



Australian Government

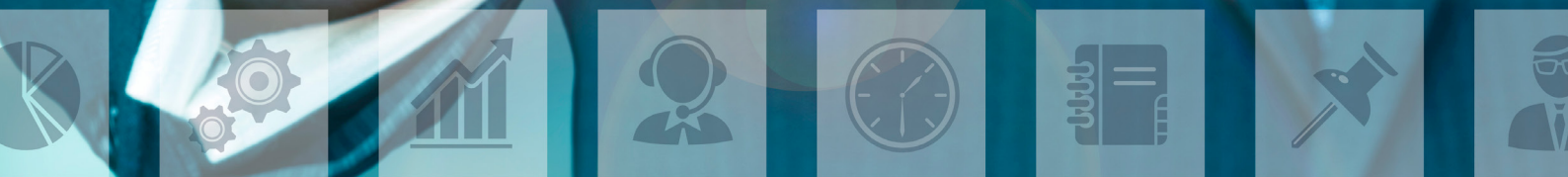


Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

**INVOICE**

**BUSINESS**

**GROWTH**



# Review of payment terms, times and practices

ADVICE TO THE MINISTER FOR SMALL AND FAMILY BUSINESS,  
SKILLS AND VOCATIONAL EDUCATION

March 2019

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This document was last updated on 28 March 2019.

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28 March 2019

Senator the Hon Michaelia Cash  
Minister for Small and Family Business, Skills and Vocational Education  
Parliament House  
Canberra ACT 2600

Dear Minister Cash

### **Advice on the effect of payment practices on Australian small and family businesses**

I am pleased to present my updated advice with the findings from the Australian Small Business and Family Enterprise (ASBFEO) review of payments times.

On 7 December 2018 I provided you with my initial report in response to your request for advice – as authorised by section 57(1) of the *Australian Small Business and Family Enterprise Ombudsman Act 2015* (the Act) – on the effect that payment practices are having on Australia's small and family businesses. This included your request to:

- identify badly performing companies
- examine payment term trends among large Australian and multinational businesses
- provide recommendations on how these practices might be improved to protect small and family business cash flow.

In providing you with the initial advice we engaged with over 250 large businesses advising them of your request for advice and asking them to provide a copy of their current small business supplier payment terms and conditions. We hosted an online survey for small businesses and family enterprises to tell us actual payment terms offered and how often they were met. With over 2,400 surveys completed, late payment remains the key issue. The impact is amplified where the power imbalance has forced a small supplier to accept extended terms, greater than 30 days from end of month, and payment is still late.

Since my initial advice I issued 83 statutory notices under Section 37 of the Act to the companies who did not provide the information as requested. This updated advice includes the data from the 55 responses we received to our statutory notices. We have also acknowledged recent developments including the review of the Business Council of Australia's Supplier Payment Code and the Trans-Tasman agreement to standardise e-invoicing.

Following your directive on 25 February 2019 we wrote to those named in the review and advised that the report may be published and provided 15 days for them to make representations. We contacted 239 companies; nine companies did not want their payment times published. These companies have been removed from the tables but the data provided is captured and drawn on to form the graphs.

We have provided a full list of companies approached at Appendix F.

The primary reasons cited for payment terms not being made public are concerns about the impact on competition. It is unclear if the concern around competition is based on their competitors offering better terms, which may result in suppliers moving to the competition. Or, alternatively, competitors becoming aware of payment terms and moving to offer better terms to suppliers providing highly desired good and services.

Our key learning from this review of payment terms, times and practices is the hesitancy of many large corporations to be transparent about their payment terms and, more importantly, how often they actually meet those terms. Why? Because they fear it makes them less competitive at the expense of their small business suppliers. This simply underlines how critical the need for a public register of payment terms and the performance against same, has become. Small businesses are the drivers of our economy and must be able to compete fairly in the open market place.

Yours sincerely

A handwritten signature in blue ink that reads "Kate Carnell". The signature is written in a cursive, flowing style.

Kate Carnell AO  
Australian Small Business and Family Enterprise Ombudsman



## Executive summary

On the 5 November 2018, the Minister for Small and Family Business, Skills and Vocational Education, Senator the Hon Michaelia Cash requested advice under section 57(1) of the *Australian Small Business and Family Enterprise Ombudsman Act 2015* on the effect of payment practices on Australia's small and family businesses (Appendix A).



There is a persistent trend in Australia of payment times being extended beyond usual industry standards. Late payment, where businesses get paid beyond contract terms, adds to the cash flow problem faced by suppliers. It appears as though large Australian companies and multinationals apply these policies to improve their own working capital efficiencies at the expense of their suppliers. While the average days to get paid is declining, it is still above 30 days at an average of 36.74 days.<sup>1</sup> This average obscures the imbalance between large and small business as large business are the worst for late payments and small business the fastest.<sup>2</sup>

This imbalance intensifies cash flow pressure for small and family businesses. Scottish Pacific, a large independent finance provider, estimates the cost is \$234.6 billion in lost revenue. That is, SMEs would have generated more revenue if cash flow was improved, as late payments accounted for a 43% downturn in cash flow.<sup>3</sup> Small and family businesses must find other ways to finance the short fall in their working capital. This places stress on smaller businesses with significant ramifications for solvency and mental health. The outcome; small businesses cannot invest in growth and cannot increase employment.

Since the Hayne Royal Commission, banks have tightened responsible lending standards across the board which has caused a 'credit crunch' for small businesses. They are finding it increasingly difficult to demonstrate 'employee-like' cash flow like a consumer. A high growth, entrepreneurial SME is highly unlikely to demonstrate cash flow in this way.

The increased bank focus on 'employee-like' cash flow means more needs to be done by large corporations paying their suppliers on time. Where large corporations delay payment to their small business suppliers beyond the contracted payment time, small business cash flow is unpredictable and presents significant difficulties in their ability to access and service finance.

This advice provides:

- recommendations on how payment practices might be improved to protect small and family business cash flow
- analysis of the trends amongst large Australian and multinational businesses on payment terms and times, including best practices
- names of large businesses and their payment practices.

## Recommendation summary

A summary of the recommendations to improve payment practices is provided below. Further details on each recommendation can be found in the body of the report.

### 1. Annual reporting framework

ASBFEO to develop an independent annual reporting framework, requiring businesses with over \$100 million turnover, which will capture foreign companies and government entities, to publish their payment practices by:

- establishing and maintaining a register of their payment terms offered to small business
- including performance against stated terms, updated at least annually
- establishing a small business payment times and practices complaints portal
- conducting poor practice deep dive reviews of large businesses, industry or government sector supply chains
- highlighting best practice.

### 2. Business register

ASBFEO to work with the Government on its initiative to modernise business registers to enable the identification of small business suppliers.

### 3. Review small business supplier terms and conditions under the unfair contract terms legislation

ASBFEO to work with the ACCC to review supplier terms and conditions including extended payment terms, termination clauses and non-disclosure agreements.

### 4. Government industry codes to state payment terms

Where appropriate, mandatory Government industry codes that regulate business-to-business transactions to include minimum small business supplier payment terms.

### 5. Impact of supply chain financing options

ASBFEO to review the impact of supply chain finance strategies offered by large businesses to offset extended payment times, such as invoice factoring, on the cash flow of small businesses.

### 6. Adoption of e-invoicing, or other technology solutions, to improve invoice processing

ASBFEO to review the costs, benefits and impediments to the uptake of e-invoicing and other technology solutions to improve the efficiency and accuracy of invoicing.

### 7. Deemed statutory trusts in the construction sector

The Australian Government to mandate the use of deemed statutory trusts in the Australian Building and Construction Building Code for all public works and construction projects. To be effective this must cascade down the supply chain.

## Findings from large businesses and small business suppliers

Letters requesting current small business supplier payment terms and conditions were sent to over 250 large businesses. Consultations were held with large businesses in the mining; construction and engineering; food, liquor and hardware retail; food supply; and telecommunications sectors.

Over 2,400 survey responses on payment practices were received from small businesses identifying over 1,300 businesses. Further details were sought where multiple survey responses related to a single large business or government entity.

### Highlights

- The definition of a small business supplier varies.
- There are calls from some large businesses for a centralised register to identify small businesses.
- Despite having small business supplier definitions, some large businesses could not identify how many of their suppliers were small businesses.
- Small businesses were unaware that small business supplier payment policies exist in some cases, and they were still on extended payment terms.
- Where large businesses have a specific small business supplier policy, they typically offer shorter payment terms, 30-days-from-correct-invoice or less.
- The majority of signatories to the Business Council of Australia's (BCA) Australian Supplier Payment Code (BCA Code) have payment terms of 30-days-from-correct-invoice or less.
- Despite having small business supplier payment terms, some large businesses do not have systems to monitor payment time performance and cannot identify how many payments meet or are outside contract terms. Few report performance on their policy to the CEO or board.
- It is encouraging that there has been a recent increase in signatories to the BCA Code. However, over 60% of BCA members are still to sign the Code.
- Construction, mining, retail, state governments, manufacturing and large multi-sectorial businesses have poorer payment practices.
- Most of the large businesses consulted have some form of opt-in supply chain financing option for early payment to suppliers.
- Some large businesses are providing technology solutions to improve invoice process efficiency and accuracy of documentation.

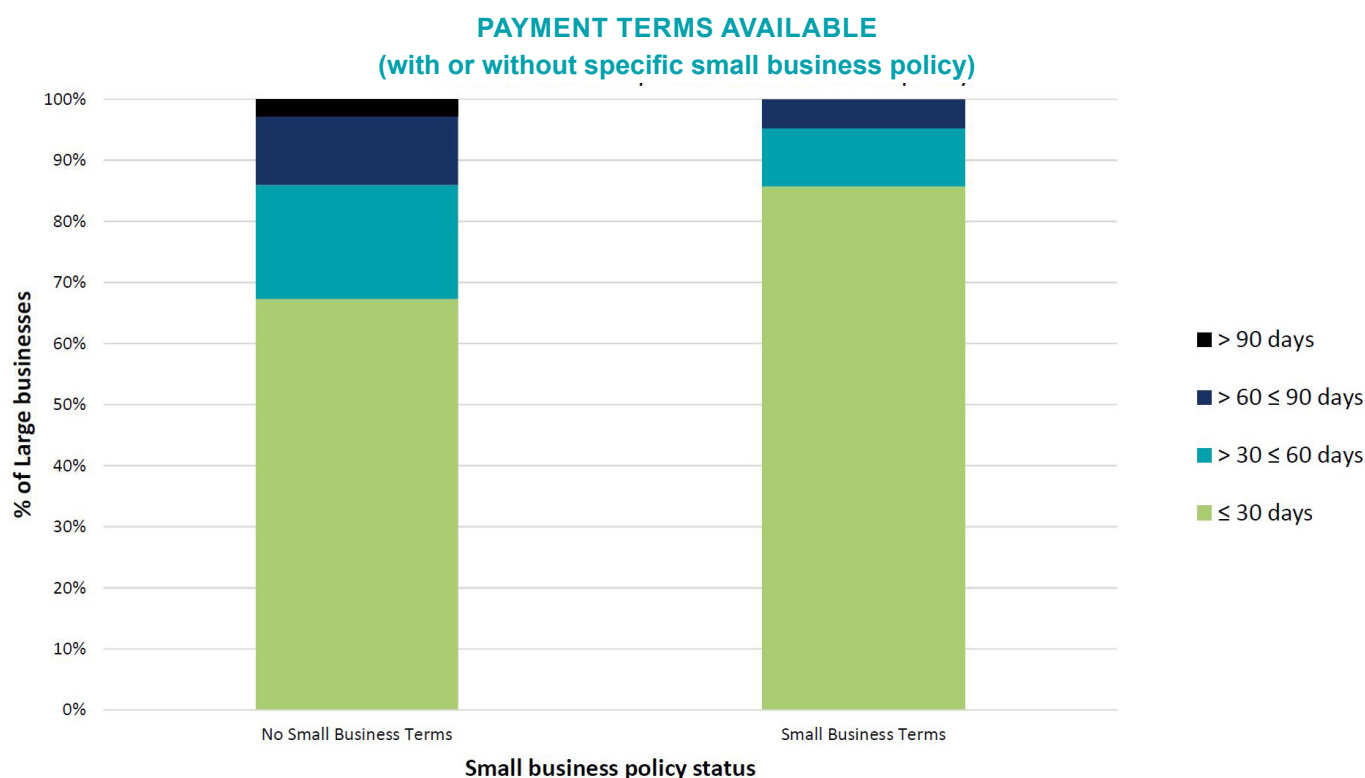


## Large business payment terms

A list of the large businesses who were requested to provide their payment terms is at Table 1 and Table 2.

