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Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senate Economics Legislation Committee

Thank you for the opportunity to consider the draft Bill and explanatory comments on the introduce a new designated complaints function that requires the ACCC to assess, and respond to, designated complaints submitted by designated complainants.

For background, The Council of Small Business Organisations (COSBOA) represents the interests of Australia's small businesses. COSBOA made a made a submission to Treasury in early January 2024 during the consultation process in developing the draft legislation.

We note that the proposed Bill allows for the Minister to make a designated complaints determination whereby the number of complaints that may be submitted during a specified period could be limited. Whilst no determination has been made yet limiting the number of complaints that can be made, COSBOA wishes to raise concern with the possibility of future limitations. As mentioned in our original submission to the Department, any restriction on the number of 'designated complainants' is unrealistic and unreasonable. There are hundreds of representative bodies in Australia and to limit the number of complaints that can be deemed as designated complainants will restrict the intent of the scheme and is likely to result in abuse. If the Government considers that the number of complaints should be limited, it is telling members of the community that not all Australians should be protected from inappropriate practices and are not deemed worthy of investigation. Furthermore, consideration should also be given to the appropriateness of limiting the number of complainants that the Minister may approve. COSBOA considers that this also goes against the policy intent of the legislation.

COSBOA also commented that the 90-day timeline the ACCC is required to assess a designated complaint and notify the designated complainant of the action they intend to take (if any) in relation to the complaint within is inadequate. Often when there is a complaint of this seriousness, there is a need to address it rapidly to ensure that the damage to the small business bringing the complaint is minimised and their ongoing future is not jeopardised. That the complaint may not be considered for up to 90 days (and this is without

any action being taken to address the complaint) is wrong. We suggested a shorter time frame of 30 days be more appropriate.

The Department must also ensure that small businesses are given sufficient notice and information about the prescribed time to become a designated complainant, especially in circumstances where the period may change quickly to accommodate operational requirements. This includes ensuring that small businesses are aware of the designated complaints process and have the tools and resources to ensure they can protect their own interests and advocate for themselves.

COSBOA proposes to work with the Department following passage of this Bill to ensure that small business interests are considered when drafting the determinations and is pleased to offer itself one of the designated complainants, subject to this program being passed.

If the Committee have further questions, please do not hesitate to contact COSBOA.

Kind regards,

Luke Achterstraat
CEO