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Council of Small Business Organisations of Australia Ltd.

ABN 43 008 597 304

11th May 2007

consumer@pc.gov.au

Subject: Review of Australia's Consumer Policy Framework.

Dear Sir / Madam,

Please find enclosed our submission for the Review of Australia's Consumer Policy Framework.

We thank you for the opportunity and would be eager to further our comments if the opportunity arises.

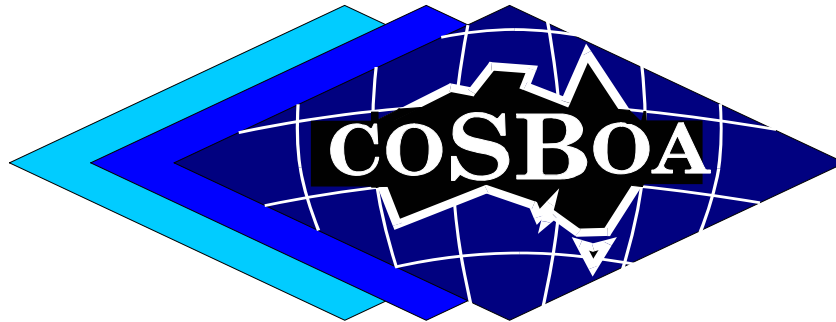
We would appreciate an acknowledgement that you have received this submission by return e-mail.

If you have any questions do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Tony Steven". The signature is fluid and cursive, with the first name "Tony" being more prominent than the last name "Steven".

Tony Steven
CEO



Council of Small Business Organisations
of Australia Ltd.

Submission to the

Review of Australia's Consumer Policy
Framework.

May 2007

1. Background on COSBOA

The Council of Small Business Organisations of Australia Ltd (COSBOA) is widely recognised as a peak body of small business organisations, industry groups and individual members. It was founded in 1979, incorporated in 1985 and operates through a secretariat based in Belconnen, Canberra.

We represent the small business sector in Australia. All members have the opportunity and means to influence, at political and government levels, for the well-being and future of their member small businesses.

- We provide the small business sector with information.
- We assist individual members and member associations.

We help individual members and member associations develop business opportunities through our affiliations with key organisations. All members can use COSBOA's affiliations and contacts with industry and business organisations.

We help members influence their external business environment, especially in the area of government policy.

COSBOA assists members by monitoring government activities, influencing the development of government policies, presenting industry viewpoints and providing opportunities for members to become involved in policy development.

COSBOA is the primary lobbying vehicle for issues relating to the small business sector.

COSBOA members can have ready access to information on key policies impacting on the small business sector.

COSBOA is headed by a Board of Management and the Chair, Mr. Bob Stanton, who also presides over the quarterly Council meetings consisting of all members, these are usually held in Canberra.

COSBOA also holds the National Small Business Summit annually and boasts the attendance of the Prime Minister on 4 of the 5 occasions it has been held. This reflects the importance of small business to the Australian community and the economy.

2. *Introduction*

The Members of COSBOA have a significant interest in this review due to the impact this could have on them as an individual consumer, as a business consumer and as a business supplying goods and services to the traditional consumer group.

There are over 1.8 million small businesses in Australia of which around 800,000 are micro businesses. Most small businesses employ staff which totals over 3.6 million people. Any changes to the process and regulations in this area will need to be small business friendly. We believe that consumer policy be further extended to cover small businesses as consumers.

3. *The Issues Paper*

The Council of Small Business Organisations of Australia (COSBOA) has reviewed the Productivity Commission Issues Paper which is part of the Consumer Policy Framework. The paper reinforces our view that Small Business should be considered as a special group in consumer policy.

Small Business is both a consumer and a business. It needs protection from unfair behaviour of big business, and from government legislation and process that is big business friendly but small business chaotic. We do not want to be impacted by legislation that is relatively easy for big business to manage but places large compliance and time needs on small business operators.

Small Business is operated by individuals. A Small Business Operator is expected to be an expert on, and be legally responsible for, a range of complicated issues including taxation, workplace relations, OH&S, pricing, marketing, customer communications, import/export legislation and other issues. Big business employs experts for these issues who understand legislation and process and can take advantage of that for the benefit of the big business, or minimise its impact on productivity and income.

In a small business there is no board of management and very rarely a person who is a specialist on consumer issues.

In big business the CEO and other upper management staff, are usually bright, politically-savvy people who manage to climb the corporate ladder and are rewarded through a salary process and receive support from a board and a range of experts within the business. Small business operators are responsible to themselves for income and for advice and planning. Any extra advice will cost hard earned money that will impact disproportionately on profit and income, and eventually on the price and service they offer to other consumers.

The CEO and staff of a large business will very rarely lose their homes and livelihoods due to poor decision making in the workplace. For a small business operator this is a real issue. So called poor decision making, when dealing with larger

business and government regulation, may force a small business operator into a crisis and potential bankruptcy and this is often considered to be *'their own fault'*. If that poor decision has been influenced by fear, by failure to comply with a complicated process or by pressure and stress exerted by big business then perhaps there are other issues that should be considered and managed to lessen the number of business failures.

