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Ontario's Small Business COVID-19 Response and Recovery Plan

Submission to the Standing Committee on Finance and Economic Affairs

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On behalf of our 42,000 small- and medium-sized business members across Ontario, we welcome the opportunity to comment on the provincial government's COVID-19 response and economic recovery plan.

Ontario's small- and medium-sized businesses have been hit especially hard during the pandemic and government-mandated lockdown. While most have reopened, revenues and staffing levels continue to lag, indicating that recovery is likely to be a long process as we adjust to the "new normal".

Public opinion polling shows that there is strong support for local businesses and "shop local" campaigns. However, staffing and revenue levels for Ontario's small businesses are considerably below normal for this time of year. Meanwhile, corporate giants like Amazon are reporting record profits, benefiting most from shopping habits going digital.

Public health concerns and economic uncertainty combined with government-mandated capacity restrictions have created a significant delay in consumer spending that is likely to persist for many months to come, perhaps until a vaccine is available.

As summer ends, patios close and the weather cools down, many business owners are concerned about what will come next and how the government will respond to a potential second wave. In this submission, we will outline the current lay of the land, assess the government's COVID-19 response measures, and list recommendations on next steps for Ontario's economic recovery.

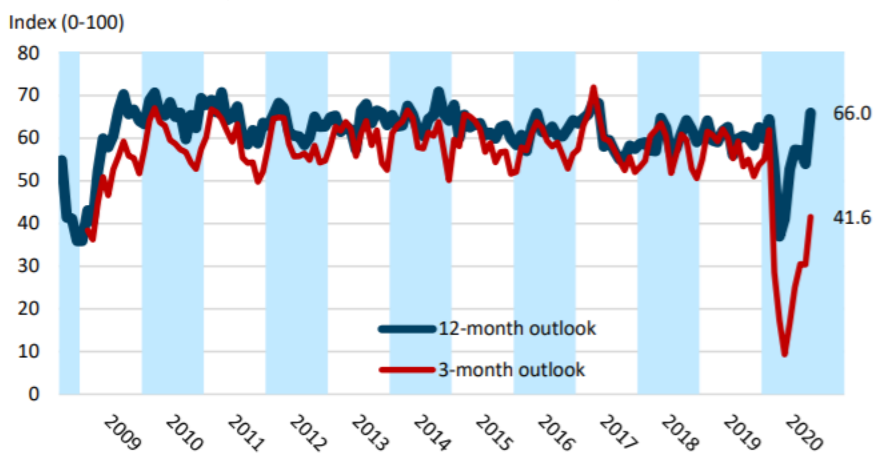
Current State of Ontario SMEs: CFIB's Business Barometer® and Small Business Recovery Dashboard

CFIB has been tracking business confidence on a monthly basis for a number of years. Our Business Barometer® index has proven to be a very accurate predicter of small and medium enterprise (SME) performance. Tracked against GDP, the Business Barometer® index closely reflects the state of the economy. Measured on a scale between 0 and 100, an index level above 50 means that owners expecting their business performance to be stronger over the next year outnumber those expecting weaker performance. According to past results, index levels normally range between 65 and 75 when the economy is growing.

Prior to the government-mandated lockdown, Ontario's small business confidence was at 64.4, good for second in the country. After the lockdown was imposed in March, confidence plummeted to 37.0 – an all-time provincial low. Ontario's small business confidence fully recovered in July 2020 at 66.0, the highest mark in the country.

While Ontario's year-over-year outlook is strong, there is less optimism in the short-term. Ontario's confidence over the next three months sits at only 41.6 (Figure 1 below).

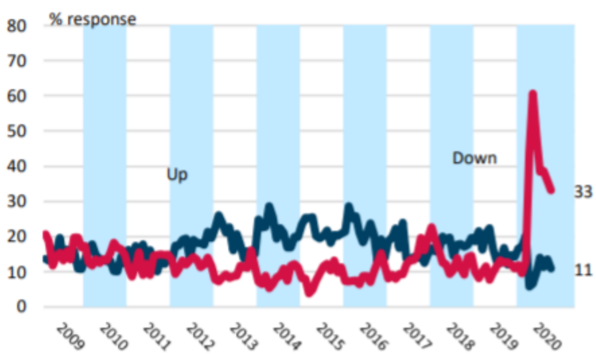
Figure 1: CFIB Business Barometer® Index – July 2020



