



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

1 March 2019

Department of Jobs and Small Business  
Small Business and Economic Strategy Group  
Level 5, 12 Mort Street  
CANBERRA CITY ACT 2601

**By email: [PaymentTimes@jobs.gov.au](mailto:PaymentTimes@jobs.gov.au)**

Dear Sir/Madam

### **PAYMENT TIMES REPORTING FRAMEWORK**

We support the introduction of a national large business reporting framework that will help deliver fairer, faster payment times and terms for small business. It is important to draw on learnings from the existing payment codes both here, the Australian Supplier Payment Code, and in the United Kingdom (UK), the Prompt Payment Code.

The Australian Payment Supplier Code introduced by the Business Council of Australia, has only managed to attract a small number of signatories, 101 of a potential 3000 large business. Signatories are required to pay small business suppliers in 30 days from receipt of invoice, though there is no requirement to report on performance and no audits undertaken. Similarly, in the UK the legislated Prompt Payment Code and reporting regulations has seen barely a third of company's report, with much of the accuracy of the data being questioned. Signatories are required to pay 95 per cent of invoices within 60 days from invoice with no audit checks on the information reported. We strongly believe that compliance checks are essential for any system to deliver to desired outcomes.

I have addressed the six key design questions below:

**1. What is the preferred scope of reporting; in particular, should reporting be limited to payment practices for small business? If so, how should small business be defined?**

In order to address late payment practices between large and small business, the scope must capture terms specific to small suppliers. Where a large business does not have specific terms for small businesses, they must still report its standard terms. Our consultations with small business, when developing our National Payment Times Register, indicated that the key information small businesses seek is what are payment times, what is the company's performance against these times and how does each business define its small business suppliers. The reporting requirements should define small business as the Australian Taxation Office definition of a business which is a turnover of less than \$10 million. It is important to note that 99 per cent of Australian small businesses will fall into the definition.

**2. Who should be obligated to report under the framework? What reporting approach for related entities is going to be most useful for small business?**

In line with the Australian Government's announcement we would support that all corporations carrying on a business in Australia with a turnover over \$100 million be obligated to report. In reporting, corporations should provide the required payment information by, and for, each of its related entities or subsidiaries.

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**3. What payment information should be reported under the framework? What information is going to be most useful for small business (e.g. standard terms, payment times)?**

Payment information should not be too broad as the primary aim is to publish meaningful information for small businesses. Our consultations with small business, when developing our National Payment Times Register, indicated that the key information small businesses seek is what are payment times, what is the company's performance against these times and how does each business define a small supplier.

Consideration must be given to grouping multiple payment options into brackets so performance data is not lost in the sheer volume or complexity of terms offered. For example, the percentage of total payments made in each bracket, performance against each bracket, if a discount applies to be paid within that bracket.

The initial bracket should reflect the Australian Government's commitment to pay its suppliers within 20 days, and the requirement for its head contractors to pass thru the supply chain payments within 20 days.

We therefore recommend the starting bracket is on receipt of invoice, then 20 days or less, with suitable intervals up to greater than 120 days.

Coupled with payment information the reporting requirement should also capture each businesses complaints handling process including contact details.

**4. How should information be reported? In what situations will small business access the information?**

Reporting should be through an agnostic online platform that automatically populates a public register, such as our National Payment Times Register. What information is required should be dictated by an online form to ensure simplicity and consistency. Organisation should be required to report at least annually, ideally this should be a fixed date, such as 1 October for consistency. Organisations can also provide updates during the fixed period to report a significant change in payment policies or performance, and such a change should be highlighted.

Small businesses will access the information when approaching a new customer or to confirm that the payment terms they have been offered are in line with stated terms. As such, the public register must have tools to allow small businesses to access, view and extract the payment performance data in an easy to read form. Where additional information is required, such as dispute resolution process, this should be available of a discoverable process rather than cluttering the primary data on payment performance. Consideration should be given to providing the ability to search, not only by company name, but by location and industry sector.

**5. How should the framework be administered? What is the preferred balance between regulatory certainty (through legislation and administrator powers) and flexibility (through standards and self-regulation)?**

Regulation should embed the requirement to report; minimum information; allow meaningful penalties to be applied for non-compliance; allow for the relevant Minister to change reporting requirements if necessary. Penalties should apply at the corporate and director level to hold senior officers accountable for the implementation of fair payment practices. In addition, organisations that do not report or are proven to have provided misleading information they should be deemed ineligible for government contracts.



