



Restaurant
& Catering

Draft Action Statement - Small Business Regulation Review (Retail Sector)

Feedback on Reforms

June 2017

RESTAURANT & CATERING AUSTRALIA

Restaurant & Catering Australia (R&CA) is the national industry association representing the interests of over 40,000 restaurants, cafés and catering businesses across Australia. R&CA delivers tangible outcomes to small businesses within the hospitality industry by influencing the policy decisions and regulations that impact the sector's operating environment.

R&CA is committed to ensuring the industry is recognised as one of excellence, professionalism, profitability and sustainability. This includes advocating the broader social and economic contribution of the sector to industry and government stakeholders, as well as highlighting the value of the restaurant experience to the public.



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INTRODUCTION

Restaurant & Catering Australia (R&CA) welcomes the opportunity to provide input on the Draft Action Statement published as part of the Victorian Government's Small Business Regulation Review (Retail Sector). R&CA's comments are in addition to the feedback it initially provided to this Review in November 2016. R&CA is committed to working with government stakeholders to help reduce the impact of red tape and the regulatory burden facing hospitality sector businesses who contribute over \$6.3 billion to the Victorian state economy each year. R&CA commends the Victorian Government for its commitment towards reducing the burden of red tape and regulation on small businesses and for the reforms contained in this Review.

As stated in the Review's Draft Action Statement, cafés, restaurants and takeaway food services 'face comparatively high total regulatory cost' with the cost of regulatory compliance estimated at \$157 million each year or \$6,000 for each business.¹ In addition to the costs involved with regulatory compliance, there is also a significant investment required on behalf of business owners in terms of time. It has been estimated that the total average time spent by small businesses complying with government regulatory requirements can be up to 5 hours each week.² Small businesses, including those within the hospitality sector, are also disproportionately impacted in terms of the overall regulatory burden as they have comparatively fewer resources at their disposal to meet their compliance obligations. For these reasons, R&CA believes the reduction in the regulatory and red tape burden associated with the establishment and operation of Victorian hospitality businesses is vital in ensuring the ongoing sustainability and profitability of the sector.

R&CA is in accordance with the four priority areas identified by the Draft Action Statement of access to information, approvals process, food safety and retail leases. R&CA's position is that proceeding with the reforms identified in the Draft Action Statement around these four key areas in a timely fashion should be a high priority for the Victorian Government. R&CA argues that in doing so, this will result in tangible outcomes for small businesses in the hospitality sector and significant improvements in the overall operating environment. By reducing the amount of red tape borne by the hospitality sector, this will allow business owners to spend more time focussing on running their businesses successfully. Although not explicitly related to the cost of regulatory compliance, R&CA would also add that a significant burden faced by hospitality businesses is the high cost of wages associated with penalty rates which is further exacerbated by the gazettal of additional public holidays in Victoria.

¹Department of Economic Development, Jobs, Transport and Resources (2016) *Making it Easier to Do Business in Victoria, Small Business Regulation Review (Retail Sector)* Draft Action Statement.

²Productivity Commission (2013) *Regulator Engagement with Small Business*, Research Report, Canberra.

VALUE OF THE HOSPITALITY SECTOR

Businesses in the hospitality sector form an important part of Victoria's social and cultural fabric and make a valuable contribution to local economies throughout both metropolitan and regional areas of the state. The inherent value of the hospitality sector, both in terms of its economic output and employment generation, creates a strong imperative to ensure an operating environment which allows these businesses to operate both successfully and sustainably.

SIZE

According to the most recently available data published by the Australian Bureau of Statistics (ABS), at the end of the 2015-16 Financial Year, there were 11,366 cafés and restaurants operating in Victoria as well as 942 catering businesses.³ Out of Victoria's 12,308 cafés, restaurants and catering businesses, more than 93 per cent are small businesses employing 19 people or less. Victoria accounts for approximately 28.5 per cent of all cafés, restaurants and catering businesses throughout Australia which is second only to New South Wales at 34.9 per cent. Over the duration of the 2015-16 Financial Year, the number of cafés and restaurants in Victoria grew at a rate of 6.9 per cent which was second only to the Northern Territory. In order to continue the significant growth of hospitality sector businesses in Victoria, it is essential to reduce the regulatory and red tape burden encountered during the establishment phase of these businesses.

ECONOMIC AND EMPLOYMENT CONTRIBUTION

The hospitality sector, including cafés, restaurants and catering businesses, generates billions of dollars a year for the Victorian economy. For the year ending April 2017, the café, restaurant and catering sector contributed just over \$6.3 billion to the state's economy, representing year on year growth of 7 per cent.⁴ When incorporating turnover generated from takeaway sales, the turnover for Victoria's hospitality sector was \$10.2 billion.⁵ A specific breakdown of the turnover generated by Victorian hospitality sector businesses as well as a comparison to other Australian states and territories can be viewed in Figure 1 overleaf. Overall, the sector is expected to generate the largest employment growth to November 2020 out of any industry subsector.⁶ In the city of Melbourne alone, there are 2,711 food services businesses accounting for 35,478 jobs, generating an economic output of \$4.9 billion.⁷

³ Ibid.

