Business Council of Australia

Payment Times Reporting Rules amendments

BCA submission

August 2024

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1. Overview

The Business Council of Australia (BCA) welcomes the opportunity to provide feedback on the Payment Times Reporting Rules amendments. The BCA has supported the overarching reforms to improve the Payment Times Reporting Scheme (PTRS), but the proposed draft Rules are unnecessarily prescriptive in some areas, such that they will increase compliance costs while not necessarily helping to improve payment terms, times and practices. These planned changes will add to an already heavy regulatory and reporting burden for businesses.

BCA member companies support the payment times reporting framework to improve transparency of payment times to small business. The PTRS complements the voluntary commitments to fast payment through the BCA's Australian Supplier Payment Code (ASPC). The ASPC is an industry-led voluntary commitment to pay small business suppliers within 30 days and on time, with over 150 signatories.

Small businesses play a critical role in their communities and across supply chains. That success relies on invoices being paid quickly, in full and on time. The PTRS should be able to shine a positive light on large businesses that are paying small businesses promptly. It puts companies that are unfairly extending payment times to small business suppliers under the spotlight and puts pressure on those businesses to change their practices. Central to this is simple, accessible, and useful data, which in turn can also reduce compliance costs.

The evidence is clear – payment terms and practices have improved over the past three years. This has come at a time of enormous disruption, including natural disasters, the COVID-19 pandemic, lockdowns/restrictions, supply constraints, logistics challenges, delivery delays, weak growth in the economy, record high job vacancies, and elevated staff turnover. Having payment practices and performance data in the public domain has encouraged many businesses to seek to improve through strong reputational incentives to improve payment times in response.

The proposed changes to reporting methods and data will unnecessarily involve significant and costly changes to systems that may not align with the objectives of the *Payment Times Reporting Act 2020*. In particular, it is unclear how some of the proposed changes would help improve payment times or practices. Companies have undertaken significant investments to meet their reporting obligations under the previous regime but many of these systems will now need to be rebuilt given the prescriptive approach to some aspects of the rules. At the same time, there must be adequate time for businesses to prepare for any new reporting regime.

The focus of the rules should be on *what* companies report, while guidance material from the Payment Times Reporting Regulator should support the *how*. In this context, reforms should allow companies the flexibility to continue to rely on existing systems and processes as much as possible where they produce the required outcomes. Payment times reporting is ultimately the mechanism through which the objective of better payment terms, times and practices for small business suppliers are to be achieved. This must be the overarching perspective against which any proposed changes are assessed. The BCA submission to the consultation on the *Payment Times Reporting Act 2020 primary legislation amendments* called for any changes to follow best practice principles to ensure the proposed changes meet the policy intent at least cost.[1]

2. Payment terms and practices have improved

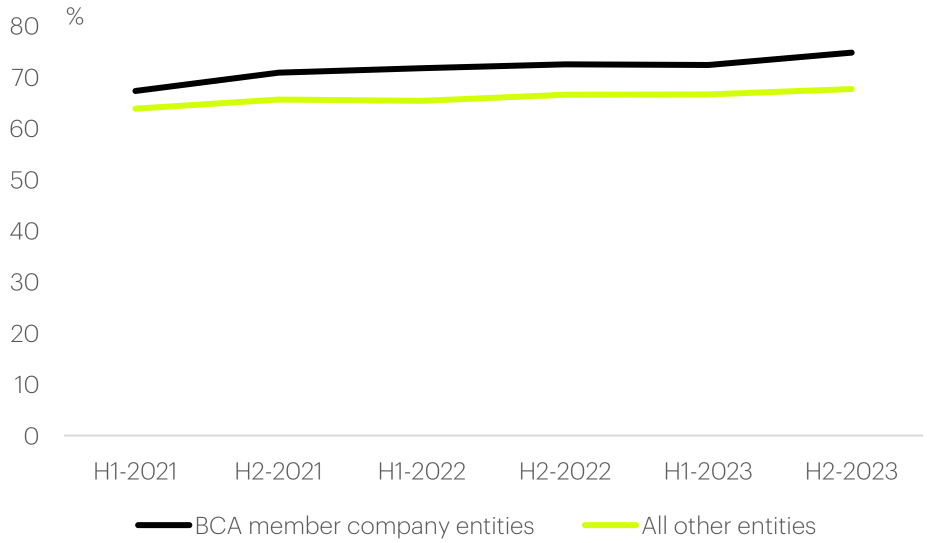
The latest update from the Payment Times Reporting Regulator highlighted an improvement in payment times for the three years of available data.[2] As observed by the Minister for Small Business, "big business reported paying 69.2 per cent of invoices from their small business suppliers within 30 days, a 5.8 percentage point increase from the 63.4 per cent figure when reporting began."[3] Payment Times Reporting Regulator analysis show the 5.8 percentage point increase is split equally between the first three and last three reporting cycles.