As has been seen with Business Council of Australia's Supplier Payment Code and the UK experience self-regulation and voluntary codes do not change behaviour. Monitoring and compliance checks must be undertaken by an independent body which can investigate and issue notices to produce documents and/or attend hearings and apply penalties for non-compliance.

ASBFEO has a well-established role in dealing with small business payment disputes and is ideally placed to monitor payment practices that emerge from the register. The Ombudsman also has legislative powers to issue notices to provide information and documents. This will enable ASBFEO to conduct compliance checks where appropriate.

**6. Should government agencies be subject to the framework and / or comparable obligations?**

Yes, Australian government agencies should be included. Governments across Australia collectively spend over \$100 billion annually. The Australian Government has taken the lead with the commitment to reduce payments times and demand its head contractors ensure prompt payments times through the supply chain. Including the Australian Government and its agencies in the register will cement its role as a leader of best practice.

Consideration should also be given to accommodating business and organisations not captured by the legislation to voluntarily sign up to the register.

We have been in close consultation with the UK Government agencies monitoring compliance with the reporting requirements and attach the analysis of the data undertaken by EY in 2019.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Jill Lawrence on 02 6121 5312 or at [jill.lawrence@asbfeo.gov.au](mailto:jill.lawrence@asbfeo.gov.au).

Yours sincerely



**Kate Carnell AO**

Australian Small Business and Family Enterprise Ombudsman



# Late Payments and Terms Analysis

Industry  
All

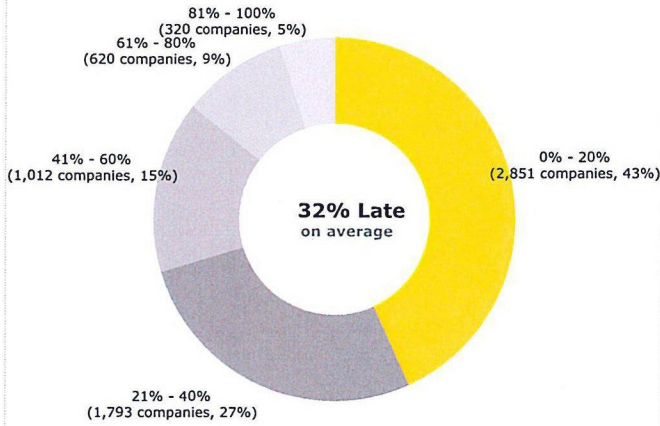
Company  
Example Company

Selected company's industry: **Others**

Total: **6,596 Companies**

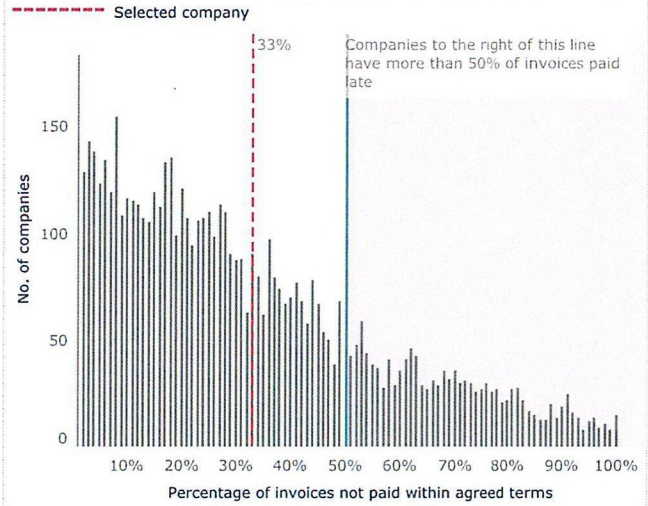
## Invoices paid late segments

Each segment shows the number of companies who have specified a percentage of invoices paid late.



