

Submission to the Attorney-General's Department

***Ongoing Professional Development for Commonwealth-registered marriage celebrants and Guidelines on Conflict of Interest and Benefit to Business for Commonwealth-registered marriage celebrants***

***DISCUSSION PAPER – NOVEMBER 2016***

**SUBMISSIONS MUST BE RECEIVED BY 5pm FRIDAY, 13 JANUARY 2017**

**Your details**

<b>Name/organisation</b> <i>(if you are providing a submission on behalf of an organisation, please provide the name of a contact person)</i>	COCA
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**Your submission**

**CoCA Submission on Professional Development and Conflict of Interest and Benefit to Business**

**To Marriage Law and Celebrants Section**

**Executive Summary:**

The COCA submission was compiled by the delegates of COCA member Associations for the best long-term interests of the profession.

Whilst CoCA has had time to survey some aspects of professional development with its 2016 National Celebrant Survey, CoCA has not had time to survey more broadly, especially with respect to Conflict of Interest and Benefit to Business issues. However each celebrant has had an individual opportunity to respond directly

*Coalition of Celebrant Associations (CoCA) Inc February 2017*

to the Department's survey.

CoCA believes that independent celebrants need to be able to develop viable careers, receive fair remuneration for their services and that the celebrancy workforce should develop to meet community needs.<sup>1</sup>

There is confusion about the role of business skills in a profession that has created the question of whether marriage work done by civil celebrants is part of a profession or part of a business.

There are numerous articles on the topic of a "profession" versus a "business" from an historical and current perspective. These articles discussed the dilemma as it relates to Commonwealth Subdivision C authorised celebrants:

- What is a profession?<sup>2</sup>
- What are key characteristics of a profession?<sup>3</sup>
- Is Marriage Celebrancy a Profession?<sup>4</sup>

Professions<sup>5</sup> are largely self-regulatory, with opportunities for a full-time work equivalent (*even if not working a traditional 9am--5pm Monday--Friday week*), high entry qualifications, continuing professional education requirements, codes of ethics and annual fees for regulation by professional bodies.

One of the best recent resources to explain the role of independent civil celebrant is the video by the British Humanist Society titled 'What is a humanist ceremony?' narrated by Stephen Fry.<sup>6</sup>

There are two simple differences in the Australian context. Firstly, the term "civil" is used in Australia rather than "humanist" or "secular", which implies agnostic or atheist beliefs held by the celebrant, and secondly as a consequence, civil celebrants' personal beliefs should not affect the services they provide. This means civil celebrants are able to provide more inclusive, meaningful and relevant ceremonial services to couple, families and communities.

The intent of the Marriage Amendment Bill 2002<sup>7</sup> was clearly to define civil celebrancy as a profession in line with religious celebrancy, as this extract from the 2002 Explanatory Memorandum Marriage Amendment Bill show:

"The revised proposal has taken account of the preference for the Attorney-General's Department, or other Government body, to retain overall control of standards. It is considered that it would be in the best interests of the sector to postpone self-regulation until such time as a stable, widely accepted, national representative body provides a ready basis for national regulation. The revised proposal would incorporate the appointment of a Registrar of Celebrants within the Attorney-General's Department who would make appointments of celebrants on the basis of satisfactory training and meeting the statutorily defined fit and proper person criteria."<sup>8</sup>

The Coalition of Celebrant Associations appreciates many people entering celebrancy assume the marriage celebrant role to be part of the wedding industry, rather than the celebrancy profession.

However, how the Australian Tax Office deals with individuals under other legislation is a different issue to the common understanding of the difference between a business and profession, and how the Marriage Act applies these concepts. Obviously if the legislation in 2002 was intended to base Subdivision C Authorised Celebrants on a business model, then these relevant sections related to professional development and COI /B2B would not have been included.

CoCA identified these work possibilities for the VET Review of celebrant training qualifications and documented these in a web article titled “Civil Celebrancy – A Changing Profession”<sup>9</sup>

Because the regulatory function of the Department relates to only one aspect of the civil celebrant’s role, it does not mean that a celebrant’s professional development must be confined to only those aspects that concern the law. The Act provides for that function in the form of Compulsory activities when needed.

Other regulators accept the nature of the full role or range of services various professions provide, respect that the professional bodies are the experts on their profession’s needs and confine their work to issues of compliance for the public welfare.

Broader and deeper initial training and professional development in the full range of ceremonial opportunities and clearer COI/ B2B provisions will be two important strategies now and in future years to assist independent celebrants to build their celebrancy practices and enhance their marriage services in the process.

CoCA trusts its recommendations on professional development activities; conflict of interest and benefit to business will be adopted to ensure the continued development of our profession.

## Summary of Recommendations:

1. That professional development activities are based on the premises that:
  - independent civil celebrants are part of a profession of celebrancy
  - the profession of Subdivision C Marriage Celebrants, like the other Subdivisions of Marriage Celebrantsis broader than simply providing marriage services and that celebrants provide ceremonies other than marriage as part of their professional or public service roles.
2. Professional development activities reflect the premise that Adult Learning Principles support the inclusion of topics on other ceremonies in the range of professional development activities for Subdivision C independent Marriage Celebrants.
3. That those professional development providers approved by the AGD be delegated the responsibility of providing and reporting upon professional development activities within a specified set of Departmental guidelines, without the need for AGD's prior approval of individual units.
4. That units of the Certificate IV of Celebrancy " be approved professional development activities for those celebrants wanting to upgrade or extend their qualifications.
5. That professional celebrant Associations be delegated the responsibility of
  - a. providing professional development activities, in conjunction with AGD approved OPD providers or with appropriate educationalists, in the form of seminars, workshops, conferences and online activities, and
  - b. supplying the Department with the compliance records of those celebrants who completed their annual professional development requirements in addition to the current system of four approved OPD providers for the short term until the review of celebrancy qualifications in 2020.
6. That, in regard to professional development, the AGD role be to:
  - a. determine the OPD providers and professional Associations to be approved to deliver OPD activities, and approve any other activities (e.g. Cert IV units)
  - b. establish and review the guidelines for the scope, delivery and evaluation of OPD activities in consultation with the profession, leaving the responsibility of how that material is to be covered to the providers who have the expertise to design and deliver educational sessions
  - c. establish reporting mechanisms for use by all OPD providers and from individual celebrants reporting their OPD compliance via the portal
  - d. provide advice about any Compulsory Activities required in a specific OPD year, along with resourcing the OPD providers with the learning objectives and the relevant supporting legal information and resources
  - e. provide advice via individual email to Celebrants and Associations on any new legislation, or areas of specific legal concern in the form of fact sheets or explanatory materials or additional sections to the Guidelines.
7. That the number of hours of OPD be 5 hours.
8. That Marriage Celebrants be required to do a one---hour compulsory legal refresher activity until a review in 2020, even when there are no significant changes to the relevant legislation or guidelines.
9. That the best ways to ensure that Marriage Celebrants are advised of changes to legislation are:
  - Publications on the Attorney---General's Department website
  - Fact sheets, emails, newsletters circulated directly to celebrants
  - Marriage Celebrants' self---service portal
  - eLearning module (or similar online based training).
10. That the OPD year remains a calendar year.