### Distribution of payment terms

Where larger businesses have specific small business supplier payment terms, they typically also offer shorter payment terms for small businesses (see Figure 1).



**Figure 1: Payment terms available**

### Impact of the Australian Supplier Payment Code

The BCA launched the BCA Code in April 2017. Australian businesses can voluntarily opt-in to become signatories of the BCA Code; they can be BCA members or non-members.

The BCA Code commits signatories to:

- Pay eligible Australian small business suppliers within 30 days of receipt of a correct invoice or receipt of a correct product from the supplier (whichever is the later), or on mutually agreed terms, or on terms that are consistent with a standard industry practice. Signatories can choose to pay on shorter timeframes.

The BCA Code also states that signatories are required to:

- Provide clear guidance to suppliers about the company's payment procedures.
- Work with supplier businesses, where practicable, to apply technologies and practices that will speed up invoice reconciliation, approval and payment processes, e.g. online portals, electronic invoicing, Electronic Funds Transfer, payment cards.
- Put in place clear, fair and efficient processes for dealing with complaints and disputes about payment times and practices.
- Report on company policies and practices in place to comply with the Code.

The definition of a small business is determined by the signatory. Signatories can adopt one or more of the following three criteria:

- an Australian business with annual turnover up to \$10 million
- an Australian business with fewer than 20 employees
- an Australian business that supplied goods and services to the signatory company up to a maximum annual level of expenditure. The annual level of expenditure is to be set by the signatory and must be published.

The BCA Code allows for an 18-month implementation period for new signatories. Sign-up dates are not provided which means small business suppliers are unable to identify which signatories currently comply.

The BCA conducted an independent review of the Code in 2018. The report was released on 13 March 2019. The review panel acknowledged that *'payment practices and times have improved, but there is still more work to be done'*. The reviewer made the clear finding that *'using financing to set longer contractual payment terms and then pay small businesses within 30 days at a discount is not acceptable under the Code'*. The reviewer concluded that *'there is no compelling reason for major entities not to adopt the Code'*. Yet of the largest 3,000 corporations operating in Australia, just over 100 have signed the BCA Code.

Tables 1 and 2 provide the details of the payment terms of large businesses who are signatories of the BCA Code, and of those who are not signatories. BCA Code signatories offer more favourable terms for small businesses. Large businesses that are not signatories skew toward less favourable small business terms.

Figure 2 indicates the beneficial impact on payment terms offered, attributable to adoption of the BCA Code and BCA membership (also shown in the table below).

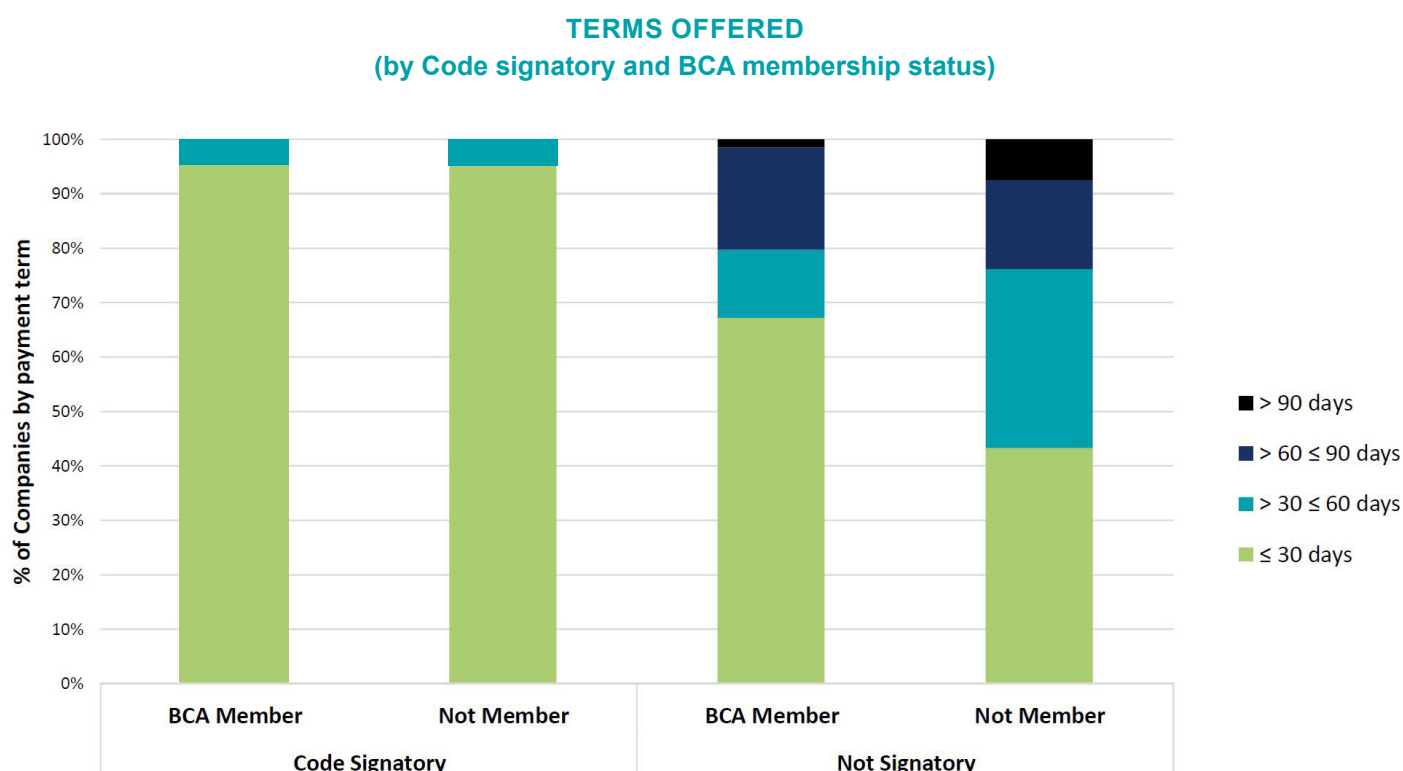


Figure 2: Terms offered

## Payment terms

A full list of the companies we requested payment terms from can be found at Appendix F. Tables 1 and 2 capture those that are willing to be published, noting that where multiple payment times existed it has been condensed to a single data point. We applaud the companies listed in the following tables for their willingness to be transparent which will inform and benefit small business suppliers.

Tables 1 and 2 provide a snapshot of the payment terms offered by the listed organisations at a point in time. To allow a graphical representation of terms, a single term had to be identified for each organisation. The data below is based upon the best endeavours to accurately portray payment terms. In some circumstances, a company's payment terms are numerous and complex. Best efforts were utilised to portray the most common payment terms.

Therefore it is important to note that terms were grouped into brackets; 7,14, 30 or 60 days from invoice or from EOM; or suppliers accepted.

- Where there was a small business policy, that term is noted even if terms for other suppliers are longer.
- Where a variety of terms were offered, the most common is noted.
- Where there is no indication of the most common term, the longest term is noted.
- Where a variety of terms of 30 days from invoice or less, it is captured as 30 days from correct invoice.
- Where a term was between brackets, say 21 days from invoice, it is captured in the next highest bracket.
- Suppliers accepted means that the company accepts the payment terms put forward by the small business.

**Table 1: Signatories to the BCA Code**

BCA members	Terms	BCA members	Terms
AGL Energy Limited	30 days from Inv	Dulux Group	30 days from Inv
Alcoa of Australia Limited	30 days from Inv	EnergyAustralia Pty Ltd	30 days from Inv
Ashurst	Suppliers accepted	ENGIE	30 days from Inv
ASX Limited	30 days from Inv	Ernst & Young (EY)	Suppliers accepted
Australia and New Zealand Banking Group Limited	30 days from Inv	Exxon Mobil Australia Pty Ltd	30 days from Inv
Australia Compass Group Pty Ltd	30 days from Inv	Fortescue Metals Group	14 days from Inv
Australian Foundation Investment Company Limited	Suppliers accepted	Gilbert & Tobin	Suppliers accepted
Australian Unity Group	30 days from Inv	HSBC Bank Australia	30 days from Inv
BAE Systems Australia Limited	30 days from Inv	Jemena Limited	30 days from Inv
Bain & Company	Suppliers accepted	King&Wood Mallesons	30 days from Inv
Bendigo and Adelaide Bank	30 days from Inv	Lendlease Group	30 days from Inv
BHP Billiton Limited	30 days from Inv	Lion Pty Ltd	30 days from Inv
Business Council of Australia	30 days from Inv	McKinsey & Company	30 days from Inv
Chevron Australia	30 days from Inv	Mirvac Group	30 days from Inv
Citi Australia (Citibank)	30 days from Inv	MYOB Australia Pty Ltd	30 days from Inv
Coca-Cola Amatil	30 days from Inv	National Australia Bank Limited	30 days from Inv
^ Cochlear Limited	45 days from Inv	Navitas Limited	Suppliers accepted
~ Coles Supermarkets Australia Pty Ltd	14 days from Inv	Origin Energy	30 days from Inv
Commonwealth Bank of Australia	30 days from Inv	Programmed Maintenance Services Ltd	30 days from EOM
		PwC Australia	30 days from Inv

BCA members	Terms
Qantas Airways Limited	30 days from Inv
Rio Tinto Group	30 days from Inv
Santos Limited	30 days from Inv
Santos WA Energy Limited	30 days from Inv
Scentre Group	30 days from Inv
Shell Australia Pty Ltd	30 days from Inv
South32 Limited	30 days from Inv
Suncorp Group Limited	30 days from Inv
Sydney Airport Holdings	30 days from Inv
Tabcorp Holdings Limited	30 days from Inv
Telstra Corporation Limited	30 days from Inv
The GPT Group	30 days from Inv
Transurban Limited	30 days from Inv
Westpac Banking Corporation	30 days from Inv
Woodside Energy	30 days from Inv
^^ Woolworths Group Limited	14 days from Inv

Non members	Terms
Aldi	Suppliers accepted
Ames Australia	30 days from Inv
Anywise	30 days from Inv
Australia Post	30 days from Inv
B Shore Fire Service	30 days from Inv
Bank of Queensland	30 days from Inv
Brisbane City Council	30 days from Inv
Commerce Ballarat	14 days from Inv
EnviroRisk	30 days from Inv
Gawler	30 days from EOM
Illion	30 days from Inv
Install a Gadget	30 days from Inv
Insurance Australia Group Limited	30 days from Inv
Mackay Regional council	30 days from Inv
Mars Australia	30 days from Inv
National Audits Group	14 days from Inv
Nestle Australia Limited	30 days from Inv
Nillumbik	30 days from Inv
OICS	Suppliers accepted
Pendal Australia	Suppliers accepted
Prestige Jayco	Suppliers accepted
Randwick City Council	30 days from Inv
SEANZ	On Invoice
Small Business Mentoring Service	On Invoice
Sutherland Shire Council	30 days from Inv
The Small Business Institute	On Invoice
Tweed Shire Council	30 days from Inv
Unilever	30 days from Inv

Non members	Terms
Ventura	Suppliers accepted
Victorian State Government	30 days from Inv
Wudinna District Council	30 days from Inv
Wyndham City Council	30 days from EOM
Xero Australia Pty Ltd	30 days from Inv
Zeemo	Suppliers accepted

