



8th January, 2021

Select Committee on Financial Technology
and Regulatory Technology
fintech.sen@aph.gov.au

Dear Committee members,

Committee's Interim Report - GC100 Submission

About us

The ACC GC100 brings together General Counsels/Chief Legal Officers from the ASX100, and by invitation, their peers in Australia from equivalent private organisations. It is a peer to peer forum led by an Executive Committee elected by its constituents with support from the Association of Corporate Counsel (ACC). One of the ACC GC100's objectives is to use the collective, practical experience of the group's members to promote better and more effective regulation and policy.

Technology neutral corporations law

The ACC GC100 is supportive of technology neutral corporations law. Giving business the flexibility to operate in the way that works best for it and its stakeholders will inevitably give rise to greater efficiencies and innovations, from executing agreements, minutes and other corporate documents, through storing records including statutory registers, and calling and holding company meetings.

Digital signatures and videoconferencing for legal purposes

Recommendations 3 and 4 (at paras 8.14 and 8.15) of the Committee's interim report are most welcome. The current laws are not in keeping with the advances in technology or the take up of that technology seen this year.

The measures introduced by the *Corporations (Coronavirus Economic Response) Determination (No. 1) 2020* have given business the necessary certainty to adopt and embrace electronic execution. The news that these measures will be extended into 2021 is welcome, but a permanent solution is required. This is an innovation that allows business (of all sizes) to be agile and efficient. In addition to planning for occasions when wet ink signatures are not possible or practical (as noted in the interim report at paras 2.54 and 2.55), the benefits of a permanent solution include:

- Certainty: business needs confidence that electronic execution is compliant with legislative requirements
- Agility: business can move quickly to execute regardless of where signatories are at the time
- Information security: removes the need for off-site printing and scanning
- Efficiency:
 - Time – removes manual handling and the inherent time this requires.
 - Resource – removes the cost associated with the current approach, for example, of paper, printing, scanning, postage etc.
 - Utility – electronically executed documents are readily searchable (c.f. scanned copies)
- Sustainability: consistent with companies' and individuals' efforts to reduce printing, waste and travel where possible.
- Equality: along with working from home and other practices which are likely to continue (at least in part) into the future, a permanent solution may go some way to improving opportunities for all Australians, no matter their post code or personal circumstances, to participate in business in senior management positions or advisory roles

A permanent solution

The ACC GC100 echoes the issues to consider in formulating permanent changes identified in the interim report.

The solution must be clear, definitive and efficient. This is particularly important for deeds, as noted in the interim report, both clearly enabling electronic execution and permitting witnessing via technology. But this is also needed for other documents, for example, it has become a common, and inefficient, practice to seek evidence that any electronic signature was applied to the document with the authority of the signatory. This indicates a prevailing view that electronic signatures are not on par with wet ink signatures when in many ways electronic signatures can in fact be more secure.

Further, the inconsistent approach taken within Australia is unnecessarily burdensome on business, whether the business is operating intrastate, nationally or globally.

The ACC GC100 supports the Committee's view that the changes to enable electronic execution and witnessing of legal documents should be made permanent and consistent across Australian jurisdictions.

Economic stimulus is supportive of business, but the importance of finding a permanent solution to these day to day challenges should not be underrated. There is an opportunity here and now for governments to legislate for change that will cut red tape and free up business to grow and prosper.

We respectfully request the Federal, State and Territory governments take up the Committee's recommendation to amend relevant regulations as proposed.

Should you have any questions please contact Chris Drummer: Director, Policy and Advocacy, ACC APAC c.drummer@acc.com or +61 411264734

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'C Cox'.

Caroline Cox
ACC GC100 Chair