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DATE: 30<sup>th</sup> June 2011

SUBJECT: Resolution of Small Business Disputes – Options Paper May 2011

COMMENTS:

My background is as a small business operator in the automotive parts wholesaling industry for 36 years. I have also had extensive experience on committees advising the government and the accounting profession in matters relating to small business.

In reviewing this Options Paper I wonder whether a problem is being perceived/created where there is none, not at least to the extent that it warrants significant intervention. I also believe that there are 2 distinct issues raised by the paper that I consider to be separate and distinct. The first is the issue of Dispute resolution and the second is the issue of a Small Business Commissioner/Advocate and I believe they should be considered separately.

In reviewing the Options Paper I also consulted the Orima Research Summary Report that was provided as a link to the Options Paper. It was this research that I understand prompted the Options Paper. I accept that disputes arise business-to-business and I am not going to quote the research ad nauseum but it clearly indicates that we are talking about less than 2% need to take it to formal proceedings. To my mind this is not of material import to warrant significant intervention. That does not mean to say that some action should not be taken but we do not need to take a sledge hammer to crack a peanut approach.

The paper is well researched and identifies a vast array of services that are already in place and operating. I believe that the best option would be OPTION 1 as it builds on what already exists and would be more easily integrated into existing service offerings. Small Business wants easy to access and easy to use services that they are able to locate and use when the need arises. What they do not require is a bureaucracy that is complicated and cumbersome to use and access and really doesn't serve their requirements. In most instances small business operators will try and resolve differences before it escalates to intervention stage as it is in their best interests as a small business operator, they cannot hide from having to deal with customers or suppliers because they are the lifeblood of their business. In my experience it is only in exceptional circumstances where third party intervention is invoked and that tends to be a last gasp effort. They don't have the time or money to waste to entertain frivolous disputes it simply isn't in their best interests and the research bears that out.

I will now address the Focus Questions.

OPTION 1

- *Would the service establish a new phone line or website or should it use an existing service that many small businesses are already aware of? It MUST utilise existing services as what is required is a single portal for ALL small business needs NOT additional tack on services. It only serves to complicate and confuse.*
- *What types of general information and guidance would be most useful to small business in their business disputes? What they really need is an easy to read template that outlines their options in different circumstances and provides them with contact details of relevant services. What would be useful is a brief (2 – 4 page A4) Guide that they are able to access that is almost a checklist.*
- *Would a national referral service be used by small business? The short answer is NO. As most of their disputes are going to be state based it would be more appropriate to build on existing state services that business is increasingly using (ie Smart Licence in Queensland) Having said that it should be accessible wherever small business are accessing small business services. Whether that be national, state, industry or professional organisations.*

- *What are the best ways to reach small businesses to improve awareness of dispute resolution?* Existing services and their business advisors (in most cases this will be their accountants ) Existing services would include their industry and professional organisations. Small business is looking for a “One Stop Shop” for ALL of this business advice. They are becoming increasingly computer literate and utilise this avenue at a time that suits them (usually after hours) as this is the time that they have available and set aside to deal with these issues so it needs to be available 24/7. Checklists are good and so is word of mouth.

#### OPTION 2

- *Are there sufficient areas of small business that are not covered by current dispute resolution services?* Regional and remote and their access to centres where they would need to take a dispute. Difficult to address
- *Would the government be better served in raising awareness of what’s available or how to avoid and/or deal with a business-to-business dispute?* MOST definitely this has to be the first avenue canvassed rather than launching off into providing services that are neither warranted nor desired. There should almost be a moratorium on any further development of this paper until this has been tried for a period of time and the results assessed.
- *Can it be achieved using a MOU or an IGA? Between states???* I would think so.

#### OPTION 3

TOTAL OVERKILL and I do not consider to be a warranted option in any case. We already have similar systems in place as identified in the paper we don’t need another layer.

- *How will the NSBT define eligible “small business”?* Take your pick, we have toooooo many definitions now we don’t need another one !!!
- *Which Commonwealth agency is best placed to establish and administer the NSBT?* None as it is an unnecessary option
- *Is this option the most cost effective way of addressing small business dispute resolution?* DEFINITELY NOT
- *Who will be tribunal members and how will they be recruited?* Not by any process that small business will have faith in or endorse
- *How far will this option go to fill existing gaps in small business dispute resolution?* Not very in fact it will probably confound any existing problems.
- *Does the NSBT duplicate existing services?* MOST DEFINITELY
- *How could duplication of existing services be avoided?* By not following this option
- *Does this option overestimate the demand for small business dispute resolution services?* MOST DEFINITELY

#### OPTION 4

This Option I believe should be considered as a separate and distinct issue as I believe there is a definite need for this position to address the ongoing needs of small business in this country. I also do not believe that they should become involved in dispute resolution except to ensure that options as discussed in this paper are in place

- *Are there other models?* The Victorian Small Business Commissioner model is one that seems to be gaining universal acceptance and I am quite interested in the new model that is being developed for the Queensland Business Commissioner.

- *Is there a more suitable title?* I believe it is more appropriate to use Commissioner, it carries an independence that will be important to the roll.
- *Should the proposed mediation services be subsidised?* I also do not believe that they should become involved in dispute resolution except to ensure that options as discussed in this paper are in place
- *With the large number of low-cost dispute resolution services already available should the position focus on education and referral as outlined in option 1?* MOST DEFINITELY, it should be the prime area of involvement in the dispute resolution process.
- *Method of establishing the OSBA?* I don't understand the question, if it means establishing like the Taxation Commissioner or an Ombudsman then I believe it would be appropriate to have as broad-ranging powers as possible
- *What is the most favourable process for national collaboration on small business dispute resolution?* Education and information dissemination.
- *Should the Advocate seek advice less formally from the small business community and be able to selectively act on the issue within government?* I firmly believe that the role should be to work as a broker between the small business community and the government to achieve the best possible outcome for all and try and broker understanding on both sides as to what the real issues are and promulgate an understand of the views from all sides which should (in an ideal world) lead to the best outcome for all.

I believe, as stated, that there are separate issues and outcomes and that I have provided sufficient input to assist in the process to determine where the Options Paper progresses from here. I will certainly watch with interest as I believe there is still a significant amount of work to be done in the small business space to gain the maximum outcome from this important part of the economy.

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