



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

16 August 2024

Government Response and Reform Unit  
Small and Family Business Division  
Treasury  
Langton Crescent  
PARKES ACT 2600  
via email: [PaymentTimesReformSMB@treasury.gov.au](mailto:PaymentTimesReformSMB@treasury.gov.au)

Dear Sir/Madam,

### **Submission to Payment Times Reporting Rules Amendments 2024**

The Australian Small Business and Family Enterprise Ombudsman welcomes the opportunity to provide feedback on the exposure draft of the Payment Times Reporting Rules 2024 (the draft rules), following amendments being made earlier in the year to the *Payment Times Reporting Act 2020*.

To date, the Payment Times Reporting Scheme has not driven a significant improvement in the timeliness of large businesses in paying their small business suppliers. The ASBFEO has consistently drawn attention to the woeful payment times by big businesses, noting that more can be done by providing meaningful and accurate information that can easily be understood and applied by small business, regulators and the community.

The ASBFEO has championed a ‘good business pays’ campaign approach modelled on the UK system, which has been highly effective in making prompt payment of small business suppliers central to positive corporate reputations and the meeting of environmental, social and governance (ESG) obligations of large businesses. Such a campaign could amplify and empower the regulator’s reporting, including its new role of highlighting the best and worst payment performers.

The ASBFEO is concerned that the proposed draft rules will be ineffective in achieving the marked improvement in payment times that is the objective of the *Payment Times Reporting Act 2020*.

Small business owners have expressed their anger at the lack of improvements to ASBFEO. For example, one small business owner in the electrical contracting industry contacted ASBFEO to ask what the point of the Payment Times Register is, given that the register offers no relief to small businesses who are still not being paid on time. The small business owner observed that large businesses continue to dictate payment terms instead of paying within her terms; and continue to fail to pay on time. As a result, the owner was continuing to use her personal finances to keep the business afloat.

Disputes about being paid are the most common type of dispute requiring the ASBFEO’s active case management. Payment disputes accounted for 42% of new actively managed cases in 2023-24, an increase from 26% in 2020-21. Too often, these disputes involve large businesses failing to pay small businesses on time. Lack of accessible information to check payment performance inhibits small businesses’ ability to make informed decisions on dealing with large businesses.

To give another example: A small business contacted the ASBFEO for assistance to obtain payment from a large business. The small business owner had been concerned about pushing too hard and



risking the loss of business throughout their business relationship. Their invoice was more than 180 days overdue.

This example illustrates the limited utility of the Payment Times Reports Register for small businesses. The large business customer reported to the register that its standard payment term was 7 days. Yet the large business evidently failed to meet this standard, reporting that it took 21 days or more to pay more than 10% of their invoices. While the large business paid less than 1 per cent of its invoices in over 120 days, the harm done to small businesses awaiting payment after this time was profound.

### **The draft rules will not sufficiently improve payment times**

The ASBFEO acknowledges the work undertaken to date by the Australian Government to review, further develop and improve Payment Reporting Times Rules. However, the fundamental problem remains that the Payment Times Reports Register is impenetrable, with 54 reporting fields and a dashboard that is not fit for purpose. Time-poor, resource-constrained small business owners have no accessible way of finding a large business' payment-time performance at a glance.

The draft rules add further complexity, with small business owners now expected to grapple with multiple fields and statistical measures, including percentiles, mode, mean and median figures. Inversely, a more opaque presentation of payment information is unlikely to drive big businesses to pursue faster payment times that are consistent with the payment terms that small businesses themselves are commonly required to adhere to.

For example, defining fast small business payers as those paying in 20 days or less entrenches the acceptability of 20-day payment times and reduces incentives for large businesses to exceed this level of payment performance. Twenty days is considerably longer than many small businesses' own payment terms. The ASBFEO was contacted by a small business owner for assistance as their standard payment terms were 7 days, but the large business he was supplying had told him that the payment terms had to be 30 days.

This misalignment in payment times requirements and incentives for small and large businesses can result in small businesses carrying a disproportionate share of risk in supply chains.

