

CCIQ SUBMISSION

Productivity Commission Issues Paper – Business Set-up, Transfer and Closure

CHAMBER OF COMMERCE AND INDUSTRY QUEENSLAND

20 February 2015

Introduction

1. The Chamber of Commerce and Industry Queensland (CCIQ) is Queensland's peak industry organisation for small and medium business. CCIQ welcomes the opportunity to provide feedback on the Productivity Commission's Issues Paper - Business Set-up, Transfer and Closure.
2. This inquiry affirms for Queensland's small business community that the Federal Government recognises the important role that business start-ups play in our economy. Small businesses comprise over 97% of all businesses in Queensland. That's over 400,000 Queensland small businesses serving our communities, creating jobs and contributing to our economy.
3. To support our small business community, Queensland's economy needs to be balanced in favour of confidence, certainty and growth. Queensland is entering into a new term of Government, and CCIQ considers it essential that the Federal Government work together with the new State Government to place focus on business start-ups and entrepreneurial activity in an effort to drive growth, create jobs and encourage market competition and expansion within Queensland.

Entrepreneurship

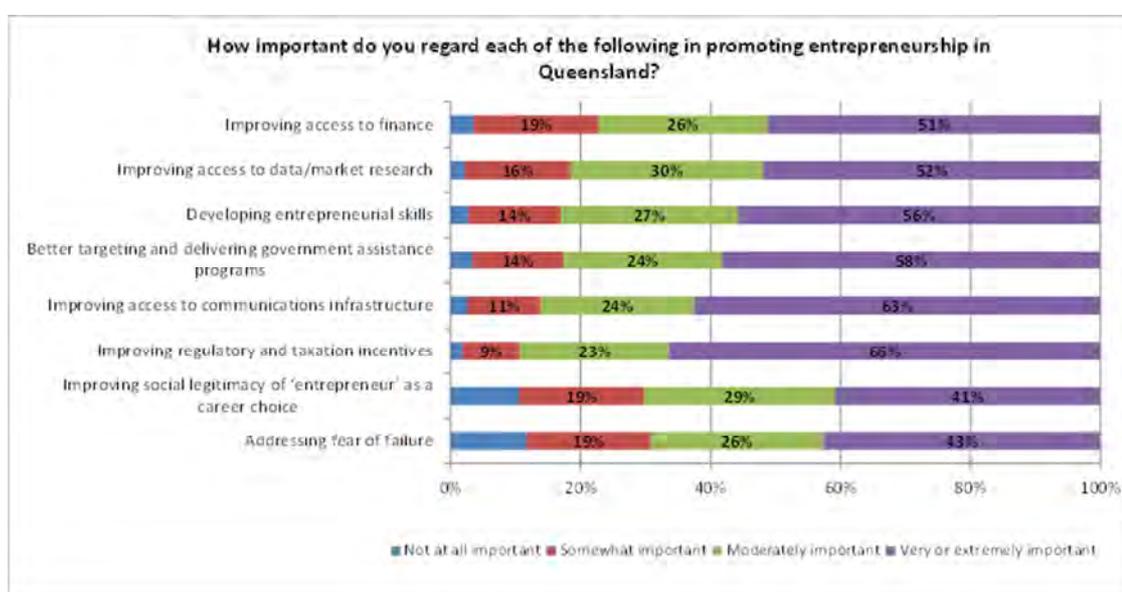
4. CCIQ takes pride in representing Queensland's small business owners and wants to encourage more men and women in our great state to chase their dreams and open their own business.
5. This is why CCIQ has identified entrepreneurship as one of our key focus areas for 2015. We want to draw attention to the important role that business start-ups play in our economy, and work with the Federal and State governments to create policies that inspire and foster entrepreneurial activity within Queensland.
6. Queensland has all the hallmarks of an environment conducive of entrepreneurship: we have an innovation driven economy, a strong finance sector, good access to global markets and expanding communications infrastructure. However, there is still much progress to be made.
7. Research shows that in recent years Australia's global competitive edge has slipped, with the World Economic Forum ranking Australia the 22nd most competitive country in 2014, seven positions lower than its highest ranking of 15th in 2009.¹ Red tape and restrictive labour conditions are primarily to blame, however entrepreneurial focus within education and training, non-engagement by our universities and cultural barriers are all identified as significant factors affecting our entrepreneurial reputation.²
8. At a state level, Queensland is surpassed by Sydney and Melbourne when it comes to attracting high-growth start-ups. Research identifies Sydney has hosting the largest start-up

