



The Small Business and Family Enterprise Ombudsman

Discussion paper

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Foreword



The Hon Bruce Billson MP, Minister for Small Business

Small businesses and family enterprises are a vital part of the economy. Providing a fair operating environment and conditions is one of the best ways to help this engine room of our economy to prosper. When small businesses and entrepreneurs prosper, so does the rest of the country. That is why the Government's red tape agenda is so important in making it easier and simpler for enterprising people to get on with running their business.

Being small can come with challenges, particularly when dealing with large businesses and large government agencies. If a smaller business is concerned with the actions of an organisation, it can be hard to be heard. Rocking the boat is often seen as a risky option. Small businesses need a voice to work through and raise matters of concern which are creating unnecessary barriers to doing business. The Government recognises how critical it is to ensure that small businesses are treated fairly and that they have access to justice and dispute-resolution services.

We want small business owners to spend more of their precious time and resources growing their business, not caught up in disputes or unnecessary paperwork. That is why the Government is transforming the Australian Small Business Commissioner into the Small Business and Family Enterprise Ombudsman. The Australian Small Business Commissioner has made some progress in representing and advocating the needs of small business. But to make a real difference, the role needs real power and real teeth to drive change and to be a genuine independent advocate for small business.

The Ombudsman will be a single entry-point for smaller enterprises, providing an easy way to find out about services and programmes that can help them reach their goals. As an advocate to Government, the Ombudsman will also contribute to the development of Commonwealth laws and regulations, helping to minimise compliance burdens and reduce red tape so that Government can get out of the way and let small businesses get on with their job. It will be important for the Ombudsman to work closely with its colleagues across state, territory and federal jurisdictions, not only to share knowledge and learning, but to make sure we don't duplicate services or create 'forum shopping' opportunities for the multiple handling of single concerns or grievances.

The Ombudsman will play an important role in smoothing the way forward for smaller enterprises. The key piece of work now is to determine what powers will best position the Ombudsman to investigate matters of concern to the small business community and to help businesses work through and resolve disputes, and access information and support in an efficient, timely and simple way.

I look forward to hearing your views on how we can best equip the Ombudsman to make a difference and help small businesses have the best chance of success.

BRUCE BILLSON

Introduction

Overview

The Government has committed to transform the Australian Small Business Commissioner into a Small Business and Family Enterprise Ombudsman (the Ombudsman) to be a Commonwealth-wide advocate for smaller enterprises. Funding of \$6 million has been committed to implement this initiative.¹

The Government has outlined the key responsibilities of the Ombudsman are to be a:

- concierge for dispute resolution;
- Commonwealth-wide advocate for small businesses and family enterprises;
- contributor to the development of small business friendly Commonwealth laws and regulations; and
- single entry-point agency through which Commonwealth assistance and information regarding small business can be accessed.

About this paper

Treasury is seeking input on the nature and scope of the four key responsibilities of the Ombudsman role and how to best provide the Ombudsman with appropriate powers to deliver benefits to Australian small businesses. The discussion paper includes options for the scope of the Ombudsman's functions and powers and seeks to identify possible areas of duplication, gaps or alignment with services and functions that are delivered through other governments, industry bodies or private providers. The issues outlined in this paper have been developed through research and analysis on previous Government reviews into small business dispute resolution, as well as initial consultations with the Australian Small Business Commissioner, state small business commissioners, state and territory government officials, the Australian Competition and Consumer Commission and the Commonwealth Ombudsman. The options outlined in this paper are not intended to be exhaustive and we encourage submissions to outline alternative views.

This paper provides a detailed discussion on each of the key responsibilities of the Ombudsman as outlined in the election commitment and can be considered as a whole, or alternatively each chapter can be read in isolation. In the latter case, Treasury recommends readers also review *Chapter 1: Setting the scene* which provides an overview of the existing small business commissioner roles and ombudsman roles. Questions have been incorporated throughout the document to prompt discussion on key issues and options for implementation.

Consultation

Treasury welcomes views from all interested parties on the role of the Ombudsman. Treasury particularly encourages small businesses to contribute to this consultation process. There are two ways to contribute — by providing a brief comment on the Treasury website or by providing a more

1 Australian Liberal Party, 2013, *The Coalition's Policy for Small Business*, p 9.

detailed written submission. Advice on how to lodge a brief comment or a submission is provided below.

Treasury intends to publish a summary document of the consultation findings in mid-2014. Additional consultation on draft legislation for the Ombudsman will take place later in 2014.

Making a brief comment

Interested parties are invited to provide a brief comment on the development of the Ombudsman role via the Treasury website at www.treasury.gov.au/ConsultationsandReviews/Consultations.

Brief comments are not considered formal written submissions, although comments may be used by Treasury to inform the development of the Ombudsman role. Comments will not be published but will be reflected, in aggregate, in a summary document of consultation findings.

Closing date for brief comments: Friday, 23 May 2014.

Making a written submission

Interested parties are invited to provide a written submission on the development of the Ombudsman role. Questions to help focus discussion have been incorporated throughout this paper, however submissions do not need to address each question.

Submissions may be lodged online, via email, or by post. Treasury prefers submissions to be lodged online through the Treasury website at www.treasury.gov.au/ConsultationsandReviews/Consultations.

Submissions can also be provided via email to small.business@treasury.gov.au. For accessibility reasons, please submit responses sent via email in Word or RTF format. An additional PDF version may also be submitted if respondents prefer to provide a read-only version.

Closing date for submissions: Friday, 23 May 2014.

Address written submissions to:

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For enquiries, please contact either (02) 6263 1536 or small.business@treasury.gov.au.

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Chapter 1: Setting the scene

The Government has committed to transform the Australian Small Business Commissioner into a Small Business and Family Enterprise Ombudsman (the Ombudsman) to be a:

- concierge for dispute resolution;
- Commonwealth-wide advocate for small businesses and family enterprises;
- contributor to the development of small business friendly Commonwealth laws and regulations; and
- single entry-point agency through which Commonwealth assistance and information regarding small business can be accessed.

Building a strong and confident small business community is central to the Government's commitment to delivering a productive and competitive economy. Fundamental to this is removing roadblocks to small business success. Under its deregulation agenda, the Government is committed to reducing regulatory burdens to restore time, focus and resources back to small business owners to invest in the ongoing operation and success of their business. The Government is also committed to working in partnership with the small business sector to achieve the right policy settings.

The Ombudsman will help contribute to these commitments by:

- helping small businesses resolve disputes early, in turn improving business productivity, preserving business relationships and avoiding expensive litigation; and
- improving engagement between the Government and the small business sector to ensure that small business interests are at the centre of policy and programme design and that, wherever possible, red tape burdens are minimal or reduced.

The role of the Ombudsman should be complementary to, and avoid overlap with, the roles and responsibilities of other ombudsmen, the state small business commissioners and the services provided by state and territory governments where there are no small business commissioners. This will provide an efficient and appropriate service that minimises confusion for small businesses about which office they should approach for assistance. Consideration of the Ombudsman role will take account of previous studies and inquiries into the nature and extent of small business disputes, and the role of the Australian Small Business Commissioner. An outline of these recent studies and inquiries is at **Appendix 1**.

Existing small business commissioner roles

Small business commissioner roles across the Commonwealth

The first use of the term 'small business commissioner' occurred in 1997 when the former Howard Government announced it would appoint a small business commissioner to the Australian Competition and Consumer Commission (ACCC).

The ACCC promotes competition and fair trade in markets to benefit consumers, businesses, and the community. Its primary responsibility is to ensure that individuals and businesses comply with

Australian competition, fair trading, and consumer protection laws. In 1999, the then *Trade Practices Act 1974* (now *Competition and Consumer Act 2010*) was amended to require the ACCC to have a Commissioner with experience in small business matters. This requirement was revised in 2008 so that at least one Deputy Chairperson has knowledge of, or experience in, small business matters. Dr Michael Schaper is currently appointed in this role, and is recognised as the ACCC's 'small business commissioner'.

The role of the Ombudsman should not be confused with existing 'small business commissioner' roles aligned with the small business policy area, the Treasury portfolio or other Commonwealth level bodies which also have small business representative functions within their organisations. These roles generally have a limited scope in the type of matters that may be relevant to small business. The Ombudsman will need to work collaboratively with these organisations and roles to make sure that business concerns are heard and addressed.

The Australian Small Business Commissioner provides information, assistance and advocacy of small business interests to the Australian Government. The Australian Small Business Commissioner reports to the Minister for Small Business and operates on a whole-of-Australian Government basis. The appointment is non-statutory and is not supported by legislated powers. On 17 October 2012, Mr Mark Brennan was announced as the inaugural Australian Small Business Commissioner and took up the position on 2 January 2013.

Schedule 1AA to the regulations under the *Financial Management and Accountability Act 1997* gives authority to the Australian Government to fund an Australian Small Business Commissioner to provide advocacy and representation of small business interests and concerns to the Australian Government. The Australian Small Business Commissioner also provides information and assistance to small businesses, including referrals to existing dispute resolution services and practical help in discerning and dealing with core issues in disputes.

The Australian Small Business Commissioner advocates and represents small business interests to the Australian Government by participating on government advisory bodies and collaborating with agencies to advise on how the Government's policies and practices impact small business. The Office of the Australian Small Business Commissioner (the Office) also reviews concerns raised by small businesses to identify the impact and pervasiveness of the issue and whether there is an appropriate role for the Government to address it.

