



Australian Government



Australian
Small Business and
Family Enterprise
Ombudsman

QUARTERLY REPORT

Quarter 4

1 October to 31 December 2024



A MESSAGE FROM THE OMBUDSMAN

In the December 2024 quarter ASBFEO hit the milestone of having helped 50,000 small and family businesses. This highlights the vital and valuable service that we offer – a service not enough business owners know about.

The ASBFEO is an asset and ally to Australian small and family businesses, and at these challenging economic times, more need to know how we can help.

Through our dedicated (and small business-experienced) staff, my small but agile team delivers assistance, case support, better practice guidance, data analysis, advocacy submissions, policy and program design input, policy advice and thought-leadership through in-depth research and inquiries, information services, regulatory input and cross-agency collaboration.

The ‘dirty boots people’ is what one of Australia’s leading economic regulators calls us. We have been ‘in the field’ every day since ASBFEO was established in March 2016, working alongside real-life small and family businesses.

At a time when most small businesses are facing many headwinds and precious little wind in their sails, I hope it is reassuring and supportive to know ASBFEO is actively seeking to help.

Our value as a problem solver, provider of high-value insights and policy proposals and pathfinder and proponent of practical action to improve the small and family business ecosystem, led to the International Council for Small Business selecting ASBFEO for a ICSB Lighthouse Award 2024–2025. Award recipients are recognised as ‘guiding beacons’ that ‘exemplify excellence by developing impactful programs, influencing

government policies, and driving innovative research and solutions to support growth, resilience, and prosperity.’

Our assistance function is a key customer-facing service delivery role, and in the December 2024 quarter, we had 1,937 requests for assistance, including calls and actively managed cases.

Reflecting the challenging trading conditions and significant concerns about cashflow, payment disputes remain our most prominent area where small businesses are seeking assistance, and where one-to-one assistance is required. Over the year, payment disputes increased by 25%, but they fell by 5% in the December quarter compared to the previous quarter. The risks and impacts on one business not being able to make timely payments to another business desperately needing that payment to meet their own obligations, remains a significant and growing concern. There was a 27% increase in the December 2024 quarter in requests for assistance from small businesses facing insolvency or concerned about a business customer potentially not being able to make payments that are due.

Small business owners’ identities are interwoven into their business and the stakes are much higher than just a job. Many people have invested a lifetime, and often their life savings – often putting their family home on the line – to build up their business. This amplifies what is at stake and commensurate emotional challenges. We continued to observe a hardening of position and greater distress amongst parties to disputes during the December 2024 quarter.

Beyond supporting the resolution of a dispute, our assistance can be referral to other support and resources that can help the business owner be in the best place to tackle the challenges of their business and to tap

MESSAGE FROM THE OMBUDSMAN

into other services that can help with the prospects of business success. This can relate to ways to avoid disputes, improve the way that a business is run, or support to keep great personal mental health.

The remarkable perpetual optimism of small business owners is reflected in increasing interest in digital options to support improved prospects. This greater interest in and use of digital platforms and service providers in part accounts for another significant increase in the December quarter of small businesses, which required a dedicated case manager to help with digital platform disputes.

At a time when most small businesses are facing many headwinds and precious little wind in their sails, I hope it is reassuring and supportive to know ASBFEO is actively seeking to help.

A noticeable uptick in small business disputes with ‘fringe’ financiers operating outside the AFCA financial complaints resolution services highlights financial pressure on small businesses trying to keep their heads above water and considering less conventional ways of sustaining cashflows.

Case studies and trend data are leading indicators of ‘pain points’ and current headwinds and new challenges emerging in the business environment. This real-time ‘field-evidence’ about actual small business experiences is highly valued by regulators and policy makers and what gives rise to the ‘dirty boots people’ reference. It is also the source of insights about where policy and regulatory action is needed in order to provide small businesses with the best possible chance of success.

ASBFEO case studies have proved valuable to the competition regulator’s examination of the digital services and platforms marketplace and also where harmful unfair business practices are impacting on small and family businesses. Our cases studies and contributions ‘inside’ government policy and review processes continue to help to inform the priorities and work of policy makers. Beyond this kind of contribution, we also pursue our advocacy function by formally participating in consultation processes and seeking to influence outcomes as an external stakeholder. This unique ‘insider-outsider’ posture of ASBFEO illustrates our collaboration and collegiality in working with

Government and independence and fearlessness in working for the advancement of small and a family business interests.

The legislation for a new anti-scam preventive duty to be applied to the financial, communications and digital service providers small and family business owners depend on, is a positive step, that we argue needs to be supported by respondents having effective and timely dispute resolution and service restoration obligations. Another example of ASBFEO’s unique advocacy engagement is the proposed prohibition on unfair trading practices informed by our work. Beyond what we have provided by way of insights to inform such a measure is our advocacy to include business-to-business conduct and financial services with ASIC empowerment. The December 2024 quarter saw continuing advocacy in these important policy areas along with seeking to advance our earlier leading work on merchant card payment reforms.

ASBFEO’s patience, persistence and positive engagement over the longer term in relation to our policy and advocacy work, continued to support good outcomes during the December 2024 quarter. A number of ASBFEO’s 2023 procurement inquiry report recommendations have been embraced in various iterations of revised procurement rules, processes and guidance. We continue to advocate for further action to better enable small business participation in Commonwealth procurement, including how an Australian business is defined and small, female-owned/led, indigenous and CALD businesses are identified.

Our independence and deep engagement with more than 50 small and family business-facing industry associations, and real-time practical information from thousands of small businesses, means we are a trusted and authoritative voice about what is really going on in the small business economy. This unique capacity and ‘valued add’ was evident in the December 2024 quarter.

The 16 specific submissions lodged for the various consultative processes during the December 2024 quarter reflected our assessment of where limited policy and advocacy resources should be focussed at a time of increasing frequency of requests and opportunities for ASBFEO input. There is a noticeable tendency toward shortened consultative timelines – a concern also being expressed by small and family business industry representative organisations which also grapple with the sheer volume.

Our proactive outreach and influence activities in the December 2024 quarter continued to advance awareness of ASBFEO’s better practice resources, policy priorities and the very well received and reference 14-steps to ‘energise enterprise’. In the absence of a significant

MESSAGE FROM THE OMBUDSMAN

promotions budget, we continue to focus on social channels and ‘earned’ media to build our audience and agency awareness.

The December 2024 quarter also included the release of the widely acclaimed ASBFEO Pulse for November. This world-leading composite indicator continues to draw a great deal of interest and attention, with many positive comments on how representative it is of actual conditions. Our data and analytical insights continued to be heralded as authoritative, credible and robust. It was pleasing to see our research and analysis repeatedly cited and used by small-business organisations, commentators and across the community in the December quarter, including by the RBA.

Excellent research, data analysis and interpretative capacities combined with subject matter expertise has established ASBFEO as a top-tier researcher, data insight source and communicator. We progressed collaborative work with the ABS on a comprehensive small business data base in this quarter.

