



The Real Estate Institute of Australia

Submission to The Department of Innovation,
Industry, Science and Research on the
Resolution of Small Business Disputes
Options Paper

Prepared by the Real Estate Institute of Australia
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RESOLUTION OF SMALL BUSINESS DISPUTES OPTIONS PAPER

Background

The Department of Innovation, Industry, Science and Research is seeking submissions on its Resolution of Small Business Disputes Options Paper.

REIA represents around 80% of real estate agencies and is an important element of the broader property and construction sector, which makes a significant contribution to Australia's social climate and economic development. The real estate profession employs approximately 77,000 persons with most agencies having less than 10 employees and contributes \$300 billion annually in economic activity.

The REIA is concerned about access to and the costs of dispute resolution to real estate agencies as small businesses - small businesses play an important part in the economic activity creating jobs and driving economic recovery. For many real estate agents the cost of pursuing a resolution to commercial disputes acts as a barrier to them pursuing outcomes even though their cases are sound. The REIA's objective in its comments on the Options Paper is to have a dispute-resolutions system that provides all parties with an equal chance to present its case and for a resolution to be achieved quickly and cheaply.

REIA has the commitment of providing and assisting research and well-informed advice to the Federal Government, Opposition, professional members of the real estate sector, media and the public on a range of issues affecting the property market.

Issues

In responding to the Options Paper the REIA welcomes the opportunity to be part of the process and address the four options outlined:

- National Information and Referral Service
- National Dispute Resolution Service
- National Small Business Tribunal
- Small Business Advocate.

National Information and Referral Service

The National Information and Referral Service would provide a telephone hotline and website to direct small businesses to relevant existing dispute resolution services. This national, centralised referral service would provide information on what services are currently available in the relevant state or territory. Callers to the hotline would be guided through dispute resolution options and then referred to the appropriate existing service in their state or territory.

As this option builds on the services already offered by the Small Business Support Line and Advisor Finder and is seen as a low cost approach, REIA supports this.

National Dispute Resolution Service

The National Dispute Resolution Service would provide an information and referral service similar to option one, but would also offer a mediation service where no appropriate low cost dispute resolution service exists. This option would provide dispute resolution information through a website and telephone hotline. Operators would discuss dispute resolution with callers and direct them to appropriate existing services in their state or territory. If no appropriate service exists, a mediator drawn from a standing panel would assist small businesses with their dispute. This option would also offer an awareness and education campaign, which would target specific sectors with a high incidence of disputes.

Not only does REIA support this option, it is the REIA's preferred option as it provides an expanded service but keeps costs down for small business.

National Small Business Tribunal

This option proposes a new Commonwealth tribunal, the National Small Business Tribunal, to be established specifically to resolve small business disputes and would be backed by new Commonwealth legislation. This option would provide a national network and a one stop shop approach for small businesses with disputes. The tribunal would be based in a capital city and could potentially use existing federal court infrastructure.

REIA does not support this option as it puts the greatest financial impost on small business and unnecessarily duplicates and competes with the role of the Small Business Commissioner in each state and territory.

Small Business Advocate

The Small Business Advocate would provide independent representation of small business interests and concerns within the Australian Government. The advocate would have the capacity for investigating and advising the Australian Government on small business issues, including dispute resolution. An initial referral service will utilise existing low cost state or territory dispute resolution mechanisms. Where a gap in existing services is identified, a suitable mediation service would be established.

REIA supports this option but in doing so notes that it goes beyond the provision of a dispute resolution service which could impinge on the costs of providing this.

REIA Recommendations

The REIA supports Options 1,2 and 4 but has a preference for Option 2, a National Dispute Resolution Service, on the basis of cost.

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