



7 April 2015

Manager Small Business Ombudsman and Procurement Unit Small Business
Competition and Consumer Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: small.business@treasury.gov.au

Dear Manager,

Re Exposure draft Australian Small Business and Family Enterprise Ombudsman

1. Introduction

1.1 The Motor Trades Association Queensland (MTA Queensland) responds to the Australian Treasury's invitation for submissions to the Exposure draft Australian Small Business and Family Enterprise Ombudsman (the Exposure draft). The MTA Queensland's comments are on behalf of its constituent Divisions and are confined to issues which relate to the interests of the Queensland automotive value chain.

2. Context

2.1 The MTA Queensland has had an ongoing interest in the Australian Government's policy initiative to establish the Small Business and Family Ombudsman (the Ombudsman) having made a submission in May 2014 to the March 2014 discussion paper on this proposal.

2.2 The current Exposure draft in response to the discussion paper, establishes the Ombudsman's advocacy function, the assistance function which includes dispute resolution and information gathering powers.

2.3 We have considered the Exposure draft and make the following comments.

3. Submission

3.1 In our original submission to the March 2014 discussion paper, we indicated that three matters were critical to defining the role and responsibilities of the Ombudsman. These were:

Motor Trades Association Of Queensland

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- The Coalition Government's undertaking to introduce business to business standard form contracts in the unfair contract laws similar to the unfair contracts protection available to consumers
 - The Australian Competition and Consumer Commission (ACCC) v Coles supermarket case before the Federal Court alleging unconscionable conduct, and
 - The review of Competition Policy.
- 3.2 The Association was pleased that the Australian Government agreed to give small businesses a 'fair go' by extending the unfair contract protections currently available to consumers to cover the small business sector. This has been long term MTA Queensland policy and believes it to be a significant decision by the Australian Government for small/medium enterprises (SMEs) across the nation and will enhance the role and various functions of the Ombudsman.
- 3.3 We note that the final Competition Policy (Harper Review) was released recently. We await the Australian Government's response in the near to medium term.
- 3.4 In relation to the Australian Competition and Consumer Commission (ACCC) v Coles supermarket case we note that this was settled out of court with the supermarket admitting to breaking the consumer law and agreeing to pay \$10 million in fines. This outcome, whilst significant, means that there is no precedent at law in such future disputes.
- 3.5 We note too that the Ombudsman will not duplicate the functions of other agencies, which was a matter that we raised in our May 2014 submission.
- 3.6 The MTA Queensland supports the Exposure draft's definition of a small business/family enterprise as being one in the current financial year having fewer than 100 employees or its revenue for the previous financial being \$5,000,000 or less.
- 3.7 In summary the MTA Queensland supports of the contents of the Exposure draft which includes the meaning of a small business/family enterprise and details the statutory functionary responsibilities of the Ombudsman and the extent of his/her sector stewardship.
- 3.8 We trust it will receive the Senate's support as it is in the best interest of all SMEs.

4. The MTA Queensland background

- 4.1 The MTA Queensland is the peak organisation in the State representing the specific interests of businesses in the retail, repair and service sector of Queensland's automotive industry located in Queensland. In Queensland there are some 14,000 automotive value chain businesses employing in excess of 73,300 persons.
- 4.2 It is an industrial association of employers incorporated pursuant to the Industrial Relations Act of Queensland. The Association represents and promotes issues of relevance to the automotive industries to all levels of government and within Queensland's economic structure.
- 4.3 The Association is the leading automotive training provider in Queensland offering nationally recognised training, covering all aspects of the retail motor trades industry through the MTA Institute of Technology (MTAIT). The MTAIT is the largest automotive apprentice trainer in Queensland employing 26 trainers based from Cairns to the Gold Coast and Toowoomba and Emerald. MTAIT last financial year accredited courses to in excess of 1500 apprentices and trainees.

5. Conclusion

- 5.1 We would be pleased to provide further comment on any matters in our submission that may require further clarification or amplification.

Thank you for your consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. Dewar', written in a cursive style.

Kellie Dewar
General Manager
MTA Queensland