

# VERIFIED TRANSCRIPT

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### Inquiry into budget estimates 2006–07

Melbourne — 19 June 2006

#### Members

Mr W. R. Baxter

Ms C. M. Campbell

Mr R. W. Clark

Mr B. Forwood

Ms D. L. Green

Mr J. Merlino

Mr G. K. Rich-Phillips

Ms G. D. Romanes

Mr A. Somyurek

Chair: Ms C. M. Campbell

Deputy Chair: Mr B. Forwood

#### Staff

Executive Officer: Ms M. Cornwell

#### Witnesses

Hon. A. Haermeyer, Minister for Small Business;

Ms F. Thorn, secretary;

Dr L. Williams, deputy secretary, business support; and

**The CHAIR** — I place on record and convey our appreciation to the departmental officers who prepared the briefing notes for the portfolios of manufacturing and export and financial services. We have the same witnesses for the small business portfolio, and I hand over to you, Minister, for a 5-minute presentation.

**Mr HAERMEYER** — I will give a very quick snapshot of the over 300 000 small businesses in Victoria.

**Slides shown.**

**Mr HAERMEYER** — They comprise 96 per cent of all businesses in the state and account for 43 per cent of private sector employment. I think a very significant figure is the proportion of home-based businesses, which continues to rise and now makes up approximately two-thirds or nearly 200 000 small businesses — a significant growth sector within small business.

There is also a very significant level of diversity within the small business sector. Small businesses operate across all industry sectors but are particularly concentrated in the property and business services, retailing, construction and the manufacturing sectors.

Nearly one-third of all small business operators are female, and nearly 29 per cent of small business operators were born overseas. That in itself poses some interesting questions in terms of communicating with them, assisting them with regulatory compliance, making services available to them and also enabling them to do the sort of networking that a lot of other businesses do. Sometimes they feel a little isolated because of language issues.

The nature of small business is changing. It has always been changing, but it now has to change more so. As I say, the economy is becoming very competitive, very susceptible to global competition, and that increases the pressure to innovate. Small businesses are increasingly becoming connected to the international marketplace by either getting into the supply chain or actually going out there and exporting directly themselves.

The nature of employment is also changing. Young people are often increasingly entrepreneurial these days. There is a significant growth in independent contractors. People who I suppose 10, 15 or 20 years ago used to work for a wage or a salary from a company, many of them are now doing the same sort of work but are doing it as independent contractors. Home-based businesses, as I pointed out before, are growing faster than the rest of the small business sector. They are already two-thirds of that sector and are increasing their share, and franchising is becoming increasingly popular. I think, with all of those changes, we need to adapt the way we support small business as well.

Turning to major achievements in 2005–06 I refer to the small business commissioner's retail tenancy and dispute resolution functions. Last year the small business commissioner gave a presentation to the committee on what he does. Over the last year 2100 matters were referred to the small business commissioner: 75 per cent of those were successfully resolved, and disputes valued at over \$100 million have been referred to the small business commissioner. I think he saved small business a lot of money, and very importantly in the majority of the cases that he has mediated the businesses involved have continued to do business with each other. That is a far more desirable outcome than sometimes comes out of court processes. Fair payments policy, retail leases amendments — I am getting the wind-up so I will allow members to work their way through the rest of the presentation at their leisure, and I am happy to answer questions.

**The CHAIR** — Thank you, Minister. Are you happy to have the overheads put on the web site with your transcript?

**Mr HAERMEYER** — Yes.

**Ms THORN** — I think they are included in the pack.

**The CHAIR** — In the pack, yes. But we are helping those who are reading the transcript when reference is made to overheads by having them on the web site.

**Mr HAERMEYER** — We are happy for that.

**The CHAIR** — We are always keen to improve our performance, too.

**Ms GREEN** — Minister, you did not get to the end of your presentation but I have a question about the end of it where you refer to a proposed small business statement to be released shortly. In light of that, are you able to provide some more information about how the government is working to meet the future needs of the small business sector?

