

February 2019

# Payment times reporting framework



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## Introduction

The NSW Business Chamber (the Chamber) welcomes the opportunity to provide a submission to the Discussion Paper *Payment Times Reporting Framework*.

The Chamber is one of Australia's largest business support groups, with a direct membership of 20,000 businesses and providing services to over 30,000 businesses each year. The Chamber works with businesses spanning all industry sectors including small, medium and large enterprises. Operating throughout a network in metropolitan and regional NSW, the Chamber represents the needs of business at a local, State and Federal level.

The Chamber strongly supports the objective of improving pay on-time performance which is a perennial issue for small businesses, particularly given the impact poor performance can have on cash flow. An effective reporting framework has the potential to improve outcomes for small business and is supported by the Chamber.

That said, the Chamber is mindful that an overly cumbersome reporting framework has the potential to give rise to additional compliance costs for entities required to report. These costs will be contained by limiting new reporting requirements to businesses with a turnover of more than \$100 million, though it remains essential to get the balance right.

The Chamber's submission is guided by the principle that reporting should incentivise pay on-time performance by shining a light on performance and underperformance. Other ancillary benefits, such as the ability to perform data analytics and better understand the issue of small business payment times, should only be pursued if they can be achieved without adding significant additional compliance costs.

The merits of more comprehensive reporting obligations appear to lean heavily on a desire to improve data collection. The Chamber maintains this is not a sufficient justification. The Chamber notes other more targeted methods could be used to better understand payment time trends, including market scans and business surveys.

The Chamber encourages a flexible approach. Businesses subject to any new reporting requirements will have varying systems and processes meaning that a one-size fits all approach will impact some businesses more than others. For this reason the Chamber recommends allowing entities multiple reporting options (including in regard to the definition of a small business) so they can adopt an approach that meets their individual needs.

The Chamber also proposes reporting requirements be limited to information that provides the necessary incentives to improve pay on-time performance. This may include information about performance against agreed payment terms, but would not generally include information relating to payment terms offered by the business or other supporting/background information.

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## Payment times

Feedback from NSWBC members indicates that issues relating to payment times can have a significant impact on business cash flow. For this reason, NSWBC supports a broad range of measures, including greater transparency around pay on-time performance, to alleviate some of these concerns.

Measures such as the proposed payment times reporting framework should exist alongside a broad suite of measures aimed at improving outcomes for small business. NSWBC supports less-interventionist measures, such as greater transparency, but also education of small businesses around how to respond in the event of a delayed payment. NSWBC further notes that financial instruments may support businesses facing significant delays in their accounts receivable. There is a role for education and outreach to inform businesses about the options available (including any potential pitfalls).

## Defining a small business

A business required to comply with any new reporting requirements would not necessarily have visibility over the size of a supplier. Many businesses do not collect headcount or turnover information and significant compliance costs would arise if this approach were adopted. Further, individual businesses move between the commonly used small business definitions relating to turnover and employee headcount and the status of a business may change regularly. Put simply, many businesses would be unable to rely on existing systems to determine, with confidence, whether a supplier satisfies the definition of a small business as defined by headcount and turnover.

For this reason the Chamber **does not support mandating a turnover and employee-based definition** for the purposes of reporting.

Alternative options proposed on the discussion paper include using the expenditure value of contracts or invoices (as a proxy for small suppliers), and asking reporting entities to nominate the definition they would prefer to use.

While the Chamber is opposed to mandating a small business definition based on headcount or turnover, the Chamber **supports allowing a flexible approach** for businesses able to report based on headcount or turnover if that is their preferred reporting method.

The need for clarity is a key reason why other areas of law adopt definitions based on easily observable features of a transaction such as the expenditure value of contracts. For example, the consumer guarantee provisions of the Australian Consumer Law (ACL) apply to any purchase under \$40,000 whether by an individual consumer or a business. This is so a supplier has certainty over whether consumer guarantee requirements apply to the sale of a good or service (rather than it being unclear whether consumer guarantees apply to a business customer).

A similar need for clarity justifies consideration of a threshold approach. Reporting entities are more likely to be able to utilise existing information systems to identify relevant transactions when using transaction values as a proxy. Further consultation, directly with businesses subject to any new reporting requirements, will be essential to determining the appropriate transaction value threshold adopted.

The Chamber notes that different businesses will have different circumstances and opinions on whether a larger or smaller threshold is preferable from a compliance cost perspective. Given the Chamber's preference for flexibility, we propose selecting a transaction value which more closely reflects transactions commonly engaged in by small business (such as \$40,000 used in the ACL). Entities should also be able to report for all suppliers, including overseas suppliers, if this is preferred (for example because existing systems make it difficult to filter out transaction below a threshold).

### **Recommendation**

The Chamber is opposed to mandating a turnover and employee-based definition and instead recommends a flexible approach such that entities can **choose** to report pay on-time performance:

- focused on suppliers that meet commonly used headcount and turnover definitions of a small business;
- limited to contracts and purchases with an expenditure value of under \$40,000 (or equivalent threshold which is representative of transactions involving small businesses)
- for all suppliers, including overseas suppliers.

## **What information should be reported?**

Reporting requirements should be limited to the most essential information needed to incentivise improved pay on-time performance. The Chamber does not agree that improved data collection for research and analysis is a sufficient justification for additional reporting. The focus of government intervention should be targeted at addressing a market or regulatory failure. The volume of material already required to be supplied by business, both small and large, is substantial and involves significant expense for business. Therefore, in respect to this proposal we recommend:

- Descriptive information should be limited and pre-filled or cross-linked to ABN data to minimise manual reporting requirements.
- Standard payment terms offered by a business are not necessary to collect for the purposes of assessing pay on-time performance. Any research or analysis to better understand payment terms offered to small businesses should be pursued through other more targeted mechanisms.
- Performance against agreed terms is the most essential information needed to incentivise pay on-time performance. Further consultation, directly with businesses subject to any new reporting requirements, will be essential to determining the feasibility of reporting in each of the prescribed manners outlined in the discussion paper.
- Requirements to report on other terms should be limited unless its usefulness in incentivising improved performance can be demonstrated.

To minimise compliance costs, the Chamber supports a centralised model calibrated to minimise manual processing and annual reporting.

### **Recommendation**

Businesses should only report on information which incentivises improved pay on-time performance. Reporting should be mostly limited to performance against agreed terms. Reporting should be annual to minimise regulatory burden.

