23 June 2025

Dr Benjamin Mitra-Kahn

Assistant Commissioner – Productivity

Productivity Commission

GPO Box 1428

Canberra City ACT 2601, Australia

via email: 5pillars@pc.gov.au

Dear Dr Mitra-Kahn

Five productivity inquiries

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to provide comments on selected aspects of the five inquiries being undertaken by the Productivity Commission to inform ways to materially boost Australia's productivity.

Small businesses make up nearly 98 per cent of all Australian enterprises. These approximately 2.5 million businesses collectively generate around $600 billion in economic activity each year and employ 5.36 million people—representing 42 per cent of the private sector workforce. However, a combination of sluggish economic growth, rising operational costs, ongoing productivity challenges, tight labour markets, supply chain disruptions, inflationary pressures, and interest rate increases is placing significant strain on small and family-run businesses.

Additionally, the demographic profile of small business owners is shifting. The average age has risen to 50—five years older than two decades ago. Moreover, fewer young people are entering the sector, with only around 10 per cent of small business owners aged 30 or under—half the proportion seen 50 years ago.

Given these challenges, we are particularly interested in the Commission's work to improve national productivity. One of the reasons ASBFEO was established was to ensure that policies affecting small and family businesses are informed by practical, real-world insights. Of the five pillars being explored by the Commission we consider the following are most impactful for small business:

- Pillar 1 — Creating a more dynamic and resilient economy
- Pillar 3 – Harnessing data and digital technology
- Pillar 5 – Investing in cheaper, cleaner energy and the net zero transformation

Our observations and commentary – including recommendations where appropriate – in the following section are drawn from our real-world insights.

Pillar 1 — Creating a more dynamic and resilient economy

Support business investment through corporate tax reform

We support the Commission's observation that *"... the way companies are taxed is a key determinant of businesses' investment decisions and their willingness to innovate."* In this context, we recommend that the Commission explore the introduction of an early-stage tax incentive—such as a tax discount or offset scheme—to support new business formation.

Such a measure would allow emerging businesses to retain a greater share of their initial earnings, enabling reinvestment during the critical early stages of growth. This would not only encourage entrepreneurship but also reward innovation and risk-taking, contributing to a more vibrant and competitive economy.

A relevant example is Singapore's Start-Up Tax Exemption Scheme, which offers eligible new companies substantial tax relief for their first three years: a 75% exemption on the first $100,000 of taxable income and a 50 per cent exemption on the next $100,000. For instance, a business earning $200,000 in taxable income would only be taxed on $75,000 annually during the exemption period.

Alternative models could include a tapered tax discount or offset over the first three years, gradually transitioning businesses into the standard tax regime while still providing meaningful early-stage support.

We recommend the Productivity Commission should investigate the benefits of supporting early-stage business growth through a tax discount or offset scheme for the critical first three years.

Reduce the impact of regulation on business dynamism

The Commission notes that *"... all regulations have costs and benefits* ... [and furthermore] *... good governance involves only introducing new regulations when the expected benefits exceed the expected costs and when this net benefit is larger than that of other options.*" Despite this, an analysis of the 300+ impact analyses undertaken by the Office of Impact Analysis suggests that all too often the default approach adopted by Australian Government agencies is to 'regulate'. While traditional regulatory interventions can be beneficial when a high level of certainty is required, and the risks and consequences of non-compliance are high, there are also drawbacks. For example, overdependence on it can:

- entrench inefficient practices, limiting productivity by restricting flexibility and hindering the adoption of innovative technologies, business models, and processes
- impose significant compliance burdens on both businesses and the broader community.
- increase administrative and enforcement costs for government agencies and regulators.

Our experience has shown that small businesses are in relative terms more directly impacted by government regulatory requirements than larger business. A renewed commitment to regulatory impact assessment and 'right-sizing' impositions on small business respondents is needed. A more rigorous and small business-responsive approach would see a proper assessment of the actual risks presented by smaller respondents, a questioning of misguided 'one size fits all' approaches and a more realistic evaluation of compliance capacities in respondents that are time poor, have limited access to specialist expertise and likely less sophisticated business systems.

