

29th of January 2021

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By email: prebudgetsubs@treasury.gov.au

RE: ALNA 2021-22 Pre-Budget Submission

The Australian Lottery and Newsagents' Association (ALNA) is the national industry body representing Lottery Agents and Newsagents' who represents small businesses in almost every rural town, regional centre, urban and metropolitan shopping centre in Australia.

There are over 4000+ Lottery Agents and Newsagents' in Australia. They are an important and trusted part of Australian communities and approximately 35% of the Australian population visit them at least once a week. Our members therefore make a significant contribution to the Australian economy, employing over 20,000 people and generating an estimated annual turnover of \$6 Billion.

Agencies have commercial relationships with over 25,000 other businesses, further demonstrating their valuable contribution. We are one of the largest independent retail channels in our community.

ALNA appreciates the opportunity to provide insights in our submission on matters that directly effect our members and that would enhance their business capacity if addressed appropriately in the coming budget.

Local Economic Development

What we have seen throughout COVID in 2020 is the strengthening and enhancement of community and locally lead economic development, whether it be a renewed interest in local community shopping and sourcing local products, or local manufacturing.

While there is a role for broader industry specific programs to enhance innovation and the beneficial growth of staff and business owners in specific sectors, as we have highlighted in our next section on 'Establishing a COVID-19 retail industry structural re-adjustment fund', it is local economic development that will be critical to grow resilience in the economy and to drive stronger, safer, and more prosperous communities in Australia.

We need a national program of Local Economic Development to promote place-based responses to economic need and job creation as has been advocated for by COSBOA. This could be in the form of some successful local government partnerships that enhance employment initiatives and business development models. This might take the form of micro versions of the successful government

initiative of 'City Deals' that has proven to be an economic driver on a slightly more macro level and could include regional multi council applications as well as more micro models through relevant precinct associations and business groupings.

Local Economic Development is the empowering of business communities at the micro level to have a greater say in what happens in their economy and through that, to provide a better more sustainable national economy.

Australia spends well over \$8 billion dollars a year on training, employment services and welfare support. By allocating around 3% of that funding to give local business communities a greater say in activities we will see an increase in efficiency and a better use of these \$billions of dollars as we rebound from COVID. This recovery is likely to be community driven and employment will flourish with enhanced local economic development models that are properly funded.

Establishing a COVID-19 retail industry structural re-adjustment fund

Newsagents and Lottery agents broadly speaking performed very strongly in 2020 surprising many pundits and it proved the resilience and capacity for change in these small businesses could be enhanced with very beneficial outcomes. Nonetheless, CBD locations, larger shopping centre locations and some areas in capital cities like Melbourne suffered. Given the disruption of employment and much more aggressive and rapid shift to online retail sales that occurred as a result of COVID-19 in this country, now is an opportune time for the government to strategically support and address structural reform opportunities in the retail sector.

The sector is reaching a peak point in its structural reform as it is impacted by online and many online businesses are also maturing and looking for retail presences to enhance omni channel service models. This provides a unique opportunity over the next few years for the government to provide effective support to industry bodies and strategic working groups of exposed suppliers who are endeavoring to provide leadership in this employment intensive sector to deliver positive resilient outcomes for both business owners and employees. Strategic support would assist us in more effectively navigating these reforms and would enhance employment outcomes which are critical to the economy through re-training and technological adjustment and reinvestment.

Establishing sector specific industry structural re-adjustment funding to support training and industry strategic planning would provide mature sectors like ours that are now benefitting from investments from online businesses to enhance omni channel and physical service models which can deliver more resilient industry models for the future and enhance employment outcomes as we recover from COVID.

Small Business Digital Capacity & Cyber Security— One of the biggest training challenges for small business like ours is how to engage with the digital economy to maximise sales. Small businesses need dedicated programs including one on one training to maximise this potential in their small businesses, rather than allowing these sales to go offshore. This should include eCommerce/web development, social media and digital marketing. ALNA would like to be able to offer more

information, support and training to small business owners to lift their capacity and skills to develop their digital economy offers and to educate them and provide tools to deal with the growing cyber security threat.

We are concerned about cyber security risks. Many people in small business do not have the skills or knowledge to understand and manage these new risks of operating businesses in the 21st century. We call upon the Government to develop an awareness and training program for small businesses.