**Mr HAERMEYER** — As I indicated last year, the government was going through some very extensive consultation with the small business sector. We put in place a small business plan when we came in in 1999. Through the changes I articulated before, I think it is appropriate to now revisit that plan to adapt it to those changes and also to look at what we have been doing, evaluate it and ask how we can do it better. That is what the small business statement is largely about.

We had intended to deliver that statement by the end of last year but the ministerial small business advisory committee asked for a bit more time for discussion and consultation on that matter, so that statement will be delivered very shortly. We will be identifying a variety of initiatives that will either improve on or adjust existing initiatives, but there will also be some new initiatives within that which I am sure small business will find very welcome.

**Mr CLARK** — Could I refer you to the slide that lists the various tax measures in the budget and also the WorkCover premium changes announced at the same time. Can you tell the committee either now or on notice how many small businesses are expected to benefit from each of those measures?

**Mr HAERMEYER** — I am just trying to find the slide.

**Mr CLARK** — The third last.

**Mr HAERMEYER** — Suffice to say the \$1.4 billion of tax cuts, the reduction in WorkCover premiums, land tax relief and payroll tax reduction as well as the regulatory burden are initiatives that will have an impact across business. I do not have the figures in front of me in terms of what proportion of small businesses will benefit from that. I would not be surprised to see it broadly proportionate to the number of small businesses in the economy generally, but I am happy to take that on notice and provide more precise details.

**The CHAIR** — Thanks very much, Minister.

**Mr SOMYUREK** — Minister, the power relations that exist at the moment between small and big business can sometimes be exercised in a brutal way by big business. One particular instance of this is the repair and panel beating industry where insurance companies are constantly driving the small local panel beater — —

**The CHAIR** — Belting up the local panel beater.

**Mr SOMYUREK** — Yes. That is one example of how small business is bullied by big business. What is being done to give small business a fair go?

**Mr HAERMEYER** — I think you have identified one of the growing themes coming out of the small business sector — that is, what is happening to them as a result of market concentration within certain sectors. You certainly see it to some extent in retail. You also see it in automotive repairs, as you said. Sometimes you see things like predatory pricing where a large business will set its prices below cost simply to force a smaller business out of the market place.

We have seen it in the past in areas such as retail tenancies where, I suppose, some of the larger retailers have, through shopping centre owners and so on, brought some pressure to bear on some of the smaller retailers. I think that has been largely addressed through retail tenancies legislation. The other thing we are finding also is downward pressure where you have significant concentration in the retail industry which is forcing pressure on upstream suppliers to the industry, and they are becoming very much price takers.

I bear in mind that the vast majority of the trade practices powers reside in Canberra, but we have put in place the Office of the Small Business Commissioner. Sometimes the activities of big business in relation to small business are predatory. Often a large business is very bureaucratic. Policy is put in place and you have middle-ranking officials within those organisations taking decisions that adversely affect business.

When they are drawn to the attention of the more senior people in the business by the small business commissioner, those larger businesses often change their practices because of his mediation processes and the bit of pressure that comes through potential embarrassment if some of these practices get raised. He also has the capacity to assist small businesses in taking up matters through forums such as the Australian Consumer and Competition Commission. I think small business is often very reluctant to take a large business on but with someone like the small business commissioner through either a process of mediation or to assist them in the process of using their rights through ACCC — they have an advocate, a friend they can rely on.

Unfair competition is increasingly an issue that small businesses raise. I mentioned predatory pricing. We had the small business ministers' conference in Melbourne on Friday. We raised that issue with the commonwealth because I understand the commonwealth is contemplating a test on predatory pricing which requires small business to prove recoupment — in other words, if a large business is capable of or has recouped what it expended in terms of its predatory pricing exercise.

Firstly, I do not think that is an adequate test of predatory pricing. Secondly, it is impossible for small businesses to actually prove recoupment. This is something that is way beyond the capacity of small business. They are the sort of issues we need to be addressing. We can address some of them through our own resources such as the small business commissioner; others need to be taken up by the commonwealth through the ACCC or the Trade Practices Act.

