



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

# Quarterly report

Australian Small Business and Family Enterprise  
Ombudsman | Quarter 1 – 2016





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**Small Business and  
Family Enterprise**  
Ombudsman

The Hon Kelly O'Dwyer MP  
Minister for Small Business

29 April 2016

Dear Minister O'Dwyer

**Re: First quarterly report from the Australian Small Business and Family Enterprise Ombudsman**

I am very pleased to provide you with the first quarterly report of my activities as the inaugural Australian Small Business and Family Enterprise Ombudsman.

The report is designed to meet the advocacy reporting obligations outlined in section 40 of the *Australian Small Business and Family Enterprise Ombudsman Act 2015* (Cth). To provide a holistic picture the report also covers outreach activities being conducted by my Office, and statistics on requests for assistance from small business.

It has been a busy and exciting time for myself and my Office as we establish ourselves as an effective and well informed advocate and source of assistance for the small business and family enterprise sector. I have been very encouraged by the support and enthusiasm shown for my role in these early days of operation, and believe that we have already made a strong contribution to the sector and will continue to do so.

Yours sincerely

Kate Carnell AO  
Australian Small Business and Family Enterprise Ombudsman

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# Introduction

## Reporting context

The Australian Small Business and Family Enterprise Ombudsman formally came into being on 11 March 2016 with the commencement of the *Australian Small Business and Family Enterprise Ombudsman Act 2015 (Cth)* (Act).

The Act sets out quarterly reporting obligations relating to certain advocacy functions (see section 40). This first quarterly report covers the period 11 March 2016 to 31 March 2016.

The Act requires the Ombudsman's report to outline the following:

- Research and inquiries conducted under Division 2 of the Act
- Any relevant legislation, policies and practices which the Ombudsman believes are having an adverse impact on small business, and the reasons why the Ombudsman has formed that view

In addition to the matters noted above, this report outlines ancillary activities which have been conducted by the Ombudsman during the reporting period with the aim of capturing all key activities of the office during the reporting period.

## Summary of key activities during the reporting period

This report covers the following key areas and activities:

- Outreach activities, including
  - preparations for a formal period of consultation with the small business and family enterprise community on what they consider to be advocacy priorities for their sector
  - the establishment of communications channels for the Ombudsman's office
  - engaging with the sector
- Advocacy activities, including
  - research and inquiries, in particular a research project has commenced looking at small business statistics with a view to collating a publication of statistics about small business
  - commentary on legislation, policies and practices with an adverse impact on small business, including business to business payment terms, and owner-drivers in the trucking industry affected by minimum rates set by the Road Safety Remuneration Tribunal
  - other advocacy activities, including preparing submissions to consultation on Government proposals to increase access to company losses as part of the National Innovation and Science Agenda, and the Senate Economics Legislation Committee's inquiry into anti-competitive conduct in the retail wine industry
- Assistance activities, to provide an indication of the demand for the Ombudsman's assistance services.

# Outreach

## Consultation on advocacy agenda

An essential part of being an advocate for small business and family enterprise is ensuring that the Ombudsman has an effective means of understanding what issues are most critical for these businesses.

During the reporting period, a significant amount of preparation was undertaken with a view to a formal period of consultation to allow the Ombudsman to hear directly from small business and family enterprise about which issues they would like the Ombudsman to take up as their advocate.

Such preparations included the establishment of a collaborative online platform for sharing ideas, titled *thinkBIGsmallTALK*, which is now accessible from the Ombudsman's website and allows members of the public to propose ideas for the Ombudsman to pursue. A discussion paper was also released, titled *Advocating for small businesses and family enterprise*.

This consultation will lead to the development of an "advocacy agenda", providing small business and family enterprise with a picture of the Ombudsman's advocacy priorities and forward work plan.

The Ombudsman is eager to ensure a collaborative and transparent approach to advocating on behalf of small business and family enterprise, and this consultation process is the foundation for such an approach going forward. This is critical as the Ombudsman's office should provide an example to the rest of Government when it comes to consulting and working with the small business sector. Setting a work program in consultation with small business and seeking their views at the formative decision-making stage is critical in this respect.

