

**Ms Spicer:** Well, hello and welcome to the 2017 Small Business webinar. I'm Tracey Spicer, multimedia journalist, writer, speaker and trainer. As a small business owner myself, I'm well aware of the challenges small businesses face, from where do I go to get information and assistance to what's available to help me save time and focus on growing my business? I believe it's important to address these challenges as small business plays such an essential role in the Australian economy, accounting for around 45% of employment and 35% of output nationally. I'm joined tonight by a panel of experts to discuss how regulators are working to level the playing field for small business, along with current and future initiatives of each agency. To begin let's hear from each representative regarding their organisation's focus on small business. First up we have Emma Rosenzweig who is the Acting Deputy Commissioner of the Australian Tax Office. Now, Emma, can you please tell us a little bit more about the ATO and what its focus is on small business?

**Ms Rosenzweig:** Thanks, Tracey. Well, the ATO manages and shapes the tax and super systems that support and fund services for all Australians. We aim to make the systems and our administration fair, efficient and sustainable. Our goal for small business is to support an environment that will allow viable small businesses to flourish. We recognise that small business in Australia are diverse, and so are the types of support that they need to succeed. Whether you are just starting a new business, are more established or in a state of change understanding your tax and super obligations will help you stay on top of things and can be crucial for the success of your business. Whatever stage of the business life cycle you're in the ATO has support tools and services available for you to stay on top of your business and succeed. But we also know that part of creating an environment means dealing with those people who don't do the right thing and supporting a level playing field.

**Ms Spicer:** Yes, it's so important. Thanks, Emma. Now next to Emma we have Dr Michael Schaper, the Deputy Chair of the Australian Competition & Consumer Commission. Tell us a little bit about the ACCC.

**Dr Schaper:** Thanks, Tracey. As the name suggests we are the national agency responsible for not only consumer protection, but also competition issues, but we do a lot more that affects small businesses directly. Many people will be surprised to discover, for example, that small businesses are effectively under the Australian Consumer Law, regarded as consumers themselves. They get a whole swathe of rights, as well as responsibilities, and it's important that people know about those. Some of the things the ACCC deals with are franchising - we're the national franchising regulator - online trading, an increasingly important area for most small businesses, of course, we deal with scams, the prevention and detection of those, consumer rights where you have to and where you don't have to give refunds, for example, to customers as well, and a whole host of other areas as well. Credit cards, surcharging, pricing, advertising and marketing issues all come under the

*Competition and Consumer Act*. So they're some pretty important ones and, I guess, probably the only other point to note here at this point, Tracey, is that like most other agencies, we've got a host of dedicated resources for them as well.

**Ms Spicer:** Terrific. Thank you, Michael. Now, over here we have Lynda McAlory-Smith, Executive Director of Proactive Compliance and Education at the Fair Work Ombudsman. Lynda, welcome, and can you please speak a little bit further on the FWO and its focus on small business?

**Ms McAlary-Smith:** Thanks very much, Tracey, and hello to everyone watching tonight. The Fair Work Ombudsman is the independent agency that's responsible for regulating most Australian workplaces. Our role is to ensure compliance with workplace laws, and part of the way that we do this is in helping businesses, particularly small businesses, in understanding what their obligations are and also what their options are. And really importantly, you can come to us for help. We've got a range of services and advice and assistance available to help small business. We also conduct a number of proactive audits in the field every year. Around 4,500 businesses we would visit to help them understand what their obligations are. We also conduct investigations where we believe there is non-compliance, and for those businesses who are creating an unlevel playing field for other businesses and underpaying their staff and taking advantage of them, we'd actually look to take them to court as well because for businesses to be able to compete everyone needs to be playing by the same rules as well.

**Ms Spicer:** That's right, otherwise it's not fair. Thank you, Lynda. And between Lynda and me is John Price, Commissioner of the Australian Securities and Investments Commission. Welcome. Could you tell us a bit about ASIC and its dealings with small business?

**Mr Price:** Thanks, Tracey, and hi to everyone out there who's watching. Well, look, ASIC is Australia's corporate, market and financial services regulator and we have an interest in key areas like the provision of financial services, financial products and credit. Small business operators deal with ASIC every day when they do things like renew, register or close a company or business name, when they take action to comply with obligations relating to companies or business names, changing addresses and things like that, when they lodge a complaint about misconduct and when they check ASIC registers to verify some information. And what's really important to remember is that small business plays such an important role in the economy. They make up about 97% of all businesses in Australia and they employ about half of the Australian workforce, and we're very proud to recognise that small business is actually our biggest stakeholder.

**Ms Spicer:** It is a massive sector, isn't it? Thank you so much, John. Last but not least, we have Kate Carnell from the Australian Small Business and Family

Enterprise Ombudsman. It's quite a mouthful. Would you tell us a bit about your role and how your office helps small business?

**Ms Carnell:** Look, thanks, Tracey, and welcome to everyone who's viewing tonight. Now, my office has only been around for just over 12 months. It was set up by legislation in the Federal Parliament with support from all sides of government as an independent voice in Canberra for small to medium businesses. We look after businesses with under 100 employees, and what we do is we advocate on behalf of small business. That's to ensure that legislation and regulation is small business friendly. We input into various government policy, approaches and various submissions and so on. We give advice to the Minister on behalf of small businesses and we do inquiries - and I'll talk about one of those a bit later - but probably most importantly we also provide assistance for small business when they've got problems with other businesses, bigger businesses, or with government, federal government agencies or departments. So what our job is is to keep you out of the court system and to solve your problems before they become just too big to deal with.

