



Australian Government



Australian  
**Small Business** and  
**Family Enterprise**  
Ombudsman

# Quarterly Report

Q1 [January-March] 2021

Australian Small Business  
and Family Enterprise Ombudsman

# Message from the Ombudsman



It's an honour to have been appointed Australian Small Business and Family Enterprise Ombudsman. I believe Australia should be the best place to start and grow a business and that's what I will be focusing on throughout my 5-year term.

I want to acknowledge my predecessor Kate Carnell, who worked tirelessly for small and family businesses and made a real difference through her contribution. Big shoes to fill.

The year got off to a busy start for my office. We released our report "A tax system that works for small business" including a number of recommendations related to the ATO's interactions with small business.

The report focuses on small, achievable changes to the tax system that would make a big difference to small businesses.

Recommendations include waiving interest and penalties for a first offence, restricting ATO review and audit periods to one year when a small business is using an accredited tax or BAS agent and immediately ceasing debt recovery action against a small business that is seeking a review of its tax position, regardless of whether the dispute is before the AAT.

Importantly, our report makes a number of recommendations to take the unnecessary burden off the shoulders of small businesses. After all, the tax system should be easy for small businesses to get right and hard to get wrong.

Now, more than ever, it is critical to deliver a tax system that works for the small business sector and will allow them to achieve greater productivity, return to profitability and grow employment.

It has been very encouraging to see the ATO's swift action to implement a key recommendation in our report by making permanent its small business independent review service. This will help support small businesses when they disagree with an ATO audit position. It's a substantial step in the right

direction in ensuring small businesses get a fair go.

Mental health has been another focus for my office, with the redevelopment of our My Business Health web portal to fully integrate Beyond Blue's *New Access for Small Business Owners* program.

Small business owners experiencing stress can now connect to this tailored mental health support service by visiting My Business Health.

*NewAccess for Small Business Owners* offers free one-on-one telehealth sessions with specially trained mental health coaches providing evidence-based advice on strategies for managing stress.

The program provides coaches that have experience in small business. Participants in this program will be able to talk to someone who understands the challenges of running a small business.

My office also collaborated with Family Business Australia to develop a free online guide to succession planning.

The Introductory Guide to Family Business Succession Planning provides a step-by-step guide to passing the family business on to the next generation.

Our succession planning guide provides a great starting point for families in business to consider the what, why and how of transitioning the business to the next generation.

Finally, it was great to meet with the new Minister for Employment, Workforce, Skills, Small and Family Business the Hon Stuart Robert so soon after his appointment to talk about supporting small and family businesses and to introduce him to my dedicated team.

I also thank former Minister for Employment, Skills, Small and Family Business Michaelia Cash for her commitment to the small business sector over the past two years.

**Bruce Billson**

Australian Small Business and Family Enterprise Ombudsman

# Key activities

## OUTREACH

- Major media appearances and mentions: The Australian, AFR, Sky News, SmartCompany, 2GB, 3AW, Money News with Brooke Corte.
- Key media topics: PPSR, tax, succession planning, access to finance, digitisation, franchising reforms, mental health, My Business Health, New Access for Small Business Owners program and COVID support and recovery.
- Events: The Ombudsman participated in 11 webinars/events, including the Small Business Champion Awards, AFR Banking Summit and Australian Credit Forum.

## ADVOCACY

- Continued working with Government to support small business through COVID-19, including issues around coverage and availability of support measures.
- Released a report into a tax system that 'works' for small businesses, which includes a range of recommendations to make compliance easier.
- Provided ongoing input into the delivery of the Payment Times Reporting Framework.
- Released a report on the operations of the Personal Property Securities Register, and how it could be delivered to better support small business use.
- Provided continued feedback on franchising reforms and how best to support small businesses operating in this sector.
- Continued to field requests for advice and support in relation to inability to secure insurance in certain sectors.
- Consulted widely on barriers to small business trade, and on how cost-recovered regulation impacts small businesses differently to their larger counterparts.
- Continued work on government procurement activities and how these could better support domestic small businesses.

