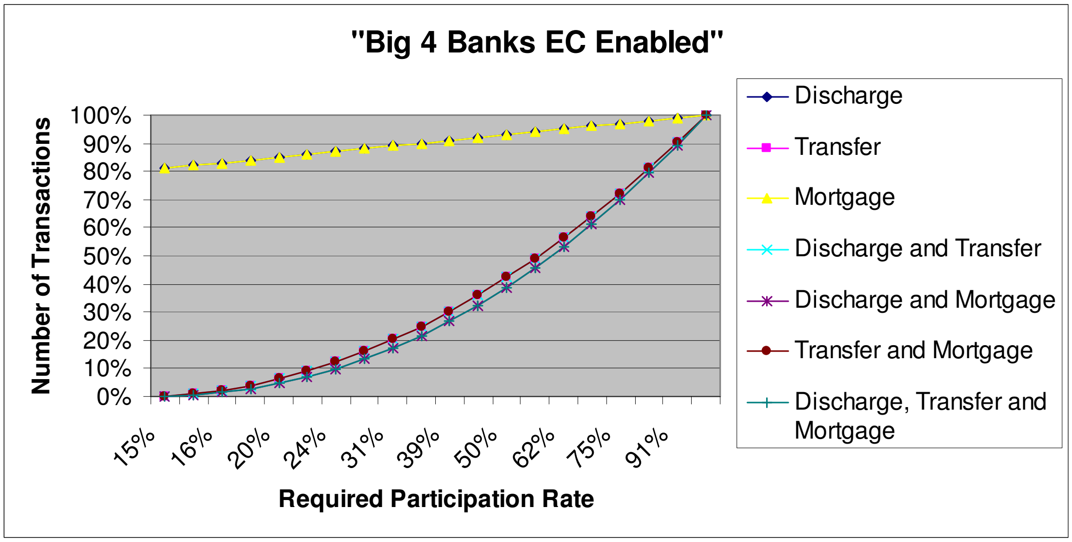
Table 2: Transaction Probability



This would suggest that for **9%** of candidate EC transactions to be processed in Year 1 industry participation would need to be close to **30%** for 2 party transactions, **45%** for 3 party transactions and **55%** for 4 party transactions.

The probability however is not quite this bleak providing the top four banks (representing about 80% of the lender market) commit to become EC enabled in Year 1 as they participate in the majority of transactions. The Take-Up rate can then be expected to higher as demonstrated in Figure 3 below:

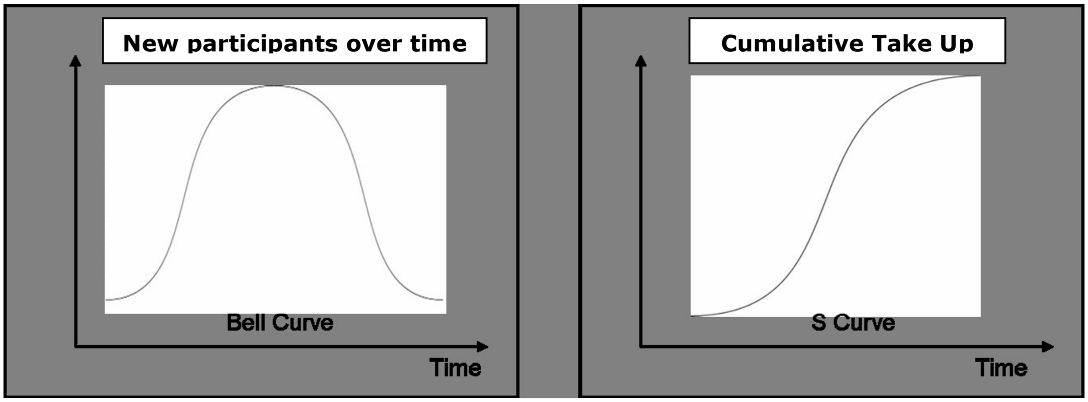
Figure 3: Participation rates



This chart demonstrates that the majority of transactions that may be processed with 9% industry participation will be single party transactions (ie performed by lenders). To achieve 9% of multi-party transactions at least 25% of industry participants (excluding the big four banks) will need to be EC enabled in Year 1.

The IBLSA asserts that take-up will follow a predictable profile lead by some early adopters, then by some followers who can see the early adopters success, then by the masses, and finally by the recalcitrant's who resist change. This would result in an S-Curve where industry participation greater than 50% will not occur much earlier than 50% of the imposed time scale (see Figure 4 below).

