



Australian Government



Australian
Small Business and
Family Enterprise
Ombudsman

Quarterly report

Q1 [January-March] 2020

Australian Small Business
and Family Enterprise Ombudsman

Message from the Ombudsman



The first quarter of 2020 has been disastrous for Australian small businesses. A horror bushfire season, closely followed by the COVID-19 health crisis has left many small and family businesses struggling to survive and others forced to close their doors.

My office has been inundated by small businesses needing

assistance and information about what support measures are available as well as requests for advocacy by sections of the small business community such as sole traders.

Much of our work in the past few months has been directly related to these events and ensuring small businesses of all shapes and sizes are supported, so they can stay afloat while we wait for this very difficult time to pass.

Throughout much of January and February, we worked with the Department of Industry and state Small Business Commissioners on bushfire relief measures. It was important these remained targeted and accessible to small businesses in affected regions.

In the aftermath of the bushfires, I attended a roundtable discussion at Parliament House with small business representatives and it is clear the federal government responded to their needs with a suite of measures to help viable small businesses get back on their feet. Those bushfire-hit businesses that may have been beginning to recover, were then dealt an even greater blow by COVID-19.

As the Coronavirus health crisis developed, my office worked with Government to develop support and advice for impacted small businesses.

While the government's support package, including the \$130 billion JobKeeper package will play a critical role in helping small businesses survive the coming months, there has been a lot of confusion in the small business community, particularly around what support measures there are and their eligibility. My office has produced a number of communication materials around this including explainer videos, articles and webinars to answer some of those questions.

As small businesses dealt with an onslaught of challenges brought on by COVID-19, a major problem was delayed payment times by big businesses to their small business suppliers.

My office saw increasing evidence of this during March, as we finalised work on our Supply Chain Financing Review and continued to provide input to the Payment Times Reporting framework. In releasing our Supply Chain Financing position paper in early February, we noted the failure of voluntary codes of practice to drive any meaningful change among big businesses in relation to payment times. It also flagged our view that legislation may be the only way to ensure 30-day payment times are adhered to.

Finally, we know that there has never been a more difficult time to be in business and the toll this is taking on the mental health of the small business sector is huge. We have been working closely with Beyond Blue to develop tailored resources for small businesses affected by COVID-19 via our My Business Health web portal. This includes everything a small business or sole trader needs to know from practical steps to keep the business afloat, to mental health support. I would encourage you all to visit My Business Health over the coming months and seek support if you need it.

Kate Carnell AO

Australian Small Business and Family Enterprise Ombudsman

Key activities

OUTREACH

- Major media appearances: Channel Nine News, A Current Affair, The Drum, ABC Breakfast, SBS News, Op Ed in The Australian and included in an International Women's Day video compilation distributed on LinkedIn.
- Key media topics: COVID-19, bushfire recovery, payment times, supply chain finance, small business support measures.
- Events: While many presentations were cancelled due to COVID-19, the Ombudsman participated in four events and a number of webinars and meetings held via online platforms.

ADVOCACY

- Worked with the Department of Industry and State Small Business Commissioners to ensure that bushfire relief remains targeted and accessible to small businesses in affected regions.
- Worked with Government to develop support and advice for businesses affected by COVID-19.
- Delivered a position paper in the Supply Chain Financing Review (commenced October 2019).
- Continued to provide input into the development of the Payment Times Reporting Framework.
- Completed surveying small businesses about their experiences with the insolvency system for our Insolvency Practices Inquiry.

ASSISTANCE

- Received 1,897 contacts – 28% were requests for information, up from 20% last quarter.
- 160 contacts under the Franchising Code of Conduct.
- Main issues - payment disputes (30%) and contract issues (27%). These include disputes stemming from the impacts of COVID-19, refusal of banking services to certain industries, online digital platforms, unfit office technology solutions, poor small business lending practices, linked finance contracts and unfair contract terms.
- Work continued to upgrade the CRM, to allow for a more effective case management system and efficient use by all staff.

