

Response to Consultation Paper: Modernising Business Registers Program - Review of Registry Fees

Q1 Do you agree that the principles of making fees simpler, easier to understand and more equitable are the best guide to review registry fees? Should any other principles be considered?

Q1 Response

Reviewing fees is appropriate for any new modern registration system but, this should not compromise/denude the integrity of the information submitted to the register. Fees should be based on the work necessary to ensure information reported by an applicant is accurate and up to date. These are principles on which fees should be set. Fees should not be set at an arbitrary rate.

Better policing of late fees are appropriate. Implementation of penalties for those entities providing inaccurate information to the registries or not updating their business details is important to ensure the integrity of these registries and compliance with Government legislation. It's also important to ensure the information in these registries remain viable and not a data set riddled with inconsistencies and falsehoods.

In figure 2 of the consultation paper, it indicates 'Late Fees' represent 13% of revenue generated from all fees. This information is not broken down into the type of late fees. I suspect late lodgement fees resulting from the failure to update records within 28 days represents a very small proportion of all late fees. If this is the case, one could point to a lack of internal policing and validation of information reported by business entities. This has a knock on effect for the register's integrity and value as an important source of information. If ABR/ASIC are aware of errors or, inconsistencies in a business's details and these are not addressed within 28 days, penalties have to be applied to those businesses. These should be considered penalties resulting from breeches of the law not fees. These fees/penalties should be non-negotiable. Clearly from Attachment B of the paper, 'customers' can refuse to pay without any apparent consequences. It should be noted that Attachment B refers to businesses registering with ASIC as customers, they are not buying goods or services from ASIC they are meeting compulsory legal obligations when setting up a company. Attachment B indicates the 'fees' process is more akin to a voluntary process rather than a legal requirement.

While making fees more equitable is an admirable goal, defining equality is more difficult to attain. Simplification of fees may result in the greater inequality and further deterioration of the data. Changing and simplifying fees may be justified but, the relationship and policies between data custodians and stakeholders needs to be reviewed. In attachment B, referring to applicants as customers and looking at customer responses is perhaps indicative of an easy-going relationship between data custodians and applicants. Registry applicants have legal

obligations when registering, these are not voluntary. These legal requirements should be respected by those submitting and updating applications.

Fees should be based on the level of work done by the data custodians to verify the validity of an application or, a cost incurred when inaccurate information is identified by those reviewing applications. This would promote accurate submission of information, improve data quality and ensure greater respect by applicants for the ABN/ACN processes. As an outsider looking in, the current structure appears to be pay and you will receive, irrespective of the activity involved or the validity of information applicants are reporting. Registry custodians need to have a more proactive approach to policing applicants and their submissions.

Q2 How could the registration and annual review system be reformed to make it simpler and more equitable?

Response Q2

Unable to provide any meaningful commentary on this matter.

Q3 Do you support the introduction of differentiated rates of annual review fees between small and large businesses?

Q3 response

Our response to question 3, large and small businesses could be defined by employee numbers or annual turnover of the business. If differential rates are applied to companies these should be reported and recorded in the registries, it would have an advantage to TasBuild and its compliance activity. Being able to determine the size of a business is an important factor in our compliance activity. Rates based on the average annual Full Time Equivalent (FTEs) employees would aid TasBuild's compliance activity greatly. Rates based on annual turnover may be useful but, less definitive for our compliance activity in the construction industry. If annual differential rates are applied this information should be made available to users accessing and using information contained in the registries.

Perhaps using both FTEs and Turnover could determine business size. Annual turnover divided by Average Annual FTE may provide an appropriate measure of business size and level of fees required however, the merits and validity of such a measure would have to be investigated.

Q4 How could the late fee system be reformed to incentivise compliance and make the system simpler and more equitable?

Businesses who report inaccurate information or, do not update their information in a timely manner (28 days of any change) should be penalised for their inaction and breaching current laws. This will incentivise compliance if the penalties are financially significant. Please refer to my response in question 2 for additional explanation.

Other methods to reform a late fee/penalty system.

1. Verification of information across all available business registries and data sets
 - a. Identify inconsistent business information across those systems.
2. Internal verification of information within each registry, set up regular validation testing.
3. Mandatory collection of contact details for business e.g. address details, business contact phone numbers etc. These are clearly not mandatory fields in the ABR. Business details and their accountants contact details seem interchangeable. Is this is inappropriate?
4. Applicants should provide supporting evidence about their business address and contact details when they applying for an ABN.
5. Consult and liaise with key stakeholders who use the registry information on daily basis and identify businesses submitting false information to the ABR and those who never update their details on a daily basis. The ABR system needs to gain respect within the business community, currently the process of acquiring an ABN is treated with contempt and seen as a rubber stamp process by businesses and/or their business representatives. This needs to be addressed if the registries are to maintain or improve their credibility.
6. Enforce the law for businesses who are non-compliant with their legal obligations.