The consultation was formally launched on 15 April 2016, and will close on 30 June 2016. A range of events to involve small businesses around the country will be held during this time. Further details will be provided in the next quarterly report and in the interim period are available on the Ombudsman's website.

## Establishment of communications channels

To coincide with the commencement of the Office the Ombudsman has established a number of communications channels. These channels are being used to promote awareness of the Ombudsman among the small business and family enterprise sector, and will be used on an ongoing basis as platforms for advocating for and engaging with small business and family enterprise.

### Website

The Australian Small Business and Family Enterprise Ombudsman's website was launched on 11 March 2016. As at 31 March 2016, the website had 945 visitors.

### News subscriptions

As at 31 March 2016, 70 people had subscribed to receive news updates and newsletters through the Ombudsman's website.

### Twitter

A Twitter account was launched on commencement of the Ombudsman's office. As at 31 March 2016, the Ombudsman had 23 followers.

## Media releases

The Australian Small Business and Family Enterprise Ombudsman published the following three media releases between 11-31 March 2016:

- Open for business: The Office of the Australian Small Business and Family Enterprise Ombudsman
- The Australian Small Business and Family Enterprise Ombudsman applauds Minister's support for 'effects test'
- The Australian Small Business and Family Enterprise Ombudsman wants to hear from you

## Key meetings and events

During the reporting period the Ombudsman held a range of meetings and attended a number of events including meetings with representatives of key industry associations representing small business and family enterprise, and meetings with key small business representatives within the Commonwealth and State Governments.

These meetings together with the establishment of key communications channels for the Office set the foundation for further promotion of the office including through media releases, television appearances, radio interviews, events and speeches; all of which fall outside of this reporting period. Further details will be provided in the next quarterly report.



Source: The Australian Small Business and Family Enterprise Ombudsman's Twitter account

# Advocacy

## Research and inquiries

### Research

#### *Statistical research project*

During the reporting period, work commenced on a research project aimed at providing a statistical overview of small business in Australia. The Ombudsman intends to publish a report shortly which will be a valuable resource for policy discussions involving small business and family enterprise. It is hoped that this report will be the first in a series of statistical overviews of small business to be released by the Ombudsman.

Further details on the outcomes of this research, including a copy of the final publication, will be included in future quarterly reports.

### Inquiries

No formal inquiries have been commenced during the relevant period. However, scoping activity has been done which will assist in the use of the power to conduct inquiries going forward.

In particular, formal consultation on the use of the Ombudsman's advocacy agenda (discussed above), is expected to be a crucial feed for the future use of the power to conduct inquiries.

Where the Ombudsman has formed a view that legislation, policies or practices have an adverse impact on small business, such views may be the proper basis for a formal inquiry to ascertain the extent of the problem and canvass solutions. An example of such a topic is business to business payment terms, discussed below.

## Legislation, policies and practices with an adverse impact on small business

### Road safety and minimum rates for owner-drivers in the trucking industry

During the reporting period, the issue of minimum rates for owner-drivers in the trucking industry has been prominent. This follows a decision by the Road Safety Remuneration Tribunal in December to issue an Order that certain minimum rates be charged by owner drivers, with effect from 4 April 2016.

A number of small businesses approached the Ombudsman's office concerned about the effect of this Order on their livelihoods and businesses. Given the small nature of many of the operations, and the impact on the families of these small business operators, at minimum it seemed necessary to provide further time to facilitate transition to a new regime, and/or re-examine the basis for the Order and the role of the Tribunal more generally. The Ombudsman made submissions to that effect to the Road Safety Remuneration Tribunal (see **Attachment A**).

It is noted that after the conclusion of the reporting period, Parliament has voted to abolish the Road Safety Remuneration Tribunal. This outcome will resolve concerns about the adverse impact of the Road Safety Remuneration Tribunal's earlier Order on small business owner-drivers. The Ombudsman supports the decision to ensure that funding is redirected to the National Heavy Vehicle Regulator to improve safety outcomes in the trucking industry.