**Ms Spicer:** It sounds like an incredibly valuable resource. Thank you, Kate. We've just heard from each organisation about their role in assisting your small business. Because of the vital role that small business plays in our economy, the government has developed a number of resources to reduce the information gap. Let's start by discussing what these resources are and how could they benefit your business. We'll start with you, John. What's ASIC got to offer for those thinking of starting a small business?

**Mr Price:** Well, Tracey, I'm very pleased to say that ASIC has developed an app for mobile devices called the First Business App, and with this app you can do things like conduct a business health check to help you decide if you're ready to start a business. You can manage a checklist to make sure you understand your ongoing obligations, things like registration, licenses, taxation, superannuation and important legal responsibilities and requirements. You can view case studies and get advice on what can go wrong in small business and how to avoid that, and very importantly, you can access a networking section which has some great tips and ideas on how to develop your small business network.

**Ms Spicer:** Now, small businesses generally want to do the right thing, but people are very time poor. What does ASIC have available to make it easier for small business to comply with the law?

**Mr Price:** Yes, well, look, we've also developed a booklet to help make you complying with your legal obligations a much easier thing, and that booklet covers key topics. Things like what ASIC is and what's its role and function, the types of business structures that we regulate, responsibilities when you manage a business under a company or a business name structure, which are two of the most common structures, and obligations that relate to key laws that ASIC administers. And there's

that and plenty of other resources that are available for small business on our website which is [www.asic.gov.au](http://www.asic.gov.au).

**Ms Spicer:** And in the event that a small business wants to update its company or business name details is there another option they could take if they can't visit ASIC during business hours?

**Mr Price:** Absolutely, there sure is. We want to make it easier for you to use our services and because of that we've developed a service called ASIC Connect online, and what that allows you to do is manage a whole range of things to do with your company and business name. Now ASIC Connect provides the ability to search, register, renew and update your business name and company name. It's a great tool and I really encourage people to use it.

**Ms Spicer:** Makes life a lot easier. Thank you, John. Now, Lynda, I understand you've done some really interesting research telling you that small and family businesses want to know a lot more about workplace relations. What resources do you have to help?

**Ms McAlary-Smith:** Thanks, Tracey. We've created a number of resources specifically for small businesses. We've got our Workplace Basics Quiz where small businesses can actually go through and test, in their time, their understanding about what the workplace rules are, and it's not just about giving them a pass or fail. If there are any knowledge gaps we actually explain to them what they actually do need to be doing. We've got a range of best practice guides which cover a whole range of opportunities that businesses have, including encouraging people to come back to work after taking parental leave, for example, what to do about leave requests, how to manage different options that they have available to them as an employer. We've also got a range of checklists, books and guides as well including some such as starting a new job, which the feedback from small businesses is great when they're bringing on new employees. And for small businesses or micro-businesses who are looking to perhaps hire their first employee, we've also got some great resources available to help them choose the right person. That would include one of our courses in our online learning suite. We've got eight free online learning courses available. One of them deals specifically with hiring employees, including how to figure out when someone is telling the truth or not in an interview and making sure you pick the right person for the job right up front. It also includes managing performance, which can be a really hard thing, particularly in a small business where you often have close relationships with your staff. It's important to be able to have constructive, honest conversations. We've also got ones around managing employees for the first time. If it's your first time managing an employee, or one of your staff has been promoted, there are some good skills to learn to make sure you're getting it right, right from the start.

**Ms Spicer:** Sounds like priceless advice. And what's the Fair Work Ombudsman doing to level the playing field for small businesses?

**Ms McAlary-Smith:** One of the things we hear from time to time, Tracey, is that businesses who want to do the right thing are finding it really hard to compete against businesses who are underpaying their staff, and it's really tricky for the good businesses to be able to compete on price and like. So we've created an anonymous report tool, which is available on our website, where any member of the community can actually come in and confidentially and anonymously give us information about a business that they think is doing the wrong thing. We've received over 10,000 reports so far and we would encourage you, if you do know of businesses who are doing the wrong thing and it's causing troubles for you, to not hesitate to let us know. And you can find it at [www.fairwork.gov.au/tipoff](http://www.fairwork.gov.au/tipoff).

**Ms Spicer:** Workplace laws, though, can be complex. What can managers and employers do to reduce the likelihood of just making mistakes.

**Ms McAlary-Smith:** It's always a great idea, Tracey, to check in with what your understanding is. So we've actually put together, together we've developed with small businesses, a self-audit guide which takes some of the trickiness out of it, can step you through pretty quickly what are some of the fundamental basics of workplace relations, and what are some of the things that you can actually do to make sure that you're doing the right thing. I'll talk a little bit more about it later, but starting with you need to check you wage rates at least once a year. So putting in some good practices in the early days can stop problems developing down the track.

**Ms Spicer:** That's good advice. When an employer does make a mistake, what's the Fair Work Ombudsman doing to reduce the regulatory burden on small business?

**Ms McAlary-Smith:** We understand, Tracey, that the vast majority of mistakes that we see are genuinely accidental. We work with businesses in the first instance to resolve workplace issues by offering dispute resolution services. So if there is a dispute between an employee and an employer, we work with them to try and resolve that without the matter being escalated unnecessarily or ending up in court. We also have information services about workplace laws and tools, of course, to help them follow the laws. Our mediation service, as I mentioned, is designed to help people from going to court, but also, importantly, if you've got a good employee and there's an issue arisen, you want to be able to move past whatever the issue is. So if we can keep those relationships at work positive so people can have honest conversations and then get back to working in the business together, that's the ideal scenario.

**Ms Spicer:** Sounds like a very sensible approach. Thank you, Lynda. Michael, what resources does the ACCC have available to help small business or those contemplating starting a franchise?

