



# Quarterly report

**Australian Small Business and  
Family Enterprise Ombudsman  
Quarter 3 – 2017**

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## Delivering change for small business and family enterprise operators

The independent legislative review into our Office revealed we're on the right path, undertaking our advocacy function highly effectively and filled a gap at the Commonwealth level. Part of this work involves working closely with government departments to implement recommendations regarding early engagement on policy development and legislation that impacts the small business and family enterprise sectors.

I'm glad to see the government is implementing a key recommendation from our Small Business Loans Inquiry – the Australian Financial Complaints Authority (AFCA) will be established as a one-stop-shop to help small businesses resolve disputes with banks.

We're aiming to raise the profile of the office and directly engage with more small businesses. Our recent policy forum was the first of many, bringing small business organisations together to develop a common position on issues of mutual interest.

We made submissions to various inquiries and reviews on subjects including:

- Competition in the Australian financial system;
- Business registry services;
- Establishment of the Australian Financial Complaints Authority.

Months of hard work have led to the big four banks agreeing to specific changes with ASIC to eliminate unfair terms from their contracts for their small business customers.

We're drawing closer to finalising our National Payment Transparency Register. The ASBFEO team invited signatories of the Australian Supplier Payment Code (Code) to participate in a survey and list their company on the Register. I look forward to sharing our progress in the next report.

**Kate Carnell AO**  
**Australian Small Business and Family Enterprise Ombudsman**

## Summary of recent key activities

### Outreach

- Media interviews on topics including: access to finance for small business; National Family Business Day; penalty rates; Amazon Marketplace; energy costs; streamlining of small business registrations; financial dispute resolution services, unfair contract terms.
- The Office has attended small business roadshows with the Minister, ATO and ACCC in New South Wales, the Northern Territory, South Australia, Queensland and Victoria.

### Advocacy

- The initial planning on the National Payment Transparency Register, a central action item from our Payment Times inquiry, is complete. This stage considered a range of models with the first stage posting information on the ASBFEO website as a static report. The first stage is inviting Australian Supplier Payment Code signatories to participate.
- Members of the advocacy team have represented the Office at a number of Parliamentary Committees including the House of Representatives Standing Committee on Taxation and Revenue looking at Taxpayer engagement; the Senate Select Committee on Lending to Primary Production Customers and the Senate Standing Committee on Economics looking at the establishment of the Australian Financial Complaints Authority.

### Assistance

- 828 contacts received during the quarter (in addition to contact made directly to the Advocacy function), representing a 14 per cent increase from the previous quarter.
- The majority of contacts (74 per cent) continue to be requests for assistance with resolving disputes. Payment, contract, fair trading/competition, financial services provider and general business-to-business disputes continue to dominate the requests for assistance with disputes.

# Next Steps

## Outreach

An online National Payment Transparency Register is being developed to publish the payment terms and practices of large corporations and multinationals operating in Australia. We will continue our social media engagement on Facebook, Twitter, LinkedIn and will develop and maintain a fortnightly video update from the Ombudsman via YouTube to raise awareness of the Office and the current issues affecting the small business sector.

## Advocacy

We will commence the first phase of our next self-initiated inquiry looking at pathways for small business to settle disputes. This will focus on consultation with stakeholders and a survey of small business. In addition, we will seek to finalise several of our research reports including our report into Government Procurement and our report on the Fintech industry.

## Assistance

We continue to develop our list of mediators and are meeting with applicants over the next quarter. We are examining ways which we can improve the dispute resolution information and tools available to small business and family enterprise on our website and alternative channels of communication.

# Outreach: Speaking up for—and reaching out to—small business

## Awareness and Education

The Ombudsman continued to engage with the community, providing keynote addresses and contributing in panel discussions to explain and promote the ASBFEO's role in assisting and advocating on behalf of small business and family enterprise.

The Ombudsman promoted the Office at over 40 Government and external events, including the Small Business Minister's Roadshows, travelling to five states to speak with small business operators.

The major issues small business operators raised with the Ombudsman were around payment times, the rising cost of energy and unfair contracts.

The Ombudsman attended 25 meetings with the Government on behalf of small business and family enterprise; gave 15 speeches during panel and guest speaking roles; and had over 55 media interviews (radio, TV and print).

## Quick stats 1 July – 30 September 2017



**1,055 likes**  
**127 posts**  
**581 engagements**  
(reactions, comments, shares)



**799 followers**  
**95 tweets**  
**539 engagements**  
(quotes, retweets, likes, replies)

## Communication Channels



**1,970 newsletter subscribers, with an average open rate of 35%.**



**60+ interviews with media**



**22 media releases with an above average open rate of 25%.**



**This financial year, we've had 19,401 visits to the ASBFEO website.**

**Last financial year, there were 68,215 visits. Since the website's inception, a total of 94,395 visits.**

## Keynote Appearances



**Kate Carnell AO at the COSBOA annual conference, where she discussed banks, small business loans and finance.**  
25 August 2017



**The Ombudsman addressing the Australian Restructuring Insolvency and Turnaround Association (ARITA) National Conference.**  
9 August 2017

# Advocacy : Providing a voice for small business on policy issues

## Small business loans: Continued progress with industry



Good news! After sustained pressure and attention, progress continues to be made on the recommendations from our small business loans inquiry. The ABA supported in principal each of the 11 recommendations made to the industry with most on track to be completed by the close of 2017. The significant difference being that loan contract changes will only affect loans of less than \$3 million, although we will continue to push for a loan cap of \$5 million.