The Office provides practical information to businesses through its website (www.asbc.gov.au); telephone hotline; participation at small business forums and events; and regular newsletters. The Australian Small Business Commissioner also publishes an online blog to provide information on, and encourage discussion about issues of interest to small businesses and family enterprises. The Office helps businesses that have a dispute to understand what mechanisms are best suited to their situation. The Office may conduct preliminary enquiries and, where appropriate, refer businesses to existing dispute resolution services. The Office also provides information to business owners and their staff on how to avoid disputes and the associated costs in time and money seeking external assistance to resolve them. To complement these activities, the Office is currently working with all levels of government to develop an online tool to help small businesses quickly find the most suitable dispute resolution service for their needs.

As highlighted above, the Ombudsman will extend on the activities of the Australian Small Business Commissioner to create a more purposeful, empowered and effective role. Providing statutory backing for the Ombudsman will help cement the Ombudsman's impartiality and equip it with the tools to effectively receive and deal with small business concerns and disputes. **Table 1** outlines the functions of the existing Australian Small Business Commissioner role and the comparative functions of the Ombudsman. Where relevant, it outlines the additional responsibilities of the Ombudsman role and examples of actions the Ombudsman could carry out that would require legislative powers.

State small business commissioners

The governments of New South Wales, Victoria, Western Australia and South Australia have established small business commissioner roles. There are no small business commissioners in Queensland, Tasmania, the Australian Capital Territory or the Northern Territory. The Australian Small Business Commissioner works collaboratively with the state small business commissioners to address current or emerging small business issues affecting multiple jurisdictions.

All four state small business commissioners are independent statutory officers. They all have a role in receiving and investigating complaints and providing dispute resolution services, although the nature and scope of their individual roles and powers vary. Some commissioners also have oversight of state-based legislation relating to retail tenancy and fair trading. **Appendix 2** provides an overview of the functions and services provided by the state small business commissioners.

Table 1: Functions of the Australian Small Business Commissioner and the Small Business and Family Enterprise Ombudsman

Function	Australian Small Business Commissioner	Small Business and Family Enterprise Ombudsman
Concierge for dispute resolution	<ul style="list-style-type: none"> Information and referral service to existing dispute resolution providers. 	<ul style="list-style-type: none"> Information and referral service to existing dispute resolution providers. Provides a ‘triage’ service by undertaking preliminary discussions and enquiries to determine the most appropriate course of action. This can involve: referring the business to existing alternative dispute resolution mechanisms; referring the business to other government agencies or services; or conducting preliminary enquiries that focus parties on the real issues. Provide mediation and other dispute resolution services underpinned by legislative powers. Scope of options include small business and family enterprise disputes involving: <ul style="list-style-type: none"> Australian Government agencies; a business/es in another country; more than one jurisdiction or that have a national impact; and national industry codes. Examples of actions that would require legislative powers include: <ul style="list-style-type: none"> investigating small business complaints, including obtaining information from parties; providing gathered information to other Commonwealth agencies and regulators (including but not limited to the ACCC and ASIC) where those agencies are better placed to address a complaint; compelling parties to attend mediation before approaching a tribunal or court; imposing financial costs associated with non-attendance at scheduled mediation; and/or making administrative decisions (non-binding).

<p>Commonwealth-wide advocate for small businesses and family enterprises</p>	<ul style="list-style-type: none"> • Advocacy of small business interests and concerns to the Australian Government by: <ul style="list-style-type: none"> – providing information and assistance to small businesses; – providing information and evidence based on enquiries to the Australian Government; and – working with industry and Commonwealth, state and territory governments to promote a consistent and coordinated approach to small business matters. • The Commissioner’s role in advocacy is listed under Schedule 1AA to the regulations under the <i>Financial Management and Accountability Act 1997</i>. 	<ul style="list-style-type: none"> • Advocacy and representation of small business interests and concerns to the Australian Government (underpinned by legislative powers) by: <ul style="list-style-type: none"> – providing information and assistance to small and family businesses; – providing information and evidence based on investigations to the Australian Government; – working with industry and Commonwealth, state and territory governments to promote a consistent and coordinated approach to small business matters; – advising the Government on best practice small business engagement practices and regulatory reduction opportunities; and – promoting best practice principles to all businesses. • Examples of actions that would require legislative powers include: <ul style="list-style-type: none"> – investigating complaints about government and private sector practices that are adversely affecting small businesses; and/or – obtaining information from parties.
<p>Contributor to the development of small business friendly Commonwealth laws</p>	<ul style="list-style-type: none"> • Representation of small business interests and concerns to the Australian Government with respect to regulatory burdens by: <ul style="list-style-type: none"> – participating on government advisory bodies; – working with industry and Commonwealth, state and territory governments to advise on how government policies and practices impact small business; – providing information and evidence based on enquiries to the Australian Government; – providing practical solutions to government addressing small businesses’ regulatory and administrative burdens; and – facilitating links between regulators. • The Commissioner’s role in representation is listed under Schedule 1AA to the regulations under the <i>Financial Management and Accountability Act 1997</i>. 	<ul style="list-style-type: none"> • Representation of small business interests and concerns to the Australian Government with respect to regulatory burdens (underpinned by legislation). Scope of options includes: <ul style="list-style-type: none"> – participating on government advisory bodies; – working with industry and Commonwealth, state and territory governments to advise on how government policies and practices impact small business; – providing information and evidence based on enquiries to the Australian Government; – providing practical solutions to government addressing small businesses’ regulatory and administrative burdens; – facilitating links between regulators across Commonwealth and state and territory governments; – participating in the regulation impact statement process as appropriate; and – examining and nominating burdensome regulations for repeal.

		<ul style="list-style-type: none"> • Examples of actions that would require legislative powers include: <ul style="list-style-type: none"> – conducting reviews of Australian Government agencies' interactions with small business; – obtaining information from parties, with powers to enforce compliance with a lawful direction from the Ombudsman; and – reporting to Parliament with a legislated tabling deadline for reports.
<p>Single entry-point agency through which Commonwealth assistance and information regarding small business can be accessed</p>	<ul style="list-style-type: none"> • A multichannel approach to inform and assist small business on a range of issues, including: <ul style="list-style-type: none"> – a dedicated website and hotline; – information on dispute resolution services to complement the Australian Small Business Commissioner's referral activities; – information and advice on small business and family enterprise issues; and – newsletters, a blog and updates on the Australian Small Business Commissioner's public events. 	<ul style="list-style-type: none"> • A multichannel, single entry-point for all Australian Government small business programmes, support and information. The single entry point will seamlessly integrate and coordinate existing initiatives and will include: <ul style="list-style-type: none"> – a dedicated website and hotline; – tailored information on dispute resolution services to complement the Ombudsman's legislated dispute resolution activities; information and advice on small business and family enterprise issues; – newsletters, a blog and updates on the Ombudsman's public events; and – educational resources for small business. • Provide a best practice example of small business engagement for Australian Government agencies. • Potential to evolve into a dedicated small business agency in clarifying services, support, grants and other assistance available provided by the Australian Government.

States and territories with no small business commissioner roles

There are currently no small business commissioners in Queensland, Tasmania, the Australian Capital Territory and the Northern Territory. In these jurisdictions, the respective governments perform similar functions as the state small business commissioners through various agencies and departments. Small business assistance is delivered through a variety of means such as information portals, hotlines and dispute resolution services through civil and small claims tribunals, fair trading offices, conflict resolution services and the court system. The Australian Small Business Commissioner also works collaboratively with these agencies to address small business issues.

Appendix 3 outlines the services delivered in these jurisdictions in more detail.

Existing ombudsman roles

There are a range of ombudsman roles which assist individuals and businesses to resolve disputes with government agencies or businesses. In Australia at present, there are generally two types of ombudsman roles:

- Parliamentary ombudsmen who take complaints from citizens and constituents about government agencies.
- Industry-based ombudsmen who take complaints from customers of companies providing particular services.

General parliamentary ombudsmen, such as the Commonwealth Ombudsman, investigate complaints concerning the conduct and decision making of government agencies while specialised government ombudsmen operate in particular policy areas, for example the Fair Work Ombudsman. Industry ombudsmen oversee the conduct of firms in a particular industry, including telecommunications, electricity and gas, and financial services.²

The Ombudsman title

A broader definition of an ombudsman being a designated person who advocates for another lends itself to the Government's envisaged role for the Small Business and Family Enterprise Ombudsman. The proposed change in title from the Australian Small Business Commissioner to the Small Business and Family Enterprise Ombudsman emphasises the expanded functions and powers of the future position.

The Australian and New Zealand Ombudsman Association is the peak body for ombudsmen in Australia and New Zealand. It considers that an ombudsman should comply with six essential criteria.³ Broadly, an ombudsman must:

- be independent (that is, an ombudsman must not be subject to direction, and must not be, or perceived to be, an advocate for any group);
- have a clearly defined jurisdiction;

² Productivity Commission, 2013, *Issues paper — access to justice*, p17.

³ Australian and New Zealand Ombudsman Association, 2010, *Essential criteria for describing a body as an ombudsman*, www.ombudsman.gov.au/docs/anzoa/anzoa_essential_criteria_for_describing_a_body_as_an_ombudsman.pdf, accessed 7 March 2014.

