Opinion: final stage IA
Origin: domestic
RPC reference number: RPC-3511(2)-BEIS
Date of implementation: 6 April 2017

The Reports on Payment Practices Regulations 2017

Department for Business, Energy and Industrial Strategy

RPC rating: fit for purpose

Description of proposal

The proposal is to require large businesses to report electronically twice a year on their payment policies, practices and performance, so that potential suppliers have transparent information regarding the terms of larger businesses' contract payments and their reliability in making payments on time. As part of the requirements, large businesses will have to set out: the standard payment terms used in their contracts; whether these have been changed in the reporting period; the average time taken to pay invoices; the proportion of past invoices paid beyond their agreed terms; and individual processes for resolving payment disputes. Businesses will be required to upload the reports to a portal provided by the Department. By providing incentives for businesses to make invoice payments promptly, the measure is intended to reduce the costs incurred by suppliers in chasing late payment of invoices and covering cash-flow shortages with external finance.

Impacts of proposal

The impact assessment (IA) states that the measure will produce an equivalent annual net direct cost to business (EANDCB) of £17.7 million; this was calculated by taking the median estimates from a survey of a representative sample of businesses and multiplying these average costs by the number of businesses in scope (estimated at 15,200, using the FAME database). The initial transition costs for businesses are estimated at £27.3 million and include: familiarisation with the reporting requirements; adapting to, or investing in, new IT systems; and updating internal management processes to comply with the regulations. The IA states that ongoing costs incurred by businesses are estimated at £15.4 million a year and relate to the maintenance of these internal processes, as well as collating and submitting the relevant information twice a year. In addition to these business costs, the IA explains that there would be costs to government of approximately £0.2 million a year, which relate to investigating and prosecuting non-compliance.

The IA states that the measure will bring indirect benefits to businesses as a result of a reduction in the burden on suppliers arising from late payments. These benefits arise from lower administrative costs associated with chasing overdue payments, and a reduction in reliance on external finance to cover cash-flow gaps resulting from late payments. The Department assesses these benefits as indirect because they "…*rely on second round effects flowing from the responses of other businesses*" to the payment performance information being made publicly available under the proposal (paragraph 132). Using data from the *Bacs Payments Services* Late Payment Research business survey, the Department estimates that the aggregate cost to businesses of late payments is at least £9.16 billion each year. The IA provides illustrative estimates of the potential cost saving, which would amount to £22.9 million if costs decrease by just 0.25 per cent.

Quality of submission

The Department has provided a very clear and well-evidenced impact assessment. Since the consultation stage, it has strengthened its evidence base by commissioning an external organisation to survey businesses and obtain independent estimates of compliance costs.

The Department's approach to the assessment of the benefits of the proposal is well-judged and proportionate. The Department has explained why it is not possible to provide robust estimates of the benefits, but provides some illustrative scenarios and a break-even analysis; the latter shows that only a 0.19 per cent reduction in the estimated overall costs to businesses resulting from late payments would be sufficient for benefits to match costs.

The Department also provides a very good discussion of whether the impacts of the proposal are direct or indirect; this assessment, which concludes that the costs are direct and the benefits indirect, is consistent with the better regulation framework.

There are a few areas where the impact assessment could be improved:

- *Low and high estimates.* These are presented as 10 per cent above and below the median values from the business survey. The IA would benefit from further discussion of how this is informed by the survey results.

- *Staff time estimates*. The cost estimates appear to be based upon monetised figures provided by businesses, as part of the survey. The IA would benefit from providing information on the implied estimate of staff time underlying these estimates, to demonstrate further that these estimates are reasonable.

- *Monitoring and enforcement*. The IA states that this will not be proactive (e.g. there will be no random inspections), but that a supplier will be able to make a complaint if he believes that a company's published return is not accurate. The IA would benefit from some discussion of the relative costs and benefits of this approach compared to a more pro-active one.

- *Aggregate cost of late payment.* The estimated £9.16 billion cost to UK businesses of chasing late payments would appear to include cases where late payers are small and medium-size businesses. Although large companies are the "worst offenders" (paragraph 9) and the £9.16 billion estimate is a "lower bound" (paragraph 17), the IA would benefit from acknowledging that the measure will potentially reduce costs only in relation to suppliers invoicing large late-paying companies.

- *Monitoring and evaluation section.* The IA should include a section outlining how the proposal will be evaluated.

Small and micro-business assessment (SaMBA)

At the consultation stage, the proposal covered 310 listed small or micro businesses; the RPC's related opinion suggested that, at the final stage, this should be re-evaluated. The present proposal is that only large businesses will be required to report on their payment practices; this is defined as businesses that exceed at least two of the three upper thresholds for a medium-sized business under the Companies Act 2006. These thresholds are: a total of 250 employees, an annual turnover of £36 million and a balance sheet total of £18 million. The present SaMBA makes it clear that the requirements of the measure will not apply to small or micro businesses. However, the anticipated benefit to suppliers is expected to accrue mainly to small and medium-sized enterprises (SMEs); of the estimated £9.16 billion cost of chasing late payment, £8.8 billion is currently estimated to fall on SMEs.

Departmental assessment

Classification	Qualifying regulatory provision
Equivalent annual net direct cost to business (EANDCB)	£17.7 million
Business net present value	-£159.74 million
Societal net present value	-£161.43 million (benefits not monetised)

RPC assessment[1]

Classification	Qualifying regulatory provision (IN)
EANDCB – RPC validated	£17.7 million
Business impact target (BIT) score	£88.5 million
Small and micro business assessment	Sufficient

Michael Gibbons CBE, Chairman

[1] For reporting purposes, the RPC validates EANDCB and BIT figures to the nearest £100,000