

23 June 2020

COSBOA Communique

SME Business Cost Escalation and Growing IR Risk

SYNOPSIS

COSBOA's COVID-19 Roundtable has been re-tasked to focus on the nature of specific initiatives that could aid economic recovery and support job creation from an SME perspective. The first of these re-tasked meetings was convened on Friday 22 May 2020 and successive meetings continue to canvass the nature of specific policy and legislative opportunities in this regard.

This latest roundtable meeting was held on **Friday, 19 June 2020**. The discussion at this meeting was conducted by way of a listening post with COSBOA's industry association members and partners, who collectively represent around 1.4M SMEs. These organisations shared their perspectives on the general feeling of SMEs as the Australian economy takes its first steps along the road to economic recovery.

The discussion gave rise to a conversation about some of the immediate challenges facing SMEs, with a focus on business insurance, the national wage case decision and an apparent increase in industrial matters. A summary of these issues is presented below.

KEY THEMES

The following key themes were discussed at this latest meeting:

- 1. SMEs are reporting significant difficulties with the operation of existing insurance policies. These concerns extend to some insurers withdrawing or reducing business policy cover mid-term, changing policy terms unilaterally, and dramatically increasing the cost of public liability insurance.**
 - Small business is heavily dependent on business insurance to guard against the financial loss of business owners. Consequently, business insurance products need to be affordable and policy cover needs to be consistent for the duration of the policy term.
 - SMEs are reporting significant issues with unilateral changes made to policy cover during the term of the policy. These changes appear to be contrary to the operation of a normal commercial contract (i.e. supplier changing terms of a contract executed in good faith by a small business owner) but are apparently permitted as a result of specific and special terms included in the contract 'fine print'. There would appear to

be a case for the ACCC expanding the scope of unfair contract terms to specifically include business insurance, notwithstanding the operation of the Insurance Contracts ACT (1984).

- Reports are also being received of changes in public liability cover (i.e. reduced cover for similar premiums) and/or dramatic increases in the cost of public liability cover for SMEs – increases that are bordering on being prohibitive for SMEs.

2. SME views on the national wage case decision are divided, although all agree that a nil increase for FY21 would have been preferable given the macro-economic climate and low national inflation rate

- Roundtable participants noted that the Industrial Relations Commission has handed down a 1.75% increase in the minimum wage, with consequent impact on all minimum award rates. The increases are to be introduced in 3 distinct stages depending upon the industry, with staff employed in the general retail and hospitality sectors entitled to the increase from 1 February 2021.
- The national wage case decision was lower than the 4% sought by Australian unions and lower than current CPI (i.e. 2.2%). This assessment prompted some roundtable participants to suggest that the quantum and staging of the wage case decision is welcome compared to the alternative promoted by the Australian union movement.
- Other roundtable participants, however, suggested that any increase in wage costs was unwelcome and threatened to unduly constrain job growth given the extreme financial pressures and high level of economic uncertainty facing most small business owners in FY21.

3. SME owners are growing increasingly concerned about an apparent sharp increase in unfair dismissal claims as businesses reopen. This concern is further heightened by severe concern about the potential implications of the recent Federal Court ruling on casual employment.

- Roundtable participants indicated that their SME members were reporting significantly increased rates of unfair dismissal claims. These claims were apparently supported by changes in the nature of inquiries being received by the Fair Work Ombudsman, in the face of a significant decline in Job Keeper inquiries.
- Roundtable participants also highlighted a high level of concern amongst SME owners about the implications of the recent Federal Court Ruling (WorkPac Pty Ltd V Rossato 2020) on the risks associated with casual employment. It was strongly suggested that this issue will likely be a constraint to job growth within the SME sector until such time as legal clarity is provided on this issue.

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