

5 April 2022

The Productivity Commission
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via email: productivity.inquiry@pc.gov.au

Dear Sir/Madam

Australia's productivity performance

Thank you for the opportunity to comment on your inquiry into Australia's Productivity Performance. Small businesses make up over 97%¹ of all businesses in Australia and employed over 41%² of the business workforce in 2019-20. As such, small and family businesses have a key role to play in lifting productivity. We suggest the inquiry examine ways to address current environment sector impediments and then move onto the future state examining how to enhance small business opportunities and support business transformation to drive productivity into the future.

1. Addressing sector impediments

Addressing sector impediments will increase productivity by clearing barriers to small business success, making it easier to start, grow, and transform a business in Australia. In turn, this will lead to greater employment by small and family business owners and improved economic outcomes, increased resilience and wealth creation across the country. Sector impediments that, if addressed, will significantly improve the operating environment and thus productivity for small businesses include:

- **Right-sized regulation.** The burden of regulation disproportionately impacts small businesses, leading to reduced productivity. Regulation should be 'right sized,' proportional, implemented with consideration for timing and to minimising cumulative or duplicative impacts, and be the minimum effective intervention to achieve the desired goal or standard.

The pandemic has highlighted the cost of regulatory burdens on small business, for example the need to develop COVID safe plans for public health and safety, which required interpretation of complex work health and safety legislation.

We recognise the government's efforts through the deregulation agenda and are encouraged by the recent progress on a RegTech solution for Modern Awards, however, we note that more can be done to reduce this burden on small businesses.

¹ Using the ABS definition of a small business by employees (fewer than 20 employees), small businesses accounted for 97.5% of all Australian businesses in June 2021 based on ABS Counts of Australian Business 8165.0, Table 13, August 2021 and ASBFEO Calculations (Excludes nano businesses with no GST role).

² Using the ABS definition of a small business by employees (fewer than 20 employees), small business employed nearly 4.7 million people and 41% of the business workforce in 2019-20 based on ABS Catalogue No. 8155.0 Australian Industry Table 5 2019-20, May 2021 and ASBFEO Calculations.

- **Access to Justice.** Small businesses require access to timely and affordable justice processes, as one of the most frustrating productivity dampeners for small business is the time consuming and expensive nature of dispute resolution. For example, in the Victorian Civil and Administrative Tribunal in 2012, resolution of a \$7,137 disagreement cost \$5,302 or 70% of the original disputed value, and the costs were higher where an external advisor was used. For 37% of dispute participants the dispute negatively affected business performance.³ While there are alternative dispute resolution options available such as through this Office and the state Small Business Commissioners, some disputes do require formal arbitration.

We have previously recommended that consideration be given to development of a Small Business Claims list in the Federal Circuit Court to provide affordable, determinative dispute resolution services for small businesses and encourage further consideration of this proposal to enable small and family business owners to defend their own economic interests in the event of a dispute.

Industry codes are another vehicle for dispute resolution for small business. Currently there are nine mandatory industry codes regulated by the Australian Competition and Consumer Commission and several voluntary industry codes. These Codes aim provide protection, reduce regulatory burden, and have dispute resolution guidelines, usually mediation. However, where a dispute is complex, multi-partied and there is an inequality of bargaining power, mediation may not achieve a fair, efficient, or timely resolution.

Productivity gains could be achieved by reducing time lost in business disputes, via legislative change to achieve right-sized, efficient, multi-faceted and coordinated dispute resolution processes, including arbitration and procedurally fair, timely and cost-efficient judicial options. Boosting resources for the adoption of alternative dispute resolution technology along with a code list in the Federal Circuit Court and Family Court also merit consideration. To harmonise and simplify use of the Codes, government could introduce legislation which covers the key points in all Codes, enabling them to be reduced in size to only industry specific information.

- **Cross-jurisdictional co-operation.** Collaboration across all levels of government underpins good policy design,⁴ and a stable, appropriate policy environment which fosters small business investment and productivity. The National Cabinet goes some way to achieving this, however the pandemic has highlighted its constraints, largely demonstrated by the necessarily changeable COVID-19 government policies which created barriers for business investment.⁵

For example, businesses have experienced confusion and difficulties with conflicting regulations during the pandemic regarding cross-border differences, border closures and the resulting unpredictable movement of labour and patrons. We suggest consideration is given to cross-jurisdiction proportionate, harmonised, and clearly communicated regulations.

- **Infrastructure.** Small business productivity depends on reliable and timely supply chains. We have recently seen examples of broken or weak supply chains due to flooding in central Australia and the east coast. Businesses have had difficulties accessing cloud-based business records, receiving electronic payments, and experienced failure of telecommunications during floods and fires.