**Mr RICH-PHILLIPS** — My question is similar to Mr Somyurek's. It relates to the relationship between small business and government as a customer, a price maker, on payment terms et cetera. Your slide referred to the 2100 matters referred to the commissioner with 75 per cent being successfully resolved; do any of those relate to relationships between small business and government as a customer? Does the small business commissioner have under the legislation — —

**Mr HAERMEYER** — He certainly does have the capacity to take those sorts of issues up. Whether any of those cases have involved government, I could not tell you off the top of my head. I would need to take that on notice and get back to you. I believe overwhelmingly, if not all, of those cases are business to business. But he certainly has the capacity to take up an issue on behalf of small business with government. He is an independent statutory office-holder. and he is quite independent in the way he does that.

**Mr RICH-PHILLIPS** — Could you provide information, on notice?

**Ms THORN** — If I might just add to that — —

**The CHAIR** — You will answer it now and not on notice?

**Ms THORN** — Very quickly, I feel very sure the small business commissioner would draw this very quickly to our attention. I am only aware of one example in the time I have been the department of him drawing to our attention something to do with a government instrumentality, and that was with water authorities.

**Mr RICH-PHILLIPS** — Was it a payment?

**Ms THORN** — I honestly cannot remember the precise details, but he certainly took the matter up with the bodies. We will let you know.

**The CHAIR** — I just want to be clear on what you take on notice. Is that your answer or do you want to provide more information?

**Ms THORN** — Provide more information.

**The CHAIR** — I want to take you, Minister, to a reference you made before to the small business commissioner. Obviously there has been a lot of work done over the last 12 months since you last briefed PAEC. Can you fill us in on what some of the major achievements are in the last 12 months in particular and also if there are any funding references? That would help our report.

**Mr HAERMEYER** — Certainly there has been increasing demand for his services since its inception in May 2003. Something like 2100 matters have been referred to the small business commissioner. His annual report

for 2004 -05 states that there was a 73 per cent increase in a number of matters referred to the office over 2003-04. Telephone inquiries where preliminary assistance was provided also increased 74 per cent over that same year.

I think those increases in demand reflect the very impressive success rate — as I said, he has resolved 75 per cent of disputes — and the fact that he offers a very low-cost, low-confrontational way of addressing those disputes. I indicated earlier that the value of those disputes is now well over \$100 million. It saved small businesses a lot of time, money and heartache, and, as I also indicated, in the majority of cases businesses have gone on doing business with each other. We are not actually in the process of pulling apart a business relationship. That is a testament to the quality of the mediation that has taken place.

Each business pays \$95 for the mediation which is separate to any legal costs they may incur. Some people elect to come along with legal representation, but it usually does not give them any great advantage to have legal representation because it is a very non-legalistic sort of process. Mediations are generally conducted on average 8 to 10 weeks after the dispute has been lodged with the commissioner's office. In genuine circumstances of urgency they can be done within 24 to 48 hours.

He has been highly popular and highly successful with small business. The word is getting out. We are very keen to have more small businesses take up the services he offers. It certainly unclogs VCAT and means businesses can get on with the business of running their business rather than spending time and money through legal tribunals.

**Mr CLARK** — The committee had the benefit last year of hearing evidence from Mr Brennan who came along as a witness. Is there a particular reason why he is not along as a witness today?

**Mr HAERMEYER** — No, not at all. Last year he was largely here to provide the committee with an overview of what he does. I do not think he had done that previously. There is no particular reason he is not here. Last year was an opportunity to make a presentation to the committee.

**Ms ROMANES** — Minister, following on from your comments about some applicants taking legal representatives with them to any hearing with the small business commissioner, are there any strategies to obviate the escalation of legal input into that process? I think we have seen in VCAT, where there is not necessarily a need for legal representation, it has become more likely that some parties will bring legal representation, and it then obliges the opposing parties to do likewise. This escalates the costs of using such mediation and conciliation processes.

