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AMIF Submission on the Discussion Paper on the creation of the Small Business and Family Enterprise Ombudsman.

Dear Ms Freeman,

Thank you for the opportunity to provide a submission in relation to the discussion paper on the creation of The Small Business and Family Enterprise Ombudsman. AMIF also welcomed the opportunity to discuss this important initiative during consultations with you and your officers . This submission is an expansion of the central themes posed by AMIF during those discussions.

The Australian Motor Industry Federation (AMIF) is the pre-eminent body representing the interests of over 100,000 retail motor trades businesses, which employ over 310,000 people and have an aggregated annual turnover in excess of \$208 billion. These figures, combined with the industries scope and size, makes the retail motor trades the largest stand-alone small business sector in Australia. The Federation's membership consists of the automobile chambers of commerce and the majority of state and territory motor trades associations. It is these associations members who stand to gain the most from the work and outputs of a properly constructed, adequately resourced, and empowered Small Business and Family Enterprise Ombudsman.

AMIF's Position:

General

- AMIF strongly welcomes and is supportive of the creation of the Small Business and Family Enterprise Ombudsman and looks forward to working with the role and office, when established to ensure its success.
The creation of the Ombudsman and supporting infrastructure must be built on: strong foundations of role clarity; provision of expressed powers; adequate and ongoing resources, recognition and support of the Parliament and government bureaucracy; and, clearly defined networks and linkages.
The creation of the Ombudsman and supporting infrastructure must seize the opportunities to remove duplication, increase productivity, improve awareness , education and communications.

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REPRESENTING: * Motor Traders Association of NSW (MTA-NSW) * Victorian Automobile Chamber Of Commerce (VACC) * Motor Trades Association of NT (MTA-NT) * Tasmanian Automobile Chamber of Commerce (TACC) * Motor Trades Association of SA (MTA-SA) * Motor Trades Association of ACT (MTA-ACT) * Motor Trade Association of WA (MTA-WA) * Motor Trades Association of Australia (MTAA) * Automobile retailers * Australian Motor Body Repairers Association (AMBRA) * Automotive Repairers Association of Australia (ARAA) * Auto Parts Recyclers Association of Australia (APRAA) * Australian Motorcycle Industry Association (AMIA) * Australian Service Station and Convenience Store Association (ASSCSA) * Australian Tyre Dealers and Retreaders Association (ATDRA) * Farm and Industrial Machinery Dealers Association of Australia (FIMDAA) * Engine Reconditioners Association of Australia (ERA of A) *National Rental Vehicle Association (NRVA) *Australian National Radiator Repairers Association (ANRRA) * Australian National Towing Association (ANTA) *Automotive Transmission Association of Australia (ATAA) *National Brake Specialists Association (NBSA) * National Heavy Vehicle Repairers Association (NHVRA) * National Steering and Suspension Association (NSSA) * National Vehicle Airconditioning Association (NVAA)

AMIF's Position: (Continued)

- AMIF cautions not allowing the title or term 'Ombudsman' to overshadow other important roles and functions as outlined in the Discussion Paper, and to be determined through this consultation process.
- AMIF queries the use of the term 'Family Enterprise' due to the introduction of yet another descriptor of small business, in an environment where there are already numerous and inconsistent definitions.
- AMIF supports continued strong linkages between the Small Business and Family Enterprise Ombudsman and Treasury and Australian Competition and Consumer Commission (ACCC).
- AMIF strongly suggests a governance structure be established to formalise relationships with State and Territory Small Business Commissioners and / or related roles / functions, the ACCC, Treasury, Finance and peak industry bodies.

Dispute Resolution:

- AMIF strongly supports a dispute resolution function.
- AMIF does not support dispute resolution **as the most important** function of the Ombudsman.
- AMIF supports the concepts behind the term 'conciierge'.
- AMIF believes the Ombudsman should not duplicate dispute resolution functions of other jurisdictions.
- AMIF suggests the dispute resolution function must cover all Commonwealth Departments and Agencies and all Commonwealth contracts, with references to the dispute resolution powers of the Ombudsman to be included in all Commonwealth contracts.

Advocacy:

- AMIF strongly supports the primary function of the Small Business and Family Enterprise Ombudsman to be a central coordination hub for policy concerning small business and to be the advocate for small business across the Commonwealth.
- AMIF strongly suggests one of the first functions of the Ombudsman and Office is to properly define small business to ensure harmonisation, consistency and application across all Commonwealth portfolios.
- AMIF suggests that direct links be established between the Small Business and Family Enterprise Ombudsman's office and major small business peak-representative organisations through options including a formal committee structure and the placement of outreach officers within selected peak-representative organisations.

