

27 May 2022

Regulatory Policy
Department of the Prime Minister and Cabinet
1 National Circuit
Barton ACT 2600

via email: deregulation@pmc.gov.au

To whom it may concern,

Submission re: Supporting Economic Resilience Through Regulatory Responsiveness Lessons from COVID-19 and other shocks

The Council of Small Business Organisations Australia (COSBOA) welcomes the opportunity to provide a submission relating to the consultation paper and to share perspectives gained from our small business representative membership.

The Council of Small Business Organisations Australia (COSBOA)

COSBOA is the national peak body representing the interests of small business. COSBOA's members collectively represent an estimated 1.3 million of the 2.5 million small and family businesses operating in Australia. As a collaboration of peak organisations across various industries, COSBOA acknowledges that small and medium-sized enterprises (SMEs) are significant contributors to the Australian economy. SMEs employ 68% of Australia's workforce. In GDP terms, SMEs together contribute 56% of value-added. Therefore, small and medium businesses are vital partners in rebuilding Australia's economy as Australia emerges from the COVID-19 pandemic.

We address the following concerns for small businesses in this submission's main points:

- State Responses to COVID-19
- Industry Associations
- Single National Source of Information
- Model Emergency Power
- ASBFEO

Consultation process

COSBOA's collaborative consultation process regarding the consultation paper has included discussions with members across various industries and draws on our [2022 Small Business Perspective Report](#). That report's results derive from a structured survey of COSBOA members, which sought responses on multiple issues relating to government decisions about the COVID-19 pandemic.

The survey canvassed a range of government decisions, including public health measures, business assistance programs, and income support. The survey enabled member organisations to comment on government decision-making during the pandemic. These honest and raw comments are cited throughout that report and provide meaningful commentary for the survey data. The full report is attached to this submission for reference.

State Responses to COVID-19

Consultation and Communication

The pandemic highlighted the need for regulators to proactively engage with industry associations to ensure the practicality of what they were attempting, in some cases, could be done and to assist with communication.

Industry groups play an essential role in representing small businesses; however, there is no single source of registration or list of these groups for regulatory agencies across the states and territories to access. For example, some representative groups may be a registered organisation with compliance attached to the Registered Organisations Commission. Others may be an incorporated association with state-level registration or be registered with the Australian Charities and Not for Profits Commission. These different structures create complexity for state and territory regulators to both find and effectively communicate with representative groups whose members are impacted by government decision-making. During the pandemic, it became apparent that some regulatory agencies were unaware of specific sector representatives, for example, in hair and beauty, that had small businesses as members in their jurisdiction.

COSBOA recommends a national register of representative groups. This register would draw on the various state, territory, and federal resources and be used by agencies in times of crisis to assist with communication and capture more representative sectors.

Financial Support

The JobKeeper program was a success and was a crucial lifeline for small businesses and the Australians who work in them. Our members almost universally commended it. With the discontinuation of JobKeeper in March 2021, however, states and territories were left to administer business support programs. In July and August 2021, the Federal Government announced co-funding arrangements with state governments to support businesses impacted by COVID-19 restrictions. However, half of the funding came from the Federal Government, and the state governments designed and administered the programs.

This varied administration led to significant differences in the support on offer and highlighted the structural problems when it was administered. In addition to these factors, some jurisdictions struggled to get support grants out quickly. In the ACT, for example, only 1 in 7 businesses had received their support funding five weeks after their applications had been lodged.

Several of our members commented that the differences in approach and delivery were incredibly challenging for businesses, mainly where there were significant differences in eligibility requirements. In particular, the Victorian Government grants received criticism from COSBOA members for excluding microbusinesses and entire industries.

COSBOA believes that the states struggled with implementing financial assistance for businesses because it had a basis in federal income tax law (an area they had no expertise). Where business assistance has a basis in federal tax laws, the ATO should play a more prominent role in such grants.

Industry Associations

The COVID-19 pandemic has had a significant impact on small businesses and the lives of small business owners. Industry Associations and other professional groups were deeply impacted financially and in terms of resourcing during the pandemic. While the effects of the virus had varying impacts on different memberships, all shared a common concern for the economic fallout on individuals, small business owners, and the broader community.

Industry associations played a crucial role during the pandemic, particularly when information was slow to come from the government or where that information was not available. Associations are uniquely positioned to assist regulatory agencies concerning the pandemic management or other shocks, including disseminating accurate information from trusted sources and helping address issues that arise. They are a trusted pathway and are trusted advisors for small businesses.

COSBOA submits that regulatory agencies consult industry associations and small business representatives to ensure that regulatory changes are practical and fit for their intended purpose, for the small business sector.

Single National Response to COVID-19 or other shocks

A consistent theme from conversations with our members regarding any lessons learned from the pandemic is the need for a single source of information for COVID or other shocks. Businesses that operate across different borders find it very difficult to keep up to date with what is going on and therefore comply with the differing requirements in each state.

There was acknowledgment for federal, state, and territory online resources during our survey work. Survey respondents rated all as reasonably useful, with the Federal Government, New South Wales Government, and Victorian Government scoring slightly higher. However, some respondents commented on the difficulty finding relevant information and on timeliness issues; this strengthens the argument for a single source of information. The difference in language, or terms used to explain regulatory requirements, added to the confusion in a fast-moving environment, particularly where the states had agreed to a national approach through the national cabinet.

COSBOA recommends that it would be best for one agency to develop information explaining regulatory requirements covering all jurisdictions. This agency could, for example, be one of the state Departments of Health (not necessarily a Federal Agency).

Model Emergency Powers

In Australia, no one "emergency" law grants the Federal Government complete authority over formulating and implementing a national response. However, the Federal Government has powers

and functions in various federal laws to help states and territories respond to and manage the situations arising during states of emergency. It does however in practice mean each state has its own emergency powers legislation to deal with COVID-style outbreaks.

COSBOA argues that to ensure national consistency while allowing the localised application, National Cabinet (or any new iteration) should develop model emergency powers legislation, which each state and territory would legislate. This model would allow the states and territories to continue their localised approaches within a consistent legal framework. A uniform legal framework would also facilitate a national strategy for interpreting and applying such powers.

ASFBE0

COSBOA met with the Australian Small Business and Family Enterprise Office, and we both agree that small and family businesses play a pivotal role in rebuilding local communities. COSBOA supports the Commission's recommendations, particularly their proposal for simplified regulation to support economic resilience and free up small business resources.

If you wish to discuss any of these matters further, don't hesitate to contact Alexi Boyd, Chief Executive Officer at ceo@cosboa.org.au.

Yours sincerely,



Alexi Boyd
Chief Executive Officer
Council of Small Business Organisations Australia (COSBOA)

About COSBOA

Small business in Australia is the backbone of the economy. We harness its diversity and provide its people with a voice, distinct from big business.

Established in 1979, The Council of Small Business Organisations of Australia (COSBOA) is a member-based not-for-profit organisation exclusively representing the interests of small businesses.

The capability, representation, and reach of COSBOA are defined by a mix of over 40 national and state-based association members. COSBOA's strength is its capacity to harness its members' views and advance consensus across policy areas common to many. Our member organisations work behind the COSBOA secretariat to assist us with policy development and guide our advocacy - not just for small business but also for the benefit of the Australians they employ.

In this capacity, COSBOA makes submissions and representations to the government, including its agencies, on issues affecting small businesses and to pursue good policy.

More information about COSBOA can be found at www.cosboa.org.au/cosboa-goals