



Restaurant
& Catering

SAVOUR
AUSTRALIA



7 April 2015

Manager
Small Business Ombudsman and Programmes Unit
Small Business, Competition and Consumer Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600
C\ - small.business@treasury.gov.au

Dear Sir/Madam

RE: Australian Small Business and Family Enterprise Ombudsman Bill 2015

Restaurant & Catering Australia (R&CA) thanks Treasury for the opportunity to provide comment on the *Australian Small Business and Family Enterprise Ombudsman (ASBFEO) Bill 2015*. R&CA has been provided with a summary of discussions had with Treasury on 27 March 2015, and believe it to be an accurate reflection of the discussions had. However, R&CA wish to formalise the points raised in these discussions:

Purpose and objectives of the ASBFEO

From a review of the Exposure Draft and discussions had with Treasury, R&CA notes the focus and purpose of the ASBFEO has substantially changed since its conception prior to the election. It appears the ASBFEO will predominantly focus on advocacy advice to government on small business issues, with minimal and limited instances in which small businesses can access dispute resolution services through the ASBFEO.

While R&CA understands the desire not to duplicate services already provided by the states, and the Constitutional limitations of the role, R&CA are disappointed by the ASBFEO's diminished dispute resolution capacity, as this reduces the avenues with which small businesses can access advice should state-based commissioners be unable to provide tailored and technical support on business-to-business disputes.

Treasury has advised that under the advocacy function, the ASBFEO has the power to investigate where service provision can be improved. However, R&CA are concerned that this will not provide real-time solutions for businesses that are currently experiencing difficulties with suppliers, landlords or third parties, and also calls into question the referral system that will exist between state-based commissioners and the ASBFEO.

DIAMOND PARTNER



RESTAURANT & CATERING INDUSTRY ASSOCIATION

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Ability to provide services to unincorporated businesses

R&CA are concerned that the legislated powers of the ASBFEO will severely restrict the ability of this organisation to assist a majority of small business operators in the hospitality industry, given that the ASBFEO cannot intervene in cases where no one party is an incorporated body. Furthermore, the reduced focus on providing dispute resolution services again limits the capacity of this organisation to provide real assistance to small business operators.

Ability for industry associations to refer members to the ASBFEO

R&CA have raised concern over the ability of the association to refer member organisations to the ASBFEO. R&CA has highlighted that the change in the focus of the ASBFEO creates very limited circumstances in which R&CA can refer member businesses to this organisation.

R&CA currently directs restaurateurs to numerous government agencies to resolve disputes and concerns, as well as to provide additional information on specific issues. Navigating the myriad of government organisations to find the most appropriate agency to refer member queries is a frustrating and time-consuming task for the association. There is also inconsistency across different states in terms of the effectiveness of advice and assistance they are able to provide to operators. R&CA will require a process to assess small business queries to determine whether to refer them to the ASBFEO or to another state-based service, noting that the ASBFEO's dispute resolution jurisdiction is now quite narrow.

R&CA note that Treasury will seek to clarify appropriate referral mechanisms as part of the communication and implementation strategy of the ASBFEO.

Referral of advisory services between ASBFEO and industry associations

R&CA has again sought clarity around the referral process that will occur within the ASBFEO where they are unable to provide small business advice to ensure these services do not duplicate activities currently undertaken by the association. By way of example, R&CA has a dedicated team of workplace relations advisers as well as a migration agent who provide tailored, sector-specific advice to members. The areas of workplace relations and immigration are highly complex; requiring technical knowledge and understanding of the hospitality sector. R&CA does not wish to see advisory services of the ASBFEO duplicate the effort of industry associations, nor result in inappropriate advice due to a lack of understanding of sector-specific Awards or schedules.

R&CA have indicated the association would like the ASBFEO to include industry associations in its referral process through some sort of arrangement, possibly a Memorandum of Understanding (MOU). By way of example, R&CA currently has a MOU with the Fair Work Ombudsman. This MOU describes where both organisations will cooperate on prescribed matters, and outlines referral and advisory processes. While R&CA are not prescriptive about this function being written into the ASBFEO legislation, R&CA wishes to ensure that the legislation does not restrict such an arrangement from occurring.

Title of the organisation

R&CA have again reiterated its concerns regarding the title of the ASBFEO, given the purpose of the organisation has substantially changed since its conception prior to the election. Given the resultant limited dispute resolution role of the organisation, the title of 'Ombudsman' does not accurately reflect the purpose of the ASBFEO, nor evoke positive connotations within the hospitality community. R&CA would highly encourage the revision of the title prior to the introduction of legislation.

If you require further information, please contact me on (02) 9966 0055 or jhart@restaurantcater.asn.au.

Yours faithfully

A handwritten signature in black ink, appearing to read 'John Hart', with a long horizontal flourish extending to the right.

John Hart
Chief Executive Officer