



OUT18/7179

Joe Rezo
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Complaints Register Guidelines Review
NSW Fair Trading
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Dear Joe

Complaints Register Guidelines Review – Confidential Submission

Thank you for the opportunity to provide feedback on the Fair Trading Complaints Register Guidelines.

We have noted this submission as being confidential only so far as NSW Fair Trading wishes it to remain so. In our submission on Q13, we refer to a matter that involved NSW Fair Trading representatives, and we would not publicly disclose those details ourselves. Should NSW Fair Trading wish to publish that part of this submission, we would have no objections, and have de-identified the other party involved.

The Office of the NSW Small Business Commissioner (OSBC) took 14,800 enquiries from NSW small businesses in 2017, and expects this number to reach 16,000 this financial year, on a range of topics including many on government agency interactions.

Through these enquiries, and a broad range of other proactive small business initiatives across NSW, we have assisted more than 23,200 small businesses. Through this experience we provide a strong voice within government for small business concerns.

Our major achievements are outlined in our Annual Report 2017 “Making it easier to do business” (**attached**).

Q5 – Should Fair Trading change the minimum number of complaints required before a business appears on the Register? If so, what should the number be? Why?

The Office of the NSW Small Business Commissioner has not had any small businesses raise concerns about the threshold number of complaints, and would therefore submit that the current provisions are working well.

Q10 – How well is the current policy on the grouping of franchised business working, including the breakdown by location? What changes would you suggest?

The current policy appears to be working well from the point of view of small business, as the OSBC has not received recent submissions from franchised enterprises. Therefore, we would support no further change.

Q13 – How well has the process of notification to businesses about their imminent appearance on the Register been working? What changes would you suggest?

We are aware of potential issues that would affect small business enterprises with the notification process prior to being listed on the Register.

Of concern was an instance in which Fair Trading investigators had been working with a high volume trader for some months on some issues raised by consumers when they first started. The trader had responded to those concerns by a significant capital investment in technology, and changed business practice.

The Fair Trading investigators had direct contact details (mobile phone number and direct email address) but elected to notify by mail. Delays in receiving the mail meant that the small business operator did not have a fair chance to respond prior to notification.

The OSBC would recommend that, prior to listing, notification is attempted by all contact channels that Fair Trading is aware of, and to not solely rely on ASIC registered addresses, or generic email accounts, unless no other contact information is available.

Small business operators may have difficulty in opening mail, particularly in a business environment that is relying more on digital communication. Where Fair Trading has contact details for key personnel (business owners, directors) we would suggest that the easiest way to effectively communicate would be to attempt those first, and only rely upon ASIC and general web searches as a last resort.

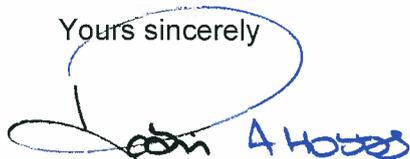
We would further submit that engagement of any NSW small business through the OSBC is open to Fair Trading and any other agency having difficulty in their relationship with small business. As an agency involved in the advocacy for NSW small businesses within government, we are more likely to be able to engage constructively with the trader.

Q14 – Is three working days a suitable period of notice? Should it be shorter or longer?

In the case where Fair Trading has the direct contact details for key personnel in a small business, three days should be sufficient, as it is likely to be treated as a priority matter for those small businesses.

Where Fair Trading seeks to rely upon ASIC registered addresses, the OSBC would submit that three days is not long enough. Mail in some locations takes some time to reach its intended destination, and the cultural move towards digital correspondence means that mail is not as promptly attended to.

Yours sincerely



Robyn Hobbs OAM
NSW Small Business Commissioner
22 May 2018