Q5 Do you support the introduction of interest on late payments rather than the late payment fee?

6.1

6.2 If yes, what interest rate should be charged and when should it be applied?

Q5 response

TasBuild has no particular view on this matter.

Q6 Do you support lowering late payment fees but increasing late lodgement fees, or eliminating late review fees?

6.1 If yes, by how much should the fees change?

Q6 Response

TasBuild has no particular view on this matter.

Q7 How could search fees be reformed to make data more accessible, the system simpler and more equitable?

Q7 Response

Search fees should not be incorporated into a new modernised system, all users with a public purpose and responsible for administering Government legislation should not be charged any

search fees. They should not be introduced to the ABR system or future modernised data repositories. Organisations entrusted with administering and enforcing Government legislation should not be expected to pay for the privilege of accessing relevant information when pursuing breeches in the law and identifying businesses operating in the black economy. This is contrary to the public interest and contrary to the goals of minimising black economic activity. In the age of 'big data' black economic activity should be minimal however, the siloed approach to information data sources allows the black economy to thrive. Sharing information between relevant organisations should be encourage, not be discouraged. Search fees are an effective barrier to using to achieve mutual goals.

Treasury should not be seen to obstruct the administration of State and Federal legislation where pecuniary action can be enforced by a court of law. If organisations are not for profit, non-government entities who are entrusted with administering Government legislation are excluded or, expected to pay registry search fees related their compliance investigations, this would only hamper such investigations. Search fees are inappropriate, they should not impede these types of investigation, and should not impede work that is tackling black economic activity. It is highly inappropriate that Treasury or its fellow agencies would place such barriers to prevent compliance with, and administration of State and/or Federal Acts of Parliament.

If payment for searches were expanded from ASIC to other registries, it will place financial barriers onto TasBuild's compliance activity. This will only aid those construction companies operating in the black economy by restricting our use of information and financially penalising those construction companies who are compliant with current legislation. If these costs are imposed on TasBuild the only beneficiaries are those construction companies operating outside the law and those most affected will be legitimate companies who are compliant with Government Legislation and their legal obligations as an employer. These genuine business operators will bear the brunt of any potential costs. This is not in the public's interest to impose such fees upon users.

If ABR /ASIC are going to implement search fees, then it will have to address their own data quality issues. In our experience, ABR data has significant data quality issues. TasBuild's focus is on the construction industry in Tasmania and we acknowledge this is only a small subset of all Australian businesses in the ABR. If our ABR experience is indicative of all businesses, the accuracy of ABR dataset needs to be addressed. As previously discussed validity and accuracy of information is key. The 'garbage in garbage out' principle applies here, the input of inaccurate information into the registry will only report inaccurate information during searches. Is it appropriate to be selling inaccurate information to stakeholders? Has the ABR ever reviewed/audited the accuracy of information held in its database?

As far as equity is concerned, Journalists and Academic institutions are profit making organisations (for the most part) and these entities have free access to relevant information from ASIC. This activity maybe in the public interest however, it seems unreasonable to charge a fee or exclude entities such as TasBuild. Inconsistencies in ASIC policies and legislation

compared to ABR legislation needs be addressed otherwise, TasBuild will be in the position of having legitimate access to the ABR information but, not ASIC information in the new system.

Q8 Should an infrastructure fee be introduced if it is payable by users of an API or comparable technology?

Q8 response

TasBuild does not agree with the premise of paying an infrastructure fee payable by users. Those users accessing information for profit or economic gain could have infrastructural fees applied however, it is not appropriate for Government Agencies or entities such as TasBuild. It is not the responsibility of user to pay for the creation of a modernised registry information system.

If Treasury has a vision to improve access to information for appropriate organisations and to integrate various data set in one repository, surely this is the responsibility of the data custodian, not the users to pay for this system. Someone has to take responsibility for this new system from a financial and a data integrity perspective but, I cannot see infrastructure charges being an appropriate way of raising revenue for this new system.

