

25 July 2014

Mr Bruce Whittaker
PPSA Review Secretariat
Commercial and Administrative Law Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600
via email ppsareview@ag.gov.au

Dear Mr Whittaker,

**RE: Chamber of Commerce and Industry Queensland - *Personal Property Securities Act 2009* (Cth)
Statutory Review**

The Chamber of Commerce and Industry Queensland (CCIQ) welcomes the opportunity to provide feedback on the Statutory Review of the *Personal Property Securities Act 2009* (the Act). CCIQ notes the terms of reference set for the review and makes this submission with respect to the impact of the Act on small and medium enterprises (SMEs) in Queensland.

At the outset, it is important to note that the Chamber broadly supports a single national register for personal property interests as is achieved by the Act and Personal Property Securities Register (the Register). However, CCIQ raises concerns with respect to the implementation and functionality of the Act specifically with respect to its impact on small business operations. Further, small business has also raised serious concerns with respect to the general lack of awareness of the Register amongst SMEs in Queensland.

The purpose of this correspondence is to highlight the concerns small business has raised with CCIQ with respect to the Register and explore ways in which the regime can be improved to facilitate more quality engagement by the small business sector while protecting personal property interests. Specifically, CCIQ retains a number of concerns regarding the roll-out of the regime, the information networks available to small business, the dense legalese of the Act, the significant compliance burdens associated with registration and non-registration, and the increased costs of borrowing as an outcome of the scheme.

Roll-out, awareness and access to information

The roll-out of the new framework confused small business with respect to the content, timing and operation of certain provisions, resulting in mass disengagement and a multitude of ineffective registrations of personal property interests. There continues to be a broad lack of knowledge in the small business community about the implications of the Act. For example, the transitional grace period awarded for the temporary protection of transitional security interests. CCIQ believes this has been a result of the inadequate efforts to educate businesses about the change in the legal framework in which their businesses operate, leaving SMEs exposed to a number of priority interests that manifested prior to the implementation of the Register.

CCIQ urges the Review to resist a superficial assessment and go to lengths to consider the real understanding small businesses has of the financial and legal implications of the Act. Accordingly, CCIQ recommends the Review examine policies to ensure small business is fully across their legislative obligations under the Act and provide greater access to information to support this objective.

Overly complex language

Small business operators who use the Register have communicated to CCIQ that the language and concepts contained within the Act are overly complex and thus burdensome. A number of new terms have been introduced or previous terms redefined, making it particularly difficult for business owners with exposure to previous methods of registering interests to interact confidently with the current framework. CCIQ believes the use of dense legalese has the effect of excluding small business operators who do not have the resources to seek legal advice and direction with respect to their rights and obligations under the Act.

The Chamber believes more should be done to make it easier for small business operators to interact with the Register. This can be achieved by providing greater guidance in the form of 'how to' guides, the establishment of codes of practice, and an intensified focus on simplifying the system via regular review processes.

Compliance burden

Overwhelmingly, the feedback from SMEs with respect to the Register is that it is unnecessarily complicated and time-consuming, thus amounting to more red tape for small business. Businesses that use the Register are required to pay ongoing compliance costs associated with registrations, or are faced with exposure to additional risk should they fail to register. Small businesses have reported spending excessive time on researching the Act, seeking legal advice, registering their interests, and determining the types of interests registered. Such small business realities sit directly at odds with the Federal Government's broader red tape reduction agenda and CCIQ calls on the Review to develop strategies to overcome burdensome compliance requirements. CCIQ is of the view that simplifying the Register and reducing the compliance burden will encourage a dramatic uptake of the Register in small business practice.

CCIQ is supportive of the Federal Government's process of canvassing stakeholder views, particularly industry bodies integral to championing small business issues such as CCIQ. The Chamber looks forward to working with the Attorney-General's Department to ensure the best outcomes are achieved for Queensland businesses, our economy, and the community. CCIQ would be pleased to discuss matters contained herein at the Department's convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Nick Behrens', with a long horizontal flourish extending to the right.

Nick Behrens
General Manager, Advocacy
Chamber of Commerce and Industry Queensland