We welcomed ASIC's decision to established an Office of Small Business in their organisation and have continued to monitor the progress the Department of Agriculture is making towards a nationally consistent farm debt mediation schemes.

### **Working together: MURRAY REVIEW**

We had excellent engagement with the Murray Review into Security of Payments Legislation. We provided the review with a specific extract of payment times survey data for the building and construction industry and extracts of relevant submissions we received.

## *Legislation, policies and practices impacting small business:*

Over the last three months, the Advocacy team contributed twelve submissions to inquiries and consultations which raised issues affecting small business and family enterprises. We represented small business issues at the ACCC New Car Retailing roundtable in September 2017.

## Payment Times: National Payments Transparency Register

Our initial work on the National Payment Transparency Register has concluded. This first phase considered a range of models including a self-reporting module for businesses to identify their good payment programs and practices; a module reviewing government payment practices (all levels of Government); and a module to review compliance and accuracy of the voluntary Prompt Payment codes of the Business Council of Australia and the Victorian Government.

Initially the information will be posted on the Ombudsman's web site as a static report. The first stage commenced in October with invitations to register being sent to 16 large corporations. These are respondents to the Inquiry that are also signatories to the Australian Supplier Payment Code



## Engaging Big Business on Unfair contracts legislation



ASBFEO in collaboration with ASIC reviewed the standard form contracts of the four major banks. Best of all, National Australia Bank has released its new standard form contract which is in plain English, limits events of default, sets notice periods and does not allow the bank to make unilateral changes. The remaining three majors have indicated they will have new standard form contracts in effect from December 2017

With the impending arrival of Amazon Marketplace, ASBFEO wrote to Amazon to raise their awareness of UCT for the local contracts. This has led to Amazon engaging with our office on this issue.

## UPDATES



A draft report has been prepared for our FINTECH survey with key stakeholders. Expected to be finalised next quarter.



Our research into Government Procurement is reaching a conclusion and has included an industry roundtable with the Department of Finance on the challenges in the field.



Our joint Advocacy/Assistance investigation has finished its fieldwork. We are meeting with stakeholders prior to drafting a final report.

# Assistance : calls for help to settle disputes are increasing



## East Coast states are the main source for ASBFEO contacts

**NSW, Queensland and Victoria represent the vast majority of contacts**

Queensland	26%
New South Wales	22%
Victoria	19%
Western Australia	11%
South Australia	9%
Australia Capital Territory	8%
Tasmania	4%
Northern Territory	1%



## Business to business disputes continue to be the majority of disputes referred to the Ombudsman

In the reporting period, the Ombudsman received 614 contacts requesting help with resolving disputes. This represents a 27 per cent increase on the previous reporting period.

Of these requests, the vast majority (577) of requests related to business to business disputes. Business to Commonwealth government represented the next highest category of disputes by type (19 requests).

## Resolution Pathways:

Referred to appropriate agency	44%
Referred to state Small Business Commissioners	21%
Necessary information provided	10%
In progress with the Ombudsman	8%
Resolved by the Ombudsman / referred to mediation	3%
No further action	14%

*Referrals to the most appropriate agency are the major resolution method for matters*  
*24 matters were referred to mediation during the quarter.*

## Small business owners and individuals constitute the bulk of contact with the Ombudsman

Of the 828 contacts to the Ombudsman in this reporting period, the vast majority (609) were from small businesses themselves. The majority of the remaining contacts identified as 'individuals', though it is thought that many of these were in fact sole traders and hence representing small businesses as well. These trends are consistent with the previous reporting period.

Small Business	74%	Industry Assoc.	1%
Individuals	21%	Other	4%

## Contacts up 14% on last quarter and disputes still dominate contacts to the Ombudsman



During the reporting period, the Ombudsman received 828 contacts via phone, email and web inquiry (this is in addition to the contacts made directly to the Advocacy function concerning that function).

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**Other Useful Contacts****NSW Small Business Commissioner**

T 1300 795 534  
E [we.assist@smallbusiness.nsw.gov.au](mailto:we.assist@smallbusiness.nsw.gov.au)

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**Australian Competition and Consumer Commission**

T 1300 302 021  
W [www.accc.gov.au](http://www.accc.gov.au)

**Fair Work Ombudsman**

T 1300 799 675  
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**Australian Securities and Investment Commission**

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W [www.ato.gov.au](http://www.ato.gov.au)