11. That the Conflict of Interest (COI) and Benefit to Business (B2B) provisions be retained and strengthened to continue to provide parity with Subdivisions A and B Authorised Celebrants.
12. That civil marriage services be acknowledged as one component of the Civil Celebrancy profession, where the celebrant provides a range of ceremonies if they so choose, and not a business activity within the Wedding Industry where the celebrant provides other commercial wedding services that the public would not expect to be provided by Subdivision A Ministers of Recognised Religions nor of Subdivision B State and Territory Officers.
13. That the terminology used in the Marriage Act and Marriage Regulations be strengthened, and more clearly specify the types of activities that are and those that are not considered a conflict of interest or benefit to business with the view to narrowing those areas in dispute.
14. That in determining whether an activity has an actual or potential Conflict of Interest and Benefit to Business risk, the focus be on how that activity enables the independent celebrant to strengthen their primary ceremonial role (i.e. ceremony and celebration knowledge, values, skills and support) with the other two Subdivisions A and B as a guide, not the work opportunities within the commercial wedding industry.
15. That where there are concerns about the overlap between “Profession” and “Business”, that the focus be on how a potential Conflict of Interest and Benefit to Business enables the independent celebrant to strengthen their primary ceremonial role (i.e. *ceremony and celebration knowledge, values, skills and support*) with the other two Subdivisions A and B as a guide).
16. That the Attorney-General’s Department reconsiders its own definitions of the Conflict of Interest and Benefit to Business in regard to authorised celebrants charging for services directly related to the ceremony itself, especially those normally included in services charged by Ministers of Recognised Religions and Registry Offices.

## **Professional Development: Introduction**

Professional development is an activity practiced by professions to ensure the members of their profession remain current in knowledge, maintain and improve their skills for their professional work and are able to adapt to the changing needs of the society they service.<sup>10</sup>

Whether an individual practitioner works part---time or full---time, or specialises in a particular aspect of the profession is a matter of personal choice. However all professions, whether the original three professions of ministry, law or medicine, or newer professions such as nursing, dentistry, teaching and physiotherapy, have a body of knowledge and skills such that the practitioner would be able to practice full---time if they so chose.

Changes in 2006 to the qualification for authorisation as a Commonwealth Marriage Celebrant, and upheld in 2015, are evidence that the profession of celebrancy is not restricted to solemnising marriages, and is in line with the underlying principle in the Act that authorises specific groups of people whose other duties support and enhance their role in providing valid marriage services.

The following recommendations are based on the aims of the 2002 changes, outlined in the 2002 Explanatory Memorandum to the Commonwealth Marriage Celebrant Program, and the professional model of celebrancy that CoCA has supported since its establishment as a national body in 2008, as well as the stated aims of the introduction of the initial 2012 Regulation Impact Statement by the Department:

*“The benefits of addressing underperforming marriage celebrants are not readily quantifiable.*

*However, given the significant legal responsibilities of celebrants, improved regulation is critical to ensuring improved compliance with legal obligations by celebrants as well as enhancing professionalism within the sector.”<sup>11</sup>*

### **Recommendation 1**

That professional development activities are based on the premises that:

- independent civil celebrants are part of a profession of celebrancy
- the profession of Subdivision C Marriage Celebrants, like the other Subdivisions of Marriage Celebrants, is broader than simply providing marriage services and that
- celebrants provide ceremonies other than marriage as part of their professional or public service roles.

The Marriage Act and Marriage Regulations do not specify that professional development activities must be restricted to marriage related topics, only that the Commonwealth Marriage Registrar publish a list of approved activities at the beginning of the calendar year, with the possibility that some activities may be compulsory.

CoCA supports the view that professional development is different to entry-level training. To become proficient in any professional practice requires the opportunity to have repeated opportunities to practice the knowledge and skills training has provided, to build a 'client' base to service, and to adapt to changes in social and cultural conditions.

The unique difference between independent civil celebrants and others who perform legal marriages is that the marrying couple have the opportunity to have the ceremony written and conducted to suit their personal needs and those of their families, and to reflect the couple's own values and aspirations for the future.

As each marrying couple is unique, constant practice of engagement with couples and families to design and deliver individualised ceremonies is crucial to the independent civil celebrant's ability to deliver high quality marriage services. Whatever the profession (*e.g. social work, physiotherapy, psychology, counselling, law etc.*), a professional in private practice needs to build a client base to service with their specific skills.

Thus it is appropriate that business skills are part of the professional development mix for independent professionals such as civil celebrants, to develop and maintain a private practice that covers all costs and makes a reasonable hourly rate for the professionals' time and skill. This is only so because this group of authorised celebrants are **independent** practitioners, not because they are Marriage Celebrants.

Achieving adequate compensation for time, costs and expertise is not defined a "business" in terms of the Marriage Act as both Recognised Religious Celebrants and BDM staff receive remuneration for their work. How taxation law deals with a person's tax liability and is not the only factor in whether a professional is called a "business" or "profession" by society.

The Department makes the following policy statement in its Discussion Paper:

*"As the department is only responsible for the regulation of marriage and the purpose of ongoing professional development is to ensure that the marrying public receive professional and legally accurate services, any expansion of the range of activities will still require a link to the particular role of a marriage celebrant."*<sup>12</sup>

If this narrow interpretation of the celebrancy profession were to be applied, as currently is the case and being proposed by the Department, then business related topics and/or skills would not be approved, as being a business is not a requirement for performing a valid marriage.

It is appropriate that knowledge and skills for other ceremonies and celebrations should be part of the professional development mix so that independent civil celebrants have:

1. the constant practice of being engaged by couples and families to design and deliver personalised ceremonies, to improve the celebrant's knowledge, skills and ability and to deliver high quality, marriage services appropriate to the couple's needs, and
2. the opportunity to develop and maintain a private practice that covers all costs and makes a reasonable hourly rate for the professional's time and skill.

**Recommendation 2:**

Professional development activities reflect the premise that Adult Learning Principles support the inclusion of topics on other ceremonies in the range of professional development activities for Subdivision C independent Marriage Celebrants.

For behavioural change such as improved professional practice, there are four areas of specific need – Information, Values Clarification, Skills and Support.

The Department has acknowledged these areas in terms of the types of activities approved for professional development – for example supporting association conferences that provide networking to increase the individual celebrant’s support base and knowledge, and explore values.