- have sufficient powers to investigate matters within its jurisdiction, both in relation to individual complaints and systemic issues;
- be accessible;
- afford procedural fairness (the action of the ombudsman must not give rise to a reasonable apprehension of partiality, bias or prejudice); and
- be accountable.

Chapter 2: A concierge for dispute resolution

This discussion paper concentrates on the four main functions of the Ombudsman. A separate chapter is dedicated to each function as well as the possible method of appointment of the Ombudsman. This paper can be considered as a whole, or alternatively each chapter can be read in isolation.

There are many benefits for smaller enterprises in resolving disputes early, including improved productivity, preservation of business relationships and avoidance of expensive litigation. In addition to achieving these goals, dispute resolution services for small businesses and family enterprises should ideally be easily accessible, prompt and as low-cost as possible.

The Office of the Ombudsman will provide its own mediation service, as well as being a concierge for dispute resolution — where it will refer businesses to existing dispute resolution services.

Complaints versus disputes

The terms ‘complaints’ and ‘disputes’ are often used interchangeably, however the role and actions of the Ombudsman will differ depending on whether a business is complaining about a particular practice (such as the outcome of a procurement process), or in a dispute over a contract that needs mediation.

If a business is unable to resolve a disagreement or is concerned about actions of another business or government agency, there are various informal and formal pathways available if it wants to pursue the matter further. When considering a small business complaint, the Ombudsman will need to consider the merit of the matter and the appropriate course of action.

Small business may raise an issue which would be more appropriately dealt with by another existing Government body. For example, concerns regarding unfair market practices are likely to be referred to the Australian Competition and Consumer Commission which monitors compliance with Australian competition, fair trading, and consumer protection laws. Where a complaint raises concerns about maladministration by a government body, the Ombudsman would then refer businesses to existing complaint handling bodies such as the Commonwealth Ombudsman⁴ or the relevant state-based ombudsman. Where a complaint does not involve maladministration, for example timeliness of payment practices by other businesses or government agencies, it can be referred to a relevant industry specific ombudsman (such as telecommunications, electricity and gas, or financial services), or where available, to the state-based small business commissioner. However, there may be a gap for businesses located in a State or Territory without a small business commissioner role.

4 The Commonwealth Ombudsman has a legislated remit to investigate any ‘matter of administration’ concerning a Commonwealth agency. The term ‘matter of administration’ is not defined in the legislation, but in practice it is interpreted to mean ‘maladministration and possible corruption issues’ which ‘undermine the integrity and probity in government’ (see the Submission by the Commonwealth Ombudsman to the Consultation on Victoria’s Anti-Corruption Commission of June 2011).

Where a business is seeking to resolve a disagreement with another business or government agency, the Ombudsman may undertake preliminary enquiries into the matter before considering an appropriate method to resolve the dispute. The Ombudsman may refer the business to existing dispute resolution services, such as those offered by the state small business commissioners, or for certain matters, provide services through its own mediation services.

The actions and possible powers the Ombudsman could be conferred to investigate or enquire about complaints are covered further in *Chapter 3: Commonwealth-wide advocacy*. The remainder of this chapter specifically discusses the types of disputes the Ombudsman's own mediation service could address, and the legislated powers which could be conferred to the Ombudsman.

Existing dispute resolution services

Existing referral services offered by the Australian Small Business Commissioner

The Australian Small Business Commissioner does not provide a formal dispute resolution service to businesses. If a business raises a matter with the Office of the Australian Small Business Commissioner, the Office provides a 'triage' service by undertaking preliminary discussions and enquiries to determine the most appropriate course of action. This can involve: referring the business to existing alternative dispute resolution mechanisms; referring the business to other government agencies or services; or conducting preliminary enquiries that focus parties on the real issues.

To date, mirroring the experiences of the state small business commissioners, the majority of disputes or issues raised with the Australian Small Business Commissioner (84 per cent) have been resolved through conducting preliminary enquiries.

To complement these activities, the Office of the Australian Small Business Commissioner is currently working with all levels of government across Australia to develop an online tool to help small businesses quickly find the most suitable dispute resolution service for their needs. The Ombudsman will build on this work as part of its concierge for dispute resolution function.

Dispute resolution services offered by the state small business commissioners

Dispute resolution is one of the key functions of the existing state small business commissioners' offices. Small business commissioners in Victoria, Western Australia, New South Wales and South Australia all offer information, advice and guidance to small businesses at no cost. Where formal mediation is required, the state small business commissioners all offer subsidised mediation services. Some state small business commissioners also have powers to require parties to attend mediation. Further detail on these services is outlined in **Appendix 2**.

Dispute resolution services offered in State and Territories where there is no small business commissioner

The Governments of Queensland, Tasmania, the Northern Territory and the Australian Capital Territory (which have no established small business commissioner positions) provide dispute resolution services through civil and small claims tribunals, fair trading offices, conflict resolution services and their court systems. Further detail on these services is outlined in **Appendix 3**.

Developing the Ombudsman's own mediation service

It is important to carefully consider how the Ombudsman can complement services that are already provided nationally and in each State and Territory. Critically, the Ombudsman's services must, where possible, avoid duplicating existing dispute resolution services, such as those offered by state small business commissioners, various ombudsmen bodies, regulators (such as the Australian Competition and Consumer Commission), community justice centres, dispute resolution centres, industry associations, private entities and industry codes of conduct.

Managing disputes can have a significant burden on small businesses due to the time and money needed to seek external assistance to resolve a dispute, consequently taking business owners away from the running of their business. Alternative dispute resolution is an umbrella term that covers a range of negotiation based methods that enable parties to prevent or manage their own disputes. Alternative dispute resolution processes can involve a number of services including: the provision of information and education to small businesses to help parties avoid disputes; early-stage guided resolution; investigation; conciliation (making no determinations); facilitation of mediation on issues within its jurisdiction; independent, neutral evaluation; and assisted negotiation. Consideration will be given to whether it is appropriate and desirable for the Ombudsman's own mediation services to include all or some of these services.

Taking into account the range of available dispute resolution services, there are four types of small business disputes the Ombudsman's own mediation service could focus on:

- Disputes with Australian Government agencies.
- International business disputes.
- Interstate business disputes.
- Disputes under industry codes of conduct.

Disputes with Australian Government agencies

There is currently no formal, overarching dispute resolution mechanism for small businesses in disputes regarding their commercial relationships with Australian Government agencies. The Commonwealth Ombudsman deals with maladministration issues, but does not deal with commercial disputes between business and the Commonwealth Government agencies they have contracts with — unless the disputes touch on corruption or lack of probity.

The Victorian Small Business Commissioner will shortly be given an explicit power to deal with public entities and public service bodies. The New South Wales, Western Australian and South Australian Small Business Commissioners already possess the power to deal with complaints made by small businesses about their dealings with their state public sector agencies. As a general legal principle, governments in Australia deal only with their own public sector agencies, and so only the Australian Government can mediate disputes between small businesses and Australian Government agencies. The proposed Ombudsman therefore, through its own mediation service, could deal with such disputes. The legislation underpinning this function would need to clearly demarcate the role of the proposed Ombudsman from that of the Commonwealth Ombudsman. Also, the proposed Ombudsman's role could be defined in a way that encouraged small businesses, in the first instance, to pursue their matters directly with the relevant Australian Government agency.

International business disputes

The Commonwealth Constitution gives the Commonwealth power over ‘trade and commerce with other countries, and among the States’. The proposed Ombudsman therefore could be given jurisdiction to mediate international disputes concerning small businesses, and also interstate disputes (which are discussed below).

If the proposed Ombudsman did deal with international business disputes, then this would help achieve national uniformity in the outcomes of such disputes. National uniformity is desirable in this context so that small businesses in different Australian jurisdictions are treated similarly in relation to particular disputes regarding international ‘trade and commerce’. With this in mind, the former NSW Small Business Commissioner, Ms Yasmin King, noted in her submission to the Senate Inquiry into the Federal Small Business Commissioner Bill 2013, that ‘those disputes that have an international context ... are not appropriate for the intervention of state-based commissioners’.

Interstate business disputes

National uniformity in relation to small businesses engaged in interstate business disputes is also desirable — to avoid different outcomes in different jurisdictions on similar issues. Large corporations often have a presence in several jurisdictions, and so a dispute between a corporation and a small business in one jurisdiction could be relevant to small businesses in other jurisdictions. Such disputes might be better handled at the national level, while disputes between small businesses and national corporations that affect entities in only one jurisdiction might be dealt with at a state level.

Disputes under industry codes of conduct

Industry codes in Australia

The *Competition and Consumer Act 2010* provides for the Australian Government to develop industry codes of conduct that apply to businesses nationally. State governments can also develop industry codes of conduct which only apply to businesses within their jurisdiction. There are a number of existing, nationally operating, industry codes which have dispute resolution functions associated with them. Through its own mediation service, the Ombudsman may be well placed to complement the Australian Competition and Consumer Commission’s enforcement role by facilitating dispute resolution services under national industry codes.

The Australian Government industry code framework for prescribed industry codes

The Australian Government introduced an industry codes framework in 1997 to address concerns about small firms suffering as a result of ‘unfair’ commercial conduct on the part of larger firms in particular industries. An industry code is defined as being ‘a code regulating the conduct of participants in an industry towards other participants in the industry or towards consumers in the industry’.