**Table 2: Non-signatories to the BCA Code**

BCA members	Terms
Accenture Australia and New Zealand	30 days from Inv
Adamantem Capital Pty Ltd	Suppliers accepted
AIA Australia	30 days from Inv
Allens Linklaters	Suppliers accepted
Alumina Limited	Suppliers accepted
AMP Limited	30 days from Inv
AON Australia	45 days from Inv
APA Group	30 days from EOM
Ausgrid	30 days from Inv
Bank of America Merrill Lynch	30 days from Inv
Bank of China (Australia) Limited	Suppliers accepted
Bechtel Australia Pty Ltd	30 days from Inv
* Bluescope Steel Limited	60 days from EOM
BNP Paribas	60 days from Inv
Boeing Defence Australia Ltd	30 days from Inv
Boral Limited	30 days from EOM
BP Australia	30 days from Inv
Brambles Limited	No specific terms
BUPA	30 days from Inv
Caltex Australia Limited	60 days from Inv
Cimic Group Limited	60 days from Inv
Cisco Australia and New Zealand	On Invoice
Clayton Utz	On Invoice
Corrs Chambers Westgarth	7 days from Inv
Credit Suisse Australia	30 days from Inv
CSIRO	30 days from Inv
Deloitte Australia	Suppliers accepted
Deutsche Bank Australia	30 days from Inv
Dow Chemical (Australia) Pty Ltd	60 days from Inv
Downer Edi Limited	30 days from Inv
DXC Technology	Suppliers accepted
Fletcher Building Limited	45 days from EOM
Goldman Sachs Australia Services	30 days from Inv
Graincorp Limited	30 days from EOM
GWA Group Limited	30 days from Inv
Herbert Smith Freehills	30 days from Inv
IBM Australia Limited	60 days from Inv

<b>BCA members</b>	<b>Terms</b>
Incitec Pivot Limited	60 days from EOM
Infosys Australia	30 days from Inv
ING Bank (Australia) Limited	30 days from Inv
Jacobs Australia Pty Ltd	30 days from Inv
JB Hi-Fi Group Pty Ltd	45 days from EOM
KPMG	30 days from Inv
La Trobe Financial	Suppliers accepted
Macquarie Group Ltd	30 days from Inv
McDonald's Australia Limited	30 days from EOM
Medibank Private Limited	30 days from Inv
Melbourne Business School	30 days from Inv
Microsoft Australia	60 days from Inv
Minter Ellison	Suppliers accepted
Mitsui & Co. (Australia) Ltd	Suppliers accepted
Morgan Stanley	60 days from Inv
News Corporation Australia	30 days from EOM
Norton Rose Fulbright Australia	30 days from Inv
Optus	30 days from EOM
Orica Limited	60 days from EOM
Perpetual Limited	30 days from Inv
QBE Insurance Group Australia	30 days from Inv
QUT Business School	30 days from Inv
REA Group Limited	30 days from Inv
** SAP Australia Pty Ltd	60 days from Inv
Seek Limited	30 days from Inv
Siemens Australia	60 days from Inv
Snowy Hydro	30 days from Inv
Star Entertainment Group Limited	30 days from Inv
Stockland Corporation Limited	30 days from Inv
Stone & Chalk	Suppliers accepted
Tata Consultancy Services	30 days from Inv
TPG Capital	30 days from Inv
UBS Group AG	30 days from Inv
University of Sydney Business School	30 days from Inv
University of Technology Sydney	30 days from Inv
Virgin Australia	45 days from EOM
WSP Australia	30 days from Inv

<b>Non members</b>	<b>Terms</b>
Adelaide Brighton Ltd	Suppliers accepted
ALS Limited	45 days from EOM
Amazon	14 days from Inv
Ansell Australia	Suppliers accepted
Aristocrat Technologies Australia Pty Ltd	Suppliers accepted
Asahi Beverages	30 days from EOM
Aurizon	30 days from EOM

<b>Non members</b>	<b>Terms</b>
Ausnet Services Limited	30 days from EOM
Australian Broadcasting Corporation	30 days from Inv
Carsales.com Limited	Suppliers accepted
Challenger Limited	7 days from Inv
Colliers	30 days from Inv
Computershare Limited	30 days from Inv
ConocoPhillips Australia East	30 days from Inv
C-Res	30 days from Inv
Crown Resorts Limited	30 days from EOM
CSL Limited	30 days from Inv
CSR Limited	Suppliers accepted
CYBG plc	30 days from Inv
Data3 Limited	30 days from Inv
Datacom	30 days from Inv
Dentsu X	45 days from EOM
Dexus	30 days from Inv
Domino's Pizza Enterprise Ltd	Suppliers accepted
Evolution Mining Limited	30 days from Inv
Fairfax Media Limited	30 days from EOM
Flight Centre Travel Group	30 days from Inv
Fonterra Co-operative Group Limited	30 days from EOM
Foxtel Management Pty Ltd	30 days from EOM
*** GFG Alliance	60 days from EOM
Glencore Coal Assets Australia Pty Limited	30 days from EOM
Harvey Norman Holdings Limited	45 days from EOM
Healthscope Limited	30 days from Inv
Holcim	60 days from EOM
Iluka Resources Limited	30 days from EOM
Investa Property Group	30 days from EOM
IOOF Holdings Ltd	Suppliers accepted
**** J G King Group	30 days from EOM
JJ Richards & Sons Pty Ltd	No specific terms
Link Group	30 days from EOM
Metcash - Liquor	45 days from Inv
Metro Trains Melbourne	30 days from EOM
MSD Australia (Merck Sharp & Dohme)	90 days from EOM
Multiplex Pty Ltd	60 days from EOM
Newcrest Mining	45 days from EOM
Nine Network	45 days from EOM
Officeworks	30 days from EOM
Pacific National	45 days from EOM
+ Pfizer	90 days from Inv
QGC	30 days from Inv
Ramsay Health Care	30 days from Inv



Non members	Terms
Reece	30 days from EOM
Roy Hill Holdings Pty Ltd	30 days from EOM
Seven West Media Limited	14 days from Inv
SGS Australia Holdings Pty Ltd	Suppliers accepted
Sonic Healthcare Limited	30 days from Inv
Special Broadcasting Service	30 days from Inv
Spotless Group Holdings Limited	60 days from Inv
Sunglow	14 days from Inv
Ten Network Holdings	30 days from EOM
Thales	45 days from Inv
Treasury Wine Estate Limited	30 days from EOM
Trend Craft Building Services	30 days from Inv
Under Armour Group	45 days from Inv
Visy Industries Australia Pty Ltd	Suppliers accepted
Vocus Group Limited	30 days from Inv
++ Whitehaven Coal	30 days from EOM

The following is a key that provides further information on particular companies.

Company	Note
<sup>^</sup> Cochlear	Cochlear is going to become a signatory to the Australian Supplier Payment Code in April 2019.
<sup>^^</sup> Woolworths	This term is for payment of small merchandise suppliers to Woolworths supermarkets.
<sup>*</sup> Bluescope Steel	Small Business Policy new terms – 15 days from EOM - take effect from February 2019.
<sup>**</sup> SAP Australia	In light of their recent analysis of negotiated terms with SME suppliers, SAP Australia has decided to implement a policy to take effect from 1 April 2019, that offers SME suppliers 30 day payment terms from date of invoice.
<sup>***</sup> GFG Alliance	The Ombudsman has met with GFG Alliance which undertook to improve small business payment terms.
<sup>****</sup> J G King Group	The Payment terms for JG King are between 14-30 days terms from date of invoice for sub-contractors, and 30 day terms from end of month for vendor and suppliers.
<sup>+</sup> Pfizer	Notwithstanding that the published standard terms include a 90-day payment period, these terms act as the starting point of negotiations with suppliers. As a part of the vendor on-boarding process, Pfizer engages in negotiations on contractual terms and conditions, including as to payment terms. Therefore, these terms can-not be presumed to be standard terms as defined by the Australian Consumer Law.
<sup>++</sup> Whitehaven Coal	Whitehaven has changed their terms to 21 days from receipt of correct invoice.
<sup>~</sup> Coles Supermarkets Australia Pty Ltd	From receipt of goods for resale in accordance with the payment terms for small suppliers.



## Small and family business survey

A survey was launched on 12 November 2018. This was widely communicated to the small business sector via social media and other channels. See Appendix B for survey questions and Appendix C for engagement statistics.

### Shorter payment terms associated with late payment

Shorter payment terms are a great public relations story but are only meaningful when actual payment is compliant. Regardless of the presence of a specific small business supplier payment policy or agreed payment term, late payment remains a problem. Payment terms of 30 days is still associated with persistent late payment.

#### PAYMENT TERMS VERSUS PERFORMANCE

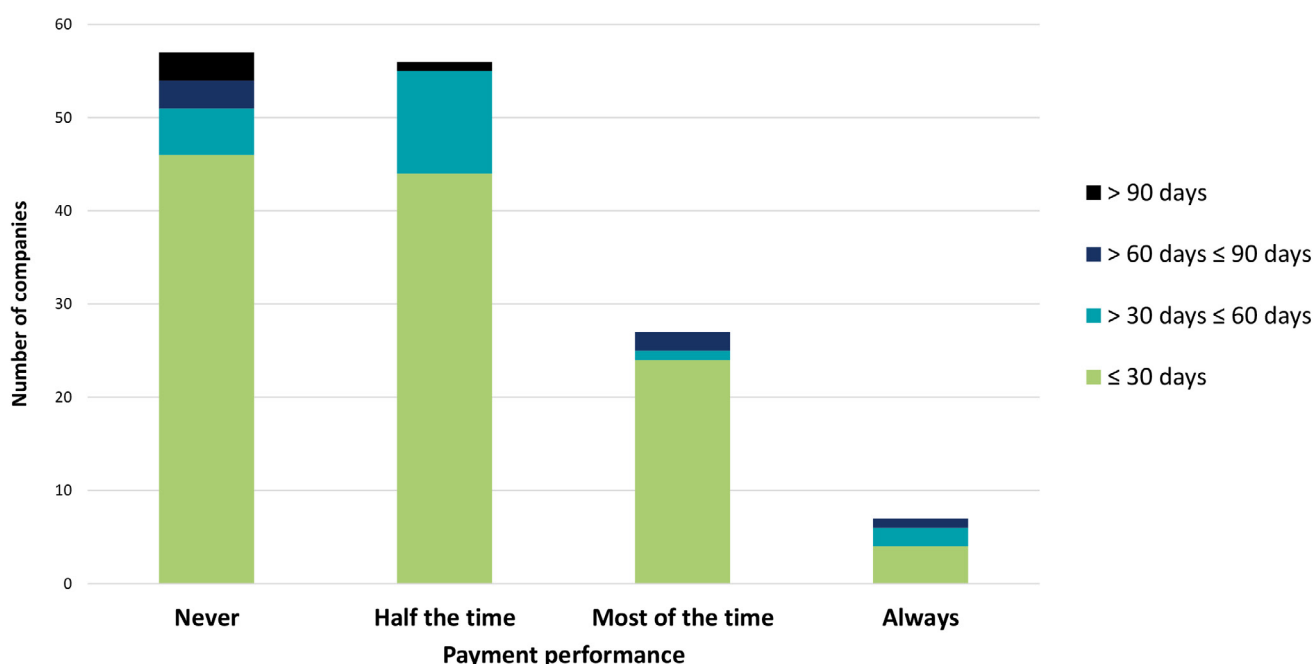
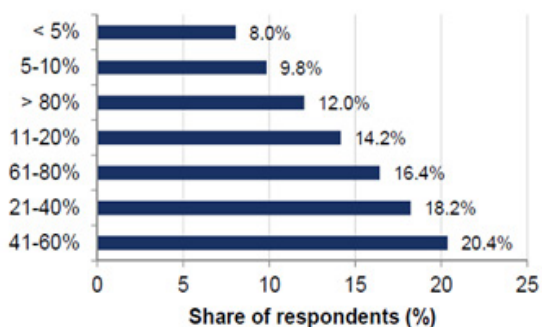


Figure 3: Payment terms versus performance

Large businesses that offer payment terms of 30 days or less, rarely pay on time (see Figure 3 and Figure 4).

This appears little changed since our Payment Times Inquiry in 2017 where 1 in 2 respondents reported greater than 40% of their invoices were paid late. The following graph is drawn from the *Working Paper 3 - Analysis of Survey responses, 2017*.

#### Proportion of invoices paid late in the last financial year



All respondents\* reported late payments on invoices last financial year.

Around 1 in 2 respondents reported greater than 40% of their invoices were paid late last financial year.

Of particular concern, 28% of respondents reported over 60% of their invoices were paid late last financial year.