¹ World Economic Forum, The Global Competitiveness Report 2014-2015

² World Economic Forum, Entrepreneurial Ecosystems Around the Globe and Company Growth Dynamics, September 2013.

ecosystem, particularly for technology start-ups, with a healthy diversity of targeted customers and markets making the state attractive to entrepreneurs. Melbourne’s start-up ecosystem is on the rise, with its suitability as a start-up destination currently being hyped.³

9. CCIQ believes that Queensland has the potential to become a reputable start-up hub, and wants to see the Federal and Queensland Governments implement policies that support Queensland entrepreneurs, and drive entrepreneurial activity and attitudes in our state. In order to achieve this, barriers to starting a business must be addressed.
10. CCIQ recently surveyed 1,100 Queensland businesses to determine priority issues for the promotion of entrepreneurship within our state. An overwhelming majority of respondents agreed that there is room for improvement within all aspects of Queensland’s business operating environment when it comes to encouraging entrepreneurial activity. Regulatory and tax incentives, communications infrastructure and government assistance programs were identified as the three most important factors for encouraging entrepreneurship.



Source: CCIQ, 2015 State Election Survey, December 2014.

11. In light of these results, CCIQ has identified a number of action areas for reducing barriers to starting a business that will assist in driving entrepreneurial activity, efficiency and economic growth. These action areas include addressing regulatory barriers to quick start-up, improving access to finance and start-up capital, educating the community in order to alter the culture, and creating more easily accessible pathways to expansion or exit. These action areas are detailed below.

Regulation as a barrier to entrepreneurship

12. CCIQ understands the hurdles that business owners have to overcome when starting out. While it can be an extremely rewarding experience, issues like endless paperwork, red tape and painful processes can put a real dampener on things. Accordingly, business start-ups

³ Startup Genome and Telefonica Digital, Startup Ecosystem Report 2012 (Part 1).

must be afforded additional consideration when developing regulatory processes, to ensure that the business operating environment is conducive to business start-ups.

13. CCIQ certainly considers that more can be done to create a business operating environment that is conducive to start-ups. Poorly formulated and implemented regulation can act as a barrier to entry and expansion by exposing business start-ups to excessive compliance costs and stifling market competition. When regulation is over complex, prescriptive, redundant or duplicates the regulation of other jurisdictions and regulatory bodies, innovative and lower cost approaches to meeting intended outcomes are effectively prevented.
14. To help alleviate some of the burden, CCIQ has developed a number of services to assist small business to improve capabilities, compete more effectively, record stronger growth, and employ more Queenslanders. In order to assist start-ups, CCIQ last year launched its business assistance tool 'RegisterMyBusiness.com.au', which provides a one-stop-shop for a new business' registration needs including business name and various taxation registrations. Under this service, CCIQ manages the relevant application and registration processes for the business, removing the burden of handling each application and registration process personally.
15. CCIQ recognises the Federal Government's efforts to streamline access to business related information (specifically the business.gov.au service) and encourages the government to continue reform in this area to include service delivery. A single business service delivery mechanism that provides simplified and streamlined access to government services (by way of a single contact point for arranging all necessary services for business set-up) would be a welcomed compliment to CCIQ's Register my Business service, and would see business interaction with government become more accessible and flexible. At present, depending on the type of business start-up, individuals have to navigate a myriad of industry specific rules and regulations that are complex and daunting. A service delivery mechanism that provides individuals with industry specific advice on the processes and procedures that they must undertake to comply with state and federal laws would go a long way towards reducing the burden on new entrepreneurs starting a business for the first time.
16. Key regulatory burdens effecting small businesses (that are not activity specific) primarily relate to issues around taxation and statutory obligations with respect to employees. These include:
 - a. Taxation obligations, including income tax, goods and services tax (GST), pay as you go (PAYG), fringe benefits tax (FBT) and payroll tax;
 - b. Industrial relations regulation as administered under the *Fair Work Act 2009*;
 - c. Superannuation legislation requiring employers to forward employees' superannuation entitlements to their nominated super fund on a periodic basis; and
 - d. Worker health and safety obligations of employers to employees.
17. CCIQ has long advocated for reform in these areas to reduce burden on small business, and will provide detailed submissions to the Productivity Commission Inquiry into the Workplace

