

9 October 2023

Law Reform Commission
via email: nsw-lrc@justice.nsw.gov.au

NSW ANTI-DISCRIMINATION ACT REVIEW

Dear Sir/Madam,

The ARA is the oldest, largest, and most diverse national retail body, representing a \$420 billion sector that employs 1.4 million Australians – making retail the largest private sector employer in the country. We pride ourselves in championing the vibrant and evolving retail landscape, and advocating for the diverse range of retailers that are the backbone of our nation's economy. Our members, ranging from small businesses to leading national retail chains, reflect the diversity and depth of the Australian community.

Diversity and inclusion are central tenets in our advocacy. The retail sector thrives on the perspectives, skills, and talents that arise from a rich tapestry of backgrounds. As a sector that is deeply connected to the community, we know first-hand the importance of representation in our workforce.

It has come to our attention through our member networks that while many employers in the retail sector are keen to foster greater diversity and inclusion, the current structure of the NSW Anti-Discrimination Act has presented barriers. This particularly relates to the need for organisations to seek exemptions under section 126 of the Act when aiming to implement initiatives to promote substantive equality for historically disadvantaged groups.

We echo the sentiments expressed by many in the industry, including some of our leading members, highlighting the benefit of introducing provisions akin to 'positive discrimination', 'special measures', or 'measures intended to achieve equality' directly into the discrimination laws. Such provisions, already present in federal legislation and regulations of other states and territories, allow businesses to actively support and drive inclusivity efforts, such as targeted recruitment for underrepresented groups, without being encumbered by the administrative process of applying for an exemption.

The retail sector, a significant employer within NSW, stands to greatly benefit from a streamlined approach that aligns with federal laws and practices of other states. By doing so, businesses can more effectively reach out to diverse talent pools, contributing to a richer, more inclusive retail environment, and address labour shortages without the need for additional administrative processes.

The ARA strongly recommends an amendment to the NSW Anti-Discrimination Act, expanding section 21, to incorporate the implementation of 'special needs programs and activities' for a more inclusive range of attributes in employment initiatives. Such an amendment would not only reflect a broader understanding of diversity but also remove unnecessary barriers in the recruitment process for specific groups.

We believe that with these changes, the retail industry in NSW will be well poised to foster greater diversity and inclusion, reflecting the true spirit of our multicultural society. We welcome the

opportunity to further discuss and collaborate with your office on this matter, ensuring our retail environments are as diverse as the communities we serve.

Thank you again for the opportunity to provide a submission on this important issue. We remain committed to engaging constructively on this topic and advancing the interests of both consumers and the retail sector.

Any queries in relation to this submission can be directed to our policy team at .

Kind regards,

Alison Howe

Policy Manager