Source: CFIB, Business Barometer®, July 2020

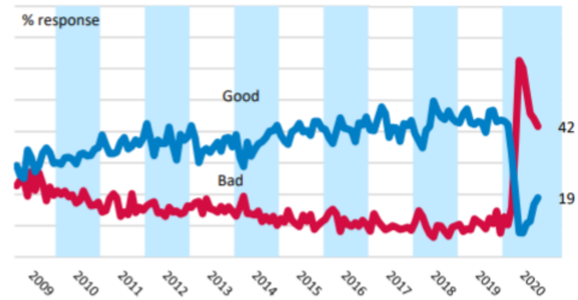
A third of businesses report that their full-time staffing plans over the next three months are down, versus 11 per cent that say they are up (Figure 2 on the next page). In addition, 42 per cent of businesses report that their general state of business health is bad, versus 19 per cent that say it is good (Figure 3 on the next page).

Figure 2: Full-time staffing plans, next 3 months



Source: CFIB, Business Barometer®, July 2020

Figure 3: General state of business health

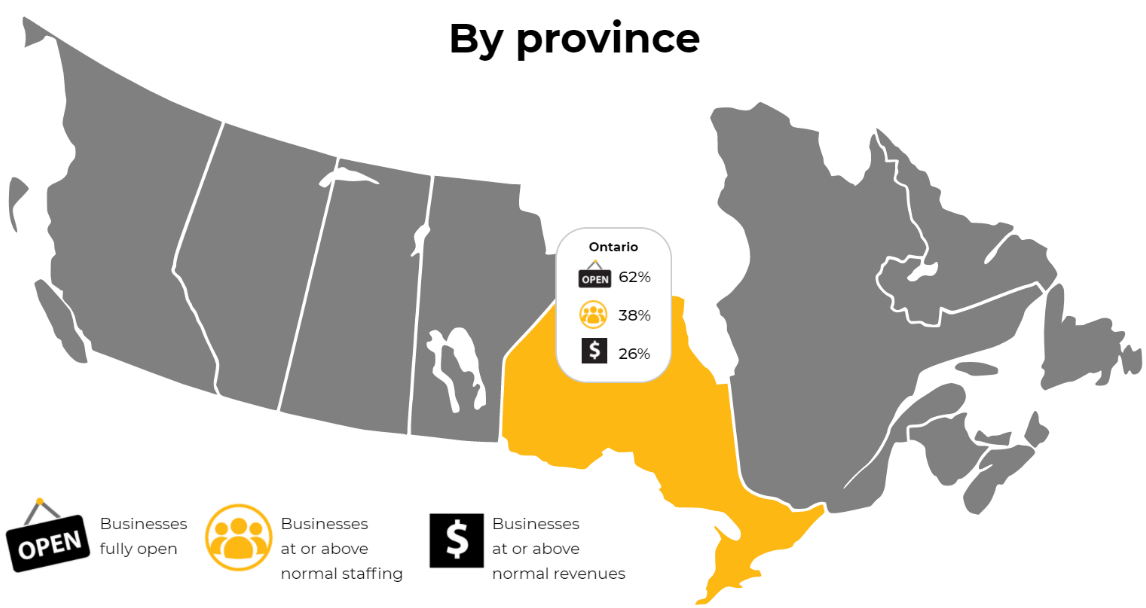


Source: CFIB, Business Barometer®, July 2020

Many small businesses are continuing to feel the economic effects of the lockdown. Main Street businesses like small retailers, restaurants, hair stylists and barbers were among the first to be shut down and effectively lost an entire quarter of their year, while rent, utilities and other fixed costs continued to pile up.

As of August 19, 2020, 62 per cent of Ontario businesses are fully open. Only 38 per cent are at normal staffing levels and only 26 per cent are at normal revenues for this time of year (Figure 4 below).

Figure 4: CFIB Small Business Recovery Dashboard



Source: CFIB, Small Business Recovery Dashboard, August 19, 2020

Lessons from Lockdown

Ontario's lockdown had a major and lasting impact on business operations across the province. The Ontario government was quick to implement several helpful measures, including tax deferrals, meaningful red tape cuts, and electricity rate certainty. Each of these actions contributed to small business survival. At the same time, there is significant room for improvement in other response measures, including communication and enforcement of the Essential Businesses List.

Taxes

The government was quick to move on provincial tax deferrals and Workplace Safety and Insurance Board (WSIB) premium and reporting deferrals. These moves have helped many businesses with cash flow certainty and have allowed them to direct funds elsewhere (e.g. wages and rent).