Regulatory proponents should be obliged to consider what other existing impositions might be suitable (perhaps with modest adjustments) to meet new or emerging policy objectives. A greater effort to synchronise regulatory imposition and to make use of existing and natural business systems would reduce the cumulative regulatory and compliance impact on small business.

Attention also needs to be given to 'white tape' imposition of larger corporates on small business. These often arise from market or corporate reporting obligations on large firms that are serviced by seeking information from smaller supply chain participants as a form of 'cascading compliance' burden. Risk management and assurance mechanisms can produce similar reporting and compliance burden on small business.

A number of these themes and recommended actions are explored in ASBFEO's (yet to be released by Government) June 2024 Report on requested advice about ESG for SMEs – *"Beyond ESG: A right-sized framework for small business durability".*

Impositions that are not expressly devised and designed with small business respondents 'front of mind' tend to create the need for external legal, specialist or financial advice to understand and meet their regulatory obligations. Furthermore, their compliance costs are generally proportionally higher compared to larger businesses. They are also often frustrated by the cumulative effect of policy and compliance requirements imposed by different levels of government.

Opportunities to embed a more disciplined approach to small business impact assessment for all policy, program and regulatory proposals include:

- Embedding ASBFEO engagement in key policy, program, legislative and regulatory formation and review processes
- Issuing formal advice to engage with and seek advice from ASBFEO (and support for bringing in relevant stakeholders and specific expertise) as part of the preliminary and subsequent regulatory impact processes for initiatives intended for or likely to impact small business and family enterprises
- Consulting with ASBFEO as part of the New Policy Proposal and Cabinet coordination processes for initiatives intended for or likely to impact small business and family enterprises
- Including a small business impact section in all Cabinet submissions
- Updating the Department of Finance Regulator Performance guidance (RMG128) to expressly provide for 'right-sized' engagement and performance considerations in dealing with small business and family enterprise respondents, including consultation with ASBFEO on the design and operation of processes, communication and any enforcement activities and compliance processes.

We recognise that alternatives to traditional regulation will have some limitations and may not be appropriate in all circumstances. While non-regulatory approaches are never costless, they may provide an opportunity to address a policy problem in a lower cost way or better address a policy problem compared to traditional regulation. We are therefore of the view that they should be considered at the very start of the policy development process, including when reviewing existing regulation.

We recommend the Productivity Commission should investigate the benefits of the Australian Government implementing improved small business engagement processes and a small business impact assessment for all policy and regulatory proposals.

Pillar 3 — Harnessing data and digital technology

Support safe data access and handling through an outcomes-based approach to privacy

Small businesses have never been subject to the *Privacy Act 1988*'s personal information requirements as they were not considered a risk to privacy and the cost of compliance was considered an unreasonable burden. They fall under an exemption known as the small business exemption. The Australian Government's proposed reforms to the Privacy Act 1988 would remove the exemption for small businesses under the Act.

Given the exemption continues to operate, we have no specific comments to make on the question of whether an outcomes-based approach to privacy would be preferable to the existing legal approach. However, we agree with the Commission's observation (page 5) that: "*Ensuring that privacy laws serve their purpose at least cost could make business more efficient and productive and encourage innovation – while providing protections for consumers*.

We acknowledge that given the widespread use of technology and the large quantity of data being stored and collected by businesses, including small businesses, it is necessary to provide appropriate protections for consumers.

Many small businesses collect some form of personal information such as names, address details, phone numbers, email addresses and payment details. The information collected, the method of collection and the system for storage varies across industries and is unique to the individual small business. For most small businesses they are unaware of the Australian Privacy Principles and any obligations to protect personal information collected. However, it is important that the regulatory framework requiring small business compliance is proportionate to the level of exposure of privacy risk.

In our 2024 submission to the review of the *Privacy Act 1988* we recommended that the removal of the small business exemption should be supported by education and tools for small businesses to meet their compliance obligations. We advocated for the development of a decision-support tool however we believe there is an opportunity to extend this tool beyond compliance and assurance and encourage more positive engagement by incorporating cyber-security guidance into the actionable privacy steps for small businesses.

