



29 May 2024

Dr Alex Robson  
Deputy Chair  
Productivity Commission

via email: [ncp@pc.gov.au](mailto:ncp@pc.gov.au)

Dear Dr Robson,

### **Submission to the Productivity Commission's National Competition Policy analysis**

The Australian Small Business and Family Enterprise Ombudsman welcomes this study and supports the intent of competition policy reforms to reduce barriers to entry and expansion, foster entrepreneurship and enhance Australia's dynamic efficiency. Competition reforms are particularly important for small businesses, which although they continue to play a crucial role in the Australian economy, are facing increasingly significant challenges to operate.<sup>1</sup>

We would contend that the reward-risk balance has deteriorated over time.

The ASBFEO endorses the study's scope to consider the inclusiveness and distributional impacts of economic growth. At a minimum, this should include how opportunities, incentives and constraints relating to small businesses can be better measured, so that policymakers are aware of the full extent of how policies are likely to affect small businesses. Given the importance of small businesses in Australian society, this is critical to ensuring that competition reforms are effectively transmitted through the economy and that they improve the welfare of everyday Australians.

The ASBFEO appreciates this opportunity to offer specific suggestions on how this can be achieved. This submission primarily focuses on enhancing the reporting of information on material constraints affecting small businesses as this is where current data are most lacking.

#### **Recommendation 1: Address information gaps on the challenges faced by small businesses**

The ASBFEO considers there is opportunity for the study to significantly enhance policymakers' understanding of competitive dynamics in Australian markets by addressing specific key information gaps, as outlined below.

##### **1. Measures relating to regulatory burden**

The ASBFEO considers that there is significant scope to measure the burden of new policies and regulations on small businesses more rigorously and consistently. A thorough regulatory burden assessment is imperative to understanding the true costs of doing businesses, and is relevant to understanding start-up costs, barriers to entry, and how the international competitiveness of Australian businesses can be improved.

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<sup>1</sup> While small businesses collectively account for 32% of Australia's total GDP and 42% of private sector employment today, these figures have declined significantly in the past two decades. This decline also coincides with a decrease in the proportion of small business owners aged under 30, which may indicate there are significant barriers and low incentives for Australians to start small businesses today. Australian Small Business and Family Enterprise Ombudsman (ASBFEO) analysis of ABS, *Australian Industry, Small business matters*, ASBFEO, Australian Government, June 2023, p. 1.



Existing guidance published by the Office of Impact Analysis takes account of:

- Administrative costs, including the time taken to create and maintain records, notifying the government of certain activities, making applications and paying license fees.
- Substantive compliance costs, such as the costs of providing training to employees, purchasing and maintaining equipment, providing information to customers, engaging professional services and purchasing permits.
- Delay costs, which consist of expenses and loss of income incurred by:
  - the time taken to complete an administration application, and/or
  - the time taken by the regulator to assess and communicate a decision.<sup>2</sup>

The ASBFEO has observed a decline in discipline and consistency in the process of analysing policy and regulatory impacts. There is scope to emphasise the need for identification of minimum effective interventions. The Office of Impact Analysis recommends that: ‘[T]he Impact Analysis should consider all practical policy alternatives that can be implemented to achieve the policy objective and address the identified problem.’<sup>3</sup> All too often, however, practical alternatives are not being considered – a problem exacerbated by increasingly tight consultation times and narrower scope for officials to incorporate insights from affected businesses.

For example, the regulation impact statement for mandatory country-of-origin labelling (CoOL) for seafood in hospitality venues proposed three options:

1. Status quo.
2. The option originally proposed for consultation, namely requiring businesses to label on menus, display boards or anywhere fish for sale is advertised, whether seafood is either:
  - a. Australian (A)
  - b. Imported (I)
  - c. Mixed origin (M) (if a dish contains both Australian and imported seafood).
3. A new ‘country model’ option, namely requiring hospitality business to label on menus, display boards or anywhere fish for sale is advertised, the *specific* country of origin of the seafood (for example, Barramundi: Thailand).