### PAYMENT PERFORMANCE (≤ 30 day terms)

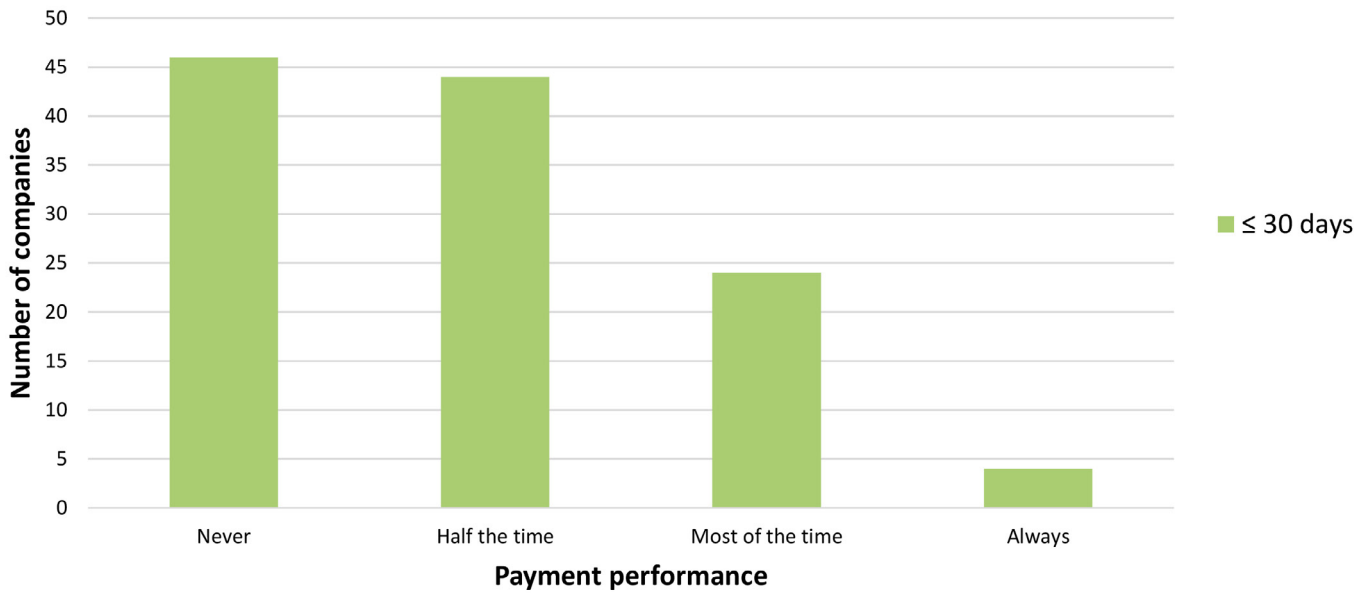


Figure 4: Payment performance for terms of less than 30 days

For large businesses with payment terms greater than 30 days, late payment is also a problem, especially where they are greater than 90 days (see Figure 5).

### PAYMENT PERFORMANCE (> 30 day terms)

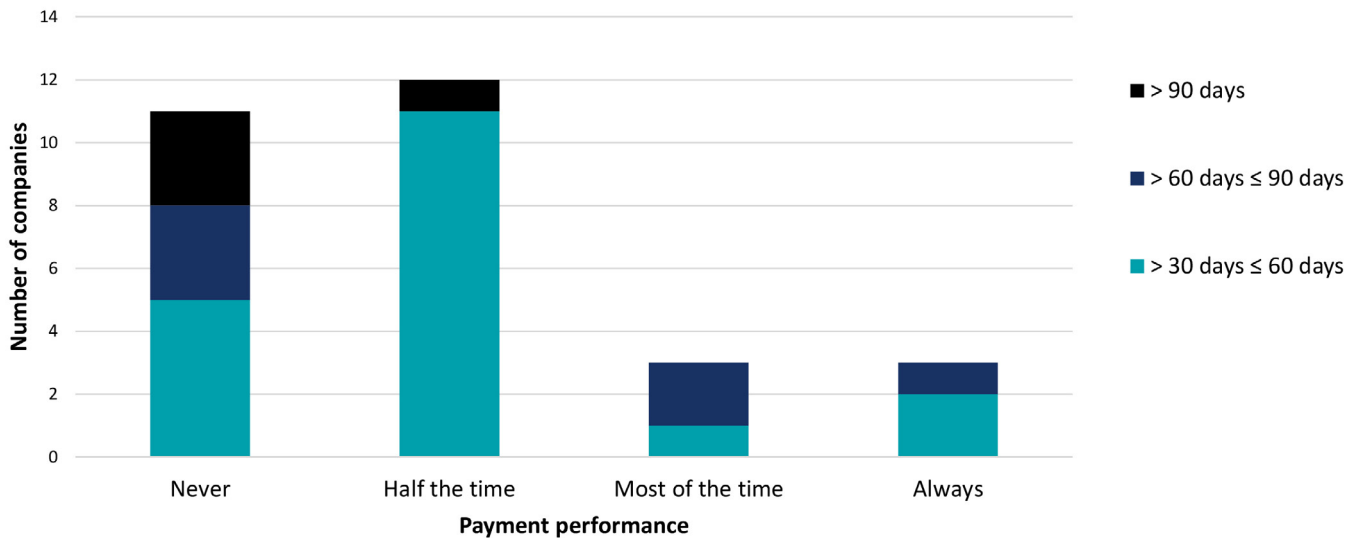
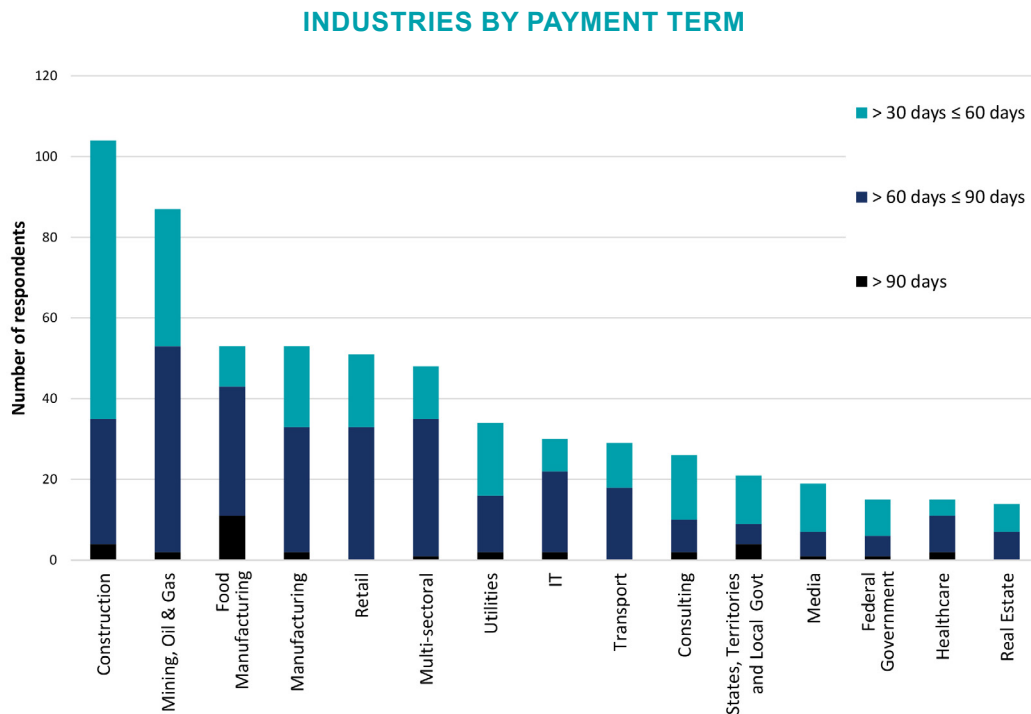


Figure 5: Payment performance for terms of over 30 days

Payment terms not exceeding 30 days, **plus** performance monitoring, is the key to reducing late payments. Things do go wrong with invoices on occasion but large businesses should be striving for >90% performance against their terms offered to small suppliers.

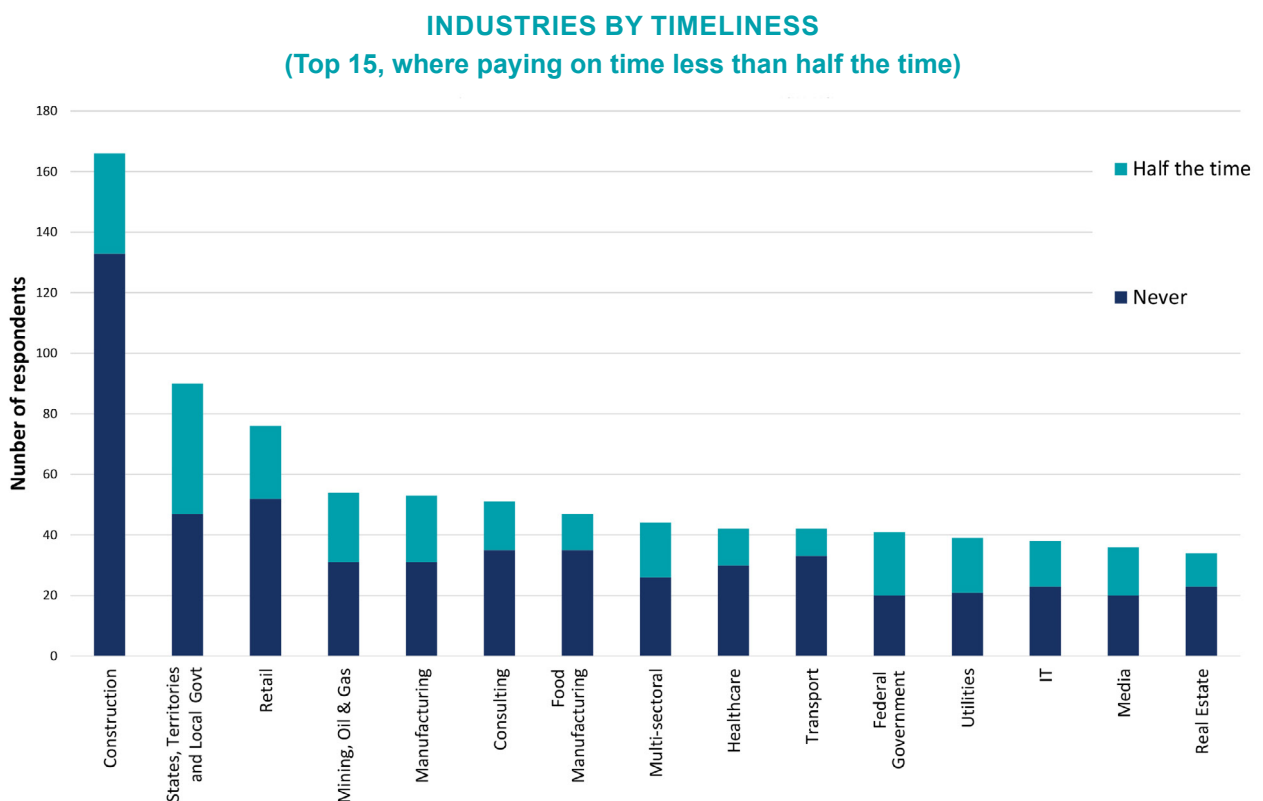
## Payment terms offered by industry sector

Payment terms available to small businesses vary by industry sector. Construction, mining, retail, state government, manufacturing and large multi-sectorial businesses were identified by more respondents as having payment terms in excess of 30 days (see Figure 6).



**Figure 6: Industries by payment term**

These industries also attracted the greatest number of reports of failure to meet contracted payment terms (see Figure 7).



**Figure 7: Industries by timeliness**

ASBFEO has existing legislative powers to undertake research and inquiries and these will be utilised to conduct deeper dive reviews to investigate large businesses, industry and government sectors supply chains where consultations and surveys have identified potential issues.

### **Best practice**

Systems were identified that streamline and monitor interaction with their small business supply chain.

Best practice includes:

- Small business terms and conditions are widely communicated by direct contact with existing suppliers, not just published on the large business website.
- Systems that recognise the supplier is a small business.
- Appropriate on-boarding of suppliers, with relevant information and notification of small business terms, and correct processes to ensure prompt payment and minimising the risk of not being paid on time.
- Procurement processes and training internally to ensure that suppliers do not start work without a valid purchase order.
- Systems to regularly monitor performance of payment times and against exceptions, using the data to improve processes.
- Systems and staff to track and resolve exceptions. Timely notification to the supplier of the issue and how to resolve.
- An easy-to-access portal for suppliers to track their invoices and payments.
- Low-cost interfaces between the small business accounting software and the system used by the large business, e.g. SAP.

