Business Council of Australia

Submission to the Review of the Payment Times Reporting Act 2020

March 2023

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1. Overview

Business Council of Australia (BCA) members are supportive of the Payment Times Reporting framework to improve transparency of payment times to small business and complement the voluntary commitments to fast payment through the BCA's Australian Supplier Payment Code (ASPC).

Small businesses play a critical role in their communities and across supply chains. That success relies on invoices being paid quickly, in full and on time. The Payment Times Reporting Scheme (PTRS) shines a positive light on large businesses that are paying small businesses promptly. It puts companies that are unfairly extending payment times to small business suppliers under the spotlight and puts pressure on those businesses to change their practices.

The early evidence is clear – payment terms and practices have improved. The BCA is committed to further engagement to improve payment times, including working with the Payment Times Reporting Regulator and Australian Small Business and Family Enterprise Ombudsman.

The BCA welcomes the review of the PTRS, and previously called for this review in the development of the PTRS. This is an opportunity to assess its effectiveness, the costs and benefits and any needed improvements or deregulation opportunities.

The guiding principles for the review are welcome and have been used to develop the recommendations in this submission. These principles are:

- Incentivises improved payment terms and practices and disincentivises poor behaviour.
- Imposes a proportionate regulatory burden.
- Is accessible and useful.

2. Key recommendations

- **Recommendation 1:** The government's payment time reporting website should encourage reporting entities to sign up to the ASPC and provide links to the Code website. Signatories to the ASPC should also be identifiable through the PTRS.
- **Recommendation 2:** Use ATO data to help identify small businesses for the purposes of the SBI Tool.
- **Recommendation 3**: Enable reporting entities to connect to the SBI Tool in real time to identify small business suppliers, such as through an Application Programming Interface Tool.
- **Recommendation 4:** Legislate to clarify the SBI Tool can be used beyond the PTRS to also identify small businesses for the purposes of other small business policies that use a $10 million turnover threshold.
- **Recommendation 5:** Clarify the definition of a reporting entity for foreign companies, for example whether an entity has an ACN or is a registered foreign company under the Corporations Act 2001.
- **Recommendation 6:** Allow companies (or groups of reporting entities) to report on a group basis to reduce compliance costs, simplify the PTRS and better deliver on the policy intent.
- **Recommendation 7:** The review should consider the costs and benefits of moving to annual reporting rather than biannual reporting. If reporting continues to be biannual, allow the principal governing body to approve reports once a year. This would reduce the compliance burden while still ensuring payment terms and practices receive board-level attention to help drive change.
- **Recommendation 8:** Credit card payments should be excluded from payment times reports. If credit card payments continue to be included, the Regulator should have the flexibility and discretion to provide a practical administrative solution to compliance.

- **Recommendation 9:** Reporting entities should have the option to remove disputed invoices from payment times reports.
- **Recommendation 10:** Allow reporting entities the option to include recipient-created tax invoices as part of their reporting.
- **Recommendation 11:** Consolidate the number of reporting fields, starting with invoice data for payments within 30 days, 31 to 60 days and more than 60 days.
- **Recommendation 12:** The Regulator should commit to achieving best practice regulatory principles, particularly through a more risk-based and data-driven approach to compliance.
- **Recommendation 13:** Allow eInvoicing-enabled businesses to be identified through the PTRS to help demonstrate the benefits for payment times.
- **Recommendation 14:** Develop an eInvoicing package for small business to encourage increased adoption. This could include an education campaign and financial/tax incentives.
- **Recommendation 15:** Governments should be required to report under the PTRS, starting with the Australian Government.
- **Recommendation 16:** The BCA does not support mandating payment times.

3. Key observations

3.1 Payment terms and practices have improved

The objectives of the *Payment Times Reporting Act 2020* are to:

- enable small businesses to make more informed decisions about potential customers; and
- create incentives for reporting entities to improve their payment terms and practices.[1]

The Act is meeting its objective of incentivising large businesses to improve their payment terms and practices. The visibility of a businesses' payment terms and practices has created an incentive for businesses to review and improve their payment practices to ensure they remain attractive to potential suppliers.

