



6 September 2017

Tom Dickson
Manager, Digital Policy
The Treasury
Langton Crescent
PARKES ACT 2600

By email: regmod@treasury.gov.au

Dear Mr Dickson

Modernising Business Registry Services

The Australian Financial Markets Association (AFMA) welcomes the opportunity to make this submission commenting on the Modernising Business Registry Services discussion paper.

AFMA supports the goals of the National Business Simplification Initiative and the modernisation of business registry services.

The current arrangements for the Australian Business Register, the Companies Register and Business Names Register require business to supply and maintain duplicate information across multiple registers administered by both ASIC and the ATO.

While the new Business Registration Service provides an integrated service for new businesses by allowing the registration of a company and ABN at the same time, this information still needs to be maintained through multiple access points.

ASIC currently maintains 31 registers, including the Australian Company and Business Names Register. The technology underpinning the existing registers is recognised to be outdated and this potentially compromises the ability of business and other users to maximise the value of this information. There is considerable scope to streamline transactions for business and end-users, for example, by enabling pre-population of data, the creation of joined-up business identities and whole of government integration of reporting obligations.

The existing business registry services also need to be modernised to make them consistent with the principles contained in the Government's Public Data Policy

Statement, which provides for open access for non-sensitive data and the Digital Service Standard that applies from 6 May 2016.

Response to Consultation Questions

What would be the advantages of bringing together the ASIC registers and the ABR within a single agency?

There would be a number of advantages in bringing together the ASIC registers and the ABR in a single agency and ASIC would be well-suited to this task given its existing responsibilities. These advantages include the potential integration of business and other registry information and economies of scope in modernising the supporting infrastructure. From a user perspective, a single access point supported by one government agency may also reduce transaction costs and improve the user experience.

Locating these registries within ASIC would increase the importance of ensuring a sound governance and accountability framework for ASIC as a whole. The ASIC Capability Review highlighted the scope for improvement in this regard.

Do you see other opportunities to reduce duplication of business registers and associated services across government?

The proposed beneficial ownership register on which the Government consulted in March 2017 and the Personal Property Securities Register could also be integrated with existing business registers and be administered by the same agency. In that consultation, AFMA proposed that ASIC administer a centralised beneficial ownership register. Reporting obligations and the penalty regime in relation to the beneficial ownership register could then be aligned to those that apply to company information more generally. Beneficial ownership information could be included in the annual statement ASIC sends to companies for review and confirmation.

Would more open and accessible registry data benefit business and/or the wider economy?

Business information is an important piece of economic infrastructure, but needs to be made more accessible to maximise its economic value. Business registries are potentially National Interest Datasets in terms of the Productivity Commission's proposed Data Sharing and Release Act (see the Productivity Commission report, Data Availability and Use) and should be placed within an overall public sector data governance and dissemination framework that best supports the accessibility of these data.

Business registries are essential in creating legal entities that benefit from certainty, transparency and accountability. Transaction costs incurred in maintaining and using business information can be reduced, with benefits for both business and end users. Increased business transparency and accountability facilitates good corporate governance, which can improve economic performance and reduce the need for regulatory oversight and intervention.

Do you have a view on the steps the Government could take to make registry data more open and accessible? For example, do you have a view on the format of data, frequency of data released, platforms for release, or pricing?

There is a strong case for making business information available at no charge to the public. There are ample precedents for this in other comparable jurisdictions such as the US, the UK and New Zealand. For example, company information is generally available without charge in the United States, or subject to only a nominal fee. AFMA note that the UK Register of People with Significant Control (PSC) is searchable by the public free of charge, excluding a PSC's residential address and date of birth for privacy reasons.

Australia is said to have some of the highest charges for business information in the world.¹ In the context of the ASIC registry services tender announced by the Government in the 2014-15 Budget, but abandoned in December 2016, many commentators raised concerns about how a private registry operator might exploit a monopoly over business information. These concerns overlooked the fact that the Government is already aggressively exploiting its monopoly over business information.

ASIC has refused to disclose how much it costs to operate its registry services, but they are thought to cost less than \$6 million annually.² ASIC charges business nearly \$700 million in aggregate to submit the information that goes into the registries and the public around \$60 million to access the information. This revenue accrues to Government in addition to the revenue the Government will now collect through industry funding of ASIC's budget appropriation. ASIC's entire budget could be more than covered through registry fees alone and leave the Government with surplus revenue (AFMA is not necessarily suggesting this as a funding model). An important objective of the new ASIC industry funding model is to increase the transparency of ASIC's costs to the regulated community, but there is a lack of transparency in relation to the cost of supplying registry services and how these costs relate to user access charges.

The marginal cost of supplying the information contained in business registries is likely to be very low and the user pricing regime applied to this information should reflect these costs. However, given the broader economic benefits of improving the accessibility of these data outlined above, a strong case can be made for the information being made available free of charge to users. This will require Government to forgo the approximately \$60 million in revenue currently obtained from users of the ASIC registries.

An important potential benefit to business of rationalising existing business registries would be a corresponding rationalisation of charges for supplying business information. Again, these charges should reflect the marginal cost of supplying registry services.

It may be appropriate for Government to put in place an access pricing regime, with access charges for end users subject to approval by a third-party regulator such as the ACCC to discipline the Government's monopoly over business information.

¹ Michael West, "Investigation: ASIC fees highest in world, even before data sale," 27 August 2016. <https://www.michaelwest.com.au/asic-fees-highest-in-world/>

² Anthony Klan, "For-sale: public companies register a \$700m cash cow," *The Australian*, 13 September 2016.

Conclusion

AFMA submit that the scope of the modernisation of business registers be expanded to include the proposed beneficial ownership register (which should be expanded to include trusts) and the Personal Property Securities Register. A comprehensive approach to rationalising these registers will maximise the economic value of this economic infrastructure. It would also support a rationalisation of pricing that should reflect the low marginal cost of supplying information to end users. A strong case can be made for supplying this information to users without charge given the broader economic benefits of making this information more widely available. Failing that, consideration should be given to introducing an access pricing regime administered by a third-party regulator such as the ACCC to discipline the government's monopoly over this information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stephen Kirchner', with a long horizontal flourish extending to the right.

Dr Stephen Kirchner
Economist