



Ms Kate Carnell AO  
Australian Small Business  
and Family Enterprise Ombudsman  
GPO Box 1791  
CANBERRA ACT 2601

Dear Ms Carnell

### **PAYMENT TIMES AND PRACTICES INQUIRY**

The Australian Trucking Association (ATA) welcomes the decision of the Australian Small Business and Family Enterprise Ombudsman (ASBFEO) to conduct a self-initiated inquiry into small business payment times and practices.

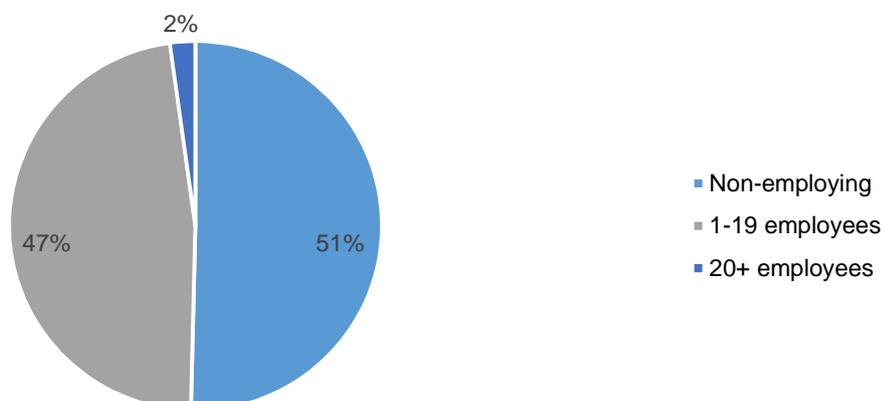
### **About the ATA**

The ATA is the peak body representing the trucking industry. Its members include state and sector-based trucking associations, some of the nation's largest transport companies, and businesses with leading expertise in truck technology. Through our member associations, the ATA represents many thousands of trucking businesses, ranging from owner drivers to large fleets.

### **Small businesses and payment terms in the trucking industry**

As figure 1 shows, the trucking industry consists almost entirely of small businesses. In the figure, an owner driver or partnership is counted as a non-employing business.

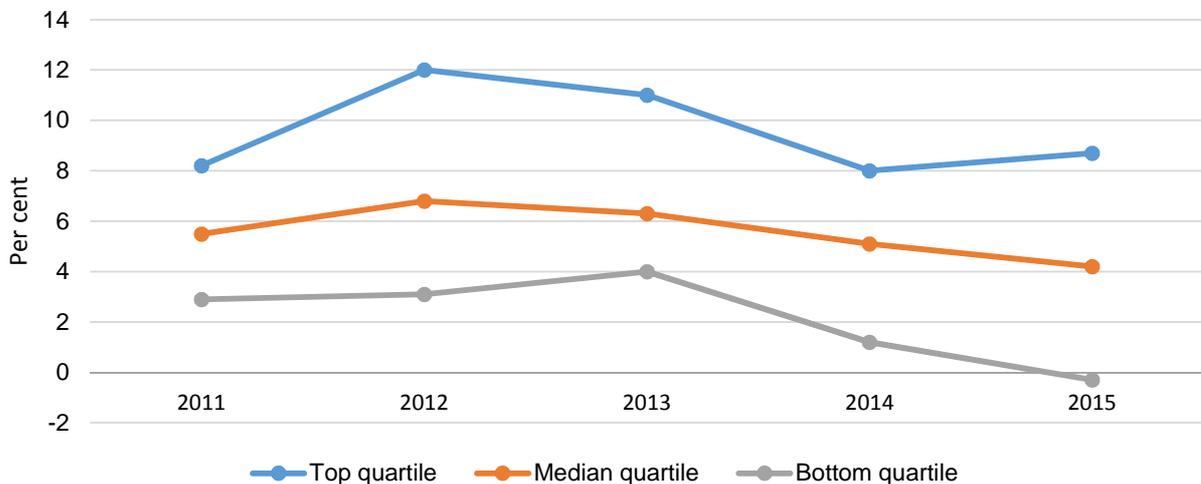
**Figure 1: Road freight transport businesses by employment size, June 2015**



Source: ABS Cat 81650

The trucking industry is characterised by tight margins. Research by the ANZ shows that the median EBIT margin for trucking businesses was 4.2 per cent in 2015. The bottom quartile of trucking businesses recorded negative, unsustainable EBIT margins. (figure 2).<sup>1</sup>

**Figure 2: Industry EBIT margins**



At the same time, the vast majority of the costs incurred by small trucking businesses must be met before they can bill their customers. These include wages or personal living costs, fuel, tyres, insurance, finance costs, registration and maintenance.

Small trucking businesses are therefore very vulnerable to adverse changes in their payment terms, and often have little capacity to negotiate them with large customers.

The ATA has previously advocated developing a **mandatory code for the trucking industry under Part IVB of the Competition and Consumer Act (CCA)** to address the payment terms issues facing small trucking businesses. The provisions of existing industry codes show it would be possible to construct a code covering payment terms for these businesses, which could for example include payment times – recommended as no more than 30 days from the date an invoice is issued – a prohibition on set offs and pay when paid arrangements, and alternative dispute resolution. It would also be necessary to include special rules covering recipient created tax invoices (RCTIs), to prevent customers from delaying the creation of these invoices to avoid triggering the 30 day period.

We welcome the ASBFEO's endorsement of investigating this approach in its report on the effects of the RSRT's payments order on small businesses.

The ATA encourages the ASBFEO to consider extending this proposed approach to all small businesses. An alternative would be to support the development of standalone legislation modelled on the construction industry security of payment system.

<sup>1</sup> Suffield T. "Road transport performance from a bank's perspective." Presentation at Trucking Australia 2016, 24 June 2016.

The ATA contact for this letter is Bill McKinley, Chief of Staff, on [bill.mckinley@truck.net.au](mailto:bill.mckinley@truck.net.au) or 02 6253 6900.

Yours sincerely

A handwritten signature in black ink that reads "Maguire". The signature is written in a cursive style with a large, looping initial 'M'.

Ben Maguire  
Chief Executive Officer

27 January 2017