## ASSISTANCE

- Received 1,731 contacts – 85% were requests for assistance from small and family businesses.
- 101 contacts relating to the Small Business Concierge Service which provides assistance to small businesses that have received an ATO negative decision letter.
- COVID-19 influenced many of the requests for assistance received from small businesses, with concerns about access to government support measures, payment or contract negotiations for affected parties and mental health issues due to impact of COVID-19.
- Main issues – ATO negative decision letter (particularly relating to Cash Flow Boost and JobKeeper), Codes (predominantly franchising disputes), payment disputes, contract disputes, lease disputes.



# Outreach: communications and stakeholder engagement

- Representing Australia's small and family businesses, the Ombudsman attended 27 meetings with government and engaged with 60 key external stakeholders.
- Ran a campaign to introduce and welcome new Ombudsman Bruce Billson.
- Continued a national media and marketing campaign to promote the office's role in providing assistance to those in dispute under the Horticulture, Dairy, Oil and Franchising Codes of Conduct. The office has placed ads in Australian Fruit Grower magazine, Citrus News magazine, Vegetables Australia, Fruit and Vegetable News and The Australian Dairy Farmer. The social media campaign has attracted over 162,547 views and resulted in more than 7,180 clicks for more information.
- The Ombudsman participated in 76 media interviews, which resulted in 1,507 media mentions across TV, radio, print and online.
- Three opinion pieces were published on LinkedIn. Five videos were published on YouTube.
- Appeared in The Australian, AFR, Sky News, SmartCompany, 2GB, 3AW, Money News with Brooke Corte.
- Launched the redeveloped My Business Health portal which provides a better user experience for small and family businesses and a direct link to Beyond Blue's *NewAccess for Small Business Owners* program. During this reporting period there were 12,657 visits to the portal.



Ombudsman Bruce Billson with  
Minister the Hon Stuart Robert MP

## Traditional and Social Media



24 media releases



3,069 newsletter subscribers



5,459 followers  
51 posts



1,507 mentions



79,759 visits to website



6 videos published  
416 subscribers



Ombudsman  
2,023 followers (Kate)  
7,433 followers (Bruce)  
53 tweets  
ASBFEO  
2,002 followers | 63 tweets



253 followers  
12 posts

Ombudsman  
17,167 followers (Kate)  
2,766 followers (Bruce)  
74 posts  
ASBFEO  
2,959 followers | 54 posts

# Advocacy: a voice on policy and legislation

## A tax system that works for small business

- The Ombudsman's most recent research paper, 'A tax system that works for small business' was released on 3 March 2021.
- The report focuses on ways to make small changes to our tax system to make it easier for small businesses to navigate.
- The majority of changes recommended are administrative in nature, and would not require legislative change to implement.
- Recommendations include waiving interest and penalties for first time offences, restricting ATO review and audit processes to one year when an accredited tax or BAS agent is used, and immediately ceasing debt recovery action against a small business when they are seeking a review of their tax position.
- The report also proposes ways to make compliance easier, including by allowing small businesses to opt-in to GST being collected and remitted at source, as well as income averaging measures.



## Personal Property Securities Register

- The research paper following a review of the Personal Property Securities Register (PPSR) was released on 1 February 2021.
- The paper found that there is an urgent need to overhaul the PPSR, in order to make it accessible to small businesses.
- Following on from our work on the insolvency system, it was clear that small businesses are not adequately securing their assets, which leads to losses in the event of an insolvency.
- Small businesses owners were found to be largely unaware of the PPSR, and the need to secure their assets and business loans on the register.
- Small business owners struggling to access finance are encouraged to appropriately register their assets, to provide greater certainty over ownership and provide clarity for their lenders.
- The report provides a range of recommendations to make the PPSR more user-friendly for small businesses, including encouraging small business cloud accounting platforms to provide regtech solutions such as pop-up reminders to small business owners who record a personal loan to the balance sheet, alerting them to ensure relevant documentation is registered on the PPSR.

# Advocacy: a voice on policy and legislation

## Impact of cost-recovered regulation

- The Ombudsman regularly receives feedback from small businesses who feel that cost-recovered services are levied disproportionately and negatively affect them.
- We are currently working with a number of government agencies that recover costs for services provided to small businesses to better understand how these costs are calculated, and how those agencies ensure that small businesses are not disproportionately charged.
- Feedback is also being sought from industry associations and key small business groups.



