

Thursday 1st October, 2020

Kate Carnell AO
Australian Small Business and Family Enterprise Ombudsman
ANZ Building
Level 2
15 Moore Street
Canberra ACT 2601

cc. Senator the Hon. Michaelia Cash
Senator for Western Australia
Minister for Employment, Skills, Small and Family Business

cc. the Hon. Michael Sukkar MP
Member for Deakin, Victoria
Assistant Treasurer, Minister for Housing

Dear Ms Carnell

Public statements made by Australian Small Business and Family Enterprise Ombudsman regarding Premier's dealings with suppliers

As you would be aware, there has been recent media reporting regarding Premier's and several other retailers' dealings with suppliers during the COVID-19 pandemic — which has and continues to cause unprecedented levels of disruption to the entire Australian economy, including in particular the discretionary retail sector.

More specifically, those media reports have concerned our decision, like many retailers, to seek support from our suppliers during a period of extreme economic turmoil and uncertainty through temporary flexibility in payment terms.

As we have said, this decision — which occurred in late March 2020 — formed part of a package of measures which we responsibly adopted to seek to ensure our sustainability at a time when we faced an existential threat to our viability. In particular, at the same time we sought assistance from our suppliers, the entire Just Group business was shut down and our workforce of over 9,000 staff were stood down. During the period of this stand down, which lasted for over one month, I worked full-time from home without pay or accessing leave entitlements in an attempt to ensure, for the benefit of our many stakeholders, that our business could survive the crisis caused by the COVID-19 pandemic. In addition, the entire Just Group executive team were stood down and agreed to work from home when required with either no pay or reduced leave entitlements.

As the Small Business and Family Enterprise Ombudsman, you have been quoted extensively in the recent media articles. You have described our conduct as *“unethical”* and have stated that it is *“unacceptable for big entities like Premier to use late payment as a method of making their figures look better”*. You have also stated that we are *“pushing out the little guys that have nowhere to go”*.

These public statements and the imputations that they raise — namely, that we have abused a superior bargaining position and have exploited smaller suppliers to boost our bottom line — are simply not true and ignore critical facts and context.

We of course value the role of the Small Business Ombudsman in supporting and advocating on behalf of small businesses. Many of our key suppliers are small businesses and we have always valued the longstanding commercial relationships which we have with those organisations.

However, in carrying out that function it is important that the position adopted by the Ombudsman, a Government body, is fair, appropriately balanced and based on facts and context.

s 47G(1)(a)



As a separate matter, it also important that I bring to your attention the following facts regarding the manner in which the temporary assistance from suppliers was actually implemented. These critical facts have unfortunately also been ignored in your public statements:

- 1 In seeking temporary relief in payment terms, we did not target any specific supplier based on their size (or any other factor). Rather, the temporary relief was sought consistently across our suppliers. For this reason, the suggestion in your statements that we have knowingly imposed extended payments terms on smaller suppliers “*with nowhere to go*” is false;
- 2 The request for temporary support from suppliers was not framed as a demand. Instead, it was communicated as a temporary request for support from suppliers — with a view to allowing our partnership with suppliers to rebound in the long-term following the effects of the pandemic. Our letters communicating the request for temporary assistance stated that, with the support of our suppliers, it was our belief that we could overcome the disruption caused by the pandemic and return to usual business once the pandemic has passed;
- 3 Despite the temporary relief in payment terms, we continued to make payments to our suppliers. In particular, when Just Group was able to recommence trade in mid-May 2020 (as shown in the above graph), payments were made. As a result of these payments, suppliers were not required to wait anywhere near 180 days; and
- 4 Once we saw a material improvement in our business, we paid all outstanding invoices to suppliers by 30 June 2020 and returned to more usual payment terms with all suppliers by 1 July 2020.

Conclusion

I trust that the above facts demonstrate clearly to you that we have never sought to exploit smaller suppliers for the purposes of seeking to unjustifiably improve our financial standing.

The COVID-19 pandemic has raised extreme challenges for all businesses, both small and large. We took responsible action at a time when we, like many retailers, were forced to shut our stores and had no ability to know when we would be able to reopen. The steps we took occurred for the sole purpose of ensuring that our business could survive the then indeterminable threat posed by a global pandemic.

Our ability to maintain sustainable and successful long-term trade provides substantial benefits to all our suppliers and other stakeholders. As you would appreciate, many retailers have failed and no doubt left suppliers facing significant losses.

I would be happy to discuss these matters with you further at your convenience. My mobile number is s 47F

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. McInnes', with a horizontal line extending to the left and another to the right.

Mark McInnes
Chief Executive Officer
Just Group Limited