



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

21 May 2020

Mr Peter Cully
Head of Division
Small and Family Business
Department of Industry, Science, Energy and Resources
10 Binara Street
Canberra ACT 2600

via online submission

Peter

Dear Mr Cully

Payment Times Reporting - Rules

While we are very supportive of the Payment Times Reporting Scheme, we remain concerned that the Rules contain necessary and critical detail that should be in the Bill, particularly:

- 1. Definitions of *small business* (clause 5) and *standard payment period* (clause 6)**
These definitions are fundamental to the scope of the Bill and are unlikely to require change even in the longer term.
- 2. Information required for inclusion in reports (clause 8)**
The Bill includes reporting requirements (clause 14) and the Rules then require further information. It is hard to discern the difference in the type of information required by the Bill (like reporting period and governing body) and the Rules (like ABN, main business activity and supply chain finance). This information should all be included in clause 14 of the Bill, which we note also provides an ability to add items should it be needed in the future.
- 3. When an invoice is issued and paid (clause 9)**
The timing of invoice issue and payment is also fundamental to the operation of the Bill. However, we note that subclause 9(a) should be amended to include two additional words as follows “...all requirements of the relevant written or oral contract regarding invoicing....”
This makes it clear that a valid invoice does not require absolutely every unrelated clause of an agreement to first be satisfied before the invoice is considered “received”.

The problem in relegating fundamental matters to the Rules is that they go to the scope and critical operation of the Bill. Inclusion in the Rules also acts as an encouragement for reporting entities to seek to have items removed (eg. supply chain finance) or otherwise limit the operation of the Bill (eg. restricting businesses covered or seeking more lenient approaches to matters like timing).

Thank you for the opportunity to comment. If you require further information, please contact Mr Alex Maskiell on (02) 6121 3590 or at alexander.maskiell@asbfeo.gov.au.

Yours sincerely,

Kate Carnell

Kate Carnell AO
Australian Small Business and Family Enterprise Ombudsman