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22nd June 2011

General Manager
Small Business and Deregulation Branch
Department of Innovation, Industry, Science and Research
GPO Box 9839
Canberra ACT 2601

Dear Sir,

Re: Resolution of Small Business Disputes – Options Paper

Thank you for providing the Service Station Association (SSA) with an opportunity to comment on the Department's Options Paper. As a general comment, the Service Station Association has no objections to any of the four options put forward. However, the release of the paper and our resulting submission afford us the opportunity to examine the issue more closely and to therefore provide more in-depth feedback. We do so as follows:

The SSA is a long term advocate of the need for an effective dispute resolution procedure that can provide redress for small business in a timely and cost effective manner. To that end, enforceable tribunals are our preferred approach. As an example, the NSW Office of Fair Trading's CTTT is a suitable model.

In addition, any assessment of current dispute resolution procedures should include an in-depth analysis of the history. All too often we hear supporters of the status quo claim that there is a high degree of resolution. In fact, that is not the case, as many small business complainants accept an inferior and unsatisfactory offer as being the better of two evils – walk away with a poor result or risk losing a case in the courts and being faced with punitive legal costs. The SSA maintains that "the real truth" about dispute resolution inadequacies has never been fully disclosed.

In terms of the four options listed in the Department's Options paper, our preference is for a combination of options three and four, but reinforced with an enforceability measure. Enforceability is necessary to overcome the problem outlined above.

In addition, we believe that it is essential that any small business dispute resolution measure that is adopted by the Minister must also apply to existing small business industry codes such as the Oilcode and Franchise code. Both these codes have ineffectual dispute resolution provisions which need strengthening and adoption of options from this process would seem appropriate.

Finally and needless to say, we expect there will be a significant number and diversity of opinions submitted as part of this process which will require careful consideration in order to formulate a final recommendation. To that end, we believe there needs to be substantial stakeholder consultation and the SSA would be very keen to participate in such a process.

We look forward to further opportunities for input.

Yours faithfully,

Ron Bowden
General Manager