Industry codes can be used as a flexible means of regulation, and offer a co-regulatory approach to addressing market failure. A prescribed industry code may be voluntary or mandatory, although there has never been a prescribed voluntary code in Australia.

There are currently four mandatory industry codes:

- Franchising Code (commenced operation in 1998) — regulating conduct of franchisors and franchisees.
- Horticulture Code (commenced operation in 2007) — which aims to improve the transparency of transactions between growers and traders of fresh fruit and vegetables.
- Oilcode (commenced operation in 2007) — which regulates the conduct of suppliers, distributors and retailers in the petroleum marketing industry.
- Unit Pricing Code (commenced operation in 2009) — which requires certain grocery retailers to use unit pricing when selling particular grocery items to consumers.

Dispute resolution provisions under industry codes

Establishing the Ombudsman's own mediation service provides an opportunity for the Ombudsman to provide dispute resolution services that are provided for under industry codes of conduct. In relation to dispute resolution, the responsible minister under the Franchising Code, Horticulture Code and the Oilcode must/may⁵ appoint a mediation adviser.

The Australian Government currently funds low-cost dispute resolution services provided by these three advisers under a single contract.⁶ While not regulatory requirements, the dispute resolution services broadly include: a nationally accessible toll free telephone number, fax line, email address and internet website; an established panel of specialist mediators for each of the industry codes; education and awareness activities to promote the industry codes and dispute resolution services; and a free early intervention service for the Franchising and Horticulture Codes of Conduct, where parties can discuss their concerns and receive information and advice before the dispute has become entrenched. Businesses that are regulated by the industry codes of conduct can choose whether they pursue a dispute through these funded services, or through other providers such as the state small business commissioners or private mediators.

The Ombudsman could play a role in delivering dispute resolution services under industry codes of conduct by:

- mirroring the Australian Small Business Commissioner's current role (no involvement); or
- being appointed as the mediator under the industry codes of conduct.

The Australian Small Business Commissioner does not currently have a role in providing dispute resolution services under the existing industry codes of conduct. Extending this model to the Ombudsman would keep the status quo, where Treasury would continue to manage the single contract for dispute resolution services for the Franchising Code, Horticulture Code and the Oilcode. This option would not require regulatory amendments for the existing industry codes and would

5 The Franchising Code and the Oilcode state that the responsible Minister *must* appoint a mediation adviser and dispute resolution adviser, respectively. The Horticulture Code states that the responsible Minister *may* appoint a mediation adviser.

6 Under this contract, the Commonwealth Government also funds the Produce and Grocery Industry Ombudsman who provides dispute resolution services under the industry-run, voluntary, Produce and Grocery Industry Code.

provide continuity of dispute resolution services for the franchising, horticulture and petroleum sectors.

The Ombudsman could be appointed as the respective mediator by the appropriate Minister and provide dispute resolution services for industry codes through its own mediation service. Delivery of these services could either be completely outsourced through a contract with a private provider; delivered in-house by staff in the Office of the Ombudsman; or a combination of outsourced and in-house services. Consideration would also need to be given on whether dispute resolution services under industry codes of conduct would be branded separately from other services. If the Ombudsman was appointed the mediation adviser under the existing industry codes, there could be a potential conflict of interest between the Ombudsman acting as an impartial mediator and as an advocate for small businesses. In addition, industry code dispute resolution services are not limited to small businesses or family enterprises. Therefore, the Ombudsman might deal with disputes that involved neither family enterprises nor small businesses.

Powers to settle disputes

The Government has committed that the Ombudsman will be supported by legislated powers. Small businesses can be destroyed by disputes, and the intervention by an Ombudsman may be one method to prevent this. The Ombudsman could be conferred powers to:

- make administrative decisions;
- investigate small business disputes, including obtaining information from parties; and
- compel parties to attend mediation before approaching a tribunal or court.

Determinations made by the Ombudsman

The Commonwealth Constitution exclusively confers judicial power on the federal courts.⁷ Therefore, any powers considered for the Ombudsman will be limited to exercising administrative power only. Where the Ombudsman attempts to resolve a dispute through its own mediation service, there are a number of possible powers which could affect how the Ombudsman's determinations are treated:

- Parties could voluntarily implement any decision or determination by the Ombudsman.
- The Ombudsman could make administrative decisions that would not preclude an action being brought to the Federal Court if a party fails to comply with the decision. The Federal Court would then exercise its judicial power, without reference to the actions of the Ombudsman, in adjudicating on the matter.
- The Ombudsman might engage in mediation but make no decisions. If mediation fails, an action could then be brought in the Federal Court.

⁷ This was confirmed by the High Court in *Brandy v Human Rights and Equal Opportunity Commission* (1995). In the *Brandy* case, legislation giving a Commonwealth administrative body power to make binding and enforceable decisions, similar to a judicial body, was declared invalid.

There is a risk of duplicating existing services if the Ombudsman remit is not specified, since some of the parties seeking the assistance of the Ombudsman might be eligible to also seek the assistance of state small business commissioners. This could result in jurisdiction shopping.

Investigation and mediation processes

Legislation underpinning the Ombudsman's own mediation service could allow the Ombudsman, on a case-by-case discretionary basis, to choose the most appropriate dispute resolution service for particular disputes. This could include referral to existing services or dispute resolution through the Ombudsman's own service.

There are a range of other powers that could be conferred to the Ombudsman to encourage parties to attend mediation:

- The Ombudsman could use a mandatory referral system, where certain types of disputes would require a certificate from the Ombudsman before the dispute could be dealt with by a tribunal or a court. This would be similar to retail shop lease disputes in Western Australia, where applications to the State Administrative Tribunal require a certificate from the Western Australian Small Business Commissioner.
- The Ombudsman could impose financial costs for non-attendance at scheduled mediation, with non-attending parties being liable to pay the full cost (rather than the subsidised cost) of mediation.

Delivery of dispute resolution services

The Ombudsman could deliver dispute resolution services through an outsourcing model, in-house, or a combination of both. All models would be constrained by the finite number of accredited mediators in the marketplace.

As noted above, the existing dispute resolution services for businesses operating under the Franchising Code, Horticulture Code and the Oilcode are outsourced and delivered under a single contract with an external provider. The Ombudsman's own mediation service could alternatively build on the experience of existing mediation services which have achieved considerable success at the state level. This could include using the state small business commissioners' panels of accredited mediators, through memoranda of understanding or similar arrangements, which could save costs and avoid duplication. In certain cases however, the parties in dispute may require a different form of dispute resolution by an independent and suitably qualified professional.

Services could be delivered through staff within the Office of the Ombudsman. The success of this model will partly rely on attracting accredited and experienced staff that can provide these services. A combination of in-house expertise and outsourcing may provide flexibility in managing any excess demand for services.

Information on the Ombudsman's new dispute resolution services would be accessible via the integrated single entry-point initiative. This would be similar to the Victorian Small Business Commissioner's website which includes a page on the process for dealing with disputes referred to the Commissioner, and also provides the relevant application form. The website also offers a Guide to Mediation, and other related publications.

In addition to the proposed Ombudsman having its own mediation service, the Ombudsman will act as a concierge, referring businesses to existing disputes resolution services. The Ombudsman will build on work currently being undertaken by the Office of the Australian Small Business Commissioner to develop an online tool to help small businesses quickly find the most suitable dispute resolution service for their needs.

Dispute resolution models used in other countries

Some international examples of small business dispute resolution services are explored below.

New Zealand

The New Zealand Ministry of Business, Innovation and Employment provides free mediation services to any employer or employee with an employment relations problem. Mediators are employed by the New Zealand Government to deliver these services.

The New Zealand Disputes Tribunal deals with civil disputes of up to NZ\$15,000 (or NZ\$20,000 where both parties agree). Disputes are heard by a referee and there are no judges or lawyers involved in the hearing. Decisions of the tribunal are binding and enforceable by the courts. Fees currently range from NZ\$45 to NZ\$180, depending on the amount being claimed.

Canada

Government-supported alternative dispute resolution services appear to be provided for specific industries or types of disputes.

The Federal Mediation and Conciliation Service provides dispute resolution and dispute prevention assistance to trade unions and employers under the jurisdiction of the Canada Labour Code. Under the Farm Debt Mediation Act, the Canadian Government offers free financial counselling and mediation services to farmers who are having difficulties meeting their financial obligations.

The Code of Conduct for the Credit and Debit Card Industry is enforced by the Financial Consumer Agency of Canada, an independent body which reports annually to the Canadian Parliament through the Finance Minister. The Agency investigates complaints, undertakes investigations on its own initiative, and can impose financial penalties.

All provinces in Canada have a form of 'small claims court' which hears disputes for claims up to CA\$7,000 to CA\$25,000. Parties can either represent themselves or can chose to appoint a lawyer or paralegal.

United Kingdom

The Court Service and the Civil Mediation Council support a National Mediation Helpline, which aims to provide a simple, low-cost method of resolving a wide range of civil disputes. The National Mediation Helpline is operated on behalf of the Ministry of Justice by a private provider (similar to the model used in Australia with mandatory industry codes). Helpline operators explain the principles of mediation, and answer general questions about mediation, and can then put callers in contact with a mediation provider. Mediation fees are variable and depend on the amount of money being claimed. Since its establishment in 2004, the National Mediation Hotline has achieved an average settlement rate of 66 per cent.