Relations Framework, and in response to the Taxation White Paper and Federation White Paper, with respect to the raft of burdensome regulations affecting small businesses throughout their lifecycle.

18. Additional areas of regulatory burden impacting business start-ups include financial reporting and planning and development.
 - a. When starting a business, entrepreneurs face the minefield of business structures, which each have their own pros and cons depending on the future intentions of the individual. The more complex the business structure (for example proprietary limited company in comparison to sole trader) the more onerous the financial reporting obligations. This leads to greater compliance costs for the business, including time spent by the owner that could otherwise be put into improving and growing the business, and fees paid to accounting and financial service providers.
 - b. When starting a business or undertaking an expansion, it will sometimes be necessary for the business owner to lodge a development application, or seek consent to construct new infrastructure or undertake a business activity at a given location. Planning and development requirements can also cover aspects such as vehicle access to the property, car parking, hours of operation and noise levels. Businesses have reported that local government processes are inconsistent, long and complex. Improvement to burdensome planning and development requirements will encourage more small businesses to think big, contributing to the growth of the economy and future prosperity of their sector.
19. CCIQ has previously undertaken substantive consultation with Queensland small businesses to identify the extent that red tape burden affects different industry sectors.⁴ Consultation identified extreme compliance costs, with some business owners spending over half of their working week on regulatory compliance.
20. CCIQ considers that Federal and State Governments should be mindful of the effect that regulatory reforms have on small businesses, who are not as well-resourced to deal with changes to compliance requirements as larger companies. In 2011, the British Government announced a three year moratorium on legislation for micro-businesses (defined as those with fewer than 10 employees) and start-ups. That is, micro business and start-ups were exempt from new domestic regulations from 2011-2014 (with some exemptions for major legislative pieces). The British Government recognised that regulatory compliance more heavily impacted on small business compared with larger firms, and granted a moratorium to allow the government time to explore longer-term actions to lessen the impact of unnecessarily burdensome regulation on start-up and micro businesses.

⁴ CCIQ Red Tape Case Studies available at: <https://www.cciq.com.au/advocacy/campaigns/cciq-s-sme-red-tape-challenge/sme-case-studies/>.

Inaccessibility of finance as a barrier to entrepreneurship

21. Access to finance is a significant issue for all small businesses looking to invest and grow. Stricter lending requirements post-GFC has limited the avenues for small business to access finance for working capital, investment and business expansion. While the banking sector has a responsibility to effectively manage lending risks, CCIQ notes that existing regulations are restrictive and fail to accommodate viable businesses.
22. It has become increasingly difficult for small business owners to secure lending without providing significant security, which generally includes personal assets such as the family home. CCIQ has previously called on financial institutions to make it easier for small businesses to get loans.⁵
23. For entrepreneurs looking to fund a new idea, access to crucial start-up funds is particularly difficult. As a result founders are using personal savings and/or loans from family and friends to get their business up and running, and are delaying full-time commitment due to funding gaps. Access to financial institutions for start-up funding is generally limited to personal credit card loans or small personal loans, which do not require assessment of the business venture for which the funds are to be used. Similarly, Australia sees little to no use of angel investors or seed funding, and only limited assistance from incubators.
24. CCIQ does not want to see entrepreneurs deterred from starting a business due to an inability to access critical start-up capital. Instead reform of the existing framework for accessing finance is needed so that small businesses have access to innovative funding options.
25. The reintroduction of positive tax treatment of Employee Share Scheme arrangements is an example of good reform in this space, as it creates an additional resourcing avenue for entrepreneurs. Returning the legislation to its former position will see options taxed when they are converted to shares, rather than when the employee receives them. This is highly beneficial to start-ups and entrepreneurs because it allows them to attract top talent, and accelerate growth, which they would not otherwise have been able to leverage due to inadequate cash flows.
26. CCIQ encourages the Federal Government to also explore the recommendations of the Financial System Inquiry Final Report (2014), including a 'crowd-funding' regime, comprehensive credit reporting, more detailed credit assessments, and better targeted tax settings.
 - a. The government should develop a comprehensive crowd funding regime to facilitate securities-based crowd funding. Securities-based crowd-funding would provide business start-ups with an alternative funding option by allowing them to make public offers of simple securities in return for investment. Crowd-funding, together with other innovative financial options such as peer-to-peer lending, angel investing and venture capital, would reduce early-stage funding gaps, allowing founders to