Increasing the Employer Health Tax (EHT) threshold to $1 million was also a very welcome measure and response to a longstanding CFIB recommendation. Payroll taxes are profit-insensitive and have been particularly punitive during times of slow revenue recovery.

However, with payment deadlines quickly approaching and revenues lagging, business owners are concerned about being financially capable of making the deferred payments, especially if they are expected in a lump sum, or if interest or late penalties start to apply.

Recommendations:

- Consider payment forgiveness for deferred taxes.
- Offer employers a WSIB rebate in at least 2021, if the WSIB's funding level continues to exceed 100 per cent.
- Follow the Canada Revenue Agency model in arranging for interest- and penalty-free payment plans for businesses that cannot afford to pay deferred taxes.
- Make the EHT threshold increase to $1 million a permanent measure and index the threshold to inflation moving forward.

Red Tape

The Ontario government has been very responsive to cutting red tape identified during the pandemic.

In particular, the Attorney General was quick to make meaningful regulatory changes, including allowing restaurants to deliver alcohol with takeout/delivery and expanding their patios at no additional charge; allowing licensed cannabis retailers to deliver products directly to customers; and allowing craft cideries without on-site orchards to open digital and bricks-and-mortar retail locations.

Recommendation:

- Make these and other pandemic-related regulatory measures permanent, or in the very least, extend them to the end of 2021.

Temporary Layoffs

We appreciate that the Labour Minister acted on CFIB's COVID-19 recommendations on temporary layoffs and constructive dismissal. Many small business owners were forced to temporarily lay off employees as a result of the government-imposed lockdown. As closures persisted, many small employers were concerned about running into the layoff deadlines without being able to reopen and call back their employees.

By moving temporarily laid off employees to job-protected Infectious Disease Emergency Leave and not accepting constructive dismissal claims from March 1 until September 4, the Ministry of Labour, Training and Skills Development has helped employers avoid potential payouts and legal fees at a time when they can least afford them.

Electricity

The government's measure to hold electricity rates at off-peak pricing before moving to a fixed COVID recovery rate until October 31 was a good one, especially as utility bills have continued to come due. Small businesses are unable to shift their electricity consumption at the best of times, and paying summer rates for freezers or refrigerators that could not be turned off could have been financially devastating.

The small business community was also pleased to learn that on November 1, 2020 they will be able to opt out of the Time-of-Use (TOU) pricing model for good.

Recommendations:

- Introduce and consult on the new pricing model as soon as possible, so that business owners can make an informed decision on which model will work best for them after October.
- Ensure flexibility in the electricity market, allowing businesses to switch between TOU and the new model.

The Essential Businesses List

We appreciate that governments at all levels have been forced to act quickly throughout the pandemic. However, when the Essential Businesses List was released, it took two days before the associated hotline was operational. Not coincidentally, those two days were the busiest volume days in Ontario for CFIB's own helpline, with small business owners across the province calling to ask whether their business was essential or had to be shut down.

While volume-related delays were to be expected once the hotline was operational, in some cases, business owners waited as long as four hours to get through. When business owners did get their calls answered, operators simply read them the same text from the website that had triggered the calls in the first place.

On many occasions, operators refused to clarify or provide interpretations of the list, often noting that it was "at the business's discretion" to decide if and how they were permitted to operate. When operators did provide interpretations on the same matter, it was often conflicting advice. For example, in one 48-hour span, CFIB representatives received four conflicting interpretations of the curbside pickup rules prior to the Stage 1 announcement in May. We faced similar issues with pet groomers, who were told by municipal officials that they could open, while provincial officials said otherwise.

The same unhelpful approach appears to have been the norm across government. For example, the Ministry of Agriculture, Food and Rural Affairs used this response to one business owner: "While government can offer guidance, it cannot decide for you whether your business is included in the list of essential businesses and it cannot provide you with legal advice." Such a response left the business owner wondering why the government would even create an essential businesses list if it was not prepared to be directly accountable for it.

In another written response, the government recommended that the business "seek independent legal advice regarding its specific circumstances". Small businesses often cannot afford legal costs in the best of times.

Recommendations:

- Provide clear and consistent interpretations of any future essential businesses lists. Allow for binding, written interpretations to be provided to business owners for presentation to enforcement officers when necessary.
- Provide a clear outline of the province's second wave response plan to help businesses prepare for potential closures or restrictions in the fall.