[1] https://www.bca.com.au/submission_to_the_payment_times_reporting_act_2020_primary_legislation_amendments
[2] Payment Times Reporting Regulator, 2024, *Regulator's Update – July 2024*.
[3] https://ministers.treasury.gov.au/ministers/julie-collins-2024/media-releases/new-report-shows-albanese-government-improving-payment

This continues a trend observed by the BCA at the time of the *Statutory Review of the Payment Times Reporting Act 2020* that payment terms and practices had improved after just three reporting cycles.[4]

BCA analysis of PTRS data finds that BCA member company reporting entities on average pay more invoices within 30 days relative to other reporting entities. The average share of invoices paid within 30 days for BCA member companies has increased from around two-thirds in the first reporting period to around three quarters in the most recent reporting period. While there can be issues with taking a simple average of reported data in this context, the underlying trend of improved payment practices is clear across the data.

Figure 1 Average percentage of invoices paid within 30 days



Source: Payment Times Reports Register based on 31 July 2024 data. Note: entities with no small business procurement have been excluded from the analysis. Analysis based on simple average of the number of invoices paid within 30 days.

3. Payment times datasets

The draft Rules propose dramatic and prescriptive changes to the way payment times datasets are built for reporting businesses. This was not discussed or recommended as part of the comprehensive *Statutory Review of the Payment Times Reporting Act 2020* or as part of any other consultation as part of reforms to the scheme. The case for a change of this nature has not been made and the BCA does not support the proposed changes around payment times datasets. Overarching issues with the proposed approach include:

- It will dramatically increase compliance costs, with existing systems having to be rebuilt to capture new data that should ultimately lead to the same existing data set as before.
- It does not reflect existing commercial realities or business practices, dramatically and unnecessarily departing from an approach that has worked in the original scheme.
- It is overly prescriptive in its approach such that it is likely to be more prone to error and unnecessarily increasing compliance costs.

Payment terms, times and practices improved under the previous scheme. The dramatic changes in approach that have been proposed will unnecessarily involve costly changes to systems and are unlikely to help achieve the objectives of the Act relative to existing approaches. That is, there are clear costs This will redirect resources over the next 12 months (or more) from a focus on improving payment times to instead complying with payment times reporting.

[4] https://www.bca.com.au/submission_to_the_review_of_the_payment_times_reporting_act_2020

3.1 Detailed feedback on payment times datasets

3.1.1 Remove the requirement to create a set of payments datasets

The contents (i.e. outcomes) of payment times reports should be outlined in the rules, while a suggested approach to support compliance should form part of guidance material. This will be for the benefit of reporting entities (greater flexibility and lower compliance costs) and the Regulator (a rigid approach will inevitably raise more issues than it solves). To illustrate, many companies are unlikely to create multiple datasets but one single dataset with filters to arrive at the correct information (e.g. to filter small business suppliers). At the same time, some entities may now need to create new and more complex datasets under this approach despite not having any small business procurement meaning unnecessary compliance costs. As part of this approach, the "method by which the payment was made" should be removed as a reporting requirement.

The purpose of the PTRS is for large businesses to report on payment times to their small business suppliers. Notably, this is for their trade credit arrangements with small business suppliers. There may be multiple ways to achieve this objective, with the most common being for companies to have built systems to capture the relevant data from their invoices. The alternative method proposed by the draft Rules is for companies to now capture all payments and then reduce this to trade credit arrangements. But this should not be a strict requirement if the same outcome is achieved.

The creation of a new 'complete payments dataset' will involve significant compliance costs and raise new challenges and issues. Similarly, the removal of items (via Step 3) raises new challenges and issues with identifying those payments that previously did not exist (outlined further below). The only strict purpose of the complete payments dataset appears to be for calculating the small business procurement share. In the context of the overall scheme and its objectives, this is of limited benefit that will only give rise to new issues for companies and the Regulator to deal with, rather than focusing on the core objective of the scheme to improve payment terms, times and practices.