The December 2024 quarter also marked the commencement of the third review of ASBFEO in under a decade. Our legislation requires a periodic review of the adequacy of ASBFEO assistance and dispute resolution ‘toolkit’, with successive government using this requirement to review the organisation.

Considerable time and resourcing went into supporting this independent review led by former Victorian Small Business Commissioner Judy O’Connell and supported by a Treasury Review Team during the December 2024 quarter.

ASBFEO has appreciated the genuine interest in our work and constructive engagement as the Review process explores how we might further enhance our contribution. We look forward to lodging our own submission to the consultative process and encourage any stakeholders and interested people to contribute their input to the Review.



The Hon. Bruce Billson
Australian Small Business and Family Enterprise Ombudsman



KEY ACTIVITIES



Assistance

- We were contacted for information and/or assistance 1,937 times during the quarter.
- We helped small businesses and family enterprises with a range of payments, digital platforms, franchising and contract issues.
- A dedicated case manager helped small business in 88 new digital platform disputes, an increase from 66 in Quarter 4, 2023.

Advocacy

- We started a factsheet to dispel myths and to provide information about sustainability reporting for small businesses, together with Chartered Accountants Australia and New Zealand.
- We completed 16 submissions, including consultations on:
 - Revitalising National Competition Policy
 - Mandatory Food and Grocery Code: exposure draft regulations
 - Unfair Trading Practices
 - Merchant Card Payment Costs and Surcharging
 - 'Big Box' Retailer Price Setting
 - Review of AI and the Australian Consumer Law

Engagement

- The Ombudsman delivered 9 presentations and podcasts
- We participated in over 45 webinars, forums, meetings and roundtables, including the Federal Regulatory Agencies Group and the Small Business Commissioners meetings.
- We discussed topics such as:
 - 14 steps to energise enterprise
 - strategies to innovate in business
 - payment times
 - insolvency
 - cash flow
 - First Nations small business issues
 - privacy
 - wage theft
 - mental health support
 - compliance challenges.
- We reached a wide range of audiences including federal and state members of parliament, state chambers of commerce, regional city councils, industry groups, small business owners, tax agents and financial advisers.



KEY ACTIVITIES

Communications and networking

- We released a variety of communications materials including a guide to dealing with debt and 3 newsletters.
- Through a range of channels and communications products we:
 - Showcased the 'Dealing with debt guide'
 - Published and promoted the ASBFEO Small Business Pulse
 - Promoted tips and hints to help manage cyber security, mental health and how to be disaster prepared
 - Notified franchisors about the Franchise Disclosure log and the importance of getting independent advice
 - Called for a 'Good business pays' recognition and accreditation scheme

Sponsorships and events

We celebrated October Business Month in the Northern Territory and participated in a panel discussion about mental health and how to make the most of the resources available. While in the NT, the Ombudsman and the team took the opportunity to meet with the NT Indigenous Business Network, the Business Enterprise Centre and the NT Chamber of Commerce. These discussions help us fully understand the nuances of the small business ecosystem in the NT, and they help us remind people that the ASBFEO can provide a range of assistance and supports no matter where you are in the country.

During each year the ASBFEO sponsors and judges a number of small business awards. This includes the Smart50 Rising Star Award which recognises the achievements of high-growth startups. This year it was awarded to **Paire** – a small business who are aiming to revolutionise clothing production. We also announced the winner of the 2024 Small Business Community Ally award: the **Small Business Debt Helpline** who provide free, independent and confidential financial counselling for small business owners experiences financial distress.

We were also available at a variety of industry and specialist association conferences and forums to provide advice about how we can help small businesses with disputes, our tax concierge service and the wide range of resources and tools that we offer. These conferences included:

- SXSW Sydney 2024
- Australian Institute of Credit Management Conference
- Parliamentary Friends of Co-operatives and Mutuals
- IPA National Congress
- Small Business Forum in the Kingston electorate



The Ombudsman gave a presentation at the Institute of Public Accountants National Conference in November.

