

8 October 2020

COSBOA Communique

Beyond the September Cliff

SYNOPSIS

COSBOA's COVID-19 Roundtable seeks to engage SME representative industry bodies and related stakeholders in a discussion about the current issues being experienced by SMEs in the wake of the COVID-19 economic downturn - and to canvass potential initiatives for the remedy of same. This latest meeting was conducted on **Friday, 2 October 2020** - at a time when Metropolitan Melbourne was still operating under Stage 4 lockdown restrictions.

The meeting was conducted following the expiry of Stage 1 of the JobKeeper programme and the expiry of numerous other pieces of state and federal legislation designed to support small business through the COVID-19 crisis (albeit that some measures, such as IR flexibility and insolvency protections for small businesses, have already been extended beyond September 2020).

The meeting included a presentation from *Beyond Blue* about a new national mental health course designed for people who advise/engage small business owners.

Roundtable participants shared perspectives on some of the issues that are of critical importance as most Australian small businesses (apart from Victoria) take considered steps towards business recovery. This discussion gave rise to the key themes outlined below.

KEY THEMES

1. Commercial rental assistance for small and family businesses (and their landlords) remains a significant concern.

- While much has been done to relieve pressure on small and family businesses on a variety of fronts, the National Commercial Tenancy Code (and consequent state-based initiatives supporting the same) have proven largely ineffective in addressing key issues surrounding rental liability for businesses that have been forced to temporarily close their doors (i.e. under government-imposed lockdowns) and or trade at sub-optimal levels of revenue. The situation is particularly severe for Victorian businesses that have been subject to the longest period of lockdown restrictions of any advanced economy in the world.
- Notwithstanding some limited success, experience with the operation of the National Commercial Tenancy Code suggests that the Code is largely flawed owing to the fact that it seeks to provide relief by encouraging landlords to defer or reduce rents, despite the fact that many commercial landlords cannot do so without devaluing their commercial property and triggering adverse action by banks in respect of their borrowing covenants.

- There is a clear need to develop an alternative approach that provides direct relief to landlords and business tenants alike, possibly developed along the lines of the Canadian programme (Refer to Canada Commercial Rent Assistance Programme <https://www.cmhc-schl.gc.ca/en/finance-and-investing/covid19-cecra-small-business>).

2. Small business measures announced prior to the handing down of the Federal Budget appear strong and effectively 'pass the baton' to Australian small business to lead the economic and job recovery process.

- The Government has improved the climate for business recovery via the extension of key COVID-19 support measures (e.g. IR Job Keeper flexibility and 'safe harbour' provisions against bankruptcy and insolvency) and the foreshadowing of budget measures that are expected to increase access to affordable capital (i.e. via the repeal of Responsible Lending Laws) and increasing the ability of business owners to navigate insolvency after 31 December 2020 (i.e. via the installation of new laws that give the debtor some control of the insolvency process).
- Subject to the business support measures (as foreshadowed in the 2020 Federal Budget) being ratified by the Australian Parliament, it is now time for business owners to actively engage in the economic recovery process.
- There may be a need for special measures to be put in place to for Victorian businesses to counteract the predicted severe impact of the continued community lockdown in that state. There remains an urgent need for the Victorian Government to reconsider the practicality of the health indicia being used as the trigger for any move to the critical step 3 reopening of the Victorian economy (i.e. as identified in the Metropolitan Melbourne Reopening Roadmap).

3. The level of business inquiry and angst about the transition from stage 1 to stage 2 of JobKeeper, as being fielded by business organisations, is modest. This suggests that most small business owners have a good understanding of their options and eligibility to participate in stage 2 of the JobKeeper programme after 28 September 2020.

- Roundtable participants reported a low level of inquiry about JobKeeper stage 2 from their small business members, relative to the high level of inquiry recorded in advance of stage 1. The primary reasons for this occurrence are considered to be: (a) good familiarity of the JobKeeper mechanism amongst small business owners; (b) good knowledge of the stage 2 eligibility requirements amongst the accountants and certified bookkeepers who are advising business owners; and (c) a high quality of information being provided by the ATO.
- Examination of the interaction between the Federal JobKeeper Programme and other business grant programmes provided for distressed businesses reveals that some businesses have inadvertently been disqualified from stage 2 JobKeeper as a result of having received other government grants from federal and state/territory programmes (i.e. these grants have been deemed to be income for the purposes of JobKeeper eligibility).

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