



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

Quarterly Report

Q2 [April-June] 2021

Australian Small Business
and Family Enterprise Ombudsman



Message from the Ombudsman



The June quarter has been challenging for small businesses, with lockdowns impacting many Australian capital cities.

This outbreak again highlighted the need for greater predictability regarding the support small business and family enterprises can count on receiving and when this support would be activated, under various COVID-containing economic constraints and lockdown scenarios. This

clear framework would be invaluable in helping smaller enterprises and the self-employed navigate and adapt to these challenging times. The September quarter has started with some encouraging news in terms of such a framework with the uplifting of the Commonwealth-State business support partnership and the banking sector announcing its approach to managing small business finance during the current outbreak-containment phase.

There is little doubt this latest wave of lockdowns has been a cause of psychological distress for some small business owners. Recent research released by Xero found almost 7 out of 10 of the 500 small business owners surveyed reported the past 12 months have been more emotionally draining than any other year they've been in business.

Throughout this quarter, my Office has been encouraging small and family business owners to reach out for help if they are struggling to cope. In June, we launched a national awareness campaign about Beyond Blue's *NewAccess for Small Business Owners program*, which offers free one-on-one telehealth sessions with specially trained mental health coaches.

That campaign also promoted our My Business Health web portal, which links to mental health support services, while also providing simple, practical tips on the day-to-day tasks of running a small business.

In these uncertain and difficult periods, disputes inevitably arise. Over the course of the June quarter, my Office provided more than 600 small businesses in dispute with information about alternative dispute resolution pathways.

Our assistance team received over 100 calls regarding changes to the Franchising Code of Conduct. The reforms to the Code, most of which came into effect from 1 July 2021, will help level the playing field across the sector.

Access to insurance continued to be a major hurdle for small and family businesses throughout the June quarter. In particular, small businesses in the amusement, leisure and recreation sectors have been unable to secure essential insurance coverage – threatening the future of country shows as we know them.

That is why my Office has launched a Review of the Discretionary Mutual Fund proposed by the Australian Amusement, Leisure and Recreation Association (AALARA) on behalf of its members – many of whom face imminent closure without adequate insurance coverage.

Our Review will be a deep dive into the inaccessibility of insurance for amusement, leisure and recreation businesses, so that we can provide further advice to the Australian Government on what measures could help these small businesses secure the insurance products needed to remain in operation.

At the core of this Review, my Office will independently examine AALARA's proposal to establish an industry-owned and operated Discretionary Mutual Fund as the most effective and durable solution to the sector's insurance crisis. We will consider if this proposal will resolve the insurance issues in the sector, the responsibilities and obligations it would impose, its adequacy in satisfying regulatory requirements as well as other options that may assist these businesses.

This kind of high-value, 'dial shifting', evidence-based public policy analysis and robust recommendations to Government will be supported by the welcome additional resources allocated to the Office as part of the 2021/22 Federal Budget.

Finally, it was World MSME Day on June 27 – a great opportunity to thank all small and family businesses for their vital contribution to Australia's prosperity, wellbeing and community. It is the intention to uplift the focus on this day in coming years to add to the recognition and appreciation of the vital contribution small and family businesses make to our economy and communities.

The past 18 months have been incredibly challenging for small businesses, but it has been inspiring to bear witness to the courage, resilience and agility shown by the small business community.

Bruce Billson

Australian Small Business and Family Enterprise Ombudsman

Key activities

OUTREACH

- Major media appearances and mentions: The Australian, AFR, Sky News, SmartCompany, Channel 9, SBS and Money News with Brooke Corte.
- Key media topics: Digitisation, franchising reforms, Discretionary Mutual Fund Review, Australia Post, insurance, mental health, My Business Health, *NewAccess for Small Business Owners program* and COVID support and recovery.
- Events: The Ombudsman participated in 7 webinars/events, including the Financial Counselling Australia Conference, Australian Financial Industry Association Conference and Moorabbin Chamber of Commerce event.

ADVOCACY

- Provided significant advice to the Department of Industry on the implementation of the Payment Times Procurement Connected Policy and appropriate dispute resolution mechanisms.
- Continued to provide feedback on changes to the Franchising Code of Conduct.
- Provided advice on the development of the Contract Builder Tool.
- Worked with Australia Post to address issues with delivery of perishable goods from small producers.
- Provided advice on amendments to requirements for children's contact services.
- Engaged with Federal Parliamentarians to raise awareness of the services of the Ombudsman for small businesses.
- Provided feedback to the Department of Finance on procurement and cost recovery processes and the impact these have on small businesses.
- Examined opportunities to increase participation by women owned, women led businesses in government procurement.
- Worked with the amusement, leisure, and recreation sector, along with the mutual insurance sector, to examine the feasibility of a discretionary mutual fund for the sector.
- Engaged with the Federal Regulatory Agencies Group about the effects of cumulative regulation on small businesses.

