

Catching up with the fast payment revolution

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Large numbers of Australia's leading corporations have no idea of the major changes that they will be required to make in the way they operate their business in 2021.

And few in the small business community, including independent contractors, understand the other side of the revolution — they will have a much better environment to fund their enterprise and employ people.

Meanwhile those large enterprises that do not comply with the new rules will not only have their image tarnished but in some cases they will be fined, with pressure put on directors to pay the fines personally.

Over the Christmas break a number of large companies suddenly discovered the magnitude of the operational changes now required and complained to the government that they had not been given enough notice.

Quite rightly, the government pointed out that the directors and senior managers had simply been asleep.

The biggest single change is that enormous pressure is going to be placed on large corporations (those with turnover above \$100m) to stop using small enterprises as their banker by not paying small enterprise suppliers in 20 days.

If the government's actions succeed then there will be a substantial acceleration in the business community money flows, which will generate employment and business confidence. Combine payment acceleration with the elimination of unfair contracts, which I will describe later, and the stage will be set for a big increase in cash flow lending to small enterprises.

The architect of the fast payment revolution is the Minister for small business and employment, Michaelia Cash. In the commercial building industry she managed to get legislation through the Senate to speed payments. There has been a dramatic reduction in payment times and she is using that building success as a model for the wider community. A register of the small business payment practices of large enterprises has been opened. Those that pay in 20 days from receipt of invoice (or less) can be proud but a vast number of \$100m turnover com-

panies delay payments by 60 or 90 days.

For these delinquent companies, the metre started on January 1 and they have six months to get their systems in order and disclose their payment practices. Slow payers face ridicule which will be concentrated on boards. In the building industry, with companies that were clearly making a genuine effort to reform their systems and payment times, Cash encouraged the regulators to give them more time. Companies will forward the names of their suppliers to the government which will determine whether an enterprise is "small" and therefore becomes part of the register. ATO rules will be the normal criteria.

If large enterprises don't tell the truth about their payment times by, say, claiming to pay within 20 days of receiving an invoice when in fact some of their small suppliers are being paid in, say, 60 days, then those companies will be fined for their untruths.

'Petty dictators'

At the same time, the community will be able to isolate the bad payers among larger companies and take note of the delinquent board members, who may find it difficult to be voted in as directors in other corporations.

Meanwhile, the government has a procurement policy which requires it to pay small enterprises in 20 days and demands that all the suppliers to that contract, plus those contracting with those suppliers, also pay within 20 days for services and goods that are part of the government contract.

Once a company with significant direct or indirect government contracts shows up on the list as being a company that pays small business in longer than 20 days, those government contracts will be in jeopardy.

They may be able to show that the parts of their operation that are involved with the government contract actually pay within 20 days, but that's a dangerous path.

For public servants, it will be far easier to give contracts to the good payers.

Very often bad payment rates come from "petty dictators" who enjoy delaying the payment of invoices. At other times the systems have not received enough investment.

The smarter companies will set up systems to pay everyone in 20 days unless there is an exceptional feature in the contract.

These measures will improve the workings of a business system, but to gain the maximum impact they need to be linked to big increases in cash flow lending. However at the moment there are two further fundamental impediments to cash flow lending.

The first is the proliferation of unfair contracts, where large enterprises have dictated the terms of a contract which provides that the large enterprise can change the price, quantity and continuation of the order. The small enterprise has no equivalent rights and must accept what has been dictated.

Many accept their fate but once borrowing is linked to unfair contracts lenders will be cautious. Back in 2016 the government passed legislation to make void unfair contract terms. But the large corporations simply ignored the legislation because it had loopholes.

This time around all the states, plus the Commonwealth, have agreed to change their legislation and make unfair clauses in contracts an offence that carries a fine. The governments are expected to pass the legislation in the current half year and have it operating by the start of 2021-22. Many millions of contracts must be charged. After a settling-in period there will again be pressure on directors to pay the fines personally because they will have been caught deliberately breaking the law.

The second area that inhibits liberal cash flow lending is the fact that the appeal system in the Australian Taxation Office does not work. It has destroyed innocent law-abiding enterprises in research, gold refining and many other industries.

Australia has followed the US in instituting new bankruptcy laws that give a small enterprises in trouble a real chance of survival. But to make that work it's necessary to have a US-style tax appeal system where taxpayers have clear rights. The nation has to hope that during the next year the government will decide to head down this path and therefore complete what is a remarkable set of changes for the small and medium sized business community.