Outreach: communications and stakeholder engagement

- Representing Australia's small and family businesses, the Ombudsman attended 23 meetings with government and engaged with 26 key external stakeholders.
- Media interest in small business issues spiked following the bushfires and as COVID-19 developed resulting in 64 media interviews of the Ombudsman, which resulted in 1,859 media mentions across TV, radio, print and online – representing a significant increase in media presence.
- Eight opinion pieces and three small business success stories were developed and published on the ASBFEO website.
- The Ombudsman recorded 10 videos about COVID-19 and gained 110 YouTube followers.
- The Ombudsman was invited by LinkedIn to be a part of its Influencer program, giving the role greater weight as a trusted source of information among the small business sector.
- Implemented a My Business Health Campaign following the launch of the portal on 10 December 2019. During this reporting period there were 6,871 visits to the portal.



Ombudsman Kate Carnell hosted the Small Business Commissioner's meeting in Canberra on 13 March 2020.

Traditional and Social Media



28 media releases



2,831 newsletter subscribers



2,967 followers
103 posts



Ombudsman
1,614 followers | 82 tweets
ASBFEO
1,732 followers | 100 tweets



1,859 mentions



55,353 visits to website



11 videos published
250 subscribers

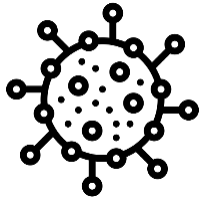


Ombudsman
11,197 followers | 58 posts
ASBFEO
1,407 followers | 71 posts

Advocacy: a voice on policy and legislation

COVID-19 Support

- The Ombudsman has been working across state and federal governments to provide advice on small business relief packages during the COVID-19 response.



- Checklists and information sheets have been produced by the office, to provide clear information to small business owners to assist them to navigate current processes.
- Payment times continued to be an issue for small business suppliers to larger businesses. Small businesses complained larger businesses were pushing out payment times 'due to COVID-19.' The Ombudsman has engaged with several businesses, urging them to pay small business suppliers on time.

Bushfire Recovery

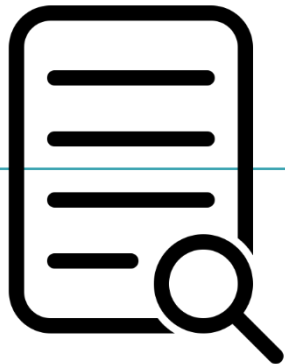
- The Ombudsman has been working closely with key agencies including the Department of Industry, the ATO, the NSW, Victorian and South Australian Small Businesses Commissioners, along with the Queensland Small Business Champion, to ensure bushfire activity is targeted, timely, and relevant.
- We have been engaging with small businesses across the country, in concert with our colleagues at the Commissioners' offices, to identify key issues and communicate those to government.
- There has been a strong focus on communicating grant eligibility criteria and other government support to small businesses that may not have ready access to information.
- The Ombudsman is also working on various targeted recovery programs, and engaging with many large companies to ensure support they are offering is appropriately targeted.



Advocacy: a voice on policy and legislation

Insolvency Practices Inquiry

- Following the launch of the Insolvency Practices Inquiry in October 2019, work has continued in conjunction with our expert Reference Group.
- The discussion paper released in December 2019 received 21 formal responses, and the office has been working with a number of small businesses to develop formal case studies.
- In excess of 300 small businesses have responded to our survey asking for information on their experiences with the insolvency system.
- The final report is expected to be released in April.