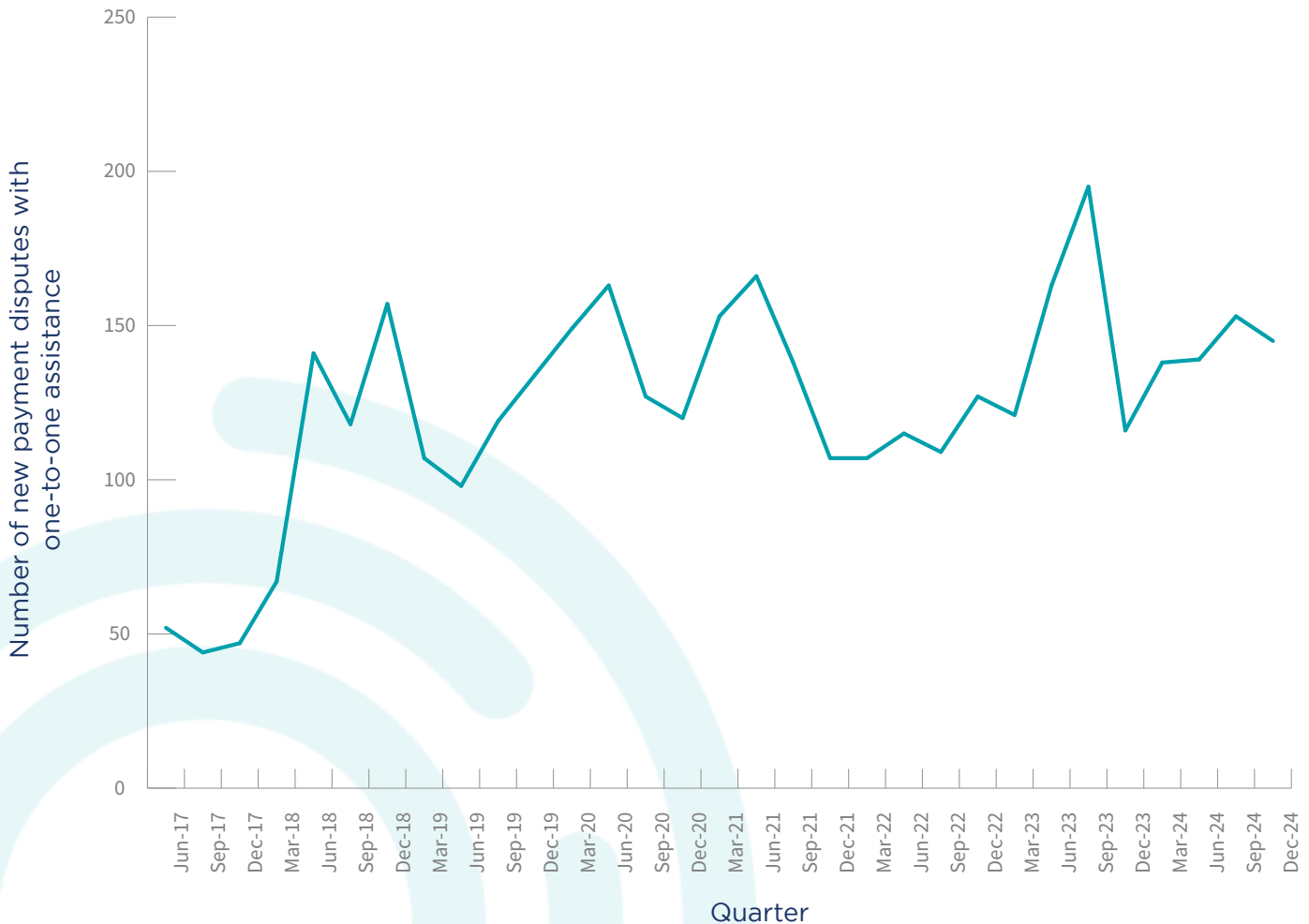
SMALL BUSINESS CONDITIONS

Cost-of-doing business pressures, severe cash flow concerns, a persistently tight labour market and tough economic conditions continue to weigh on small and family businesses. The 1,937 requests for our help from small and family businesses in December quarter 2024 reflect these challenges.

Disputes related to getting paid are often an early warning sign of a cashflow problem and can have a ripple effect that threatens the viability of other businesses. They are the most common type of dispute where we provide one-to-one assistance. There were 145 new payment disputes in December quarter 2024. This is an increase of 25% over the year but 5% fall over the quarter. Payment disputes have remained elevated since the covid-19 pandemic after peaking in September quarter 2023 (195 disputes).

Cashflow is the oxygen of enterprise, but difficult conditions mean when one party is late in paying, it can cascade through the supply chain. For example, a small business owner in the health care and social assistance industry contacted us for help obtain payment for their services. The business that owed them money advised them that they were also waiting for payment and were unable to pay their invoices until this occurred. We provided information on the dispute resolution process.

Payment disputes with a one-to-one case manager



Source: ASBFEO, 2025

The number of corporate insolvencies remained stubbornly high throughout the year. This is reflected in requests for our help with insolvency, which increased 27% in December quarter 2024. These requests include people who are considering insolvency and who are concerned that an insolvent business owes them money. The personal toll can be immense. For example, a small business owner in the construction industry contacted us for assistance. They were highly stressed as they were owed nearly \$20,000 but had been told the other business did not have the money to pay. We provided information on security of payments and the dispute resolution process.

SMALL BUSINESS CONDITIONS

For small and family business owners, their identities are interwoven into their business and the stakes are so much higher than just a job. Many people have invested a lifetime – and put their family home on the line to build up their business. Distressingly, around one in ten small business owners experiencing financial hardship who contacted us for help this quarter told us their family home was at risk.

It's becoming harder even for seasoned small business operators to navigate the business environment. As well as the challenging economic conditions, regulatory requirements are constantly changing and becoming more complex. Increasingly, requests for our help are from small and family business owners who have been in business for at least 4 years.

Queries about regulatory requirements remain high, particularly compliance as an employer, insurance, and local council regulations. Small businesses' requests for our help and information in these areas reflect the rapidly changing, complex regulatory environment. For example, a small business owner contacted us for information on superannuation. They had been told that there were new superannuation guarantee requirements, but they were unsure where to find helpful information.

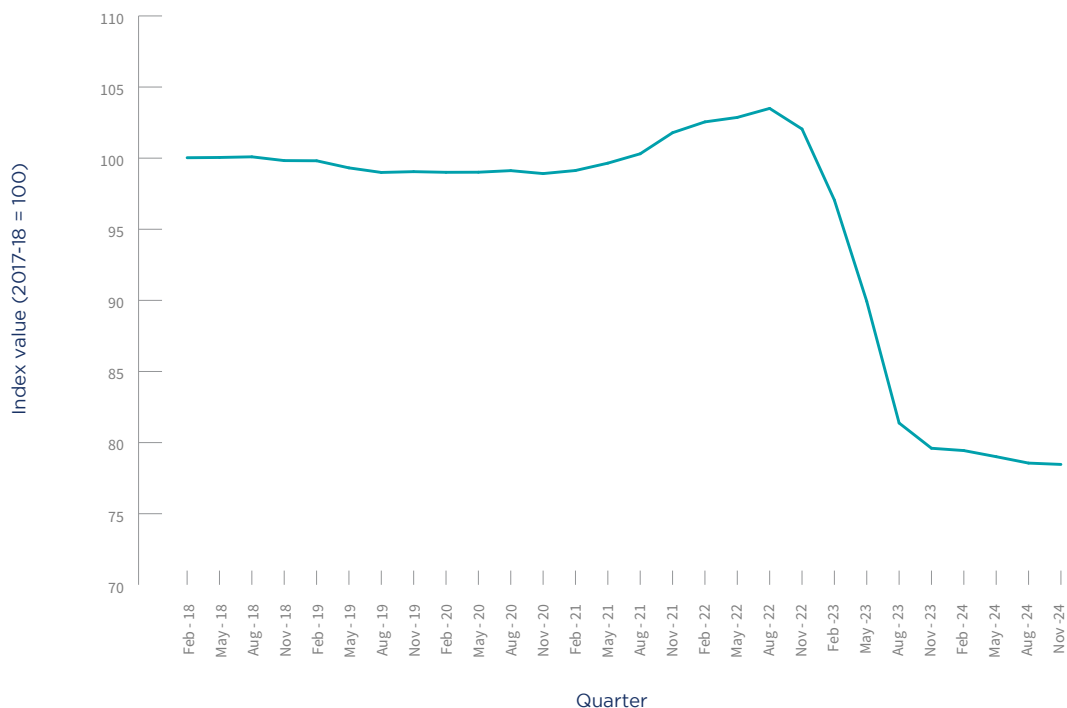
Despite these challenges, small business people continue to show perpetual optimism. Small businesses continue to research into ways to use digital options to grow and transform their business. These include increasing investment in websites and digital service providers, advertising and content creators, and researching how artificial intelligence can help their business. This reinforces earlier research which found that improved responsiveness to customer demands and better sales or marketing methods were the top outcomes for which business' use of digital technologies were important¹.



The Ombudsman (centre) with Rex Zhang (left) and Nathan Yun (right), co-founders of Paire, at the Smart Company Smart50 Awards. Paire was the recipient of the Rising Star Award, sponsored by ASBFEO. The Rising Star Award recognises the achievements of high-growth start-ups younger than 3 years.

¹ ABS, *Characteristics of Australian Business*, 2021-22.