Red tape, changes to regulations, rumour, misinterpretation, aggressive customers, confusing regulations and alarming news articles can add to the difficulties of running a business. There is no large management team to deal with these issues. Fear of breaking some unknown law or not complying with some complicated government process, or bringing down the wrath of big business, can impact upon decision making.

We believe that the strength to any economy of a small business is the entrepreneurial spirit, the vision, dedication, sacrifice and work ethic of the small businessperson. There is naturally greater risk by the people who create most of the jobs and wealth of this country. There should also be greater protection, from unfair big business behaviours, vexatious and aggressive customers and generic legislation.

Large corporations and small business are lumped together by many as *'businesses'*. Legislation across most policy areas may mention small business as important but rarely differentiates between big and small for process or requirements. However, their needs and the culture are different. There is a recognised difference between the consumer and business; there should be a recognised difference between small business and larger business.

Issues such as price gouging and dumping have significant effects on small business. Dumping, in particular, can create an economic problem for a small business operator that the best management practices will not be able to predict or consider. Price gouging will impact upon a small business as much as on any consumer, for most issues, and more so when the small business operator is a specialist within a certain geographic or industry sector and the behaviour of the larger business makes day to day business, cash flow management, and just making a living, no longer viable.

The issues confronting a small business owner are similar to those confronting a consumer (as found in box 3 on page 14 of the discussion paper).

Like the general consumer, the decisions made by a small business operator will often be influenced by the environment in which the choice is made. Small business operators can also misjudge risk, especially when dealing with large businesses whose staff will understate risk or not understand the risk for the small business. The employees of larger businesses are often well trained in recognising the risk for the large business and in assessing the risk for the traditional consumer but can hide the risk for small business under the generic response of *'well that's business'*.

Small business operators, like most consumers, may also be resistant to change. This can lead to a reluctance to change suppliers even when there are lower cost alternatives available. This is compounded by unstated and perceived threats and the general fear of being forced out of business by unfair, but not unconscionable,

behaviour of large business. The behaviour and reactions of a small business operator are often driven by the need to maintain the family home or assets, not just by the need to maintain a business. For many small business operators their home, their livelihood and their business are the same thing. This must impact upon their behaviour and should be considered in the development and modification of policy.

A Small Business Operator not only deals with legislative and government requirements they also deal with a range of experts employed by big business. This includes dealing with experts on activities around leasing, purchasing, marketing, product development, product placement, pricing and discounts, ICT management and GST, among many others.

Business to business leasing, in particular, should be dealt with under consumer policy. B2B leases can impact upon competitive behaviour, pricing, competition and business viability. Small Business Operators should be given the same protection offered the residential rental market for leases as well as protection for business purposes.

The ACCC provides protection for small business through its enforcement of legislation. The ACCC is a great resource to small business, indeed the ACCC is probably the best ally small business can have. Its staff are well trained to deal with the issues facing small business and in communicating with small business operators. But for the ACCC to be truly effective a small business operator still has to take time from their business and participate in a fight with a larger opponent who has access to more resources and a larger team. The small business operator still has to provide the ACCC with the necessary documentation needed to successfully pursue a large business, or national corporation, through a legal process. If the paperwork is inadequate then the small business owner is often seen as the problem, as they have not kept adequate paperwork, yet the real issue should be the behaviour of big business. Consumer policy should recognise that small business operators cannot adequately keep all the paperwork on every issue that may or may not become important to them. It is too easy to say “*small business operators need to become better managers*”, the reality is somewhat different. A small business operator may have 90% of the information needed on 100% of issues but when dealing with large businesses, and their highly paid and focused legal teams, that 10% shortfall is enough, or is seen to be enough, for the small business operator to fail.

5. Conclusion

Consumer policy should ensure that business, large and small, provide the right service and price to consumers. It should also ensure the capacity for a Small Business Operator to spend time on business issues, customer servicing and development of more efficient practices allowing savings to be passed onto the customer and for increased business outcomes and security. Greater surety for small business will benefit all consumers as there will be greater choice for the average non-business consumer.

If there are changes to be made then what should be considered must include:

1. The new legislation and process consider small business as a consumer group of its own,
2. There is no increase in red-tape, regulation is valued by small business but excessive reporting, via paperwork or the web, is not valued and inhibits development of good service and prices for other consumers,
3. Small business must be protected from price gouging,
4. Small business must be protected from the effects of dumping,
5. Any changes to policy are managed so that there is no impact on small business,
6. Any changes to policy are managed so that big business is not able to force the change process onto small businesses,
7. Access to legal support is economically possible for small business,
8. Small businesses that naively or unwittingly break the law are not punished to the point where their business, and their homes and livelihood, are under threat.

COSBOA would like to work closely with governments on the issue of small business being both a consumer and a provider and the development of a policy framework that protects all groups and treats small business as different from medium and large business. COSBOA also believes we know how to communicate with small business operators to improve their skills and understanding of government needs without impacting on their business viability and personal well fare.

Please contact me anytime on 0409 219 368 or Peter Strong, our General Manager, Policy, who is based in Canberra on 0414 961 073.

Yours faithfully

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