Discussion:

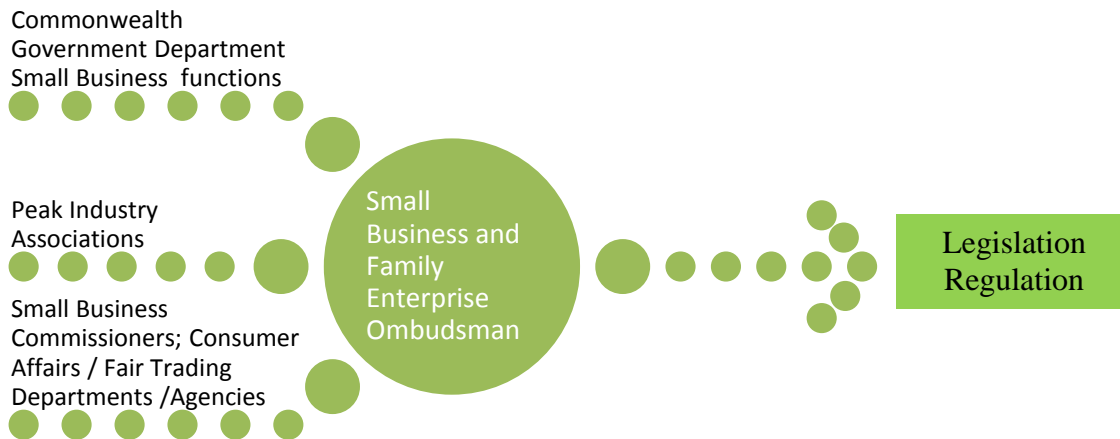
AMIF and its predecessor organisation the Motor Trade Association of Australia (MTAA Limited) has a long history of deep interest and involvement in small business and calls for the creation of a proper high-level small-business advocate, supporting office, Minister and Cabinet representation. This is understandable given the prominence of small businesses in the retail, service, repair, recycling and associated professions and sectors of Australia's automotive industry.

AMIF is well placed, therefore, to provide Treasury with comments on the Discussion Paper for the creation of Small Business and Family Enterprise Ombudsman.

AMIF notes the emphasis contained in the discussion paper towards dispute resolution and while this is welcomed, AMIF contends that this focus should not be at the expense of the opportunity provided for the Small Business and Family Enterprise Ombudsman Office to be the hub of a revitalised and targeted approach to small business by the Commonwealth.

Four Foundations- Structures, governance, opportunities

- AMIF endorses the four foundations on which the revitalised Small Business and Family Enterprise Ombudsman and office would operate.
- AMIF envisages that quite apart from being *'a contributor to the development of small business friendly Commonwealth laws and regulations'* the Small Business and Family Enterprise Ombudsman must be consulted and engaged **before** any policy initiative - including repeal of legislation and regulation - is enacted, so that potential impact on small business can be properly considered.
- AMIF contends that a more streamlined, consistent and harmonised approach could be achieved if functions currently residing in various Commonwealth Government Departments and Agencies including Industry and Innovation; Treasury, Finance, Bureau of Statistics, AusIndustry, etc., were either transferred as a whole, or in part, to the Small Business and Family Enterprise Ombudsman Office.
- If the Small Business and Family Enterprise Ombudsman Office is to fulfill foundation functions of being a *'single entry point through which Commonwealth assistance and information regarding small business can be accessed'* and a *'Commonwealth-wide advocate for 'Small Business and Family Enterprises'*, then there is an opportunity for the Commonwealth to equip it from the outset to perform such functions.
- AMIF is not suggesting the functions be removed entirely from current host Departments and Agencies. There will remain an ongoing need for legislative and regulatory coordination within Commonwealth Departments that have carriage of policy which may impact small business. However, against a background of reducing the cost of Government, reducing red tape, increasing productivity and improving service, education and communications delivery to Australia's small businesses, AMIF believes the concept of centralising some of those functions is worthy of investigation, if not implementation.
- Similarly, the Small Business and Family Enterprise Ombudsman Office should, as its first priority, be charged with the responsibility of harmonising the definition of Small Business across the Commonwealth. AMIF recognises this will be a difficult task given the plethora of stakeholders and interested parties. However, AMIF contends that unless small business is defined, including discrete groups within the small business conclave, then a range of other potential positive outcomes including tax reform, red tape reduction, incentives for growth and sustainability of competitiveness will potentially be lost.



