

Agricultural Engineers Association
British Automation and Robot Association
British Fluid Power Association
British Paper Machinery Suppliers Association
British Plastics Federation
British Turned Part Manufacturers Association
Gambica
Gauge and Toolmakers Association
Manufacturing Technologies Association
Printing Industry Confederation
Processing and Packaging Machinery Association
UK Industrial Vision Association

Engineering and Machinery Alliance

Submission for the consultation on

Duty to report on payment practices and policies

1 Background – EAMA and the sector

The Engineering and Machinery Alliance (EAMA) represents circa 1,800 firms in 12 independent trade associations (please see the masthead) mostly SMEs in the mechanical engineering, industrial instrumentation and control sectors with sales of some £9 billion.

Typically, our companies supply ‘enabling technologies’ to other sectors (e.g. automotive, aerospace, medical, power, printing and food industries) in the form of hardware or packages combining services and products. Much but by no means all of this is carried out by small and medium sized niche or specialist firms (SMEs) -- innovative, entrepreneurial companies pushing the boundaries of factory performance, extending the envelope of the physically feasible to new levels in terms of speed, precision and migration into novel technologies and materials.

According to ONS, the sector’s turnover in the UK is £42 billion from 9,000 firms producing gross value added worth £16 billion to the UK economy.

2 Sector payment culture – flash survey

A flash survey of sector firms (70 replies) in January found:

- 51% are paid on time
- 20% up to 30 days late
- 23% up to 60 days late
- 6% up to 90 days or more late

(For indicative purposes only, if this split does reflect sector performance as a whole, then at any one time there’s approximately £21 billion held up unproductively in the supply chain.)

- Under a third (29%) always ask their customers for their payment policies
- Nearly half (44%) never do
- Although the overwhelming majority (90%) think all companies ought to have a payment policy
- Only half of the firms actually have one themselves.

There's clearly a big information/education exercise to be undertaken to help smaller companies to sharpen up their own practices.

Two in five firms are already aware of the Prompt Payment Code, so there's a knowledge base to build on as well as corporate self interest which organisations such as ours are very willing to support.

3 Summary

1. The Alliance supports the proposed direction: using transparency and a requirement to report while not interfering in the negotiation of terms between customer and supplier (as there are so many different models to be accommodated).
2. We do have some reservations however that the proposal for each customer to report on a quarterly basis will be seriously mauled by the customer companies in scope as over-burdensome administration and that to accommodate all parties the agreed consensus is likely to end up producing information on a much longer timescale and therefore may be of very limited use to suppliers -- i.e. the worst of all possible worlds: extra admin and no benefit to any of the stakeholders.
3. As a result, we come forward with a suggestion to explore an on-line system with a central portal holding/displaying the data for each of the companies, with the software making the necessary calculations and the companies' annual audits being used to help keep the customer companies up to speed in terms of accuracy and timeliness.
4. We think the HMRC self assessment website may well offer some useful indicators in terms of handing tons of data and being relatively easy to use.

4 The consultation

- 1: Do you agree that the reporting requirement set out in this document is clear and easy to understand?
-- **Yes**
- 2: Do you agree that the reporting requirement should effectively only cover effectively payments related to business to business contracts? -- **Yes**
- 3: Do you agree that we should be excluding financial services contracts? If yes, which financial services should we exclude; and how should we define them? – **No comment**
- 4: Do you agree that the reporting requirement should extend to (a) large UK companies, (b) large LLPs and (c) all quoted companies? – **Yes. All of the companies in each of the categories should be subject to the planned reporting requirement. They tend to be at or near the top of the supply chain, so their payment behaviour can set the tone for good or ill depending on how their payments percolate around the suppliers in the value chain.**
- 5: Do you agree that the Companies Act provides an appropriate threshold of whether a private company or LLP qualifies for an exemption from reporting? – **Yes. This is an important start to what we expect will be a long drive if it is to succeed in changing the UK's poor payment culture.**
- 6: Do you agree that businesses should be required to provide individual and non-consolidated reports on their payment practices? – **Yes. For our members consolidated performance at group level wouldn't help very much. What would help most is a reflection of practice at the level at which they operate i.e. at individual plant or operating unit level. The closer we get to that the more relevant the reports.**

BUT ... we do also recognise that it really is important the system isn't too onerous. In fact quite the contrary, it needs to be as light a touch as you can design, otherwise there's a real danger that these regulations will have major unintended consequences.

There's an obvious possibility that it could become a major administrative burden. That sits uneasily with the Coalition's desire to reduce regulation to the minimum needed to achieve the required results.

So while we like the direction outlined in the Consultation we are concerned the admin burden will ultimately prove too unwieldy as currently scoped.

Some sort of a compromise is needed to arrive at a solution that is both practical and useful for all parties involved.

We therefore suggest a re-calibration in the proposed approach, lightening the administrative burden on the customer companies, while at the same time making the information more relevant to supplier firms.

We propose that this could be achieved using a digital platform on a central portal hosted on a relevant website e.g. The Chartered Institute of Credit Management (CICM) or even HM Revenue and Customs.