Enforcement

While business owners were being told to use their best judgment, so too it seems were police and bylaw enforcement. For example, we heard from several landscapers that they interpreted the Essential Businesses List to mean they could continue working on certain projects that would become a public safety hazard if left undone. In one case, a landscaping business called the Ontario Provincial Police (OPP) to complain that a competing business should not be operating, resulting in the OPP calling the competing business to advise that fines would be levied if they continued to work. This incident occurred despite the Essential Businesses List website stating that landscape work was permitted "to manage and maintain the safety, security, sanitation and essential operation of institutional, commercial, industrial and residential properties and buildings".

The issue of inconsistent enforcement of the Essential Businesses List was magnified by the fact that enforcement was being conducted by the OPP, municipal police services and municipal bylaw officers, each appearing to interpret the list differently.

Recommendation:

- Provide clear, public guidance on enforcement to ensure consistency among all enforcement bodies in all regions of the province.

The Road to Recovery

The road to small business economic recovery is shaping up to be a long one. In the absence of a vaccine, social distancing measures and capacity restrictions are likely to remain in place for the foreseeable future. Consumer confidence has been slow to recover, with the job market and online shopping habits favouring larger corporations.

It is imperative that government consider every available option in the short- and long-terms to spur the recovery, from direct relief to eliminating regulatory barriers to growth.

Commercial Rent

Rent remains a major concern for Ontario's small business owners. One in three say rent relief remains a critical missing piece for their recovery.

Both landlords and tenants have expressed numerous frustrations with the Canada Emergency Commercial Rent Assistance (CECRA) program, which is funded by the provincial and federal governments. According to our most recent data, only 17 per cent of Ontario's small businesses have accessed the program, and only 20 per cent of those have found the program helpful in its current state. A failure to address this clear lack of rent relief access would represent a serious failure in any economic recovery plan.

In an ideal world, federal and provincial finance ministers could have worked together to fix CECRA by establishing an alternative way to get rent relief money directly to tenants. However, with the program set to close at the end of August and Ontario's commercial eviction protection measures set to end with it, we are concerned it's too late for governments to come to an agreement on a fix. Instead, we urge the Ontario government to redirect its remaining CECRA funds to a provincial program that gets the money directly to tenants.

Recommendations:

- Reallocate the remaining funds from the $241 million Ontario committed to CECRA to a provincially-run program that gets rent assistance directly to tenants.
- Extend the commercial evictions ban to the end of 2020.

Business Debt

Despite the federally-funded programs available to support small business owners, many continue to have difficulty with cash flow, especially those who are ineligible for these programs. Customers are not coming in at pre-pandemic levels and many businesses are struggling to generate the revenues necessary to keep the doors open. Business owners have taken on significant debt to make up the difference.

As of July 2, Ontario's small businesses that have incurred debt because of the pandemic have taken on an average of $152,000 in COVID-19-related debt. More concerning is the fact that the majority of these debt holders say it will take more than a year to pay off.

Not surprisingly, CFIB predicts that Ontario could permanently lose another 67,112 (mid-range estimate) small- and medium-sized businesses solely due to the COVID-19 pandemic.

Recommendation:

- Take a "do no harm" approach to all small business-related policies to ensure the government is not restricting cash flows by increasing cost pressures on small businesses.

Capacity Restrictions

The Ontario government's restrictions on indoor spaces have made reopening particularly challenging for businesses like bowling alleys that have spaces upwards of 50,000 square feet, but are limited to only 50 customers. At 50 people, they are unable to operate leagues or draw enough customers to break even, let alone generate a profit. Furthermore, there is significant concern that the limits single out these businesses as unsafe, undermining consumer confidence.

These anti-competitive restrictions do not extend to other large spaces, like big box stores and supermarkets.

Recommendation:

- Abandon the one-size-fits-all approach to capacity limitations (as was done recently for e.g. movie theatres, gyms, and meeting and event facilities), and focus instead on the business's plan to maintain social distancing and other health and safety measures (e.g. face coverings and sanitation).

Red Tape

Government regulation/paper burden remains a major concern for small businesses. During our 11th annual Red Tape Awareness Week™ in January, CFIB commended the government for its political will and action on reducing unnecessary, excessive, and duplicative rules.

We appreciate that the Ontario government included principles that we've long recommended in recent legislation (Schedule 11, Bill 197, 2020), like making processes digital and applying a small business lens to proposed legislative, regulatory, and policy changes. Requiring offsets of any administrative costs to businesses of new regulations, policies and forms is also a welcome move.

