



RESPONSE OF THE ROAD HAULAGE ASSOCIATION TO THE BIS SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT BILL DUTY TO REPORT ON PAYMENT PRACTICES AND POLICIES CONSULTATION

The Road Haulage Association (RHA) is the trade and employers organisation for the hire-and-reward sector of the road haulage industry. The RHA represents some 6,000 companies throughout the UK, with around 100,000 HGVs and with fleet size and driver numbers varying from one through to thousands.

While many RHA members are smaller operators we do have a significant number of operators in membership running large businesses, some of which will sub-contract haulage to smaller freight operators. Generally, RHA members are entrepreneurs, including many family owned businesses as well as some plcs. More than 80 of the Motor Transport top 100 companies are RHA members. Therefore the RHA is well placed to comment on the current consultation.

As we have said in comments made at earlier stages of this process, road hauliers are an essential part of the UK supply chain serving other businesses as well as the public sector and private households. RHA members reported an increase in late payments by customers after the credit crunch and recession and we understand that the government's own figures showed that between 2008 and 2012, the overall level of late payments owed to these businesses almost doubled from £18.6 billion to £35.3 billion. We also understand that studies undertaken in 2014 suggest that the late payment debt burden borne by UK business stands at £46.1 billion.

The haulage industry is highly competitive, often with an oversupply of providers of services, and with contract prices agreed on fairly low margins. Road haulage is particularly affected by late payment because operators cannot run their trucks without paying first for diesel, and so cash flow is a huge issue in the sector. Because operators have to pay up-front for fuel, they bear a disproportionate risk, and are in reality providing credit to those further up the supply chain. The structure of the industry means that many operators that are otherwise viable, may be pushed into insolvency if customers delay payment for significant periods, because the haulier faces problems funding fuel and truck maintenance costs. In the worst cases late payment can lead to insolvency of the supplier. Even those operators that survive have their ability to invest limited.

In comments at earlier stages of this reform process we have said that the RHA does not think that introducing much stronger penalties for late payment will be of much help to smaller suppliers. Such operators are likely to fear losing future business if they complain to a major customer, or think of resorting to legal action, and in any case may lack the resources to pursue a claim.

The RHA takes the view that changing the culture of late payment is the key to sorting out this issue, although of course it may take many years to achieve cultural change. Indeed we note from the impact assessment on page 18 that Sweden, Germany and France appear to have better prompt payment practices, and so there is clearly scope for improvement in the UK.

The RHA supports the government's policy objectives of seeking to foster a culture of prompt payments in the UK by using measures that uphold the freedom to contract between businesses, and also to reduce "the asymmetry of information regarding payment practices of large companies and all listed companies" suffered by smaller business suppliers and sub-contractors.

Our members also tell us that now there is no certainty that the parent company of a smaller company within a group will guaranteed or honour commitments made to customers or sub-contractors, if the smaller company in the group gets into financial difficulties. This change in business practice means that RHA members are now even more uncertain as to which companies are safe to do business with.

We agree that if payment policy information is easily available and accessible to sub-contractors and suppliers they will have a better understanding of what to expect from their customers, and therefore should be in a better position to decide whether or not to take the risk of doing business with another enterprise.

Overall we prefer Option 1a of the suggested payment practice reporting systems, which would require listed companies, large companies and large limited liability partnerships to report on their payment practices and performance through the business website at each quarter of the financial year. We do not think that this would place too great a burden to big businesses, which could possibly be the case if monthly reporting were to be adopted. In our view, quarterly data would be sufficiently current to be of use to sub-contractors and suppliers, which would not be the case with annual reporting. Our members tell us that monthly information would also be welcome because it would help them decide if the financial position of a business was improving or deteriorating, but quarterly reporting would be the minimum needed to make such an assessment possible.

We note that the proposal is to ask companies to report the:

- proportion of invoices that are paid beyond the payment terms
- proportion of invoices paid within 30 days
- proportion of invoices paid over 30, 60 and 120 days
- average time taken to pay invoices

We support these proposals.

We do not favour Option 2 which advocates voluntary reporting because this would allow late payers to escape scrutiny.

We are pleased to see that unlisted companies qualifying as small or medium sized under proposed rules would be exempt from reporting since at the start of this new regime, imposing reporting requirements on smaller enterprises might be too great a burden, set against any likely benefit.

The RHA takes the view that changing the culture of late payment is the key to sorting out this issue, although of course it may take many years to achieve cultural change. Nevertheless we would like to see an attempt being made to ensure that when the next economic downturn comes, suppliers will be better treated and will be paid on time.

Consultation Questions

Question 1: Do you agree that the reporting requirement set out in this document is clear and easy to understand?

Yes.

Question 2: Do you agree that the reporting requirement should effectively only cover effectively payments related to business to business contracts?