ASSISTANCE

- Received 1,712 contacts – 85% were requests for assistance from small and family businesses.
- Provided 607 small businesses in dispute with further information on alternative dispute resolution pathways.
- Many COVID-19 related disputes including requests for assistance from 502 small businesses owed money.
- Main issues – Industry Code disputes (predominantly franchising disputes, many seeking assistance with exit arrangements), payment disputes, contract disputes, lease disputes.

Outreach: communications and stakeholder engagement

- Representing Australia's small and family businesses, the Ombudsman attended 47 meetings with government and engaged with 72 key external stakeholders.
- Continued to publish articles in industry magazines 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 70,000 views and resulted in more than 1,600 clicks for more information.
- The Ombudsman participated in 38 media interviews, which resulted in 482 media mentions across TV, radio, print and online.
- One opinion piece was published on LinkedIn. 17 videos were published on YouTube.
- Appeared in The Australian, AFR, Sky News, SmartCompany, Channel 9, SBS and Money News with Brooke Corte.
- Ran a national marketing campaign via social media and radio to raise awareness about Beyond Blue's *NewAccess for Small Business Owners* program which drove traffic to the My Business Health portal. During this reporting period there were 11,017 visits to the portal.



Ombudsman Bruce Billson with small business owner Angus Copelin-Walters from Croc Candy

Traditional and Social Media



18 media releases



3,152 newsletter subscribers



5,800 followers
81 posts



Ombudsman
7,386 followers | 28 tweets
ASBFE0
2,032 followers | 44 tweets



253 followers
50 posts



482 mentions



69,979 visits to website



19 videos published
435 subscribers



Ombudsman
3,064 followers | 37 posts
ASBFE0
3,283 followers | 46 posts

Advocacy: a voice on policy and legislation

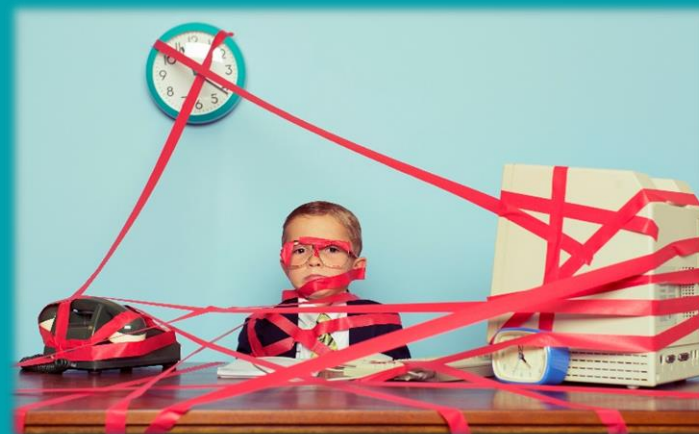
Insurance

- The Ombudsman announced a review of a discretionary mutual fund proposal for the amusement, leisure, and recreation sector on 4 June 2021.
- The self-generated review builds on the Office's previous work on Insurance, and involves working closely with the Australian Amusement, Leisure and Recreation Association (AALARA) on behalf of its members, many of which face imminent closure due to unavailability of insurance.
- The review is focused on consideration of whether the establishment of a discretionary mutual fund is the most effective and durable solution to the sector's insurance crisis.
- The work draws on the significant experience of the existing mutual sector in Australia to address failed markets.
- The review is expected to be completed in August.



Right-sized regulation

- The Ombudsman continues to focus on the need to ensure that regulation is 'right-sized' and fit for purpose for small business.
- Working across a number of government departments and in partnership with state and territory colleagues, the Ombudsman has been developing a comprehensive overview of the range of new regulatory measures which will impact small business in the next six to 12 months.
- These measures are being examined for duplication, overlap, and opportunities to seek information once from small businesses, which can then be used for a range of purposes.