United States of America

The Small Business Administration is the United States Government's support agency for small business. Within the Small Business Administration, the Office of the National Ombudsman acts as a liaison between small businesses and federal agencies where there is a dispute relating to regulatory enforcement.

In the United States, District Courts are required to provide alternative dispute resolution services to civil litigants. The cost of these services varies by jurisdiction, for example, in the District of South Carolina, parties are required to pay the mediator an agreed fee, while in the District of Northern California, the mediator volunteers the first four hours of mediation and is paid for their time after that.

Focus questions

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?

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

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?

Chapter 3: Commonwealth-wide advocate

The Minister for Small Business is the principal advocate for small business interests to the Government. The proposed Ombudsman provides an opportunity to establish a highly regarded, independent advocate who can act as a conduit for, and representative of, issues that small businesses are facing at the national level. The Ombudsman will extend the Australian Small Business Commissioner's collaborative work with state small business commissioners, as well as state and territory government agencies, small businesses and peak industry bodies to ensure that matters affecting small businesses across all the States and Territories are represented and given a national voice. A key point of difference in this advocacy role will be if the Ombudsman is provided with legislated powers to obtain information and investigate complaints.

Defining advocacy

A number of the state small business commissioners have an advocacy role, however the extent of this role and the specific activities they undertake vary. For example, advocacy is one of the key functions of the South Australian Small Business Commissioner, however the term is not defined in the related legislation. The legislation outlines activities which support the South Australian Small Business Commissioner's advocacy role, for example:

- Monitoring, investigating and advising the Minister about market practices that may adversely affect small businesses.
- Reporting to the Minister on matters affecting small businesses (at the request of the Minister or based on the Commissioner's initiative).
- Taking any other action considered appropriate by the Commissioner for the purpose of facilitating and encouraging the fair treatment of small businesses in their commercial dealings with other businesses or assisting small businesses in their dealings with state or local government bodies.

The role of an advocate can be quite broad, and consideration will be given to the extent and type of activities the Ombudsman should undertake. The Ombudsman will continue the advocacy role of the Australian Small Business Commissioner, but could also be conferred additional powers to obtain information to assist in investigating matters affecting small businesses. The Australian Small Business Commissioner undertakes a number of advocacy activities by providing information and assistance to small businesses, representing small business interests and concerns to the Australian Government and working with industry and government to promote a consistent and coordinated approach to small business matters.

Advocacy to the Government

The Ombudsman would extend the role of the Australian Small Business Commissioner in advocating the small business interests to the Australian Government. Identifying and reporting on the cumulative burdens of administrative and compliance requirements for small businesses will make an important contribution to the Government's deregulation agenda.

By receiving complaints from small businesses, and in its role as a concierge for dispute resolution, the Ombudsman may be well placed to advise the Government and its agencies on the efficacy of

small business access to justice and mechanisms and compliance activities. For example, the Ombudsman may help monitor and report on the efficacy of industry codes of conduct and fair trading provisions, the behaviour of regulators in undertaking compliance activities, and responsiveness and effectiveness of agency complaints mechanisms.

The Ombudsman could also advise the Government on best practice small business engagement practices to encourage small businesses to contribute to the development of Government policies. Similar to the Australian Small Business Commissioner, the Ombudsman could undertake this work by reporting directly to the Minister, directly engaging with Government agencies to discuss the impact of their policies and practices on small businesses, and by participating on relevant government committees, boards and panels.

The proposed Ombudsman would not have a role in investigating small business complaints regarding maladministration by Australian Government agencies. This function is already carried out by the Commonwealth Ombudsman. The Commonwealth Ombudsman is an independent statutory body which investigates complaints, conducts investigations, performs audits and inspections and encourages good administrative practices by public officials. The Commonwealth Ombudsman cannot override the decisions of the agencies it deals with, nor issue directions to staff, but can resolve disputes through consultation and negotiation, and if necessary, by making formal recommendations to senior levels of the Government.

The Ombudsman could have a role in reviewing broader practices of Australian Government agencies such as the timeliness of payments to small businesses or the channels used by agencies and regulators to communicate with small businesses.

Advocacy to industry

The Ombudsman could also continue the role of the Australian Small Business Commissioner in advocating to the broader business community. It is expected that the Ombudsman would advocate small business interests with a view to ensuring an enhanced, fair and competitive operating environment for all businesses, no matter their size. For example, the Ombudsman could work with industry on the issue of unequal bargaining power and could promote best practice for bargaining and contracts to minimise the inherent power imbalances between larger and smaller businesses. Not only could this help improve the operating environment for all businesses, but it may also help alleviate the incidence of business-to-business disputes through the adoption of best practice principles by businesses of all sizes.

The Australian Small Business Commissioner's website also includes a dedicated section on family businesses, which provides tips for family businesses and advocates best practice principles. The Australian Small Business Commissioner publishes a regular blog which often includes information on the importance of specific management and operational practices such as business planning, digital engagement and contracting practices. The Ombudsman could also promote good business practices to small businesses and family enterprises.

Investigation powers

A key difference in the Ombudsman's advocacy role compared to that of the Australian Small Business Commissioner would be the addition of powers to allow allegations of unfair treatment and practices to be formally investigated.

The state small business commissioners all have a role in receiving and investigating complaints. Some state small business commissioners also have specific powers to require parties to provide information to assist in their investigations:

- The South Australian Small Business Commissioner can require a person to provide information it requires to perform its functions under the *Small Business Commissioner Act 2011* (SA). A maximum \$20,000 penalty can apply for non-compliance.
- The New South Wales Small Business Commissioner may require any person or government agency to provide information relating to their dealings with small businesses which the Commissioner reasonably requires for the purposes of any investigation.
- The Victorian Small Business Commissioner can require assistance or information from a public entity.

Focus questions

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

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

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

Chapter 4: Contributor to Commonwealth laws and regulations

The Australian Government Guide to Regulation states that ‘Regulation should not be the default option for policy makers: the policy option offering the greatest net benefit should always be the recommended option’. Government regulations typically have a disproportionately large impact on small businesses — especially very small businesses. Many compliance costs are largely fixed in nature and do not vary with the level of a business’s output, so small businesses cannot generally achieve economies of scale in compliance. Compliance burdens can include the time and costs required to establish business and IT systems, issue paperwork, and seek external advice and services to facilitate compliance.⁸

The Office of the Ombudsman will, among other things, contribute to the development of small business friendly Commonwealth laws and regulations. This role will complement the Ombudsman’s broader advocacy functions. In this respect the proposed Ombudsman would be following existing models; for example, the office of the Western Australian Small Business Commissioner is required by the *Small Business Development Corporation Act 1983* (Western Australia) to ‘investigate, and report to the Minister on, the impact on small business of legislation and government policy of this jurisdiction, the Commonwealth or any other State or Territory’.

Reducing present regulatory burdens

The contributor to laws function of the proposed Ombudsman will fill a gap at the Commonwealth level by ensuring Commonwealth legislation and regulations are business-friendly, especially small business friendly, and assist the Australian Government in achieving its broader deregulation agenda. An adverse regulatory regime can make a significant difference to the productivity of small businesses and family enterprises, and decisions about when, or whether, to proceed with an investment. Some examples of how the Ombudsman could assist in identifying and reducing regulatory burdens on small businesses include:

- Making recommendations on practical solutions to reduce burdensome legislation and administrative requirements by directly reporting to the Minister for Small Business; making submissions to Government consultations, reviews and inquiries; or participating on advisory or consultative bodies.
- Conducting investigations into practices of concern to small and family businesses.
- Examining and nominating burdensome regulations for repeal.
- Advocating for a risk based approach to compliance activities, such as inspections and reporting, to be commensurate with the level of risk posed by business activities.
- Advocating best practice small business engagement principles for agencies and regulators to minimise the burden of, and effectively communicate compliance requirements.

8 Productivity Commission, 2013, *Regulator Engagement with Small Business*, pp 72-74.

Powers to investigate compliance burdens

To strengthen the Ombudsman's ability to assist small businesses and family enterprises, the Ombudsman could have powers similar to the Auditor-General of Australia's powers in relation to performance audits. The proposed Ombudsman could conduct an audit of the interactions of Australian Government agencies, contractors and subcontractors, with small businesses and family enterprises. To conduct such audits, the Ombudsman could be given powers to direct a person, by written notice, to do all or some of the following:

- provide any information required;
- attend and give evidence before an authorised official;
- produce any documents in the custody or under the control of the person;
- answer questions as required;
- require answers to questions be verified or given on oath or affirmation; or
- impose a penalty for non-compliance with a lawful direction.

As soon as practicable after completing a report, the Ombudsman could provide copies to the Minister for Small Business and other relevant Ministers.

To ensure that the Auditor-General's comments are given appropriate consideration, the *Public Accounts Committee Act 1951* (Cth) requires the Parliament's Joint Committee of Public Accounts to examine all reports of the Auditor-General which are tabled in the Parliament. To ensure that the investigations and reports of the Ombudsman regarding regulatory burdens are given appropriate consideration, the Ombudsman's reports could, once tabled, be treated as reports of parliamentary committees which require a formal response by the Government.

