Many Ontario Small Businesses Will Be Permanently Closed By the End of 2020

Support Material for
Ontario’s Standing Committee on Finance
regarding the
Economic Fiscal Update Act, 2020

by
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My name is Ryan Brooks. I am the CEO and co-founder of Ctrl V, the world's first virtual reality arcade, started in Waterloo, Ontario on June 1, 2016. In the past four years, we have grown our company to twenty (20) locations spanning across Canada, the US and Costa Rica.

We have hired over 30 co-op students and provided over 200 people a job. Our software was licensed by IMAX and our installations were procured by Cineplex and Landmark Cinemas.

Sadly, **three (3) Ontario Ctrl V locations and one (1) in Alberta** have been forced to **close permanently by the end of the summer.**

Unfortunately, the relief programs provided by the government are insufficient, too slow to arrive and the information provided by different levels of government varies greatly when determining which businesses should be allowed to operate and at which stage.

For Ontario businesses specifically though, the damage being done is significantly worse than most other regions in Canada. This is a result of a number of factors, all of which are beyond the control of the businesses being impacted.

1. The relief programs available are insufficient and not proportional to the damage being done.

The following programs were created in an attempt to support small businesses:

CEBA (Canadian Emergency Business Account):

This federally-led program is an emergency line of credit for up to $40,000 offered through the big banks. Provided the entire amount borrowed is repaid by December 31, 2022, up to 25% of the loan will be forgiven (does not have to be repaid).

There are two major issues with this program; it is a **static amount**, and it is a **loan**. The intent behind this program was to cover the expenses that businesses could not eliminate while being forced to be closed. However, as you could imagine, these expenses vary wildly from business to business, depending on where in Ontario you're located and whether or not you could still operate in some capacity. As a result, this static amount could last some businesses twice as long as other businesses, just based on rent alone.

Additionally, the CEBA is a loan that requires repayment. The expenses being covered by the loan (rent, utilities, website, etc.) will never have the opportunity to generate revenue for the time period in which they occurred. Essentially, small businesses are still on the hook for the expenses incurred while they were not permitted to operate. As a result, we will be forced to make up for these expenses along with the typical expenses we incur moving forward.

Most businesses operate with fairly small margins, and this additional cost to bear will force businesses to employ less people, lower wages or increase prices to compensate, all in a post-pandemic climate with reduced disposable income for consumers.

Moreover, some of our franchisees operate multiple locations under one corporation, and as a result were only able to qualify for a single CEBA loan that needed to be spread across the expenses of the multiple businesses they operate.

Finally, for *franchisors* (like Ctrl V's headquarters in Waterloo), there were no programs put in place to cover the expenses incurred for annual FDD renewal in Canada and the US which occurs in April. As a result, the CEBA loan had to also cover these additional expenses which would normally be covered by the franchise royalties (which were non-existent as a result of all of our franchisees being forced to shut down for 3 - 4 months).

CECRA (Canada Emergency Commercial Rent Assistance):

This program was a joint effort between the federal and provincial governments in an effort to help businesses cover one of the largest ongoing expenses during mandatory shutdown; rent.

This program is the **least effective program available**. It was also the last major program to launch in spite of the desperate need for it *much sooner* (in light of there being no moratorium on evictions in place until mid-June).

The program was made available **as an option** to commercial landlords with a mortgage who have tenants in need of support. The government would cover 50% of gross rent and the landlord was required to "eat" 25% of the rent, leaving the other 25% for the tenant, for the months of April, May and June (eventually extended to July, but was still a landlord-only application process).

When the program launched in late May, there was an obligation for the tenant to provide their annual revenue to the landlord for the application process. However, this requirement was reversed after only one week. By that time, many tenants had already disclosed sensitive financial information to their landlords.

However, the primary issue is that this program can only be applied for by the landlord, and it is entirely voluntary. As a result, we saw that after three months of waiting, only 16,000 businesses had opted into the program in the first week - *Canada-wide.* That is only 1.3% of all businesses, even though as many as 40% were eligible. As of July 29th, only 29,000 businesses had participated, equating to just 2.4% of eligible tenants.

