

## **ANF Submission**

### **Small Business and Family Enterprise Ombudsman discussion paper:**

#### **Contact:**

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#### **About the ANF**

The Australian Newsagents' Federation (ANF) is the peak body representing the Australian newsagent industries 4000+ newsagents. Together we employ an estimated 20,000+ staff.

80 % of Australians visit their local newsagency every week.

Our member newsagents are mostly owner operated small businesses located in almost every community in Australia. They are subject to a number of pressures that are distinct from those that affect large corporations and even many other small businesses. Whilst newsagents make a significant contribution to Australia's economy and are one of the largest retail channels in the country, they are often characterised by modest profit margins. Newsagents are particularly vulnerable to tough negotiations by powerful suppliers as their margins are largely set externally and they have a very limited ability to absorb large increases in costs. For this reason, we are very interested in any changes like these that assist small businesses.

#### **Concierge for dispute resolution.**

*What should the scope of the Ombudsman's own mediation service include? For example, small business disputes with Australian Government agencies or disputes under industry codes of conduct?*

- We suggest that the Ombudsman service cover all small business disputes.
- Where there are questions over jurisdiction with State or Territory Commissioners, or the right forum, there should be some rational administrative arrangements that help advise people how to "get from A to B".
- We do not see why the Ombudsman cannot cover the field, agencies such as ACCC or ASIC do not act as a mediator and there are only limited support services available in TAS, NT & QLD.
- There must not be a "perception of a lack of independence" if a government body mediates with another government body – there needs to be a guarantee of independence.

*What powers should be conferred to the Ombudsman to resolve small business disputes?*

- The Ombudsman should have all the powers it needs including the power to arbitrate where the parties agree. In other words there will be binding and non-binding dispute resolution.
- The power to create industry codes where necessary is essential, such as the South Australian Newsagency Dispute Resolution Code.

*Which types of dispute resolution services should the Ombudsman provide and what should be the model for providing these services? For example, should these services be outsourced or provided in-house?*

- The services should be both in house and outsourced depending on the issue and resources available to the Ombudsman.
- There should be a “flat fee structure” for mediation, like in South Australia – the \$150 an hour charged in NSW is “exorbitant”. However, there is no perceived value for mediation if it is free.

### **Commonwealth wide Advocate**

*How can the Ombudsman be a strong advocate to the Government? Are there particular practices that the Ombudsman should focus on?*

- The Ombudsman should have a Commonwealth wide role and should focus on areas where business is in a weak position, where there is an imbalance of power, or a need to “level the playing field”. Some examples are; supplying to the Commonwealth, where the law exempts the Government from normal commercial law, and where there is a knowledge imbalance such as tax and customs.
- As a general statement the Ombudsman should focus on areas that have direct commercial impact on small businesses.
- The Ombudsman should be part of the legislative review process and Regulatory Impact Statements (RIS).
- The Ombudsman should educate people and industry associations about where to seek assistance.

*How can the Ombudsman be a strong advocate to larger businesses on the needs of small businesses?*

- In relation to large business, the Ombudsman should focus on the interdependence of big and small and that big should respect and understand the needs of small. Much of big business see small as free riders, which they are not.

*Should the Ombudsman be conferred powers to investigate allegations of practices in the public and private sectors that are negatively affecting small businesses?*

- Yes, see comments above.
- South Australia has legislative power to make people come to mediation; we get traction in SA and we would like to see this model adopt similar powers to the SA model.

### **Contributor to Commonwealth laws and regulations**

*How should the Ombudsman engage with small businesses and family enterprises to identify the regulatory burdens most affecting them?*

- Meet with them.
- Develop relationships and consult regularly with small business industry associations.

*What activities should the Ombudsman be tasked with in order to make Commonwealth laws and regulations more small business and family enterprise friendly?*

- See comment above about the RIS, **also Ombudsman should have input into Cabinet submissions.**
- Focus on repealing unused legislation, which is not fit for purpose, and prevent such legislation from coming into effect in the future.
- Improve Small Business compliance eg. BAS statements etc are onerous.

### **A single entry- point agency**

*What delivery channels should be used to provide the single entry-point? For example, a website, hotline or social media.*

- Use of website and hotline best entry point.
- Connect through Small Business Industry Association sites.

*What key information should the single entry-point provide?*

- Small business rights and obligations and what to do if things go wrong. Small businesses are unaware of whom to seek advice from – single entry point will address this – educating people about where to go

*In relation to the Ombudsman website, what is the best way to link with existing authoritative sources of information for small business? For example, would links to existing websites be sufficient?*

- Need more than simple links, also needs to explain what the other website can offer and cannot offer.

*In addition to providing information and initial support to small businesses, what other forms of small business engagement could the single entry-point offer?*

- The hotline service should be able to give advice.

### **Method of Appointment.**

*How should the Ombudsman be appointed?*

- Statutory Appointment on advice of the Commonwealth Minister after consultation with States and Territories. Commonwealth should seek nominations from States and Territories.

*What is the appropriate length of appointment of the Ombudsman, and should there be an option for re-appointment?*

- 3 years and can be re-appointed once.

*How should dismissal of the Ombudsman be managed?*

- Same as any statutory officer, by Parliament.

### **In Support**

The ANF strongly supports the introduction of the role of Small Business and Family Enterprise Ombudsman. We believe it will be of great assistance to our members and to strengthening small businesses in Australia more broadly.