



Office of the Victorian

**Small Business Commissioner**

Education | Investigation | Mediation | Representation

# The Office of the Victorian Small Business Commissioner ... “Here to Help”

**Murray Valley Winegrowers Conference  
25 June 2009**



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# Small Business Commissioner

- **Key Role for the Victorian Small Business Commissioner (VSBC):**

*To enhance a **competitive and fair** operating environment for small business*

# Small Business Commissioner

- General functions and powers under the: *Small Business Commissioner Act 2003*
- Specific Functions and Powers under the: *Retail Leases Act 2003*, and *Owner Drivers and Forestry Contractors Act 2005*

# Small Business Commissioner

- Over 5,700 dispute applications
- Mediation success rate of around 80%
- 28% of all disputes are resolved prior to mediation through preliminary assistance
- 24% of matters referred are initiated in regional Victoria
- 47 matters have been referred from the Murray Valley region, including 40 from Mildura.
- Assisted with over 37,000 phone calls

# Key Areas

**Information & Education**

**Investigation of unfairness**

**Dispute resolution - Mediation**

**Review Government practices**

# Information & Education

***be informed***

Know your rights and obligations

# Investigations

***be fair***

Ensure your ongoing business relationship

# Scope of jurisdiction

Examples may include:

- breach of supply agreement
- breach of franchise agreement
- pre-contract false and/or misleading representations
- business scams

# Investigations

- One investigation involves the conduct of an estate agent.

In circumstances where a tenant had invoked the dispute resolution procedures under the *Retail Leases Act 2003* the agent wrote, apparently without due thought, the following:

*“We are of the belief that if you intend to force the landlord into mediation or perhaps a tribunal, then the landlord may not act so favourably towards offering you a new lease or further terms when that time comes.”*

- This letter raises issues of unconscionable conduct, and an obstruction of the Commissioner’s legislative responsibilities.
- Businesses and their agents should be aware that this conduct is unacceptable.

# Dispute Resolution

***be smart***

Mediate your disputes and get on with  
business

# Government Practices & Representation

***be aware***

of Government regulations and procedures

# Government Practices

- VSBC receives complaints by small businesses
- Focus on a consultative and cooperative approach
- Promote awareness within Government of small business needs

# Essential business behaviours

- 1) The **Alignment** of values and ethics.
- 2) A **Commitment** to a long term relationship.
- 3) Profitable and sustainable **Mutual Interests**.
- 4) **Communication** is clear, transparent and frequent.
- 5) All parties are **Accountable and Responsible** for the relationship.
- 6) **Professional Conduct** between all parties.
- 7) **Pre- agreed Dispute Resolution Procedures** are agreed.

# Why use the VSBC?

- Unique in Australia
- Non-threatening
- Process aims to assist businesses to “get on with doing business” with each other after the matter has been dealt with
- The VSBC can deal with matters before expensive formal litigation has commenced.

# Why use the VSBC?

- Low-cost (mediation is \$195 per party)
- Fast (the majority of matters are dealt with in around 6-8 weeks)
- Genuinely urgent matters can be turned around faster
- Mediations can be held in regional areas

# Why use the VSBC?

**The Small Business  
Commissioner  
“says no to no-one”**

# Impact

Since its inception in May 2003, the office has handled disputes valued at over \$200 million



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**[www.sbc.vic.gov.au](http://www.sbc.vic.gov.au)**

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**9651 7596 (TTY)**



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