

Modernising Business Registers

Submission to the Treasury
August 17, 2018

'Tell Government Once' through modernisation

The Australian Chamber of Commerce and Industry (Australian Chamber) welcomes the opportunity to respond to the Modernising Business Registers (MBR) Program discussion paper.

The announcement of funding, in the 2018-19 Budget, to develop a business case to modernise the Government's business registers was welcome and long overdue. There are many interactions that business has with Government. Duplication is a significant issue for business in many of these interactions, which unnecessarily adds to administrative costs. The consolidation of business registers will simplify business' interactions with Government and reduce duplication. It will ensure that businesses need only 'tell government once'.

Legislation

The Australian Chamber recommends a legislative structure that is principles based to ensure the proposed Registrar has the legislative remit to fulfil its functions as technology progresses. A principles based legislative structure would also prevent the legislation underpinning the registry from becoming too complex, allowing the registry to evolve with time.

Registry Service Enhancements

Government system integration and interoperability

The Australian Chamber encourages the Australian Government to drive system integration and interoperability between government agencies. Government systems that are interoperable create administrative efficiencies for both Government and businesses. If the Australian Government's information technology networks worked collaboratively, data would be requested from businesses only once.

As the Productivity Commission identified in their March 2017 Inquiry Report on 'Data Availability and Use', there are a number of barriers that prevent data linkages and integration at the Australian Government level. This includes, for example, legislative restrictions; a culture of risk aversion; lack of national leadership for data sharing and release; and, the extent of productive linking and integration of datasets varies substantially across jurisdictions.

The Australian Government should take this opportunity to create a platform that will enable a whole-of-government system for inter-agency data sharing, including with state/territory jurisdictions. This could also be expanded to include data exchange capabilities between international jurisdictions.

Registering a business and education

Many business interactions with government first begin with the Australian Business Register when they apply for an Australian Business Number. As such, it is important the government provide information about the responsibilities around each type of business structure. While the government should not encourage or favour one business model over another, it's important to raise awareness of obligations under each business model.

This information could be provided prior to registration to ensure users make informed choices, but further information post-registration is also important. There is state and territory based information, for example, that businesses require once registered.

This could be based on the industry they have indicated they would be operating in or simply through the business structure they have chosen. It would be helpful for business registrants to have this information from a single source early in their business journey.

It would also be beneficial if education material on financial literacy and the benefits of the business registry were made available to business. Information provided to businesses on how to identify phoenixing, money laundering or other illegal behaviour, will help protect those businesses from unscrupulous behaviour. It could also aid regulators in information gathering and identifying illegal behaviour.

Data accuracy and promotion of 'tell government once' approach

The Australian Chamber recommends that registry data released by government be presented in a standardised format and be machine-readable. This is particularly necessary to foster open data and to provide opportunities for innovative data uses. Consolidating multiple data sources on the one platform should also eliminate duplicated records, creating a 'cleaner' data source.

Periodic review and update of the registry is also necessary to ensure that the data is accurate and can be trusted for accuracy. This does not necessarily mean that businesses need to interact with the registry in order to update data.

Internal dialogue between government agencies and between levels of government should identify inconsistent or incomplete data on the registry. For example, where an individual notifies their state/territory road authority of a change in address – this should also be reflected in the data in the registry. This automatic update of information can be 'logged' as an activity in that user's registry account, which can be viewed next time the individual logs into their registry account.

To create efficiencies and implement the 'tell government once' approach, communication and sharing of identification data between government agencies would decrease the number of interactions required between government and businesses. It would also decrease data inconsistencies between government bodies.

Third parties and allowing access to records

The Australian Chamber supports the registry allowing registrants to authorise third parties to access parts of their record that would be classified 'private'. Broadly, the Australian Chamber supports open data policy but recognises that there is data that should be private, such as residential addresses.

Authorising third parties complete access to records could streamline risk profiling for organisations for a variety of purposes, as well as simplifying record keeping and the provision of records for registrants. Providing access to these records could save registrants time in the provision and identification of particular records, as they would be centrally located in the one registry.

Public facing online interface of registry

In designing the public facing online interface of the registry, the ease of use for the user should be the key consideration. The New Zealand Companies Office companies register website¹ is a great example of a format that is easy to use, understand and access.

