

15 December 2023

Ms Robyn Kruck AO, Professor Catherine Bennett and Dr Angela Jackson
The Covid-19 Response Inquiry Panel
Department of Prime Minister and Cabinet
Andrew Fischer Building
1 National Circuit
Barton ACT 2600

via email: COVID-19Inquiry@pmc.gov.au

Dear Ms Kruck AO, Professor Bennett and Dr Jackson,

Commonwealth Government COVID-19 Response Inquiry

The Australian Small Business and Family Enterprise Ombudsman (the ASBFEO) welcomes the opportunity to provide our observations and experience of how small businesses were impacted by the policies put in place to respond to the COVID-19 pandemic (the pandemic).

Particular impacts felt by small business owners at the time included impacts on their mental health, and stresses relating to their ability to resolve disputes (especially those with Government) and the making of informed decisions about their businesses. We would hope for future pandemic readiness that these factors are taken into account alongside benefits achieved through economic support.

While acknowledging that this Inquiry is not focused on decisions of State and Territory authorities, it is important to note the impact of restrictions on movement, such as border closures, for small businesses. Small businesses, particularly those that were women-owned and led, were disproportionately affected by the pandemic since they were more likely to be in industries severely affected by restrictions on movement.¹ Personal care services, such as hairdressing and beauty services rely on female entrepreneurs, who accounted for 86% of small business owners in 2021.²

We also note the role that small businesses played in the enforcement of pandemic restrictions when they were able to re-open. As a condition of reopening, small businesses were required to enforce mask mandates, distance between individuals, and the number of people inside and outside venues. In communities or with groups who did not support these health restrictions, small businesses were vulnerable to aggression, abuse and vandalism in person and online.

The rapid roll-out of measures to support incomes and employment by the Commonwealth during the pandemic, such as the cash flow boosts and JobKeeper, provided support to many small businesses when it was desperately needed. Small businesses were more likely than big businesses to be adversely impacted by community health protection measures and less likely to have the resources and scale to adapt their business models. While the Australian Small Business and Family Enterprise Ombudsman considers overall that Commonwealth measures were timely, well targeted and well delivered, there are opportunities in the future to improve implementation. Improvements include providing consistent and clear information across communities and complementary measures such as mental health support.

¹ Reserve Bank of Australia, 2021, *March 2021 Bulletin*, "Australia's Economic Recovery and Access to Small Business Finance".

² Based on ABS Census of Population and Housing, 2021, TableBuilder.

[OFFICIAL]

Our Assistance Function

One of the roles of the ASBFEO is to respond to requests for assistance from small businesses and family enterprises that are in dispute with other businesses or Australian Government agencies. The ASBFEO can refer requests to other agencies where the request could be more conveniently or effectively dealt with there, and otherwise provide direct assistance. The ASBFEO often refers matters to the State Small Business Commissioners and other dispute resolution bodies, such as the Australian Financial Complaints Authority, the Taxation Ombudsman and the Telecommunications Industry Ombudsman.

Our assistance function managed between 1300 to nearly 2500 contacts a quarter during the pandemic. This volatility correlated heavily to lockdowns in Eastern States. The majority of contacts were requests for information or assistance with disputes. The most marked increase was requests for assistance resulting from approaches taken by the Australian Tax Office, which were handled by our Tax Concierge service (see below). Requests for assistance with unpaid debts, leasing disputes, and confusion over information also featured heavily.

Mental health impacts and supports

While small business owners advising us of their mental health concerns was not unusual prior to the pandemic, we certainly observed an increase, particularly from areas going through lockdowns. Programs such as Everymind's Business and community programs and the Small Business Debt Helpline (and later Beyond Blue's New Access for Small Business Owners (NASBO) provided us with avenues to direct small business owners to specific assistance, with tailored advice and support across the business and personal aspects of problems.

According to the *Small Business and Mental Health* report conducted by Treasury in December 2022, small business owners experience high levels of mental distress. Over 1 in 5 respondents in its survey identified that they had been diagnosed with a mental health condition.³ As many small businesses are self-employed, or have minimal support, it can be a very isolating experience. As there may also still be a degree of stigma attached to mental health issues, there is work to be done around normalising mental health difficulties, and taking a pro-active approach in addressing these matters. Areas where small businesses connect, such as the ASBFEO, ATO, Australian Financial Security Authority and Australian Securities and Investments Commission, could be well positioned to take a more direct and active approach in supporting the mental health of small business owners.

Small Business Tax Concierge Service

One of the important service offerings of our assistance function is the Small Business Tax Concierge (SBTC) service. Launched on 1 March 2019, The SBTC service provides taxation advice and support to small businesses to decide whether and how to appeal Australian Taxation Commissioner decisions via Administrative Appeals Tribunal (AAT) processes. There were around 200 enquiries about the service in the December quarter 2020, compared to less than 50 per quarter in 2023. The enquiries primarily came from businesses who had been advised that they did not qualify for JobKeeper or cash flow boosts. Following consultation with the ATO, a process was established for the ATO to have a 'second look' or informal review of cases that were referred by the ASBFEO. The ASBFEO helped

³ The Treasury, December 2022, "Small Business and Mental Health Through the Pandemic."