**Dr Schaper:** Well, Tracey, we don't have the whiz bang apps that my colleague, John, over there has at ASIC, but like Lynda we do actually have a bit of an emphasis on online education material, and we see that as kind of pretty useful to empowering people, letting them know what they need to know when they need to know it, and we've got a variety of these. For the small business owner, generally, we've got ones on issues such as scams, unfair contract terms, selling safe products, again I'll mention pricing and advertising issues, dealing with customers, all part of the bread and butter of day to day work in most small businesses, especially in the retail end. Really important, and it's designed not just for the owners, but I think also important to note if you've got employees because that's often the weak link. If you don't have your employees up to date you often find that the law can be broken by your employees, not by you, the owner. So that's one point, but you mentioned franchisees. We also run a program for would-be franchisees. We've developed a series of modules there and that one has been seen by well over 10,000 franchisees. The small business one has had more than 20,000 visits. Now the franchising one is an interesting one. It comes out with a little certificate of completion at the end, and we're increasingly finding that a lot of franchise chains are looking for that information before they'll start negotiations with people who want to enter into a franchise system. So if you want to get some information and you want to get the running in to be able to negotiate with a franchisor and buy into a chain, that's pretty useful. I'll probably just mention one other thing that I think is kind of useful as well and that's our small business information networks. We've got a variety of databases. There's one for small business operators, there's another one for people working in franchising and one for people in the agriculture sector as well. We keep them informed about things that are going on, new laws that might impact on them, information hints, advice and anything else that we think might make their job a little bit easier. So I think that's all part of the tool there, Tracey.

**Ms Spicer:** Thank you very much. Now, Kate, how does your office assist small business owners to get the information they need without going through really complex processes?

**Ms Carnell:** Tracey, like you, I ran my own businesses for 20 years or so and I know how hard it is to actually know what's available. You've heard of some whiz bang apps, some great online learning options. There is enormous amount of information available for small business owners, but the problem is to know what's out there. So that's where [business.gov.au](http://business.gov.au) comes in. It's a one-stop-shop, and as you can see from the slide it has information about planning and starting up a business, which works with the information provided by all the people around the table here, so it all brings it together. So how you plan a set-up of a business, how you start a business, how you register a company. Then there's some great information about running your business. Hopefully not exiting, but if you do decide to exit, how to get out, but there's this great search function, so if you don't know what the question is, if it is about are there any grants, those sorts of questions, you can just shove it into the

search engine and you can get the information that you want from right across government. But if a website doesn't work for you, we do have a 1300 number - which is 1300 650 460 - and at the end of the line there are people who have run their own businesses. So there are people who actually understand the questions that you might be asking, they've been there.

**Ms Spicer:** All right. We've got phone lines, we've got websites, we've got apps, we've got booklets, we've got it all here. Let's move on to resources and programs that the government has developed to reduce red tape, something that garners a lot of complaints. Emma, how is the ATO making things easier for small businesses to get their tax and their super right?

**Ms Rosenzweig:** Well, we know that it is really important to make things simpler for small business. So one of the things we're doing from 1 July this year is introducing the Simpler BAS. This is going to simplify record keeping for small businesses and the reporting that they need to provide to us on the BAS. So any small businesses who have under \$10 million in turnover will now only have to report to us their GST on sales, their GST on purchases and their total sales figure. As well as that, we have our My Tax product which is our product that you can use on the web to lodge your own tax return is now available for sole traders, as well as individuals, and that allows you to track the progress of your tax return, revise your Business Activity Statements and lodge your own tax return. The other product that we've got that's really useful is My Deductions, and this is a product that's in our app. It is like a digital shoe box. So if you think of people who are on the go, small businesses on the go, it allows them to keep track of all their expenses that'll be deductible as they're on the go. They can take photos of receipts, you can actually track travel that you use for work using the map functionality in your device and at the end of the year you can upload it automatically into My Tax, or if you use a tax agent you can email it to them.

**Ms Spicer:** A digital shoe box and a simpler BAS. It sounds awesome. And in the instance small business would like some assistance with the products you've just mentioned or in general, guidance about tax or superannuation, where can they go to get support?

**Ms Rosenzweig:** Well, like many of my colleagues, we do a lot of support for small businesses. So we run our own webinars and a lot of workshops face-to-face around the country. We also have a small business newsroom which is a subscription service. If you haven't subscribed I'd encourage you to, and that would deliver simple messages regularly straight to you. We have a number of online tools and calculators to help you do things like test your business viability, compare yourself with benchmarks to other businesses in your industries, and a business performance check tool. So, while John talked about new businesses, running a bit of a health check on whether they want to start, our tool is for those businesses who've been

operating for a while to check how they're going. So all of these services are available in one spot on our website, which is [ato.gov.au/sbsupport](http://ato.gov.au/sbsupport).

**Ms Spicer:** And you can find more information about all of these great resources and other initiatives under the 'Resources' tab on your screen. Now, Michael, new laws to protect small business from unfair contract terms were introduced in November last year, can you give an overview of the law including its impact on small business?

**Dr Schaper:** A big issue for small business really, a big issue for small business indeed, Tracey. I think if you look back in the life of every small business, inevitably you're going to be given standard form contracts, things that are given on a take it or leave it basis. Telecommunications, if you're renting premises, if you're leasing a vehicle, a whole variety of them. Unlike a big firm you don't get the chance, really, to negotiate them. As I said before, it's take it or leave it, and research shows that the average small business in Australia is signing roughly about eight of these at least a year. And when you think there's more than two million small businesses in this country, potentially that's a lot of contracts. Now, often there's a huge imbalance between the big firm that provides the contract and the small firm that basically gets the chance to either take it, or as I said, leave it. Now, this law basically applies to any of those contracts where one of the parties, one of the businesses is a small business, it's got less than 20 employees, and we're dealing with contracts with less than \$300,000, or if it goes over multiple years, less than \$1 million. It's largely for goods and services and it applies to any contract that has come into effect or been renewed or varied since 12 November last year.

