



Department of State Development, Business and Innovation

Small Business Victoria

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Manager
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Dear Sir/Madam

SMALL BUSINESS AND FAMILY ENTERPRISE OMBUDSMAN: DISCUSSION PAPER

I write in response to The Small Business and Family Enterprise Ombudsman: Discussion Paper released on 30 April 2014. Small Business Victoria (SBV) has previously provided the Commonwealth Government with formal and informal feedback on the development of the current Australian Small Business Commissioner role, as well as informal feedback on the development of the Small Business and Family Enterprise Ombudsman (the Ombudsman). This feedback remains valid and should be considered together with the comments below.

Scope of the Ombudsman's role

SBV broadly supports the Commonwealth Government's intentions to improve and expand the assistance available at a national level to small businesses. However, SBV is concerned that the approach proposed by the Commonwealth Government, with the Ombudsman essentially being 'all things small business', does not always provide the most effective approach to small business assistance. Particular issues of concern include conflicts of interest between the four areas of responsibility proposed, duplication of existing Commonwealth and state based services, and sufficient resourcing.

The four areas of responsibility outlined in the discussion paper – dispute resolution, advocacy, red tape reduction and a single entry-point – are already provided by the Victorian Government to support small businesses across this State to start, run and grow. In Victoria, each responsibility is undertaken by an area of the Department of State Development, Business and Innovation as follows:

- dispute resolution – Victorian Small Business Commissioner;
- advocacy – SBV;
- red tape reduction – Red Tape Commissioner; and
- single entry-point – Business Victoria Online.

The notable difference between the Victorian approach and the proposed Commonwealth approach is the separation of the four responsibilities. While each area supports the other to deliver small business assistance in Victoria, each area has distinct roles, functions and resourcing. This approach removes duplication of service delivery at the state level and eliminates potential conflicts of interest between the areas of responsibility.

A key concern raised by stakeholders and acknowledged in the discussion paper is the potential for duplication of existing Commonwealth or state based service provision. Overall, it is considered that the Ombudsman's role should focus on Commonwealth level assistance, with referral of Victorian businesses to available Victorian Government services. It is critical that the Ombudsman's jurisdiction is clearly articulated, communicated and adhered to so as to avoid duplication and reduce confusion for small businesses.

Avoiding duplication of service delivery is also important from a financial perspective. SBV notes the Commonwealth Government has provided \$8 million over four years in the 2014/15 Budget to establish the Ombudsman. The level of funding by the Victorian Government to undertake the four responsibilities outlined is significantly higher and establishing the Ombudsman as proposed without sufficient resources may be problematic.

Concierge for dispute resolution

SBV broadly supports the comments made by Mr Geoff Browne, Victorian Small Business Commissioner (VSBC), in his submission on the discussion paper in relation to the proposed dispute resolution function of the Ombudsman, as well as the method of appointment of the Ombudsman.

In particular, SBV supports the establishment of a mediation service to provide assistance for disputes between small businesses and Australian Government agencies. The *Small Business Commissioner Act 2003* (Vic) was recently amended to give the VSBC explicit jurisdiction over disputes between Victorian small businesses and local councils or the Victorian Government. A clear, low-cost mechanism for small businesses to resolve disputes with local and state government was identified as a gap in the dispute resolution landscape and it is recommended that such a service be provided at the national level.

SBV also supports the Ombudsman adopting broad powers to determine the most appropriate form of alternative dispute resolution (ADR). The recent amendments to the *Small Business Commissioner Act 2003* (Vic) gave the VSBC new and expanded powers to allow the Commissioner to provide a more effective dispute resolution service for small businesses, and a similar approach should be considered for the Ombudsman.

Furthermore, it is recommended that the Ombudsman's powers recognise the voluntary nature of ADR. The legislative amendments strengthened the Commissioner's powers but did not go as far as other State Commissioners to require information, compel individuals to attend mediation, or issue penalties as such powers are considered unnecessary.

Commonwealth-wide advocate

SBV supports the advocacy of red tape removal for small business and family enterprise at the national level but is concerned this responsibility of the Ombudsman will conflict with other responsibilities. As highlighted above, Victoria separates responsibility for the small

business dispute resolution function (VSBC) and small business advocacy, support and program delivery functions (SBV). For the Ombudsman to remain independent and impartial, it is considered preferable that a clear separation of the advocacy and dispute resolution functions of the Ombudsman and the small business public policy and program delivery functions of relevant Commonwealth Government departments and Ministers remains in place.

Further, the Ombudsman's advocacy role should be limited to Commonwealth level programs, policies and regulation. Having said this, the Ombudsman could play a useful role in working with the states where the same issue arises in multiple jurisdictions.

Contributor to Commonwealth laws and regulations

SBV supports the reduction of red tape for small business at the national level but is concerned this responsibility of the Ombudsman will conflict with other responsibilities. The Victorian Government established a Red Tape Commissioner in January 2013 in recognition of the fact that red tape imposes costs, reduces business productivity, and disproportionately impacts small businesses. The aim of the Red Tape Commissioner is to identify in consultation with industry areas of red tape to be removed. It is then the responsibility of the relevant policy area within government to remove the red tape if the recommendation is in line with broader policy aims. The Red Tape Commissioner carries out the role proposed in the discussion paper but this advocacy function is removed from the dispute resolution and policy functions, giving the role independence.

A single entry point agency

SBV supports the creation of a single entry-point to make it easier for small businesses to access Commonwealth level information and support. However, the portal must focus on providing information and advice about Commonwealth level programs, policies and regulation to avoid unnecessary duplication with state based services.

It is recommended that the Commonwealth Government adopts a similar approach to the highly effective, multi-channel approach used by the Victorian Government. The Business Victoria website (www.business.vic.gov.au) and phone line (13 22 15) are the primary entry points for Victorian businesses seeking to access information and advice. The online presence is complemented by a social media presence on Twitter and Facebook. A physical presence is also available through the Victorian Government Business Office network and the Small Business Bus, which both operate across the State. This multi-channel approach means that Victorian small businesses can access assistance at any time and in any form they choose.

A key role of the Business Victoria website and phone line is to act as a referral service and direct the reader/caller to the appropriate service provider, such as the VSBC which has its own website (www.vsbic.vic.gov.au) and phone line (13 87 22). Importantly, Business Victoria aims to complement not duplicate or contradict information and assistance available through other service providers. Furthermore, the Victorian Government constantly seeks to improve the information available and the way in which it is provided. For example, the Business Victoria website was re-launched in March 2014 and is now easily accessed by computer, tablet or smartphone.

I look forward to working further with you. Please contact me if you have any questions or issues you would like to discuss.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Roger Arwas', written over the printed name and title.

ROGER ARWAS
Executive Director
Small Business Victoria