In addition, defining slow small business payers as the slowest 20% does not allow sufficient comparison for small businesses across all large businesses. The Payment Times Reporting Regulator's July 2024 update reported that 36% of entities made 95% or more payments in 60 or more days.

This is far too long for small businesses, who rely cashflow for survival, and for whom payment delays can have devastating impacts on their enterprise, families and employees. For example, a small business owner in the construction industry with invoices for \$15,000 that were overdue for 60 days contacted ASBFEO for assistance. This situation had a catastrophic impact on his business and resulted in him losing his home.

To ensure appropriate accountability, there should be a ranking across all reporting entities (or other granular metrics) so that small businesses can identify who is a fast or slow payer, and who regularly pays their invoices late.



**Recommendation 1: The Australian Government to make application programming interface (API) functionality available for the Register to support broader use of payment performance data.**

A realistic and accessible way to ensure small businesses can make use of payment performance data to inform their commercial decisions is to enable API functionality for the register to populate payment reporting tools, such as standalone applications or integrations into accounting and other software. An API would facilitate the creation of applications or comparison websites similar to the United Kingdom's 'Good Business Pays'. Such tools would be accessible to small business suppliers and consumers, aiding them in making informed decisions about where to direct commercial dealings and under what conditions. A consumer could direct expenditure to better-performing payers. Exemplar firms would be more readily identifiable and recognisable for the leadership they are displaying as an example to others.

Additionally, while the payment time thresholds used by the Register and enshrined in the Draft Rules would not depict movements in payment performance between thresholds, the API could enable more granular third-party reporting on movements between thresholds. This transparency would enable greater accountability and transparency of payment performance and may allow small businesses to adjust supplier pricing accordingly. Just as credit reporting bureaus seek to inform businesses about the risk profile of potential counterparties and considerations about terms, an API would enable similar consideration of likely payment performance.

This type of application could be enabled as an added feature to accounting software and complement invoicing tools (in particular eInvoicing) as potentially another use benefit 'powered by the Payment Times Reporting Register'.

To help drive eInvoicing engagement and use from the current very modest levels, API functionality as recommended above would facilitate Peppol-enhanced accounting and invoicing software providers to present payment performance information at the time of invoice preparation as an input to pricing and the setting of payment terms, enhancing the value-proposition for eInvoicing use. Information about poor payment performance could be made identifiable by payer, and small business suppliers could adjust their pricing and terms (if possible) or take account of this performance for their own cash-flow management beforehand, which would be preferable to being surprised at late payment and non-adherence to their payment terms.

**Further comments: The ASBFEO encourages the Australian Government to accelerate its take-up of eInvoicing and motivate its adoption by private businesses, to streamline payment processes and remove barriers to faster payment times.**

Budget 2024-25 allocated \$23.3 million over four years from 2024-25 for the Australian Taxation Office to continue to oversee and operate the secure eInvoicing network.

eInvoicing is the digital exchange of standardised invoice information between suppliers' and buyers' software through the secure Peppol (Pan-European Public Procurement On-Line) network. Australia has adopted the Peppol framework as the common standard and network for eInvoicing; and many accounting packages offer eInvoicing.

The Peppol network allows suppliers to enter an invoice into their business software and send it securely, with the supplier's Peppol-certified access point sending the invoice and the buyer's certified access point receiving it. Access points use the buyer's Australian Business Number to



Australian Government



Australian  
**Small Business** and  
**Family Enterprise**  
Ombudsman

retrieve the right destination details for the buyer from the Peppol service metadata locator and service metadata publishers. The buyer then uses their business software to receive the invoice.

This enables secure and low friction digital exchange of invoice information. Widespread adoption of eInvoicing can therefore help avoid the types of payments delays (including those not captured by the register) that arise to differences and incompatibilities in the customer and supplier's payment and invoicing systems or processes.

If you require any further information, please do not hesitate to contact the Policy & Advocacy team at the ASBFEO, via email at [advocacy@asbfeo.gov.au](mailto:advocacy@asbfeo.gov.au).

Yours sincerely

**The Hon Bruce Billson**

Australian Small Business and Family Enterprise Ombudsman