If each of those businesses had an average monthly rent of $10,000, that would amount to about $240 million dollars for April, May and June combined. For comparison, that is the amount of money invested into the program by the *Ontario government alone*.

For Ontario, the federal government allocated an additional ~$660 million dollars. This means there was a considerable amount more allocated for the entire country, but it is simply inaccessible to the tenants who need it because it is up to their landlord's decision to participate.

We would venture that most of the 29,000 businesses that opted into the program did it, not because it was a great program, but because **there was nothing else available.**

Additionally, the CECRA program offered a **static 50% coverage** of gross rent provided at least a 70% drop in revenue. This means that for businesses who were able to continue to generate 30% of their normal revenue, they would receive 50% coverage of their rent. However, for businesses who have sustained 0% revenue since being forced to close, they also only receive 50% coverage.

A significant number of industries have been forced to close with no way to generate revenue. Most of these businesses are continuing to incur rent payments, *even if* they were one of the 2.4% whose landlord opted into the program. How are they expected to afford even the 25% payment if they aren't allowed to generate any revenue?

CEWS (Canada Emergency Wage Subsidy):

This program was rolled out by the federal government and will provide up to 75% of wages (up to a maximum of $847 per week). However, the program requires that this amount be paid out to staff first, in order to have that component reimbursed.

This is definitely the most successful program released by any level of government to-date. The turnaround time for reimbursement is relatively quick and the relative amount of the program is actually helpful. This program is proving to be a great resource for the businesses who have already been able to reopen.

Unfortunately, this program requires you to have staff to pay, and at the moment, most businesses that are still forced to be closed (entertainment, hospitality, recreation, etc.) cannot afford to bring back staff in any capacity.

The revisions made to the program in late July were definitely a welcome change as, although more complex, it now offered the kind of proportional / tiered model sorely needed by the other programs outlined above.

2. The relief programs available took *far too long* to roll out.

The federal and provincial governments were seemingly not prepared for the current situation. The word "unprecedented" has been thrown around quite liberally, but the reality is that we were not the first country to be hit by COVID-19.

As a result, our governments have appeared to be consistently playing "catch up" with perceived “knee-jerk” reactions in an effort to combat the reportedly "unforeseen" situation we are in. This has resulted in a collection of programs that have seen multiple revisions and to-date and that do not sufficiently support the groups for which they are intended.

3. The relief programs are not accessible to the individuals who need them.

The CEBA loan program was only made available to businesses with net wages paid in 2019 being less than $20,000 in early July. This meant that any business owner who paid themselves from dividends or didn't pay themselves at all were ineligible for this program.

Worse yet, as mentioned above, only landlords can opt into the CECRA program, despite numerous attempts to have the program changed.

We completely understand that opening the program up to tenants would increase the potential for fraudulent claims, but there are safeguards that could be put in place. I can assure you that business owners (tenants) would jump through countless hoops if it meant they would be eligible for the rent relief allocated by the government.

We want to help mitigate the impact of this virus on our communities, but we simply can't afford to do this without sufficient relief available to cover at least the expenses we aren't able to eliminate during our forced closure.

4. The moratorium on evictions came too late.

Despite numerous groups requesting a block on commercial evictions for months, Ontario only enacted this policy on **June 17th**, being retroactive until May 1st.

Imagine you are a business who was evicted on May 1st. You've likely let your staff go, sold off equipment, canceled utilities and services and wrapped up a number of elements of the business. A month-and-a-half later, the government retroactively reverses the ability of your landlord to have evicted you in the first place.

How are you supposed to start up again? The relationship with your landlord is likely damaged and the risk of being evicted again at the end of the moratorium is almost certain.

The Ontario government should have enacted this moratorium on commercial evictions in April. It should have been the first priority once they forced businesses to close and didn't have relief programs in place. At this point, the only purpose the moratorium is serving is to delay additional evictions until September 1st.

5. There is confusion between federal, provincial and municipal governments as to which businesses can operate.

Throughout our numerous attempts to communicate with our elected officials, it has become evident that **no level of government wants to take responsibility** for the damage being caused by the imposed closures and makeshift policies.