Figure 4: Take up rates



There is however a problem with predicting the time scale associated with the take up of EC as there is no means to control it.

In a normal commercial transaction the time scale can be managed by providing incentives to change however the NBM is silent on the means to encourage uptake. There seems to be a "we will build it, and they will use it" mindset.

An industry practitioner that invests in EC and becomes an early adopter cannot promise their clients lower costs as they have no means to determine whether other participants in the transaction will also be EC enabled. Nor can they lower their cost of operation. At best they can promote themselves as EC enabled to potentially deliver a lower cost if the matter can be settled via EC.

During the initial implementation period the probability that the other parties to an EC transaction will be EC enabled is extremely low. This will mean that an early adopter will incur additional costs for supporting two processes (the new EC process that most likely will not be used, and the existing manual process that will most likely be used).

Normal commercial pressures will come to bear and there is a real risk that early adopters will not continue their support or promote the system to encourage further take-up, and the result will be an increase in the time scale and an increase in the overall cost of the solution.

There needs to be an incentive or reward for using EC that is available from day one. This will become critical to ensuring usage and managing the timescale. EC must be both easy to use, and at lower cost than the manual system from day one.

The NFM needs to be reworked to take into consideration lower Take-Up rates and to include an incentive based fee structure in order to project a ROI.

The NBM needs to formally recognise the need to gain commitment from the major lenders to fully support EC in order to increase the probability that a multi-party EC transaction will be able to be performed. Should any one of the big four lenders not support EC the take-up rate will drop significantly and the ROI would disappear.

2. Transitional Instruments

The IBLSA has suggested a means to create a reward for EC participants by introducing the concept of "transitional instruments" that may be used to allow electronic instruments that have been created in EC to be exchanged in a manual settlement.

A paper detailing the mechanics of a transitional instruments was supplied to NECO in September 2007 and a response received indicating qualified support. Since then the issue has not progressed.

The basic concept is that a party that subscribes to EC needs only to be able to complete and certify electronic instruments (eInstruments). Should the matter have to settle manually these eInstruments should be able to be easily and securely transformed into a paper transitional instruments (tInstruments) that may be exchanged at settlement with normal manual paper instruments (pInstruments).

The IBLSA believes a financial incentive should be created to lower the lodgement cost of eInstruments and their associated tInstrument; the same cost should apply to both. pInstruments (those created by non-EC enabled participants) should always incur a higher lodgement fee.

A LSP could provide a transitional service when required to limit the expense to the EC participant.

The IBLSA is seeking input from the NSC as to the merits of introducing this type of incentive, or any other to encourage take-up. Transitional instruments will require legislative change, will need to be included in the NBM, and have a financial impact to land registries.

The NPT should then be tasked to explore the introduction of tInstrments from all stakeholder perspectives.

3. The role of a Licensed Service Provider

The NBM defines the role of a Licensed Service Provider (LSP) as "businesses providing tailored interfaces, integration and support services to Subscribers as an alternate to direct access to NECS. A LSP can also be a Representative Subscriber provide they meet the requirements of both roles"[2]

The services provided by an LSP include:

- User familiarisation and Training
- Subscriber Interfaces
- Integration of NECS access with Search and Transactional services used in preparing for settlements
- Ready access to electronic stamping services provided by ROs
- Level one and two technical and application support

There is an expectation of LSP's to service 55% of the transactions[3] flowing through the system. This implies that the majority of lending institutions, and a significant number of solicitors and conveyancers will access NECS via a LSP.

[2] National Business Model V10 150607 Page 12
[3] National Funding Model Page 33

The NFM[4] further defines the role of an LSP by having them:

- Market the advantages of using NECS to industry participants
- Motivate practitioners and lenders to become Subscribers and Certifiers
- Assist practitioners and lenders in integrating use of NECS with their case management and documentation systems.

An underlying premise of the members of the IBLSA is that we are commercial organisations that need to be able to make a return on our investments. To this end members of the IBLSA are considering how best to integrate their existing services with NECS to make an acceptable return.

Under the existing NBM a LSP will:

- Not be able to market advantages for using EC until the take up rate exceeds 50%
- Have no means to motivate anyone to become a subscriber. "Motivation" normally means offering financial incentives to partake.
- Have no financial incentive to integrate case management and document systems as the number of EC transactions will be low. The result is that the current NBM allows no ROI for LSPs.

