

ACCC is listening to small business

The first issue of **ACCC update** heralded proposed changes to the Trade Practices Act specifically for small business. Those changes are now part of the law. Issue 2 introduced Philip Eliason, manager of the ACCC's national small business program as well as answering the most frequently asked questions in relation to the new Franchising Code of Conduct.

This issue gives some background on how the ACCC is working to meet its objectives and introduces the rest of the small business team.

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 Sitesh Bhojani. 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 firsthand 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 Act and law reform matters. The ACCC advises on new legal issues and general trade practices enforcement matters relating to small business operations and consumer and business protection issues.

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.

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.

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 advisers 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 business.

SBAG membership

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

First ACCC action under s. 51AC

In February the ACCC filed in the Federal Court its first action under the new s. 51AC of the Trade Practices Act, alleging that an Adelaide food plaza landlord engaged in unconscionable conduct towards one of its tenants.

The landlord, Leelee Pty Ltd, allegedly:

- increased the rent contrary to the terms of the lease;
- failed to act to protect the tenant's rights under his lease; and

- forced the tenant to charge not less than a particular amount for certain food dishes while allowing his competitors to charge less for theirs.

The ACCC also alleges that Leelee managing director, Pua Hor Ong, aided and abetted or was knowingly concerned.

The ACCC is seeking injunctions, declarations, and orders for payment of damages.