Competition Policy & Merger Law – A budget allocation to quickly review some aspects of Competition Policy & Merger Law should be a priority and is important to ensure the country has the businesses and resilience necessary to manufacture and supply itself with essential items and services, as global free market models have proven to be vulnerable.

Reforms should also look at ensuring that small businesses who through no failure of their operations or management may have been damaged by the pandemic, are not able to be targeted by cashed up opportunistic bigger players as a result of COVID-19. Competition policy in Australia needs to now be about people and community.

A concern is jobs and marketplace dynamics. If small business is to bounce back in any effective way some steps need to be in place to allow small business to survive in the new environment. Some such steps may be seen to be contrary to competition policy as we know it but that may be the price for small business survival.

The Chair of the ACCC outlined some of the marketplace issues early in the pandemic, however his view on the one hand wanted to ensure competition yet also to support small business to survive. We doubt that both can be achieved in the short term.

Chairman Sims said on 30 March 2020 - *“Competition has a critical role to play in getting the economy running efficiently again post the COVID-19 pandemic and economic crisis. The ACCC was working with businesses across the economy to authorise cooperation between competitors to enable them to support the community and survive this crisis. But in normal times, without a common enemy, co-ordination leads to complacency, inefficiency and higher prices.”*

“It is important that these short-term measures do not give rise to long-term structural damage to competition, market concentration or long-term arrangements that make it more difficult for businesses to enter and compete into the future,” Mr Sims said.

“But it’s important to recognise that newer entrants and smaller businesses are often hit hardest in a crisis, and they will need support to survive.”

Regulatory conundrum

As we move now towards a post COVID period there is a likely scenario that small business will suffer as compared to bigger businesses. Markets have changed and will continue to change, and some rethinking of traditional concepts will be needed.

One serious issue is that many small businesses are simply a pipeline for suppliers of goods and services, whether the small businesses be distributors or agents. This is the case for Newsagents and Lottery agents.

It has long been an issue that suppliers compete with their distributors/agents and often offer better terms to customers. Competition agencies will usually view that as pro-competitive or in the case of agents as not in competition with their principals, although the Flight Centre case shows that some agents do compete with suppliers.

Post COVID many small businesses will not survive if suppliers aggressively and unfairly compete. In pure competition policy this may be seen as bad luck as consumer welfare is the main test. That may be in a normal market, but markets are not normal and will not be normal for some time.

If suppliers are the only businesses to survive, we will almost have a monopoly /duopoly society and little choice or access to products.

There are some regulatory steps that should or could be considered to overcome possible problems, some can be sunsetted.

UNFAIR CONTRACT TERMS

The Government has been considering enhancement of the UCT law and has extensively consulted on the proposals and has had general approval to its proposed changes. This issue is important, we understand that it needs State and Territory consent. This process must be sped up. This could be done unilaterally and fast.

UNFAIR PRACTICES

The ACCC has floated the possibility of having certain unfair practices made unlawful; the ACCC should be asked now what such practices might be and the Government should consider with a view to prompt adoption.

MISUSE OF MARKET POWER

The provision was amended in 2017 partly to assist small business. This has not worked. There has only been one case to date and that is against a major Tasmanian utility. None against major market players who have the power to damage small businesses.

The previous section included provisions that covered damage to competitors, the new section only prohibits conduct that substantially lessens competition, the new provision will seldom apply where particular small businesses are damaged.

We suggest that the previous tests be adopted for a period of 2 years. Some will say that that will prohibit conduct that is pro-competitive, correct, but the climate is such that that might be warranted.

The previous test included the following,

- (a) eliminating or substantially damaging a person, being a competitor in that market or in any other market of the corporation or of a body corporate related to the corporation.
- (b) preventing the entry of a person into that market or into any other market; or
- (c) deterring or preventing a person from engaging in competitive conduct in that market or in any other market.

Where what might be pro-competitive conduct that the law might prohibit, the ACCC should have the power to authorise on public benefit grounds with the survival of small business to be deemed to be a public benefit. All such radical policies can be sunsetted.

AGENTS

In many cases large companies damage their retail outlets but the law may or may not apply as agents may or may not be in competition with principals. It is a case-by-case analysis, as indicated by the High Court in the Flight Centre case. However, it is hard for small businesses to know which is which and principals constantly consider their distributors to be agents and treat them accordingly.