## Australian Government payment time performance

The Government Pay On-Time Survey has been conducted since 2002 on a voluntary basis and collects information from agencies about their performance. The 2016-17 survey shows the Government on average pays within 30 days (95.9%) for contracts valued under \$1 million.<sup>4</sup>

The Government responded to the ASBFEO 2017 Payment Times Inquiry<sup>5</sup> announcing that contracts under a million dollars will need to be paid within 20 calendar days, or interest will be accrued on outstanding payments exceeding \$100, and all Australian Government agencies will be mandated to report payment performance from 1 July 2019.

ASBFEO welcomes the Prime Minister's recent announcement that their prime contractors will be required to pass on 20-day payment times if they want to tender for government business.

ASBFEO will undertake further investigation to verify issues raised regarding Government payment practices. These include:

- Unnecessary paper work
- Not giving correct documentation for businesses to use:
  - In several instances, purchase invoice numbers were not given, or used incorrectly, by departments.
  - Different tracking numbers are used and are lost within the system.
  - Some departments have overly-complicated procedures for handling payments.
- Administration is complicated and has been described as chaotic when a supplier is trying to find out how payment is or has been processed.
  - People in the accounting team or contact persons change on a regular basis. This leaves small businesses without a consistent contact person and they need to retell their story.
  - The contact person is often the procurement officer, who is not able to authorise payment and must forward to the accounting team. This creates a backlog and delayed payments because a correct and complete invoice is within the department but must be processed by a number of people.

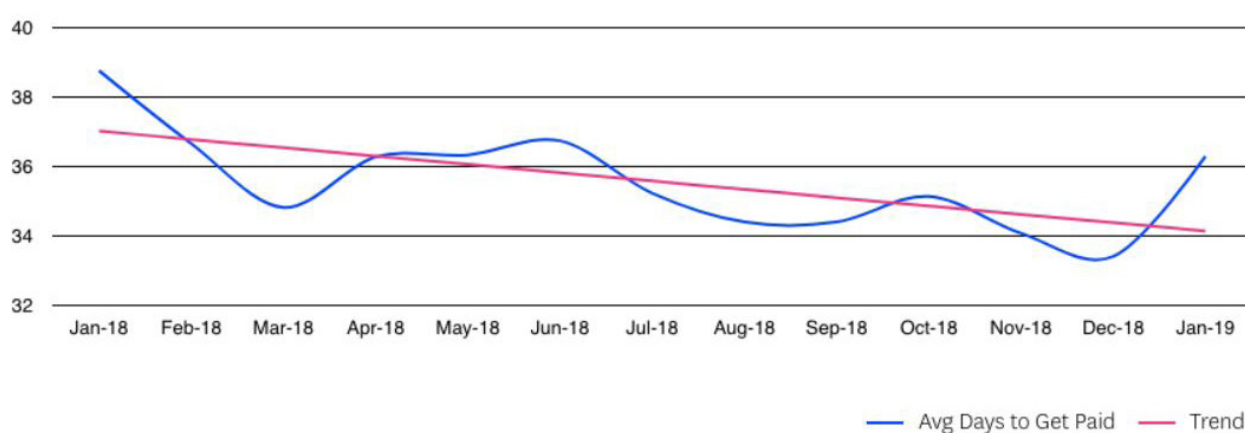
## Trends in payment times

The BCA Code was designed to encourage industry self-regulation for ensuring small business supplier invoices were paid within a 30-day period.<sup>6</sup>

Analysis of data trend reports indicate that while there have been fluctuation in payment times, sometimes well within the 30-day period, the average number of days to be paid is still outside of the 30-day target.

Monthly supplier updates from Xero highlight the average number of days remain around 36 days for an invoice to be paid (see Figure 8).<sup>7</sup>

### Average number of days for an Australian small business **invoice to be paid** (30-day term)



**Figure 8: Average number of days for an invoice to be paid – Xero Small Business Insights January 2019**

While the recently reported trends demonstrate only small variations from the 30-day payment times, there is still major late payment imbalances between large and small business. A report into late payment for the first quarter of 2018 by credit data provider illion, reinforces small business claims that large businesses (with more than 500 employees) take the longest to pay.<sup>8</sup> Small to medium businesses (with 49 employees or less) were the fastest to pay, understanding the importance of cash-flow stresses.



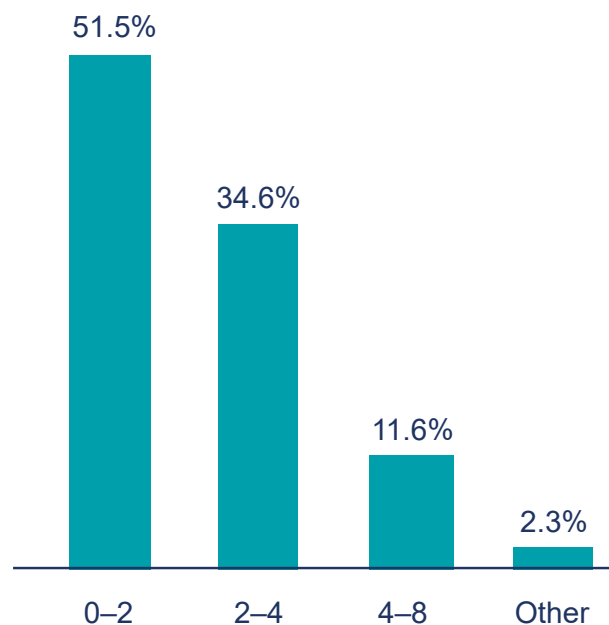
## Impact of late and extended payments

Data from MYOB business monitor indicates that late payments are a key pressure for small businesses and had numerous flow on effects which further exacerbated pressures.

The transport, postal and warehousing (47%), construction and trades businesses (38%) were most affected followed by exporters (42%) and importers (38%) and maturing businesses (40%).<sup>9</sup>

According to a Prushka report, almost half (45%) of small and medium businesses reported they have more than 10 outstanding invoices per month, and they need to pursue invoices more than twice before payment is received.<sup>10</sup> Over half of businesses surveyed stated that asking twice for overdue payment is normal (see Figure 9). However, 34.6% stated that asking 2–4 times per outstanding invoice is common practice. This represents a further burden to already time poor SMEs.

How many times do you typically have to ask for payment before an invoice is resolved?



**Figure 9: Times asked to resolve invoice – Prushka report August 2017**

Flow on effects from late payments include one in four SMEs suffering difficulties in meeting tax obligations on time, and one in five unable to expand their business, or take on additional work. Poor cash flow due to late payment limits SMEs ability to harness growth acceleration opportunities such as digitisation, improved supply chain efficiency and investing in customer led preferences. Poor cash flow limits not only small businesses but also Australia's economy, due to a lack of growth opportunities, increased taxation revenues or any surplus revenue being spent in the wider economy.

## Survey case study

A small business supplies to a large paper, packaging and recycling company. Although the small business supplier requested 30-day payment terms, the big business applied its own terms of 60 days (on approval of the invoice).

The small business feels they are a source of funds for the big business, as although they are on 60 day terms, they rarely receive payment within this timeframe. On average, payment is received within 65-75 days, which creates uncertainty for the small business and impacts on cash flow. The small business owner believes 'It is like getting blood out of a stone'.

Once the small business provides the invoice to the company for payment, it is a time consuming process to have the invoice approved prior to payment. The invoice requires approval by both the operations and accounts areas, before the 60 day period for the payment commences.

As payment is regularly received late, the small business owner follows up every invoice with the company via phone and email to confirm approval. Multiple calls are required as various reasons are given which slows down the process. Chasing up the invoice can take up 10 hours of administrative effort.

The small business has considered applying a 5% discount to invoices to encourage prompt payment, but they don't believe this will speed up the payment cycle.

'We submitted an invoice in October 2018 for \$20,000 that has not yet been 'approved'. The countdown against payment terms does not commence until such approval given. This invoice might remain unpaid now until March 2019. This is after five weeks of weekly emails and voice messages that to date have been ignored!'

Due to the delayed payments, the small business is making BAS payments for GST in advance of receiving the funds to which the GST relates.

## Cash flow

Cash flow remains a dominant stressor for small business owners and impacts the revenue of nine out of ten SMEs.<sup>11</sup> According to a Scottish Pacific SME Growth Index report, 79% of small business owners are kept awake at night for this reason.<sup>12</sup> Nearly all SMEs (92%) said they would have generated more revenue over the past 12 months if their cash flow situation was improved. Late payment accounted for 43% of cash flow downturn.

Small businesses operating in competitive environments who have faced a revenue decline in the past 12 months (37%) greatly feel the effects of late payment on their ability to maintain operations. Just under half of businesses in this category indicated that cash flow had suffered due to late payments.

### Survey case study

A small business contracts to a large construction company with 30-day payment terms (from end of month).

'We have been tracking the payment of invoices for 10 years. The average payment time is 53 days after the invoice is submitted, but it can extend to as long as 90 days.'

At times, the small business owner has had \$500,000 of payment outstanding, which can be difficult to manage when payments are extended to 90 days. In these cases, the small business has to fund shortfalls out of its own pocket. Late payments have also been a contributing factor to the reduction of staff working hours.

The small business believes that a termination for convenience clause is included in contracts with big businesses, so they can just get rid of small businesses for any reason. This makes it difficult for small businesses to chase late payments for fear of losing the contract.

## Update on overseas initiatives

### United Kingdom Small Business Commission

It has been recognised across the United Kingdom (UK) and European Union (EU) that small and medium sized businesses are disproportionately affected by late payments and that payment terms of 60 days and beyond are unacceptable.

Regulations<sup>13</sup> came into force in the UK on 6 April 2017, with requirements for large businesses to report on their payment practices and performance.<sup>14</sup> This is supported by the Prompt Payment Code (The Code).<sup>15</sup> The Code is a voluntary initiative, with 2,184 signatories, and an additional 50 signatories under the Construction Supply Chain Payment Charter, which is administered as a separate list to the Prompt Payment Code. Signatories need to confirm in their reporting if they are a signatory to the Code.

Figures released in February 2019 by the Department of Business, Energy and Industrial Strategy (BEIS), the compliance body, showed only 7,010 companies had reported at all with only 209 meeting the full requirement to report, that is three times since inception. Of those that reported 47% still have terms of greater than 60 days and 32% do not pay on the agreed terms. Only 42% of signatories to the Prompt Payment Code meet their commitment to pay 95% of invoices within 60 days. In our discussion with BEIS they indicated they are moving to issuing penalties for non-compliance. BEIS believe it will take setting an example that reporting requirement will be enforced to effect a culture change in payment terms and meeting of those terms.

Similarly, the EU operates under the Late Payment Directive<sup>16</sup>, issued to protect companies from late payments, which came into operation on 15 March 2011. Each country within the EU was given until 16 March 2013 to implement its own provisions under the Directive.

