



**Minister for Finance; Commerce; Small Business
Hon Simon O'Brien MLC**

Your ref: 29-19441
Our ref: M11/282

Mr Oliver Moon
Chief Executive Officer
Combined Small Business Alliance of WA Inc.
PO Box 253
JOONDALUP WA 6919

Dear Mr Moon 

SMALL BUSINESS POLICY POSITION

Thank you for your letter dated 24 August 2011 in which you enclosed the recently launched CoSBA Small Business Policy Position. I appreciate the hard work and expertise that has gone into preparing such a comprehensive and important document.

As you know, small businesses are a vital part of the State's economy and the Government recognises that the Western Australian community benefits from a strong and vibrant small business sector. The Premier, in particular, has signaled the importance of the sector by establishing a dedicated portfolio for small business, and for the first time in Western Australian history, appointing a Parliamentary Secretary for Small Business.

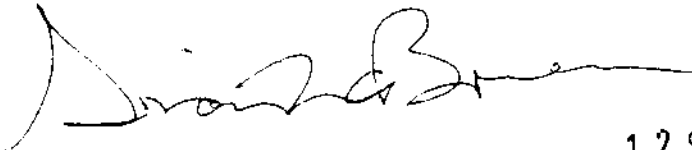
Since being appointed as the Minister for Small Business I have pursued a number of priorities which are very consistent with those outlined in your policy document. Among these has been the passage of legislation through the Parliament to establish the State's first Small Business Commissioner who will play a key role in creating a more competitive and fair operating environment for the State's small business sector. The Commissioner will have the important responsibility of reducing the vulnerability of small businesses to unfair market practices, as well as providing access to a low-cost mediation service to help small businesses resolve disputes.

I have also recognised the importance of the local assistance provided to businesses by the Small Business Centre network by ensuring they received the first increase in funding since 2006; and through the Small Business Development Corporation, I am supporting a new range of assistance measures to address specific industry issues, and to enhance the success of small businesses as part of the supply chain servicing the resource and infrastructure sectors.

I acknowledge that during these challenging economic times many small businesses will require additional support. The CoSBA policy paper therefore makes a welcome contribution to the formulation of meaningful small business policy in Western Australia.

I take this opportunity to personally thank you for your efforts, and those of your fellow CoSBA Executive, in advocating on behalf of the very large and disparate small business sector to positively influence change and establish strong foundations for the continued success of small business in Western Australia.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Simon O'Brien', written in a cursive style.

12 SEP 2011

**SIMON O'BRIEN MLC
MINISTER FOR FINANCE; COMMERCE; SMALL BUSINESS**



Minister for Finance; Commerce; Small Business
Hon Simon O'Brien MLC

Our ref: 29-19180

Mr Oliver Moon
Chief Executive Officer
Combined Small Business Alliance of WA
PO Box 253
JOONDALUP WA 6919

Dear Mr Moon *O. Moon*,

RESTRICTIVE TRADE PRACTICES

Thank you for your letter dated 2 August 2011 regarding concerns raised by the Manager of the Small Business Centre (SBC) Wheatbelt South (Narrogin), Mr Scott Ballantyne, about the impact of alleged restrictive trade practices on a small business operating in the State's South West.

I appreciate the negative impact that restrictive trade practices can have on small businesses but I believe there are appropriate legislative protections in place to prohibit such conduct. Part IV of the Commonwealth *Competition and Consumer Act 2010* ("the CC Act") prohibits various anti-competitive practices that limit or prevent competition and significant civil penalties can apply for contravening these provisions. Restrictive trade practices is such an area prohibited under the CC Act.

The CC Act is specific about what activities offend the restrictive trade practice prohibitions. From your correspondence, the alleged conduct centres on a supplier insisting that the small business owner interact with them solely via electronic means. From the information provided, there is no evidence to suggest that the small business operator is being treated differently than the supplier's other customers, or that the supplier has refused to supply him. Subject to a lack of evidence to the contrary, it appears that the supplier has adopted a consistent approach to dealing with all its customers by transacting online. Given the prevalence of online trading in contemporary business practice, it would appear to be not unreasonable for a supplier to conduct their business electronically, so long as this is applied to all customers.

The CC act also prohibits the practice of resale price maintenance. Under this prohibition, a supplier may recommend an appropriate price for particular goods but may not stop retailers charging or advertising below that price. However, it is within the supplier's remit to specify a maximum price for resale, which is not prohibited under the CC Act. It should also be noted that a retailer does not have an automatic right to be supplied by a particular supplier.

When determining whether restrictive trade practices are taking place, all elements of the supply arrangement need to be assessed. Without a complete understanding of this I am unable to comment on the specifics of this particular case. If the small business owner believes that he is being subjected to restrictive trade practices, he should contact the Australian Competition and Consumer Commission ('ACCC') to investigate. The ACCC InfoCentre can be contacted on 1300 302 502.

I trust that this information is of assistance to you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Simon O'Brien', written in a cursive style.

**SIMON O'BRIEN MLC
MINISTER FOR SMALL BUSINESS**

23 AUG 2011



Government of **Western Australia**
Department of **Training**
and **Workforce Development**

D11/0532555

Mr Oliver Moon
Chief Executive Officer
Combined Small Business Alliance
PO Box 253
JOONDALUP WA 6919

Dear Mr Moon

Thank you for your correspondence dated 23 August 2011 regarding the review of the Business Growth Centre (BGC).

The support by the Combined Small Business Alliance of the BGC is acknowledged. The BGC was funded as a pilot program with some additional economic stimulus funding as a result of the financial crisis. The service agreement which expires in December 2011 clearly states that a comprehensive evaluation is required to be undertaken in the later part of 2011.

To ensure that a high quality transparent evaluation takes place, the Department of Training and Workforce Development has engaged an external organisation, the Centre for Entrepreneurial Management and Innovation to undertake the evaluation. The Department anticipates the evaluation will be completed by the end of September 2011. A copy of your letter has been sent to the consultant.

The Department is unable to make any commitments about the future of the BGC until the evaluation is complete.

Should you require further information please contact Ms Sarah Saunders, Principal Contract Officer by telephone on 6551 5322 or email at sarah.saunders@dtwd.wa.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ruth Shean'.

DR RUTH SHEAN
DIRECTOR GENERAL

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