**Ms Spicer:** And what's some of the work the ACCC has been doing since these laws were introduced?

**Dr Schaper:** Well, we've been having a look right across a variety of sectors about this. We looked at some seven different industries last year just before the law came in. We looked at well over 40 different individual contracts to kind of identify where are the common trends and, surprise, surprise, there are common trends, there are problems that businesses all seem to find. One of them, for example, is the right of big businesses to, what we call, unilaterally vary a contract, which basically says there's a term in here, a clause that allows us, the big firm to change any of the rest of the contract and you, the small business, are still going to have to be caught up with it. So it's almost like sign up and you're locked in. Another one is the ability to end a contract on the terms the big business wants. Typically, it can end up whenever it wants, but you, the small business, can't get out of it. And sometimes it also gives other rights to the big business that the small firm doesn't have. So there's a real imbalance there as well. Now the good news is that we are starting to see some changes here with these contracts. We have already been talking to firms. More recently, some of you may have noticed there was some mention of Sensus, the firm, in terms of some of its contracts with small businesses, amending some of



those to deal with small business concerns, and we're actually administering that jointly with ASIC. So it's a joint effort, it's not a solo job here.

**Ms Spicer:** Yeah, I want to get some buy-in from John on that. What areas relating to unfair contract terms does ASIC regulate, and can you give us a few examples of what types of contracts are in your jurisdiction?

**Mr Price:** Absolutely. So, as I was saying before, ASIC is really interested in things to do with financial services and financial products and also credit. So, examples of the sorts of contracts that we're really interested in include things like home loans, credit cards and client or broker agreements. As the regulator, we'll investigate contracts to see whether they contain terms that we think are unfair, but what it's really important to remember is that ASIC, the ACCC and other state-based regulators actually don't get to say and make the final decision whether a contract term or not is unfair. That's really the role of courts.

**Ms Spicer:** Okay. Is ASIC doing anything proactively to protect small business from unfair contract terms?

**Mr Price:** Absolutely. Look, we've been really fortunate to work with Kate and Kate's office, and recently we met with the big four banks - we held a round table with them - and the very important outcome of that was that the big four banks have committed to ensuring that small business loans entered into or renewed from 12 November 2016 will comply with these unfair contract laws, so small business will be protected. It's very important.

**Ms Spicer:** Yes, it is indeed. We've discussed how the regulators are tackling the issue of unfair contract terms, what tips do you have for small business so they can protect themselves?

**Mr Price:** Well, look, I think the old saying that an ounce of prevention is worth a pound of cure is pretty important. So the first thing I'd really say is read any contract before you sign it. I know it sounds really basic, but it is, it's very, very important, and I think there are three key questions that you need to ask yourself when you're thinking about this issue. First, do you think a contract term creates an imbalance of rights between the parties that are signing the contract? Secondly, if there is an imbalance, why do you think that is? And, finally, if a clause is relied on or used, do you think that you're going to be really disadvantaged by a person using that contract? But it's also important to remember a couple of things. First of all, when you read a contract you can't just pick out a particular term you don't like, you've got to read the contract as a whole document and make an assessment. And second – and I just reiterate the thing I said before – it's really important to read these contracts, but also get some professional advice if you don't understand it.

**Ms Spicer:** It's invaluable, I've got to say, to have these protections in place. If a small business then identified an unfair contract term, what can they do?

**Dr Schaper:** I'd probably, Tracey, agree really strongly with John. Obviously that one about first of all read the contract. There's a lot of evidence to show that businesses frequently don't, indeed. But, look, if you do find something that's unfair, although, again, as John pointed out, ultimately you can go to court. The ACCC can take a matter to court, ASIC can take a matter to court. The court system is long, expensive and slow and, in reality, if you're really trying to get a workable solution, the very first thing to do, Tracey, is to go back to the person or the organisation that's offering you the contract armed with this knowledge about unfair contracts and say, "I think this is an unfair term. Can we negotiate it? Can we deal with it?" And that is always going to be the best course of action because, if you can sort it out there, it is going to be much more workable and you're going to get the outcome that you want. But if that doesn't work, there are other options. Ultimately, you can come to us or to ASIC if it's a financial product. You can go and get your own legal advice and take your own legal action, but you can see where this is going in terms of efforts. You can also go to Kate's office as well. That's another thing.

**Ms Carnell:** We're free.

**Dr Schaper:** Yes, and, generally, a lot quick as well. So there are a variety of ones, and we ourselves and ASIC are obviously trying to focus on the big picture here and getting wholesale change across a variety of industries, banking, and we're dealing with a variety of others as well, but for your individual matters sometimes those ways are just much more effective in a practical sense.

**Ms Spicer:** Kate, Michael and John both mentioned your office so let's go there, specifically to your job. We've seen in the news recently that poor cash flow is the major reason for small businesses going broke. What work has your office done in this area?

