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23 June 2017

The Hon Philip Dalidakis MP
Minister for Small Business, Innovation and Trade
Parliament of Victoria
Level 16, 121 Exhibition Street
Melbourne VIC 3000

Dear Minister Dalidakis

MAKING IT EASIER TO DO BUSINESS IN VICTORIA
Small Business Regulation Review (Retail Sector) Draft Action Statement

The Geelong Chamber of Commerce welcomes the opportunity to put forward a submission to the Small Business Regulation Review (Retail Sector) Draft Action Statement.

The Geelong Chamber of Commerce has more than 900 members and is one of the largest business membership representative bodies in regional Australia. As part of the consultation process to the Small Business Regulation Review (Retail Sector), many of our members expressed concerns that the environment in which they were operating had become increasingly more complex and over-regulated. Our detailed feedback was provided in our submission to the review process in September 2016.

The Geelong Chamber of Commerce supports the proposed reform recommendations and actions as detailed in the Draft Action Statement. We are pleased that many of the issues that we raised in our submission in September last year have been actioned as part of Draft Action Statement, including acknowledgement of the volume of regulation facing businesses, the availability of easily accessible information on the steps needed to open a business, delays in approval processes and high regulatory costs for cafés, restaurants and takeaway food services.

It's noted in the Draft Action Statement that retail leasing is the fourth most costly area of regulation. The Geelong Chamber of Commerce has received a number of concerns from our members specifically in relation to retail leasing. We believe that this area needs further consideration and expansion within the draft actions listed.



PLATINUM PARTNER



RETAIL LEASING – CONSIDERATIONS

Members have advised us that when dealing with major shopping centres there is a large degree of inflexibility with retail leasing arrangements and in negotiations between shopping centre landlords and tenants. Exacerbating this issue is that, in many cases, a business that takes up an option to lease a space inside a shopping centre may be first-time business operators with little experience or knowledge in leasing, resulting in them signing leases that are very one-sided in favour of the shopping centre. Limited knowledge, power and resources place the small business operator in an often powerless position when negotiating leases.

Many small business operators enter into leasing arrangements in good faith, and in the belief that this will be beneficial for their business without fully understanding the implications and consequences of these arrangements.

Among some of the issues small business operators face are:

- **Competition**

Shopping centres are often not transparent with their leases to prospective tenants. In some cases, business operators may have undertaken their business case on a shopping centre and decided to open in that location based on the fact there are no other like businesses inside. However, it seems that the standard retail lease provided generally does not preclude centres from allowing competitors to open – in some cases alongside - or in close proximity to existing businesses, thus diluting the original business model that the business operator applied as the basis for deciding to establish in that shopping centre in the first place. This may result in diminished profits compared with forecast projections and may ultimately impact long term business viability.

- **Fit-out costs**

A business could spend tens of thousands of dollars or more fitting out their shop, only to be advised at the end of their lease agreement that shopping centre management has decided to move them elsewhere in the centre. Small business operators cannot afford, or be expected, to wear the costs of another expensive fit-out. This can also be an issue with lease negotiations with centres requiring a refit of premises with costs carried by the business including any costs incurred by the centre – these can include plans reviews and the like.

- **Lease terms**

The terms under which small businesses are placed by shopping centres are far more restrictive than larger tenants, such as supermarkets, who do not operate under standard leases. Small business operators are therefore disadvantaged in a generally one-sided negotiation to which they have no power to change. This may lead to uncertainty for long term business planning and fear that the shopping centre may terminate lease arrangements and replace a business with another that is more willing to accept these terms.

- **Unfair rent hikes**

Some shopping centres impose unreasonable restrictions on tenants and do not allow further lease term options for small businesses. This means every lease negotiation takes place like a new lease with the centre fully aware the business owner has incurred fit out and operating costs and cannot walk away from unfair rental demands. Businesses that demonstrate good growth are often penalized by the shopping centre and viewed as having the ability to pay more in rent. The unfair and unethical practice by some shopping centres to require their tenants to provide information on their sales and profit data, only to be used as justification to increase rent, is unacceptable. We believe that putting a cap on the increments of rent level rises is one way to stop this practice and offers small businesses greater certainty and more incentive to succeed and prosper.

- **Costs**

All cost incurred, by not only the business but all 'costs' incurred by the centre, are billed to the business. This can mean many thousands of dollars of extra legal fees that the business has no way of validating or recouping.

In conclusion, the Geelong Chamber of Commerce congratulates Small Business Victoria for initiating reforms to regulation that impacts small businesses in Victoria and we look forward to contributing to future reviews planned for other industry sectors.

A vibrant, competitive and empowered small business sector is critical to ensuring that the Geelong and Victorian economies thrive and prosper.

Thank you again for the opportunity to make a submission to this review and we look forward to reforms that "will make a direct and tangible impact on businesses and the broader Victorian economy" making it easier to do business in Victoria.

If you have any questions in relation to our submission please contact me on 03 5222 2234 or 0419 581 735.

Yours sincerely



BERNADETTE UZELAC
Chief Executive Officer