**Mr HAERMEYER** — Because the small business commissioner uses a mediation process, he does not make determinations in the way VCAT does. VCAT is a quasi-judicial tribunal and because often its rulings will be referred on to a higher court — there are grounds for appealing VCAT's rulings — many people will often take lawyers there with them. Particularly larger businesses are inclined to do that.

There have been a few cases, I understand, where people have come along to the small business commissioner's mediation with legal representation. Generally they would say at the end of the process they did not need it. It is a very non-legalistic process and lawyers are, I would have thought, a large waste of money in a process like that.

**The CHAIR** — Would Mr Clark like the next question?

**Mr CLARK** — Yes, thank you, Chair. Minister, I was struck by some of the figures on your first slide after your cover slide, in particular the reference in the second bullet to 43 per cent of small businesses being involved in private sector employment, which logically implies that 57 per cent of small businesses are involved in public sector employment. Dr Williams shakes her head on that. Have I drawn — —

**Mr HAERMEYER** — No, that means small business accounts were 43 per cent of all private sector employment.

**Mr CLARK** — You are saying whole private sector employment?

**Mr HAERMEYER** — Which means that larger businesses would account for 57 per cent.

**Mr CLARK** — In that case, let me put the question in this way: there is clearly a lot of cross-analysis possible of some of the data you refer to there. Is that data drawn from a publicly available source? If so, could you

let us know what the source is? If it is your own internal data, is there any further detail you can provide us with as to how the different cross-sections of this data would line up?

**Dr WILLIAMS** — It is from the ABS characteristics of small business which comes out every three years.

**Mr CLARK** — Do you recall what the year of publication for this data would have been?

**Dr WILLIAMS** — 2003. We are awaiting the next — it is a supp. survey that they run every three years. We are waiting for the next results to come out. They were due earlier this month, but unfortunately they have been delayed until August, we are told. Let us hope they do come out in August.

**Mr CLARK** — Thank you.

**Ms ROMANES** — Minister, on page 3 of the presentation notes that we have been given — I am not sure which slide it is — you did not get to tell us about Energise Enterprise 06. Can you tell us what the purpose of that is and what its activities are achieving?

**Mr HAERMEYER** — Yes. Thank you for that. I am happy to circulate the event guide for Energise Enterprise 06. It is basically a series of over 250 events across the state throughout the month of June, and it is about doing a whole variety of things. It is about making businesses aware of the programs that state government, local government, even federal government offer. It is about providing a focus on small business, discussing issues that affect small business. It is about opportunities to network amongst small businesses, and it is also about providing encouragement and inspiration.

In small business you often feel a little bit alone and think you are the only one going through these problems. Sometimes seeing some of the small businesses that have been through those issues, and succeeded, provides you with that impetus to go on. Sometimes seeing what some of the businesses are doing provides you with the inspiration and the passion to go on.

As I said, there will be something like 250 events held over that month, 110 of those to be held in 36 regional locations across the state. As part of Energise Enterprise we held the annual Small Business Ministers Council here in Melbourne last week. Today I opened the international conference for small business here in Melbourne, which will be running over the next four days. That conference will be discussing a whole lot of issues of interest to small business, helping us to better understand some of the trends and needs of small business and some of the policy responses that are being developed in other parts of the world.

It is a big month for us to just focus on small business, get small businesses talking, learning from each other, becoming more aware of assistance and programs that are available to them and, I guess, as the book says, being energised.

**The CHAIR** — Minister, do you have costs of that, and what are your evaluation methods?

**Mr HAERMEYER** — The budget for Energise Enterprise is \$185 000 and \$55 000 is contributed by sponsors. That includes the promotion of the festival, venue hire and also speaker costs.