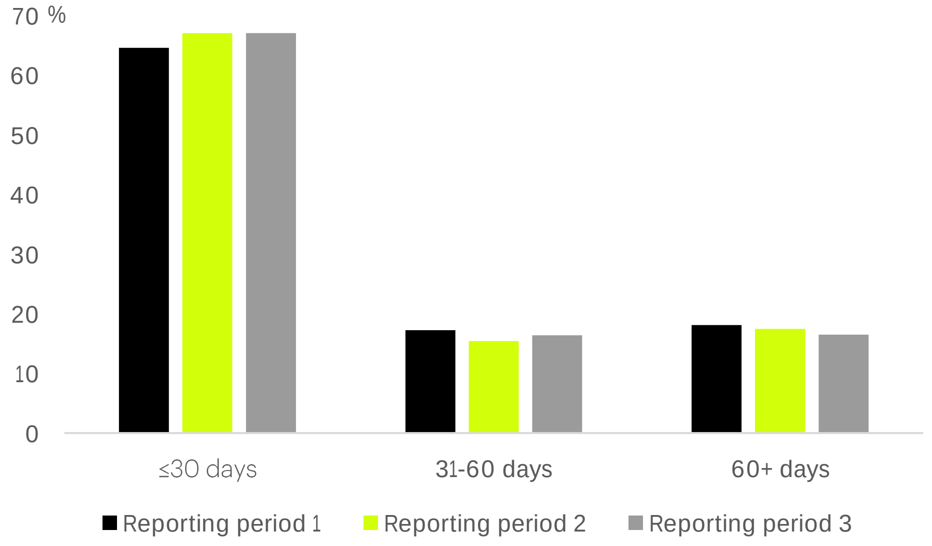
Companies have undertaken significant investments to meet their reporting obligations under this regime. Having payment practices and performance data in the public domain has encouraged many businesses to seek to improve through strong reputational incentives to improve payment times in response.

The experience to date has identified many practical issues around the PTRS and its implementation which may result in unrepresentative payment times data and unnecessarily increase compliance costs. PTRS data cannot be analysed without acknowledging the biases within the reporting data that inflate reported payment times. Examples include entities erroneously identified as small businesses and the treatment of invoices. These issues are discussed later in this submission, and there is an opportunity to address them as part of this review.

- Around two-thirds of reporting entities offer payment terms of up to 30 days. This share has increased relative to the first reporting period and the share of reporting entities offering payment times over 60 days has steadily decreased. A comparison of average payment terms will be impacted by outliers in the data with much longer payment terms – although these too have fallen.

[1] *Payment Times Reporting Act 2020*, s 3.

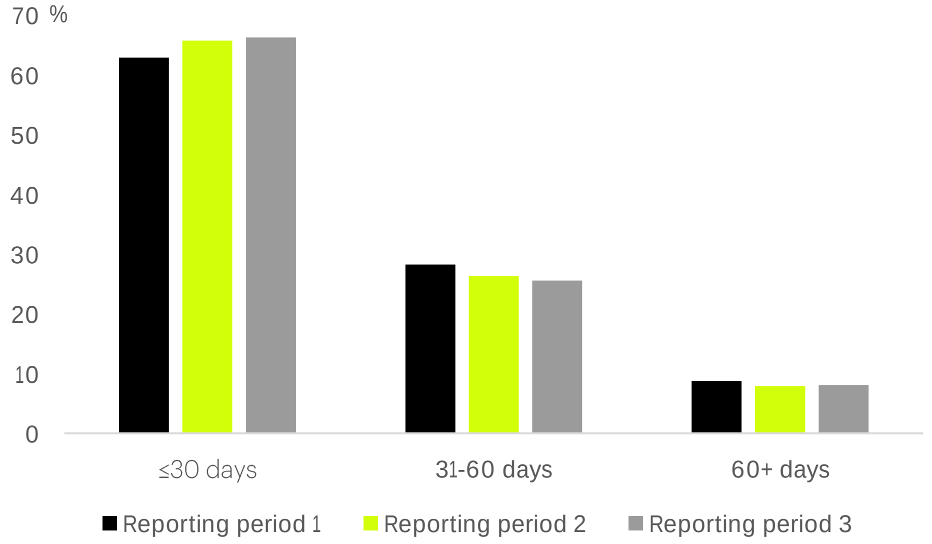
Figure 1 Share of standard payment term ranges offered by reporting entities



Source: Payment Times Reports Register based on 31 January 2023 data. Note: entities with no small business procurement have been excluded from the analysis.

- Payment practices have improved across the reporting periods with the average percentage of invoices paid within 30 days steadily increasing to around two-thirds. While there can be issues with taking a simple average of reported data in this context, data can also be analysed by the share of reporting entities reporting payment terms within payment ranges. Regardless of the approach used, the underlying trend of improved payment practices is clear.

Figure 2 Average percentage of invoices paid within day ranges



Source: Payment Times Reports Register based on 31 January 2023 data. Note: entities with no small business procurement have been excluded from the analysis. Analysis based on simple average of the number of invoices paid within 30 days.