Preventing future regulatory burdens

The Ombudsman could play an active role in reducing the compliance burden of new policies, legislation and regulations on small businesses. Any role of the Ombudsman would complement the work of the Treasury which will continue to be the primary source of small business policy advice for Government Ministers. The Treasury, as well as other Government agencies, will continue to ensure that Government policies and initiatives take into account the needs of small business.

When preparing new proposals, Government agencies could consult the Ombudsman to seek advice on the likely positive or negative impacts the proposal may have on small businesses and family enterprises. Early engagement could help to ensure that any new legislation or regulations are not unduly burdensome.

The Ombudsman could be appointed to government boards and committees, providing an opportunity for the Ombudsman to review and guide the development and implementation of legislation, policies and practices. The Ombudsman could also play a role in facilitating linkages among agencies and regulators at the Commonwealth and state and territory levels.

Focus questions

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

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

Chapter 5: Single entry-point

The proposed Ombudsman role includes the establishment of a single entry-point that will make it easier for small businesses and family enterprises to engage with, and access, Commonwealth Government small business programmes, support and information. The single entry-point will provide information to assist small businesses manage and avoid disputes.

The policy intent of the single entry-point is two-fold. Firstly, to provide a dedicated, small business oriented entry-point to the Australian Government that can efficiently direct small business owners and their staff across multiple sources of information that is relevant to them. Secondly, to provide a best-practice model of engagement that can drive cultural change in the way that government agencies interact with small business. The single entry-point is intended to better coordinate activity across Australian Government agencies.

Key considerations in developing a single entry-point will include: how the Ombudsman can complement, and not duplicate, similar initiatives across all levels of government; the delivery channels that will effectively reach small businesses; and the type of information and support that will meet the needs of small businesses.

Existing initiatives

A number of Australian Government agencies already provide material that is specific or relevant to small business. The Australian Small Business Commissioner hosts a website and hotline with a range of resources for small business, including information on resolving disputes. The website also serves as a point of engagement with small business and the broader community. Two other broad-based small business services are business.gov.au and the Small Business Support Line. These and a selection of issue specific information channels for small business are outlined in **Table 2** below.

Table 2: Examples of Australian Government small business information channels

Government body/ service/(responsible agency)	Existing information channel
Australian Small Business Commissioner (Office of the Australian Small Business Commissioner)	A website and hotline that provide access to the Australian Small Business Commissioner and advice on a range of small business issues, including information on resolving disputes.
business.gov.au (Department of Industry)	<p>A dedicated website that provides whole-of-government information on a range of business issues and services. business.gov.au is the Australian Government's primary business targeted website. business.gov.au also includes the following websites/services:</p> <ul style="list-style-type: none"> • Australian Business Account; • Australian Business Licensing and Information Service; • Australian Business Name Lookup; and • Business Consultation website.

digitalbusiness.gov.au (Department of Communications)	A dedicated website that provides practical guidance for small businesses and community organisations to establish and enhance their online presence.
Fair Work Ombudsman	A range of dedicated small business resources and services, including a website and a hotline that provides a priority avenue for small businesses to get quick and easy access to workplace relations advice.
Australian Securities and Investment Commission — Small Business Hub (ASIC)	A dedicated website, called the Small Business Hub, provides information to help small businesses understand their compliance obligations.
Australian Taxation Office	A range of dedicated small business tax resources and services, including the Small Business Assist website and a hotline with an after-hours call-back service for small business.
Small Business Support Line (policy under Treasury, delivery by Department of Industry)	A dedicated small business hotline that provides a first point of contact for small businesses seeking information and referral services. The Support Line also provides a live chat service for customers to chat online to a Support Line agent.

Delivery channels

The delivery channels, as well as how information and support is articulated and presented are important considerations to maximise the usefulness and effectiveness of the single entry-point. The Productivity Commission's report *Regulator Engagement with Small Business*, highlighted that small businesses often complain that governments, particularly regulators, provide too much information, that the information is often difficult to understand, and that different government organisations or people can provide conflicting advice. Ultimately small businesses want an answer or advice that is clear, practical and consistent.

Businesses also access information through a range of channels. According to the Australian Bureau of Statistics, in 2011-12 over 90 per cent of small businesses had internet access. Of those with internet access, over 70 per cent used the internet for some type of electronic lodgement with government, including licences, tax, and payments. This demonstrates that general internet usage amongst small business is high, but that a sizeable number of small businesses do not use the internet to formally engage with government.

Website and hotline

At a minimum, the single entry-point initiative is likely to include a web presence and telephone hotline. These channels have already proven to be effective through the Government's experience with the business.gov.au website, a whole of government initiative, and the Small Business Support Line. These delivery mechanisms are a cost effective way to reach businesses across metropolitan and regional Australia.

A single entry-point website and hotline would build on the existing web presence and telephone hotline established by the Australian Small Business Commissioner. It would provide information on Australian Government small business programmes and services, as well as relevant business regulations and compliance requirements. It would also need to provide information on mediation services to help fulfil the Ombudsman's concierge for dispute resolution role. To be truly effective

and of use to small business, these channels will also need to sufficiently complement and link to similar access points offered by the State and Territory governments. Ownership of the original content would still remain the responsibility of the relevant government agency. This will limit unnecessary duplication and ensure that small businesses contacting the Ombudsman are able to ultimately reach the information they require, regardless of which organisation or agency owns the information.

A single entry-point website and hotline should integrate with existing channels and sources of information offered by the Australian Government. For example, the website could link into business.gov.au, but target information specifically to the needs of small business. The existing Small Business Support Line could become a recognised and integral feature under the single entry-point, rather than exist as a separate hotline.

The single entry-point is also expected to provide advice and educational resources to small business. This could include material developed specifically for the single entry-point, but also direct small businesses to information readily available through other government websites and hotlines (like digitalbusiness.gov.au and the Australian Competition and Consumer Commission's Scamwatch). Cooperation with non-government organisations, such as industry associations, under agreed publishing guidelines would allow the rapid development of industry-specific information and educational resources that respond to emerging priorities and issues.

Best practice small business engagement

It is intended that the single entry-point will be a best practice model of engagement with small business, as well as the key mechanism for government engagement with small business. A number of ways the single entry-point could meet this objective include:

- Facilitating broader Government initiatives aimed at small business and their uptake of digital technologies. For example, the single entry-point could collaborate with the AUSKey and Standard Business Reporting initiatives to assist the Australian Government's push to reduce red tape and to streamline business-to-government connectivity.
- Providing a virtual networking environment to allow engagement, collaboration and knowledge sharing between small businesses.

International models

Research on a selection of world-wide small business single entry-point websites show a one-size fits all approach that commonly use broad-brush structures under the Starting your Business, Growing your Business, and other topic-based banners. Two web-based single entry-points that stand out for their ease of navigation, structure of information and clever triage of information are <http://business.usa.gov> (BusinessUSA) and www.business.govt.nz (New Zealand).

The BusinessUSA single entry-point implements a 'no wrong door' approach for small businesses and exporters by using technology to connect businesses to the services and information relevant to them, regardless of where the information is located. BusinessUSA provides users with a hotline and website with the website displaying key content in a manner that is intuitive, easy to navigate and quick to gather. To provide a more personalised service, the website tailors a user's searches to their

specific requirements. BusinessUSA also demonstrates a strong commitment to integration with existing shopfront services.

The Business.govt.nz single entry-point is a dedicated website supported by a hotline. Business.govt.nz provides a comprehensive level of key information that is easily sourced.

Focus questions

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

What key information should the single entry-point provide?

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?

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

Chapter 6: Method of appointment

There are three ways the Ombudsman could be engaged: under contract; as a public servant; or by statutory appointment.

Under contract

The Ombudsman could be appointed under a contract for service with the Australian Government. This is a similar arrangement to the current Australian Small Business Commissioner role. Engaging the proposed Ombudsman under a contract would allow flexibility for the Minister for Small Business to direct the Ombudsman to investigate emerging themes and issues as they arise in the small business community. This process of appointment is relatively simple as it does not involve enacting legislation.

This arrangement is not common among existing Commonwealth and state-based commissioner and ombudsman roles. As noted below, statutory appointment is most common. Engagement through a contract may not be perceived as making the Ombudsman independent of the Government. Such a conflict of interest could be dealt with through a rigorous and open selection process to ensure the position is filled by an individual respected by both the small and large business communities. Engagement under a contract could be seen as a conflict of interest in relation to any advocacy or mediation role the Ombudsman may have, particularly in relation to disputes between businesses and Australian Government agencies.

Public servant

The Ombudsman could be engaged as a public servant under the *Public Service Act (1999)*. Employment as a public servant could provide a greater role for the Ombudsman to effect policy changes within the Australian Government. Similar to an appointment under contract, this method of appointment is not common among similar positions. The appointment process would be relatively straightforward, and could be completed in a shorter timeframe than a statutory appointment.

As a public servant, the Ombudsman would not be perceived as being independent of the Government. This would pose similar issues as a contractual appointment. As a public servant, the Ombudsman also might have a conflict of interest in advocating for small businesses with the Government and simultaneously mediating in disputes between small businesses and Government agencies.

Statutory appointment

The Ombudsman could be statutorily appointed on advice of the Minister for Small Business. Statutory appointments are made under legislation. Of these options, the statutory appointment method may provide the greatest degree of independence for the Ombudsman. Supporting legislation would outline the relationship between the Ombudsman and the Minister for Small Business. As this model would involve enacting legislation, it is likely that the establishment of the statutory agency would take the longest to implement of all three options.

