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Dear Sir/Madam

Response to the Final Report of the Competition Policy Review

I wish to provide brief comment on selected recommendations of the Review.

Recommendation 18: Government Procurement and other commercial arrangements

All government commercial contracts should mandatorily include dispute resolution provisions which include mediation. Arbitration is a costly and formal process and from contracts I have seen is often controlled (eg choice of arbitrator) by the supplier (ie government). Quick low cost mediation should be required prior to any arbitration.

Recommendation 51 – ACCC governance

I strongly oppose the recommendation to abolish the requirement that one Commissioner have knowledge or experience of small business matters. Having a small business Commissioner on the ACCC – whether as Deputy Chair or as a designated Commissioner – is extremely important to ensure that ACCC priorities, conduct and information is appropriately developed and channelled to meet the particular needs of small businesses – which are not the same as large corporations. It is also a highly symbolic acknowledgement of the important role of small business in the economy and community, and the accessibility of the ACCC to small business.

Recommendation 54 – Collective bargaining

While I understand the rationale for proposing a power of collective boycott by those authorised to collectively bargain, this is a highly adversarial approach. If the circumstances warrant authorisation to collectively bargain, consideration should be given to mandating participation of the parties in an Alternative Dispute Resolution process or similar to provide some opportunity for a reasonable commercial resolution of the issues without the drama and potentially destructive business relationships arising from a collective boycott.

Yours sincerely

Geoff Browne
Victorian Small Business Commissioner