

Appendix 12 Small Business and the Australian Competition and Consumer Commission

Definition of Small Business

The Committee considered it useful to re-visit the various definitions associated with small business.

A business has traditionally been regarded as small if it has the following management or organisational characteristics:

- It is independently owned and operated;
- It is closely controlled by owners/managers who also contribute most, if not all of the operating capital; and
- The principal decision-making functions rest with the owners/managers.¹

The definition is based on the report of the House of Representatives Standing Committee on Industry, Science and Technology called *Small Business in Australia – Challenges, Problems and Opportunities 1990*. The Report qualifies these characteristics with a size component but emphasises that a size definition is a functional addition to and should not overshadow it.²

For statistical purposes, the Australian Bureau of Statistics (ABS) defines small businesses (excluding agriculture) in accordance with that Report's recommended size categories as follows:

- Non-manufacturing industries employing less than 20 employees; and
- Manufacturing industries employing less than 100 employees.³

The ABS has estimated that that there were just over 1 million small private sector businesses in Australia in 1996-97, employing around 3.5 million people. This constitutes about 97 per cent of all private sector businesses, and more than 50 per cent of all private sector business employment (including self-employment).⁴

The Department of Workplace Relations and Small Business uses the same definition as the ABS, but add two further characteristics:

- Operations (and sometimes markets) tend to be locally based; and

1 Australian Bureau of Statistics, *Small Business in Australia 1997*, ABS Catalogue No 1321.0, May 1998, p 1.

2 Australian Bureau of Statistics, *Small Business in Australia 1997*, ABS Catalogue No 1321.0, May 1998, p 1.

3 Australian Bureau of Statistics, *Small Business in Australia 1997*, ABS Catalogue No 1321.0, May 1998, p 1.

4 Australian Bureau of Statistics, *Small Business in Australia 1997*, ABS Catalogue No 1321.0, May 1998, p 1.

- ‘smallness’ is relative to the size of the largest firm in the industry. Generally speaking small firms don’t have much market power.⁵

The ACCC and Small Business

The ACCC advises on new legal issues and general trade practices enforcement matters relating to small business operations and consumer and business protection issues. Small business is now a significant constituency for the ACCC, which sees diversity of contact as the hallmark of its links with the sector.

Contact ranges from meetings with individual firms to discuss difficulties they face in the marketplace; regional business groups to acquaint them with the ACCC and its work in administering the *Trade Practices Act*; and ethnic community based organisations that have significant business interests.

A major element is regular contact with peak, national business organisations through direct consultation and collective roundtable discussion. This takes place through the Small Business Advisory Group (SBAG), which has 10 member bodies representing several hundred small business organisations and is chaired by ACCC Commissioner John Martin. Both the ACCC and the business organisations shape SBAG’s agenda with the objectives of:

- Bringing to the ACCC’s attention trade practices issues affecting small business;
- Assisting the ACCC to advise the small business community about its work; and
- Assessing the compliance burden of trade practices legislation on small business and advising the ACCC on ways to minimise the impact.

Through SBAG the ACCC has first hand access to the views of, for example, the professions, rural producers, retailers and motor traders on activity affecting their members. SBAG’s discussions also take in future directions for administering the *Trade Practices Act* and law reform matters. Members of SBAG include:

- Motor Traders Association of Australia
- Council of Small Business Organisations of Australia
- Australian Chamber of Commerce and Industry
- Law Council of Australia

5 Department of Workplace Relations and Small Business web page at http://www.dewrsb.gov.au/group_osb/smallbus/research.htm

- The Australian Council of Professions
- Australian Industry Group
- Real Estate Institute of Australia
- Australian Retailers Association
- National Farmers Federation
- Australian Federation of Business and Professional Women.

Other Commonwealth departments and agencies are invited to SBAG half-yearly meetings for briefings, and to discuss with industry representatives policy and new program development directed at small business.

Each of the ACCC's capital city offices now has small business staff. Peak consultations are held in Canberra.

Regional and local work with business chambers, professional advisors to business, and local government support networks underpin and reinforce the ACCC's ability to learn from business about cases of unconscionable conduct, franchising disputes, misleading conduct and other difficulties which regularly confront small business.⁶

The ACCC's Small Business Unit coordinates a regular program of seminars to assist small businesses to understand recent developments on trade practices issues.

In New South Wales, the ACCC is currently developing a series of regional seminars with chambers of commerce and the Department of State and Regional Development to address business issues and the *Trade Practices Act* including new country of origin labelling law.⁷

At last December's meeting the Department of Industry, Science and Resources reviewed the status of the emerging Oilcode which is aimed at improving commercial activity and relationships in the petroleum distribution sector.

6 Australian Competition and Consumer Commission, 'ACCC is listening to small business' ACCC Update, Issue 3, March 1999, p 7.

7 Australian Competition and Consumer Commission, ACCC Update, Issue 3, March 1999, pp 8-9.