⁴ Australian Bureau of Statistics, (ABS) (2017) *Retail Trade Data 8501.0*.

⁵ Ibid.

⁶ Department of Employment (2016) *Employment Outlook to November 2020*.

⁷ City of Melbourne, (2017) *Economic Profile* <http://melbourne.geografia.com.au/>

Figure 1: Turnover in the Café, Restaurant & Catering Industry

Turnover in the Café, Restaurant & Catering Industry							
State	Sector	Month of April			Year Ending April		
		Apr 16 (\$M)	Apr 17 (\$M)	% Change MoM	Apr 16 (\$M)	Apr 17 (\$M)	% Change YoY
NSW	Café, Restaurant & Catering Services	679.7	668.6	-1.6%	8201.5	8158.9	-0.5%
	Café, Restaurant & Takeaway Services	1182.8	1216.5	2.8%	14025.9	14742.6	5.1%
VIC	Café, Restaurant & Catering Services	499.4	536.1	7.3%	5899.7	6313.9	7.0%
	Café, Restaurant & Takeaway Services	805.4	859.7	6.7%	9500.9	10221.9	7.6%
QLD	Café, Restaurant & Catering Services	396.2	388.7	-1.9%	5020.0	4948.0	-1.4%
	Café, Restaurant & Takeaway Services	702.1	687.7	-2.1%	8700.4	8698.4	0.0%
SA	Café, Restaurant & Catering Services	94.6	110.8	17.1%	1057.5	1208.9	14.3%
	Café, Restaurant & Takeaway Services	180.4	197.2	9.3%	2074.1	2290.1	10.4%
WA	Café, Restaurant & Catering Services	282.4	282.6	0.1%	3361.4	3370.9	0.3%
	Café, Restaurant & Takeaway Services	426.8	448.9	5.2%	5119.1	5316.0	3.8%
TAS	Café, Restaurant & Catering Services	26.0	28.2	8.5%	289.7	315.0	8.7%
	Café, Restaurant & Takeaway Services	51.1	55.8	9.2%	582.6	640.3	9.9%
NT	Café, Restaurant & Catering Services	18.2	20.3	11.5%	230.1	238.1	3.5%
	Café, Restaurant & Takeaway Services	38.7	37.5	-3.1%	475.5	478.1	0.5%
ACT	Café, Restaurant & Catering Services	41.2	41.0	-0.5%	494.6	493.8	-0.2%
	Café, Restaurant & Takeaway Services	64.5	63.6	-1.4%	746.9	784.4	5.0%
Total	Café, Restaurant & Catering Services	2037.7	2076.2	1.9%	24554.8	25047.0	2.0%
	Café, Restaurant & Takeaway Services	3451.7	3567.0	3.3%	41224.9	43172.1	4.7%

Source: ABS 8501.0 Retail Trade, Australia; State by Industry Subgroup, Original.

Figure 2: Business Count in the Café, Restaurant & Catering Industry

Café, Restaurant and Catering Businesses operating at end of financial year - June 2016											
State	Business Type	Non Employ.	1-19 Employ.	20-199 Employ.	200+ Employ.	Change	% Change	Entry Rate %	Exit Rate %	Sub Total	Total No. Businesses
NSW	Café & Restaurants	2643	10216	778	17	677	5.2	24.2	19.0	13660	15,030
	Catering Services	474	798	83	9	42	3.2	20.9	17.8	1370	
VIC	Café & Restaurants	2308	8327	715	18	737	6.9	24.5	17.6	11366	12,308
	Catering Services	366	478	86	5	2	0.2	18.2	18.4	942	
QLD	Café & Restaurants	1311	5105	645	9	442	6.7	25.2	18.6	7068	7,676
	Catering Services	262	306	33	3	22	3.8	19.8	15.7	608	
SA	Café & Restaurants	393	1617	189	0	134	6.5	23.4	16.7	2196	2,429
	Catering Services	90	123	22	0	-2	-0.9	12.3	11.9	233	
WA	Café & Restaurants	633	2403	437	7	135	4.0	21.7	17.6	3471	3,807
	Catering Services	141	171	28	3	5	1.5	22.1	20.5	336	
TAS	Café & Restaurants	105	530	57	3	24	3.6	20.4	16.0	691	756
	Catering Services	25	40	3	0	-8	-11.0	19.2	19.2	65	
NT	Café & Restaurants	38	135	31	3	22	12.0	25.0	14.7	206	242
	Catering Services	12	18	3	0	1	2.9	17.1	14.3	36	
ACT	Café & Restaurants	143	578	84	4	20	2.5	21.2	19.0	811	870
	Catering Services	18	42	6	0	-3	-4.8	8.1	21.0	59	

Source: ABS 8165.0 Counts of Australian Businesses, including Entries and Exits, Jun 2012 to Jun 2016.