## COVID-19 Recovery

- The Ombudsman has been working closely with a number of government agencies to ensure a smooth transition off wage subsidies and other support measures for small businesses at the end of March.
- A number of additional educational resources have been developed to provide support to small businesses seeking to transition their business away from government support measures.
- The Ombudsman is also working closely with a number of recovery-impaired sectors to ensure their concerns are effectively communicated to government.

## Barriers to trade

- The Ombudsman is currently conducting research into barriers to trade for small businesses, including both in importing and exporting goods and services.
- Extensive stakeholder consultation is being undertaken to develop a clear picture of 'pain points' for small businesses looking to access international markets.

# Advocacy: a voice on policy and legislation

## Major input into policy, inquiries and legislation

- Provided feedback to the Productivity Commission on right to repair.
- Engaged with the Treasury on options to accelerate e-invoicing adoption by businesses.
- Supported the Queensland Small Business Commissioner in a submission to the Queensland Productivity Commission around the NDIS market in that state.
- Provided economic reform proposals to Treasury in a pre-budget submission.
- Worked with industry to provide a response to the ACCC's preliminary review of Woolworths' acquisition of PFD Foods.



## Submissions

Australian Competition and Consumer Commission	2
Australian Finance Industry Association	1
Australian Prudential Regulation Authority	1
Australian Securities and Investments Commission	4
Australian Taxation Office	1
Attorney General's Department	2
Customer Owned Banking Association	1
Department of Health	1
Department of Industry, Science, Energy & Resources	1

Department of Infrastructure, Transport, Regional Development and Communications	1
Department of Prime Minister and Cabinet	2
National Transport Commission	1
NSW Government	1
Productivity Commission	2
Queensland Productivity Commission	1
Senate Committees	6
Tax Practitioner's Board	2
Therapeutic Goods Administration	1
Treasury	7
Water Efficiency Labelling Scheme	1

# Assistance: supporting SMEs

1,731 contacts received via:



1,220



390



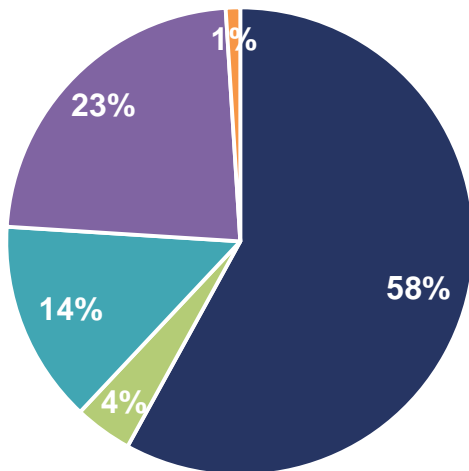
114

43,202  
visits to  
assistance  
website info

560  
small  
businesses  
supported by a  
case manager

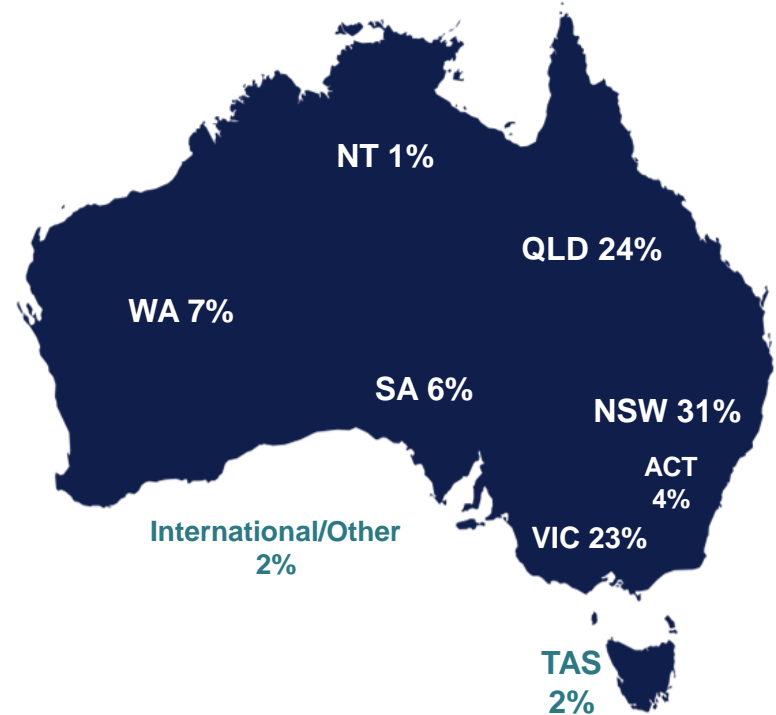
85%  
of contacts came  
from small and  
family business  
owners