In these times of higher government spending, it's even more important for government to maintain its focus on eliminating regulatory barriers to growth to spur recovery, especially in sectors that can bounce back more quickly, like transportation and construction.

We commend the government for following through on the long-standing CFIB recommendation to set a cross-government red tape reduction target (25 per cent by 2022). To maintain regulatory health, we continue to encourage government to set a one-in, one-out regulatory rule once this target is met.

Even with all its progress, the government must remain vigilant on the red tape file. Close to 40 per cent of small business owners might not have gone into business if they had known about the burden of government regulation. This "hidden" tax is estimated to cost Ontario businesses billions annually. Every minute devoted to filling out excessive paperwork is a minute not spent on growing the economy and creating employment opportunities for Ontarians.

Furthermore, regulation disproportionately impacts smaller businesses, both in time and in money. On average, Ontario businesses with fewer than five employees spend $6,776 per employee in regulatory costs, taking an average of 177 hours per employee. In contrast, Ontario businesses with more than 100 employees spend only $1,552 and 25 hours per employee.

Recommendations:

- Update the province's 2012 regulatory count in the next annual Burden Reduction Report (due September 30, 2020) and keep it updated annually.
- Prioritize cutting red tape as a recovery measure.

Construction Mitigation

Based on recent government announcements, we understand that infrastructure will be a major component of Ontario's economic recovery. While small business owners generally support infrastructure and transit upgrades, the impacts on local businesses during the actual construction phase can be devastating.

Almost half of Ontario businesses have been disrupted by construction projects over the past five years. Small businesses cannot afford to take another major hit, just as they are getting back on their feet.

With the government prepared to invest heavily in major infrastructure, we strongly urge the province to adopt comprehensive construction mitigation programs for all major projects to help the businesses disrupted by construction survive to see and benefit from project completions.

Recommendation: Include a comprehensive construction mitigation package as part of all significant provincial construction projects that cause major disruptions for extended periods of time to the regular operations of local business owners. The package should include the following components:

- A direct compensation program that is easy to access and involves fair and timely monetary compensation.
- An improved contracting process that includes a bonus/penalty system for the early/late completion of the project.
- A comprehensive planning process that uses the "sign once" principle and spells out the phasing/timing of a project.
- A "no surprise" rule that includes significant consultation with the affected communities on expected timelines and disruptions to ensure no business is caught off guard during the construction period.
- A designated business liaison officer with managerial authority for the project to ensure the local business community is regularly canvassed and updated on the project's progress.

Temporary Layoffs

The Ministry of Labour, Training and Skills Development's temporary layoff change ends on September 4. However, because the change has effectively reset the clock on temporary layoffs, many struggling employers that cannot afford huge termination/severance payouts will have an additional 13 weeks after September 4, before termination pay rules come into effect.

Recommendation:

- Continue to monitor the labour market to determine whether changes are needed to further extend Ontario's 13- and 35-week temporary layoff periods.

Digital Main Street

The federal and provincial governments' recent $57 million investment in the Digital Main Street program is a strong measure to help retail businesses adjust to the new retail climate and get their stores online. It also addresses a small business barrier to e-commerce: technical expertise.

Recommendation:

- Ensure that similar funding is available to small businesses that are located outside of downtown main streets, so that even more businesses can benefit from bringing parts of their operation online.

Insurance

Prior to the COVID-19 pandemic, we were hearing significant concerns from business owners about skyrocketing commercial insurance premiums. While initially these concerns were restricted to the snow-clearing and landscaping sectors, they now come from all sectors.

Not only are business owners reporting significant spikes in commercial insurance premiums, they are also having trouble finding a company that will agree to insure them. This is creating substantial cost pressures and stress on small business owners at a time when they can least afford it.

Recommendation:

- Immediately review this matter and quickly work with insurance companies on a solution.

Consumer Confidence

One of the largest worries among small business owners during the pandemic has been whether their customers will return once businesses reopen. To date, only 26 per cent of businesses are seeing normal revenues for this time of year.

We have been greatly encouraged that our #SmallBusinessEveryDay campaign has been mirrored by other organizations, including the Ontario government with its "Shop Local! Shop Safe! Shop with Confidence!" (#ShopLocalON) campaign. Businesses need such messaging to continue well into the fall and through the crucial holiday shopping season.

Recommendation:

- Continue to support small businesses and boost consumer confidence through consistent messaging and marketing.

The weeks ahead are filled with many unknowns. We look forward to sharing more member feedback and additional recommendations and solutions as the government prepares for the November budget.