

4 November 2024

Committee Secretary
Legal and Constitutional Affairs Legislation Committee

Dear Committee Secretary,

Re: Response to Questions taken on Notice

The Council of Small Business Organisations Australia (**COSBOA**) thanks the Legal and Constitutional Affairs Legislation Committee (**Committee**) for the opportunity to appear before you on 22 October 2024. COSBOA represents the voice of 2.5 million small businesses across Australia.

Please find below COSBOA's response to questions taken on notice during the hearing by Adele Sutton, Head of Policy & Advocacy.

Question asked by Senator Scarr on cost-benefit analysis

COSBOA has been undertaking consultation with the Attorney General's Department since the end of 2023 and into 2024 regarding the Privacy Act reforms. The Department first stated that a third-party consultant would be undertaking a cost benefit analysis in early November 2024. On 15 March 2024, the Department head a Roundtable facilitated by ACIL-Allen who had been engaged to carry out the Cost Benefit Analysis. COSBOA also met with representatives from ACIL-Allen on 22 April 2024.

COSBOA understands that other stakeholders met with ACIL-Allen to provide input into the Cost Benefit Analysis process.

COSBOA sent a letter to the Attorney General on 12 August 2024 requesting the release of the cost-benefit analysis undertaken by ACIL-Allen. However, the details or findings of that Cost-Benefit Analysis have not been shared with us to date and to the best of our knowledge, have not been publicly released.

On a separate point, COSBOA notes that despite being involved in a consultation process, COSBOA was not aware until the Bill was released that a statutory tort would be included in such a manner as to affect small businesses with turnovers of less than \$3 million, currently exempt from the Australian Privacy Principles.

Transparency is key when Government departments are proposing legislation that will increase compliance costs for small businesses. A small business owner is the head of marketing, the head of operations, the head of IT and legal. COSBOA is very concerned when policymakers analyse particular obligations in isolation. Cyber security is a huge privacy concern and yet cyber issues are being considered separately by another department. The cumulative impact of the significant new compliance obligations being imposed on small businesses represent a disproportionate burden compared to the risks they are intending to mitigate.

Ultimately, COSBOA wishes for a transparent consultation process with Government. As a peak body, we wish to be able to inform our members of the rationale and methodology behind proposals being put forward. We need a realistic view of the associated costs, particularly at a time when a significant issue on many small business owners mind is whether they will still be trading in 12 months time. COSBOA would urge the Government to consider again releasing the Cost Benefit Analysis.

Thank you again to the Committee for engaging with small business on these important issues.

Kind regards

Adele Sutton

Head of Policy and Advocacy

COSBOA