If businesses are true agents, the competition provisions are unlikely to apply.

It is suggested that there be a rebuttable presumption that agents are in competition with their principals. This will condition the behaviour of principals unless there is no doubt that their outlets are agents.

MERGERS

We sympathise with the ACCC concern that mergers are being closed that might damage the Australian economy. We suggest that there be an urgent review of current merger law and maybe move to mandatory merger pre-merger clearance, subject to a threshold test.

PRICE CONTROL

This is the horror of pc economists but must be part of any post Covid options, some industries will have fewer players and price control is a possible option. An issue though is that the Commonwealth lacks such power, but the States and Territories have such power, Feds can have price surveillance but no more. Such controls should only involve monopoly businesses. Any policy must be so crafted to avoid damaging small business but price controls on say airlines and utilities may be warranted.

MANDATORY SAFEGUARDS

Consideration needs to be given to build in some mandatory safeguards in some industries to protect for “disasters”. Travel insurance should be mandatory for all international travel.

If that is adopted the Government should regulate the terms and price of any such policies.

As to who pays for the insurance will be an issue for the market and parties to determine.

There will be other areas where mandatory safeguards might be warranted. We impose mandatory third-party insurance, and we should not shy away from mandatory protections despite the cost to the consumer.

Small Business Owner Training / Vocational Education and Training (VET) - The current system is failing; small business needs to be funded for training through their own businesses and sectors. While traineeships are available through RTO's for our staff, it is training our small business owners that is the biggest challenge. Many don't earn any more than their staff and they lack good core small business management and marketing skills. Something as simple as some cashflow expertise can often be the difference between success and failure for some small businesses and their staff. Access to funded Cert 3 & 4 training and specific skillsets for small business owners would make a considerable difference to the success of small business owners.

Small Business Financial Counselling

Small businesses who find themselves in financial trouble like has occurred with COVID have limited access to Financial counselling services. Most of the services available are funded for consumers and not business owners. Access to free or low-cost financial counselling would support many businesses to resolve issues rather than close their doors, or at least potentially close their doors at the right time. This will also support actions to improve the mental health of all small business owners.

Illicit Tobacco & tobacco excise impacts on retailers

The Illicit trade in tobacco is an ongoing and important issue impacting our legitimate legally operating retailers and that is leading to the leaking of considerable government excise revenue. The latest figures on illicit trade from the KPMG LLP "Illicit Tobacco in Australia" Report show that 20.7% of all tobacco consumed in Australia is illicit. This is up considerably from just two years ago.

That means \$3.4 billion in lost taxes to the Government had that tobacco been consumed legally. This exacerbates the insurance and security costs for our members who sell in this category, and it means they lose legitimate legal sales. It requires federal leadership to drive greater harmonization of state and federal illicit trade laws to ensure black market sales of regulated retail products are substantially reduced. This will make sure that efforts to combat illicit trade are efficient and effective and that organized crime that is benefitting from this trade currently is not given a free ride.

The continued implementation of steep annual 12.5% tobacco excise increases has also compounded this problem leading to the attractiveness of the illicit trade in tobacco products. Simply put, further excise increases will drive greater expansion of illicit trade. We are firmly of the view that the effectiveness of these excise increases has now well and truly run its course in encouraging long-term smokers to give up and it is now hurting retailers more than it is providing preventative health outcomes as it is simply re-directing the market to readily available cheaper alternative illegal supply. We recommend the government re-think any future excise increases and to now target illicit supply as effectively as possible.

Superannuation & PAYG Tax

- ALNA supports removing employers from the superannuation administration and collection process and placing it in PAYG. This will ensure it is possible to pay very regularly if small businesses choose, also ensuring flexible cash flow management.
- As a simplification and removal of red tape, and in return for the efficiency dividend from removing employers from superannuation administration, reset the monthly super payment threshold from over \$450 to from \$1. This will reduce complexity and recognizes that more people are working multiple jobs.
- Improve tax structures for people in casual employment who may work 2, 3 or 4 casual jobs to make up full time employment. Small business relies heavily on these casual workers.
- Ensure that annual concessional superannuation contribution caps and lifetime non-concessional super contribution caps are sufficiently flexible and attuned to the needs of small business owners who are transitioning to retirement.