**Ms Carnell:** Well, look, it's really interesting, Tracey. When our office came into being just over 12 months ago, as I said earlier, we went out to small business and asked them what was driving them crazy. Now I expected it'd be fair work issue, tax issues, tax issues, all those sorts of things. What they said is all those things, but the thing that was right at the top was payment times, that they were being paid slower and slower. So we went out and did an inquiry under our legislation - 3,000 businesses responded to our inquiry, which is huge - and what we found was that over 50% of small businesses were being paid late, that Australia had some of the worst payment times in the world - in fact, the worst payment times in OECD countries - 60% of small businesses said it was getting worse. And interestingly, it wasn't small businesses paying small businesses slower, it was large multinationals paying worse, longer and longer. So we were seeing large multinational companies with 120 day payment times. That's four months. No small business can manage that and stay afloat. We found that 1 in 2 businesses were owed more than \$20,000, 25% owed more than \$50,000 and even 14% were owed more than \$100,000 in late payments. Now if you're being paid late it's very hard to pay your landlord, your

supplier, your staff and sometimes can't even pay the ATO. So that's a real problem. So we identified that this was a very, very real problem.

**Ms Spicer:** I have to say this issue is driving me spare at the moment so I'm so glad. I'm one of those people owed. In terms-----

**Dr Schaper:** We'll make sure we pay you on time.

**Ms Spicer:** Oh, thank you very much, Michael. In terms of legislative action, Kate, what's your office doing to respond to these issues?

**Ms Carnell:** Look, we put together a number of recommendations, some for us and things that we're going to do, some for government and some from other business organisations. So what we've suggested to the government is that they could take the lead and adopt 15 day payment times when they're dealing with small business. Fascinatingly, both the UK government and the US government have done exactly that, so we'll be putting pressure on the federal government to do that. The other thing that we've said is, look, we get the story all the time that small businesses that deal with prime contractors that are contracted by the federal government are paid really slowly. So the big guys are paid by the federal government in 30 days, but then they don't pay the next rung down of the supply chain and we believe that should be just part of normal contractual approaches. If we pay you in 30 days, you pay your suppliers or your sub-contractors in the same period of time and, by the way, if you don't the federal government or governments shouldn't contract with those primes. But on the good, I think the really positive side of this just in the last couple of weeks the Business Council of Australia has worked with us and the Victorian government, interestingly, to come up with a Voluntary Payment Times Code. Now, it is voluntary at this stage, but it's a code where, so far, 35 major companies have signed it, plus I think three companies that are not members of BCA, and what they're committing to is fundamentally 30 day payments. There's a whole range of other issues in the code. Now that's a real step in the right direction. So what we've got to do is see this happen more right across the board in business and, with that in mind, we'll be setting up a national payment time transparency code in the next three months where we'll be encouraging all businesses to put their payment times, terms, how they're complying with it, up on a website where we'll be naming and shaming those that do the wrong thing and hopefully get small businesses paid on time. We'll review it in 12 months. If the voluntary approach hasn't worked, I think we may have to legislate in Australia. They have in the EU, they have in the UK, but let's hope in Australia we don't have to legislate that the big businesses and, for that matter, businesses generally understand that paying in 30 days or less is good for the economy and it's good for jobs and therefore everyone is a winner.

**Ms Spicer:** Naming and shaming is very effective, you're on the right path there. Emma, what's the ATO doing to level the playing field from a competitive perspective?

**Ms Rosenzweig:** Well, we don't name and shame but, as Lynda said before, we know that a lot of small businesses find it very hard to compete when their competition isn't paying their fair share and that it's really important to make sure that people do pay their fair share of tax and super. So some of the things we do are really looking at businesses whose lifestyles don't match their income that they report, or who don't match the small business benchmarks that we have for over a million different businesses in 234 different industries. So we get a lot of data sources from a range of places. We have models that compare it to those couple of things, and then we go out and talk to those businesses who raise flags for us. So we know that most businesses do the right thing, but there are lots of businesses that don't. They might not register for GST, they might take cash payments for certain jobs, they might pay some of their employees cash in hand, they don't pay their employees' super. So, as Lynda said before, those businesses are getting a competitive advantage. So we do take that very seriously and do act on that. As Lynda said, we also have a dob in line, so if people are concerned about businesses who might be getting an unfair advantage, they can also let us know via our website, and I believe that's up on the screen now.

**Ms Spicer:** All right. Let's deal with a few other issues before we open it to questions. Lynda, I understand it's during this time of year there are increases to the minimum wage. What do employers need to be aware of?

**Ms McAlary-Smith:** Thanks, Tracey. And it's very timely, in fact, because the Fair Work Commission handed down a couple of decisions this week which will impact on businesses and, particularly, small businesses around the country. So all workers in Australia are entitled to a minimum wage, and where that minimum wage comes from can be from an a modern award, it could be from an enterprise agreement and, if none of those apply, there is also a base national minimum wage which is the very least of what someone needs to get paid. The minimum wage is generally subject to annual increases. It's normally announced in June each year and takes effect from the 1 July. The Fair Work Commission handed down a decision just this week which has increased the minimum wage by 3.3%, which takes the national minimum wage from \$17.70 up to \$18.29 per hour. Now how that impacts on you specifically for your business and for your staff, you'll need to check in with our Pay and Conditions Calculator, which we have available on [fairwork.gov.au](http://fairwork.gov.au). It can be really tricky figuring out what you need to pay people on any given day, be it the weekends or after hours and the like, if staff are casual, if there are juniors but, thankfully, we've taken the hard work out of it for you and after answering a few simple questions in our Pay and Conditions Tool Calculator, we'll spit out the answer for you. The Pay and Conditions Calculator will also calculate annual and personal leave. So it can work out how much leave your staff are entitled to, how much they're accrued and the like. The

calculator has already produced more than 10 million calculations, which probably gives you some sense of the complexity, but I would encourage all businesses in the coming weeks to check in with our Pay and Conditions Calculator on our website so that we can tell them what's the minimum wages they should be. So if there's one thing you remember about workplace relations from tonight, it is make sure you check the wages at least once a year.