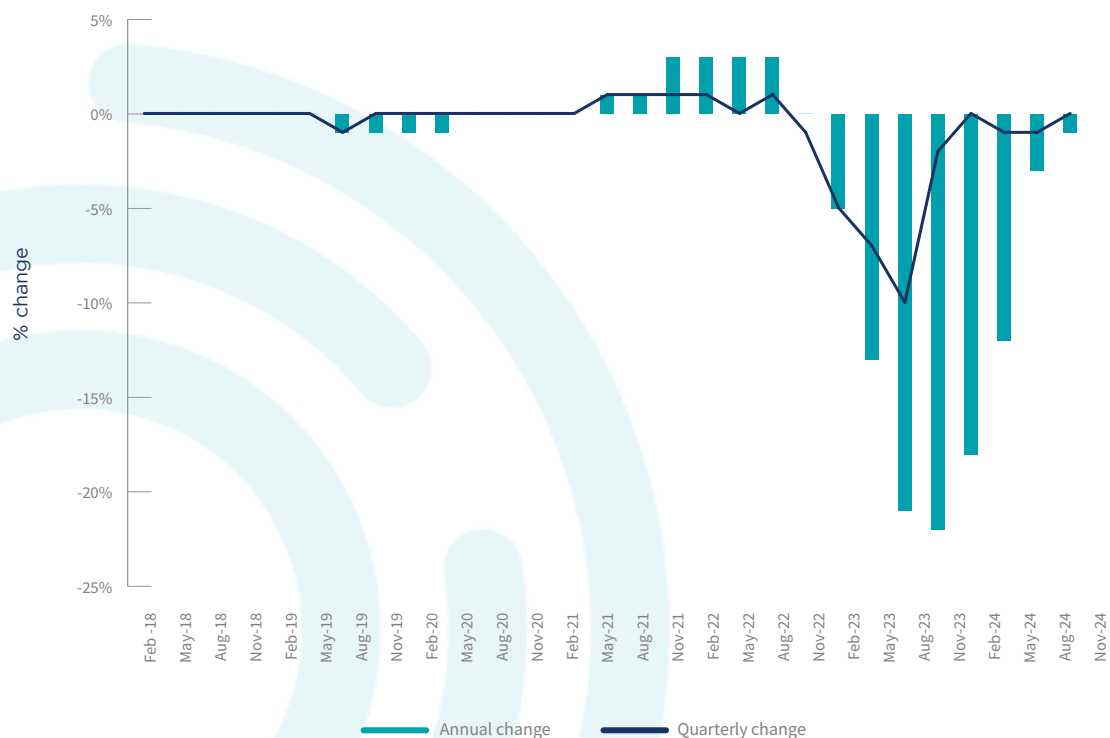
The November 2024 Pulse



Note: Scale starts at 70.0.

Source: ASBFEO, 2024

ASBFEO Small Business Pulse changes



Note: The ASBFEO Small Business Pulse did not reflect a fall in 2020 as government support measures outweighed other economic impacts. As economic activity, including insolvencies, have returned to trend levels, the Pulse has reflected these shifts.

Source: ASBFEO, 2024

Trends

The ASBFEO Small Business Pulse shows that the business environment in November 2024 remains well below the long-term average. The ASBFEO Pulse dropped 0.1% in November 2024 – the ninth consecutive fall. Over the past 12 months it has fallen 1.4%.

This represents a levelling out compared to previous quarters. While the small business operating environment remained weak, there were early signals of increased interest in growth and innovation initiatives for existing small businesses and increased enquiries about starting new businesses.

Innovation and development

There has been a rise in small business owners researching possible innovation initiatives for their businesses. Generally these are incremental innovations, which can make a big difference over time. Queries from small business owners on marketing and advertising have also increased, especially digital marketing.

For those contemplating adding to team capacity, a modest turn-around is observed with small businesses increasingly considering hiring staff compared to contractor engagement. This is despite the persistently tight labour market. We see this particularly in health and social support workers and specialist information and communication technology workers. These indicators of a modest uplift in optimism are also reflected in increased queries from people considering starting a new business. This interest is particularly high in sectors that do not require significant initial capital outlays such as professional services. People are increasingly looking to artificial intelligence to help them kick-start their entrepreneurial journey by generating business plans.

Costs of living and interest rates

The cost-of-living crisis is also the cost of doing business for small business owners, which is continuing to put pressure on profit margins. Continuing high business expenses are widespread across supplies, labour and business essentials, particularly freight and insurance. An increasing number of small business owners are looking for affordable business continuity insurance heading into summer's heightened risk of natural disasters.

Although interest rates have remained on hold for a year, the cost of finance remains high and small business owners are researching their financing options. These queries are mainly about refinancing to reduce interest costs and options for tapping into business owners' personal funds or other 'internal' funding. A small subset is seeking financing to keep their business afloat.

Business conditions

The November Pulse noted a temporary easing in the number of financially distressed small businesses seeking help to consider their options, although these query rates remained elevated relative to the long-term trend. This has turned around, particularly requests for assistance with insolvency in the transport, postal and warehousing and construction industries. These requests include people who are considering insolvency and who are concerned that an insolvent business owes them money. This suggests that business insolvencies will remain at relatively high levels.

Tightening trade credit and extended payment times from other businesses continue to weigh on small business operating conditions. Requests for assistance with payment disputes increased 67% over the year to the December quarter of 2024. Calls from small businesses in construction and the disability support sector were the main drivers of this increase. Payment disputes can put an unpaid small or family business with modest cash reserves in a precarious position. In some cases, the small business owner reported that they were selling their family home to keep their business afloat.

Increasing payment terms are also causing significant cash flow issues. We are receiving more requests for help from small businesses as other businesses are insisting on longer payment terms to preserve their commercial relationship. Too often, small businesses feel that they have to accept this as the viability of their business depends on it.

ASSISTANCE: SUPPORTING SMALL AND FAMILY BUSINESSES

Expansion of our concierge service

In 2025 the ASBFEO is trialling an expansion of our small business dispute help service. The expanded service offering can provide limited low-cost legal advice to eligible small businesses in dispute with another business or government agency, at potentially two stages to support the dispute resolution process:

- **Stage 1 (Preliminary advice)** can assist the small business to identify and clarify the issues in dispute and determine relevant material that may support resolution of the matter.
- **Stage 2 (One hour pre-ADR advice)** can assist the small business to prepare for an alternative dispute resolution (ADR) process. This may include preparing documentation, assisting the small business to understand what to expect during ADR, identifying the outcomes that the small business is seeking and adopting a negotiation and resolution mindset.

The service is aimed at supporting dispute resolution and will necessarily be flexible to respond to the needs of the small business so not all matters will be eligible for support.

A co-payment is required from the eligible small business when it receives its first hour of legal assistance. The balance of the costs will be paid by the ASBFEO.

Access to the upcoming service will be determined by the ASBFEO after considering the circumstances of the matter. In general, to be considered for the service an eligible small business must:

- be a small business of fewer than 100 employees or revenue of less than \$5m in the previous financial year
- not be legally represented
- be seeking dispute resolution in relation to a relevant action under s65 of the *Australian Small Business and Family Enterprise Ombudsman Act 2015* or relevant industry code of practice
- have its matter being actively managed by an ASBFEO case manager, with the ASBFEO of the view that that matter may benefit from an ADR process.