A LSP needs to be able to create the workspace using title data previously purchased by the client to create a reason to use, and invest in EC. However both the NBM and the NFM assume the title data used to populate the workspace is sourced exclusively and directly from the Land Registry; in effect this is an additional Title Search transaction that would generate additional revenue for the LR and additional cost to industry participants.

To explain this further in the manual world a Title Search is performed during the due diligence phase of the transaction performed by conveyancers and solicitors, and again during the credit assessment process performed by lenders. These searches are typically performed by accessing an Information Broker site and take the form of imaged documents that may be stored for up to 125 days[5] by an Information Broker. On settlement day a copy of the imaged title is printed by the client to accompany settlement and a "Final" or "Check" search performed on the day of settlement to detect any changes to the title since the referenced document was produced.

The incidence of change to a title, from the time it was ordered, to settlement is very low, and is currently detected using the final or check search process. A similar final or check search process will be used under EC on settlement day to validate the contents of the workspace. Should a new dealing be detected, or any other anomaly the settlement will be suspended, and parties associated with the transaction advised to correct. The additional title search performed to populate the workspace therefore adds no value to the transaction; it simply increases the cost to the community, and revenue to the LR.

Any change to the way the title information is populated to the workspace however significantly alters the NFM. The ongoing operating expense could drop by as much as 20% as Land Registry Search Fees are reduced[6] and the fees to

[4] National Funding Model V5b 081026 Page 25
[5] Victoria allows 125 days storage, NSW and QLD allow 30 days.
[6] National Funding Model = Figure 19 assumes 30% of the expense is related to Title Search activity

create a workspace would also drop; the existing model assumes up to 3 Title Register Searches are included in the Workspace fee.[7].

Allowing a LSP to securely populate the title data would provide a significant reason for them to invest in EC and develop seamless interfaces to conveyancing software.

In response to this issue NECO has suggested that the NFM will be altered to remove the revenue associated from the population of the workspace and allow a LSP to populate the workspace , however this strategy has yet to be endorsed by the NSC, the issue is unlikely to be considered by the NPT.

4. **Technology Requirements of a LSP**

The IBLSA remains agnostic to the choice of EC system implemented to support a National Solution; whether it is build or buy decision will ultimately come down to cost rather than technology.

The National Solution may technically be implemented as a single system holding data from all jurisdictions, or a network of systems holding data for individual States. Our primary requirement for the National Solution is to support a Web Services interface to allow a LSP to deliver a unique experience for their clients.

All actions available from the NECS portal relating to the creation of a workspace, submitting and signing instruments, issuing instructions and administering subscribers to the system must be exposed via the Web Service interface.

The NBM and NFM currently assume that 55% of all transactions will be sourced from LSP's, and IBLSA members have assumed to achieve this share that all practice management or conveyancing software interfaces will provided via an LSP rather than direct to NECS.[8]

The follow on from these assumptions is that **the majority of subscribers** will access the National System using software provided by someone other than NECS.

Although NECS may "own" the workspace the "National System" will consist of a number of networked computer systems to deliver a seamless, interoperable, flexible electronic settlement and lodgement system that accommodates inter-jurisdictional differences.

It is critical that the LSP interface be provided from day one and not as a subsequent enhancement to the system and that all industry stakeholders have a common view as to the role of a LSP and how a combination of systems will be required to deliver a National Solution.

[7] National Funding Model Page 44
[8] The NBM suggests a Subscriber may access NECS directly via a Web Service or via a LSP Web Service.

5. Summary

The IBLSA believes that both the NBM and NFM need to be refined to address these concerns.

We strongly recommend the appointment of an actuary or statistician to calculate the likely take up rate to allow members of the NSC to review an accurate financial model , elevate the priority of the take-up issue within the work assigned to the NPT and a more complete definition of the role of a LSP that includes the ability to populate a workspace using data previously acquired from a Land Registry.

It should be noted that the Take-up issue is not something that only impacts IBLSA members or any other potential LSP. It is critical for all stakeholders to understand as it impacts their investment decisions, may require legislative change to address, and will certainly impact the technology requirements of the solution.

While it may be considered by some as late in the day to raise these issues, our members feel that these issues impact upon the very foundations of the system we are all striving to build and therefore to proceed further without bringing them to the attention of the National Steering Committee would be negligent in the extreme.

I welcome your feedback

Brian Parker
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