



Competitive Neutrality Review  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
Haymarket Post Shop, Sydney NSW 1240

To whom it may concern,

Thank you for the opportunity to provide feedback on the *Competitive Neutrality in NSW Issues Paper* and our experiences with the NSW competitive neutrality framework.

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 has recently heard from small businesses operating in the early childhood education (ECE) and out of school hours care (OSHC) sector who perceive that they are subject to an unfair competitive environment. While some of their concerns are beyond the scope of the NSW Government's competitive neutrality policies, small businesses have indicated their perception of unfair advantages to not-for-profit, community and government services.

Concerns have been raised in relation to government-funded free pre-school programs, payroll tax exemptions and centres operating with nominal rent for the use of community or council owned premises available to not-for-profit, community and government services. Small business providers have expressed concern that these advantages make it harder for small businesses to operate in the sector.

### **Free pre-school**

Stakeholders have expressed concern that the NSW Government's provision of free preschool for children, through the NSW Start Strong Free Preschool program, has adversely affected enrolments for small business ECE services in recent years. The program requires services to be a not-for-profit community-based preschool or mobile preschool service to participate.

Small business ECE services have reported that families have altered enrolments to take advantage of free pre-school services available in not-for-profit community-based or mobile centres.

The Commission notes the NSW Government has made changes to address some of these impacts, including by introducing the Start Strong Long Day Care program.

### **Payroll tax exemptions**

Non-profit educational institutions that provide education at or below the secondary level are entitled to payroll tax exemptions. As the ECE and OSHC sector includes both for-profit and not-for-profit providers, small business services have indicated their concern that this creates an unequal playing field between for-profit and not-for-profit services.

## **Nominal rent for community or council run centres**

Feedback from small business services report their perception that some community and council run services using community or council owned premises benefit from peppercorn lease arrangements where rents do not reflect the fair value of the property being leased. The Commission has not undertaken any independent investigation to verify the extent of any arrangements of this nature.

Small business services perceive these arrangements as providing operational advantages that allow them to compete more favourably on non-price elements of their service offering. For example, some have suggested that lower costs provide additional flexibility for them to attract and retain staff and achieve higher ratings under the ECE and OSHC regulatory system.

I encourage IPART to consider these issues as part of the competitive neutrality review.

Yours sincerely

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

Date: 18 August 2022