



POAAL

Post Office Agents Association Limited

POAAL submission regarding

Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Bill 2015

May 2015

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Introduction

1. The Post Office Agents Association Limited (POAAL) welcomes the opportunity to make a submission on the draft legislation concerning unfair contract protections for small business owners.
2. POAAL was formed in 1939 to assist the owner/operators of privately owned post offices. There are around 2900 Licensed Post Offices across Australia, comprising about 80% of the Australia Post retail network. In addition, there are in excess of 800 Community Postal/Mail Agents operating agencies in small mostly rural and remote communities.
3. Our members are also drawn from the operators of the approximately 5,500 mail contracts, delivering mail and parcels for Australia Post to customers across the country.
4. POAAL also has a category of membership for courier owner/drivers who operate either as independent couriers or on contract to larger courier firms. They are not connected in any way to Australia Post.
5. Further information on the background of our organisation may be found on our website www.poaal.com.au.

About Licensed Post Offices and the LPO Agreement

6. LPOs are operated under the LPO Agreement.
7. LPOs are considered franchises under the Franchising Code of Conduct.
8. Each individual LPO Agreement can be customised via Special Conditions
9. The LPO Agreement contains a low cost Dispute Resolution Process to resolve disputes between Licensees and Australia Post.

About Mail Contracts

10. There are over 3000 Mail Contractors operating about 5,500 mail contracts across Australia. Mail Contractors form a significant part of Australia Post's delivery network.
11. Australia Post has engaged contractors to deliver mail and parcels for decades.
12. There are a number of different types of mail contract, including:
 - RSD (roadside delivery) or rural mail contracts
 - Parcel contracts
 - Depot bag contracts
 - Street mail contracts
 - Line haul contracts

13. For the purposes of this submission, the term “Mail Contractors” will refer to all contractors who hold any of the above mail contracts with Australia Post.
14. Typically, Australia Post awards mail contracts via a competitive tendering process.
15. The terms of the Australia Post mail contract are standard.
16. Under the standard mail contract, Australia Post expects Contractors to be available 24 hours per day, including weekends. This impedes Contractors’ ability to source any other work.

The mail contract tendering process

17. The mail contract tendering process is a competitive tendering process.
18. Australia Post advertises contracts for tender and invites interested parties to submit a tender in a prescribed format.
19. Australia Post sets out in the tender specification documentation critical factors such as distance, number of delivery points, anticipated volumes of mail/parcels, estimated daily sorting time and estimated daily delivery time. The tender specifications must always be checked; Australia Post’s figures can’t always be relied upon.
20. The tender specification documentation also lists other mandatory requirements such as insurance, uniforms and any relevant safety equipment.
21. Often Australia Post will negotiate with tenderers in an attempt to further reduce the price put forward by the tenderer. Australia Post often aggressively negotiates on price. This is perceived by the prospective Contractor to be unconscionable conduct. Australia Post abuses its relative bargaining strength and often presents a price on a “take it or leave it” basis.

StarTrack Courier Contractors

22. StarTrack Couriers is the national courier division of Australia Post. It was formerly known as Messenger Post.
23. StarTrack Couriers engages contractors to perform courier deliveries.
24. StarTrack Courier Contractors may work specific, set courier runs or they may also do ad hoc work as allocated to them by Star Track.
25. StarTrack Courier Contractors have repeatedly raised concerns with StarTrack management regarding misleading income projections given to Contractors at the time of signing their contract with StarTrack Couriers.
26. Many Contractors have contacted POAAL over the years to voice their concerns at StarTrack’s refusal to negotiate any aspect of the contract or payments.

Definition of Small Business

27. POAAL is satisfied with the proposed definition of small business in the draft legislation.

Definition of small business contract

28. The proposed definition of small business contract would cover most mail contracts and some LPOs.

29. POAAL supports the principle of prospective business owners performing thorough due diligence prior to purchasing any business.