For more information about our upcoming new service please email: ADR@ASBFEO.gov.au

Advice when dealing with the fine print

A number of small business owners have sought advice from ASBFEO about ongoing contractual obligations that were not expected or well understood when signing. We commonly see issues arise with digital services like software or technical services, and business equipment like printers that may have a small start-up cost but have long tail payment terms or large balloon payments at termination.

These payments can be significant, may be required for several years, and in some cases, must be repaid even if the business closes down. This often comes as a shock to the business owners, who haven't factored in these costs in deciding to wind up. If the business is winding-up because of financial issues, this can exacerbate an already very stressful and distressful situation.

We also hear from business owners who have taken out loans from organisations that are not members of the Australian Financial Complaints Authority (AFCA). The interest payable on these loans may not be expressed as a per annum rate, so business owners might not understand how comparatively high the interest rate is to a credit card or their home loan. There can be significant penalty fees if businesses are late on repayments, even one day late.

Small business owners may take out these kinds of loans if business is slow, hoping it will tide them over until things pick up. If business doesn't improve and they can't repay the loan in the required time, the interest and penalties can quickly add up. Lenders may not be willing to enter into hardship payment arrangements (often these are not even provided by contracts) and some even move to place caveats on family homes.

Business owners should always read the fine print, and check if the lender they are considering is an AFCA member, so they have somewhere to go if things go wrong. If they're not an AFCA member, it is best to avoid them. They should also keep an eye out to ensure that the actual loan documentation provided for signing is between their business and a member of the AFCA scheme. We have been involved in cases where the lender has included a subsidiary that has not agreed to AFCA's dispute resolution services in formal loan documents.

We advise small businesses to always read contracts and ask questions, and to seek help early if they're in financial trouble to understand all the options before signing up to new contracts.

ASSISTANCE: SUPPORTING SMALL AND FAMILY BUSINESSES

Industry codes: franchising, horticulture, oil, dairy

We provided franchise participants with information relating to the use of the mandatory dispute resolution process under the Franchising Code of Conduct. We also arranged alternative dispute resolution (ADR) processes and appointed independent ADR practitioners to disputes as requested. For the quarter, this included:

- responding to 55 enquiries from franchising participants
- actively case-managing 32 franchise disputes, 28 of which were initiated by the franchisees.

The number of actively managed franchise disputes is lower than the September quarter of 2024 (35) but higher than the December quarter of 2023 (27). This is on par with the average over the last year, of 32 new actively managed cases per quarter.

This quarter we had:

1,580
calls to our contact centre

357
cases that we actively managed

1,937
total requests for assistance

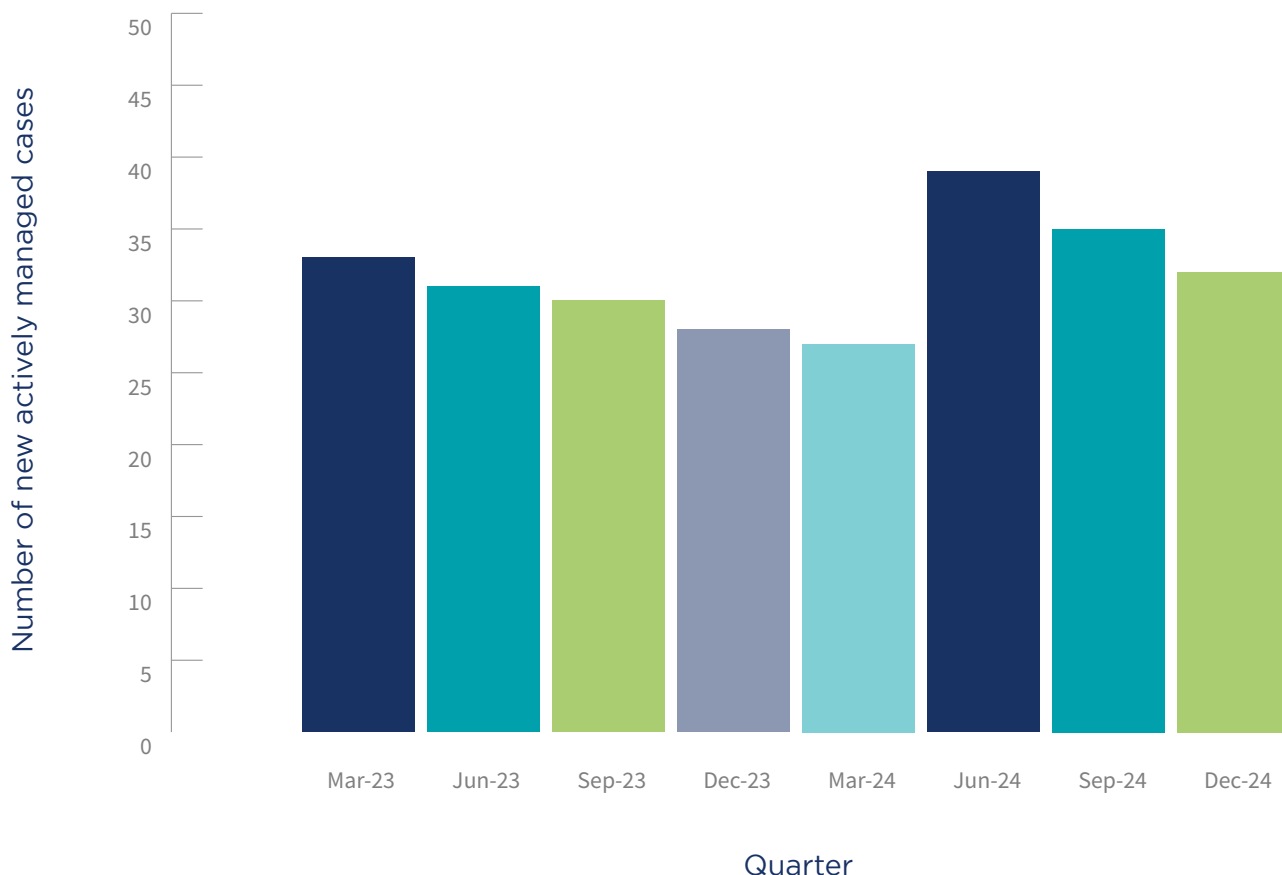
13,087
visits to the ASBFEO assistance
website information



The Ombudsman (third from the right) and Cecilia Willis, Director, Information and Assistance visited the ASBFEO call centre to discuss insights and emerging trends small and family businesses are facing when seeking dispute resolution.

ASSISTANCE: SUPPORTING SMALL AND FAMILY BUSINESSES

New actively managed franchise disputes by quarter



Source: ASBFEO, 2025

We provided dairy participants with information relating to the use of the mandatory dispute resolution process under the Dairy Code of Conduct. We also managed ADR processes and appointed independent ADR practitioners to disputes when requested.

For this quarter, we received 1 request for information about the Dairy Code of Conduct, 2 about the Oil Code of Conduct and actively managed 1 case regarding the Horticulture Code of Conduct.