Analysis of the data should also be mindful of enormous disruption across the initial reporting periods – around 40 per cent of businesses experienced supply chain disruptions.[2] This includes natural disasters, the COVID-19 pandemic, lockdowns/restrictions, supply constraints, logistics challenges, delivery delays, record high job vacancies, and elevated staff turnover. These disruptions have inevitably impacted reported payment times – particularly given the biases built into the reporting that can skew payment times data.

[2] Australian Bureau of Statistics, 2022, *Business Conditions and Sentiments*, June.

3.2 **There's more to do to** improve the PTRS

The PTRS has created the incentives for reporting entities to improve their payment terms and practices. However, the Act is arguably operating below its potential in enabling small businesses to make more informed decisions about potential customers.

The visibility of a businesses' payment terms and practices enables supply chain partners and competitors to make key decisions on who they do business with. This creates an incentive for businesses to review and improve their payment practices to ensure they remain attractive to potential suppliers. While the PTRS is working in this regard, its ultimate success is contingent on delivering accurate and readily accessible data, including through its website.

The practical implementation of the PTRS results in unrepresentative payment times data and the range of reporting data makes analysis and comparisons more difficult than necessary. This submission highlights these issues and the proposed solutions in further detail.

The improvement of payment terms and practices will look very different across the approximately 9,500 reporting entities. For example, payment times for the largest companies are faster relative to the rest of the reporting population, particularly as these companies tend to face more scrutiny. In developing its recommendations, the review should be mindful of implications across the various reporting entities and the potential implications for who small businesses choose to do business with.

4. Australian Supplier Payment Code

The Australian Supplier Payment Code is an industry-led voluntary commitment to improve payment times to small businesses. It commits signatories to pay their small business suppliers within 30 days and on time. There are currently 154 signatories to the Code, with combined revenue of over $600 billion.

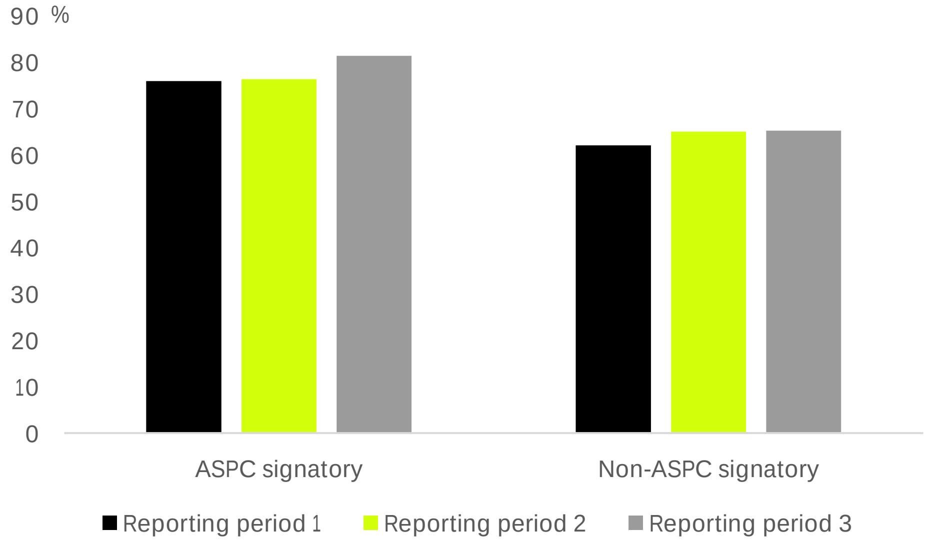
The Code was independently reviewed and found to be well designed and working to speed up payment times for small business by Professor Graeme Samuel AC in early 2019. The review made a number of recommendations to address issues raised in the expert panel's consultation process and to promote greater adoption of the code – all of which have been adopted.

The BCA continues to encourage all businesses to adopt the ASPC. The voluntary approach outlined in the Code is the preferred mechanism for reducing payment times because, instead of a compliance mindset, signatories adopt a culture of genuinely acting to reduce payment times and working with their small business suppliers to improve invoicing and payment practices. Signatories take on these commitments in good faith.

Ready identification of ASPC signatories through the PTRS could also help demonstrate the better payment times and practices of ASPC signatories. To illustrate, BCA analysis of payment times reports finds signatories of the ASPC pay a higher proportion of invoices within 30 days relative to all other reporting entities. The share of invoices paid within 30 days has improved for both groups across the three reporting periods, with a bigger improvement for ASPC signatories.

This is evidence of the benefits of a complementary approach of transparency through the PTRS alongside the commitment and cultural change of improving payment times through the ASPC.

Figure 3 Average percentage of invoices paid within 30 days for ASPC signatories and non-signatories



Source: Payment Times Reports Register based on 31 January 2023 data. Note: entities with no small business procurement have been excluded from the analysis. Analysis based on simple average of the number of invoices paid within 30 days.