In May, we called the Essential Businesses Hotline on three separate occasions to identify where a business like Ctrl V falls within the reopening plan / emergency order legislation.

In each call, we received a different suggestion of how we could be classified. In all three cases, we were informed it was a "grey area" (as we aren't explicitly defined), but that provided we could open with social distancing and in a limited capacity, we should be fine to open.

As a result, we announced the opening of our Waterloo arcade on June 1st, 2020 with an intent to open on June 4th. The Region of Waterloo's by-law office received two anonymous complaints about our intent. They deployed a Tobacco Enforcement Officer to visit our facility, who informed us that we were not permitted to operate. His reasoning was that we were "not explicitly listed as allowed to reopen".

We explained that there were a number of other businesses permitted to operate at that time with a similar operating model and informed him of the responses we received from the Essential Businesses Hotline.

He replied with, "That hotline is giving us such a problem. They continue to dole out incorrect information. They are just Service Ontario employees and have no capacity to offer legal advice or to tell a business when they can or can't open."

He then conveyed that this is a "tricky situation", as he could see the merits of how a business like ours would be able to offer a safe environment for customers. He then contemplated that "perhaps if only five people came at a time", maybe it would be okay. He explained that normally, his sole discretion would be sufficient to determine if a business can reopen, but in this instance, he would have to go to his supervisor, or perhaps his supervisor may even have to go to the public health office.

He also explained that the by-law office has a separate hotline to call to speak with the provincial government, but that the response they always receive is, "We [the provincial government] have simply written the legislation - we will not assist with interpreting it." He stated, "They [the provincial government] don't want to take on the liability."

The by-law officer then went on vacation. We continued the conversation via email with one of his peers, who explained they had discussed internally, and could not permit us to open.

The reasoning? "Let's say I let you open. And, let's say that a customer comes in and gets the virus, and then goes to visit a long term care home, and kills 30 people. [The government] is going to call me to the stand and ask me, 'Why did you let them open?' I'm going to have a difficult time being able to justify that you are similar to a rod and gun club, you know?"

And this leads to the next major issue.

6. There was no defined process in place for a business to be assessed / submitted for placement in the Provincial Reopening Plan until July 13, 2020.

In spite of us suggesting and requesting this for months, and numerous unreturned calls to the Waterloo Region Public Health Office, there was no submission process for a business omitted from the legislation to be assessed for viability of operation.

For a number of businesses in the tourism and recreation industry, there are far too many options for us to be explicitly listed - we understand this is an unreasonable ask of the government to think of every possible type of business.

However, there should have been some formal process created which allowed businesses like Ctrl V to submit themselves for evaluation and a visit from Public Health to determine where in the reopening plan we actually fit. Enabling this to happen in the middle of July is clearly t**oo little too late**.

The "broad brush" that has been used to paint all of Ontario does not adequately support the variety of businesses that exist. Many businesses like ours, even if normal operations would be too risky, should have been able to reopen in some capacity, with the guidance of our local public health office.

Instead, we're at the mercy of repurposed tobacco enforcement by-law officers who are individually interpreting incomplete legislation and public health offices who have never visited our facility to evaluate any risks or work with us to minimize them.

Again, **we completely understand why businesses like ours need to be closed** at various stages or in a reduced capacity. **We want to help our communities mitigate the spread of this virus.**

We just aren't able to make that sacrifice ***and*** not receive sufficient relief to cover the costs of our compliance with this request.

7. There is effectively no regional reopening plan.

Next to the lack of sufficient relief programs, the **lack of a regional reopening plan from the outset** will be the biggest contributor to the impending financial collapse of the Ontario economy by the end of 2020.

Take Northwestern Ontario for example. As of July 7th, 2020, that region consisting of ~230,000 people has seen only **39 positive cases** of the virus since mid-March. That is 0.016%. And yet, businesses in that region have been under the same state of emergency and seemingly arbitrary lock down requirements as Toronto and Windsor.