FEEDBACK ON AREAS OF REFORMS

As previously stated, R&CA is in strong accordance with the priority given to the four main areas as outlined in the Review's Draft Action Statement and welcomes the opportunity to provide further feedback. R&CA's comments in response to the Draft Action Statement's four priority areas are outlined below.

Reform 1: Access to Information

R&CA believes that the red tape and regulatory burden affecting small businesses in Victoria is magnified by a lack of access to clear and consistent information. Furthermore, the information that *is* accessible through formal government channels does not always address the needs of small business operators in the hospitality sector. R&CA regularly receives enquiries from its members regarding the location of specific information concerning issues such as licensing requirements and the most appropriate organisations in which to contact to seek further clarification.

The number of licenses and subsequent forms involved in establishing and operating a small business in the hospitality sector can often be a source of confusion for these business owners, particularly those with English language difficulties. R&CA therefore believes that the Draft Action Statement's recommendation of providing businesses with a regulatory journey map containing a comprehensive list of all business licenses issued by Council, inter-linkages between permits, fees and an indicative timetable will help to address this confusion. R&CA also contends that a simplification of the regulatory processes will lead to higher rates of compliance amongst hospitality sector businesses, particularly those that are non-compliant as it stands.

Reform 2: Approval Process

Navigating the approvals process for establishing or operating a hospitality business can result in significant time delays for business owners, which ultimately impacts their ability to generate an income and to hire other employees. R&CA argues that Reform 2.2 as contained in the Draft Action Statement, to introduce 'a single application process for the approvals and registrations typically needed to start a new business', would be a highly valuable means of addressing the red tape burden currently faced by the Association's members and the industry as a whole. Through a streamlining of the processes involved in approving new businesses, this would not only reduce the number of forms owners are required to complete but would also result in a reduction of the time taken to process these applications at a Council level.

Other Australian state and territory governments have also identified the length of approval times needed to establish a new business as a key area of concern. The New South Wales Government, for instance, has recently instituted the *Easy to Do Business Program* which has significantly reduced the number of forms required and the amount of time taken to establish a café or restaurant. The program is a joint initiative between Service

NSW, the Office of the NSW Small Business Commissioner, the NSW Customer Service Commissioner and local councils which 'reduces the time taken to start a business from an average 18 months to just three months'.⁸ In addition, the program has also replaced 30 government forms with a single online application.⁹ R&CA believes that a similar program could be emulated with similar levels of success in Victoria.

Liquor Licensing

For small businesses in the hospitality sector, one of the most applicable licensing requirements is that of a liquor licence. As such, issues surrounding the application process for liquor licences are a significant area of concern for R&CA's members. Over 62 per cent of R&CA's members are a licensed premise according to R&CA's *2017 Industry Benchmarking Report*.¹⁰ The current process of applying for a liquor licence can be an onerous and complex task for these small business owners. As stated in R&CA's previous submission, delays in processing times are 'often exacerbated by the fact that they have already signed a lease agreement have begun making rent payments while waiting for the outcome of their licence'.

R&CA is pleased that the Draft Action Statement acknowledges the issue of sequential approvals processes and recommends a concurrent approach to minimise these types of delays. R&CA believes that its members and industry will derive significant benefit from the Draft Action Statement's recommendation on page 19 to increase the alignment involved in the processing of planning and liquor licence applications through working with collaborating councils and the Victorian Commission for Gambling and Liquor Regulation (VCGLR) 'to achieve a more joined-up, efficient and concurrent processing of approvals'.

Reform Area 3: Food Safety

The imperative to reduce the regulatory burden associated with food safety is well-enunciated in the Draft Action Statement on page 29 which states that 'food safety regulation carries the highest levels of regulatory cost'. One of the key elements that was outlined in R&CA's initial feedback to Review was that there are discrepancies in the way that food safety standards are applied across different Victorian Councils. This is particularly problematic for business owners operating food businesses in multiple locations across the State as they are subject to different applications of these standards depending on which Council areas they operate. R&CA highlights the NSW Food Authority's *Scores on Doors* program as a potential example for the Victorian Government to examine when considering the formulation of a similar system which does have a standardised evaluation system. R&CA is satisfied that this problem has been explicitly acknowledged in the Draft Action

⁸ Service NSW (2017) *Green light to cut red tape for small business*, 20 April
<https://www.service.nsw.gov.au/news/green-light-cut-red-tape-small-business>

⁹ Ibid.