- **Recommendation 1:** The government's payment time reporting website should encourage reporting **entities to sign up to the ASPC and provide links to the Code website. Signatories to the ASPC should also be identifiable through the PTRS.**

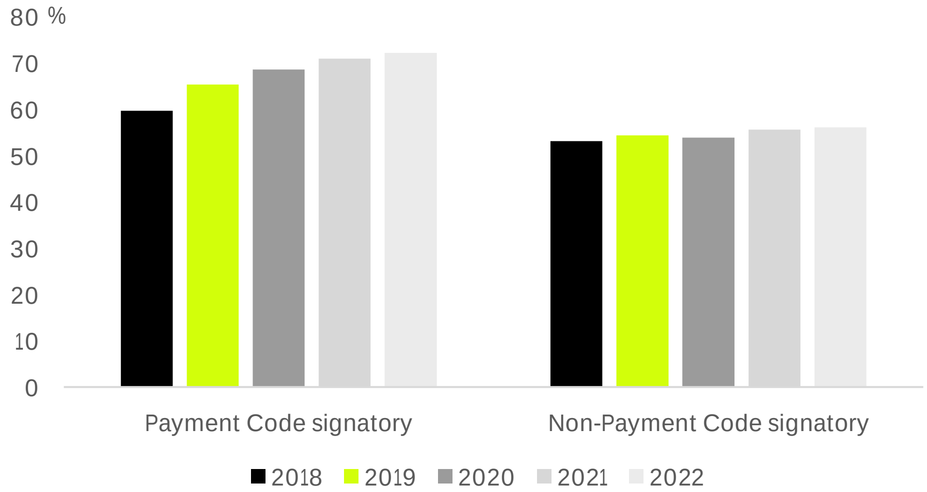
4.1 **Observations from the UK's** Prompt Payment Code

The UK's Prompt Payment Code is similar to the Australian Supplier Payment Code in the ethos and commitment to improve payment times. While the precise details, commitments and definitions of a small business vary, analysis from the UK's Prompt Payment Code and UK Payment Practice Reports are relevant in the Australian context. While it should be noted that UK payment times data report payment times for all businesses (small and large), the lessons from the UK are instructive:

- Signatories to voluntary payment codes have better payment times relative to non-signatories.
- Signatories to voluntary payment codes have improved payment times time more than non-signatories.

Payment times transparency in the UK has helped to improve payment practices over time. This improvement has been amplified when complemented by voluntary commitments to improve payment times.

Figure 4 UK average percentage of invoices paid within 30 days for Payment Code signatories and non-signatories



Source: UK Payment Practices data accessed 27 February 2023. Note: Analysis is simple average of invoices paid within 30 days.

5. Operation of the Act

5.1 Small Business Identification Tool

The purpose of the Small Business Identification (SBI) Tool is to enable businesses to identify and verify their small business suppliers. It is critical to the success of the PTRS in improving payment terms and practices. The success and potential of the SBI Tool is demonstrated by businesses reporting updated faster payment terms and practices for small businesses having been able to better identify them.

However, BCA member companies continue to raise issues around the integrity, quality and timeliness of the data informing the SBI Tool, with the potential to skew and misrepresent payment times data. But these issues can be readily addressed and the full potential of the SBI Tool can be unlocked.

The PTRS should continue to report on small business payment times – notwithstanding the potential simplification benefits. To do so would inflate reported payment terms and practices as payment terms between large businesses tend to be longer than that for small businesses. It is also unlikely to align with one of the objectives of the Act to support small businesses in making more informed decisions about potential customers.

5.1.1 Identify businesses through ATO data

The success of the SBI Tool is contingent on workable and accurate data. The existing data continues to present challenges in this context, such as:

- Where reporting entities have payments with a supplier slightly below the $10 million threshold, they cannot confidently sign a statutory declaration even though the business is likely to be above the threshold.
- The ability to sign statutory declarations is welcome, but it is an onerous and inefficient process. For example, some businesses have thousands of suppliers to check and may have multiple forms to complete, while multiple businesses may classify the same business as being misidentified by the Tool.
- Small business identification may be dependent on a small business self-determining if it is small or not at the request of a large business customer.

The PTRS Review should explore how Australian Taxation Office (ATO) data could be used as an alternative to the existing SBI Tool data to readily and accurately identify small businesses. This would also eliminate the need for companies ensure the SBI Tool is accurate while reducing compliance costs.

Tax secrecy provisions should not be a barrier to the use of ATO data for the SBI Tool. This is particularly the case given the elimination method currently used for the SBI Tool, as well as existing tax transparency measures (see table below).

Table 1 Existing ATO transparency publications

Transparency publication	What is published?	Turnover threshold
Company tax transparency	Name, ABN, turnover, taxable income and tax payable	≥$100 million
Petroleum Resource Rent Tax	Name, ABN and PRRT payable	N/A
Junior Minerals Exploration Incentive	Name, ABN and exploration credits	N/A
Research and Development Tax Incentive	Name, ABN/ACN, and R&D tax offset	N/A

Source: *Taxation Administration Act 1953*.

Use of ATO data for this purpose could be based on the most recently lodged tax return by companies. Over time, data could be made contemporaneous based on regular lodgements.

- **Recommendation 2: Use ATO data to help identify small businesses for the purposes of the SBI Tool.**

5.1.2 Real-time identification of small businesses

The current process for identifying small businesses through the SBI Tool is manual and cumbersome. Some large companies can have as many as 20,000 small businesses across their supply base.

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

- **Recommendation 3: Enable reporting entities to connect to the SBI Tool in real time to identify small business suppliers, such as through an Application Programming Interface Tool.**

5.1.3 Unlock the full potential of the SBI Tool

The full potential of the SBI Tool can be unlocked by making it available to all businesses and governments wanting to provide tailored services or support to small businesses across Australia. There are currently several tests/definitions of a small business in operation, and the process to readily identify a small business may be difficult and costly to comply with, and may be prone to error.

A $10 million turnover threshold features across the PTRS, various small business tax concessions, unfair contract terms, ASPC and the Banking Code of Practice. Together with the other recommendations in this submission, the SBI Tool could deliver a more efficient approach to identifying small businesses as well as a common definition across all small business policies. In turn, this could help improve their take up and effectiveness.

The *Payment Times Reporting Act 2020* does not preclude the use of the SBI Tool for other purposes. However, this could be further clarified in the legislation to ensure there is no ambiguity.

- **Recommendation 4: Legislate to clarify the SBI Tool can be used beyond the PTRS to also identify small businesses for the purposes of other small business policies that use a $10 million turnover threshold.**

5.2 Reporting entity definition

The definition of a reporting entity includes a test of whether the entity is "carrying on an enterprise in Australia". This creates unnecessary complexity and uncertainty for foreign companies with some connection with Australia when determining whether they are a reporting entity.

Similar tests are found in the *Corporations Act 2001* and *A New Tax System (Goods and Services Tax) Act 1999*. However, these tests arise in a different context, use different language and have been subject to judicial consideration. Their application in the context of payment times reporting is unclear, but if the intention is to import either test into the *Payment Times Reporting Act 2020* then it should be directly referenced. This would reduce the unnecessary complexity and uncertainty currently present in the official guidance. For example, the official website ultimately instructs reporting entities to "seek professional advice" to confirm their status.[3]

A clearer definition of when a foreign entity is a reporting entity is needed. For example, the definition of a reporting entity could be solely based on whether an entity has an Australian Company Number (CAN) or is a registered foreign company under the *Corporations Act 2001*. This is an existing obligation foreign companies already face and aligning this with payment times reporting obligations would reduce unnecessary complexity and uncertainty while removing the need to consider the application of different tests.

- **Recommendation 5: Clarify the definition of a reporting entity for foreign companies, for example whether an entity has an ACN or is a registered foreign company under the *Corporations Act 2001*.**

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[3] https://paymenttimes.gov.au/who-must-report/eligibility-criteria

5.3 Reporting level

Many corporate groups will typically use substantially the same systems and processes, and be governed by the same payment policies, for all entities within the group. The requirement to lodge separate reports for each entity makes the PTRS unnecessarily complex and significantly – and unnecessarily – increases compliance and administration costs. Similarly, the benefits of this approach are unclear where companies have largely aligned payment policies across their business.

The scale of this issue is demonstrated by the approximately 9,500 reporting entities within the most recent data publication, around 6,500 of which reported as part of a group.[4] Some groups have over 70 reporting entities – many of which do not have any small business procurement. Indeed, around a quarter of all reports do not have any small business procurement. This issue will also compound over time as more businesses qualify for the scheme due to the static turnover threshold. Another possible solution in this context is to remove the need to report on nil-reporting entities, particularly the burdensome requirements to have these reviewed by boards.

Where groups have common payment systems and policies across their business, it should be unnecessary to require separate reports by individual reporting entities. This will reduce the number of reports lodged under the PTRS, simplify information provision for small business, reduce compliance costs and reduce administration costs.

- **Recommendation 6: Allow companies (or groups of reporting entities) to report on a group basis to reduce compliance costs, simplify the PTRS and better deliver on the policy intent.**

5.4 Reporting frequency

The biannual reporting requirement increases compliance costs but the benefits for small businesses from this additional reporting are unclear. Companies also note the compliance burden around obtaining approval from the principal governing body (e.g. the board) for each report – an issue compounded by the inconvenient format of reports.

A less costly, simpler, and more effective approach would be to require entities to submit an annual report. Indeed, the government's Pay On-Time Survey moved from biannual to annual reporting over a decade ago. This would also be consistent with other annual public reporting, such as sustainability and tax contribution reports.

- **Recommendation 7: The review should consider the costs and benefits of moving to annual reporting rather than biannual reporting. If reporting continues to be biannual, allow the principal governing body to approve reports once a year. This would reduce the compliance burden while still ensuring payment terms and practices receive board-level attention to help drive change.**

5.5 Credit cards

Guidance around credit card payments continues to be ambiguous, impractical, rigid and the cost of compliance is unreasonably high. Current systems do not provide the ABN information to readily identify who the payment has been made to or whether it has been made for pre-paid services or on-the-spot goods and services.

Compliance involves a manual exercise of trawling through the transactions of potentially thousands of employees, across a dozen credit card statements in a year to match payments to invoices. This is highly impractical and onerous, with very little clear benefit. Company audits of credit card statements reveal most of these payments are relatively small and at the point of sale. Published payment times reports reveals companies have responded in different ways, including:

- Excluding credit card payments from reports because of the cost/difficulty of compliance and small values.

[4] Payment Times Reporting Regulator, 2023, *Regulator's update*, January.

- Banned the use of credit cards for payments.
- Not reported on credit card payments as they consider them irrelevant for the purposes of reporting.

The impact of the PTRS on standard commercial practices undermines the benefits of using credit cards for low volume, low risk transactions. The costs of processing credit card payments are significantly lower for both suppliers and customers compared with invoices, and suppliers are paid much quicker.

The *Payment Times Reporting Act 2020* should exclude credit card payments from payment times reports. If they continue to be included, the Regulator should have the flexibility and discretion to provide a practical administrative solution to this problem or provide examples of how a reporting entity could satisfactorily meet its reporting obligations from an audit perspective. For example, a de minimis amount could be set below which credit card payments for invoices do not need to be reported. UK payment times reporting requires credit card payments to be reported where credit terms are offered e.g. if an employee stays at a hotel and the employer is billed at a later date – but even this can result in a significant administrative burden.[5]

- **Recommendation 8: Credit card payments should be excluded from payment times reports. If credit card payments continue to be included, the Regulator should have the flexibility and discretion to provide a practical administrative solution to compliance.**

5.6 Treatment of invoices

5.6.1 Disputed invoices

A disputed invoice will take longer to process than an undisputed invoice. The reason for the dispute could range from incorrect invoice information, defective goods, to discrepancies between what is invoiced or stated on a contract. It can take more than 30 days to resolve a dispute.

The current reporting approach to disputed invoices results in longer and unrepresentative reported payment times. This also stands in contrast to the Australian Government's Supplier Pay On-Time or Pay Interest Policy (RMG 417), where the due date for an invoice follows the "receipt of a correctly rendered invoice AND acknowledgement of the satisfactory delivery of the goods or services in accordance with the terms of the contract."[6]

Companies should have the option to remove disputed invoices from reporting and avoid reporting excessive reporting times that do not properly reflect their real performance. If the Regulator has a reasonable suspicion that companies are abusing this concession then the company can be investigated via the audit function.

- **Recommendation 9: Reporting entities should have the option to remove disputed invoices from payment times reports.**

5.6.2 Recipient-created tax invoices

Invoices are typically issued by suppliers, but in some cases the recipient of the goods may issue a tax invoice. The recently updated guidance material excludes these invoices as it does not consider them to be a trade credit arrangement. However, some reporting entities note it can be difficult to identify recipient-created tax invoices within their systems relative to other invoices. The compliance costs of separately identifying and removing these invoices from payment times reports can outweigh the benefits.

- **Recommendation 10: Allow reporting entities the option to include recipient-created tax invoices as part of their reporting.**

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[5] UK Department for Business, Energy & Industrial Strategy, 2019, *Duty to report: guidance to reporting on payment practices and performance*, September.
[6] https://www.finance.gov.au/publications/resource-management-guides/supplier-pay-time-or-pay-interest-policy-rmg-417/supplier-pay-time-or-pay-interest-policy-resource-management-guide-no-417-policy-additional-information

5.7 Reporting fields

Reporting entities must report in up to 60 fields with published reports stretching to 54 columns. When combined with the number of reporting entities, there are around 1.4 million reporting fields today. This makes for a complex and burdensome compliance regime and that is difficult for users to access and analyse.