## **Business to business payment terms**

The issue of business to business payment terms is critical for small business and family enterprise. The Ombudsman has been contacted by small businesses that have been adversely affected by payment terms, and has also noted media reporting of decisions by large companies to extend their standard payment timeframes.

Particularly where a large business is setting lengthy standard payment terms for all their suppliers, there is little opportunity for negotiation and this can have a negative impact on small business' cash flow, and in turn their viability. Hence, the Ombudsman has formed the view that this practice has an adverse impact on small business and family enterprise.

During the reporting period, the Ombudsman wrote to one large company who had been the subject of media reporting in order to better understand the decision to extend the payment period for the company's suppliers.

This type of direct engagement is likely to be an interim measure while the Ombudsman explores support for a formal inquiry. The consultation being undertaken on the Ombudsman's advocacy agenda will be used as one mechanism for exploring such support.

## **Other advocacy functions**

### **Contributions to inquiries into relevant legislation, policies and practices**

During the reporting period the Ombudsman made a submission to the Road Safety Remuneration Tribunal regarding the issue of minimum rates for owner-drivers in the trucking industry (see **Attachment A**). This is discussed further above. In addition to this, the Ombudsman's Office began drafting submissions to the following inquiries:

- Consultation on Government proposals to increase access to company losses as part of the National Innovation and Science Agenda; and
- The Senate Economics Legislation Committee's inquiry into anti-competitive conduct in the retail wine industry, including the role of the Australian Competition and Consumer Commission.

As at the end of the reporting period, these submissions had not been finalised; final copies of these submissions will be provided together with the next quarterly report.

### **Reviewing proposals relating to relevant legislation, policies and practices**

#### ***Access to company losses***

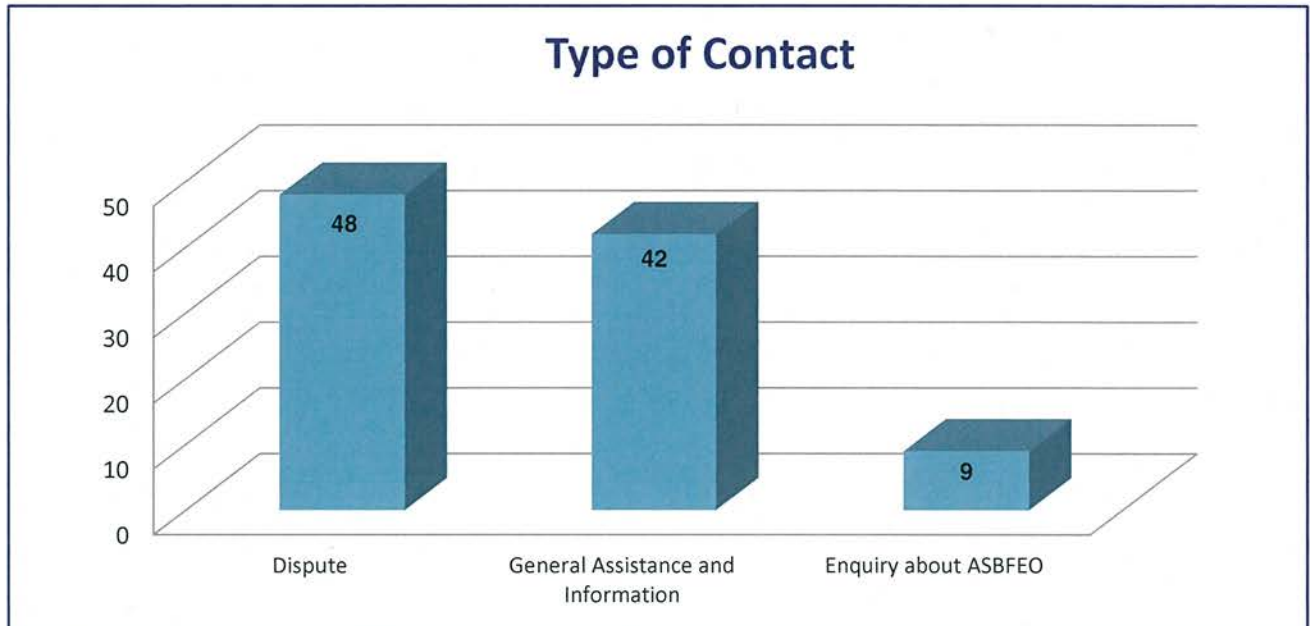
As noted above, during the reporting period work began on reviewing the Government's proposal to increase access to company losses as part of the National Innovation and Science Agenda. The Ombudsman supports this proposal and a copy of our final submission to Government on this issue will be included with the next quarterly report.