⁵ For more information see CCIQ's submission on Financial System Inquiry Interim Report.

commit earlier, full-time to their start-ups. It is important that we build our alternate funding industry if we want to compete on the global stage.

- b. A comprehensive credit reporting regime that provides more frequent and comprehensive data about small business credit history would reduce information imbalances between lenders and creditors, thereby facilitating competition between lenders, improving the way lenders assess risk, and improving credit availability for small businesses.
- c. Assessment of a small business' creditworthiness needs to go beyond the inherent risk profile at an industry level to better reflect the specific risks of the actual business. Not all small businesses operate with the same risk levels. If a start-up is succeeding, and additional finance is sought, that business should be assessed on its own merit rather than using standardised loan to value ratios. Other factors such as the ability of the business to manage cash flows during peaks and troughs and potential for growth in changing markets are important considerations that are currently not included in credit assessments.
- d. Better targeted tax settings for start-ups would encourage greater entrepreneurship. Simplifying the tax rules for Venture Capital Limited Partnerships, and streamlining government administration of the regime, would reduce barriers to fundraising and should be considered as part of the Government's Tax White Paper.

Culture as a barrier to entrepreneurship

- 27. Financial support alone will not encourage more quality start-ups. It is equally important that the Federal Government implement policies that encourage a change in the current culture surrounding entrepreneurial activity.
- 28. If we can increase the number of people that are interested in entrepreneurship, Australia's entrepreneurial community will grow. The challenge for Queensland is getting more people interested in entrepreneurship in the first place. Research shows that Australian's generally have a lower entrepreneurial interest than our international counterparts. However, those who are interested in starting their own business are more likely to translate that interest into action and actually start a business here than anywhere else in the world.⁶ CCIQ believes that by raising the profile of entrepreneurship, we can get more Queenslanders interested in starting a business. Once a Queenslander creates an intention to start a business, the likelihood that they will embark on that entrepreneurial journey is encouraging.
- 29. Early-stage entrepreneurship is more common in the mid-career ages (i.e. 25 to 54) in Australia. An increase in the rate of entrepreneurial activity in the 25–34 year old age group (compared to the 18–24 year old age group) indicates that young Australians need more time to acquire skills, resources and industry experience in order to successfully start a business. However, constant entrepreneurial activity rates across the middle age groups

⁶ PwC, The Startup Economy: How to support tech startups and accelerate Australian innovation, April 2013(Commissioned by Google Australia) - PwC analysis of Global Entrepreneurship Monitor (2011 survey results)

(35–44 years and 45–54 years) shows that Australia has low age discrimination with respect to entrepreneurial pursuits.⁷