We recommend the Productivity Commission should explore ways to better prepare and equip small businesses for complying with privacy obligations including through government-issued toolkits with templates, information guides and education resources.

Unlock the benefits of consumer data through effective access rights and controls

The Commission observes that the Consumer Data Right (CDR) has not met expectations due to low consumer take-up, high implementation costs for business and a complex regulatory structure. In response, it is exploring opportunities to better enable consumers to benefit from data about themselves and facilitate its use to drive innovation and productivity growth. We support this approach.

The CDR offers an important opportunity for small businesses to access, share and transfer their data with accredited third parties to compare products, services and insights that can lead to financial and operational benefits. Unfortunately, many small businesses in Australia many are not experiencing the promised benefits of the CDR because of low participation and awareness.

We recommend the Productivity Commission should investigate if the CDR is fit for purpose and if it is delivering on its intended objectives. Further, it should identify opportunities for increased participation and use by small businesses and consider expanding the regime to superannuation, insurance and telecommunications sectors.

Enable AI's productivity potential

The Commission notes that artificial intelligence (AI) has the potential to transform our economy and improve our living standards. It also has the potential to transform how small businesses operate, driving innovation, reducing administrative tasks and improving engagement with customers. Greater investment in AI technology could lift productivity and boost the economy.

The ASBFEO has received anecdotal evidence that small businesses are already using generative AI; that is, AI that not merely analyses data, but can also produce various types of content, including text, imagery, audio and synthetic data, such as data created by computer simulations.

Generative AI can drive entrepreneurship, the creation of new businesses and productivity growth. But small and family businesses face significant barriers to implementing AI systems in their businesses particularly with understanding how the technology works, how to get started, the associated risks and how to mitigate against these risks.

Supporting adoption of AI by small businesses has enormous potential to lift their competitiveness and profitability, by enabling new offerings, boosting productivity, reducing administrative tasks, enhancing marketing and addressing skills gaps.

We agree with the Commission that any regulation of AI should be proportionate, effective and risk-based to enable productivity gains, while safeguarding against adverse outcomes.

We recommend the Productivity Commission explore ways to assist small business adopt AI such as by encouraging the Australian Government to equip small and family businesses with the appropriate tools and resources to deploy AI technology in their business.

Pillar 5 — Investing in cheaper, cleaner energy and the net zero transformation

Encourage adaptation by addressing barriers to private investment

Implementing energy efficient strategies can provide significant benefits for businesses, particularly small and family businesses, including long term cost savings and reduced emissions. Additionally, implementing targeted adaptation strategies can assist small businesses to transition to a net zero economy, unlocking new business opportunities and enhancing their resilience to the effects of climate change.

Businesses have consistently reported the cost of energy is a concern when managing their business financials. Despite these costs, a Business NSW survey conducted in August 2024 found that only 21 per cent of businesses reported implementing energy efficiency upgrades or adapting their products and services to reduce energy consumption.[1] Small businesses face unique challenges when it comes to investing in the necessary innovations and technologies to move to a net zero economy. This could be attributed to:

[1] Business NSW, *NSW Business Conditions*, Business NSW, August 2024, p 27

- the high upfront cost of energy efficient technology, even if the business is eligible for an instant asset write-off tax deduction
- commercial property arrangements where small businesses are often tenants, and are less likely to make energy efficient changes to commercial premises
- a lack of time and resources to develop an awareness of energy efficiency measures or apply for relevant grants
- a lack of appetite to invest in energy efficiency measures owing to competing priorities or other behavioural factors (such as higher aversion to risk).

Of equal concern for small business, especially those in disaster prone areas, is rising insurance costs. These businesses are often forced to choose lower levels of coverage, leaving them vulnerable to significant losses from natural disasters, including property damage stock and asset loss, which is further magnified by prolonged disruptions to their operations.