Advocacy: a voice on policy and legislation

Australia Post

- In April 2021, the Ombudsman and Australia Post announced that they would work together to develop a solution to issues with delivery of perishable goods.
- Work is being done in collaboration with industry regulators and state-based Small Business Commissioners to examine and work out a way through complex and differing food regulation requirements across the states.
- Our Office has heard from a number of small business food producers who rely on Australia Post's delivery services, and will continue identifying case studies from within this cohort.



Impact of cost-recovered regulation

- The Ombudsman continues to receive feedback from small businesses who feel that cost-recovered services are levied disproportionately and negatively affect them.
- Research is continuing into the process of cost recovery and the ways in which these charges are applied to different sizes of business.
- The Ombudsman has also discussed these issues with the Department of Finance at length, with a view to possible collaboration on ensuring these charges are right sized for all businesses.

COVID-19 measures

- The Ombudsman continues to work with colleagues across the federal, state, and territory governments to ensure that advice and support to businesses in COVID-affected areas is clear and easy to access.
- The Ombudsman has encouraged consistency of rules across the country, to ensure that 'lockdown triggers' and movement restrictions are applied evenly and provide business owners with an amount of certainty when outbreaks occur.

Advocacy: a voice on policy and legislation

Major input into policy, inquiries and legislation

- Provided input into the Media Reform Green Paper from the Department of Infrastructure.
- Made a submission on the data standard for the Modernising Business Registers program.
- Consulted with APRA on licensing for Authorised Deposit-Taking Institutions.
- Provided advice on a single disciplinary body for financial advisers.
- Engaged on the Draft Regulator Performance Guide.
- Advised Treasury on the reinsurance pool for cyclones and related flood damage.



Submissions

Australian Prudential Regulation Authority	1
Australian Taxation Office	2
Department of Health	1
Department of Industry, Science, Energy & Resources	1
Department of Infrastructure, Transport, Regional Development and Communities	1

Department of Prime Minister and Cabinet	1
Productivity Commission	2
Senate Committees	2
Therapeutic Goods Administration	1
Treasury	4

Assistance: supporting SMEs

1,638 contacts received via:



1,204



358



76

24,552

visits to
assistance
website info

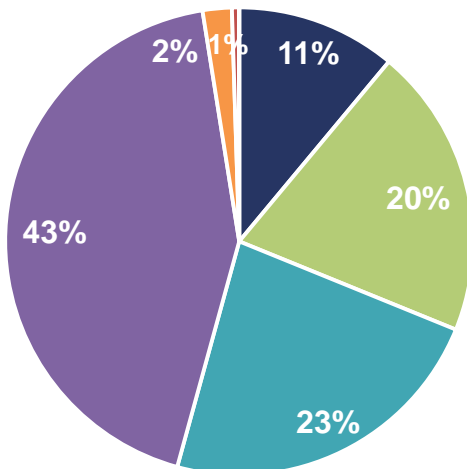
544

small
businesses
supported by a
case manager

85%

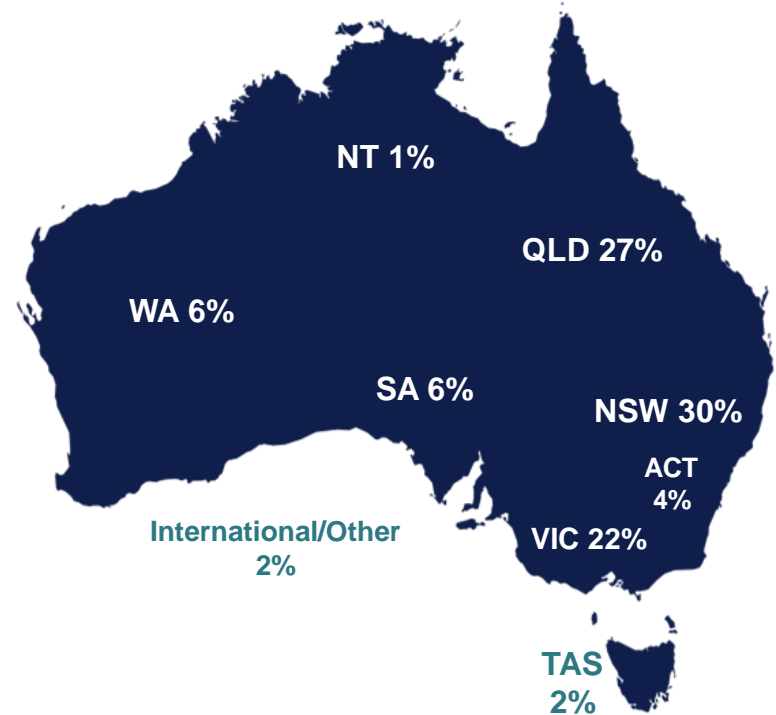
of contacts came
from small and
family business
owners