The next step is for the Department to acknowledge that the transfer of learning from related areas is an acknowledged aspect of learning, especially in adult learning. There are numerous references to the concepts of portability or transfer of learning, especially skills based learning – too many to quote here. Some relevant ones are:

*“Constructivist learning is based on students' active participation in problem---solving and critical thinking regarding a learning activity which they find relevant and engaging. They are "constructing" their own knowledge by testing ideas and approaches based on their prior knowledge and experience, applying these to a new situation, and integrating the new knowledge gained with pre---existing intellectual constructs”.*<sup>13</sup>

*“What are “transferable skills”? --- Transferable skills can be defined as skills developed in one situation which can be transferred to another situation. They are sometimes called generic, soft or key skills. They are necessary for effective performance, not only in the workplace and in postgraduate study, but in life in general. Some examples of such skills include team working, communication skills, problem solving, planning and time management.”*<sup>14</sup>

Skills identified in the latest review of celebrant training for the Vocational Education and Training (V.E.T) system for skill development included:

*Reading and Comprehension; Research; Problem solving/Analytical Skills; Planning and Evaluation; Ceremonial Design, Communication, Negotiation and Performance: Administrative; Organisational; Small Business; Professional Skills; Presentation; Information and Referrals; Interpersonal and Interviewing; Creative Writing; Group Work; Computer and IT skills.*<sup>15</sup>

Skills transfer is more obviously related to marriage work when considering funeral and memorial ceremonies and couple related ceremonies such as renewals and wedding anniversaries. Celebrants are asked to incorporate elements to acknowledge deceased loved ones, such as a child, parent, sibling or grandparent or close friend or even conduct marriages where one of the parties to the marriage have terminal conditions. The Code of Practice in the Marriage Act requires that the Independent Marriage Celebrant:

*“A marriage celebrant must recognise the social, cultural and legal significance of marriage and the marriage ceremony in the Australian community, and the importance of strong and respectful family relationships”.*

This recognition includes understanding the role of marriage in the context of the life of the couple, not just for the day of the marriage itself.

Strong and respectful family relationships are built over a lifetime, and some of the roles of ceremony and celebration are to strengthen family and friendship bonds, emphasise the need for all couples to be supported by their community networks, and to encourage respectful and caring attitudes and values.

In February 2013 the Department conducted a one---day workshop with a number of representatives from CoCA Associations, the approved OPD providers and AGD staff. A former senior executive of the AG Department facilitated this workshop.

In a June 2013 paper<sup>16</sup> prepared by Peter Arnaudo, Assistant Secretary of Marriage and Intercountry Adoption Branch, Access to Justice Division, Attorney General's Department, noted for OPD in 2014:

*"The meeting participants also identified the following principles for OPD design, development and delivery:*

- *high quality, variety and relevant subject matter for activities providing flexibility for the diverse celebrant population*
- *choice for participants .. adult learning principles .. continuous improvement, including consultation with celebrants, and*
- *value for money. OPD activities must be accessible and delivered flexibly to meet the needs and circumstances of celebrants as a whole (including in classroom settings, by online or distance education)."*

and for OPD beyond 2014

- *"Other ideas on approaches to OPD have been raised but have not at this stage been implemented or considered in great detail by the Department. These include:*
  - *Association office bearers receive an exemption from elective OPD requirements*
  - *Conference paper developers / authors / presenters receive an exemption from elective OPD requirements*
  - *OPD trainers / activity developers receive an exemption from elective OPD requirements*
  - *Units of the Certificate IV in Celebrancy count as OPD*
  - *Removing the distinction between compulsory and elective OPD activities, and*
  - *Review of requirements for trainers delivering OPD.*

*The Department proposes to continue to monitor and review OPD with a view to ensure that OPD continues to meet OPD principles and objectives, be relevant for Marriage Celebrants and provide choice recognising the diversity of interests of Marriage Celebrants while remaining a simple system for celebrants to use.*

*These ideas (and any others that may be put forward) will be considered by the Department during 2014."*

CoCA would like to see the Department ensuring continuity with the consultations previously held with CoCA to inform and guide the Department in the absence of self-regulation.

Cost Recovery Principles require efficient and effective use of the funds collected. It is encouraging to see the Department concerned about these issues, and having some appreciation that in other professions, it is the professional bodies that determine the range of activities approved for professional development.

The Department in its discussion paper states:

*"As the department is only responsible for the regulation of marriage and the purpose of ongoing professional development is to ensure that the marrying public receive professional and legally accurate services, any expansion of the range of activities will still require a link to the particular role of a marriage celebrant".*

CoCA requests the Registrar to change this policy decision in the light of the information presented above and the Department's 2013<sup>17</sup> commitment to:

- *"high quality, variety and relevant subject matter for activities providing flexibility for the diverse celebrant population*

- *choice for participants .. adult learning principles .. continuous improvement, including consultation with celebrants, and*
- *value for money, OPD activities must be accessible and delivered flexibly to meet the needs and circumstances of celebrants as a whole (including in classroom settings, by online or distance education)."*

**Recommendation 3:**

That those professional development providers approved by the AGD be delegated the responsibility of providing and reporting upon professional development activities within a specified set of Departmental guidelines, without the need for AGD's prior approval of individual units.

CoCA supports the Department's concerns with respect to Cost Recovery impacts and the need to move to a better system, whilst at the same time ensuring a level of quality control.

The discussion paper says:

"It is open to the department to move away from the approved list of OPD activities and instead prepare guidelines about what kinds of activities can be counted towards OPD. This could allow celebrants to self-identify courses that would benefit them and could include a wider range of learning opportunities, both formal and informal, such as university courses, peer review and mentoring or work-based learning, participating in conferences, workshops and other communities of practice, as appropriate OPD activities.

This could only be implemented in conjunction with celebrants self-monitoring their own compliance (see issue 5 below). Many other professional development programmes operate in this way, with the professional being in control of what activities they think will develop them professionally".

The Department acknowledges in its discussion paper that the *"legal risk of marriage celebrants not adequately performing their role is minimised by section 48 of the Marriage Act (which preserves the validity of a marriage where errors have been made"*,<sup>18</sup> and makes a number of suggestions about how their responsibility could be delivered in a much more cost effective manner.

This low risk was previously acknowledged by the Department considering *"Removing the distinction between compulsory and elective OPD activities"*<sup>19</sup> for post 2014 professional development activities. Given the 113,595 weddings in 2015<sup>20</sup> of which approximately 85,200 (75%) were conducted by civil celebrants, and there were 25 complaints pa<sup>21</sup>, most of which did not relate to the validity of the marriage, the actual complaint rate is 0.03%.

Of these complaints (4/25), only 16% related to the solemnisation of the marriage, with 84% relating to the professional and other conduct of the marriage celebrant.

The Coalition of Celebrant Associations considers maintaining and strengthening COI and B2B provisions, supported by some professional development activities, would be more effective in reducing *"legal risk of invalidity of marriage"* and *"reduction in number of errors"*.

Such supportive professional development activities would be to ensure legal electives are available for those celebrants wishing to address gaps in their knowledge and or lack of confidence in certain legal areas, and providing compulsory activities only if and when there are legislative changes. Note the latter is qualified in Recommendation 8.

Another principle of both the purpose of OPD and Adult learning principles is that professional development should meet the needs of the individual professional. CoCA's Survey in 2016<sup>22</sup> showed:

*Approx. 70% wanted OPD to focus on same sex ceremonies and marriage renewals and 50% wanted OPD to include funerals; Then varying figures from 10% to 45% on other ceremonies --- but less than 10% said none of the ceremonies were applicable to their OPD needs, which indicates 90% support for OPD to include ceremonies other than marriage.*

95% said skills' training was applicable with the topic "planning a ceremony for any occasion being the highest score.