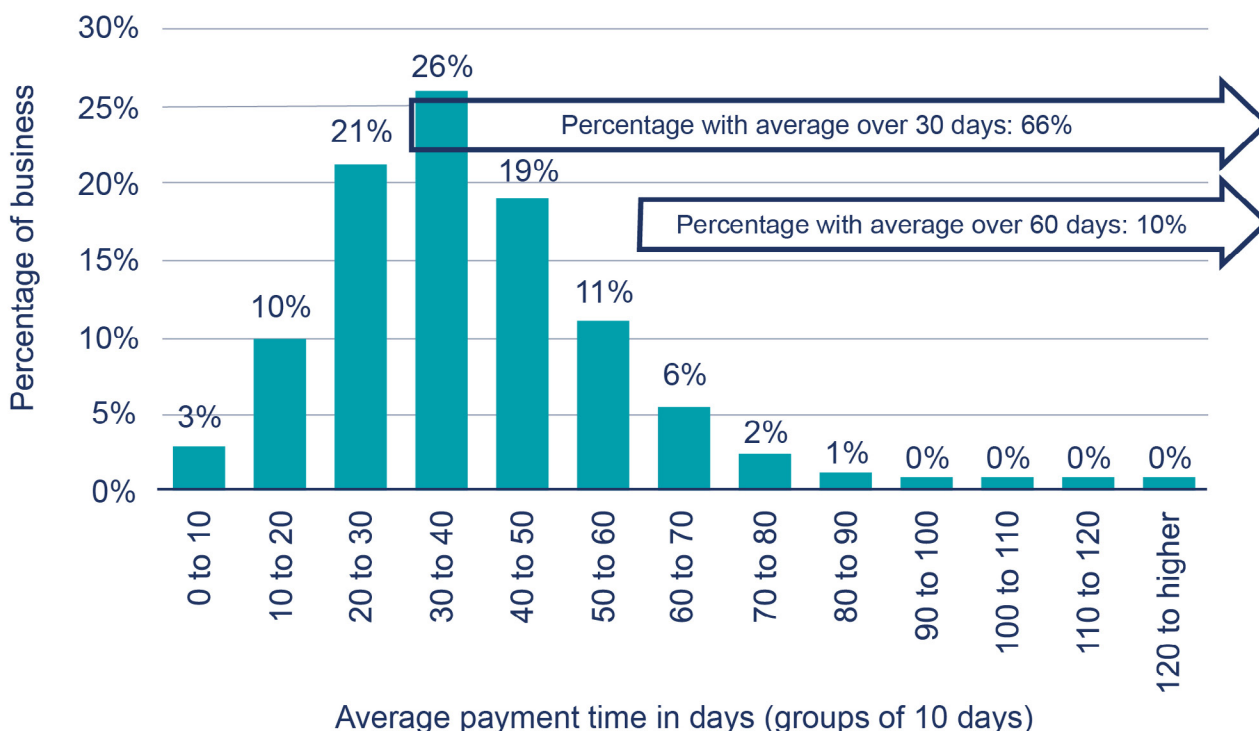
This UK regulatory framework has been labelled toothless when businesses like Carillion, one of the UK government's biggest contractors, paid under extended payment terms of 120 days and collapsed owing over \$200 million. The UK Government has called for evidence so that it can gather data and information on how to create a responsible payment culture for small business. This report is due in January 2019.

### Key points

- Since 2014, regular surveys of 300 to 350 businesses across the UK have found that late payments have decreased from 59% in Quarter 3 2014, to 37% in Quarter 1 2017 (£26bn to £14bn).
- The main causes of late payment reported by businesses are:
  - insufficient cash flow
  - imbalances of power between companies
  - the structure of supply chain
  - administrative inefficiencies
  - intentional use of late payments as a form of financing.<sup>17</sup>
- 24% of UK businesses and 10% of EU businesses view late payments as a threat to their survival.
- 54% of UK businesses and 46% in the EU have been asked to accept longer payment terms than they are comfortable with.

- Many businesses are not aware of the Code and are unaware or fearful to challenge a signatory's status.

Figure 10 shows the distribution of reported average time taken to pay invoices, October 2017 to August 2018 (based on 6,570 reports, of which 703 had no qualifying contracts).<sup>18</sup>



**Figure 10: Average time to pay invoices**

### Impact

The legislation in the UK and directive in the EU have improved payment times, but there is still some way to go. The data collected will spotlight the new reporting requirements for transparency intended to promote a culture of better payment practices. The UK Small Business Commissioner will be concentrating efforts on those avoiding reporting. However, this role does not have legislative powers such as ASBFEO. As a consequence the UK are looking at strengthening its powers. ASBFEO has powers prescribed in the Act. For example, notices to produce information and documents, which facilitate reporting.

## Recommendations

### 1: Annual reporting framework

ASBFEO to develop an independent annual reporting framework, requiring businesses with over \$100 million turnover, including foreign companies and government entities to publish their payment practices by:

- establishing and maintaining a register of payment terms offered to small business by large businesses and government departments and agencies
- publishing performance against terms at least annually, on the register
- establishing a small business payment times and practices complaints portal
- conducting deep dive reviews of large businesses or industry sector supply chains
- highlighting good practice.

This aligns with the Prime Minister's announcement on 21 November 2018 that the Government will develop an annual reporting framework, requiring businesses with over \$100 million turnover to publish payment information. This is expected to capture the largest 3,000 businesses and includes foreign companies and government entities.

The existing independent role and information-gathering powers of ASBFEO means it is best placed to establish a register to publish the payment times of large businesses. ASBFEO has the framework for such a register already in place. Following ASBFEO's 2017 Payment Times and Practices Inquiry, ASBFEO committed to, subject to funding, developing a public register to highlight good and bad practices by Australian businesses. Though funding was not awarded, a National Payment Transparency Register was launched in December 2017 (see Appendix D).

The need to independently monitor and publish performance can be learned from recent UK experience. The UK Prompt Payment Code and Payment Practices Reporting Regulations were put in place to improve transparency of reporting. This regulatory framework has been labelled toothless when businesses like Carillion, one of the UK government's biggest contractors, paid in extended payment times of 120 days and collapsed owing over \$200 million. This has forced the UK government to examine how to strengthen independent monitoring to call out bad practice.

The key to driving real change in payment culture is independently monitoring performance against terms. Best practice will mean that the majority, over 90%, of invoices are paid on time in full.

ASBFEO's register includes performance against terms. This allows a small business to assess the risk of not getting paid on time before entering into a supply agreement. The register could be further developed with additional funding into an interactive tool for large businesses to report performance against their terms. ASBFEO would establish a best practice benchmark and provide a rating against each business in the register.

ASBFEO has a well-established role in dealing with small business payment disputes and is ideally placed to monitor where payment practices are meeting or falling below expectations. We also have legislated powers to undertake research and inquiries, including notices to provide information and documents. This will enable ASBFEO to undertake deep dive reviews of supply chains to highlight good or poor practices.



## 2. Business register

ASBFEO to work with the Government on its initiative to modernise business registers to enable the identification of small business suppliers.

## 3. Review small business supplier terms and conditions under the unfair contract terms legislation

ASBFEO to work with the ACCC to review supplier terms and conditions including extended payment terms, termination clauses and non-disclosure agreements.

ASBFEO to issue notices to produce contract terms and conditions in small business supplier standard form contracts to assess compliance with *Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Act 2015* and report to ACCC on findings.

In particular, contract clauses regarding termination for convenience raised concern where a large business may at any time, at its absolute discretion, terminate the supplier agreement. As a result, a small business supplier is unlikely to complain about late payment.

The law sets out examples of terms that may be unfair, including:

- terms that enable one party (but not another) to avoid or limit their obligations under the contract
- terms that enable one party (but not another) to terminate the contract
- terms that penalise one party (but not another) for breaching or terminating the contract
- terms that enable one party (but not another) to vary the terms of the contract.

## 4. Government industry codes to state payment terms

Where appropriate mandatory or voluntary industry codes that regulate business to business transactions to include small business supplier payment terms. The current review of the Food and Grocery Code and the Dairy Code would present a timely opportunity to address payment terms and practices in these sectors.

## 5. Impact of supply chain financing options

ASBFEO to review the impact of supply chain financing strategies offered by large businesses to offset extended payment times, such as invoice factoring, on the cash flow of small businesses.

In consultation with large businesses we found many argued that it is simply a commercial reality that business seek to optimise their working capital. Businesses can optimise their working capital by extending payment terms. To assist their suppliers they offer some form of supply chain financing that means the supplier pays charges, fees and interest to receive earlier payment for the goods and services that have been delivered.

An example is invoice factoring. Factoring is where a funder 'buys' the invoice from the supplier paying the supplier a percentage of the value on day one. The funder will apply a fee and accumulate interest to the supplier until the customer pays the invoice on its extended terms. When the customer pays the funder, the funder pays the remainder less fees and charges to the supplier.

For example, a supplier chooses factoring for a \$15,000 invoice. On day one, the funder provides the supplier \$12,000. The customer pays the funder \$15,000 on its extended terms of 45 days. The funder then pays the supplier the balance of the invoice, less fees, less interest.

Where the setup fee is \$150 (1) and interest is at 6% per annum for 45 days (2), the final payment is \$3,000 less \$150 (1) less \$88.77 (2).

Businesses promote their supply chain financing options as allowing suppliers to use their credit rating to access money at a cheaper rate. This refers to the funder, who will assess the risk of the customer paying, not the credit rating of the supplier, to determine if they will buy the invoice and what percentage they will pay on day one. A risk to a supplier is that they may pay more than they expect in interest if the customer is late paying the funder. Interest builds up until the customer pays the invoice.

We acknowledge the value of the many forms of supply chain finance such as invoice financing, discounting, credit cards, and bank loans. What we need to investigate is that such options are not forced onto small business suppliers. While a valid alternative they must not replace reasonable payment terms being offered, 30 days or less from invoice, and paying to those terms. It is not acceptable for large business to use small suppliers to optimise their cash flow.

## 6. Adoption of e-invoicing to improve invoice processing

ASBFEO to review the costs, benefits and impediments to the uptake of e-invoicing and other technology solutions to improve the accuracy of invoicing to facilitate prompt payments.

Many of the large businesses described a range of initiatives being offered to suppliers but uptake by smaller suppliers is limited.

Incentivising small business to adopt and invest in this technology is required to help embrace the transition to the digital world. This can be highlighted by revealing the value proposition through cost-benefit analysis. Emphasising the reduced administrative burden and increased certainty around payment times to improve cash flow for small businesses is key to this.

We welcome the commitment made on 22 February 2019 by the Australian and New Zealand Prime Ministers, Scott Morrison and Jacinda Ardern respectively, to adopt the Pan-Pacific Public Procurement On-Line (PEPPOL) interoperability framework for e-invoicing. This will lead the way in standardising e-invoicing across government and the business sector in Australia and New Zealand.

## 7. Deemed statutory trusts in the construction sector

The Australian Government to mandate the use of deemed statutory trusts in the Australian Building and Construction Building Code for all public works and construction projects. To be effective this must cascade down the supply chain.

Statutory trusts remove the temptation for contractors to use subcontractor's progress payments as their own working capital. They also protect these payments to subcontractors in the event of an insolvency.

Subcontractors perform over 80% of all work in the Australian construction industry. They contribute resources and are promised payments later. Small business subcontractors have complained about delayed or non-payment by mid-tier operators in the construction supply chain. They either delay payments to their subcontractors to manage their own cash flow or they went into administration leaving the subcontractor receiving nothing or very little as an unsecured creditor.

The construction companies reported to our office for poor behaviours were managing cash flow by delaying payments and underquoting to win work. Some used phoenix models or used other structures to side step payments to subcontractors. These construction companies are easily tipped into trouble by events such as unseasonal rain, disputes with head contractors, or delays with planning approvals.