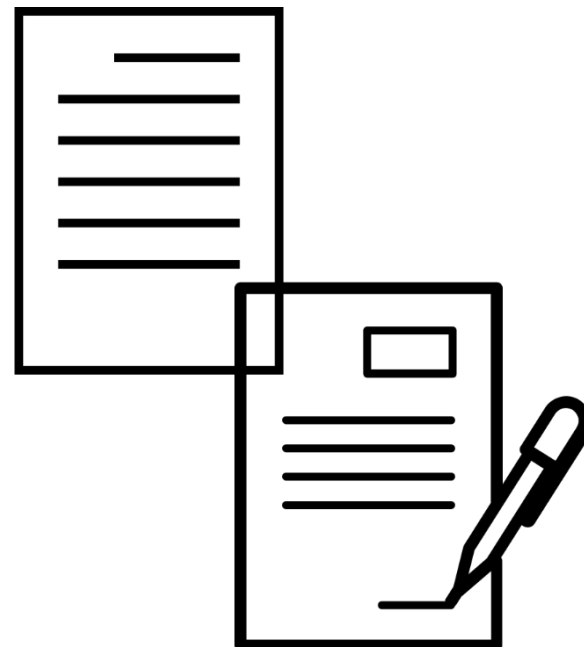
Review of Supply Chain Financing

- A review of the developing industry of supply chain financing (SCF) was launched in October 2019 to examine the ways in which small and family businesses can use the product to manage cash flow and fund growth.
- The interim Position Paper was released in February 2020 with 19 responses received.
- A major finding was that while SCF is a valid and useful business tool, the behaviours of large businesses that offer SCF to small suppliers is poor, particularly in relation to payment times.
- The Position Paper also noted the failure of voluntary codes of practice to drive any ongoing behavioural change amongst large businesses.
- The final report will be released in April.

Advocacy: a voice on policy and legislation

Major input into policy, inquiries and legislation

- Contributed to a range of consultations around the payment of required amounts by business from employees wages, including superannuation and child support.
- Provided advice on the implementation of the Financial Accountability Regime.
- Continued our advocacy for the establishment of an Australian Business Growth Fund and provided evidence to a Senate Committee regarding the Bill.
- Engaged with discussion papers around the operation of workplaces, including one on co-operative workplaces, and one on unlawful underpayment of employees remuneration.
- Provided significant feedback to the Regulatory Impact Statement on Enhancing Unfair Contract Term Provisions.



Submissions

Australian Financial Industry Association	1
Attorney-General's Department	2
Australian Taxation Office	1
Australian Law Reform Commission	1
Department of Education, Skills and Employment	3
Department of Industry, Science, Energy and Resources	2

NSW Government	1
Parliament of Australia	6
Productivity Commission	1
Tax Practitioners Board	1
Treasury	10
TOTAL	29

Assistance: supporting SMEs

1,897 contacts received via phone, email, web inquiry.

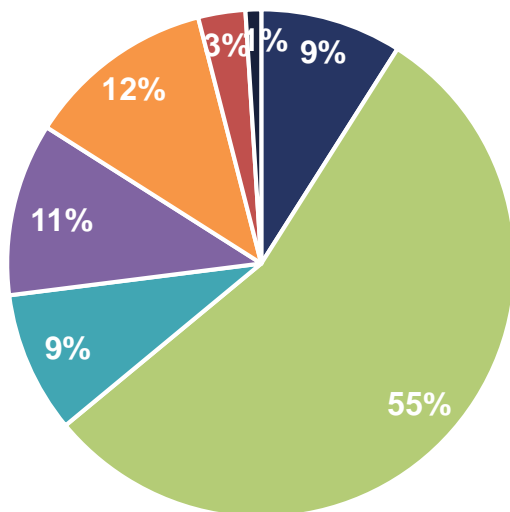
The majority of the direct contacts were business to business disputes.

87%
of disputes were business to business

6%
of disputes were business to government

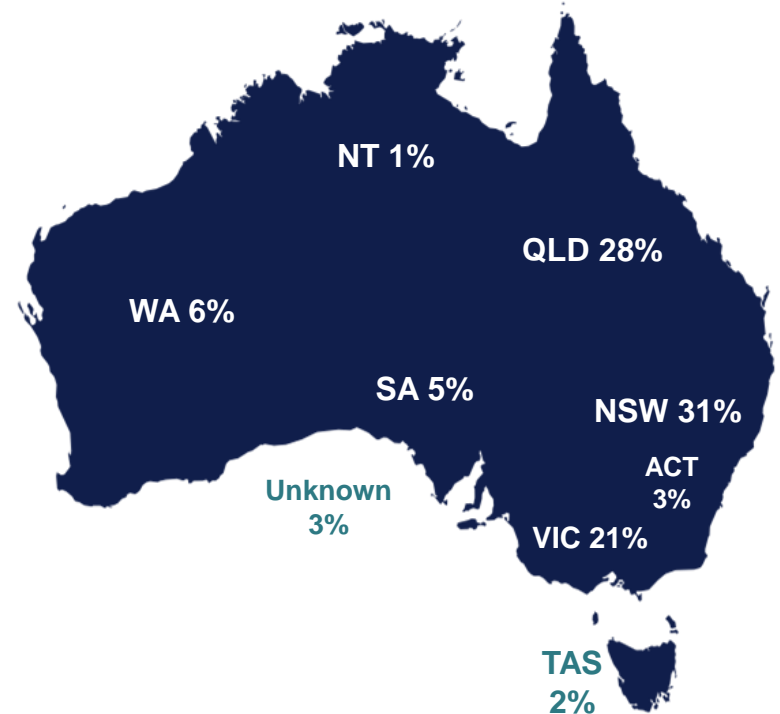
86%
of contacts came from small and family business owners

