



Australian Government

23 September 2022



Australian
**Small Business and
Family Enterprise**
Ombudsman

Market Conduct Division
Treasury
Langton Cres
Parkes ACT 2600

via email: mbcomms@treasury.gov.au

Dear Sir/Madam

Treasury Laws Amendment (Modernising Business Communications) Bill 2022: Virtual hearings and examinations

We welcome the opportunity to comment on the exposure draft legislation *Treasury Laws Amendment (Modernising Business Communications) Bill 2022: Virtual hearings and examinations*. We support the introduction of express provisions within the relevant legislation to allow Treasury portfolio regulators to hold hearings and examinations virtually or in a hybrid model. As highlighted in the explanatory memorandum, the lack of legislative clarity allowing for the use of virtual hearings results in unnecessary delays.

Small businesses, particularly those in rural and regional areas, face disproportionate barriers in accessing justice. Virtual hearings and examinations will help address barriers to justice by reducing costs associated with travel and improving efficiency, enabling more small businesses to participate. Virtual hearings may also have a positive externality on participants' mental health, as attending hearings in a familiar environment may mitigate, to some extent, potential emotional stress associated with this experience. As such, we recommend:

- 1. These amendments be extended to the *Australian Small Business and Family Enterprise Ombudsman Act 2015 (ASBFEO Act)*, section 46 ('Procedure at hearings').** Section 46 of the ASBFEO Act does not presently clarify whether the hearings can be held virtually. The inclusion of an express provision to allow for virtual hearings will enable more small businesses to participate in hearings held under the ASBFEO Act. We are aware that Treasury is currently considering amendments to the ASBFEO Act in this light.
- 2. Ensuring regulators understand and, where possible, address technology challenges associated with participating in virtual hearings.** The use of virtual hearings throughout the pandemic has been a beneficial change, facilitating increased access to more timely and affordable resolution of disputes. While the rapid shift to virtual proceedings was a necessary and welcome change, not all business owners were equipped to take advantage of the digital transformation. To best support small businesses engaging in virtual hearings, consideration should be given to addressing the challenges experienced by those small business operators who have minimal digital literacy or limited access to reliable technology or connections. For example, we recommend all parties be provided with guidance and support specific to the technology used for virtual hearings and examinations, including an opportunity to test technology prior to the meeting.

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- 3. Targeted investment in digital connectivity in rural and regional areas to ensure more equitable digital connection across Australia for virtual hearing participation.** Inadequate broadband and mobile network access disproportionately impacts rural and regional small business' capability to adopt digital technology. We continue to encourage the Government to consider targeted investment in digital connectivity in rural and regional areas to ensure more equitable digital connection across Australia that enables these communities to participate in virtual hearings, and supports capability and capacity development of businesses.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Ekaterina Grazhdannikova on 02 5114 6141 or at ekaterina.grazhdannikova@asbfeo.gov.au.

Yours sincerely



The Hon Bruce Billson
Australian Small Business and Family Enterprise Ombudsman