The "value for money" aspect of OPD becomes a major factor for concern when celebrants cannot address their needs to develop their celebrancy practices in line with the emerging social needs and are forced to use their precious financial resources on aspects of their work that they consider a lower priority.

Given the nature of the profession as a whole, the transferability of knowledge and skill acknowledged as an adult learning principle, low risk of invalidity of the marriage plus the benefits to be gained by the celebrant in developing their professional celebrancy practice, CoCA recommends the Department delegates the responsibility of providing and reporting professional development activities within a specified set of Departmental guidelines to those bodies with educational and celebrancy expertise, without the need for AGD prior approval of individual units.

Professional celebrant Associations managed by experienced celebrants, along with approved providers, are capable of using adult learning principles to deliver appropriate professional development activities.

In addition:

1. the Department has a mechanism via the portal to gain some evaluative feedback from the Marriage Celebrants themselves with regard to the quality of OPD activities in terms of its design, delivery, trainer/presenter/educator competence etc., so
2. those activities, OPD providers, OPD trainers that do not meet celebrants' needs will not be supported by celebrants over time and thus there is an inbuilt feedback mechanism to the providers (*whether approved OPD providers or professional Associations*) to ensure that OPD activities are being targeted to meet celebrants' needs.

The CoCA acknowledges that its 2015 National Celebrants Survey<sup>23</sup> showed 65% of respondents supported being able to access the range of educational activities available via Universities, CAE's, TAFE, continuing education centres, etc.

Whilst there are many educational and training programs relevant to the celebrant's knowledge and skills, having these delivered in the context of celebrancy work is still important to ensure that such programs also address the specific needs of this developing profession.

CoCA is also concerned that such a broad approach to professional development will be open to further non-compliance and in turn require further adjustments, with the Departmental and Associations' time and costs impacting when problems with that system arise.

It is true that in other professions there is a broad range of activities available for OPD compliance, those activities are determined and monitored by their professional bodies, then selected and reported by the individual practitioner. Self-reporting is audited on a random or profession wide basis to ensure compliance.

CoCA's 2016 National Celebrant Survey results also support this and previous CoCA recommendations in celebrants looking to broaden their OPD experiences.

**Recommendation 4:**

That units of the Certificate IV of Celebrancy " be approved professional development activities for those celebrants wanting to upgrade or extend their qualifications.

As is the case in other professions, the option to upgrade or extend qualifications is part of the professional development mix.

Given that the nominal hours for the majority of units is greater than forty hours, successful completion of one unit from the Certificate IV in Celebrancy should satisfy the requirements for five hours of elective OPD in a given OPD year.

**Recommendation 5:**

That professional celebrant Associations be delegated the responsibility of

- a. providing professional development activities, in conjunction with AGD approved OPD providers or with appropriate educationalists, in the form of seminars, workshops, conferences and online activities, and
- b. supplying the Department with the compliance records of those celebrants who completed their annual professional development requirements

in addition to the current system of four approved OPD providers for the short term until the review of celebrancy qualifications in 2020.

CoCA notes that *“The department does not propose to return to a system where activities from a broad range of providers would be approved by the department”*<sup>24</sup> for a number of reasons, which include the expense of the Department micro---managing professional development activities that in other professions are the responsibility of the professional bodies.

Since 2003, the professional celebrant Associations, almost all incorporated non---profit Associations, have grown in their understanding of the profession, the needs of their members and their association management efficiency. Some of these professional celebrant Associations want to be able to, and are capable of, offering a range of OPD activities --- conferences, workshops, seminars and online activities --- choosing their own educators, without reference to an approved OPD provider as selected by the AGD.

Some other professional celebrant Associations would prefer to negotiate with the professional development providers approved by the AGD, as they currently do, to deliver their five hours of professional development, so this option should continue to be available.

The 2015 CoCA National Celebrant Survey<sup>25</sup>, supports both approved OPD providers and more involvement of professional Associations. Approx. 50% of celebrants said the current system with approved OPD providers was good to excellent and 70% said Celebrants’ Associations could be more involved in OPD.

All CoCA Associations are concerned to ensure that professional development activities continue to improve in quality in line with the 2012 *“Government’s objective ... to effectively regulate the Program, thereby improving the compliance and professionalism”*.<sup>26</sup>

In 2012, COCA<sup>27</sup> recommended that the number of OPD providers be expanded to six (6) and that the Department move towards more flexibility in professional development options.

At the same time CoCA acknowledged the need to address gaps in the basic training of celebrants overall, given the authorisation for training between 2003 and mid---2010 was the Certificate of Attainment of one VET unit. The Department acknowledged this deficit in the 2012 Regulation Impact Statement.

*“While steps have been taken to improve the quality of pre---registration training and professional development for marriage celebrants, those who were registered before the increased qualification was introduced in 2010 received either no, or inadequate, training. The majority of marriage celebrants were registered before the increased qualification was introduced in February 2010. As a result many marriage celebrants do not understand or properly fulfil their legal responsibilities”*<sup>28</sup>

Delivering face---to---face OPD, which is preferred by many celebrants, and important for networking and support, is expensive in a country the size and population density of Australia.

Therefore, CoCA considers that the current system of four (4) providers is the optimum number that can be supported in the short---term of three years until the review of celebrancy qualifications in 2020.

**Recommendation 6:**

That, in regard to professional development, the AGD role be to

- a) determine the OPD providers and professional Associations to be approved to deliver OPD activities, and approve any other activities (e.g. Cert IV units)
- b) establish and review the guidelines for the scope, delivery and evaluation of OPD activities in consultation with the profession, leaving the responsibility of how that material is to be covered to the providers who have the expertise to design and deliver educational sessions
- c) establish reporting mechanisms for use by all OPD providers and from individual celebrants reporting their OPD compliance via the portal
- d) provide advice about any Compulsory Activities required in a specific OPD year, along with resourcing the OPD providers with the learning objectives and the relevant supporting legal information and resources
- e) provide advice via individual email to Celebrants and Associations on any new legislation, or areas of specific legal concern in the form of fact sheets or explanatory materials or additional sections to the Guidelines.

CoCA's recommendation 5 would reduce the overall workload of the Department to establishing approved providers and Associations, setting the guidelines and reporting mechanisms for any Compulsory activities, and resourcing the legal aspects of OPD and either:

1. still requiring data---entry of OPD compliance by having the records of attendance submitted to the Department, or alternatively
2. the Department could add to the annual compliance questionnaire, via the portal, the list of OPD activities delivered by the approved providers (RTOs and Associations) for the celebrant to tick the ones completed and upload the relevant certificate of completion.