¹⁰ Restaurant & Catering Australia, *2017 Industry Benchmarking Survey*.

Statement however awaits the outcome of the Review's proposed Working Group before providing any further comment in relation to this issue.

Food Safety Plans

R&CA is cognisant of the need to ensure that all foodservice businesses in Victoria uphold the strictest food safety and hygiene regimes. However, R&CA believes that the requirement of having a Food Safety Plan (FSP) in place for each food business does not represent best practice in terms of guaranteeing businesses' adherence to the highest standards of food safety and hygiene. R&CA's concerns regarding this requirement were articulated in its original submission to the Review. It is the Association's view that FSPs represent a significant administrative burden for hospitality businesses and that the most expedient way of ensuring positive food safety outcomes is through training to ensure that key personnel within these businesses are adequately trained in food safety programs. The problem with FSPs is that they are often based on templates and fail to guarantee proper adherence to food safety principles and practices. In addition, a range of studies have also determined that there is no correlation between the implementation of FSPs and increased food safety outcomes.¹¹

Reform Area 4: Retail Leases

According to R&CA's *2017 Industry Benchmarking Survey*, roughly three-quarters of surveyed businesses (75.1 per cent) indicated that the building in which they operated their business is leased.¹² As such, the importance of improving the transparency process around retail leasing is of significant importance to café, restaurant and catering businesses in Victoria. R&CA gladly supports the recommendations contained in page 36 of the Draft Action Statement to 'amend the Retail Leases Act 2003 to include a clearer definition and/or minimum timeframes of when the proposed lease and information brochure must be provided to prospective tenants' and to 'explore legislative and non-legislative options to ensure that tenants are provided with all relevant price and non-price terms (including the proposed rent) a reasonable time before tenants must exercise an option to renew the lease'.

¹¹ Food Science Australia (2002) *National risk validation project: final report*, Food Science Australian & Minter Ellison Consulting.

¹² Restaurant & Catering Australia, 2017, *Industry Benchmarking Report*.

OTHER AREAS OF REFORM

Public Holidays

Although not specifically related to businesses' red tape costs, the gazettal of additional public holidays in Victoria on the Friday before the AFL Grand Final and Easter Sunday is a key area of concern for R&CA. As it stands, the cost of wages and staff on-costs can represent up to 44 per cent of overall expenses for a café, restaurant or catering business.¹³ The increased wages on public holidays because of penalty rates results in many hospitality sector businesses choosing to close as it is no longer economically viable to trade on those particular days. According to R&CA's *2017 Industry Benchmarking Report*, 20.2 per cent of businesses indicated that they opened on Sundays but not on Public Holidays, which represents an increase from 19.4 per cent in 2016.¹⁴ As stated in its previous submission to the Review, R&CA would seek a commitment from the Victorian Government that any further gazettal of public holidays in Victoria are local event days only to reduce the cost burden associated for small businesses operating on these days.

¹³ Restaurant & Catering Australia, 2017, *Industry Benchmarking Report*.

¹⁴ *Ibid.*

CONCLUSION

As the national industry association representing the interests of over 40,000 restaurants, cafés and catering businesses across Australia, including over 12,000 in Victoria, R&CA is committed to minimising the red tape and regulatory burden on the hospitality sector as much as possible so that these businesses can operate efficiently and successfully. Ensuring that the hospitality sector's business operating environment is one that encourages growth and sustainability is one of the biggest priorities for the Association and its members. R&CA is in accordance with the four areas of priority identified in the Draft Action Statement and urges the Victorian Government to enact these reforms in a timely manner to ensure that this Review process leads to tangible outcomes for small businesses in terms of a reduction in red tape.

REFERENCES LIST

Australian Bureau of Statistics (ABS) (2017) *8165.0 Counts of Australian Businesses, including Entries and Exits, Jun 2012 to Jun 2016*.

Australian Bureau of Statistics, (ABS) (2017) *Retail Trade Data 8501.0*.

City of Melbourne, (2017) *Economic Profile* <http://melbourne.geografia.com.au/>

Department of Economic Development, Jobs, Transport and Resources (2016) *Making it Easier to Do Business in Victoria, Small Business Regulation Review (Retail Sector) Draft Action Statement*.

Department of Employment (2016) *Employment Outlook to November 2020*.

Food Science Australia (2002) *National risk validation project: final report*, Food Science Australian & Minter Ellison Consulting.

Productivity Commission (2013) *Regulator Engagement with Small Business*, Research Report, Canberra.

Restaurant & Catering Australia, 2017 *Industry Benchmarking Report*.

Service NSW (2017) *Green light to cut red tape for small business*, 20 April
<https://www.service.nsw.gov.au/news/green-light-cut-red-tape-small-business>

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