Resolution Pathways

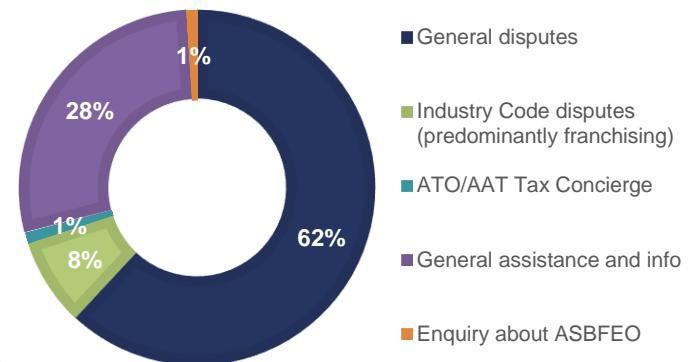


- In Progress
- Info Provided, No Further Action
- Referred to State Business Commissioner
- Referred to Appropriate Agency
- Triaged by ASBFEO Call Centre & referred to case management
- Direct action (Resolved by ASBFEO)
- Mediation

Contacts by state/territory



CONTACTS FOR ASSISTANCE



Assistance: supporting SMEs

Industry Codes | Franchising–Horticulture–Oil–Dairy

- On 1 January 2020 our office was given a new function, offering assistance to small and family businesses for disputes that fall within the mandatory Dairy Code.
- In our role assisting with disputes that fall under the Franchising Code of Conduct, our case managers have:
 - answered 162 enquiries under the Franchising Code
 - acted on 69 cases related to the Franchising Code, of which 58 were franchisee initiated and 11 were franchisor initiated.

- We use qualitative and quantitative mechanisms to assess the mediation process. To date, key findings include:



61%
resolved at
mediation



97%
of parties acted
in good faith



\$2,859
average cost
of mediation

Small Business Tax Concierge Service

- Since the Small Business Tax Concierge Service commenced on 1 March 2019, we have assisted 63 small businesses with their disputes with the ATO by helping the small business owner understand the new AAT process and provide information on costs and timelines.
- The Small Business Tax Concierge Service includes one hour with an experienced small business tax lawyer at a cost of \$100 to the small business owner. Once an appeal is lodged with the AAT, the small business owner is offered another hour with the lawyer free of charge.



Next steps

OUTREACH

- Implement a campaign to promote the new dedicated COVID-19 section of the My Business Health web portal.
- Continue to produce videos and develop materials to support small businesses impacted by COVID-19.
- Publicise the release of the Supply Chain Financing Review.
- Support work on the Insolvency Practices Inquiry.
- Drive small business engagement via interactive webinars and other online platforms.

ADVOCACY

- Release the Review of Supply Chain Financing.
- Release the findings from the Insolvency Practices Inquiry.
- Continue to advocate for small and family businesses to ensure they are supported through the COVID-19 crisis.
- Develop a plan for small business regeneration post COVID-19.

ASSISTANCE

- Further improve the ADR feedback system relating to the mediation and other processes to help inform our advocacy and other work, and improve the effectiveness of ADR.
- Work closely with the Advocacy team to identify emerging trends for further research.
- Refine the ADR process under the Dairy Code, including processes that enable small businesses to access both mediation and arbitration under the Code.
- Provide assistance and clarity for disputes and mediation process under the new SME Commercial Leasing Mandatory Code of Conduct

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