Only in the middle of June did the Ontario government finally start to deploy some sort of regional response. However, it didn't permit any region to move to Stage 3 (we presume as the government still didn’t have a clear picture of what Stage 3 contained). There has been almost no indication of what businesses are a part of Stage 3, or under what restrictions they will need to operate. Most other provinces have had all stages of reopening available for months.

Keeping this information concealed or not having it prepared this far into the pandemic has made it impossible for landlords, businesses and their staff to adequately plan for the coming months.

8. Communication from the Ontario provincial government has been inconsistent and scarce.

Yes, Premier Ford and a number of Ministers have been making a daily appearance where they make announcements and give vague answers and platitudes to questions from reporters. However, what we still don't have today, five months into this pandemic, is any sort of sense as to **what is happening next.**

The government has not clearly identified or adhered to any concrete data milestones that would need to be hit in order for the next stage to be entered. They have routinely only given a few days notice before making another significant change to the Emergency Order.

This has prevented businesses from being able to sufficiently plan their reopening, or give any confidence to landlords as to how long the landlords are going to have to continue floating the cost of allowing their tenant to stay.

There is very little concrete information for businesses to latch onto. A simple **example** of what we have been asking for could have been:

> *"Once a region has sustained a 14-day streak of less than 10 new cases per day, businesses in that region can move to Stage 3. Following that transition, if that region*

experiences seven (7) consecutive days of more than 10 new cases per day, that region would need to revert back to Stage 2."

In light of anything of this sort, businesses, landlords and employees have needed to continue to react at the last minute and relay generic responses to the people that depend on them.

And none of this even touches on the potential second wave. What will the trigger be for the government to shut everything down again? Will we reverse the stages? Will it happen regionally next time?

Even as of July 28th, 2020, Premier Ford would not provide any indication of these triggers.

The lack of making this information available indicates that the government either doesn't know, doesn't care if we know, or both.

9. Insurance companies have refused Business Interruption claims due to "Act of God" clauses, even though the pandemic is not the direct cause of the interruption to our business.

All businesses are required to pay for Commercial Insurance policies in order to operate. One of the clauses in many of these insurance policies is "Business Interruption", which allows claims in the event there is a significant and sustained interruption to typical operations.

However, there is an exception which prevents claims if the interruption is a result of an "Act of God". Most insurance companies have classified this current interruption as a result of the virus, which would be an Act of God, and as such are refusing the claims being filed.

However, any reasonable person can identify that the actual interruption is a result of the **government-mandated shut down**. The cancellation of birthday parties we experienced in early March was a result of the virus. The 100% drop in revenue for over four months is not.

If the relief programs put in place are not quickly modified, the long-term damages of small businesses being forced to close will have irreparable consequences to the Ontario and Canadian economy.

Recommendations

- The CEBA loan must be entirely forgiven.
- The CEBA loan amount must be proportional to the actual impact experienced by each business.
- The CECRA program needs to be made available directly to the tenants, not the landlords.
- The CECRA program needs to be made proportional to the actual impact experienced by a business. A static 50% is not sufficient for a business that has lost 100% of its revenue for over four months.

We know that these programs are effectively being paid for out of tax-payer dollars. However, small and medium businesses are some of the largest tax contributors, and we are confident that the long term implications of causing our businesses to fail are going to be an **order of magnitude** higher than the cost to save them now.

Alternatively, there is one more avenue the government could consider instead of (or in conjunction with) the above-mentioned changes.

Many business owners are facing personal liability and/or personal bankruptcy if their business fails. This would include corporate HST, some loans and many leases.

The failure of a business to survive as a result of the slow rollout or ineligibility of relief programs should not follow the business owner.

The government needs to create a "walk away" policy that expires by the end of 2020 that absolves business owners of personal liability if their business is forced into bankruptcy as a result of this pandemic or its handling.

Failure to make the changes recommended above **before the moratorium on eviction ends** will inevitably result in the collapse of the Ontario economy, as hundreds of thousands of Ontario citizens lose their jobs and the innovative businesses like Ctrl V permanently disappear.