Small Business Tax Concierge Service

Our tax concierge service (TCS) continued providing small businesses with information and assistance with a range of taxation matters. For the quarter, we received:

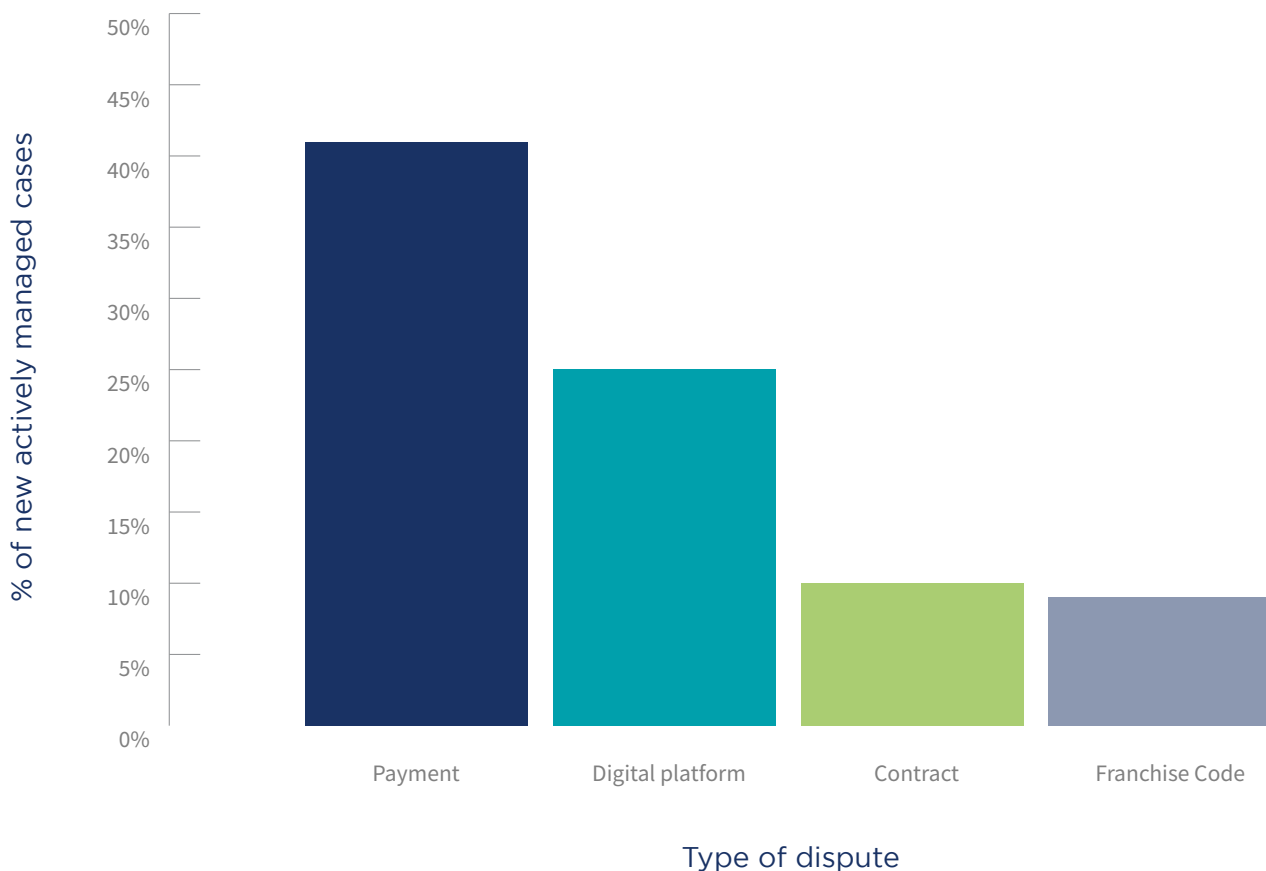
- 15 requests for assistance from small businesses seeking assistance with Australian Taxation Office (ATO) negative decision letters received, unchanged from 15 requests last quarter
- 10 additional enquiries about the TCS, a decrease from 12 last quarter.

The TCS worked with the small businesses and the ATO to help issues to be readdressed and/or referred matters to independent tax lawyers for subsidised advice about appealing negative decisions.

We are continuing to see small business owners seeking our help where they disagree with the ATO's decision. We continue to receive cases about compounding pressures on paying back tax debt, including general interest charges. This is a continuing focus for the service due to the ATO's current small business tax debt recovery actions.

ASSISTANCE: SUPPORTING SMALL AND FAMILY BUSINESSES

Type of dispute in cases managed by ASBFEO, Quarter 4, 2024



Source: ASBFEO, 2025



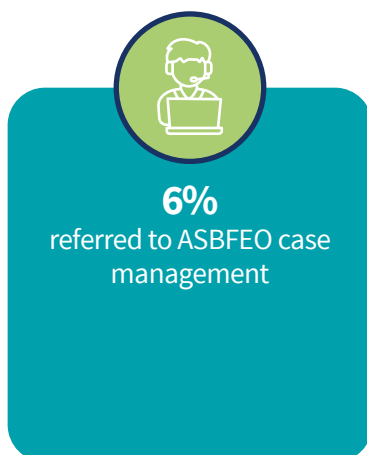
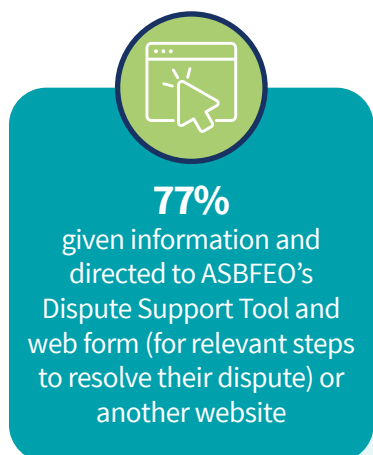
The Ombudsman (centre) participated in a panel discussion at the Institute of Public Accountants National Congress with Peter de Cure AM, Chair, Tax Practitioner’s Board (left) and David Salisbury, General Manager Small Business and Agriculture, Australian Competition & Consumer Commission (not pictured). The discussion was facilitated by Tony Greco, Senior Tax Advisor, Institute of Public Accountants (right) and explored the challenge of compliance and navigating professional obligations in a shifting regulatory landscape.

ASSISTANCE: SUPPORTING SMALL AND FAMILY BUSINESSES

Case management outcomes



How we helped callers to our infoline



CASE STUDY: FEES FOR EARLY TERMINATION

We were contacted by a sole trader who was disputing a termination payment. The sole trader, who lived interstate, signed a contract to provide services as a personal trainer at a gym in the other state. However, he realised he did not have the finances to support the move. Eighteen days after the contract was signed, he contacted the gym owner explaining his financial situation and stating that he didn't know if he could afford the move. The gym owner asked if he would like to terminate, and he agreed.