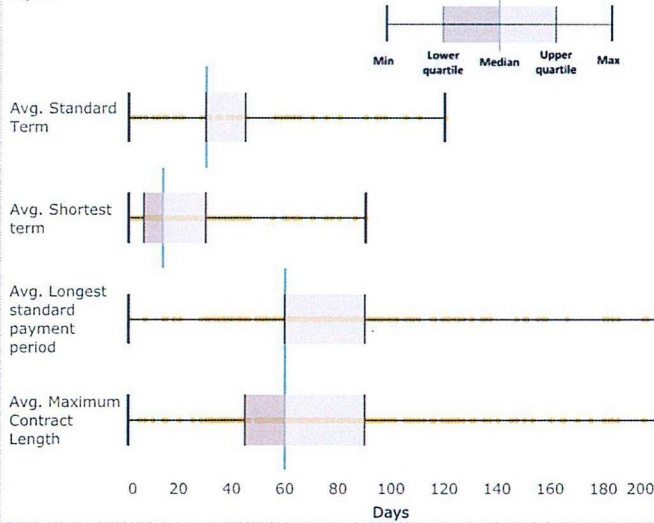
## Percentage of invoices paid late

Number of companies against percentage of invoices not paid within agreed terms.



## Payment terms distribution

Distribution of companies by their shortest, standard, longest and maximum term days...

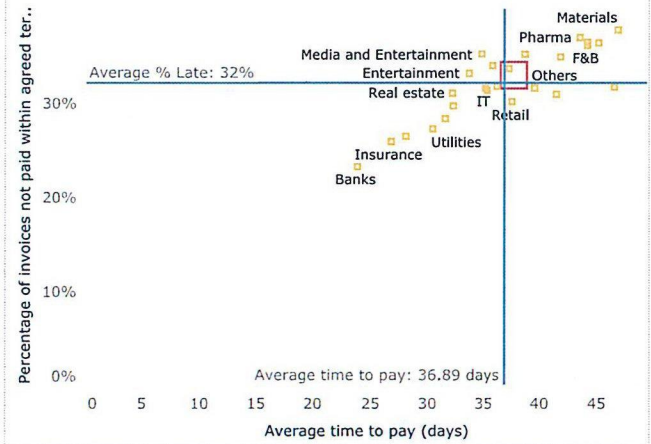


## Percentage of late invoices by average time to pay

Distribution of industries / companies by percentage of late invoices against average time to pay days.

□ Selected industry / ● Selected company

Industry



The data was last refreshed on 12th February 2019 from the UK Government portal - <https://check-payment-practices.service.gov.uk> . Companies have been categorised according to EY's proprietary database and publicly available data sources. To amend the category your company sits in, please email <mailto:assurance@uk.ey.com> .





