



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

27 February 2019

Ms Kathleen de Kleuver
Black Economy Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: BlackEconomy@treasury.gov.au

Dear Ms de Kleuver

REPORTING REGIME FOR SHARING ECONOMY PLATFORM PROVIDERS

Thank you for the opportunity to comment on the proposal for mandatory reporting by sharing economy platform providers.

Prerequisite to introduction

A key problem with the proposal is that there are currently no clear rules for determining whether individual participants in the 'gig economy' are independent contractors or employees. The proposed mandatory reporting will only operate to accentuate this deficiency, which will result in misreporting of small business revenue as employment income (and vice versa). Clarification of the independent contractor/employment distinction is required before reporting is implemented.

Preferred Option 2

In order to limit the compliance burden placed on small business platform providers, our strong preference is for Option 2 (reporting by financial institutions) rather than directly by the providers. A further option (not explicitly considered) may be to adopt reporting by specialist Overlay Service Providers (OSPs) through inter-bank transactions with rich data capability. This is facilitated by the New Payment Platform (NPP) developed by the Reserve Bank of Australia (RBA) in collaboration with participating financial institutions.

The NPP permits OSPs to develop data processing tools that supplement inter-bank financial transactions, which is not limited to transactions mediated through a single platform provider. Reporting through NPP OSPs therefore more fully supports a level playing field (compared to platform provider reporting) as efficiencies of innovative services can be made available to both traditional and 'gig economy' businesses. This approach is also more able to conform to international standards and be enforced against foreign platforms.

Specific concerns with Option 1

We are concerned that if Option 1 were to be adopted, difficulties with enforcement of compliance by foreign platforms will result in Australian platform providers and start-ups experiencing an anti-competitive impediment to launching innovative products, as well as higher ongoing compliance costs. Should Option 1 nonetheless be considered for adoption, we would strongly advise that mandatory reporting be limited to the larger platforms (ie. those with a turnover above \$10 million) or, alternatively, allowing new local platforms, say, eighteen months to two years of operation (and growth) to become compliant with the regime.

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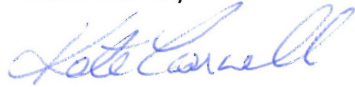
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Consumer Data Right Framework

Any new reporting requirements should not undermine the Consumer Data Right framework that is currently being rolled out throughout the economy. Suppliers on online platforms should be provided with timely access to any reporting by platform providers.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Jill Lawrence on 02 6121 5312 or at jill.lawrence@asbfeo.gov.au.

Yours sincerely

A handwritten signature in blue ink that reads "Kate Carnell". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Kate Carnell AO

Australian Small Business and Family Enterprise Ombudsman