3.1.2 Limit reporting data to trade credit arrangements

Reporting of trade credit arrangements is what existing systems have been built to capture and the purpose of the scheme. Building a complete payments dataset will involve significant costs, give rise to new issues and complexities – all for arguably little to no benefit. To illustrate:

- The requirement to exclude payments to a government entity will require a solution to identify government suppliers, otherwise companies cannot readily identify them. In addition, should all payments to a government entity be removed, even where they are payments made under a trade credit arrangement?
- Clarity is needed around what is a payment other than for a good or service. For example, are licences and leases excluded?

3.1.3 Payment terms and times definitions

The updated definition of payment terms in the Rules now focuses on what is stated on an invoice both for payment terms and invoice date. The updated definition of payment times in the Rules is limited to the date of receipt/issuance of the invoice.

This deviates from the existing approach and does not reflect regular practices or contractual arrangements. For example, the approach to invoice date reflected in current guidance provides that an "invoice will be considered received by the entity in accordance with the contract's invoicing requirements (either written or oral)".[5] The stated dates on supplier-provided invoices may not reflect contractual arrangements and this is reflected in

[5] Payment Times Reporting Regulator, 2023, *Key Concepts, Guidance Note 1*, December, paragraph 99.

current guidance. A deviation of this nature will give rise to unrepresentative payment times, which is even more critical given the potential consequences that come from the small business payer designation.

This approach also deviates from current Commonwealth Government policy, which is relevant in the context of Commonwealth Government entities also now reporting under the scheme. To illustrate, Department of Finance guidance outlines that Commonwealth payment terms apply once the entity "has acknowledged the satisfactory delivery of the goods or services and a correctly rendered invoice has been received".[6]

The definition of payment terms and times should continue as it is under the existing approach.

3.1.4 Recipient created tax invoices

The treatment of recipient created tax invoices is unclear i.e. should they be included in datasets or excluded from small business datasets? The BCA has previously flagged issues around the difficulty in identifying recipient created tax invoices within payments systems relative to other invoices. The compliance costs of separately identifying and removing these invoices from payment times reports can outweigh the benefits.

If recipient created tax invoices are included, "the date on which the *supply of goods or services covered by the invoice occurred*" should instead reflect the date the service is valued to better reflect commercial practices and minimise compliance costs. For example, some companies may receive a weekly timesheet where services are provided each day rather than the day a service is provided. Changes to this approach simply for the purposes of payment times reporting would unnecessarily increase compliance costs and deviate from Australian Taxation Office requirements around the issuance of recipient created tax invoices.[7] At the same time, a materiality threshold around recipient created tax invoices should be considered if they are to be included.

3.1.5 Full and partial payments

The need for a distinction between full and partial payments is unclear. This cannot be identified in existing systems and will require a rebuild – at significant cost – to identify any partial payments across potentially millions of invoices for large suppliers. This distinction should be unnecessary as the purpose of reporting is already to capture when small businesses are paid in full. This would already reflect, for example, extended payment times.

3.1.6 Contextual information and errors

The requirement to include contextual information that materially impacts payment times should be removed and left to the discretion of each reporting entity. This will inevitably give rise to questions of materiality (which should be defined if included) and contrasts with the approach taken to the treatment of any errors in reports which must be promptly addressed – regardless of the materiality or whether or not any errors impact reported payment times or practices.

3.1.7 Foreign entities

Guidance should clarify the treatment of foreign entities i.e. will the invoices of foreign entities only be in scope if they involve an Australian small business supplier? To the extent this may be the case, there may be compliance costs and challenges in accessing the relevant data from foreign entities in a timely and efficient manner. A materiality threshold around reporting of foreign entities should be considered to help ensure the benefits of reporting this data outweigh the costs.

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[6] Department of Finance, *Supplier Pay On-Time or Pay Interest Policy (RMG 417).*

[7] Australian Taxation Office, LI 2023/20

4. Reporting data

Payment times reports under the original scheme included more than 30 fields around payment terms, times and practices data. This excessive number of reporting fields made for a complex, confusing and burdensome compliance regime that was difficult for users to access and analyse.

The proposed changes to reporting data deviate from the simpler approach suggested by the *Statutory Review of the Payment Times Reporting Act 2020* (see Table 1 below). The Review noted that "clear, relevant and easy-to-analyse data is essential for the PTRS to operate as intended."[8] However, there is a risk the proposed changes to reporting data will replace one complex, confusing and unnecessarily burdensome data set with another.