[OFFICIAL]

small businesses to identify additional information to demonstrate eligibility and present that information to the ATO.

Of the JobKeeper and cash flow boost cases referred to the ATO informal review, we understand that the ATO reviewed and changed the outcome for approximately half of the cases. Unfortunately, delay in arriving at the appropriate outcome impacted the ability of these businesses to survive the pandemic.

Even though the ASBFEO provided assistance to a fraction of the total businesses who were impacted by the pandemic assistance measures, the assistance we provided highlighted the need for the Government to provide small businesses with clear information about eligibility criteria, and to be clear about the information required to support a claim. At the time, we worked with organisations that provided advice and support to small businesses to ensure that, wherever possible, accurate and tailored information was provided to assist small businesses to make informed and confident decisions, and appropriately achieve the policy intent of support measures.

Clear Information and Eligibility

The pandemic highlighted the importance of small businesses having timely, relevant, clear and consistent information so that they could make decisions about their businesses, particularly noting:

- Small businesses in rural and regional areas were often unaware of relevant information due to news and government communication focusing on metropolitan areas.
- Small business owners from culturally and linguistically diverse (CALD) backgrounds were often presented with complex information, that was poorly translated and that came from sources outside of their trusted community networks.
- Advice that required further interpretation became problematic for small businesses who lack broader in-house regulatory and compliance advice.

While eligibility requirements built of existing systems meant that support could be rapidly deployed, the drawback was that some groups fell outside the initial criteria and received delayed support. One such group was self-employed persons who earned less than \$75,000 and were therefore under the threshold required to register for GST. This group included a cohort of women owned/women led microbusinesses. While broad eligibility criteria may have been necessary to pay support quickly, a better understanding and analysis of the whole small business population is required so that specific types of small businesses do not fall through gaps in the future.

Due to the extensive interaction between businesses and the tax system, well developed systems and effective risk management practices, the ATO was well placed to deliver Commonwealth Government support to business through the pandemic. The ATO showed it was able to rapidly implement the support measures. However, when the States and Territories moved to provide specific grants, they lacked similar State economy-wide agencies to deliver business support while appropriately managing integrity risks. Without access to business tax records held by the Commonwealth, the States and Territories were reliant on self-assessment and manual audits for integrity. They were also reliant on mechanisms such as Australian and New Zealand Standard Industrial Classification (ANZSIC), which are not designed and sufficiently precise for these purposes. Further, some small businesses were refused assistance due to an incorrect classification.

[OFFICIAL]



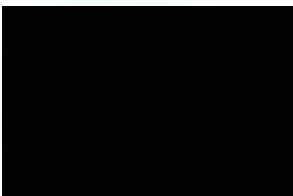
Consideration should be given to facilitating arrangements for the ATO to assist with and/or provide data to support State and Territory assistance in future scenarios like a pandemic. This would help speed up delivery of support to businesses while using ATO risk management capability to reduce integrity issues. Post event audits and recovery demands by some State-based service agencies are reportedly causing some distress amongst recipient businesses subsequently determined to be ineligible.

Other Considerations

- **Supply Chain Issues** affected many small businesses. We noted that the Governments were quick to discuss these concerns with larger businesses, but small businesses were less consulted. Small businesses provide many vital roles within the supply chain, from primary food producers to small businesses that run grocery stores and farmer's markets in rural and remote towns, to independent distribution businesses that service smaller and independent retailers and critical institutions including aged care facilities, health service providers and correctional facilities. We encourage any future planning regarding pandemics and disasters to include small businesses earlier.
- **Payment disputes** remain one of the main disputes brought to the ASBFEO, and during the pandemic the complexity and impact of payment times had ongoing ramifications. It affected supply chains of needed goods when some larger businesses declined to pay within reasonable timeframes, resulting in cascading effects especially for businesses that may not qualify for JobKeeper or cash flow boosts, and therefore could not pay their debts which would threaten their stability and the viability of other small businesses in the supply chain.
- **Data Sharing** by Commonwealth Agencies (such as the ATO already touched on) with State and Territory Governments was impactful in terms of targeted and timely responses to need. These were rich data sets, and we would hope to see such information sharing become more standardised and accessible to State and Territory Governments.

If you require any further information, would like us to supply small business case studies or have any questions regarding our submission, please contact our General Counsel, Dr Craig Latham, on [REDACTED] or via email to [REDACTED]

Yours sincerely



The Hon. Bruce Billson

Australian Small Business and Family Enterprise Ombudsman

[OFFICIAL]