**Mr RICH-PHILLIPS** — Minister, one of the issues this committee has on an annual basis with various portfolios is the nature of performance measures as reported in the budget. On page 149 you have one timeliness measure, and it reads:

Proportion of applications by retail tenants before leases of less than five years that are responded to by the small business commissioner in 21 days

Can you tell the committee, please, what that means and why it warrants inclusion in the budget papers?

**Mr HAERMEYER** — A large part of the brief of the small business commissioner is predominantly mediating business-to-business disputes, but he has some deliberative powers in relation to the retail tenancies act. The retail tenancies act was highly controversial during the 90s and has been amended a number of times since to ensure that small business tenants are not adversely affected by unfair practices by their landlords. This is

effectively a measure of determining the timeliness in which the small business commissioner responds to the matters that are drawn to his attention under his powers under the retail tenancies act.

**Mr RICH-PHILLIPS** — So these are matters on short-term leases, being less than five years?

**Mr HAERMEYER** — Leases of less than five years, yes.

**Mr RICH-PHILLIPS** — That are responded to by the commissioner in less than three weeks?

**Mr HAERMEYER** — Correct.

**Mr RICH-PHILLIPS** — That is the most significant timeliness measure for the small business portfolio?

**Mr HAERMEYER** — No. That is the — —

**Mr RICH-PHILLIPS** — Given it is the only one included.

**Mr HAERMEYER** — That is one where timeliness is a critical issue and where there is a specific piece of legislation that has to be dealt with.

**The CHAIR** — On that same page, it is not on timeliness but is to do with ‘Quantity’ under the heading ‘Small Business Support’. You have business inquiries, then there is a drop and an explanation that there are a lot more online inquiries now. Can you explain; have you any intention of putting online inquiries as a performance measure given that is the explanation for the lowering of numbers?

**Mr HAERMEYER** — Certainly the online inquiries have grown quite dramatically, and I think they will continue to grow as more small businesses search out a lot more of their information online. Particularly with the development of the Victorian Business MasterKey, we expect that to grow quite significantly. We found that particularly over weekends some of the people we had staffing the Victorian Business Line were effectively being under-worked because of the amount of inquiries that were coming through online.

We have got new measures here under ‘Small Business Support’; we have got registration for next year for online services, a target of 3000 — —

**The CHAIR** — But that is different, is it not, from the one above. ‘Inquiries’ is different to ‘registration’, if I understand that correctly. ‘Registration’ would be quite different from ‘inquiries’?

**Ms THORN** — Yes. Can I suggest that we are looking at a transition period at the moment, and there is a replacement going on. The extent to which online inquiries will fully replace telephone inquiries is yet to be fully known, but my expectation would be that we will see a transfer of measures and a supplementation of the measures to pick up on online inquiries.

**The CHAIR** — If you read into what I was saying that I am suggesting a deletion of business inquiries, I am not, because I think many people prefer to talk to a human being rather than try and work their way through a computer site.

**Ms THORN** — We are expecting to see a substitution whereby people will do a lot of that inquiry process online, because there is going to be a facility for that, and depending on the type of inquiry, some of it may well be responded to in person by phone and some of it may be responded to online.

**The CHAIR** — I was thinking more in terms of an additional performance measure.

**Ms ROMANES** — I have a supplementary on that. The substitution, if that is what is happening, is not one for one because you have a major reduction by 10 000 between 2004–05 and 2005–06. Does that indicate that people are clearer about their issues when they put it online? What is happening in terms of telephone inquiries to make it a greater number?

**Ms THORN** — An increasing number of services, including the Victorian Businesses MasterKey, are providing the information easily and freely available online, which we would expect is reducing some of the inquiries, and it will also be about growing knowledge of what those services are.

**Ms ROMANES** — So it is at a higher level?

**Mr HAERMEYER** — I also pointed out to the Chair that I believe there is a head counter on the web page that will give you some indication of the number of hits on the page.