# ASBFEO 2017 Payment Times and Practices Inquiry

ASBFEO Recommendation	Government response – Nov 2017	Government commitment – 2018
<p><b>Recommendation 1</b></p> <p>The Australian Government to adopt a 15 business day payment time by July 2018. All levels of government to consider adopting.</p>	<p>Government supports this recommendation with amendment.</p> <p>Payment of invoices within 20 calendar days for small business contracts for Federal Government will be mandated by July 2019. For contracts up to \$1m (Pay On-Time Policy).</p> <p>Payment of interest will be adjusted to 20 calendar days.</p> <p>NSW Government – 20 days by end 2018 and then 5 days by end of 2019.</p>	<p>COAG December 2018 challenging all state and territory governments to follow the lead of NSW and also reduce their payment terms to 20 days.</p>
<p><b>Recommendation 2</b></p> <p>The Australian Government to require its head contractors to adopt the payment times and practices of the procurement through its supply chain. All levels of government to consider adopting.</p>	<p>Government notes this recommendation. At the moment, Commonwealth Procurement Rules protect principal contractors in respect of payment time frames and policies but do not protect anyone with whom the principal subsequently deals. In November, the government said its Finance department would introduce a 'clause bank' of standard conditions which entities 'can use as appropriate' for contracts above \$200,000. As for wider application, Commonwealth Procurement Rules do not extent to the procurement or contracting practices of suppliers (including when these are principal contractors). Instead, it says, principal contractors are able to organise their own commercial arrangements as they see fit.</p>	<p>On 31 July 2018 the Department of Finance announced changing the subcontractor clause in Commonwealth standard payment terms to include payment terms of 30 days or less. The same obligation is to be included in every secondary subcontract.</p> <p>This clause will be part of the Commonwealth ClauseBank, which provides pre-drafted contract terms for use in existing contracts or in customised contracts. The clause also determines that only relevant obligations are included in subcontracts instead of all obligations from the main contract.</p> <p>The Prime Minister recently announced that the government's prime contractors will be required to pass on 20-day payment times if they want to tender for government business.</p>
<p><b>Recommendation 3</b></p> <p>The Australian Government to extend its payment policies to all its agencies and entities. All levels of government to consider adopting.</p>	<p>Government notes this recommendation. As these policies apply in the case of non-commercial 'core' government functions.</p> <p>Less strict rules under the Public Governance, Performance and Accountability Act apply to government departments, agencies and entities who carry out commercial activities.</p>	
<p><b>Recommendation 4</b></p> <p>The Australian Government to publish its payment times and policies, and for all its agencies and entities, with performance against best practice benchmarks. All levels of government to consider adopting.</p>	<p>Government supports this recommendation with amendments.</p> <p>Yes, mandatory reporting will begin for the 2018-19 financial year for all federal government agencies. This captures data on the performance of Australian Government agencies against the Pay On-Time Policy.</p>	

<p><b>Recommendation 5</b></p> <p>The Australian Government to mandate the use of Project Bank Accounts in public works and construction projects. All levels of government to consider adopting.</p>	<p>Government notes this recommendation.</p> <p>Government said consideration of PBAs would form part of a best practice review into Security of Payment Legislation being conducted by John Murray AM which is due to conclude by December 31 2017.</p>	
<p><b>Recommendation 6</b></p> <p>The Australian Government to procure from businesses which have supply chain payment times and practices equal to or better than its practices. All levels of government to consider adopting.</p>	<p>Federal government does not support this recommendation.</p> <p>Commonwealth Procurement Rules (CPRs) note that when specifying conditions for participation, these must be limited to those that will ensure that a potential supplier has the legal, commercial, technical and financial abilities to fulfil the requirements of a procurement (paragraph 10.14 of the CPRs). This requirement reflects Australia’s international trade obligations.</p> <p>Does not support the introduction of additional regulatory burden of verification requirements to bid for Government tenders.</p> <p>The Government is conscious that small businesses are disproportionately affected by the burden of regulation. Any step to increase regulation is a barrier and disincentive for small businesses to participate in government procurement.</p>	<p>22 November the Government announced an increase commitment of 10% to 35% for small businesses delivering government procurement contracts up to \$20 million.</p>
<p><b>Recommendation 7</b></p> <p>Industry codes which regulate business to business transactions to include best payment practices including set payment times.</p>	<p>Government notes this recommendation.</p> <p>Adoption of BCA Australian Supplier Payment Code.</p>	
<p><b>Recommendation 8</b></p> <p>The Australian Government to introduce legislation for larger businesses to publicly disclose all of their payment times and practices and performance against those terms.</p>	<p>Larger businesses being the top 100 listed on the ASX and multinationals.</p> <p>Government notes this recommendation. Preference is for industry to self-regulate in first instance.</p> <p>Government has recently announced introducing a compulsory reporting framework that will require all businesses with a turnover of \$100M or more, to report payment practices to small business on an annual basis.</p>	<p>Government has recently announced introducing a compulsory reporting framework that will require all businesses with a turnover of \$100 million or more, to report payment practices to small business on an annual basis.</p>

**Recommendation 9**

The Australian Government to introduce legislation which sets a maximum payment time for business to business transactions. Certain industries may need terms greater than maximum which can be agreed providing they are not grossly unfair to one party. Where a longer term is called into dispute it will be considered an unfair contract term.

Government notes this recommendation. Has the view it should not intervene in markets unless it is absolutely necessary. Consultations have indicated the support is mixed for legislating maximum payment times, with small business raising the challenges of enforcing contract breaches by clients.

Can utilise unfair contract terms legislation to challenge payment times that believe is unfair.

ACCC is monitoring complaints about payment terms and unfair commercial practices that delay payment times for suppliers.

**Recommendation 10**

Governments should encourage the adoption of technology solutions, such as e-invoicing, to assist business to streamline administrative tasks and facilitate payment practices.

Government supports this recommendation. The adoption of technology solutions should be driven by the market, with business owners basing these investment decisions on individual requirements.

Industry-led Digital Business Council's work on e-invoicing. Government announced in 2016-17 Budget that it would undertake a detailed study into the costs and implementation of Government adoption of e-invoicing.

Promotion of e-invoicing through the industry-led Digital Business Council's Adoption Working Group.

Adopted an industry wide framework for digital invoicing.

ATO working with Digital Business Council and major accounting software suppliers to develop an agreed e-invoicing standard. Australia and New Zealand have been working to create an agreed standard across Australasia. On 25 October signed arrangement with New Zealand to create and maintain a common Australian and New Zealand e-invoicing approach.

Also, introduction of New Payments Platform to facilitate faster payment transactions.



# Appendixes

## Appendix A: Request for advice from Minister Cash



### Senator the Hon Michaelia Cash

Minister for Small and Family Business, Skills and Vocational Education

Reference: MS18-000970

Ms Kate Carnell AO  
Australian Small Business and Family Enterprise Ombudsman  
Level 2, 15 Moore Street  
CANBERRA ACT 2602

Dear Ombudsman

Since being sworn in as Minister for Small and Family Business, Skills and Vocational Education, I have been visiting small and family businesses throughout Australia to listen to the issues that are important to them.

The elevation of the Small and Business portfolio into Cabinet is an acknowledgement of the vital role small and family businesses play in our economy.

Australia's small and family business owners appreciate the Liberal National Government's commitment to deliver policies that enable their business to prosper, create new and better paid jobs for Australian workers, and recognise their hard work, sacrifice and contribution to our community.

Since 2013, our Government has:

- Put more money in the hands of business owners by reducing the company tax rate for small and medium businesses from 30% to 27.5% - with a further cut to 25% locked in for 2021-22;
- Made it easier for business owners to reinvest and grow their business by extending the Instant Asset Write-Off by 12 months to 30 June 2019;
- Ensured businesses have access to a skilled local workforce, by establishing the \$1.5 billion Skilling Australians Fund to create an extra 300,000 apprentices and trainees;
- Supported new businesses to commercialise their products, improve their marketing and identify growth opportunities by expanding the Entrepreneurs Program to 20 new locations;
- Opened up new export opportunities for small businesses through free trade agreements with China, Japan and South Korea, and helped them develop their global supply chains through our Small and Medium Enterprise Export Hubs;
- Supported small businesses to enhance their online presence and increase sales through the Australian Small Business Advisory Services Digital Solutions program;
- Kept small and family businesses safe online through our Cyber Security Small Business Program;

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- Helped small businesses compete with big business by amending Section 46 of the *Competition and Consumer Amendment (Misuse of Market Power) Act 2017*; and
- Given small business owners back more of their time by cutting around \$6 billion of red tape – with the Simpler Business Activity Statement saving them an average \$590 each year alone.

Our Government will continue to deliver for Australia's small and family business owners.

One of the issues that has been consistently raised with me has been the payment practices, in particular of big business. Reports that big businesses are pushing out payment terms to 60, 90 and even 120 days, offering loans to cover extended payment terms, and seeking discounts to the contract price in exchange for prompter payment are troubling.

I acknowledge and appreciate the work you have done on this issue to date, particularly your inquiry into payment times and practices for Australian small businesses that found that there is a growing trend for large Australian and multinational businesses to extend payment times.

I am concerned about the stress that these practices are placing on the cash flow of small and family businesses, and the impact it is having on the mental wellbeing of business owners.

The Liberal National Government is improving cash flow for small businesses by committing to pay Government contracts up to \$1 million in 20 days from 1 July 2019.

Now it is time for big business to follow suit.

I ask that you provide me with advice – as authorised by section 57(1) of the *Australian Small Business and Family Enterprise Ombudsman Act 2015* – on the effect that these payment practices are having on Australia's small and family businesses. I also ask that you provide advice on how these practices might be improved to ensure the cash flow of small and family businesses is better protected.

In giving this advice, I ask that you give due regard to identifying badly performing companies and consider the growing trend amongst large Australian and multinational businesses to extend payment times.

I reserve my right to publish this advice, should I consider it necessary, under section 58(1) of the Act. Providing small businesses with this advice will enable them to make more informed decisions about whether to engage with those businesses.

Given the importance of this matter, I ask that you provide me with written advice by 19 November 2018.

I appreciate your urgent consideration of this matter.

Yours sincerely



Senator the Hon Michaelia Cash  
05 / 11 / 2018



## Appendix B: Survey questionnaire

### Payment times and practices

Survey on payment terms and late payments

Do you deal with a company that only offers payments longer than 30 days? Or require you to provide a discount to be paid in 30 days? Perhaps they pay later than the agreed terms?

If this behaviour sounds familiar, we would like to hear from you. Complete the following survey, your responses will remain **CONFIDENTIAL**.

1. What is the name of the company you deal with?
2. What payment times are you on on?
  - less than 30 days
  - 30 days
  - 45 days
  - 60 days
  - 90 days
  - Other (please specify)
3. Did you have to provide a discount?
  - No
  - Yes
  - If yes, what is the percentage?
4. How often are you paid on time under these terms?
  - Always
  - Most of the time
  - Half the time
  - Never
  - Other (please specify how often)
5. Could you choose to get paid in 30 days or less if you provided a discount? If so, what is the discount?
6. When is payment triggered?
  - On receipt of invoice
  - End of month
  - Other (please specify)
7. How do you lodge your invoices?
  - By mail
  - Electronically
  - Through customers online system
  - Other (please specify)
8. How are you paid?
  - Direct deposit to bank account
  - Credit card
  - EFTPOS
  - e-platform
  - Cash
  - Other (please specify)
9. Your contact details (optional )

We may seek further details from you

  - Name
  - Email address
  - Phone number
10. Any further comments?

## **Appendix C: Small business engagement**

- Over 2,400 surveys were completed.
- There were 8,516 views of the Payment Times Review web page.
- The Australian Taxation Office's Small Business Newsroom distributed an article about the survey to 2.4 million subscribers.
- Facebook posts regarding the review have been seen by over 9,200 users.
- Twitter posts have been seen by over 40,000 users.

# Appendix D: National Payment Transparency Register



## National Payment Transparency Register

**KEY**  
 1 Payment performance = against volume of invoices not value  
 2 Average days to pay = whole days, day 1 being the day after the date on which the business receives an invoice; and ends when supplier received payment  
 3 Code = Australian Supplier Payment Code  
 \*EOM = End of Month