Case Management Resolution Pathways

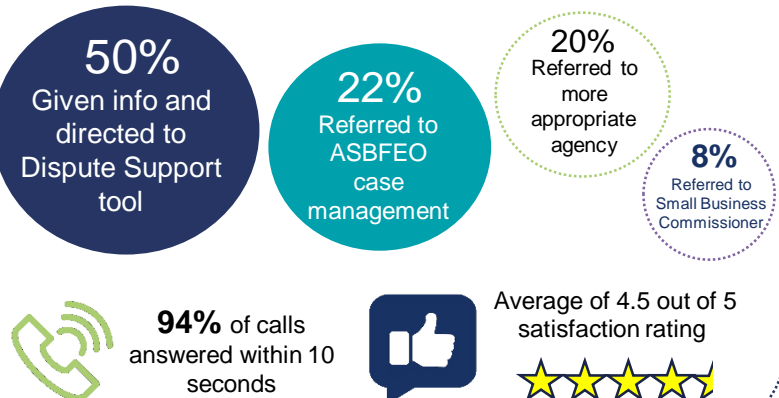


- Referral to Small Business Commissioners
- Referral to other appropriate Commonwealth or State agency
- Referred to case management or advocacy
- Information on dispute resolutions provided, NFA
- Resolved by direct action (case management)
- Referred to alternative dispute resolution
- Referred to Small Business Tax Concierge lawyer

Contacts by state/territory



HOW WE HELPED CALLERS TO OUR INFO LINE



Assistance: supporting SMEs

Industry Codes | Franchising–Horticulture–Oil–Dairy

- To improve fairness in franchising, changes to the Franchising Code of Conduct were made on 1 July 2021:
 - We are working with stakeholders and participants to support the changes.
- During the June quarter our role assisting with disputes that fall under the Franchising, Horticulture, Oil and Dairy Codes of Conduct, our case managers have:
 - answered 121 enquiries under the Franchising Code, six enquiries under the Dairy Code and one enquiry each under the Horticulture Code and Oil Code.
 - acted on 58 cases related to the Franchising Code, of which 47 were franchisee initiated and 11 were franchisor initiated.

We use qualitative and quantitative mechanisms to assess the mediation process. For June quarter 2021, key findings include:



75%
resolved at
mediation



100%
of parties acted
in good faith



\$2,685
average cost
of mediation

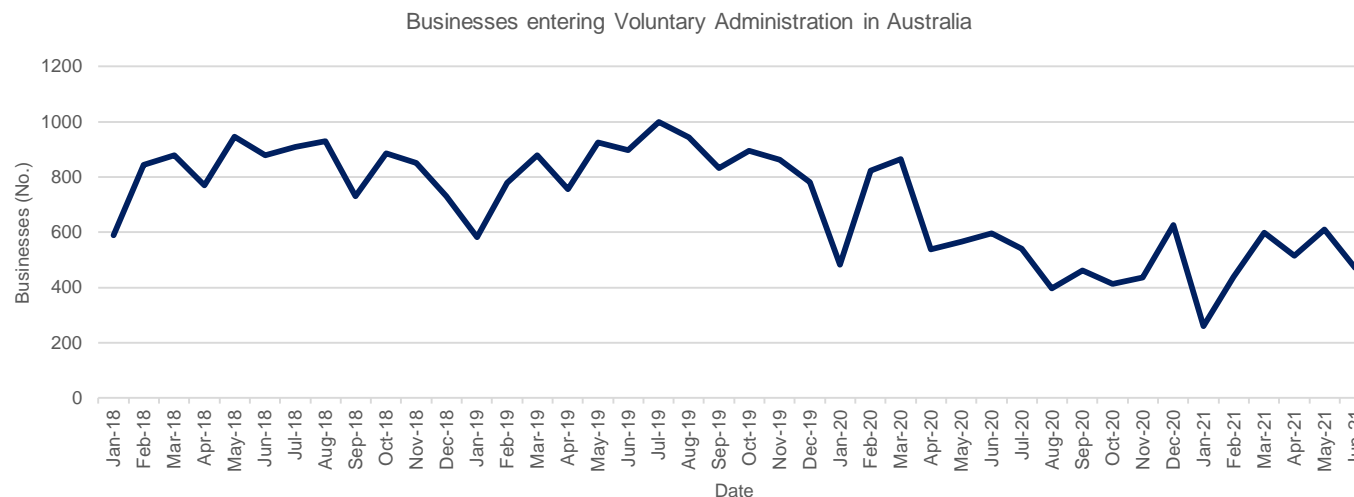
Small Business Tax Concierge Service

- In June Quarter 2021, the Small Business Tax Concierge Service received 56 inquiries from small businesses seeking assistance with negative decision letters received from the Australian Taxation Office.
- Many of the requests for assistance were from small businesses deemed ineligible for JobKeeper, or with concerns relating to Superannuation Guarantee arrangements and penalties.