# Assistance

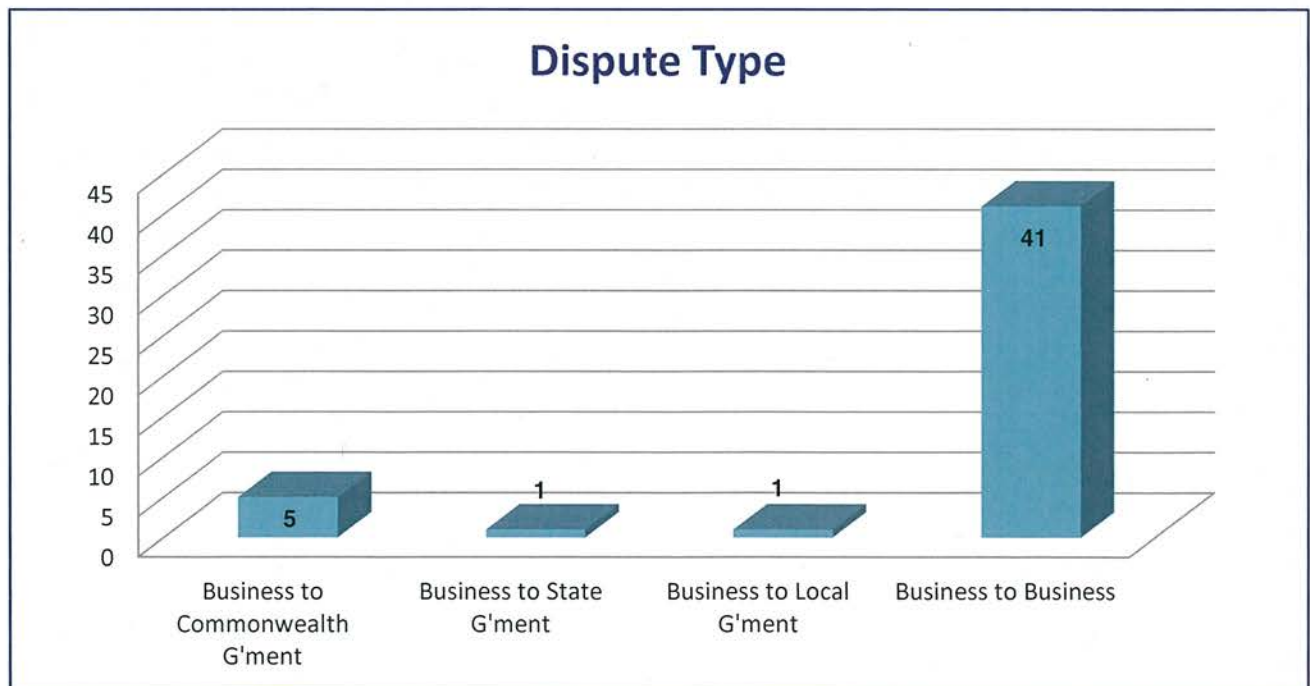
During the reporting period, the Ombudsman received 99 contacts through phone and email. These numbers exceeded expectations of demand for the Ombudsman's assistance for the first few weeks of operation. Demand for the Ombudsman's assistance is growing and we expect this will continue with time. **Figure 1** represents a breakdown of these contacts.