³ Victorian Small Business Commissioner, Information sheet, The Costs of participating in business-to-business disputes at the Victorian Civil and Administration Tribunal (VCAT).

⁴ ANZSOG, Rimmer Ben, Saunders Cheryl and Crommelin Michael, Working better with other jurisdictions March 2019, p 9-10.

⁵ MYOB SME Success Report Chapter 1: SME Resilience March 2022 p 13.

We recommend that all levels of government consider how to ensure critical infrastructure is fit for purpose and appropriately hardened to defend against natural disaster. Policies which ensure telecommunication networks are more reliable and provide more timely remediation of outages will also help.

- **Access to banking and adequate finance.** Adequate and timely access to finance is critical for business operations and growth, allowing small businesses to pivot to higher return opportunities and to exhibit optimum resilience after a disaster. Banking is an essential service for small business operators and de-banking remains an issue for many operating legitimate businesses, drastically damaging their capacity to continue to operate and increasing the likelihood of falling into the shadow economy.

Additionally, stakeholders advise of businesses in rural and regional areas who have applied for finance using their homes as security, but a scarcity of data sees them denied capital even for demonstrated serviceability. One third of migrant business owners plan to hire new people to grow their business over the next 5-10 years⁶ while 82% of female founders felt gender impacted their ability to raise venture capital.⁷ Work could be done to ensure adequate finance is available to specific industry groups such as women owned, women led and migrant small business leaders. Policy settings which support universal access to essential banking services and accessible loans would support sector productivity.

2. Enhancing small business opportunities

Enhancing sector opportunities will increase productivity by offering new trading areas for small business to move into, allowing them to grow and capitalise on their expertise and vision. This will expand the sector, leading to growth and increased employment by small business, and a more dynamic economy. We see several sector opportunities as follows:

- **Information Technology.** We see information technology as a key opportunity to drive productivity in the small business sector. However many small businesses have not embraced the technological opportunities available to increase productivity. Technology adoption and automation may help boost productivity for individual firms,⁸ and Australian businesses who were in the top 25% of ICT spending had more sales than in 2019, whereas those who were in the bottom 25% saw sales fall, suggesting those who spent more on ICT have been more productive and resilient through the pandemic than those that spent less.⁹

However stakeholders advise that small business managers are not always as supportive of technology adoption compared to larger businesses,¹⁰ and research shows technology uptake can be affected by organisational drivers,¹¹ technology features,¹² but in particular, security concerns.¹³ We recommend increased support and incentives for the uptake of digital tools by small business operators and consideration of enhancing cyber security in the digital operating environment, either generally or tailored to small business needs. For example, experienced technology users could be matched with business owners to support their adoption of technology.

⁶ CGU Migrant Small Business Report

⁷ Cut Through Venture and Folklaw Ventures, The State of Australian Startup Funding 2021, p.79

⁸ Di Mauro and Syverson 2020 in International Monetary Fund, Boosting Productivity in the Aftermath of COVID-19 p 6.

⁹ Accenture and Xero, Picking up the pace: Trends in small business technology adoption and use, December 2021. *Xero report xsbi-picking-up-pace-dec-2021.pdf.

¹⁰ CPA Australia, Strategies for Managing Barriers to Technology Adoption, p 27.

¹¹ CPA Australia 2021 in CPA Australia, Strategies for Managing Barriers to Technology Adoption, nd, p 9.

¹² Walsh et al, 2021 in CPA Australia, Strategies for Managing Barriers to Technology Adoption, nd, p 9.

¹³ Fawcett, 2015 in CPA Australia, Strategies for Managing Barriers to Technology Adoption, nd, p 9.

It is difficult for small businesses to take up technology opportunities without adequately skilled staff. There is a digital skills gap which needs to be filled to underpin economic growth¹⁴ and this is demonstrated by the continued demand for higher level digital skills in Australia.¹⁵ Training should focus more on generic transferrable skills rather than on skills with specific applications, potentially taking the form of stackable micro credentials rather than solid blocks of tuition,¹⁶ with incentives for employees to add to their qualifications.

The Australian Government has implemented initiatives such as e-Invoicing and Single Touch Payroll which streamline business operations. There are more opportunities to ease small business compliance burdens, and we welcome the Australian Government's recent announcement to allow state payroll tax reporting through single touch payroll. Adoption of these and other tools should be made simple for small business owners and encouraged through broad support and incentives.