30. Fear of failure is legitimate given the risk involved in starting a new business, however this fear should not be so great that it stops entrepreneurs from giving it a try. CCIQ doesn't want to see entrepreneurs and business owners deterred from establishing a business or expanding their existing business due to lack of support.
31. In order to raise the profile of entrepreneurialism and business start-ups, CCIQ would like to see the government recognise and promote start-up successes, as a platform for inspiration and encouragement to those who are considering entrepreneurialism as a career choice.
32. Entrepreneurship is celebrated throughout the world. The Global Entrepreneurship Week is the world's largest event dedicated to entrepreneurship. For one week, millions of young people around the world join a growing movement to celebrate entrepreneurs and facilitate their access to strategic resources such as equity financing, human capital and innovative ideas. This year, CCIQ encourages the Federal and State governments to get involved in the Global Entrepreneurship Week (16-22 November 2015) and celebrate the opportunities and successes of Queensland's entrepreneurs. Promotion of entrepreneurial activity, and the benefits that it provides to our local economy, may help alleviate some of the fears that our community currently hold to take a risk.
33. Start-up expertise is a valuable resource, which should be better utilised for entrepreneurial promotion. International start-up hubs, such as the famous technology-friendly Silicone Valley in California, are largely successful because of their reputation for facilitating high levels of investment and being willing to take risks to support start-ups.
34. Research shows that start-ups will be more likely to succeed when they are guided by experienced entrepreneurs that can provide wisdom, guidance and support. Mentors provide support and guidance for individuals who want to commence a business by sharing their experiences, failures and successes. Experienced entrepreneurs should be encouraged, through programs, hubs and networks, to engage with the business start-up community after they have successfully navigated their way from start-up to established business owners.
35. Public investment in support programs and incubators/entrepreneurship centres has the potential to create significant returns and help to create jobs. In the US every \$1,000 of public investment in start-up incubators has been reported to create an additional \$30,000 in tax revenue and six new jobs.⁸
36. CCIQ is taking initiative this year to encourage collaboration and entrepreneurship within the small and medium business community by launching its very own innovation centres in collaboration with The Biz Dojo. CCIQ wants to help businesses in all stages of the business cycle to achieve growth, be it individuals with a fresh idea, business start-ups trying to gain

⁷ The Australian Centre for Entrepreneurship Research, Global Entrepreneurship Monitor – National Entrepreneurial Assessment for Australia, GEM Australia – 2011 National Report.

⁸ StartupAUS, Crossroads – An Action Plan to Develop a Vibrant Tech Startup Ecosystem in Australia, April 2014.

traction in a competitive market, or existing businesses that wanting to take advantage of opportunities to expand their business. CCIQ encourages the Federal Government consider the benefits that public investment in incubators and entrepreneurial centres could provide to the growth of entrepreneurial activity in our economy.

37. CCIQ also considers that Queensland's education system could provide greater support of entrepreneurialism, instilling the state's future workers with an entrepreneurial spirit. The World Economic Forum has suggested that Australia's education and training sector does not adequately support entrepreneurship, including the role that universities play in collaborating with the government to encourage entrepreneurs to start their own businesses.⁹
38. Research shows that 20% of students that participate in entrepreneurship training during high school will later start their own company, however only 0.12% of the 2 million kids enrolled in Australian primary schools have been exposed to entrepreneurial education and a similar percentage in high schools and universities.¹⁰
39. CCIQ believes that education policies should place more emphasis on entrepreneurial skills in an effort to raise the number of students that will consider entrepreneurship as a career choice upon exiting high school or tertiary education. Our education sector must deliver the right foundations for an entrepreneurial career by giving young Queenslanders the skills to transform their ideas into action.
40. Government employment services should also be educated about the opportunities that are available for self-employment and business commencement as a means of employment, so that prospective entrepreneurs can be directed to further avenues for exploration. CCIQ believes that there may be individuals out there who have the skills and passion necessary to create their own employment, but do not know how to translate their ideas into a viable business model. The more people that are promoting entrepreneurial activity and making entrepreneurs aware of the support, programs and opportunities available, the more entrepreneurial activity that will result.
41. Greater access to data and market research in relation to new market opportunities would also assist entrepreneurs to identify gaps in the market, allowing them to target those market opportunities that will provide support and growth for a start-up.

