



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

18 November 2019

Senate Standing Committees on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: economics.sen@aph.gov.au

Dear Sir/Madam

Currency (Restrictions on the Use of Cash) Bill 2019 [Provisions]

In August 2019 we submitted to Treasury on the Exposure Draft legislation that we do not support the strict liability offence in the circumstances where a small business has made a supply and the customer, often a private consumer, then chooses to pay in cash. Our concerns have not been reflected in the Bill.

Cash remains legal tender in Australia. It is not the *receipt* of cash which is the problem per se; as the Final Report of the Black Economy Taskforce noted, it is the non-recording of that receipt and the consequent avoidance of GST and income tax obligations.¹ A small business must not be disadvantaged in the marketplace where a customer chooses to pay with cash and the recordkeeping is compliant. In circumstances where payment by credit or debit card attracts transaction fees and charges, the consumer may not want to use that form of tender. Or where the consumer's daily funds transfer limit, or overall credit limit, is less than the amount due (say, for travel costs) and the consumer deposits cash directly to the business' bank account. Such a scenario will expose the small business owner to the mental element offence of recklessness and a potential custodial sentence.

Regional and remote small businesses and pastoral family enterprises in rural Australia do not have reliable access to the internet and electronic banking facilities; often even land line and mobile telephone services are intermittent. We recommend the Bill also acknowledges the difficulties of remote and regional communities particularly with respect to the provisions of Section 13 of the *Currency (Restrictions on the Use of Cash) Rules 2019* Exposure Draft.

The proposed commencement date of 1 January, 2020 allows less than two months to educate small businesses, let alone the community at large. As criminal offences are involved, and people are likely to be unaware that a series of apparently separate transactions may be linked together as a 'supply', especially where a small business can unknowingly be in breach, the Government owes a duty to the population to ensure a comprehensive media campaign is undertaken before implementation. We urge a start date of no earlier than 1 January, 2021.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Annette Conroy on [REDACTED] or by email to [REDACTED].

Yours sincerely

[REDACTED]
Kate Carnell AO
Australian Small Business and Family Enterprise Ombudsman

¹ Black Economy Taskforce, Treasury (Commonwealth), *Black Economy Taskforce Final Report – October 2017*, 12.