



Childcare Inquiry Taskforce  
Australian Competition & Consumer Commission

By email: [childcareinquirytaskforce@acc.gov.au](mailto:childcareinquirytaskforce@acc.gov.au)

To whom it may concern,

Thank you for the opportunity to provide a submission regarding the draft findings and recommendations for the ACCC's Childcare Inquiry September interim report.

The NSW Small Business Commissioner (the Commission) is an independent statutory office of the NSW Government. It provides strategic advice, advocacy and affordable dispute resolution services across NSW.

The Commission's role includes:

- Encouraging government agencies and larger businesses to enter productive working relationships with small businesses.
- Facilitating and encouraging the fair treatment of small businesses.
- Promoting a fair operating environment in which small businesses can flourish.

Small businesses are a core component of the early childhood education and care sector. In this sector, private for-profit providers account for more than half of services<sup>1</sup> and around 88 per cent<sup>2</sup> of these services are small businesses with fewer than 20 employees.

Early childhood education and care will be referred to as childcare throughout this submission, to align with this inquiry's terms of reference.

### **Feedback on draft recommendations**

The Commission supports regulation and system design that fosters the necessary business conditions for the supply and delivery of high quality and operationally viable childcare.

The Commission provides the following feedback on draft recommendations.

#### **Draft recommendation 1**

Small business childcare services would benefit from a clearer statement of policy objectives and priorities. Any reconsideration of policy objective could be supported by also considering the implementation of policy objectives throughout the regulatory system, such as the assessment and rating process. This will ensure services, including small business services, can appropriately target and be assessed against policy objectives.

---

<sup>1</sup> ACECQA (2022). 'NQF Snapshot: Q2 2022', p. 8.

<sup>2</sup> Australian Bureau of Statistics. 8165.0 Counts of Australian Businesses.

### Draft recommendation 2

Further consideration and consultation on changes to the Child Care Subsidy and existing hourly rate cap mechanism would benefit from appropriately reviewing the costs of supplying childcare. In addition, ensuring any proposed changes do not create any unfair barriers for small business childcare suppliers, particularly in comparison to not-for-profit or large suppliers of childcare, would be beneficial.

### Draft recommendation 3

Sector feedback to the Commission suggests that parents and guardians frequently make choices and value providers based on attributes or factors that are not captured in the National Quality Framework. Any reconsideration of the information provided on StartingBlocks.gov.au could include a broader examination of the values and preferences of families, to assist parents and guardians to select an appropriate service. Enabling services to identify key priorities or focuses could provide a practical way to include this information.

### Draft recommendation 4

The sector consistently advises that attracting and retaining educators in the childcare sector is a significant challenge. In 2022 the Commission undertook a consultation with the ECEC sector that included a survey with 240 respondents and a virtual workshop with the sector. In the consultation survey, around eight in ten survey respondents (78 per cent) indicated they had experienced issues meeting staffing requirements or attracting/retaining qualified staff.

The Commission supports any consideration on how regulatory frameworks can support and influence the attraction and retention of educators. This could include a broad range of regulatory frameworks and processes, including ratio requirements, education requirements and placement requirements, and the assessment process.

### Draft recommendation 6

Any consideration of a market stewardship role for Australian and state and territory governments would benefit from the appropriate inclusion of small business needs as they are an important component of supply within under-served areas.

The Commission has heard from operators who perceive a bias towards not-for-profits and larger providers by governments when considering the delivery of services, such as childcare. An appropriate focus on small business within the market stewardship role for Australian and state and territory governments would ensure small businesses are appropriately included in solutions for providing supply to under-served areas and vulnerable cohorts.

### Draft recommendation 7

Further consideration of supply-side subsidies and direct price controls would be strengthened by exploring impacts of any policy changes on small business services. The Commission suggests the specific needs of small business services, such as different requirements for cashflow and profit margins are adequately included. This will ensure a diverse market that is able to provide services that meet the needs of children, their parents and guardians and government.

### **Additional considerations**

The Commission notes the interim report identifies that services with higher ratings typically have higher labour costs. While this may reflect quality differences associated with higher paid staff, there is the potential for this relationship to be due to confounding factors. For example, the assessment and rating process could be due to biases towards services that have capacity to pay staff higher wages (including not-for-profit providers).

If warranted and appropriate under the terms of reference, the Commission suggests the consideration of an additional recommendation that suggests a further review of the quality framework and the assessment and rating process for biases that are affecting ratings and the competitive environment.

Thank you for the opportunity to make a submission. If you require further information, please contact Megan Bennett, at either [REDACTED] or [REDACTED].

Yours sincerely

Chris Lamont  
**Commissioner**  
**NSW Small Business Commission**

Date: 26/10/23