A set of Professional Development Guidelines may be as follows:

1. Professional development activities provided by the approved OPD providers and approved professional Associations will be acknowledged by the Department for OPD compliance purposes
2. Enrolment in any unit of the Certificate IV of Celebrancy be counted as equivalent to 5 hours of elective professional development activities
3. Any topic covered in or related to the Certificate IV of Celebrancy and the professional role of celebrants is suitable for professional development activities
4. Approved OPD providers and approved professional Associations are required to state the number of OPD hours a specific activity is designated and its Unique OPD Code.
5. Where Compulsory Activities are required, the Department will provide the learning objectives and the relevant supporting legal information and resources (fact sheets, references in the Act and Guidelines, Activity handbook, A/V resources etc.) to enable this activity to be delivered with consistency across the sector. Such resources need to be developed in conjunction with the approved OPD providers and approved professional Associations.
6. Elective OPD activities need to address Adult Learning Principles, and be delivered by competent educators or Cert IV trainers or leading professionals in celebrancy or related fields in the context of a well---designed professional development framework. Each activity will be required prior to its commencement to be registered with the Department's Registration of Professional Development Activity Form. See Appendix 1 provided here.

**Recommendation 7:**

That the number of hours of OPD be 5 hours

As noted under CoCA recommendations 1 and 2, professional development is broader than just the need to ensure valid marriage, and the needs of independent civil celebrants, especially those authorised by the Department to perform valid marriage, are complex and diverse.

As agreed in the 2013 OPD workshop with the Department<sup>29</sup>, OPD providers and association representatives, there is still considerable work to be done to increase the professionalism of celebrants and improve their viability to the point where most can receive adequate financial remuneration for their celebrancy work (such as other ceremonies and celebrations, not related wedding business work which is limited under the current Marriage Act) in terms of hours, not just covering their expenses in delivering marriage services.

CoCA is concerned that a reduction in hours to only Compulsory activities will make the national delivery of face-to-face professional development not viable for the four approved RTO-OPD providers.

**Recommendation 8:**

That Marriage Celebrants be required to do a one-hour compulsory legal refresher activity until a review in 2020, even when there are no significant changes to the relevant legislation or guidelines.

In 2012 CoCA<sup>30</sup> recommended the Compulsory activity be increased to two hours to enable the Marriage Celebrants to self-assess their knowledge against legal information and then have the opportunity to discuss shortcomings in their knowledge and discuss how that aspect of the law could be addressed in day-to-day practice.

This aim was not achieved with the Department writing a 2-hour elective, because the two hours was expanded into further areas of basic knowledge that all celebrants should have from their initial training, prior to authorisation, and one reason for the increase in celebrants reporting the repetitive nature of OPD.

Given that the profession has had increased entry qualifications and Department resources (*e.g. The Explanatory Materials, Marriage Guidelines, fact sheets, compulsory activities*) for over a decade now, there should be very few celebrants being authorised now who are unable to read the Marriage Act and Guidelines and apply that knowledge to a range of situations.

CoCA's previous recommendations about basic training at diploma level, mandated assessments, and even further assessments by the Department prior to appointment, are the measures that will ensure that only those with high standards of knowledge, skill and competence to deliver professional valid marriage services are authorised by the Department.

CoCA sees a role for a 1-hour compulsory activity as a refresher for the short term of three years until the revised the Cert. IV in Celebrancy is reviewed in 2019<sup>31</sup> given the extent of problems in the VET System in delivering consistency in training standards and the huge changes currently happening in the VET System to address these problems.

This three year period will enable the Department to focus more on upgrading its guidelines and develop relevant fact sheets and other resources so that when the 2019 training review is completed the Department and the Associations will be in a more informed position as to whether this one hour compulsory needs to apply to all celebrants, or incorporate these legal refreshers and previous compulsory activities as elective units, and only require compulsory units when new legislation is introduced.

**Recommendation 9:**

That the best ways to ensure that Marriage Celebrants are advised of changes to legislation are:

- Publications on the Attorney-General's Department website
- Fact sheets, emails, newsletters circulated directly to celebrants
- Marriage Celebrants' self-service portal
- eLearning module (or similar online based training)

CoCA Associations are in agreement that the above are the best ways for Marriage Celebrants to be advised of changes to legislation.

This does not negate the need for face-to-face activities being part of the mix of elective activities or the need for a Compulsory activity post 2020, if there are major legislative changes.

**Recommendation 10:**

That the OPD year remains a calendar year.

The Department notes <sup>32</sup>

*"In addition to these issues, the department experiences problems each year with late applications for an exemption from OPD. The department typically closes down for the Christmas/New Year period and with the last date for exemption applications falling on 31 December, the department is not available to advise celebrants who may be seeking last minute assistance. Although celebrants should be applying for these exemptions well ahead of this period so that they have an opportunity to undertake OPD in the event an application is not granted, this is often not what occurs.*

*If the OPD year was aligned to the registration year, it is proposed to have a six month transition."*

Whilst CoCA appreciates that there will be celebrants who prefer the financial year, the Coalition of Celebrant Associations does not consider some of the arguments given to justify a change relevant.

1. Authorised celebrants' forgetting their obligations is not a valid reason for changing the OPD year. Marriage Celebrants with a professional attitude will complete their OPD early enough to ensure there is not an end of year rush, whether that is a Calendar Year or Financial Year.

Organisational and time management skills are part of the set of skills competent celebrants are required to have to adequately perform marriage ceremonies in line with the time frames required in the Marriage Act.

2. Another change will lead to more confusion, and give non-compliant celebrants another reason for their failure to comply and as a result they will have a further six months grace.
3. The Calendar Year enables the OPD providers several months before the end of the registration year for reporting of OPD attendance and for the Department to follow-up non-compliance with extra professional development, suspension or even de-registration.

OPD Non-compliance warnings may influence the Marriage Celebrant's decision to continue registration, rather than the reverse argument that somehow paying the fee will affect whether they do OPD or not.

4. Marriage Celebrants already had considerable lack of regulation around OPD before 2014.
5. There are other possibilities that the Department has not considered such as providing connectivity through access portals for OPD providers to report celebrant compliance electronically and allowing OPD providers and professional Associations to manage non-compliance that would have a far greater effect than simply changing the OPD year.

CoCA's recommendations for the delegation of the planning and delivery of OPD would also ensure that the extra work normally done by the Department for the publication of the OPD approved activities in the lead up to the end of the Calendar Year should be reduced to a minimum.

This should mean that the full Calendar Year would be available to celebrants to do OPD from 1<sup>st</sup> January each year.

### **Conflict of Interest and Benefit to Business: Introduction**

CoCA appreciates the Department's acknowledgement of the difficulties confronted by many marriage celebrants wishing to create viable celebrancy practices. The discussion papers stated:

"The past decade has also seen changes to the financial investment involved in being an authorised marriage celebrant, including the significant cost of obtaining the appropriate qualifications, the requirement to pay an annual celebrant registration charge and costs of ongoing professional development. Many new marriage celebrants are entering the profession with the expectation that they will be able to generate an income from their substantial investment in becoming an authorised celebrant."

In 2002, wedding organisers/planners or wedding related businesses were specifically identified as people with Conflict of Interest and/or Benefit to Business:

- "Without the introduction of a conflict of interest criterion, there is no restriction on separating the interests of wedding organisers and celebrants." <sup>33</sup>
- "Celebrants will be unable to have an interest in other wedding related business as proposed by the conflict of interest reform." <sup>34</sup>

The reason for this concern is that many wedding planners or organisers work on commission from their referrals to a wide range of wedding industry products and services. This means it is not always transparent to the marrying couple exactly how much they are indirectly paying for their wedding planning service. This commission income can be a COI and/ or B2B risk, if refusing to solemnize the marriage because identification and/or other documents are not in order or the celebrant suspects consent to the marriage may be an issue. This income in addition to the celebrant's fee for marriage solemnisation could be sufficient to become a higher priority than the legal requirements of the marriage.