- **Asset investments and upgrades.** Globally, the pandemic has propelled investment in intangibles, especially digital technology,¹⁷ and these investments have been found to be a contributor towards increased productivity.¹⁸ Businesses which accumulate higher levels of intangible assets such as research and development, patents, software and trademarks have been found to be less vulnerable to productivity loss flooding.¹⁹ Optimum finance conditions and reasonable corporate tax rates may also support intangibles investment, and this could be investigated.²⁰

Instant asset write-offs have been welcomed by small business stakeholders, supporting investment into smaller asset purchases such as business vehicles. Tax incentives could also be used to support small business to make larger tangible capital improvements focused on productivity improvements, in the \$.5-1 million range, to allow for longer term investment.

- **Government procurement.** Seeking government procurement opportunities is currently complex, costly, and time consuming for small business, despite having the potential to amplify growth and encourage competition. We welcome the recent report from the House of Representatives Standing Committee on Infrastructure, Transport, and Cities' (the Committee) inquiry into procurement practices for government-funded infrastructure. The report highlighted that decades of choosing the lowest price, as opposed to the 'best value', has diminished Australia's capacity to deliver fit-for-purpose infrastructure.

The Committee recommended making, as a condition of Australian Government funding for major infrastructure projects over \$500 million, industry sustainability criteria within the early stages of procurement design that encourage tier one contractors to partner/joint venture with a non-tier one company in the head contract. This industry sustainability criteria would encourage a greater weighting for Australian small businesses in procurement and would increase small business access to capacity building contracts.

¹⁴ RMIT, New Report reveals Australia's major digital skills gap, 2021, <https://www.rmit.edu.au/news/all-news/2021/feb/digital-skills-gap-report>.

¹⁵ National Skills Commission, Australian Government, Digital Skills and the Australian and International economies, , [National Skills Commission Annual Report 2020-2021](#).

¹⁶ The Digital Skills Organisation, Towards a new model for the development of digital skills, 2021.p 7.

¹⁷ International Monetary Fund, Boosting Productivity in the Aftermath of COVID-19, June 2021 p 3.

¹⁸ International Monetary Fund, Boosting Productivity in the Aftermath of COVID-19, June 2021 p 3.

¹⁹ Leiter, Andrea M, Oberhofer, Harald, Raschky, Paul A, Creative Disasters? Flood effects on Capital, Labour and Productivity Within European Firms. Environmental Resource Economics, 2009.

²⁰ International Monetary Fund, Boosting Productivity in the Aftermath of COVID-19 June 2021 p 9.

Recognising that women have founded two thirds of new businesses²¹ in Australia in the past decade, and noting research suggesting that boosting the number of female business owners to equal that of men could add \$70b to \$135b to Australia's economy,²² consideration could be given on how access to government procurement could be used as a strategic lever to energise female enterprise or other minority-led small business groups sectors, to strengthen Australia's economy.

- **Research and development.** There are currently inadequate connections between small businesses and research organisations. Stronger connections need to be built, not just for emerging industries but also for traditional sectors. A focus on research and development could promote innovations which support productivity growth.

Government could consider investing in partnerships with industry to create cooperative research centres, while optimising the small business access to the Research and Development Tax Incentive program.

3. Supporting small business transformation

Supporting sector transformation will allow small businesses to take full advantage of changes to the business operating environment and take advantage of new and unexpected opportunities as they arise. This will allow the sector to lead the way in innovation and subsequent transformation of the Australian business community. We see several sector opportunities as follows:

- **My business future.** Businesses which plan for the future are more likely to be resilient and able to survive in difficult circumstances, reducing productivity losses and creating the opportunity for quicker recovery and growth.

Consideration should be given to how to connect small business owners with trusted advisors, ensuring simple access to current support programs and identifying and filling gaps in small business owners' financial knowledge, along with increasing their 'socio-commercial connectedness' or peer to peer support and co-operation.

- **Disaster recovery and insurance.** Fast and streamlined recovery of small businesses from natural disasters will increase Australia's productivity. A component of this is adequate insurance cover which underpins business risk management. Stakeholders advise that business efforts to plan and mitigate for disasters ahead of time are not routinely considered by insurance companies, and that insurance, where available, is currently prohibitively expensive.

Further, some small businesses report not being able to obtain insurance at all. However, where tangible assets have been destroyed in a disaster there can be an opportunity to update technology and to differentiate from competitors to enhance productivity.²³ Consideration should be given to improving the insurance environment for small business.

- **Improved insolvency processes.** Improvements can be made to insolvency processes for small and family businesses. An insolvent business owner is often tempted to continue to trade due to the difficulties involved in winding up their affairs, and insolvency processes

²¹ Xero's Boss-Insights 2020, [Xero Boss Insights 2020 \(invigor8.com.au\)](https://xero.com/au/en/about-us/insights/2020) p. 29 accessed 4th April 2022.