Table 1 Reporting payment terms, times and practices data comparison

Original scheme	PTR Act Review	Proposed scheme
Payment terms		
Standard payment term	Standard payment term (start)	Standard payment term (mode)
Changes	Standard payment term (end)	Maximum mode
Details of changes		Minimum mode
Shortest payment term		Expected standard payment term
Changes		Maximum mode
Details of changes		Minimum mode
Longest payment term		Payment to receivable terms
Changes		
Details of changes		
Payment times		
Number invoices paid ≤20 days	Number invoices paid ≤30 days	Number invoices paid ≤30 days
21 to 30 days	31 to 60 days	31 to 60 days
31 to 60 days	>60 days	>60 days
61 to 90 days		
91 to 120 days		
>120 days		
Value invoices paid ≤20 days	Share of invoices paid on time	Share of invoices paid on time
21 to 30 days		
31 to 60 days	Average payment time	Average payment time
61 to 90 days	Median	Median
91 to 120 days		80th percentile
>120 days		95th percentile
Payment practices/other		
Invoice practice/arrangements	Procurement fees	Procurement fees
For lodging tender	Peppol (yes/no)	Peppol share by value

[8] *Statutory Review of the Payment Times Reporting Act 2020*, page 58

Original scheme	PTR Act Review	Proposed scheme
To accept invoice		Code of conduct
Small business procurement	Small business procurement	Small business procurement share
Supply chain finance	Supply chain finance	Trade credit share
Share by number	Share by number	
Share by value		Supply chain finance
Benefits		
Requirements		
Free text field	Free text field	Free text field

The overarching objective of the PTRS is to help improve large business payment terms, times and practices for their small business suppliers. It is unclear how some of the newly proposed reporting data will ultimately improve small business payment times, or support users of the data. Analysis of the costs and benefits of any proposed data fields would be beneficial to help determine which should be included as part of reporting data.

4.1 Proposed reporting data

Payment terms, times and practices improved under the original scheme, despite its flaws. A simpler scheme can build on this success while minimising compliance costs for reporting businesses. It is in this context that the BCA proposes the following reporting data under a new scheme. The BCA proposal seeks to balance the overall policy intent of the PTRS, reflections from the Review, and draws on some of the other newly proposed fields.

Table 2 BCA proposed reporting data under revised PTRS

BCA proposed reporting data	Additional feedback
Payment terms	
Standard payment term (mode)	The most common payment term should be sufficient for reporting, noting that payment times are arguably of greater relevance and interest for small business suppliers.
~~Maximum mode~~ ~~Minimum mode~~	Reporting of the range of payment terms within the group will add complexity to the data set and may be of limited value. The most common payment term should be an adequate metric.
~~Expected standard payment term~~ ~~Maximum mode~~ ~~Minimum mode~~	Report of expected payment terms unnecessarily clutters and adds complexity to the data. For example, under the original scheme, around 70 per cent of non-zero payment terms in the latest reporting period expected no change, and around a quarter reported a change to standard payment terms of zero. There is a risk these issues around data quality and relevance will continue with reporting of expected payment terms. Reporting of the range would also add further complexity to the data for arguably little benefit.
~~Payment to receivable terms~~	It is unclear how reporting of payment terms relative to receivable terms would support the objectives of the Act. Companies would also need to build a new technological solution to capture receivable terms. The costs of complying with this proposed data field would likely outweigh any potential benefits. It also goes beyond the scope of the PTRS and was not recommended by the Review.

BCA proposed reporting data	Additional feedback
Payment times	
Number invoices paid ≤30 days 31 to 60 days >60 days	These fields are simple and easy to understand metrics of payment times that declutter the existing similar data fields. They would also provide a degree of continuity in reporting for longer run comparisons (where possible).
~~Share of invoices paid on time~~	A comparison of payment terms and the average/median payment time provides a useful and simple measure without introducing new data fields with different interpretations.
Average payment time Median	These fields are simple, meaningful and easy to understand metrics of payment times. Any divergences between the two can be combined with invoice payment ranges to highlight any potential issues around a long 'tail' of payment times.
~~80th percentile~~ ~~95th percentile~~	These percentiles will be difficult for most data users to understand. Average and median payment times will be adequate when combined with invoice payment ranges, including for small/fast small business payer designations.
Payment practices/other	
Procurement fees	Clarify whether this will be a 'yes/no' field.
Peppol ~~share by value~~	Consideration should be given to broadening this to include all eInvoicing solutions used by companies. A 'yes/no' field would also be a simple approach for providing analysis of relative payment times for those that have adopted eInvoicing. The share by value is unlikely to be useful for most users of the data, will clutter the data, and introduces another calculation. Ultimately, the intent here should be to help assess the payment times of companies offering eInvoicing relative to those that do not – regardless of the scale. Explanatory Statement Attachment B notes Peppol share by number should be reported (not value) and may be an error.
Code of conduct	Support this inclusion which should capture commitments such as the BCA's ASPC. Clarification is needed whether this intends to capture all codes of conduct that include a reference to payment terms and practices. This could for example include the Food and Grocery Code of Conduct.[9]
Small business procurement value ~~Trade credit share~~	Continuing to report on small business procurement by value ensures consistency over time and is simple to understand. Reporting on the small business trade credit share should be removed in line with only reporting on trade credit arrangements as part of the previous suggestions in this submission. The purpose of the scheme is ultimately to report on payment times, terms and practices under trade credit arrangements.
Supply chain finance	Clarify whether this will be a 'yes/no' field.
Free text field	The requirement to include material issues as they relate to reporting should be removed and left to the discretion of each reporting entity.