The key features would be:

- 1. The supplier starts the process registering the invoicing date, the sum and the agreed term (*the system alerts the customer firm automatically; nothing appears on the portal website*)**
- 2. The customer registers the payment date at the same time as payment is made (*the supplier is electronically alerted by the system; the information appears on the website*)**
- 3. The supplier enters the receipt date (*info appears on the website and shows completion i.e. the supplier is content that payment has been fulfilled as per contract terms or otherwise*)**
- 4. The software automatically calculates the required metrics and downloads the data to the website concealing the supplier's name**
 - a. These metrics will include:**
 - i. The number of invoices paid in each category (*so that anomalies don't skew the results*)**
 - ii. The value in each category as a percentage of the whole**
- 5. Instead of requiring directors to sign off on the data on a quarterly basis, the annual audit will include a report on payment performance and the accuracy of the data entered on the company page on the central portal.**

The advantages are:

- 1. It's a simple system.**
- 2. Both parties are involved in entering the data.**
- 3. It operates in real time**
 - a. Current suppliers will be able to see how they are treated compared to other suppliers (*anonymity observed*)**
 - b. Finance directors in the large customer companies will get an accurate view of their payment performance and when it is poor how that works to the detriment of the supply chain. (*At any one time 35% of the UK's GDP is caught up in trade finance. In a snap survey of 70 companies in our sector 51% said they are paid on*)**

time. The inference is that getting on for a fifth of UK manufacturing GDP isn't circulating through the economy as it should. One of the direct consequences is that UK-based suppliers have to wait longer for their money and as a result can do less with it and so UK industrial investment performance is weaker than it should be.)

4. **The admin is kept to a minimum**
5. **There's clarity all the way through the invoicing/payment process, even from customer 'payment' to supplier 'receipt'**
6. **The aim of changing payment culture across all company types is made more achievable. The system is simple so when the time comes for smaller firms to adopt it they won't be fazed by it. In any case, some firms will have already been involved in the process as suppliers to large companies involved in reporting. (They won't be half as willing if there are big admin hurdles to deal with.)**

The disadvantage is that the system/website will have to hold a great deal of data. HMRC successfully runs a very large publicly accessible database for self assessment that's relatively easy to use, so there's no reason to believe that this platform can't be developed and managed to a similar level.

- 7: Do you agree that businesses should report on (a) their standard (b) their maximum payment terms, and (c) any changes to these over the last reporting period? Should the report require information on whether suppliers had been notified or consulted on this change in advance? --**Yes to all these**
- 8: Do you agree that this report should be a mandatory requirement for all companies in scope? – **Yes, if it is possible to pull it off without disproportionate administrative costs.**
- 9: Do you agree that the reporting requirement should specify when the clock starts on the payment period? Do you agree that date of invoice is a suitable point to start the clock on payment? – **Yes when the invoice is issued in line with previously agreed practice, i.e. as agreed at the time the contract was signed.**
- 10: Do you agree that a metric of invoices paid beyond terms should be included in this report? If yes, should this be for (a) proportion of invoices (b) value of invoices (c) both the proportion of invoices and the value of invoices? – **Yes to both proportion of invoices and of value.**
- 11: Should a business have to report on the average time taken to pay invoices? Does this add a valuable counter balance to the proportion of invoices paid to terms? – **Yes. And in the route we suggest you examine it could be easily derived.**
- 12: Would metrics demonstrating how many invoices are paid in (i) 30 (ii) 60 and (iii) 120 (iv) over 120 days be valuable to suppliers? If yes, should this be for (a) proportion of invoices (b) value of invoices (c) both the proportion of invoices and the value of invoices? – **Just to clarify: what we are referring to here is late payment i.e. that exceeds the agreed terms in the contract. We recommend the number of invoices and the average value for each category.**
- 13: Do you agree it that it would be useful for the report to include additional information, in narrative form, to give suppliers an understanding of a firm's wider payment? – **Please see 18 below**
- 14: Do you agree that it would be beneficial for a business to report on their existing dispute processes? – **Please see 18 below.**
- 15: Would it be helpful for the Government to provide a definition of a disputed invoice in the report? -- **Please see 18 below**

16: Have you experienced companies disputing invoices as a way of delaying payments? Do you see a role for Government intervention on this issue, and if so, what is it? -- **Our members certainly have. Please see 18 below**

17: Do you agree that a business should report on whether they offer e-invoicing? Should this disclosure include any further information or simply be a 'tick box' disclosure? -- **Please see 18 below**

18: Should businesses report on whether they offer supply chain finance? Should this disclosure also include the payment terms and average cost of this finance, or simply be a 'tick-box' disclosure? – **In this particular case, a tick box and web link at the company's discretion could be helpful.**

But for the others (Qs 13-17), at this stage we see them as all potentially useful from a supplier's point of view, but they all increase the burden of reporting. We would prefer to have a clean and successful implementation and then see what changes are needed later. There's always scope for improvement. The greater the reporting requirement, the greater the complexity and the more likely things are going to fail. