Beautiful business

By email: eec.sen@aph.gov.au

3 July 2020

To whom it may concern,

Re: Education and Employment Legislation Committee inquiry into the Payment Times Reporting Bill 2020

Introduction:

Xero welcomes the opportunity to make a submission to the Education and Employment Legislation Committee on its inquiry into the Payment Times Reporting Bill 2020. Representing the small business sector, Xero was pleased to participate in the Expert Advisory Group for the Payment Times Reporting Framework legislation consultation. Xero will also be a business required to populate the Framework. We believe this legislation is a positive step towards reducing late payments to small businesses.

Xero is a beautiful, intelligent platform built to help small businesses and their advisors grow and thrive. Born in the cloud, Xero connects businesses with the accounting tools, apps and thousands of data points business owners need in one place, available at any time, on any device.

Since our founding in 2006, Xero has become one of the fastest growing software-as-a-service companies globally. We lead the New Zealand, Australian, and United Kingdom cloud accounting markets, and have an emerging presence in North America and Asia. Today, Xero has over 940,000 subscribers in Australia and 2.2 million globally.

Xero Small Business Insights (XSBI) research shows the destructive nature of late payments to small businesses. In an analysis conducted last year, Xero found 53 percent of small business invoices to big business are paid late – on average 23 days past the due date. That's an estimated $115 billion paid late each year.

Xero's research found long payment times reverberate through the economy. Recipients paid slower than average also paid their own suppliers eight days slower than businesses paid faster than average. Similarly, small businesses paid slower than average grew their revenue about a third slower than those paid faster than average. Commonly cited reasons for delayed payments are errors and payment system complexity, but technology is becoming available to remove these problems.

E-invoicing is designed to reduce invoice errors and delays, by sending invoices directly to a customer's accounting system. This means a small business can send an invoice from its software and it will arrive in the customer's accounting system as a pre-populated bill, ready to be approved and paid. The customer won't have to check their emails or manually enter an invoice into their system. E-invoicing is expected to lower the cost of doing business and improve payment times.

Xero strongly supports the Payment Times Reporting Framework as another tool to reduce late payments to small businesses. We have provided feedback on the major issues for consideration as per the Selection of Bills Committee guidance.

Issues for consideration:

1. Use of delegated legislation (Minister's Rules) for detail rather than in main legislation.

In Xero's experience, delegated legislation – or legislated establishment of Ministerial or Departmental rules frameworks (Rules) – carry both advantages and risks. If the balance between legislation and Rules is managed appropriately, the Framework should be an agile and effective small business tool.

Small businesses will benefit from the ability created by Rules to adjust the Framework. Flexibility created by Rules can allow government regimes to leverage versatility without the need for complicated and time consuming legislative amendments. For small business users, Rules should ensure the Framework is fit for purpose. For big businesses required to populate the Framework, flexibility should ensure the administration investment delivers a suitably sized benefit for small businesses.

The risk of Rules is uncertainty for big businesses required to populate the Framework. While these businesses understand the benefit of flexibility to ensure the Framework is fit for purpose, recurring changes can be disruptive. Government should work towards as few changes to the Rules as possible to allow participating big businesses to plan with certainty. Striking the correct balance will allow the Framework to be fit for purpose while minimising disruption.

In Xero's experience, the Government has a commendable record of managing delegated legislation and the associated balance between agility and change fatigue. In the case of the Payment Times Reporting Framework, Xero is comfortable that delegated legislation is an appropriate mechanism to ensure smooth operation of the Framework.

2. Technical issues - treatment of supply chain financing, appropriateness of reporting thresholds

Supply chain financing

Xero notes the explicit reference to supply chain financing in the Payment Times Reporting Framework rules, under *Rule Provision 4.* Reference to 'supply chain financing' includes all invoice factoring arrangements.

Whether supply chain financing is egregious is determined by the payment terms of the supplier. Xero Small Business Insights shows that consistently, around half of all small businesses are cash flow positive in any given month. Therefore, the option for a small business to purchase early payment for a percentage of its invoice may be a useful service. However, there are no circumstances where a small business should wait longer than 30 days to be paid under standard terms.

Xero supports subsection 14(1)(i) of the Bill, requiring information of documents to be included by participating businesses in a report, including to offer transparency over invoice factoring use. Through the Rules, small businesses should be given the ability to assess a prospective supplier's:

- Standard payment terms;
- Use of supply chain financing;
- Details of supply chain financing; and
- Proportion of invoices paid by supply chain financing arrangement.

This information will help a small business to understand the likely time in which it will take to be paid, and to plan accordingly. This information will also allow a deeper understanding of how supply chain financing is being used across the economy. Transparency of supply chain finance use will assist small businesses and policy makers alike to respond appropriately to this rapidly evolving concept should it be required.

Appropriateness of reporting thresholds

The draft rules require a participating business to report on:

- the shortest and longest standard payment periods that the business offers including any changes to these periods; *and*
- the total proportion (by number and value) of invoices to small businesses paid in the calendar day periods of 1-20 days, 21-30 day, 31-60 days and 60 + days.

As the diffusion of e-Invoicing increases, any current reasons for late payments will no longer be valid. The Payment Times Reporting Framework is being established to increase transparency of big business payment behaviour.

Based on the technology solution to rectify late payments becoming widely available, in Xero's view, payment terms beyond 30 days are unfair as are systemic late payments.

If payment terms and times continue to exceed 30 days, the Government must consider further steps to ensure small businesses are paid on time. In Xero's view, how much later than 30 days terms and times may be is irrelevant.

3. Unlikelihood the measure will reduce payment times from big business

As a business which will be required to report to the Framework, Xero is proud to inform the Committee it has implemented 10-day payment terms for small business suppliers globally. As a big business and small business leader, we take our obligation to the small business sector seriously. Faster payment falls under Xero's purpose to make life better for small businesses around the world.

Australians expect those in a position of power to play fair. Big business has had the avenues and time to fix late payments. Opportunities have included participating in – and abiding by – the Business Council of Australia's (BCA) Supplier Payment Code, and emulating best practice payment policies as adopted by governments and business leaders. It is Xero's view that big business should expect further intervention if payment practices fall short of community expectations.

Intervention in the form of legislated payment times would be disruptive for big business. Therefore, it is Xero's view that the looming transparency provided by the Payment Times Reporting Framework will likely lead to reduced payment times.

If increased transparency through the Framework shows the problem of late payments persisting, Xero will support further legislation to ensure small businesses are paid on time.

Conclusion:

Xero would like to thank the Committee for the opportunity to make a submission to the inquiry. I would welcome the opportunity to discuss the Bill and the issues for consideration in further detail.

Kind regards

Trent Innes
Managing Director Xero Australia & Asia