As noted in this submission's general introduction, CoCA has identified a range of work possibilities that, with further training and professional development, would enhance the viability of their celebrancy practices without jeopardizing their COI and B2B responsibilities. Likewise the "many of the skills required to provide a professional celebrant service translate readily into services" such as

- blessing---way (for pregnancy) and naming ceremonies
- ceremonies and celebrations for adolescents and young adults
- birthdays, anniversaries and other ceremonies/ celebrations, either as MC or celebrant
- life story documentation especially for the senior market
- pre---funeral planning
- funerals and memorials
- alternative funeral services such as independent funeral coordination, death doula services.

As noted under the Professional Development section of this submission, professional development can play a key role in supporting independent celebrants in building more viable professional celebrancy practices.

**Recommendation 11:**

That the Conflict of Interest (COI) and Benefit to Business (B2B) provisions be retained and strengthened to continue to provide parity with Subdivisions A and B Authorised Celebrants

The Coalition of Celebrant Associations opposes any relaxation of COI and B2B provisions, other than a few specific examples noted later.

There are several reasons for this.

1. To ensure all marriage pre-requisites, especially consent, are not compromised by COI and/or B2B issues.
2. To uphold the status of marriage in Australian society by ensuring independent civil celebrants are seen as and are professional practitioners with high ethical standards comparable with the other subdivisions of Marriage Celebrants
3. To minimise exploitation of couples vulnerability at such an important rite of passage. Financial stress is one of the major factors in relationship breakdown.

The 2002 Marriage Act Amendments clearly identified COI and B2B as an integral part of ensuring the professionalism of Subdivision C authorised celebrants:

“In addition, persons will have to satisfy the fit and proper person criteria to which will be added a criteria that celebrants must avoid a conflict of interest.”<sup>35</sup>

If 50 years ago there was a need to protect couples from exploitation from Subdivision A and B celebrants then, that need has increased not reduced. With mass media the impact on the marrying public of the commercialisation of weddings services has escalated with the focus on all the ancillary products and services, not on the importance of the nature of marriage itself.

Complaints about wedding suppliers are already high with Departments of Fair Trading around the nation and couples starting married life with increased debt caused by the cost of related services can increase economic stress on the couple. Repeated financial stress is one of the major factors in relationship breakdown.

Section 33 clearly views Subdivision A Ministers of Recognised Religions as requiring Conflict of Interest and Benefit to Business provision even though it is rare for this group to be de-registered on these grounds – likewise Subdivision B authorised celebrants. This is so even though the public’s understanding and confidence in these two groups is high and these celebrants would be considered less likely to have a Conflict of Interest and Benefit to Business risk than Subdivision C authorised celebrants.

**Section 33 (1) Removal from register**

- (1) Subject to this section, a Registrar shall remove the name of a person from the register kept by that Registrar if he or she is satisfied that:
  - d) that person:
    - i) has been **guilty of such contraventions of this Act or the regulations** as to show him or her not to be a fit and proper person to be registered under this Subdivision;
    - ii) has been making **a business of solemnising marriages for the purpose of profit or gain**; or
    - iii) is **not a fit and proper person** to solemnise marriages; or ...

Subdivision B State and Territory Officers as public servants have Public Service Regulations that likewise are designed to prevent employed or contracted staffing having COI and B2B risks – actual, potential or perceived.

Previously the Department had required Subdivision C Authorised Celebrants to have **no** conflicts of interest or benefit to business upon appointment. Whilst regulating this may not be easy, COI and B2B provisions are enacted in a number of legislative areas.

Kym Duggan, Assistant Secretary, Family Law Branch, made this point in a letter<sup>36</sup> to all Celebrant Representative Bodies dated 28<sup>th</sup> February 2002, which states in part:

“The provisions **will prevent a person having a conflict of interest** between his or her interests as a celebrant and his/her business and other interests. The "other interests" will clearly cover for example, employment related interests”.

“The conflict of interest provisions is a standard provisions replicated in a number of pieces of Commonwealth legislation. ....”

“..... the inclusion of a **statutorily defined conflict of interest provision is not a new concept.**”

“The selection criteria operating under the current system of appointment states that marriage celebrant applicants **must not have** a conflict of interest or potential for such a conflict of interest in any of their business interests, hobbies or other interest connection with any of their business, hobbies or other interests.

These issues will need to be dealt with on an individual basis in the course of the application process”.

Even so, it is known that some areas of professional conduct can push the boundaries to the point that the public good is not served by businesses with profit as the motive. Section 31 a) and 31c) addresses these potential concerns even for Religious Denominations (*Religion being one of the three earliest professions*):

#### **Section 31 Applicant may be refused registration in certain circumstances**

- 1) A Registrar to whom an application for registration under this Subdivision is made may refuse to register the applicant if, in the opinion of the Registrar:
  - a) there are already registered under this Subdivision **sufficient ministers of religion** of the denomination to which the applicant belongs **to meet the needs of the denomination in the locality** in which the applicant resides;
  - b) the applicant is not a fit and proper person to solemnise marriages; or
  - c) the applicant **is unlikely to devote a substantial part of his or her time to the performance of functions generally** performed by a minister of religion.

However there are other factors that limit the number of celebrants in Subdivision A and B – predominantly economic costs to the church or the registry. Private people have no entitlements to demand employment in either sector, which leaves Subdivision C particularly vulnerable to other forces that encourage or pressure people to find work.

Allowing more latitude for COI and B2B increases the risk to the service of valid marriage provided by the celebrant becoming secondary to the other products and services the celebrant is engaged in and from which they derive financial or other benefits.

In particular, Marriage Celebrants would be able to be trained and employed by big businesses that have “for---profit” goals. Being employed by for---profit businesses would make the celebrant more vulnerable to pressure from their employers to take short cuts with the marriage to protect the financial gain forthcoming from the wedding reception, accommodation and other associated products and services.

**Recommendation 12:**

That civil marriage services be acknowledged as one component of the Civil Celebrancy profession, where the celebrant provides a range of ceremonies if they so choose, and not a business activity within the Wedding Industry where the celebrant provides other commercial wedding services that the public would not expect to be provided by Subdivision A Ministers of Recognised Religions nor of Subdivision B State and Territory Officers.

Australia has led the world in civil ceremony (our Civil Marriage Celebrant Program was a world first) but the general public's understanding of the independent Civil Celebrant's role is poor. More public education on the professional role of civil celebrants would assist in raising the profile of the Commonwealth Celebrant program.<sup>37</sup>

Marriage work is particularly desirable to those in the wedding industry, people with family responsibilities wanting flexible work and people seeking self---employment for more autonomy in decision making and working conditions.