[9] *Competition and Consumer (Industry Codes—Food and Grocery) Regulation 2015*

The final form of reporting data should clearly articulate the reason each data point has been selected and how it would help deliver clear, relevant and easy-to-analyse data overall. There are potentially limitless combinations of data that could be requested (e.g. 60th percentiles, 70th percentiles etc) but consideration must be given to the benefits of including data in achieving the objectives of the PTRS relative to the costs. These costs may include:

- direct compliance costs for companies in collecting the data
- administration costs for the Regulator, including in ensuring that companies comply with obligations, and
- costs in terms of additional complexity and confusion that can undermine the purpose of the PTRS.

To illustrate, the most recent update from the Regulator reports “the average proportion of payments occurring within 30 days was 69.2 per cent” and “around 36 per cent of reporting entities making 95 per cent or more of their small business payments more than 60 days late”.[10] This comparison of two measures may be confusing and unclear for many readers – and thus of limited value. Any complexity and confusion will increase if the draft rules proceed without change.

5. Additional feedback

5.1 Starting date for new Rules

The Explanatory Memorandum that accompanied the updated *Payment Times Reporting Amendment Bill 2024* stated that “no reporting entity will have an obligation to provide a payment times report until 1 July 2025 at the earliest” and “reports for reporting periods that start between 1 July 2024 and 30 October 2024 will attract an automatic extension for the relevant reporting due date to 1 July 2025.”[11] The recent update from the Regulator states that “reports for reporting periods starting between 1 July 2024 and 30 September 2024 are not due until 30 June 2025.”[12] Further clarity around the due date for reports would be welcome.

5.2 Small Business Identification Tool

The BCA continues to call for improvements to the Small Business Identification (SBI) Tool. The purpose of the SBI Tool is to enable businesses to identify and verify their small business suppliers. It is critical to the success of the PTRS in improving payment terms and practices. However, BCA member companies continue to raise issues around the integrity, quality and timeliness of the data informing the SBI Tool, with the potential to skew and misrepresent payment times data. This must be urgently addressed.

The objectives of the PTRS – and more accurate data – could be better achieved by enabling reporting entities to connect to the SBI Tool in real time via their own systems instead of the need to manually log in. This would enable them to identify whether a new supplier is a small business for payment times reporting purposes (e.g. through an Application Programming Interface tool) and assign a preferential payment term. This would also assist when the status of a business in the SBI Tool changes and a large business could be notified of the change in real time and update their payment systems accordingly.

The process for identifying small businesses through the SBI Tool is manual and cumbersome. Some large companies can have as many as 20,000 small businesses across their supply base. To the extent the new slow small business payer designation incentivises companies to improve payment times, an urgent focus of reforms to the PTRS should be on improving the SBI Tool to directly support companies in improving small business payment times. At its core, this is the overarching purpose of the PTRS and the slow small business payer designation. Improvements to the SBI Tool may be the most efficient use of the resources of both companies and the Regulator in terms of improving payments times for small businesses. A greater use of technological

[10] Payment Times Reporting Regulator, 2024, *Regulator’s Update – July 2024*.
[11] Payment Times Reporting Amendment Bill 2024, Explanatory Memorandum, paragraphs 1.308 and 1.309.
[12] https://paymenttimes.gov.au/guidance/regulatory-resources/information-sheet-9

solutions across the PTRS more broadly, such as through greater use of Application Programming Interfaces, could help unlock the full potential of the PTRS and better support its objectives.

BUSINESS COUNCIL OF AUSTRALIA

GPO Box 1472, Melbourne 3001 T 03 8664 2664 F 03 8664 2666 www.bca.com.au