

Changes in wind for small business

Small business can look forward to a better deal this year when proposed changes to the Trade Practices Act become law.

In 1996 the Commonwealth Government commissioned a Parliamentary inquiry, chaired by Mr Bruce Reid MP, into fair trading issues affecting the small business sector.

The Committee's report, *Finding a Balance —Towards Fair Trading in Australia*, said that small business was vulnerable to unfair dealing and exploitation by more powerful firms — mainly because of an imbalance in bargaining power.

It called on the Government to legislate to give small business real protection in the marketplace and a chance of fair dealing and emphasised the need for the law to be effectively enforced.

The Government accepted the Committee's suggestions and in September 1997 released its own report *New Deal, Fair Deal* setting out proposals for change including the addition of two new provisions to the Trade Practices Act to:

- protect small business from unconscionable commercial conduct; and
- provide for codes of conduct to be enforceable under the Act.

The new unconscionable conduct provision is designed to prohibit stronger businesses dealing harshly or oppressively with other businesses which are at a disadvantage in a transaction — often the case for small firms.

The intention is to give small business the same strong legal protection available to consumers under the Act. However, it will apply only to transactions of less than \$1 million.

The Reid Committee pinpointed several areas particularly vulnerable to unfair treatment in commercial dealings — including retail tenancies, franchising and petroleum retailing.

Franchisees and petroleum retailers have been regulated by industry codes of conduct which went some way to

protecting small business rights in the marketplace. However, the Reid Committee concluded that, overall, industry codes were ineffective in shielding small business from unfair conduct, because they were not enforceable or had ineffective sanctions. It suggested that codes should be underpinned by legislation to give them real force and effect.