Taking single items from Section 39 or anywhere in the Act from a **business** model perspective is not appropriate. For example, that Subdivision C Authorised Celebrants are remunerated for their time and expenses in provision of their services is not of itself a Conflict of Interest and Benefit to Business, any more than it is for Subdivision A and B Authorised Celebrants or any other profession such as nursing, teaching, law etc.

The conclusion of examining these issues as related to Commonwealth Marriage Celebrants were that:

1. Subdivision C authorised civil celebrants are part of a developing Civil Celebrancy profession, not a business activity, and
2. in simple terms, a profession = community service goal + ethics + specific knowledge and skill, with or without the need for business knowledge and skill. The latter is primarily the need of an independent professional in private practice.

**Recommendation 13:**

That the terminology used in the Marriage Act and Marriage Regulations be strengthened, and more clearly specify the types of activities that are and those that are not considered a conflict of interest or benefit to business with the view to narrowing those areas in dispute.

It is noted that the Marriage Act 1961 in Sections 31 and 33 uses stronger terminology for the role of the Registrar. For example:

"A Registrar to whom an application for registration under this Subdivision is made **may refuse to register the applicant if, in the opinion of the Registrar, ...**" (Section 31)

"Subject to this section, a Registrar **shall remove** the name of a person from the register kept by that Registrar **if he or she is satisfied** that: ..." (Section 33)

However the Act in Section 39 C, whilst the entitlement is qualified by the word "**only**" in part (1) in relation to age, qualifications/skills and "fit and proper person", part (2) with respect to Conflict of Interest and Benefit to Business, the terminology, "**the Registrar must take into account**".

**"39C Entitlement to be registered as a marriage celebrant**

(1) A person is **only entitled** to be registered as a marriage celebrant if the person is an individual and the Registrar of Marriage Celebrants is satisfied that the person:

- a) is aged 18 years or over; and
- b) has all the qualifications, and/or skills, determined in writing to be necessary by the Registrar in accordance with regulations made for the purposes of this paragraph; and
- c) is a fit and proper person to be a marriage celebrant.

(2) In determining whether the Registrar is satisfied that the person is a fit and proper person to be a marriage

celebrant, **the Registrar must take into account:**

a) ... d)

e) whether the person **has an actual or potential conflict of interest between his or her practice, or proposed practice, as a marriage celebrant and his or her business interests or other interests; and**

f) whether the person's registration **as a marriage celebrant would be likely to result in the person gaining a benefit in respect of another business that the person owns, controls or carries out; and**

g) ... "

Therefore Section 39 C is much more ambiguous and interpreted by the Department to mean actual and potential Conflict of Interest and/or Benefit to Business risks do not prevent the authorisation of people seeking to be a Commonwealth marriage celebrant or are grounds for de---registration of authorised celebrants.

It is also noted that the Code of Conduct and other parts of the Regulations may be used to strengthen Conflict of Interest and/or Benefit to Business provisions by specifying what **"business interests or other interests"** constitute an actual or potential Conflict of Interest or Benefit to Business in terms of the Celebrant's own celebrancy private practice and /or **"another business that the person owns, controls or carries out"**.

Rather the focus has become how the authorised celebrant intends to "manage" these risks. The outcome is that the authorised celebrant is encouraged to 'separate' activities that pose a risk with the consequence these activities are not transparent to the marrying public, and rather than being protected by the legislation, the marrying public are dependent on the personal ethics of a celebrant not to put personal gain before the needs of the couple. The latter is acknowledged by legislation as difficult for many people to do, especially when financial gain is a motivating factor.

**Recommendation 14:**

That in determining whether an activity has an actual or potential Conflict of Interest and Benefit to Business risk, the focus be on how that activity enables the independent celebrant to strengthen their primary ceremonial role (i.e. ceremony and celebration knowledge, values, skills and support) with the other two Subdivisions A and B as a guide, not the work opportunities within the commercial wedding industry.

With the three traditional professions – religion, medicine and law – their historical advantage means both the practitioner and the public have more awareness of the types of activities that would be, and be seen as, a Conflict of Interest and/or Benefit to Business.

For example:

- a priest owning a bridal shop and offering discounts on marriage services if the bride purchases a gown from his or her business;
- a minister owning a catering company, a reception centre, a hairdressing salon, a luxury car hire business or some other wedding related business and offering special package deals for using those;
- a lawyer selling a range of insurance products to assist with the client being able to afford lawyers' fees;
- doctors offering to sell Amway products to assist with home hygiene or selling a range of alternative medicines to assist with the symptoms of an illness, but not addressing the treatment of the illness thus increasing the patients need for more medical services from that doctor.

The fact that civil celebrancy is still evolving as a profession means that the clear boundaries between the civil celebrant and the wedding industry are not yet as obvious.

The fact that individuals break or exploit the law, or that the law is difficult to administer, is no reason in itself to remove those aspects of the legislation. Society would have no laws if that were the case. Where the administration of the law is an issue, then the legislation itself needs review to clarify how that legislation or its administration can be improved.

For the Marriage Act to be consistent, the same underlying principles need to apply to the three subdivisions of authorised celebrants in the provision of marriage services.

It is CoCA's position that if initial training and professional development in marriage law and regulation fees are required of one Subdivision then these requirements should **be applied to all**.

Please note: this is not saying that the same overall training and professional development activities should apply as the different groups of celebrants have different roles and responsibilities, rather only those aspects that relate specifically to marriage law.

If Conflict of Interest and/or Benefit to Business provisions are to be removed from Subdivision C it then should apply to all subdivisions.

Celebrants offering other ceremonies or other ceremony related services are accepted as part of the civil and religious celebrants roles and not viewed as Conflict of Interest and/or Benefit to Business e.g. funerals, namings, engagements, birthdays, anniversaries, renewals, boat blessings and perhaps other ceremonies and celebrations yet to be developed.

Applying the principle expressed in this recommendation would **include** those products and services **in the ceremony itself** that are normally associated with the services provided by churches and registry offices or courts. These activities are addressed in Recommendation 16.

Applying the principle expressed in this recommendation would **exclude** those activities that occur **before and/or after the ceremony** and those **not** normally associated with the services provided by churches and registry offices or courts.

For example, **prior to the ceremony** – hairdressing, beautician services, weight---control products, clothing and shoe purchase or hire, floristry, jewellery, car / vehicle hire, wedding planning /organising, accommodation, wedding gift products and services, migration agent services.

For example, **after the ceremony** – reception facilities, alcoholic and other beverage services, catering services, honeymoon accommodation and travel.

Part---time or full employment in any of the above activities should exclude a person from becoming or continuing to be authorised as a Commonwealth marriage celebrant.

Also services not able to be performed by the celebrant whilst conducting the ceremony (such as photography, videography, being part of a musical group) would need to be excluded.

**Recommendation 15:**

That where there are concerns about the overlap between “Profession” and “Business”, that the focus be on how a potential Conflict of Interest and Benefit to Business enables the independent celebrant to strengthen their primary ceremonial role (i.e. *ceremony and celebration knowledge, values, skills and support*) with the other two Subdivisions A and B as a guide).