**Figure 1**



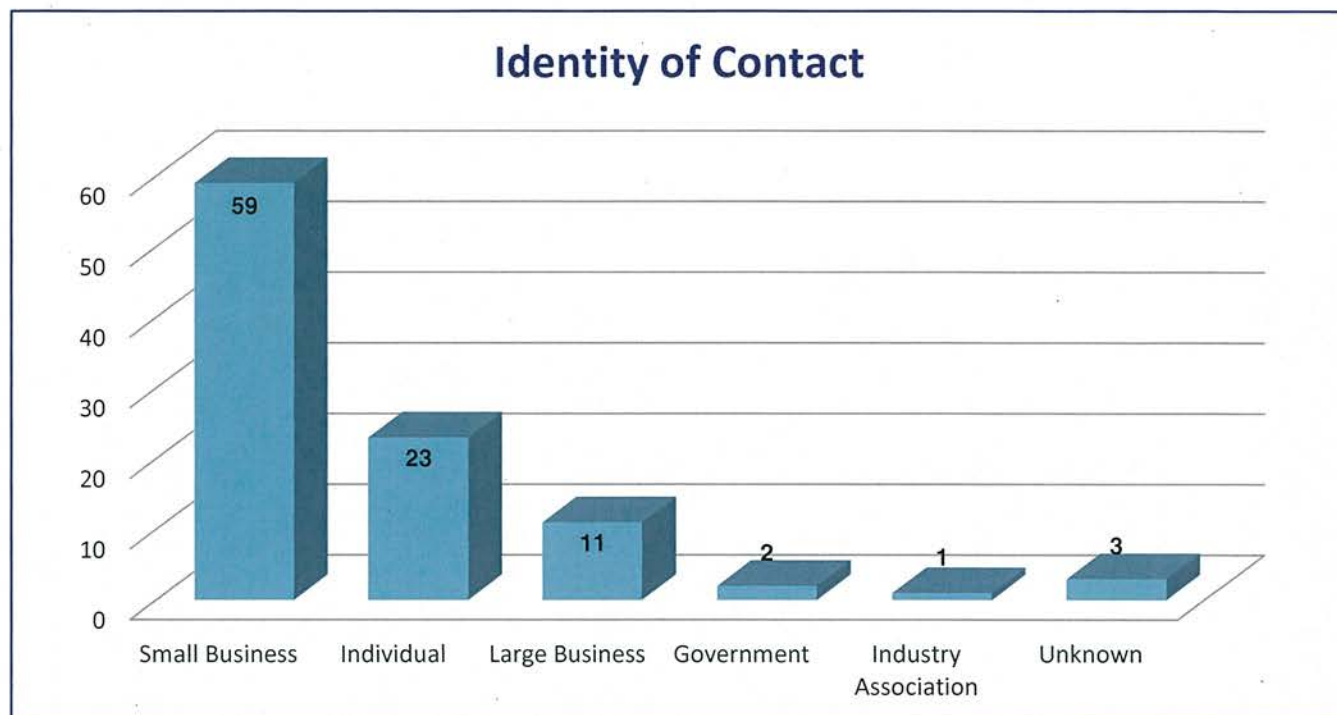
As will be seen in **Figure 2**, from the 48 dispute contacts that the Ombudsman received, the majority were in relation to business to business disputes, followed by disputes with a Commonwealth Government Agency.

**Figure 2**



**Figure 3** identifies who is contacting the Ombudsman – the majority of the contact is made by small business owners. The Ombudsman also received a number of consumer complaints which were referred to either the ACCC or the Fair Trading office in the relevant State.

**Figure 3**



Of the 99 phone and email contacts that were made to the Ombudsman in the first quarter, 32 per cent were referred to the relevant State Small Business Commissioner as they were state based matters, and 28 per cent were resolved by the ASBFEO.

**Figure 4**