The sole trader received a letter from the gym stating he now owed \$12,000 for the termination fee due to his early exit of the agreement. He enquired why the fee had not been discussed when the termination was offered and was advised it was in the contract. The gym owner offered 2 options for payment, a \$7,000 lump sum or a payment plan for \$12,000 over 24 months. He was not able to resolve the matter with the gym owner. Our office wrote letters to the gym owner pointing out that the terms of the termination payment were not clearly outlined and were potentially an unfair contract term. The gym owner agreed to drop the termination fee, thereby resolving the matter.

Contributing to policy, inquiries, and legislation for small business

Defining an Australian business for Commonwealth procurement

Since our 2023 procurement inquiry report on the 1 July 2022 changes to Commonwealth Procurement Rules, we have consistently highlighted the challenges small businesses face in accessing government procurement opportunities. We have long emphasised the need for clear, consistent rules that support small businesses and provide them with equal opportunities to compete for government contracts.

In our engagement with the small business community, we have heard that while the Commonwealth Procurement Rules instruct officials to avoid discriminating against SMEs, barriers to entry still exist. Several key challenges have been identified, including difficulty in identifying SMEs and navigating the procurement process.

In our response to the public consultation on Defining an Australian Business for Commonwealth Procurement we continued our advocacy for improvements in the procurement system that align with these issues, and made recommendations to:

- expand the small business identification tool for whole-of-government use, improving SME visibility and engagement
- introduce a 'sourcing strategy checklist' and 'assessment outcomes checklist' to ensure officials consider broader economic, social, and environmental benefits when making procurement decisions
- disaggregate larger contracts into smaller packages to increase competition and create more opportunities for SMEs
- clarify procurement rules and improving communication with small businesses to ensure greater transparency and understanding
- encourage the government to develop mechanisms for monitoring procurement practices and outcomes to support small and First Nations businesses.

We welcome the government's efforts with platforms like the GovPanels and Supplier Portal, and continue to advocate for further reforms to ensure SMEs, culturally and linguistically diverse businesses, First Nations businesses and women-owned and women-led businesses have the opportunity to compete on a level playing field.

Grape and wine sector regulatory impact analysis

Throughout the year we have engaged with the grape and wine sector and heard firsthand about the challenges they face, such as power imbalances and unfair trading practices between grape growers and winemakers. These challenges include concerns over supply agreements, payment terms, and the reluctance to use dispute resolution mechanisms due to fears of retaliation.

In response to the public consultation on the Grape and Wine Sector Regulatory Impact Analysis, we made several key recommendations aimed at improving the sector's practices and ensuring more balanced and transparent relationships between growers and winemakers.

These recommendations include:

- strengthening the Code of Conduct for Australian Winegrape Purchases by recommending clearer mechanisms to monitor compliance with supply agreements and payment terms, promoting greater transparency
- legislating against unfair trading practices by advising the government to introduce measures that would protect small businesses from harmful commercial practices.

We continue to emphasise the importance that these recommendations be practical, accessible, and tailored to small businesses.

ADVOCATING ON POLICY AND LEGISLATION

Merchant card payment costs and surcharging

Since 2023 we've been advocating to reduce the costs of processing in-person dual network cards and digital wallet transactions for small and family businesses.

For each transaction, small businesses are paying 3 times the amount paid by large merchants, and fees are determined by large financial institutions and multinational payment card services. We want more transparency of interchange and scheme fees, less complex interchange fees, least cost routing and clearer reporting of merchant service fees.

In our submission to the Review of Merchant Card Payment Costs and Surcharging, we recommended that:

- the government should not ban surcharging on any card or payment method until the imbalance in merchant fees charged to small businesses is addressed
- the government should expand the *Payment Systems (Regulation) Act 1998* to give the RBA sufficient regulatory capacity to mandate least-cost routing for transactions across all form factors, including in-person, online, buy now pay later and digital wallets
- the Australian Government should require payment services providers to provide a breakdown of fees to the RBA or the Australian Competition and Consumer Commission (ACCC) for publication to allow merchants to compare prices
- providers should also be required to provide a breakdown of fees, charges and services on merchant fee contracts
- the RBA explore with the ACCC the extent to which existing regulatory mechanisms (outside the RBA's confirmed powers) could be deployed to achieve a more transparent and competitive payments system and fees linked to actual costs.

Supermarkets inquiry and 'big box' price setting

We have made a number of submissions into supermarket inquiries, noting the significant power imbalances at the heart of small business concerns when supplying to large retail organisations. These power imbalances have a significant impact on negotiating supply agreements, supplier viability and scale, investment intentions, branding and logistics.

This quarter we continued our long-standing advocacy in the retail space through submissions to both the supermarkets inquiry August 2024 interim report, and the 'big box' retailer price setting inquiry.

Across the 2 submissions, we recommended:

- The Australian Government should expedite the enactment of an unfair business/trading prohibition, with a focus on addressing business-to-business harm.
- Bunnings and GIA should collaborate to create a standard supply agreement template for all arrangements between plant/greenlife suppliers and Bunnings.
- The ACCC should monitor bargaining power imbalances affecting small businesses in concentrated retail markets, such as the greenlife and big-box retail sectors, and assess the need for further intervention to resolve disputes.
- The ACCC should investigate the impact of major supermarket entries on suppliers to independent retailers.



ADVOCATING ON POLICY AND LEGISLATION

Unfair trading practices

In addition to our ongoing work in the retail space, we have been actively advocating for small businesses in the broader context of unfair trading practices. This ongoing advocacy aims to address the challenges small businesses face when negotiating with larger market players, and to ensure that legislative measures effectively address these power imbalances. We have consistently highlighted the challenges faced by small businesses in dealing with larger market players and have worked to ensure that legislative measures address these imbalances.

In our December 2024 response to the Unfair trading practices – supplementary consultation paper, we made the following recommendations:

- The proposed general prohibition should expressly include small business-related B2B conduct and be expressed in the terms suggested by the Queensland Law Society.
- The specific prohibitions identified in the Consultation Paper should also apply to business (B2B) transactions, and Treasury should consider specifically prohibiting the practice of making pre-contractual touts that are then not included in executed contracts.
- Civil penalties for breach of the general or specific prohibition should apply immediately, and that small businesses be provided with guidance on how to comply with the new provisions and given the opportunity to correct their behaviour before a penalty is imposed.
- The Australian Government should extend any unfair trading practices prohibitions to all Australian Financial Services regulated under *Australian Securities and Investment Commission Act 2001* to ensure alignment between the Australian Consumer Law and financial services law.



CASE STUDY: NON-AFCA LOAN BALLOONS

A matter was referred to our office in relation to a finance agreement between a small business and a non-Australian Financial Complaints Authority (AFCA) lender. The small business applied for a short-term loan of a few thousand dollars which required the family home as security. The interest rate was around 200% per annum and the finance agreement stipulated daily repayments with daily late fees applicable. The first few late payments would incur a \$100 penalty, and the daily penalty would increase to \$1,000 for each subsequent late payment.