Public Companies	ABN	Payment terms for small suppliers			EOM* or Net	Average days to pay <sup>2</sup>	Payment performance <sup>1</sup> Jan 2017 - July 2017	Code <sup>3</sup> Signatory Y/N	In effect from	Definition of small supplier <i>*If a signatory, from the three definitions available under the Code</i>
		30 days or less Y/N	Other	Under 30 days						
Accounting on the Tablelands AGL Energy	96 585 831 455 74 115 061 375	Y N	7 days - 32 days from end of month - 30 days from invoice - Immediate payment		7 Not provided	91.0% Not provided	Y N	31-Dec-18	An Australian business with annual turnover up to \$10 million. An Australian business with fewer than 20 employees.	
Allbiz Finance Brokers Pty Ltd	68 600 071 976	Y	7, 14 and 30 day terms		14	100.0%	N		An Australian business with fewer than 20 employees.	
Allservice Finance Broking Group Pty Ltd	79 606 511 979	Y	7, 14 and 30 day terms		14	100.0%	N		An Australian business with fewer than 20 employees.	
Anywise Consulting Pty Ltd	86 169 092 960	Y			27	56.0%	Y	15-Sep-16	An Australian business with fewer than 20 employees.	
ASX Limited	98 008 624 691	Y			21	96.0%	Y	01-Mar-18	An Australian business with annual turnover up to \$10 million.	
Australia and New Zealand Banking Group Limited (ANZ)	11 005 357 522	Y	Always had 30 day payment terms for all suppliers		33.13 *across all suppliers		Y	29-May-17	An Australian business that supplies goods and services up to a maximum annual level of \$1,000,000.	
BAE Systems Australia Limited	29 008 423 005	N	End of the month following the month of the invoice		Not provided	Not provided	Y	29-Nov-18	An Australian business with annual turnover up to \$10 million.	
Bain International Inc	29 003 850 619	Y			20	100.0%	Y	01-Jan-18	An Australian business that supplies goods and services up to a maximum annual level of \$5,000.	
Benchmark	22 724 118 248	Y	7, 14 and 30 days		7	91.0%	N		An Australian business with fewer than 20 employees.	
Challenger Group Services P/L	91 085 657 307	Y	7, 14 and 30 days		5-Jul	90.0%	N		An Australian business with fewer than 20 employees. An Australian business with annual turnover up to \$10 million.	
Clear Choice Nationwide Pty Ltd	621 168 812	Y			30	100.0%	N		An Australian business with annual turnover up to \$10 million.	
Commercial & Asset Finance Brokers Association of Australia	32 129 490 133	Y	Payment made within 30 days		15	95.0%	N		An Australian business with fewer than 20 employees.	
Commonwealth Bank of Australia (CBA)	48 123 123 124	Y			26	79.0%	Y	30-Jun-17	An Australian business that supplies goods and services up to a maximum annual level of \$1,000,000.	
Install A Gadget	15 262 261 525	Y	- COD - 15-25 days		15-25	99.0%	N		An Australian business with fewer than 20 employees.	
Jemena Limited	95 052 167 405	N	- 7 and 14 days, 30 days, 45 days and 59 days		40 for all suppliers, updating systems to separate small suppliers data	70.0%	Y	30-Nov-18	An Australian business with annual turnover up to \$10 million.	
Jenni Kelsall	46 200 502 933	Y	- 7 days, 30 days, No terms		18	36.0%	N		An Australian business that supplies goods and services up to a maximum annual level of \$500,000.	
King & Wood Mallesons	22 041 424 954	Y			Not provided	90.0%	Y	01-Nov-17	An Australian business with annual turnover up to \$10 million.	
Mirvac	72 001 069 245	Y	- 14 days for small subcontractors - 30 days for all other suppliers		25	80.0%	Y	15-Nov-17	An Australian business with annual turnover up to \$10 million.	
Mobilguard	55 200 693 534	Y	- on invoice - within 14 days		7	100.0%	N		An Australian business with fewer than 20 employees	
MVOB Australia Pty Ltd	13 086 760 198	Y	All suppliers are 30 days with an electronic invoice submitted to accounts payable		30-37		Y	01-Jul-17	All suppliers	
National Audits Group	89 128 381 920	Y			5	100.0%	Y	01-Jul-17	An Australian business with fewer than 20 employees	
National Australia Bank Limited (NAB)	12 004 044 937	N	- Contracted suppliers have 45 or 30 day payment terms - Purchase Order Suppliers 30 Days - Remaining on supplier terms		17	96.0%	Y	31-Dec-18	An Australian business with fewer than 20 employees and supplies good and services up to a maximum annual level (yet to be determined).	
Navitas Ltd	69 109 613 309	Y			7-14 days	85.0%	Y	03-Nov-17	An Australian business that supplies goods and services up to a maximum annual level of \$50,000.	
Randwick City Council	77 362 844 121	Y			21	98.0%	Y	01-Jan-98	An Australian business with fewer than 20 employees	
Small Business Mentoring Service Inc	49 963 512 121	Y			20	100.0%	Y	01-Jun-17	An Australian business with annual turnover up to \$10 million.	
Small Enterprise Association of Australia and New Zealand	121 6802 9481	Y			14	98.0%	Y	30-Oct-17	An Australian business with fewer than 20 employees.	
Telstra Corporation Limited	33 051 775 556	Y			40	95.0%	Y	11-Jun-17	An Australian business with fewer than 20 employees.	
The Small Business Institute Pty Ltd	151 757 505	Y			20	100.0%	Y	01-Jun-17	An Australian business with annual turnover up to \$10 million.	

## Appendix E: Advice to Minister Cash on 7 December 2018

7 December 2018

Senator the Hon Michaelia Cash  
Minister for Small and Family Business, Skills and Vocational Education  
Parliament House  
Canberra ACT 2600

Dear Minister Cash

### **Advice on the effect of payment practices on Australian small and family businesses**

On 5 November 2018 you wrote requesting advice – as authorised by section 57(1) of the Australian Small Business and Family Enterprise Ombudsman Act 2015 (the Act) – on the effect that payment practices are having on Australia’s small and family businesses.

I am pleased to present my report outlining the findings from the Australian Small Business and Family Enterprise Ombudsman (ASBFEO) review of payments times which includes your request to:

- identify badly performing companies
- examine payment term trends among large Australian and multinational businesses
- provide recommendations on how these practices might be improved to protect small and family business cash flow.

In the period of time since the review commenced we have received an overwhelming response from small and family businesses to our online survey, with over 2,400 surveys completed.

The majority reported that their key issue is late payment. This impact is amplified where the power imbalance has forced a small supplier to accept extended terms, greater than 60 days, yet payment is still late.

We have engaged with over 250 large businesses advising them of your request for advice and asking them to provide a copy of their current small business supplier payment terms and conditions. I have issued statutory notices to the companies yet to respond to provide the requested information under Section 37 of the Act.

We sought consultations with large businesses that were named multiple times by survey respondents, to gain a more detailed understanding of their small business payment policies and processes. We have also analysed current trends in industry sectors and obtained information on current findings from overseas initiatives.

Since the ASBFEO 2017 Payment Times and Practices Inquiry, it has been encouraging that some large businesses are at various stages of implementing small business supplier payment policies and during the course of this review four large businesses have recently announced improvements to their payment policies to small suppliers. These businesses are identified in my report.

Payment terms have decreased and it is rarer to see 90 days or greater. 30-day payment terms are now most common. However, payment terms alone does not guarantee payment on time.

A key issue from this review is that in some large businesses, despite having small business supplier policies with stated payment terms, performance of payment times is not being measured and therefore late payment continues unabated.

The Government's commitment to develop an annual reporting framework, requiring businesses with over \$100 million turnover to publish payment information is most welcome and will go some way to addressing the late payment culture in Australia. Essential to obtaining real change in payment practices will be independent monitoring and publishing of actual payment time performance to call out bad practice.

Yours sincerely

A handwritten signature in blue ink that reads "Kate Carnell". The signature is written in a cursive, flowing style.

Kate Carnell AO

Australian Small Business and Family Enterprise Ombudsman

## Appendix F: A list of companies who provided payment terms

\*Companies which did not wish to have their payment times published are marked with an asterisk at the bottom of the list.

Accenture Australia and New Zealand	Boeing Defence Australia Ltd
Adamantem Capital Pty Ltd	Boral Limited
Adelaide Brighton Ltd	BP Australia
AGL Energy Limited	Brambles Limited
AIA Australia	Brisbane City Council
Alcoa of Australia Limited	BUPA
Aldi	Business Council of Australia
Allens Linklaters	Caltex Australia Limited
ALS Limited	Carsales.com Limited
Alumina Limited	Challenger Limited
Amazon	Chevron Australia
Amtcor Limited	Cimic Group Limited
Ames Australia	Cisco Australia and New Zealand
AMP Limited	Citi Australia (Citibank)
Ansell Australia	Clayton Utz
Anywise	Coca-Cola Amatil
AON Australia	Cochlear Limited
APA Group	Coles Supermarkets Australia Pty Ltd
Aristocrat Technologies Australia Pty Ltd	Colliers
Asahi Beverages	Commerce Ballarat
Ashurst	Commonwealth Bank of Australia
ASX Limited	Computershare Limited
Aurizon	ConocoPhillips Australia East
Ausgrid	Corrs Chambers Westgarth
Ausnet Services Limited	Credit Suisse Australia
Australia and New Zealand Banking Group Limited	C-Res
Australia Compass Group Pty Ltd	Crown Resorts Limited
Australia Post	CSIRO
Australian Broadcasting Corporation	CSL Limited
Australian Foundation Investment Company Limited	CSR Limited
Australian Unity Group	CYBG plc
B Shore Fire Service	Data3 Limited
BAE Systems Australia Limited	Datacom
Bain & Company	Deloitte Australia
Bank of America Merrill Lynch	Dentsu
Bank of China (Australia) Limited	Deutsche Bank Australia
Bank of Queensland	Dexus
Bechtel Australia Pty Ltd	Domino's Pizza Enterprise Ltd
Bendigo and Adelaide Bank	Dow Chemical (Australia) Pty Ltd
BHP Billiton Limited	Downer Edi Limited
Bluescope Steel Limited	Dulux Group
BNP Paribas	DXC Technology

EnergyAustralia Pty Ltd	Mars Australia
ENGIE	McDonald's Australia Limited
EnviroRisk	McKinsey & Company
Ernst & Young (EY)	Medibank Private Limited
Evolution Mining Limited	Melbourne Business School
Exxon Mobil Australia Pty Ltd	Metcash - Liquor
Fairfax Media Limited	Metro Trains Melbourne
Fletcher Building Limited	Microsoft Australia
Flight Centre Travel Group	Minter Ellison
Fonterra Co-operative Group Limited	Mirvac Group
Fortescue Metals Group	Mitsui & Co. (Australia) Ltd
Foxtel Management Pty Ltd	Morgan Stanley
Gawler	MSD Australia (Merck Sharp & Dohme)
GFG Alliance	Multiplex Pty Ltd
Gilbert & Tobin	MYOB Australia Pty Ltd
Glencore Coal Assets Australia Pty Limited	National Audits Group
Goldman Sachs Australia Services	National Australia Bank Limited
Graincorp Limited	Navitas Limited
GWA Group Limited	Nestle Australia Limited
Harvey Norman Holdings Limited	Newcrest Mining
Healthscope Limited	News Corporation Australia
Herbert Smith Freehills	Nillumbik
Holcim	Nine Network
HSBC Bank Australia	Norton Rose Fulbright Australia
IBM Australia Limited	Officeworks
Illion	OICS
Iluka Resources Limited	Optus
Incitec Pivot Limited	Orica Limited
Infosys Australia	Origin Energy
ING Bank (Australia) Limited	Pacific National
Install a Gadget	Pandal Australia
Insurance Australia Group Limited	Perpetual Limited
Investa Property Group	Pfizer
IOOF Holdings Ltd	Prestige Jayco
J G King Group	Programmed Maintenance Services Ltd
Jacobs Australia Pty Ltd	PwC Australia
JB Hi-Fi Group Pty Ltd	Qantas Airways Limited
Jemena Limited	QBE Insurance Group
JJ Richards & Sons Pty Ltd	QGC
King&Wood Mallesons	QUT Business School
KPMG	Ramsay Health Care
La Trobe Financial	Randwick City Council
Lendlease Group	REA Group Limited
Link Group	Reece
Lion Pty Ltd	Rio Tinto Group
Mackay Regional council	Roy Hill Holdings Pty Ltd
Macquarie Group Ltd	Santos Limited



Santos WA Energy Limited	Woolworths Group Limited
SAP Australia Pty Ltd	WSP Australia
Scentre Group	Wudinna District Council
SEAAZ	Wyndham City Council
Seek Limited	Xero Australia Pty Ltd
Seven West Media Limited	Zeemo
SGS Australia Holdings Pty Ltd	
Shell Australia Pty Ltd	*Amcor
Siemens Australia	*Baby Bunting
Small Business Mentoring Service	*Bunnings Group Limited
Snowy Hydro	*David Jones
Sonic Healthcare Limited	*John Swire & Sons (Australia) Pty Ltd
South32 Limited	*Slater & Gordon Limited
Special Broadcasting Service	*The a2 Milk Company
Spotless Group Holdings Limited	*Vodafone Hutchison Australia
Star Entertainment Group Limited	*Wesfarmers Limited
Stockland Corporation Limited	
Stone & Chalk	
Suncorp Group Limited	
Sunglow	
Sutherland Shire Council	
Sydney Airport Holdings	
Tabcorp Holdings Limited	
Tata Consultancy Services	
Telstra Corporation Limited	
Ten Network Holdings	
Thales	
The GPT Group	
The Small Business Institute	
TPG Capital	
Transurban Limited	
Treasury Wine Estate Limited	
Trend Craft Building Services	
Tweed Shire Council	
UBS Group AG	
Under Armour Group	
Unilever	
University of Sydney Business School	
University of Technology Sydney	
Ventura	
Victorian State Government	
Virgin Australia	
Visy Industries Australia Pty Ltd	
Vocus Group Limited	
Westpac Banking Corporation	
Whitehaven Coal	
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