The BCA welcomes the ability to provide comments for many of the reporting fields. However, the need for comments largely arises from issues with the practical implementation of the PTRS. This ability to provide comments is no substitute for addressing the underlying issue. For example, the ability to provide comments in response to issues with the SBI Tool is not a substitute for an accurate SBI Tool that reliably identifies small businesses.

This also impacts the timely publication of reports. For example, the Regulator screens reports "for information that may not be in the public interest to publish".[7] Given the approximately 9,500 – and growing – reporting entities, reliance on comments will increase the administration costs and potentially delay publication of the data. Ultimately, the underlying issues that give rise to the need for comments must be addressed. In turn this could help reduce the number of comment fields required.

A starting point could be to consolidate the reporting fields on invoice payment periods. Entities are required to reported on the number and value of invoices paid within 20 days, 21 to 30 days, 31 to 60 days, 61 to 90 days, 91 to 120 days and more than 120 days. This could be consolidated to within 30 days, 31 to 60 days and more than 60 days. This would arguably provide more meaningful data, ease the compliance burden, simplify payment times reports and improve data accessibility for users. Consideration should also be given to increased optionality to use the web-based form for reporting of some variables.

- **Recommendation 11: Consolidate the number of reporting fields, starting with invoice data for payments within 30 days, 31 to 60 days and more than 60 days.**

5.8 The Payment Times Regulator

The Payment Times Regulator should be adequately resourced to administer the PTRS and seek to comply with the Regulator Performance guidance at a level of best practice.[8] The latest Treasury Annual Report notes 71 per cent of key stakeholders have a high level of satisfaction with the Payment Times Regulator's services, engagement and consultation.[9] However, the Regulator is also assessed by:

- 42 per cent of key stakeholder as being responsive to the environment and building trust
- 25 per cent of key stakeholders as approaching its activities in a risk based and data-driven way.

More than $36 million has been budgeted for the PTRS, $24 million of which is through to 2022-23. This must deliver value for money while also ensuring the PTRS meets its objectives and reporting entities benefit from clear, practical and stable guidance. This will enable the information reported to be as accurate and representative as possible and ensures comparability over time. This in turn means PTR reports will provide a comprehensive view of payment times performance, consequently assisting the scheme to achieve its policy objectives of improving payment outcomes for small businesses and creating transparency around the payment practices of large businesses.

- **Recommendation 12: The Regulator should commit and demonstrate changes to achieve best practice regulatory principles, particularly through a more risk-based and data-driven approach to compliance.**

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[7] Payment Times Reporting Regulator, 2022, *Guidance note 2: Preparing a payment times report*, October.
[8] https://www.finance.gov.au/government/managing-commonwealth-resources/regulator-performance-rmg-128
[9] The Australian Government The Treasury, 2022, *Annual Report 2021–22*, October.

6. Other related policies

6.1 eInvoicing

An eInvoice can provide cost savings of up to $20 relative to a paper or PDF invoice.[10] The benefits are realised through lower processing costs, fewer errors, improved security, better record keeping, and faster payment times for suppliers. It can also help accelerate Australia's digital transformation and, if properly implemented, eInvoicing systems can also help protect against scams, including business email compromise – with the Australian Cyber Security Centre reporting an average loss of $64,000 per report it receives.[11]

There are over 1.2 billion invoices exchanged annually but 89 per cent of SMEs are still processing paper-based or PDF invoices.[12] In short, the potential economy-wide benefits are enormous.

Businesses are ready to support government to encourage business adoption of eInvoicing. Examples include:

- Signatories to the ASPC commit to working with suppliers, where practicable, to apply technologies and practices that will improve the efficiency and accuracy of invoicing and payment processes (e.g. online portals, eInvoicing, Electronic Funds Transfer, payment cards, etc).
- The BCA co-chairs the Champions Adoption Network with the ATO, which brings together businesses to share their Peppl eInvoicing experiences and champion the adoption of eInvoicing across the economy. The BCA also co-chairs the subcommittee focused on ensuring a coordinated communication campaign.
- Many BCA members are working with the ATO on piloting eInvoicing trials in their businesses and have been enthusiastic supporters of the Champions Adoption Network.
- Promotion of educational events to the BCA's wider network, including webinars hosted by the ATO targeted at SMEs.
- Many businesses also provided support for the inaugural eInvoicing week in 2022, which saw nearly 700 events and activities delivered by government and industry.

Technology is critical for enabling faster and more reliable payment times for small business and must be a key focus for government. This is one of the best ways to achieve the objectives of the Act. BCA members have noted eInvoicing has been a key element of helping to improve payment times for small business. But eInvoicing adoption levels by small businesses have been very low despite active promotion.