**Ms Spicer:** There's a lot of complexity in the workplace relations space. What should small business employers do to make sure they keep their knowledge up to date?

**Ms McAlary-Smith:** It is hard, Tracey, and we're trying to take some of the hard work out from that because, well, small businesses need to be busy running and growing their businesses. So we have a dedicated My Account facility through our website which is a personalised portal where you can go in and give us some information about what industry you're in, what state or states or territories you're operating in and we can tailor all the information to you. And we'll send you alerts, so it can take a bit of the worry about knowing when, when do I need to find something out? You don't have to worry about that, we will send you're the information in the way that you've requested. You can get updates around new pay rates, for example, the annual wage review which has just happened. We'll let you know if we've got new products or resources available which we think would be interesting and of value to you. We'll give you industry-specific information as well, and including information about what the Fair Work Ombudsman is up to. We also tailor the information within that My Accounts section, so if you're running a retail business, for example, and you log into your account, it'll actually bring up interesting articles and topical contents for you which are relevant to hospitality as well so you're not having to wade through a whole heap of general stuff. For small businesses as well, it can be tricky when you start to grow and start to bring contractors into your workflow, if you like, particularly if some of their staff are representing your business, and there can be reputational risk for you if those contractors are not doing the right thing. So we've produced some supply chain resources recently, which are some fairly simple checklists and guide which guide you through some questions that if you are getting to a size where you are starting to grow your business and bring contractors in, some questions that you could be asking your contractors about what are they doing about their employees. We've got a lot of stuff online, but workplace relations is complex and online is not for everyone, so we also have a small business helpline where we've got dedicated small business advisors who will provide you with priority service, and you can access that at 13 13 94. Press number 3 to make sure you go through to the small business helpline, and you'll never normally wait more than a couple of minutes to actually speak to an advisor who has specific experience in small business. You can keep records and we can keep records if you would like of all of your interactions with us, so you can always rely on the advice that we give

you, and I think that's really important that small businesses can trust the information and advice that we're giving them.

**Ms Spicer:** And just to you, Kate, what else should small businesses know about the work of your office?

**Ms Carnell:** Look, the major thing that small businesses need to do is when they've got a problem act early. You know, small businesses regularly get on with running their businesses and if they've got a problem with Fair Work or Tax or ASIC, they put it aside and think I'll just deal with it later. The message from me tonight is please don't do that. If you act early, all of the agencies here tonight and ours are there to try to solve problems for you, not make problems for you. So from our perspective, the real issue is to get in touch early if you've got a business to business problem, if you've got a business to government problem, get in touch and we'll put you in touch with the agency that's best for you, or we'll deal with it ourselves and solve your problems. If you get into the court system, it's almost impossible to solve the problem then. It'll be in train and the courts will resolve it and the courts cost money and they cost time. The other quick message tonight is there's a great website called [marketplace.service.gov.au](http://marketplace.service.gov.au). It's very new, it's in beta at the moment, but the thing that's great about it, small businesses forever tell me that they have real trouble linking with government procurement. What this is it's a digital platform for digital products and services, and links the private sector, small business, with government departments. And that's now just federal government departments, it's state government departments, local councils and so on. So what local councils do is that they'll put up on the website - or local councils, governments generally - they'll put up on the website what they want, and it might be just a concept of what they'd like. Questions happen, then the evaluation occurs and tenders are let without the usual very complex process. Now right at the moment, there are 154 opportunities. That was when I put that slide up, there's 165 now, so it's going up all the time. This is one of those opportunities that if you're in the digital space, digital products or services, go to the site, register and you've got a real capacity to link with governments that want your service or your product in a digital environment.

**Ms Spicer:** Very practical. Michael, scams? Scams, they come in all shapes and sizes, how should we know when to run the other way to avoid being caught out?

**Dr Schaper:** Oh, absolutely, Tracey, because I think we've all received the phone call or the email and it just never stops. In fact, most people would be surprised to discover that it is the single biggest thing that people contact the ACCC about. We get more than 100,000 calls or emails from either members of the public or small businesses. In fact, small businesses tend not to report it and, interestingly enough though, Tracey, many of the times they are the biggest losers. The average loss of a small business is about \$10,000 to a scam. It's quite a frightening figure when you think about just how small the profit margin is that most businesses are trading on. And last year for example, although out of that very large number we only got a

couple of thousand from individual small business owners - we know that's only the tip of the iceberg - but micro-businesses, small businesses are the most frequently targeted. And here's a sobering figure, most of them, if you actually survey them, various studies in Australia and elsewhere have shown that they don't even know if they've been scammed. So we're getting a range of them and we're getting them in a variety of different forms. So some of the most common ones that are around at the moment are so-called ransomware scams. The WannaCry virus that was around recently is just one example of that, but if you're a small business and someone basically gets into your material and locks up all your software, your business can effectively be dead, it's not just a matter of paying a ransom - and, by the way, there's no guarantee that you'll ever actually get your data back - but you lose basically everything: All the intangibles, your customer lists, your financial records. That's going to be a great one for the poor old Tax Office to try and sort out with you and so on. Now we also see what we call business email compromise scams where people develop profiles. It's amazing how much information people share on social media, construct fake profiles, the heads of businesses, contact someone else and then take the money out through that way, through unauthorised transactions. And so there's a whole variety of things that are going on here that we think are really quite sobering. And there's, I guess, really, a couple of ways you can try and deal with this. Now, scammers are quite entrepreneurial - dare I say it, they are the dark side of entrepreneurship - but at the moment they are predominantly email-based and only a small proportion phone, but next year it may change around as that moves around, but a couple of things you can do. Trust your gut. If someone contacts you out of the blue and they want to do business with you or they tell you the bank account details have changed or that they've sent you an invoice for something or they pretend to be from the Tax Office or ASIC - and we've seen all these - and you think this just doesn't make sense, I'm not expecting this and there's no reason, trust your gut. There probably is a scammer. Keep your accounting systems well organised, double check your invoices before you pay them, back up your data and store it offline. A really simple thing but, again, that'll save your business being a victim of ransomware. So there's just a few tips.

