



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

12 September 2018

Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3001

By email: adjudication@acc.gov.au

Dear Sir/Madam

“CLASS EXEMPTION” FOR COLLECTIVE BARGAINING

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes and supports the Australian Competition and Consumer Commission's (ACCC) proposed exemption to collective bargaining provided that it is broad enough to provide proper protection to small business.

As you are aware, collective bargaining by a group of businesses is currently not allowed under the Australian Competition Law, unless the group first obtains formal approval from the ACCC. The proposed exemption is valuable for small businesses, since it would provide an opportunity for those businesses to collectively bargain across many important areas and to produce public benefits without lessening competition.

In particular, the class exemption will help franchisees to band together to bargain processes with their franchisor over pricing and contract terms. Similarly, franchisors may also benefit by being able to consult with a group of franchisees to make changes to their legal agreements, as opposed to negotiate those changes with each individual franchisee.

We recognise that currently small businesses can seek case-by-case legal protection to collectively bargain through an ACCC 'authorisation' or 'notification'. However, this creates additional costs and delays with no ultimate assurance of success. With the exemption in place, delay and additional costs is avoided and small businesses will be encouraged to take advantage of collective bargaining.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Jill Lawrence on 02 6263 1558 or at jill.lawrence@asbfeo.gov.au.

Yours sincerely

Kate Carnell AO

Australian Small Business and Family Enterprise Ombudsman

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