

Media Release

Litigation Funding and the Australian Financial Services Licence

The Federal Government has announced today that it will require litigation funders operating in Australia to hold an Australian Financial Services Licence (**AFSL**) and to conduct class actions as a managed investment scheme.

The Association of Litigation Funders of Australia (**AALF**) is surprised by this action particularly in light of the final recommendations of the Australian Law Reform Commission (**ALRC**), and the views of the Australian Securities and Investments Commission (**ASIC**), that the courts are best placed to regulate funders and to oversee and manage specific claims and the costs of those claims.

These important issues should be properly ventilated and debated by all stakeholders and not dictated by the power being brought to bear on politicians by entities representing the interests of corporate Australia and the insurance industry. It begs the question as to why the taxpayer has incurred the costs of the Productivity Commission Review, Victorian Law Reform Commission and the Australian Law Reform Commission inquiries, not to mention the Parliamentary Joint Committee on Corporations and Financial Services Inquiry (**Parliamentary Inquiry**) that we are about to engage with. AALF is disappointed that the Federal Government has not responded to these reports in any meaningful way, before embarking on the Parliamentary Inquiry and announcing the licensing changes.

AALF has said before, and it reiterates again, that it would not oppose a licensing regime where the terms of the regime:

- (a) have regard to the potential it may not add any meaningful value in consumer protection;
- (b) do not restrict competition that is emerging in the market;
- (c) do not cost more than their likely benefit; and
- (d) are the subject of further consultation.

AALF will be engaging fully with the Parliamentary Inquiry and it, and its members, will continue to work towards a comprehensive and transparent debate on all of these issues to achieve outcomes that are in the interest of all Australians.

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