**The CHAIR** — Thank you very much. We have time for two more quick questions and quick answers.

**Mr SOMYUREK** — Minister, during your last presentation you spoke extensively on Australia's problem with respect to skills shortage. I noticed during your presentation earlier that you touched on the subject of a new initiative called the Skills Development Program for Small Business. Can you please tell the committee a little bit about this program and, in particular, how it affects the skill shortage problem?

**Mr HAERMEYER** — As I indicated earlier, we handed down a skills statement earlier this year. Part of that statement was that there was a \$10.5 million initiative to implement business skills for the future. What that is about is equipping business, particularly small business, to better address work force planning in the manner in which they address skills shortages.

The idea of it is to help small businesses to assess and then to act on their skills development and training needs as well as to assist them in attracting and training staff. As I indicated, I think earlier, small business people do not often have HR departments and people like that who do that sort of work in a large organisation, so what we will be doing here is providing funding, I think predominantly through business organisations, to provide training to small business to equip them to identify their needs, to do a skills requirement audit, to identify what skills they have, what skills they are going to need in the future, and also, I suppose, look at what they need to do in the way of reskilling their existing employees as well.

That is particularly important, I think, in manufacturing businesses where, as I have indicated, over the next few years many of them will have to go through a bit of a metamorphosis, so work force planning in those areas is absolutely critical. Skills is not purely about employees; it is about employers too, particularly in the small business sector where they do not have the sort of HR skills that are available to larger organisations.

**Mr CLARK** — Minister, you mentioned in your presentation the fair payments clauses which, as you know, have been inserted in government contracts of less than \$3 million. Can you tell the committee over the last period for which you have measures, how many contracts were there in respect of which the payment of penalty interest was triggered, and how much penalty interest was paid out under that penalty interest clause?

**Mr HAERMEYER** — I do not have those specific figures, but what I can tell you is that we have done a 12-month review of the fair payments requirement, and all departments have now introduced a fair payments clause into all of their contracts below \$3 million. Overall, there have been significant improvements in the promptness of payments. Late payments across departments average approximately 17 per cent. That is down from 25 per cent, but there is still a need for further improvement.

**Mr CLARK** — What is the 17 per cent?

**Mr HAERMEYER** — The Auditor-General reported in his 2004 survey that late payments accounted for about 25 per cent of payments. Since the fair payments clause has been put into place, we now have an average across all departments of 17 per cent. Some are still a little bit higher than that, but I think we have seen significant improvement across all departments.

We still have some room to improve on, but I have to say it has improved quite significantly. We have also just very recently, in a letter to all department heads, reinforced the message about late payments, so we are quite determined to drive that figure down.

**Mr CLARK** — Over what period was the 17 per cent measured?

**Mr HAERMEYER** — That was one year.

**Mr CLARK** — That is over the past year through to what?

**Dr WILLIAMS** — November to November.



**Mr CLARK** — November to November?

**Mr HAERMEYER** — November 2004 to November 2005.

**Mr CLARK** — When did you write to the departments with the follow-up letter?

**Mr HAERMEYER** — I think that was December last year.

**Ms THORN** — I cannot remember the precise date.

**Mr CLARK** — You referred to one in your media release of 23 June 2005 about writing to all departments. Is that the letter you have just mentioned?

**Ms THORN** — No.

**Mr CLARK** — You wrote again?

**Ms THORN** — That was reminding them of their obligation under the legislation, and subsequent to the evaluation — it was quite early this year — a letter went out to all secretaries giving them the results of the evaluation as it affected their organisation against an average.

**The CHAIR** — Thank you very much. Minister, we thank you and the witnesses at the table, the departmental officers who have prepared so extensively for today. We appreciate their support to enable us to write a very good estimates report to the Parliament.

You have taken a number of items on notice. Correspondence will be sent to you, reminding you of that, but once you get your transcripts, you will see what those matters are and you can perhaps start the process once you get that. The transcript will be emailed to you and you will have two working days after receipt of that to return it to us with any corrections that are required. Good afternoon and thank you, and thank you to Hansard.

**Committee adjourned.**