Appointment term and dismissal

The length of the term of the Ombudsman's appointment, and whether the Ombudsman may be re-appointed for a second term are factors relating to the Ombudsman's independence. The method and term of appointment of the state small business commissioners and various other Ombudsman roles are listed in the **Table 3** below.

The Australian and New Zealand Ombudsman Association's criteria for independence for an Ombudsman role indicate that appointments should be for a fixed-term. A single fixed-term would need to be long enough to provide continuity in the role, but not so long that it limited opportunities for new appointees to reinvigorate the role. A shorter term with an opportunity for re-appointment might allow the performance of the Ombudsman, potentially with feedback from industry, to be reviewed in the process of considering re-appointment.

Regardless of whether re-appointment is allowed, a mechanism for dismissal must also be provided. Removal from the role should only be for misconduct or incapacity according to a clearly defined process.⁹ To ensure the independence of the Ombudsman, it might be that dismissal could only take place, for example, after a review by the Commonwealth Ombudsman.

Table 3: Appointment method and term for state small business commissioners and other Ombudsman roles

Role	Appointment method	Appointment term	Eligible for re-appointment
New South Wales Small Business Commissioner	Statutory	Up to five years	Yes
South Australian Small Business Commissioner	Statutory	Up to five years	Yes
Victorian Small Business Commissioner	Statutory	Up to five years	Yes
Western Australian Small Business Commissioner	Statutory	Up to five years	Yes
Commonwealth Ombudsman	Statutory	Up to seven years	Yes
Fair Work Ombudsman	Statutory	Up to five years	Yes
Auditor-General of Australia	Statutory	Up to ten years	No
Inspector-General of Taxation	Statutory	Up to five years	No

Support staff

Just as there are a range of options for appointing the proposed Ombudsman, there are also a range of options for appointing the Ombudsman's staff. Staff in the Office of the Ombudsman could be engaged under contract, or as public servants as is the case for the current Office of the Australian

⁹ Australian and New Zealand Ombudsman Association, 2010, *Essential criteria for describing a body as an ombudsman*, www.ombudsman.gov.au/docs/anza/anza_essential_criteria_for_describing_a_body_as_an_ombudsman.pdf, accessed 7 March 2014.

Small Business Commissioner. Should the Ombudsman be a statutory appointment, support staff could also be engaged as employees of the statutory authority headed by the Ombudsman.

Focus questions

How should the Ombudsman be appointed?

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

How should dismissal of the Ombudsman be managed?

Next steps

Responses to this paper will be used to help the Government deliberate on the appropriate functions, powers and operations of the Small Business and Family Enterprise Ombudsman. For ease of reference, the discussion questions listed throughout this paper have been summarised below. Written submissions do not need to address each question.

Focus questions — summary

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?

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

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?

Commonwealth-wide advocate

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

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

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

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?

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

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.

What key information should the single entry-point provide?

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?

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

Method of appointment

How should the Ombudsman be appointed?

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

How should dismissal of the Ombudsman be managed?

Closing date for brief comments and submissions: Friday, 23 May 2014

Appendix 1: Recent reports and inquiries

Consideration of the role of the Ombudsman will take account of previous studies and inquiries into the nature and extent of small business disputes, and the role and powers of the Australian Small Business Commissioner.

Small business disputes

In 2010, the former Department of Innovation, Industry, Science and Research conducted a survey of over 2,000 small businesses to better understand the extent and nature of small business (business-to-business) disputes.¹⁰ The survey found that most serious disputes were regarding a disagreement over payments for goods and services and that small businesses avoid escalating disputes because of the costs (or perceived costs) involved. A key finding was that small businesses were not generally aware of the existing dispute resolution services and mechanisms nor the relative costs or suitability of each mechanism for different types of disputes.

In May 2011, building on the survey results and further stakeholder consultations, the former Department of Innovation, Industry, Science and Research released a discussion paper, *Resolution of Small Business Disputes*, outlining four options for a national dispute resolution service for small business. Respondents to the discussion paper considered that further Commonwealth level involvement was appropriate but noted the potential for overlap and duplication of current or emerging dispute resolution services.

On 9 October 2013, the Productivity Commission released its report *Regulator Engagement with Small Business*. The report recommended that small business commissioners should provide ‘independent, low-cost mediation services ... to resolve disputes and misunderstandings between businesses and regulators,’ and that ‘... regulators should be required by legislation or ministerial direction to cooperate ...’.

Role of the Australian Small Business Commissioner

In February 2013, the Australian Greens introduced the Small Business Commissioner Bill 2013 into the Senate. This Bill aimed to turn the Office of the Australian Small Business Commissioner into a statutory authority with dispute resolution powers in relation to commercial arrangements between small businesses and Australian Government agencies as well as other businesses, where the Constitution provides for it (Australian corporations, foreign corporations or interstate disputes). The Senate Economics Legislation Committee, however, found that the legislation was unnecessary at that time because it was ‘important that the current [Australian] Small Business Commissioner is given time to shape the position’.

The Senate Economics Legislation Committee, referring to the state small business commissioners, as well as various external dispute resolution services, also indicated that it is desirable to avoid

10 See www.innovation.gov.au/smallbusiness/SmallBusinessCommissioner/Pages/ResolutionofSmallBusinessDisputesOptionsPaper.aspx.

changes that would overlap with the responsibilities of these existing agencies or create confusion for small businesses as to what body they should approach for assistance.

Family enterprises

On 16 August 2012, the Joint Parliamentary Committee on Corporations and Financial Services (the Committee) initiated an inquiry into ‘family businesses in Australia’. The Committee received 38 submissions. The Committee tabled its report *Family Businesses in Australia — different and significant: why they shouldn’t be overlooked* in the Senate and House of Representatives on 20 and 21 March 2013 respectively. The report made 21 recommendations on a wide variety of issues including data collection, trusts, income tax, the maximum number of shareholders before entities must incorporate, and a proposed interdepartmental committee to investigate family business matters. The Government’s election commitment noted that the Ombudsman would examine the recommendations of the report to increase awareness of the role played by family businesses.

Access to justice

The Productivity Commission is currently undertaking an inquiry into Australia’s system of civil dispute resolution, with a focus on constraining costs and promoting access to justice and equality before the law. The findings of this inquiry, due in September 2014, may impact on the future delivery of dispute resolution services under industry codes. The Productivity Commission released an issues paper in September 2013, *Access to Justice Arrangements*, which noted that most disputes are resolved privately, without the use of courts; that is, through the use of alternative dispute resolution mechanisms.¹¹ The Productivity Commission released its draft report on 8 April 2014.

11 Productivity Commission, 2013, Issues paper — *Access to Justice Arrangements*, p 14.

Appendix 2: State small business commissioners — functions and powers

	NSW	South Australia	Victoria*	Western Australia
Office established	July 2011	March 2012	May 2003	January 2012
Commissioner	Ms Robyn Hobbs OAM	Mr Mike Sinkunas	Mr Geoff Browne	Mr David Eaton (also CEO of the Small Business Development Corporation)
Legislative framework	<i>Small Business Commissioner Act 2013</i> (NSW)	<i>Small Business Commissioner Act 2011</i> (SA)	<i>Small Business Commissioner Act 2003</i> (Vic)	<i>Small Business Development Corporation Act (1983)</i> (WA)
Advice to State Government on impact of laws and regulations	Advise the Small Business Minister on matters affecting small businesses (which may include recommending legislative change). Make a special report to Parliament at any time on any matter relating to the functions of the Commissioner. Table annual yearly report to the NSW Parliament each year.	No stated role in reporting on impacts of legislation. Reports to the Small Business Minister on matters affecting small businesses.	Reports to the Small Business Minister (as required) on the impact that legislation, government procedures and administration have on small businesses.	Reports to the Small Business Minister on the impact that legislation, government procedures and administration have on small businesses. Assists public sector bodies to: <ul style="list-style-type: none"> • develop legislation, policies and administrative procedures that take into account the interests of small business; • improve the capacity of small business to comply with legislative and other requirements; and • simplify and minimise small business compliance requirements.

	NSW	South Australia	Victoria*	Western Australia
Receiving and investigating complaints by, or on behalf of, small businesses within their jurisdiction.	Small business (on an individual or collective basis) commercial dealings with other businesses or state/local government agencies or bodies or retail leases. May only deal with a complaint if satisfied that it relates to the unfair treatment of a small business; an unfair contract to which the small business is a party; or if it is in the public interest to deal with the complaint. Conduct investigations into the way in which small businesses are treated by other businesses or government agencies.	Small business commercial dealings with other businesses or state/local government agencies or bodies or retail leases.	Small business commercial dealings or unfair market practices with other businesses and state/local government bodies. Commissioner can also make representations to an appropriate person or body on behalf of a small business.	Small business commercial dealings with other businesses or government agencies or bodies or retail leases.
Dispute resolution services	Small business disputes involving commercial dealings with other businesses or government agencies (available to all industries). Retail tenancy disputes between businesses and landlords. Disputes under industry codes (both state-level and national codes). The Office also specifically mediates disputes involving motor dealers and manufacturers under the <i>Motor Dealer and Repairer Act 2013</i> (NSW), the poultry industry, wine grape growers and franchises.	Small business disputes involving commercial dealings with other businesses or government agencies. Retail tenancy disputes between businesses and landlords. Disputes under industry codes.	Small business disputes involving commercial dealings with other businesses or government agencies. Retail tenancy disputes between businesses and landlords. Owner driver disputes. Farm debt disputes. Taxi Agreement disputes.	Small business disputes involving commercial dealings with other businesses or government agencies. Retail tenancy disputes between businesses and landlords. Provides intensive case management for business to business and business to government disputes.

