

5 June 2014

Mr Warren Mundy and Ms Angela McCrae  
Access to Justice Arrangements Review  
Productivity Commission  
LB2 Collins Street East  
Melbourne VIC 8003  
By email: [access.justice@pc.gov.au](mailto:access.justice@pc.gov.au)

Dear Commissioners,

### **Response to Draft Report on Access to Justice Arrangements - Productivity Commission**

Thank you for the opportunity to make a further submission in response to the Productivity Commission's Draft Report on Access to Justice Arrangements.

As with our original submission dated 4 November 2013 we have confined our comments to the specific issues that relate to our area of expertise, namely, the involvement of law students in the delivery of clinical legal education and pro bono activities. Our response therefore focuses on Chapters 7 (A responsive legal profession) and 23 (pro bono services).

First, we seek to make a distinction. Page 744 of the Draft Report appears to conflate *pro bono opportunities* for students with *clinical legal education opportunities*. These activities are not the same. Student involvement in pro bono work is co-curricular: it is not part of students' formal law studies. In contrast, clinical legal education does form part of the curriculum and it is conventionally offered as an elective law course at most law schools. As the Commission rightly recognises at p229, CLE is a highly effective teaching method where students learn what access to justice means to vulnerable people.

#### **Draft recommendation 7.1 - a holistic review of the current status of the three stages of legal education.**

The UQ Pro Bono Centre supports this recommendation in part. We support the recommendation for further investigation of the relative merits of increased clinical legal education. We disagree, however, with the need to call for a broad-ranging, holistic review of the current status of legal education in Australia. This recommendation seems far too broad for present purposes, and it effectively buries the correlation between clinical legal education and access to justice which is the subject of this Inquiry.

We also disagree with the Commission's assertion at p230 that increasing the focus on skills in legal education may result in an 'adding on' of clinical legal education to existing law degrees. The Centre's view is that CLE ought not be perceived as something to be 'tacked on' to a degree but rather it is a teaching method that should be embedded into a LLB program by all law schools in recognition of the immense benefits that CLE brings to students' learning about the social context of the law, rule of law, the role of lawyers and the administration of justice. The arguments made by Professor Adrian Evans (submission DR171) about CLE precisely illustrate this point. As our original submission outlines, CLE is costly to run and that cost is felt more acutely by some universities than others. This Inquiry provides a rare opportunity for a cost-benefit analysis of clinical legal education to be conducted by the Commission and we would strongly support such an approach.

## Chapter 23 – pro bono services

The Centre welcomes the Commission's recognition that pro bono plays only a small but important role in assisting disadvantaged Australians to obtain legal services. The explanations provided and draft recommendations in Chapter 23 respond appropriately to the realities of the pro bono sector. The only point we wish to add is that effective and efficient pro bono services/referral schemes are largely contingent on a well-funded and vibrant community legal sector: without CLCs, much of the pro bono work that occurs in practice (and indeed, most of what our law students assist with in the various activities that they undertake) would simply not occur.

It is our view - and that held by many of our partners in the CLC and Legal Aid sector with whom we work very closely – that the most pressing area of concern and the greatest opportunity for the Commission in this Inquiry is the opportunity to **cost** unmet legal need in Australia. Those working in frontline services have long known that the overall funding for legal assistance (\$730 million or 0.14 per cent of total government spending in Australia) is woefully inadequate to meet demand. Funding cuts forecast in the 2014-2015 Federal Budget will only serve to further reduce the sector's ability to assist those in legal need. A comprehensive quantitative economic analysis of this issue is required and we look forward to the Commission applying its expertise in this regard.

Thank you for the opportunity to make this submission. If you have any questions please contact the UQ Pro Bono Centre on (07) 3346 9351 or [m.taylor@law.uq.edu.au](mailto:m.taylor@law.uq.edu.au)

Yours faithfully



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