## Case Management Resolution Pathways



- Case Management prior to ADR or referral
- Referred to Alternative Dispute Resolution
- Referred to appropriate Commonwealth Agency
- Referred to appropriate state agency including small business commissioners
- Referred to other dispute resolution options

## Contacts by state/territory



## HOW WE HELPED CALLERS TO OUR INFO LINE





# Assistance: supporting SMEs

## Industry Codes | Franchising–Horticulture–Oil–Dairy

- In our role assisting with disputes that fall under the Franchising, Horticulture, Oil and Dairy Codes of Conduct, our case managers have:
  - answered 125 enquiries under the Franchising Code, one enquiry under the Dairy Code and one enquiry under the Horticulture Code.
  - acted on 53 cases related to the Franchising Code, of which 42 were franchisee initiated and 11 were franchisor initiated.
- We use qualitative and quantitative mechanisms to assess the mediation process. To date, key findings include:



**89%**  
resolved at  
mediation



**100%**  
of parties acted  
in good faith



**\$4,008**  
average cost  
of mediation

## Small Business Tax Concierge Service

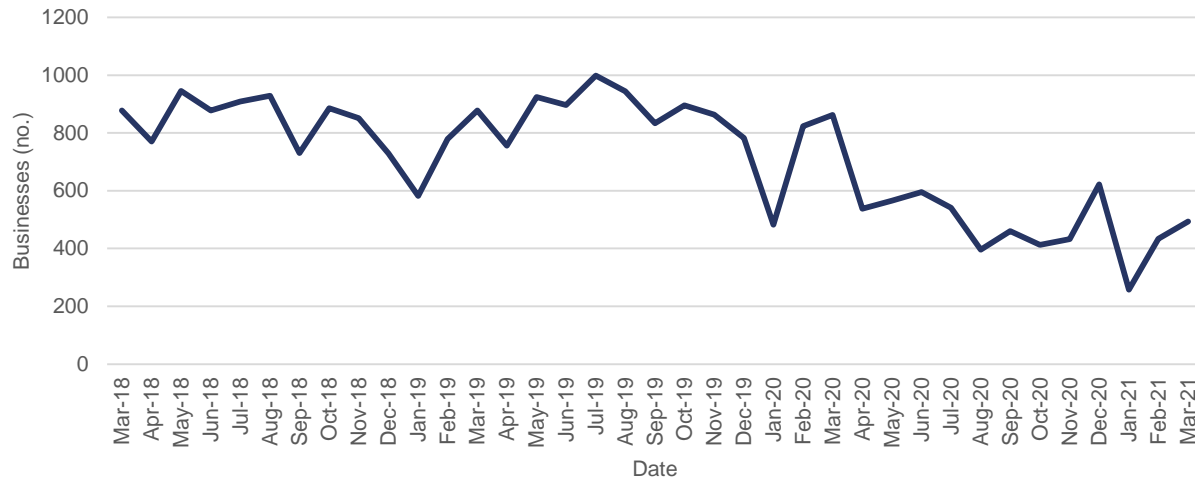
- Since the Small Business Tax Concierge service started in March 2019, we have received 763 enquiries.
- In March Quarter 2021, the Small Business Tax Concierge Service continued to receive requests from many small businesses deemed ineligible for Cash Flow Boost.
- Reasons for ineligibility ranged from new business, change of business structure, business sale and lack of previous tax compliance.

