



Immigration Advice and Rights Centre Inc.

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Community Legal Centre, established in 1986

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Mr Warren Mundy
Associate Commissioner
Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601

BY EMAIL: regulatoryburdens@pc.gov.au

Re: Annual Review of Regulatory Burdens on Business – Submission

Dear Mr Mundy,

About IARC

Established in 1986, the Immigration Advice and Rights centre (**IARC**) is a specialist community legal centre in New South Wales providing free advice, assistance, education, training, and advocacy in law and policy reform in the area of immigration and refugee law. IARC also conducts training/information seminars for members of the public, the migration profession, community service providers and community groups.

Submission

IARC welcomes the Commission's draft report which considered that lawyers should be exempt from the migration agents' registration scheme.

IARC also endorses the submissions made by the Law Council of Australia and the NSW Law Society.

IARC wishes to make a further point in relation to the core reason the Department of Immigration and Citizenship (including the Office of the Migration Agents Registration Authority) opposes the abolition of dual registration scheme.

The Department's argument is based on consumer protection; a need to protect consumers from unscrupulous migration agents, be they lawyers or non-lawyers. However, a significant flaw in that argument is that people who are not registered migration agents nor practising lawyers are still able to prey on vulnerable people in

the community by purporting to be a migration agent. Those vulnerable consumers are then left with little protection, in part due to the lack of jurisdiction of the Office of the Migration Agents Registration Authority.

Federal Magistrate Raphael in *SZNFY & SZNFZ v Minister for Immigration & Anor* [2009] FMCA 1024 (22 October 2009) relevantly commented on this very issue as follows:

“This is the eighth decision in which I have attempted to bring these matters to the attention of the Department. The failure of the Department to properly monitor the submission of applications has a number of deleterious effects. Most importantly, it allows vulnerable people to be made the victims of unscrupulous persons within their own communities who take money for completing forms which frequently are incorrect in material particulars. This leads to cases where applicants are able to establish fraud of the “agent” rendering Tribunal decisions invalid. The costs of such applications to the court and the rerun of the Tribunal processes is an unnecessary cost burden being borne by the Commonwealth. Finally, the failure to properly police the filing of applications allows applicants to make false claims about interpretation, migration agent’s assistance and general misunderstanding of the system which require resources to be spent on investigation and the time of the courts to be unnecessarily taken up. I should make it clear that these remarks are general and are derived from some eight years of undertaking review of migration decisions in this court. The fact that the instant cases are reflective of the problem is not to indicate any criticism of Mr Karp or his instructing solicitors who had no knowledge of either applicant at the time the forms were completed and who came to their assistance several years later and put forward their submissions based upon instructions received.”

We respectfully submit that the current dual registration is oppressive, unnecessary and ineffective. In addition, we submit that the scheme does not provide an adequate level of consumer protection to justify its existence.

Yours sincerely,

Mark Papallo
Director

Chris Yuen
Principal Solicitor