**Ms Spicer:** Gee, it's good advice. Emma, how can businesses identify and avoid scams claiming to be from the ATO? There's an awful lot of them.

**Ms Rosenzweig:** There are. And particularly at this time of year, Tracey, there are increasing scams at tax time. I will just talk to Michael's point about businesses losing their records. We do actually offer businesses a service to help them reconstruct their records. We often use it in cases where there's been a natural disaster, but we can use it in cases like as you talked about, Michael. But we do know that scammers do often pretend to be from the ATO and they are sometimes really hard to detect, but I just wanted to pass on a couple of things the ATO won't do, to help you try and identify some of these scams. So the ATO will never threaten you with immediate arrest. In fact, the ATO will never threaten you with arrest.

**Ms Spicer:** That's a relief.

**Ms Rosenzweig:** We will never ask you to pay money in order to get a refund. We will never ask you to pay us your debt via iTunes vouchers or prepaid credit cards or store gift cards - we don't really want them. We'll never ask you to pay money into a personal bank account. We won't ask you to download files from the internet or to click on attachments in unsolicited emails. So really important to know that we don't do those things. We do know some people get genuine calls from the ATO and genuine contact that they are then nervous about so we definitely offer – if you get a call claiming to be from the ATO and you're not sure, you're very welcome to call us back on our switchboard and ask for that person directly. So get their name and call our switchboard and they will then verify whether they're genuinely from the ATO. We also know that people who've been scammed often are subject of identity theft, as Michael was talking about, and if that's the case, we can certainly help in terms of the tax side of that. So if you do think you've been the victim of identity theft, it's really great to contact us on 1800 008 540 and we can help manage your Tax File Number and the security of your records.

**Ms Spicer:** Thank you, Emma. John, have ASIC customers been targeted by scams?

**Mr Price:** Unfortunately they have, and it's really sad because we spend most of our life trying to shut down scams, so when people contact our customers and say they're from ASIC, that's of real concern to us. And often people will pretend to be from ASIC. They'll contact our customers and they'll ask for payment of fees or they'll ask for some personal information. And emails that are sent out will sometimes have fake invoices with fake payment details, and other times if you click on a link, it will put some really horrible stuff on your computer that you just do not want to know about. So what I would say to people to really watch out is if an email says they want you to make a payment over the phone to ASIC, or if it says they want you to make a payment so you can get a refund from ASIC, or if they want you to provide your credit card or bank account details by email or by phone, I would really be very, very careful in those sort of cases. And if you've got any doubt at all please just contact us on our general helpline and we can help sort out your issues.

**Ms Spicer:** That's great advice. We've received a number of questions, and please send your questions in from now if you haven't already done so. This one is for Emma and then the others. And this person writes, *"I'm trying really hard to do the right thing, but my competitors can provide cheaper quotes because they work for cash."* How often do we hear this? *"What are the ATO and the others doing to help the businesses that are trying to do the right thing?"*

**Ms Rosenzweig:** Well, we do often hear it and, actually, the government is really quite concerned about it. They've established the Black Economy Taskforce to look at ways that we can put some new changes in place to try and address this. But we



do take it seriously. As I said before, we receive a lot of data from many sources that we then do a lot of analytics and modelling on to try and identify those people who might be taking cash, who have lifestyles that look like they're living beyond their means that they report to us, and in the last financial year we addressed 13,500 cases where we thought there were concerns and talked to businesses and raised over \$208 million. So we do take it very seriously. We do want people to know that there is a real risk that they'll get caught if they participate in these activities and, as I said before, people are able to report a concern to us through our website.

**Ms McAlary-Smith:** Yes, I would add, in addition to that as well, is don't drop your standards. It is really hard in a tough, competitive environment if other people are breaking the rules, but please take up our offer to let us know that and you can do it anonymously. They're not going to know that it was you, we're not going to know who you are, who's giving us the information, but whatever you do don't drop your standards because that exposes you to real risk as well, and we rely on the community to give us intelligence about where people are doing the wrong thing so we can fix it for you so that you have a level playing field.

**Ms Carnell:** You know, Australia has really got to change its attitude on this because we often think, hey, just pay a few dollars for a job to be done in cash or whatever. The reality is that hurts businesses. It hurts small businesses every time somebody is out there undercutting with a cash-in-hand type job. It's tempting to do it, but all you've got to look at is when somebody offers you, well, look, just give me cash, think about the small businesses that are being hurt as a result of that and the jobs that are being lost because of that. So as Australians we've really got to say, hey, this really matters, it's not a bit clever, it actually impacts upon jobs and small business.

**Dr Schaper:** I agree. I think that's a fair cop. Yeah.

**Ms Spicer:** And the money that's not going into the tax system to build roads and hospitals. John, this is a really great question, "*How do I protect my business name from being used by another business?*"

**Price:** Ah, well, this is a really important point. So when you register a business name, we'll do some checks to make sure that you're not registering exactly the same name as someone already has. But if what you want to do is protect your intellectual property then what you've actually got to do is go to a different government agency and seek to get a trademark or something like that. So just because you've registered a business name it's very important to know it does not protect your intellectual property. You need to take separate steps to do that.