There are services that are less clear but that may need more consideration against the current relevant principle “Could the benefit to business or conflict of interest threaten the validity of the marriage or the delivery of a high standard of professional conduct?” such as:

*1. to enhance the celebrant’s skills:*

Master of Ceremonies – this activity strengthens public speaking skills and provided the role at a reception upholds the Code of Conduct Section 3 *Recognition of significance of marriage* could be an extension of the celebrant’s professional practice (although couples can feel pressured to use the celebrant’s service as an MC with this option.

*2. services are usually associated with religious celebrants duties.*

Professional services such as relationship education and counselling.

If the above principles had been applied, then celebrants providing marriage services would be far better equipped to provide a range of other ceremonies and celebrations, and as such reduce the need to consider wedding industry related products and services to make their celebrancy practices more viable.

**Recommendation 16:**

That the Attorney-General’s Department reconsiders its own definitions of the Conflict of Interest and Benefit to Business in regard to authorised celebrants charging for services directly related to the ceremony itself, especially those normally included in services charged by Ministers of Recognised Religions and Registry Offices.

The fixed fee was removed in 1995 so that independent civil celebrants could charge for products and services directly related to the ceremony itself, especially those normally included in services charged by Ministers of Recognised Religions to couples.<sup>38</sup>

In this context therefore, CoCA considers the Department needs to review these items in Option 1, in the table provided, identified as a Conflict of Interest and/or Benefit to Business:

- “Selling products to be used in the marriage ceremony, such as the jar and sand to be used in a sand ceremony or the ribbons to be used in a hand fasting ceremony.”
- “Charging additional amounts for ancillary products or services – such as charging for a bound copy of the marriage ceremony”

These examples imply the Department expects celebrants to apply a fixed fee for their marriage services regardless of how complex or simple the services they provide. Such assumptions would not be made of other professional practitioners, and are in contradiction to the reasons why Government removed the fixed fee for marriage services.

Likewise the assumption that celebrants cannot charge for products directly associated with the ceremony such as candles, sand, ribbons, etc. From a professional perspective, the important issue is that these ancillary items can be itemized in the celebrant’s fees so the couple or family can obtain these products independently if they wish.

The implication of a 'fixed' fee or "one package" for all the possible services associated with the marriage ceremony means the celebrant would need to include the cost of all such products, services and travel averaged across the expected number of annual weddings and average them annually. The result is that couples wanting simple services would be unfairly charged an inflated fee to recompense the celebrant for the most complex marriage services they provide.

Some celebrants do choose to operate this way. However it is incorrect for the Department to imply that a celebrant cannot choose to charge for services in a different way. CoCA assumes this would be a restriction under Trade Practices legislation.

Likewise the Department needs to identify those services that authorised celebrants can charge that directly relate to the ceremony itself, especially those normally included in services charged of couples by Ministers of Recognised Religions and Registry Offices.

Such services are the provision of the ceremony space and the facilities usually supplied by the church and the registry offices. Seating, aisle runner carpet, carpet square to define the area for the wedding party to stand, PA system etc should all be considered as part of the services celebrants may provide and charge for should they so wish. As with the examples above, whether these products and services are included in the celebrant's fee or itemized separately as optional extras should be the celebrant's choice.

One area for further consideration is the provision of a chapel or building for the ceremony itself. There may be an argument that where the celebrant is able to provide a chapel or gazebo within their own residential property that this should be considered as part of the services the celebrant is able to charge for, either included in their fee or itemized separately.

However where the celebrant owns or operates a free standing chapel, is employed by a club, hotel or some other free standing facility that is not part of the celebrant's own residence, that business activity should be excluded under Conflict of Interest and/or Benefit to Business provisions.

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Ref: <http://www.coalitionofcelebrantAssociations.org.au/for---celebrants/123---2017---coca---submission---on---opd---coi---and---b2b/517---extracts---from---the---2002---explanatory---memorandum>
36. **Letter from Kym Duggan Assistant Secretary Family Law Branch Attorney-General's Department Canberra ACT to All Celebrant Representative Bodies**  
Ref: <http://www.coalitionofcelebrantAssociations.org.au/for---celebrants/120---ag---discussion---paper---on---opd---and---conflict---of---interest/504---2002---letter---from---the---agd---on---conflict---of---interest>
37. In the early days of the program, money was allocated for public relations work with Recognised Religions, the Registry Offices and the public to explain the concept and alleviate any concerns about this new role.

The fact that civil celebrants were providing alternative services to the ministers of Recognised Religions was largely well received. These religious celebrants did not feel comfortable marrying couples of differing faiths, or no religious faith at all.

The most challenging aspect was the appointment of women, particularly young women (in their twenties). There were 60,000 celebrants in the national, almost all male. Many were concerned that young and female celebrants, would not be able to carry the responsibilities of the role with suitable dignity and gravitas. How attitudes can change. The changing social norms, especially in relation to religious observance, and the work done by these pioneers have contributed to the huge success of the program.

However, civil celebrants have quietly gone about servicing the general public without seeing the need for programs to educate the community. Mass media and the IT age means that younger generations assume Australian marriage laws and the celebrants role is the same as that shown in America or Britain. Programs like "Married at first sight" do not help this trend to see the marriage ceremony as an incidental part of the big party, where suppliers of commercial wedding products and services place their focus.

38. **1992 Constitutional advice from Professor Michael Pryles**

Ref: <http://www.coalitionofcelebrantAssociations.org.au/for---celebrants/123---2017---coca---submission---on---opd---coi---and---b2b/516---1992---constitutional---advice---from---professor---michael---pryles>

39. **Appendix 1 -- Adapted from the CoCA Response to AGD August 2012**

Ref: <http://www.coalitionofcelebrantAssociations.org.au/images/Submissions/CoCA---sub2012---09---24---final.pdf>

## Appendix 1

### Registration of Professional Development Activity Form<sup>39</sup> DRAFT ONLY

<b>OPD Activity Title</b>			
OPD Code:			
Date received			
Delivery <input type="checkbox"/> Face-to-face classes <input type="checkbox"/> Distance <input type="checkbox"/> Online			
Activity OPD hours equivalent			
Certificate IV reference			
<input type="checkbox"/> Compulsory <input type="checkbox"/> Elective		Marriage Act and Regulations related <input type="checkbox"/> Yes <input type="checkbox"/> No	
Main focus of Activity <input type="checkbox"/> Knowledge <input type="checkbox"/> Skills <input type="checkbox"/> Values `Clarification <input type="checkbox"/> Support/ Resources			
Objectives of Topic 1. 2. 3. 4.			
Objectives relevant to the knowledge, values, skills and support needed by a professional celebrant authorised to conduct marriage ceremonies			Yes/ No
Learning Activities		1. 2. 3.	
How relates to adult learning principles			
Name of OPD Approved Provider / Association			
Address of OPD Provider			Postcode
Contact Details :		Phone	Mobile Email
Trainers		Names	Qualifications
Name and Qualifications of Trainers		1. 2. 3.	1. 2. 3.
Assessment/ Feedback Measures			

<b>Post Delivery</b>	
Feedback from AGD Portal Annual Survey	
Date sent to OPD Provider/ Association	
By whom (AGD Staff)	