“ASBFEO is an undervalued asset to small business, and their strength in leadership helps bridge the gap in what is still a significant power imbalance between large and small business.”

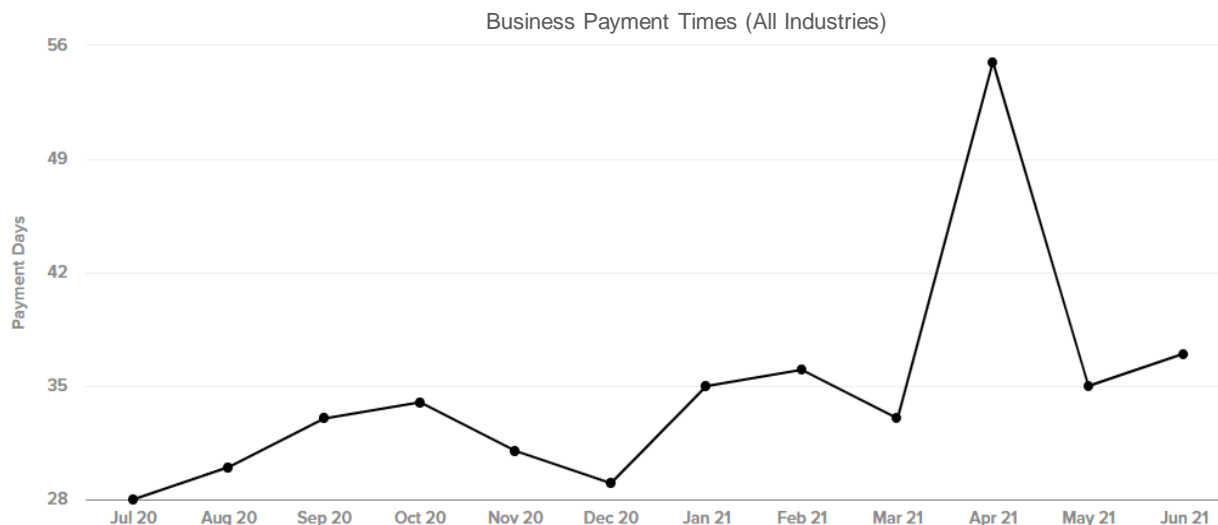
NSW Small Business Owner

Stats Snapshot



The latest ASIC data shows external administrator appointments in June 2021 are down 22% compared to May 2021. External administrations in June 2021 are also down 21% down compared to June 2020.

Source: CreditorWatch calculations of ASIC data, June 2021



CreditorWatch payment times have increased 5.7% in June 2021 compared to May 2021. Payment times have steadily increased over the last 12 months.

The short term spike in payment times in April 2021 has been identified as an anomaly.

Source: CreditorWatch Payment Trends, Obtained July 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.
- Conduct an awareness campaign for small business owners from diverse cultural backgrounds.
- Promote the work of ASBFEO's assistance team through testimonials.

ADVOCACY

- Finalise review of the Discretionary Mutual Fund and monitor the broader insurance market for challenges for small businesses.
- Continue to monitor the impact of cost-recovered regulation.
- Review the first reporting quarter of the Payment Times Reporting Scheme.
- Continue work with Australia Post on delivery of perishable goods.
- Consult on and develop plan for possible self-initiated and Government-referral inquiries.

ASSISTANCE

- Promote the new changes to the Franchising Code of Conduct and encourage small businesses in dispute to seek assistance using the dispute resolution options under the Code, including agreed arbitration.
- Continue to assist relevant small businesses with the dispute resolution options available under the Dairy, Horticulture and Oil Codes of Conduct, including encouraging industry participants to contact our office for assistance early in a dispute.
- Examine processes, systems and technologies used by other dispute resolution agencies to develop a 'best practice' model for dispute resolution processes, case management and data analysis.

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