

SEAANZ submission to the Consumer Policy Unit at Treasury in relation to a public consultation on Unfair Trading Practices in Australia

Introduction:

Since 1987 the Small Enterprise Association of Australia and New Zealand Ltd ([SEAANZ](#)) has served as a focal point for research, education, policy and practice in the field of small to medium enterprise and entrepreneurship. Representing over 90,000 small businesses, SEAANZ itself is run by volunteers as a not-for-profit company limited by guarantee that is dedicated to research, policy development and the dissemination of ideas relating to entrepreneurship and small business management for the small to medium enterprise (SME) sector within the Australasian region.

We do this through undertaking commissioned as well as our own research, through disseminating information to a wide audience through our [social media channels](#), regular [White Papers](#) and Thought Pieces, annual seminars and round table events through to our own journal, [Small Enterprise Research](#), which has been in publication since 1992. It remains today the only dedicated small business journal in the Australasian region.

Our [Board](#) and membership reflect the unusual mix of small business owner, policy makers and regulators through to academics needed to reflect the SEAANZ mission of serving as a hub and connection point for communities of practice engaged in research, education and training, support, policy and practice in the field of small enterprise.

We should note too that SEAANZ has an international reach. It became an affiliate member of the International Council for Small Business (ICSB) in 1992 and in 2013, a member of the Asia Council for Small Business (ACSB).

Comments on the Consultation RIS

This was an excellent briefing document which covered an extensive area clearly and comprehensively. It was read by us with great interest as we have been working on the larger topic of *'what makes for good regulation for SMEs'*? Without going into the academic and practitioner side we have explored extensively here, this larger context provided the basis for us to assess the RIS provided on unfair trading practices and to quickly conclude that Option 4 provides the most viable option.

Unlike Option 1-3, it provides for a flexibility and the ability to adapt - a key advantage within the dynamic business environment we are faced with today. Issues such as that raised in Option 4 questions of 4.5, allowing for specific rather than the general prohibition on unfair trading practices, as suggested by Option 3 are thus overcome.

Also, as discussed at our online meeting, the RISs' exploration of the notion of unfair is to be commended. As our Board member Mark Brennan commented at the meeting, his experience as the Victorian and then the Federal Government's first Small Business Commissioner was that the term *'unacceptable'* is often a more accurate way of framing issues – avoiding the often quite childlike implications of 'unfairness' as well as really highlighting the perception part of the perceived harmful commercial practices you are seeking to redress. It is a reframing that we see as also explicitly moving the focus to one of what is actually being practiced – rather than the rhetoric of policies and empty words that have little to do with the day to day realities of what business actually do. It then sets the scene for the role of regulation (and the regulatory process and system), to generally be one of facilitating rather than punishing.

Again, drawing on the academic and practitioner literature we have studied as well as the practical experience of Board members (such as Mark as well as Barbara Maidment), and from our members, we believe that many of the issues raised by the questions provided with Option 4 are ones where it is not just the cost benefits of this option that makes it a viable path – it is also the costs associated with not taking this path. It is an option that allows consideration of the possibility for enforceable undertakings for instance and, from our perspective at least, provides for a very clear educative pathway to be taken. The education route around unacceptable business practices is one we suggest is not just aimed at businesses but also at the regulators (and yes, if you can hear the voice of Mark Brennan again here, you are correct!). Embedding this notion of *'unacceptable'* within the context of widely accepted and current debates around the incorporation of the UN SDGs also provides a strong framework for this educative approach.

We realise that this project is still at a very formative stage so will leave our submission at this general level but please know that SEAANZ would be delighted to work further with you and follow through on these ideas.

Warm regards,

Tui McKeown, SEAANZ Chair on behalf of the SEAANZ Board