## Time to Pay Analysis

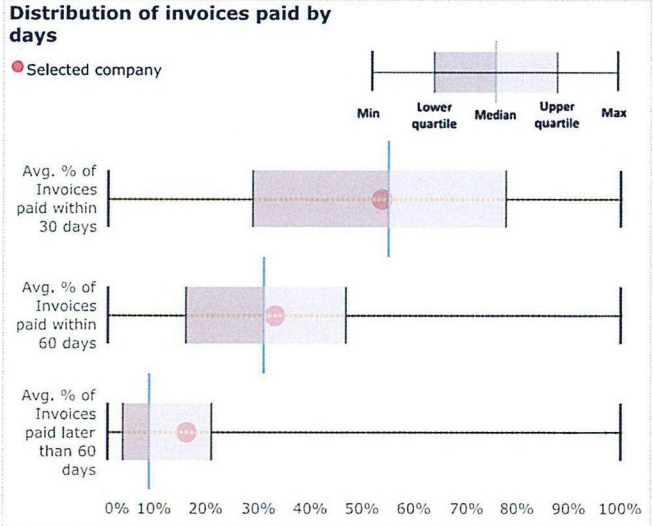
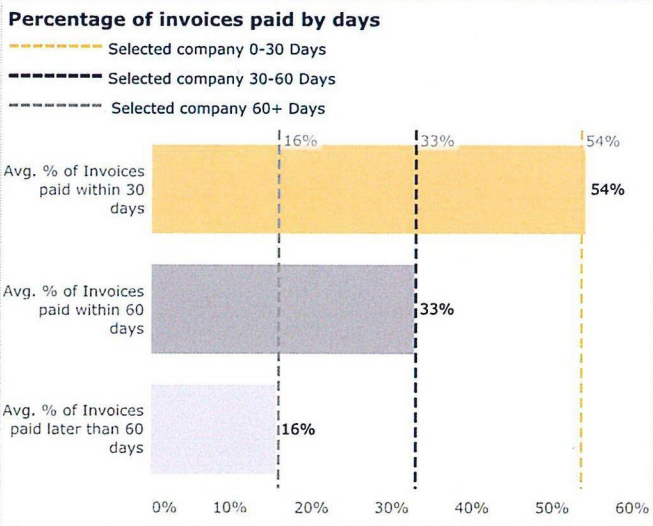
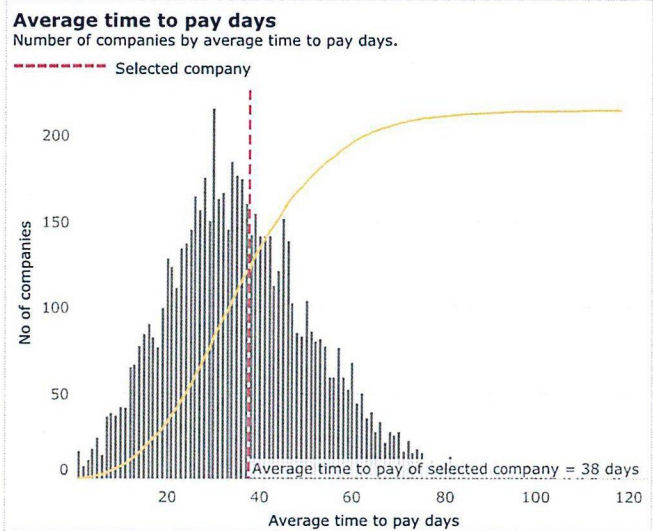
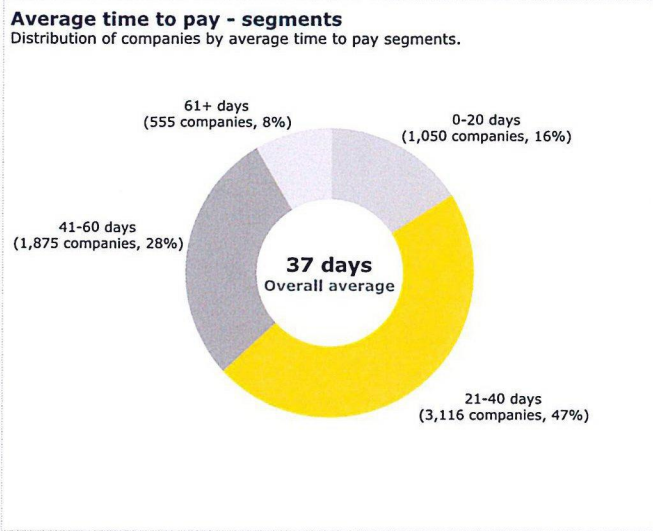
Select an **Industry** for analysis of its payment practices and performance or 'All' for all industries. Number of companies below (extreme right of dropdowns) changes dynamically based on the **Industry** selection  
 Select a **Company** to view its industry (to the right of the company dropdown) and performance in the charts below. The company can be identified by the dashed line (---) and the red markers □ / ●

Industry  
All

Company  
Example Company

Selected company's industry: **Others**

Total: **6,596 Companies**



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## Narratives, Policies and Procedures

Select an **Industry** for analysis of narrative submission of all its companies. Select a **Company** to highlight its response submitted for questions below.

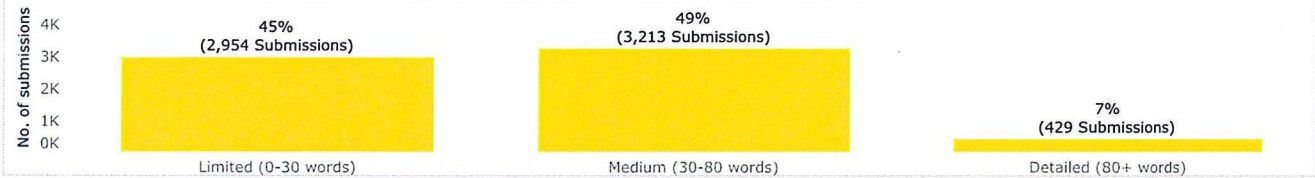
Industry  
All

Company  
No items highlighted

Total: **6,596 Companies**

### Level of detail of submission

The bars below show the word count distribution in the dispute resolution process details submitted by companies.



Each block below represents a company. Filter for Yes/No using the cross and tick buttons on left hand side to view companies with Yes/No responses.

#### E-invoicing offered?

76% 24%

Company	Response
...	...

#### Supply chain financing offered?

93% 7%

Company	Response
...	...

#### Participates in payment codes?

91% 9%

Company	Response
...	...

#### Payment terms have changed?

98% 2%

Company	Response
...	...

#### Charges have been made for remaining on supplier list?

99% 1%

Company	Response
...	...

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