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Australian
Small Business and
Family Enterprise
Ombudsman

29 November 2022

Tax Administration Unit

Personal and Indirect Tax, Charities and Housing Division

Treasury

Langton Cres

Parkes ACT 2600

via email: taxadministrationconsultation@treasury.gov.au

Dear Sir/Madam,

Strengthening the ABN System

We welcome the opportunity to comment on the draft legislation and support the intent to improve the integrity and data quality of the Australian Business Register (ABR). However, we note that small and family businesses are currently facing several significant legislative and regulatory changes. It is essential the proposed changes do not result in a disproportionate burden on legitimate small and family businesses and should operate on an 'easy to stay in' for those doing the right thing, 'informed if removed' and 'easy to repair' principle. As such, we provide the following comments.

- 1. We recommend the ABN update be integrated within existing processes, for example the tax returns or business activity statement (BAS) process.** Supporting legitimate small business compliance by ensuring policy is 'easy to get right' will reduce accidental non-compliance and the administrative burden for the Registrar. Integration of new and existing processes will promote process efficiency and compliance. Further, we suggest these existing processes can be utilised as effective communication channels to remind businesses of their ABN maintenance obligations.
- 2. The retroactive application of reinstatement from the day of ABN cancellation should be explicitly stated in Schedule 1, item 5, section 19(1) of the exposure draft legislation, not just in the explanatory materials.** We are concerned regarding the broader impacts of ABN cancellation on legitimate business continuity, and contingent financial and non-financial obligations. The exposure draft legislation should explicitly state that reinstatement will apply from the day of cancellation, critically with no gap in ABN continuation. This will help to reduce unintended consequences on small businesses, where they may be penalised from the license gap due to ABN cancellation.
- 3. We support the flexible and responsive implementation of the reinstatement grounds, enabled by a robust information sharing process between the Australian Taxation Office (ATO) and Australian Business Registry Services (ABRS).** Supporting ABN reinstatement when the business is legitimate, and has made genuine compliance efforts, will increase collaboration between small businesses and the Registrar. To support policy implementation, information flow from the ATO to the ABRS should be contained within a specified, effective period to avoid consequences for small businesses caused by untimely decisions or information transfer lags.



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- 4. We endorse the ABN contingency grounds to function as a means to initiate the “right” types of behaviour from businesses, not as punitive measures.** Clarification of the extent of action required from “have made arrangements with the Commissioner of Taxation to lodge” in schedule 1, item 5, section 19(1)(b) of the exposure draft legislation will reinforce business action initiation incentives. Further, we suggest reinstating the ABN once the business commences the process of “making arrangements” to maximise incentives for desired behaviour in place of incentives for businesses operation outside of licensing.
- 5. We strongly urge the Registrar to consider additional interventions to complement the ABN contingency grounds, to proactively rectify practices that compromise ABR data quality.** The Black Economy Taskforce Final Report 2017 found the black economy to be an “endemic cultural problem”. We recommend targeted outreach to accounting professionals and other trusted advisors to promote the benefits of maintaining accurate business information on the ABR. Alongside compliance efforts, we encourage the Registrar to commit to data cleansing and data matching activities in collaboration with businesses, to facilitate the information integrity of the ABR.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Dianrong (Sophie) Li on 02 5114 6124 or at Sophie.Li@asbfeo.gov.au.

Yours sincerely

The Hon. Bruce Billson

Australian Small Business and Family Enterprise Ombudsman