What is needed is a roadmap setting out the path to getting all businesses, particularly SMEs, to adopt eInvoicing. This should set out the key actions and milestones needed from government and businesses to help Australians get off paper and PDFs, and set clear goals for all parts of the economy along the way to getting a critical mass of businesses onto eInvoicing.

Greater adoption of eInvoicing by SMEs could be supported by:

- Allow eInvoicing-enabled businesses to be identified through the PTRS.
- Continuing education campaigns to raise awareness of the benefits e.g. webinars, promotions etc.
- Financial incentives such as rebates for SMEs that lodge their Business Activity Statements and other tax forms through official digital channels.
- Targeting eInvoicing through an extended Technology Investment Boost.
- Assurances from regulators, including the ATO, that greater adoption of eInvoicing will not be used for regulatory or compliance purposes.

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[10] https://www.ato.gov.au/Business/eInvoicing/What-is-eInvoicing-/Benefits-of-eInvoicing/
[11] Australian Cyber Security Centre, 2022, *Annual Cyber Threat Report, July 2021 to June 2022*, November.
[12] Deloitte, 2021, *Introduction of electronic invoicing (e-invoicing) into the Australian market*, April.

This will complement the government's policy to pay contracts up to $1 million within five days, where both the buyer and supplier use Peppol eInvoicing systems. And it needs to be a fundamental part of a new 'digital standard' - the baseline of things Australians and Australian businesses need to have and to know to be part of a modern economy. This could include moving to cloud-based services, appropriate cyber security settings, or moving off paper-based forms when interacting with government.

Peppol is one of many different types of eInvoicing systems that businesses use. Government should continue to work with software providers and businesses to ensure interoperability between Peppol and other systems. It is particularly important the ATO drive this work given its role as the Peppol authority in Australia.

- **Recommendation 13: Allow eInvoicing-enabled businesses to be identified through the PTRS to help demonstrate the benefits for payment times.**
- **Recommendation 14: Develop an eInvoicing package for small business to encourage increased adoption. This could include an education campaign and financial/tax incentives.**

6.2 Government adoption of the PTRS

Governments are among the largest procuring entities in Australia and the original payer for many supply chains. There is merit in requiring governments to file the same payment times reports as large businesses under the PTRS. This will provide small businesses with comparable payment times information for all their large customers in the one place. It would also align with recently passed legislation to require federal public sector agencies to report to the Workplace Gender Equality Agency similar to large companies.[13]

- **Recommendation 15: Governments should be required to report under the PTRS, starting with the Australian Government.**

6.3 Mandating payment times

The BCA does not support mandating payment times. This would create a compliance mindset rather than encouraging a cultural change of genuinely acting to reduce payment times and working with small business suppliers to improve invoicing and payment practices. As it stands, the PTRS data is not sufficiently robust enough to justify payment times regulation given the inherent biases that inflate reported payment times.

Mandated payment times would create compliance costs and risks for business of all sizes, and there would be a considerable cost to government in terms of effective administration and enforcement. There would also be considerable complexity in carving out instances where longer terms are mutually agreed (e.g. some retail goods) or complex/extended supply chains where the impact of delays can reverberate and payment times tend to be longer. These issues give rise to divergent payment terms and practices across industries, presenting challenges with a one-size-fits-all approach.

There are many risks in mandating payment times:

- Regulation could deter larger business from trading with small businesses, or if also applied to SMEs and the time in which they pay their small business suppliers.
- This could lead to a compliance mindset where some businesses move to pay on the maximum permissible payment terms. For instance, some businesses paying on shorter terms today might extend their payment terms to a regulated maximum timeframe.
- Timely and efficient enforcement may be impractical in the context of 1.2 billion invoices exchanged annually. Some BCA member companies have over 10 million SME invoices a year.
- Any transition period would be lengthy, complex and come with significant compliance costs due to the need to update all existing contracts to reflect new policy.

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[13] Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Bill 2022

The BCA continues to encourage all businesses to adopt the ASPC. The voluntary approach outlined in the Code is the preferred mechanism for reducing payment times because, instead of a compliance mindset, signatories adopt a culture of genuinely acting to reduce payment times and working with their small business suppliers to improve invoicing and payment practices. Signatories take on these commitments in good faith. Ready identification of ASPC signatories through the PTRS could also help demonstrate the better payment times and practices of ASPC signatories.

Companies should also not be penalised for the payment times they report in the context of the issues with the PTRS, such as the SBI Tool, treatment of invoices etc. The issues outlined in this submission must be addressed as part of an improved PTRS.

- **Recommendation 16: The BCA does not support mandating payment times.**

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