- AMIF also suggests that the consultation and involvement processes be formal and be activated from the outset.
- AMIF recommends that consideration be given to a governance model that includes participation by peak industry associations, Small Business Commissioners and representatives from fair trading or consumer affairs portfolios. This model will provide a useful vehicle for the Small Business and Family Enterprise Ombudsman to have formalised systems for gathering intelligence, disseminating information and identifying issues early.
- One potential model could be an Advisory Board headed by the Small Business and Family Enterprise Ombudsman, with members including the peak small-business organisations, State Small Business Commissioners, a representative from the ACCC and Treasury. It is envisaged that such a Board would be complimentary to the ACCC Small Business Consultative Committee and Franchising Code Committee.
- Another model could be the establishment of a Technical Advisory Group consisting of the same participants listed in aforementioned point, that is used by the Ombudsman as a reference point.
- Critical issues, identified by the Ombudsman and requiring Federation solutions ought to be included where necessary on COAG agenda through appropriate meetings of Treasurers and / or Finance Ministers.
- There needs to remain a strong connection between the Small Business and Family Enterprise Ombudsman Office and the Treasury. However, this should not extend to Treasury retaining functions such as Small Business Advisory Services, that ought to be transferred to the Office of the Ombudsman.

Avoidance of duplication:

- It is welcomed that the Discussion Paper identifies issues associated with inadvertent duplication of services provided by State and Territory Small Business Commissioners, Fair Trading and Consumer Affairs Agencies.

- A critical role of the Small Business and Family Enterprise Ombudsman Office will be to communicate what it does and doesn't do. The creation of the aforementioned structure could assist in the identification of truly national issues warranting an examination at a Federal Level as opposed to issues which are State or Territory centric, even though they may be nationwide in their occurrence.
- The same caution applies to dispute resolution where the Discussion Paper makes it clear that dispute resolution has well defined parameters applying to the Commonwealth jurisdiction only.

Dispute resolution:

- While AMIF has suggested that dispute resolution is not **the most** important function, it is nonetheless an important function of the Ombudsman.
- The legislated powers of the Ombudsman must be sufficient and AMIF broadly endorses the range of powers outlined in the Discussion Paper.
- AMIF supports the Ombudsman having the powers necessary to ensure mediation services are accessed and recognised before any subsequent court or tribunal hearing.
- A simplistic form of penalty structure for non-attendance at scheduled mediation should be further investigated.
- AMIF suggests the Ombudsman should have jurisdiction across the whole of the Commonwealth including the Australian Tax Office and government agencies, authorities and business enterprises.
- The powers vested in the Ombudsman must be mandatory and references should be included in all Commonwealth contracts.
- The decisions arrived at by the Ombudsman, AMIF suggests, must be binding rather than non-binding as outlined in the Discussion Paper. To do otherwise will weaken a function of the Ombudsman and potentially undermine one of the reasons for its establishment. There are adequate processes for the work of the Small Business and Family Enterprise Ombudsman to be adjudicated if necessary.
- The issue of maladministration, AMIF argues, requires further work. This work needs to centre on the relationships between the Small Business and Family Enterprise Ombudsman and the Commonwealth Ombudsman. This work could be included in investigations of work duplication and resource reallocation.

Conclusion


Governments of all persuasions and the Commonwealth bureaucracy should be recognised on efforts to date in galvanising the importance of small business to the national economy and the significant steps taken to increase its prominence in decision making, red tape reduction and easing of compliance burdens.

The creation of the Small Business and Family Enterprise Ombudsman is another potential milestone with the opportunity to harmonise, streamline and coordinate the Commonwealth's future approach to small business engagement, and fostering its growth and sustainability.

The Australian Motor Industry Federation advocates whole of government approaches to policy determination, and legislative and regulatory reform that impacts the automotive industry's retail, service, repair, recycling and associated sectors and the largest stand-alone small business sector in the nation.

If there are any further questions or you would like further clarification on the points raised within this submission, please contact Mr Richard Dudley, CEO of AMIF at richardd@amif.com.au or Mr Colin Duckworth, Director Policy at colind@amif.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Richard Dudley', written in a cursive style.

Richard Dudley

CEO

Australian Motor Industry Federation

23 May 2014