This is a concern, TasBuild's current advice from ASIC was that TasBuild is ineligible for discounted fees or access to bulk extracts because we are neither a Government Agency, Journalist nor academic institution. Where does TasBuild sit in this proposed integrated environment? Currently we are viewed differently by separate data custodians, one allows us access to registry information and the other does not recognise our status as an entity formed under a law, for a public purpose.

From TasBuild's perspective this infrastructure charge will impede the administration and enforcement of the Tasmanian Construction Industry (Long Service) Act 1997. Based on the information provided in Attachment E of the consultation paper, TasBuild will be excluded from the registry and have to pay infrastructure fees because we're a non-government entity. If ASIC determines who has free access to information, TasBuild will be excluded from the repository all together, unless we pay a commercial fee. This is inappropriate for an organisation such as ours, exclusion from a modernised system will only impede compliance activity and advantage those businesses operating in the black economy. In this integrated data environment who decides whether TasBuild should have free access, ASIC or ABR? Inconsistent legislation and policies used by ABR/ASIC may place TasBuild in limbo and whether we'll have access or not to this new system. TasBuild requests clarification on this matter. Some of our counterpart agencies in other States and Territories remain as Government Organisations and they would have free access in this proposals. Tasmania and Victoria may well be excluded because we are Non-Government but, responsible for administering our respective Government legislation.

Q9 Should funds raised from an infrastructure fee be set aside to cover the costs of upgrading the registry and/or a testing environment?

Do not agree with an infrastructure fees. This question implies that question 8 is a forgone conclusion. Upgrading, sand pits and test environments, these are the responsibility of the data custodian/s. Administration of the system is the responsibility of the data custodians.

There is insufficient information in the consultation paper to fully determine whether an infrastructural fee is appropriate. If the registry custodians are asked by commercial bodies to do specific work, then a fee is legitimate however, if this represents a simple querying of the repository and extracting information by the user without any direct intervention by the data custodian, this should not be considered part of an infrastructure fee.

Q10 Is the Document Verification Service charging model appropriate, or is there an alternative model that should be considered?

Not being familiar with this system makes it hard to comment. If however, this means an ability to determine whether an active business within the modern data repository is an employer and whether they are paying superannuation for employees in a simple yes/no response, then TasBuild would be in favour of such a facility. Once again, it's inappropriate to charge a fee to Government Agencies and those entities responsible in administering or enforcing government legislation. This will impede compliance with State and Federal Laws.

A cost per individual business record seems excessive especially when this may involve statistical linkages keys. Statistical linkages producing a yes/no answer will be inaccurate. If this process relates to direct linking of key fields in the new registry to external data sets such as; linking directly to other systems using the ABN as a key identifier and resulting in a 'yes/no' response from external data sources, this would represent a significant benefit to our organisation. If the DVS process is about linking information on individuals, it would have only limited value to our organisation and the costs are somewhat irrelevant to us.

As a fee structure, it seems okay for accessing information on individual person records however, the cost of accessing information on business records may need to change. There are 7.5 million businesses in Australia, if the DVS is linking business information, it is unlikely that users will access more than 800,000 records except those using the data for commercial purposes. So accessing this information at a cost of \$0.80 per record is prohibitive for non-commercial organisations. This payment structure would suggest Government agencies and organisations responsible for implementing and administering Government Legislation will be subsidising those commercial users who are the most likely candidates to access millions of records. If there is no physical human intervention by the ABR/ ASIC when generating these records, the costs per record should be the same.

DVS fee structure may be appropriate for individuals and their current details but, how does this compare to extracting current business information. For individuals, one data record represents one individual at a cost of \$0.80. Business records can have multiple records depending on the information required. A report that extracts one ABN and the names of its three company Directors associated with the company. Using the DVS costing method, does it

represent one business record (costing \$0.80) related to the business or is it three separate records based on the total number of directors associated with the company (cost \$2.40)?

Perhaps users could extract information as an old flat file format, and every data extract represents only one record irrespective of the number of individuals or businesses extracted in the flat file (cost \$0.80). In theory, using a flat file extract could extract 1,000,000 records for the cost of 80 cents. Do not see this DVS model as being a viable option. Another to consider are; at what point is the user charged for the extract? When they run the query, or when the results are exported? What if the exporting of data fails?

If this model is used, perhaps there should be separate fee structures and setup cost for commercial and non-commercial organisations. This would remove any Government agencies and ourselves inadvertently subsidising large commercial enterprises who receive a discounted rate for accessing more than 800,000 records while using the information for commercial reasons. There needs to be a clear distinction between the commercial use and non-commercial use of this facility.