**Dr Schaper:** And the other one that is probably useful there of course as well is what sort of domain name are you able to register as well.

**Mr Price:** Ah, very true.

**Dr Schaper:** It has a separate transaction again.

**Ms Spicer:** This next question is for you, Michael. *"If I've been targeted by a scammer should I report it even if I didn't lose any money?"*

**Dr Schaper:** Look, the short answer is yes, please. Although it's terribly depressing to sift through these literally thousands of reports every week, it does give us a good picture about what's going on and we use it for what we're doing tonight, telling people about it. Interestingly enough, if we don't get that we're not going to be able to say these are the scams, the hot ones at the moment, we're not going to be able to warn people. The sad truth is that it's very hard to get any money back off a scammer. They don't sit around and wait for us to come and find them, they're usually based overseas and so it really is a matter of educating people. So the more information that we get from people, the greater our chance is of being able to get the message out and protect other businesses.

**Ms Carnell:** And, Tracey, could I just add something to that? Small businesses often tell us that they won't be targets because they've got nothing of value, they're not big and they don't have lots of online money or whatever. The fact is every business has something of value, and it's often their database. So we've had cases of a childcare centre that ended up subject to ransomware. Because they couldn't access their records, the records of the children in the centre, that means they didn't know what their allergies were and all of those things, they had to close. They simply couldn't operate because they didn't have the information needed to actually run the centre. Now it shows that any business can be subject to ransomware or to scams generally, so small businesses, you've really got to take this seriously.

**Ms Spicer:** And any scam is serious. This is one for you, Lynda. *"What do I do if I self-audit my business and find that I've made some mistakes?"*

**Ms McAlary-Smith:** Okay, well, firstly, that's great that you've turned your mind to it, which is really good. Don't hesitate to get in contact with us. So I can tell you categorically that we have never taken a small business to court who has come to us and said "Look, oops, I've made a mistake, can you please help me fix it up," because we are here to help. So the first thing is if you find out there are some issues is you need to get some advice, be it from us which is free, you might go to one of your trusted advisors, your business advisors for some advice on how to help fix it, you need to understand what's the scale of the problem and the issue and who it affects, if it's an underpayment for example, across with your staff, and then put some positive steps in place to actually address it. We will always be very receptive to small businesses who have identified that they've made a genuine mistake and are making genuine efforts to make that good. We obviously expect people to fix up the issues, but we're here to help them do that.

**Ms Spicer:** John, you touched on this earlier, but it takes it further, this question, *"What happens if a court finds a contract term in a small business contract to be unfair?"*

**Mr Price:** Well, the court can effectively say that the contract is like that term never existed. So they can just pretend it's not there, basically.

**Dr Schaper:** So the rest of the contract in this unfair contracts law still continues to trade, so there are some businesses that think, well, I'll just use it as a tool to sort of get the whole contract out. That's not going to happen.

**Mr Price:** It's only the unfair term and, as I say, it's like the court says, well, just pretend it's not there.

**Ms Spicer:** This one is for everyone, *"I started a new business recently and it's a real struggle to cope with all the requirements, let alone whether I'm actually making any money. What are you doing to help small businesses during this really crucial start up time?"*

**Ms Carnell:** There is a whole range of information. It depends on the industry grants, both at federal government, local government. There's a range of services out, rural, regional to give small business a hand. So going to [business.gov.au](http://business.gov.au) you can find out exactly what's available in your area. There's business advisers that are out there that are able to give you personal advice which is really, really useful. And, again, if you don't like websites you can always ring our number and we'll help you.

**Dr Schaper:** Can I back that up from Kate because I think that it's one thing to say, well, come and have a look at our websites, that's five of them and you're going to get – it's going to hurt after a while, but there is a network of business advisory centres funded by the federal government and to some extent by some of the states as well and they're often a really good point at which to start because they'll be able to bring it together, especially if you're a start-up.

**Ms Rosenzweig:** Look, one of the things we found is we know those first year or two of business is really critical to decide whether a business is going to be successful and we also know that sending people a pile of booklets or to five different websites is often unhelpful. We've developed, actually, a series of emails that go out just in time during that first year of a business. Any new businesses that register and give us their email address will get this series of emails of information they need just in time and we'll keep them informed about some critical things they'll need to know in that first year.

**Mr Price:** Look, I might take it on a slightly different tack. If as you start up your business you find yourself in a bit of financial strife, there are financial counsellors out there who can provide really valuable advice and they can really help you, so don't just sort of ignore it and think it's going to get better. In my experience, it doesn't actually get better until you make that first step and reach out for some help.

**Ms McAlary-Smith:** And setting up good habits right from the start is so important. From all of our experience, I think businesses that start off running their business badly don't usually grow into be good businesses, they usually grow in to be badder businesses, so to speak. So making sure that you've got the planning and the process and the thoughtfulness around how you're going to develop your business and what's your unique marketplace that you're going to bring to the market is really important.

**Ms Spicer:** Well, I have learnt so much tonight. I'm sure everyone who's watched has as well. That reaches the conclusion of our session. Thank you so much for joining us. I'd also like to thank our panel Lynda, Michael, Kate, John and Emma for providing us with some incredibly invaluable advice. Thank you for tuning in and we hope you've found this to be an informative session that can help you and your small business. I'd like to mention the webinar will be available for viewing on demand in due course, then you can watch at any time. Thanks again. Goodbye.