Funding registry infrastructure

At the very least, the Australian Chamber believes basic data on businesses, the relevant officers and disqualifications should be available to the public for free. This includes information such as the business address, any charges laid against the business, previous business names and key current / prior officer(s) information. The ability to set up email alerts if there are any changes made to business details should also be provided.

Many individual or business consumers could use the registry to understand the history of the entity they are trading with. It is an assurance measure. It may become cost prohibitive for some consumers to complete their assurance checks if fees are charged. If assurance checks aren't conducted confidence might be an issue for some trade and, therefore, negatively impact investment.

If the decision is made to charge fees to use the registry, the Australian Chamber does not believe registry fees should go towards consolidated revenue. These fees should go towards improving the register and improving the information therein. Registry access fees should not be considered a government revenue stream. Business registers play an important part in ensuring the integrity of the system and it's vital that the infrastructure underpinning it is fit for purpose.

There are those who interact with business registries because they are required to, due to their business activities, and there are others whose commercial product/service depend on the data that is provided through these registries. If the decision is made to charge fees for using the registry, the fees should differentiate between a user required to use the register in the course of their work versus a user attaching value to the data as part of a commercial enterprise.

Given ASIC is currently moving to an industry funding model, there is a question whether some registries for ASIC regulated entities should be accessed for free, or at a nominal fee, given ASIC regulatory services will soon be invoiced. There are some business entities and/or industries that require access to ASIC registries to comply with their statutory functions or the provision of particular services/products are required by law to use ASIC registries.

For example, insolvency practitioners have significant statutory investigatory responsibilities. They act on behalf of creditors and are required to conduct investigations on companies under liquidation or administration. Given their use of the registries is necessary to fulfil their statutory obligations, and they are also an ASIC regulated sector required to pay for ASIC regulatory services, a different charging structure (if any) should apply in these situations.

Director Identification Numbers (DIN)

The Australian Chamber fully supports the implementation of Director Identification Numbers (DINs). Considering the impact a company can have on those it does business with, it is terrifying to think that there is a more robust process in place to open a bank account than to become a director of a company.

The DINs will be an invaluable tool in tracking directors that are involved in phoenix activity and help to ensure regulators are better equipped in risk profiling companies for particular compliance

¹ <https://companies-register.companiesoffice.govt.nz/>

activities. Regulators can therefore allocate their resources more efficiently and be better placed to identify behaviour that could negatively impact the economy.

As a system-wide integrity measure, it is important for directors to have their identity verified before undertaking director responsibilities. This protects investors, creditors, consumers and directors themselves from illegal behaviour. Director responsibilities are quite wide and varied, and it is important people undertaking these roles understand the personal responsibilities attached to these positions. A DIN helps cement the personal allocation of these responsibilities.

As such, directors should provide 100 points of identification to receive a DIN. This is a familiar verification of identity process used commonly in other areas. There are also agencies and systems already in place that can complete these checks digitally.

In addition to education material provided at the point of business registration, the Australian Chamber also recommends information be provided to directors at the point of registering for a DIN. Directors should be made aware of their obligations under law and the minimum standards of conduct expected of them.

To ensure education material is delivered to the right audience, the Australian Chamber believes authorised agents should not be allowed to apply for a DIN on behalf of their client. Given obligations of being a director attach to the person holding the role, signing up for these responsibilities should not be delegated to another party.

To ensure the business registration process is seamless, the allocation of a DIN for a person's first directorship should occur at the same time as business registration. Additionally, DINs should not have an expiry date. The Australian Chamber recommends the identification data underpinning the DIN be verified periodically between government agencies, rather than requiring directors to update their DIN information every time their personal details change.

Some personal details of directors should not be publicly available, for example residential addresses. Overall, however, the Australian Chamber supports open data policies and providing DIN information publicly facilitates the public's trust when interacting with businesses.



About the Australian Chamber

The Australian Chamber of Commerce and Industry speaks on behalf of Australian Businesses at home and abroad.

We represent more than 300,000 businesses of all sizes, across all industries and all parts of the country, making us Australia's most representative business organisation.

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