²² Boston Consulting Group, 'Want to Boost the Global Economy by \$5 Trillion? Support Women as Entrepreneurs', 2019 in/and The Sydney Morning Herald, 'It's the silent minority': Australia's \$135 billion female entrepreneur gap', 'It's the silent min...~<https://www.smh.com.au/business/small-business/it-s-the-silent-minority-australia-s-135-billion-female-entrepreneur-gap-20190905-p52ohf.html>2019 (accessed on 4/4/2022).

²³ Crespo-Cuaresma et al, 2008, Okuyama 2003, Skidmore and Toya 2002, in Creative Disasters? Flooding Effects on Capital, Labour and Productivity Within European Firms, Springer, p 334.

should be designed to allow an exhausted business owner to exit graciously. Prior to December 2020, Australia consistently had over 200 business-related personal insolvencies per fortnight where the person had a business or company, this has been consistently below 150 since May 2020,²⁴ which may indicate lower numbers of insolvencies due to COVID-19 government business support.

Efficient support for labour reallocation and insolvency processes can reduce the underutilisation of capital as the labour market reallocates staff where restructure or business closure is necessary.²⁵ Insolvency rules could be clarified, and tools could be provided which assist owners to review their viability, including an option to restructure or enter a simplified winding up process.

- **Workforce participation.** The pandemic has highlighted how workforce disruption has production, social and economic impacts. For example mandated vaccines and community lock downs have created large amounts of uncertainty for both businesses and workers. Policies which give clarity and remove uncertainty for workers and employers alike will stabilise our working community and encourage consistent and rising productivity.

Employment policies that incentivise rather than discourage older people to stay in the workforce by re-skilling or re-entering paid roles are also important, so we support the recommendations of the Productivity Commission study report – *National Agreement for Skills and Workforce Development Review* - that there be a trial of an income contingent loans for mature aged Australians in the VET system.²⁶

- **Education.** To meet our productive potential, post-pandemic workers will need to be retrained and reskilled to ensure they are working effectively and with optimum productivity. Pandemic impacts mean extra attention on education will need to be given to low-skilled, disadvantaged, and the next generation of workers.²⁷

Stakeholders have called for opportunities for micro-credentialling to train up existing staff, with proper structures, and qualifications recognised by qualified training organisations which would make transferable skills transparent in recruitment of workers. This will assist with the reallocation of workers into more productive small business settings.

- **Migration.** Immigration and work visa policy settings have historically been a key facilitator in small business accessing suitable staff. Throughout the pandemic we have seen businesses struggle to obtain staff to meet their business demands due to border restrictions.

Government should consult with small business peak bodies to ensure migration policies are industry- and business-centred while focusing on maximising economic and demographic needs. Investment in infrastructure should be provided to support this focus and government should consider changes such as an increase the available pathways to permanent residency and improvements to the visa processing time for small business.²⁸ This will allow small businesses to source skillsets not available to them locally.

²⁴ Australian Financial Security Authority, Fortnightly bankruptcy and personal insolvency statistics, accessed 24th March 2022, [Fortnightly bankrupt...~https://www.afsa.gov.au/about-us/statistics/fortnightly-bankruptcy-and-personal-insolvency-statistics](https://www.afsa.gov.au/about-us/statistics/fortnightly-bankruptcy-and-personal-insolvency-statistics)

²⁵ International Monetary Fund, Boosting Productivity in the Aftermath of COVID-19, p6, p 19.

²⁶ Productivity Commission Study Report, National Agreement for Skills and Workforce Development Review, December 2020, p 31.

²⁷ International Monetary Fund, Boosting Productivity in the Aftermath of COVID-19, p16.

²⁸ Australian Chamber of Commerce and Industry, Better Australia, Securing the foundations for a stronger and smarter future. p 21.

Migrants also make up a disproportionate number of small and family business owners, with many bringing entrepreneurial aspirations as part of their goals for a life in Australia. As the migration program returns to traditional inbound numbers, we would encourage a focus on entrepreneurial contribution and business relocation. There may be scope to build on the Home Affairs portfolio initiative spearheaded by Peter Verwer AO as Special Envoy for Global Business and Talent Attraction. Connecting baby-boomer business owners seeking to exit their business to retire with migrants keen to carry forward, invest in and evolve the enterprise may be another stream in a productivity-building migration program that also supports attracting investment and rewarding business builders.

In the aftermath of the pandemic, there are significant opportunities for Australian small businesses and family enterprises to grow, transform, and increase productivity. This will be optimised with forward-thinking small business focused policy settings which are designed in co-operation and consultation with the small business community.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Ms. Jan Walker on 02 5114 6114

Yours sincerely

The Hon. Bruce Billson

Australian Small Business and Family Enterprise Ombudsman