Around 21 days into the agreement, the small business started experiencing difficulties in meeting the payments and the lender applied the daily penalty as outlined above. The small business made a lump sum payment of several hundred dollars to bring the account up to date. However, the lender applied the payment to accrued penalties rather than the scheduled payments. As a result, the loan remained in arrears and the lender continued applying the \$1,000 per day late penalty.

The small businesses' debt was increasing exponentially, rendering it unable to meet the payments and repay the penalties. The small business sought to resolve the issues with the lender on multiple occasions, but the lender offered only a payment plan and would not waive or suspend any of the late payment penalties.

Within 3 months, the debt ballooned to tens of thousands of dollars for an original financed amount of a few thousand. The lender placed a caveat on the small business owner's home and moved to formal legal avenues. We are continuing to help resolve the matter, but this dispute highlights the difficulties a small business can face with a non-AFCA loan.

Submissions

Recipient	Number
The Treasury	8
Australian Competition & Consumer Commission	1
Department of Agriculture, Fisheries and Forestry	1
Department of Finance	1
Department of Industry Science and Resources	1
Parliamentary Committees	1
Reserve Bank of Australia	1
Tax Practitioners Board	1
The Australian Finance Industry Association	1



CASE STUDY: POINT OF SALE AND INVENTORY MANAGEMENT SOFTWARE

A number of small businesses contacted ASBFEO with issues with their point of sale and inventory management software platform provider due to the provider changing contract provisions. In particular, the businesses owners were directed to leave their current merchant service provider or otherwise pay much higher fees. For example, one business had their provider updating their online service agreement and deducting the inflated fees without formal authorisation.

The ASBFEO case manager helped the businesses through the [5 steps of dispute resolution](#) and encouraged the business owners to communicate with the provider. The business owners were able to resolve the issue directly with the provider and negotiated a resolution.

This matter made it clear that before entering agreements, small business owners should consider the following:

- How is the contract renewed? Will it renew automatically?
- When do they need to cancel (this should be listed in the terms – but may be 30 days, 60 days)?
- Are they agreeing to new terms and conditions if their renewal is automatic?
- How will the provider notify them of new terms and conditions? Do they regularly check their spam folder to make sure they receive change-of-term notifications?
- Do they check the fees charged if they accept new terms and conditions?

INFORM: COMMUNICATIONS AND STAKEHOLDER ENGAGEMENT



The Ombudsman chatted to Rick Hinds in Darwin about NT Business Month in October.



We published a media release on the 3G shutdown and the possible implications for small business.

PAYMENT DISPUTES SOAR IN TOUGH BUSINESS TIMES

By far the greatest area of concern for small and family businesses, payment disputes now account for more than two out of five of this agency's assistance cases.

By Australian Small Business and Family Enterprise Ombudsman Bruce Billson.

The Ombudsman published an op-ed on payment disputes in Convenience World's November 2024 edition.

What should I do when disaster strikes? Here's a place to start

By Bruce Billson
Updated December 9 2024 - 5:08pm, first published 5:30am

The Ombudsman published an op-ed on disaster preparedness in the Canberra Times and across the ACM media network on 9 December 2024.

How to tackle small business debt: Ombudsman's guide offers practical advice

CEC BUSBY - NOVEMBER 19, 2024

Article by Cec Busby, published on Kochie's Business Builders website on 19 November 2024.



The Ombudsman appeared on SBS World News on 15 October 2024, discussing the impacts of least-cost routing and surcharges for small and family businesses.



Why Australian Small Business Selling Online should be Aware of US Copyright Laws

Editor October 21, 2024 Building your Business, Business, Featured



In October the Ombudsman was talking about small businesses selling online and the possible impacts of US copyright laws.



Our ASBFEO small business data was quoted in the Reserve Bank of Australia October Bulletin.



13 November 2024

Review of the Australian Small Business and Family Enterprise Ombudsman

The Albanese Labor Government is committed to supporting small businesses by providing access to advice, assistance and dispute resolution services.

Today we are announcing a review of the Australian Small Business and Family Enterprise Ombudsman (ASBFEO).

The review will be undertaken by small business expert Ms Judy O'Connell.

Ms O'Connell has extensive experience with the small business sector, previously as Commissioner at the Victorian Small Business Commission and as an Assistant Commissioner at the Australian Taxation Office.

Ms O'Connell will be supported by a secretariat within Treasury, and will report findings and recommendations to the Government in 2025.



The Hon. Julie Collins MP
Minister for Agriculture, Fisheries and Forestry, Minister for Small Business

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The Minister for Small Business announced the ASBFEO Review in November.

You always hear about businesses doing the wrong thing. Let's flip the script

By Bruce Billson
Updated November 11 2024 - 10:08am, first published 5:30am

The Ombudsman published an op-ed on the importance of honouring small businesses doing the right thing in the Canberra Times and across the ACM media network on 11 November 2024.



In December, the ASBFEO Team received the International Council for Small Business Lighthouse Award for 2024-25 for our 'unwavering commitment to supporting micro, small and medium enterprises and entrepreneurs'.

Traditional and social media statistics



Facebook

8,327 followers
52 posts



Instagram

1,220 followers
43 posts



LinkedIn

ASBFEQ:
5,782 followers
53 posts



X

ASBFEQ:
2,103 followers
38 tweets



YouTube

551 subscribers
3 videos published



Newsletter

3,793 subscribers



Ombudsman:

4,900 followers
16 posts



Ombudsman:

6,868 followers
15 tweets



Website

28,518 visits to
the website



Media releases

4 media releases
published



Media mentions

894 media
mentions



Interviews

27 radio, TV and
media interviews



Opinion pieces
6 opinion pieces

Assistance

- Implement the new service to provide limited legal advice to eligible small businesses in disputes where this assistance is helpful to alternative dispute resolution
- Continue to enhance program guidance and tailor small and family business support, with a focus on information gaps for franchises.
- Continue improving our online tools to help small businesses navigate helpful information and services.

Advocacy

- Continue to develop policy options to deliver affordable, timely and restorative outcomes when alternative dispute resolution does not resolve disputes and Court action is unsuitable.
- Investigate drivers and obstacles to entrepreneurship and consult on proposals to energise enterprise.
- Continue to advocate for right-sized regulatory reform; that is proportionate, risk-based regulation, informed by deliberative consultation with small businesses.
- Make submissions to the Treasury, regarding:
 - Digital platforms – a proposed new digital competition regime
 - Mandating cash acceptance
- Make a submission to the Fair Work Ombudsman regarding its review of the Fair Work Act Small Business Employer Definition.

Inform

- Continue to broaden and strengthen our audience reach, our sponsorship program and our engagement across the small and family business ecosystem.
- Develop and deliver targeted, compelling and consistent communication messages on ASBFEO priority topics which are impacting small and family business.
- Continue to celebrate the vital and personal contribution made by the more than 2.3 million small and family businesses to our communities by telling their stories across digital and traditional media and communication platforms.

Canberra

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