*“I would really like to thank you for your consistently helpful, respectful and valued contributions to my thankfully successful journey.”*

– Small Business Owner

# Stats Snapshot

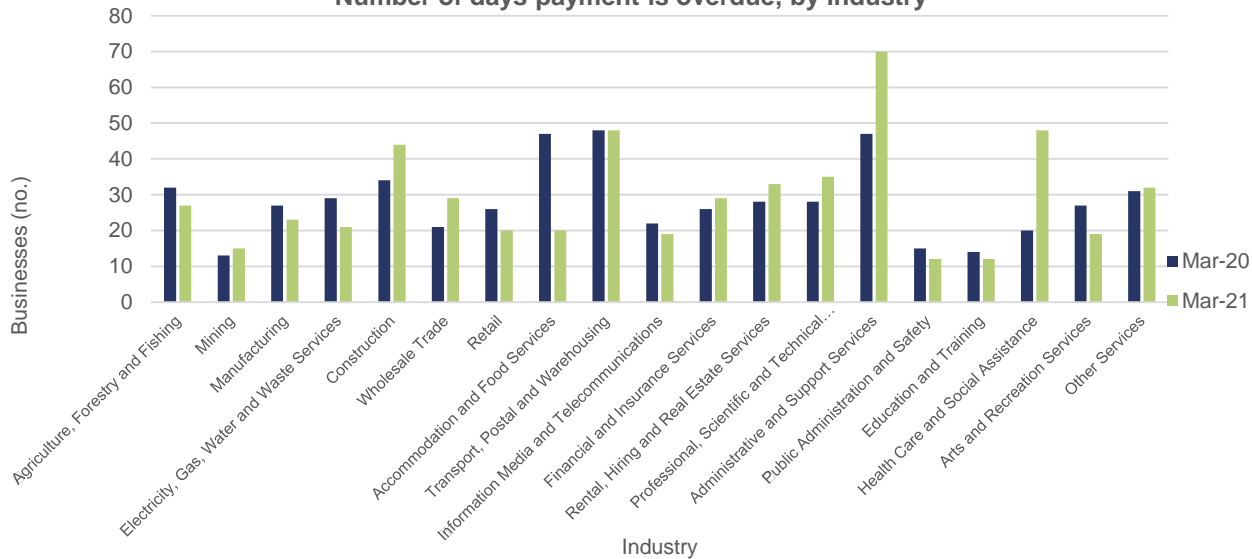
Businesses entering external voluntary administration in Australia



The latest ASIC data shows external administrator appointments in March 2021 are down 57% compared to March 2020. CreditorWatch estimate that in the coming months 3,000 business could be placed into voluntary administration.

Source: CreditorWatch calculations of ASIC data, March 2021

Number of days payment is overdue, by industry



Payment times have increased on average by 1 day between March 2020 and March 2021. The industry with the biggest increase in payment times is the 'Health Care and Social Assistance' industry with an increase of 28 days.

Source: CreditorWatch Industry Payment Times Data, March 2021

# Next steps

## OUTREACH

- Commence a redevelopment of the ASBFEO website, following extensive user testing.
- Continue to promote the My Business Health portal via social media advertising.
- Continue to promote Beyond Blue's *NewAccess for Small Business Owners program*.
- Focus on social media and developing ASBFEO's persona and brand identity.
- Continue to promote awareness about the Horticulture, Dairy, Oil and Franchising Codes of Conduct.
- Support the work of the Advocacy team through media and social media promotion.

## ADVOCACY

- Examine ways to support small and family businesses to digitise effectively, while ensuring appropriate safety measures are in place.
- Looking at ways to support businesses unable to access insurance, and examining the ways this tightening market will affect other business sectors.
- Working with other agencies to deliver promised regulatory change, including the unfair contracts terms regime, and franchising reform.
- Continue our research into barriers to trade and the impacts of cost-recovered services.

## ASSISTANCE

- Further improve the ADR system relating to the mediation and other processes including examining the option for an online ADR management system to streamline the process for participants.
- Work closely with the Advocacy team to identify emerging trends and systemic issues for small businesses for further research.
- Further refine and promote the ADR process under the Dairy, Franchising, Horticulture and Oil Codes of Conduct, including processes that enable small businesses to access both mediation and arbitration under the relevant Codes.
- Explore 'best practice' processes, systems and technologies used by other dispute resolution agencies to improve our approach, case management and data analysis.

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