Barriers to exiting the market

42. CCIQ recognises that not all new businesses will be a success. Some start-ups will cease trading, some will re-evaluate their ideas and try a different approach, while others will move on to a new endeavour. Business exits are a normal and necessary part of the business cycle, creating room for new market entrants, and allowing resources to be redistributed within the marketplace.

⁹ World Economic Forum, *Entrepreneurial Ecosystems Around the Globe and Company Growth Dynamics*, September 2013.

¹⁰ StartupAUS, *Crossroads – An Action Plan to Develop a Vibrant Tech Startup Ecosystem in Australia*, April 2014.

43. There were 414,438 businesses actively trading in Queensland at June 2013. 49,415 of those businesses entered the market during the 2012/2013 financial year. However, 63,685 businesses exited the market during the same period, with Queensland recording the second largest decrease (-14,270) in businesses after New South Wales. Business entries for this period are down compared to entries during the 2010/2011 financial year (59,196) and the 2011/2012 financial year (58,146).¹¹

BUSINESSES BY MAIN STATE: June 2012– June 2013

	Operating at start of financial year	Entries	Exits	Operating at end of financial year	Change	Percentage Change	Entry rate	Exit rate
	no.	no.	no.	no.	no.	%	%	%
QLD	428 708	49 415	63 685	414 438	-14 270	-3.3	11.5	14.9
AUS	2 141 280	239 229	300 843	2 079 666	-61 614	-2.9	11.2	14.1

Source: ABS, Counts of Australian Businesses, including entries and exits, cat no. 8165.0, Jun 2009 to Jun 2013

44. In light of this, it is important that the insolvency arrangements be measured, but not unreasonably restrictive, to provide entrepreneurs with confidence that they will be able to re-evaluate their position or exit the market without unreasonable burden or pressure should their business endeavour not prove as successful as initially expected.
45. Reform to the insolvency regime in Australia may allow financially distressed businesses with viable business models the opportunity to adjust their approach and make their venture a success. Reform could include:
- a. A 'safe harbour' defence to insolvent trading to allow experienced professionals the opportunity to restructure their business. The threat of liability for insolvent trading can often lead directors to seek protection of the voluntary administration regime too readily rather than seeking a restructure of the business.
 - b. An improved, streamlined liquidation process to reduce cost burdens on those exiting the market and potentially increase return to creditors. CCIQ recognises the importance of a clear and structured liquidation regime, to protect the rights of affected suppliers and creditors. However, the current requirements of Australia's liquidation process impose a number of statutory reporting and process obligations on liquidators that are excessive and unnecessary, increasing the cost of liquidation, and reducing or eliminating creditor returns.
 - c. A streamlined regulatory framework applying to insolvency practitioners, as proposed in the Federal Government's *Insolvency Law Reform Bill 2014*, to increase efficiency in external administrations and boost confidence in the competence of practitioners. The proposed amendments would effectively give liquidators an ability to assign statutory causes of action, and give creditors better access to information from administrators and liquidators, and greater ability to replace administrators and liquidators.

¹¹ ABS, Counts of Australian Businesses, including entries and exits, cat no. 8165.0, Jun 2009 to Jun 2013

- d. Amendments to the existing Scheme of Arrangement provisions, and Voluntary Administration/Deed of Company Arrangement provisions, in Part 5.3A of the *Corporations Act 2001* to allow for effective restructuring of a business in operational or financial difficulty.

Conclusion

46. CCIQ is pleased that the Federal Government has instructed the Productivity Commission to undertake an inquiry into barriers to business entries and exits, which affirms for Queensland's small business community that the Federal Government recognises the important role that business start-ups play in our economy.
47. Small businesses are the backbone of our economy, accounting for 97% of all business in Queensland. Accordingly, we must ensure that we provide a strong business operating environment that is supportive of business start-ups.
48. To achieve this CCIQ considers that action must be taken in the areas outlined above to reduce regulatory barriers to quick start-up, improve access to finance and start-up capital, educate the community to address cultural barriers and create more accessible pathways to expansion or exit.
49. CCIQ looks forward to release of the Productivity Commission's draft report in May 2015.