	NSW	South Australia	Victoria*	Western Australia
Mediation services	<ul style="list-style-type: none"> Initial assistance and assessment of dispute: no cost Informal mediation: no cost External mediation through an established panel of mediators: \$152 per hour, per party. 	<ul style="list-style-type: none"> Initial assistance and assessment of dispute: no cost Pre-mediation: no cost External mediation through an established panel of providers: \$195 per day, per party. 	<ul style="list-style-type: none"> Initial assistance and assessment of dispute: no cost Pre-mediation: no cost External mediation through an established panel of providers: generally \$195 per half day, per party (varies on jurisdiction). 	<ul style="list-style-type: none"> Initial assistance and assessment of dispute: no cost Pre-mediation: no cost External mediation: \$125 per session, per party.
Mediation powers	Once an application has been made to the Commissioner for assistance in resolving a dispute involving a small business, the Commissioner may require parties to attend mediation and produce specified documentation relating to the dispute. Disputes dealt with by the Commissioner may not be the subject of any proceedings before any court unless the Commissioner has certified that its dispute resolution services have failed to resolve the matter.	Cannot compel parties to attend mediation. Powers under Industry Codes (under <i>Fair Trading Act 1987</i>) include mandatory attendance.	Cannot compel parties to attend mediation. For small business disputes under <i>Small Business Commissioner Act 2003</i> , Commissioner can issue certificate and publish names of parties in Annual Report that unreasonably refuse to participate in alternative dispute resolution.	Cannot enforce parties to attend mediation. However, most retail shop lease disputes now require any party making an application to the State Administrative Tribunal to obtain a certificate from the Commissioner. Parties to a retail shop lease dispute do not need a certificate from the Small Business Commissioner if they require: <ul style="list-style-type: none"> injunctive relief; judgement on approvals; or judgement on administrative matters.
Development of, or compliance with, industry codes	Facilitate the development of codes of practice by industry that deal with issues concerning the small business sector.	Assists with the development of industry codes of practice. Investigates compliance with industry codes.	Assists with the development of state-level industry codes of practice. Investigates compliance with state-level industry codes.	No stated role in industry codes.

	NSW	South Australia	Victoria*	Western Australia
Administration of other state legislation	<i>Retail Leases Act 1994</i> (NSW)	<ul style="list-style-type: none"> • <i>Retail and Commercial Leases Act 1995</i> (SA) • <i>Building and Construction Industry Security of Payment Act 2009</i> (SA). • <i>Work Health and Safety Act 2012</i> (SA) • <i>Part 3A (Industry codes) of the Fair Trading Act 1987</i> (SA) • <i>Late Payments of Government Debts (Interest) Act 2013</i> 	<ul style="list-style-type: none"> • <i>Retail Leases Act 2003</i> (Vic) • <i>Owner Drivers and Forestry Contractors Act 2005</i> (Vic) • <i>Farm Debt Mediation Act 2011</i> (Vic) • <i>Transport Legislation Amendment (Further Tax Reform and other Matters) Bill 2014</i> (Vic) 	Nil.
Website	www.smallbusiness.nsw.gov.au .	www.sasbc.sa.gov.au	www.vsbic.vic.gov.au .	www.smallbusiness.wa.gov.au .

*Includes Small Business Commissioner Amendment Bill 2013 (Vic) which was passed by the Legislative Council on 13 March 2014. Also, Transport Legislation Amendment (Further Tax Reform and other Matters) Bill 2014 which was introduced into the Legislative Assembly on 11 March 2014.

Appendix 3: Services provided in the States and Territories with no small business commissioner

	Queensland	Tasmania	Australian Capital Territory (ACT)	Northern Territory
Agencies/ departments which provides advice on impact of laws and regulations	<p>The Office of Best Practice Regulation within the Queensland Competition Authority is tasked with reducing regulatory burden including through identification of priority areas for review and provides an avenue for complaints about regulation.</p> <p>The Office of Fair Trading uses community consultation, submissions and feedback to examine ways to improve fair trading policy, review current laws and services.</p> <p>The Queensland Building and Construction Commission provides legislative and policy advice to a number of areas of the Queensland Government.</p> <p>The Small Business Division within the Department of Tourism, Major Events, Small Business and the Commonwealth Games represent small business issues and concerns to Queensland Government agencies.</p>	<p>The Department of Economic Development, Tourism and the Arts is responsible for coordinating and reporting on the Government's work to reduce regulatory burden.</p> <p>The Department of Treasury and Finance oversees the review and assessment of the impacts of proposed, remade and amended legislation on competition, business and the community.</p>	<p>The ACT Ombudsman promotes improved administration by ACT Government departments and agencies.</p> <p>The Office of Regulatory Services provides support for evidence based policy making via the provision of accurate and reliable data sets for the community, industry and government.</p>	<p>The Red Tape Reduction Business Advocate in the Department of Business is tasked with reducing the regulatory burdens on business, drive business red tape reforms and related efficiency improvements, and improve service efficiency wherever possible.</p>

	Queensland	Tasmania	Australian Capital Territory (ACT)	Northern Territory
Receiving and investigating complaints by, or on behalf of, small businesses within their jurisdiction.	The Queensland Ombudsman investigates complaints about administrative actions and facilitates informal resolution of complaints.	The Tasmanian Ombudsman deals with complaints and disputes against a public authority. Its role is to enquire into and investigate complaints about the administrative actions of government departments, local councils, state-owned companies and government business enterprises.	The ACT Ombudsman investigates complaints about the administrative actions of ACT Government agencies and public education providers. The Office of Regulatory Services investigates complaints in relation to fair trading laws.	The Northern Territory Ombudsman investigates complaints regarding administrative actions of a public authority.
Mediation services	<p>Dispute Resolution Centres (Qld Department of Justice and Attorney-General) provide free mediation for a range of disputes including commercial matters.</p> <p>Queensland Civil and Administrative Tribunal offers mediation and conferencing for matters within its jurisdiction.</p> <p>Office of Fair Trading helps businesses and consumers resolve disputes through conciliation if necessary.</p> <p>Queensland Building and Construction Commission assists consumers and contractors in disputes over the technical standard of building work through the provision of a resolution service based on expert technical determination.</p>	Consumer Affairs and Fair Trading (CAFT) provides information and advice to consumers, including businesses, on their consumer rights and obligations; and guidance on dispute resolution. CAFT assists in resolving retail tenancy disputes through negotiations by disputing parties.	<p>ACT Conflict Resolution Services is a government-funded, not-for-profit organisation providing low-cost dispute resolution services — including for small businesses.</p> <p>The ACT Civil and Administrative Tribunal can provide conferencing services, mediations, case appraisal or conciliation upon application.</p> <p>The Magistrates Court can refer parties to alternative dispute resolution (ADR) services.</p>	<p>The Commissioner of Business Tenancies can make a determination on retail tenancy claims.</p> <p>Community Justice Centres (CJC), (Department of Justice) provide an adjudication scheme for the determination of small claims (<\$10,000) in relation to construction contracts.</p> <p>Worksafe (Department of Justice) facilitates access to mediation services for the resolution of workers compensation disputes.</p> <p>The Northern Territory Magistrates Court provides a pre-hearing conference for small claims disputes (<\$10,000).</p>

	Queensland	Tasmania	Australian Capital Territory (ACT)	Northern Territory
Mediation powers	QCAT may order that all parties involved in a matter attend mediation or a compulsory conference.	The Magistrates Court conducts mediation and conciliation as part of a pre-trial process for civil disputes involving amounts of up to \$50,000 in value, and amounts in excess of \$50,000 if disputing parties agree.	Cannot compel parties to participate in ADR. The Magistrates Court can adjourn proceedings to allow the parties to settle the dispute through ADR.	Pre-hearing conferences are mandatory for small claims disputes in the Magistrates Court.
Website	www.business.qld.gov.au www.qca.org.au/Red-Tape-Reduction www.fairtrading.qld.gov.au/ www.qbcc.qld.gov.au www.ombudsman.qld.gov.au/ www.justice.qld.gov.au/justice-services/dispute-resolution www.qcat.qld.gov.au/	www.business.tas.gov.au/home/red-tape www.ombudsman.tas.gov.au www.treasury.tas.gov.au/domino/dtf/dtf.nsf/v-ecopol/445BBA61E9B21B76CA25748A000AC5C9 www.consumer.tas.gov.au www.magistratescourt.tas.gov.au	http://ombudsman.act.gov.au www.ors.act.gov.au/community/fair_trading www.acat.act.gov.au/ www.crs.org.au/	www.dob.nt.gov.au/business/red-tape www.ombudsman.nt.gov.au www.consumeraffairs.nt.gov.au www.worksafe.nt.gov.au/home.aspx www.nt.gov.au/justice/ntmc