Access to Finance (Revenue Contingent Loans), supporting young people and Payment times for Small Business

- ALNA strongly supports the recommendations made by the Australian Small Business and Family Enterprise Ombudsman (ASBFEO) on revenue contingent lending for small businesses coming out of COVID.
- Ensure access to equitably competitive finance, make sure banks fairly manage small business loan risk, and support strong competition between banks so that interest rate cuts flow through to small businesses.
- Ensure vulnerable small business lenders are not taken advantage of by banks with substantial market power.
- Supporting young people with limited access to equity - Many young Australians are working in viable small businesses in our sector who are passionate about them and retail and who would consider successfully taking them over from exhausted owners who are looking for alternative viable exit solutions if they could access amounts of capital to do this. Recent research conducted for us by UTS Business school indicates that access to capital like this could save many small businesses like these from closing unnecessarily and would enhance employment and positive industry performance outcomes. Largely the barriers are due to the lack of home ownership amongst young people. This is an equity issue as young people who don't have access to their parent's equity are unable to enter the small business market. Only those from wealthy families have access to these opportunities creating a small business 'opportunity gap'. The government should guarantee start-up investment loans for young people that are revenue contingent to achieve this.
- A consistent code of conduct for timely small business payments is essential and we support this.

Telecommunications - Extend the 'Do not call' register to small business.

Business Taxation - Ensure a competitive goal of a 25% small business tax rate that will stimulate investment and employment and make us more competitive as a country.

Workplace Relations – Acknowledging the positive work done over 2020 to reform Workplace Relations to match the needs of a COVID recovery, we support developing simplified small business award structures wherever possible that make life simpler for both small business owners and their employees to be protected and to understand their roles and obligations. This needs to consider the differences between small and large employers, as well as using plain English in awards and agreements and replacing language like “penalties” with more constructive options like “additional working hours incentive” that demonstrates partnership between employee and employer.

- Make ‘Unfair Dismissal’ a lot simpler, include a ‘wrong fit for workplace’ model so that redundancies don’t need to be created or incompetence manufactured.
- Ensure that the ‘Vulnerable Persons’ Fair Work Act amendments do not unnecessarily impact the 99% who do the right thing and that this does not undermine the essential central freedoms of franchising. Make sure this does not open the door for civil action or expansion to other issues like WH&S.
- Domestic Violence Leave (DVL) - Employers should not be expected to pay for this additional leave, and the model should not exclude employers who may be victims themselves. Small Business Owners are after all people too. We call upon the Government to support small businesses to support those suffering from domestic violence through a domestic violence leave scheme funded for small business. This must include access to leave for those who run small businesses who are the victim.
- Paid Parental Leave - Our members are supportive of the Paid Parental Leave scheme. Nonetheless, the compliance regime applies to all employers, no matter the size of your business or the number of staff you have. Our members support further simplification of the compliance regime and wherever possible removing the burden of this from small business owners.
- Removal of pay clerk responsibilities for Government maternity leave - Small businesses should not be required to be the pay clerk for maternity leave funded by the Government. This leave should be paid directly by the Government to the mother, removing an administrative burden on small businesses. This payment is complex for small business accounting and creates difficulties for small business owners.

ALNA is also generally supportive of the other models advocated for by COSBOA during the negotiations undertaken in 2020 and while we think due to sector complexities that there should be opt-in models for things like loaded rates, we are supportive of attempts to simplify, to appropriately clarify casuals and to make more effective models for dismissal etc.

Fund an ongoing national mental health plan focused on small business owners.

ALNA recognises that significant resourcing has been applied to small business mental health recently as it is a significant challenge for many in our small businesses as a result of COVID. With the various pressures and stresses they face from the pandemic; small business owners and their staff are particularly vulnerable and don’t have a supervisor looking out for them. The Budget should invest in a national mental health plan focused on people working in small business. This would not be a significant burden on the budget and would enhance existing initiatives and support people in

small business to understand what is available and to easily gain access to services.

Stimulate demand through Infrastructure Investment - There is a back log of positive net return infrastructure required in Australia. Record low interest rates provide an opportunity for government to catch up this infrastructure at low cost and quickly. This would stimulate employment and overall demand, as well as investment in Australia. This will encourage and support a healthy small business sector.

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