No. The late payments culture prevalent in some parts of the public and voluntary sector also needs to be addressed.

Question 3: Do you agree that we should be excluding financial services contracts? If yes, which financial services should we exclude; and how should we define them?

No comment.

Question 4: Do you agree that the reporting requirement should extend to (a) large UK companies, (b) large LLPs and (c) all quoted companies?

Yes.

Question 5: Do you agree that the Companies Act provides an appropriate threshold of whether a private company or LLP qualifies for an exemption from reporting?

No comment.

Question 6: Do you agree that businesses should be required to provide individual and non-consolidated reports on their payment practices?

Yes.

Question 7: Do you agree that businesses should report on (a) their standard (b) their maximum payment terms, and (c) any changes to these over the last reporting period? Should the report require information on whether suppliers had been notified or consulted on this change in advance?

Yes.

Question 8: Do you agree that this report should be a mandatory requirement for all companies in scope?

Yes.

Question 9: Do you agree that the reporting requirement should specify when the clock starts on the payment period? Do you agree that date of invoice is a suitable point to start the clock on payment?

Yes to both questions.

Question 10: Do you agree that a metric of invoices paid beyond terms should be included in this report? If yes, should this be for (a) proportion of invoices (b) value of invoices (c) both the proportion of invoices and the value of invoices?

Yes. Certainly the proportion of invoices paid late should be mentioned, but both would be useful.

Question 11: Should a business have to report on the average time taken to pay invoices? Does this add a valuable counter balance to the proportion of invoices paid to terms?

Yes to both questions.

Question 12: Would metrics demonstrating how many invoices are paid in (i) 30 (ii) 60 and (iii) 120 (iv) over 120 days be valuable to suppliers? If yes, should this be for (a) proportion of invoices (b) value of invoices (c) both the proportion of invoices and the value of invoices?

Yes. Certainly the proportion of invoices paid late in these time periods should be mentioned, but including the value would also be useful.

Question 13: Do you agree it that it would be useful for the report to include additional information, in narrative form, to give suppliers an understanding of a firm's wider payment?

Yes.

Question 14: Do you agree that it would be beneficial for a business to report on their existing dispute processes?

No comment.

Question 15: Would it be helpful for the Government to provide a definition of a disputed invoice in the report?

No comment.

Question 16: Have you experienced companies disputing invoices as a way of delaying payments? Do you see a role for Government intervention on this issue, and if so, what is it?

No comment.

Question 17: Do you agree that a business should report on whether they offer e-invoicing? Should this disclosure include any further information or simply be a 'tick box' disclosure?

No comment.

Question 18: Should businesses report on whether they offer supply chain finance? Should this disclosure also include the payment terms and average cost of this finance, or simply be a 'tick-box' disclosure?

No comment.

Question 19: Do you agree that a business should disclose whether it is a signatory of a Code and which code they belong to, if any?

Yes.

Question 20: Do you have concerns about the practice of some suppliers having to pay to be included on supplier lists? If yes, why?

No comment.

Question 21: Do you think that Government should take any action with respect to supplier lists, through this reporting requirement or otherwise? If so, what?

No comment.

Question 22: Do you agree that companies should report every three months covering at least the whole three month period?

Yes.

Question 23: Is a 30 day period enough time after the end of a quarter to provide a report of this nature?

Yes.

Question 24: Do you agree that companies reporting dates should be aligned with their financial reporting cycle?

No comment.

Question 25: Do you agree that this reporting requirement should not be included in a company's annual accounts but instead have to publish it on their website? If yes, do you think it would be useful for the information to also be released alongside the publication of a company's annual accounts?

In the view of the RHA, sub-contractors and suppliers would welcome the publication of up-to-date payment practice information located in an easy to find place business websites, however this should not rule out information being made available additionally in a company annual report.

Question 26: Is The Gazette an appropriate online resource for companies without a website to use for reporting? If no, are there more suitable alternatives?

Businesses without a website should put the information in writing to a supplier. The Gazette may not be very well known to many suppliers and sub-contractors.

Question 27: Do you agree companies should be asked to report consistent with open data principles, if so what should these be?

No comment.

Question 28: How could we make this data as accessible and useful as possible?

No comment.

Question 29: Do you agree that a company director should be responsible for signing off each report?

It seems reasonable for a director to take responsibility for the accuracy of data supplied.

Question 30: Do you agree that breach of this requirement should be sanctionable by a criminal offence?

We think that sanctions should be in place for failure to comply with mandatory reporting, but do not wish to comment on the type of penalty.

Question 31: Would you find guidance in complying with this reporting requirement helpful? If yes, who should produce this guidance?

Guidance is likely to be useful.

Question 32: What comments do you have on our draft Regulations?

No comment.

Email to:

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Write to:

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