We acknowledge the Productivity Commission's recommendation to adapt Australia's housing stock to better withstand cyclones, bushfires, floods, and extreme heat. Equally important, however, is the need to develop adaptation strategies for small businesses. These businesses are essential to local communities—not only by driving economic activity and providing employment, but also by fostering innovation, supporting environmental sustainability, and strengthening community ties through local sponsorships and engagement.

Helping small businesses identify and implement climate adaptation strategies not only supports ongoing economic activity in their local communities, but also strengthens their resilience to natural disasters. This, in turn, can reduce the financial and operational impacts of such events and increase the likelihood of retaining small businesses in regional areas across Australia

We recommend that the Productivity Commission undertake further investigation into the barriers preventing small businesses from more widely adopting energy efficiency measures and climate change adaptation strategies.

<u>Establish nationally consistent climate risk data standards</u>

Recent natural disasters, including Tropical Cyclone Alfred and the floods in New South Wales and Queensland, highlight the significant economic impact of natural disasters. The Reserve Bank of Australia estimates the natural disasters subtracted around 0.1 - 0.2 percentage points from GDP growth in the March quarter.[2]

For small businesses affected by natural disasters the cost is magnified due to the interconnection of their personal and business circumstances. Many struggle to secure affordable insurance, especially for commercial property and public liability. These businesses often lack the resources and expertise to assess climate risks, limiting their ability to make informed, long-term decisions. Providing access to high quality and nationally consistent data would empower small businesses to unlock investment in risk mitigation technologies and strategies, enhancing their ability to undertake future planning.

Australia already has valuable resources, such as the Australian Disaster Resilience Knowledge Hub, which supports policy and decision-making. However, the 2024 Independent Review of the Australian Climate Service (ACS) identified inconsistencies in the scope, methodology, and format

[2] Reserve Bank of Australia (RBA), *Statement on Monetary Policy,* May 2025, p 46

of climate data and tools across the country.[3] Both the ACS and the Insurance Council of Australia (ICA) have emphasised the need for nationally consistent climate risk data. Standardised data would enable a unified approach to risk assessment and resilience planning.

Improved access to high quality data would support the development of clear guidelines for land use planning, building codes, and construction practices to strengthen community resilience to natural disasters. It would also enable small businesses to make informed investments in risk reduction measures. At the same time, insurers could more accurately assess risk, which may lead to more affordable premiums, particularly for commercial property and public liability coverage.

We recommend the Productivity Commission should explore the benefits of nationally consistent data standards for climate related disasters and risk mitigation.

<u>Recognising and rewarding risk mitigation strategies</u>

Access to affordable insurance cover is a significant challenge for many of Australia's small businesses. The 2024 Business Conditions Report by Business NSW identified insurance as the number one cost pressure – above taxes and other charges, energy costs, and wages.[4] If a small business isn't insured, it cannot do business.

While the ICA promotes risk mitigation as an option that may reduce premiums for homes and businesses, small businesses report that insurance companies are uninterested in, or dismissive of, the steps taken by small businesses to mitigate disaster risk.[5]

The ASBFEO considers that insurers should acknowledge risk mitigation steps undertaken by their small business customers when assessing premiums and pass on appropriate savings. Insurers should provide guidance on the types of actions small business could take to mitigate their risk and the premium reductions such actions could result in.

We recommend the Productivity Commission should explore ways the government could encourage insurance companies to recognise and reward businesses that actively reduce their climate and disaster risks, such as through lower insurance premiums.

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[3] O'Kane M, Quinlivan D & Reichelt R, *Independent Review of the Australian Climate Service*, Department of Climate Change, 30 April 2024, p 21

[4] Business NSW, *NSW Business Conditions,* Business NSW, March 2024, p 15

[5] Australian Small Business and Family Enterprise Ombudsman, *Small Business Natural Disaster Preparedness and Resilience Inquiry,* March 2022, p 38

We would appreciate feedback on this submission. To provide any feedback, or request any further information, please contact the ASBFEO at Advocacy@asbfeo.gov.au.

Yours sincerely

The Hon Bruce Billson

Australian Small Business and Family Enterprise Ombudsman