The regulation impact statement did not consider more practical alternatives, such as:

- Introduce country-of-option labelling for seafood as a voluntary national reporting standard that businesses may or may not choose to apply, or customers could seek information about.
- Exempt the use of seafoods as minor-share ingredients from any CoOL for seafood in hospitality requirements. Food service businesses should be given discretion to determine if

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<sup>2</sup> Office of Impact Analysis, *Regulatory Burden Measurement Framework*, Department of the Prime Minister and Cabinet 6 February 2024.

<sup>3</sup> Office of Impact Analysis, *User Guide to the Australian Government Guide to Policy Impact Analysis*, Department of the Prime Minister and Cabinet, 30 November 2023, p 24.



the seafood in a dish they are serving is a major component and therefore requires CoOL, and that enforcement of compliance takes this into account.

- Add an additional category of ‘variable’ to the proposed categories of ‘Australian’, ‘imported’ and ‘mixed’, to give hospitality businesses a simple indicator to alert consumers that the jurisdictional source of the seafood product is frequently changing, or the business cannot certify the origin of the product from its supplier.
- Only require seafood restaurants with 15 employees or more to comply with CoOL.

Had these alternatives been considered, a less onerous approach might have been selected, while still achieving the government’s policy objective.

Further, the ASBFEO considers that measuring the stock of existing regulation is as important as measuring the flow, especially given that small businesses have less capacity than their larger competitors to deal with regulatory burden and complication.

## ***2. Measures relating to small businesses’ access to finance***

A common theme in the feedback that the ASBFEO receives from its industry stakeholders is that small businesses can face challenges in gaining access to unsecured finance, particularly for new businesses and younger business owners. The inability for new businesses to source funding to commercialise new ideas can stifle innovation, hinder competition, and reduce market dynamism.

Given the likely significance of this issue as an impediment to competition, the ASBFEO recommends the study to consider options for collecting information on the shortfalls in small businesses’ access to finance, if any, in different industries. This would improve upon the reliability of information available to policymakers, which today is often based on undocumented or anecdotal evidence.

## ***3. Measures relating to business entries and exits***

While there is already some available data on registration and deregistration of ABNs and ACNs, this data carries insufficient detail to make reliable findings about market entries and exits to inform an understanding of competitive dynamics and trends. This information gap is particularly concerning given the importance of being aware of the reasons for, and trends in, marginal entries and exits to understanding how markets are responding to various drivers, including competition reforms.

The ASBFEO considers that an effective way to address this information gap would be to collect relevant qualitative information, such as the reasons for registering or cancelling an ABN, to improve the quality of existing data on ABN registrations.

### **Recommendation 2: Refer to the discontinued ABS survey on business conditions and sentiment as an example of relevant information reporting**

The ASBFEO considers that the discontinued ABS survey covering business conditions and sentiment was an extremely useful resource for policymakers to understand contemporary business conditions and challenges. The survey data was sortable by industry and business size, and this granularity enabled analysis of how specific industries and business segments were affected by the key drivers of the time (such as supply chain disruptions and the adoption of teleworking technology).



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While the survey began as an initiative to understand the impacts of the COVID-19 pandemic on Australian businesses, it also provides an effective template for collecting and reporting on how different drivers affect businesses of different sizes and in different industries. Many drivers, such as changes in regulatory burden, are highly relevant to the competitive landscape, and should be understood to ensure that competition reforms are appropriately designed to address the key enduring constraints affecting the targeted markets and industries. This would help ensure that reforms are effective and interventionist only to the extent needed to achieve their policy intent.

The ASBFEO therefore recommends that the study refer to the discontinued ABS survey on business conditions and sentiment and, where appropriate, adopt learnings from this survey to collect and report on information on how key contemporary drivers are affecting businesses of different sizes and in different industries.

If you would like to discuss this matter further or require any further information, please contact the ASBFEO via email at [advocacy@asbfeo.gov.au](mailto:advocacy@asbfeo.gov.au).

Yours sincerely,

**The Hon Bruce Billson**

Australian Small Business and Family Enterprise Ombudsman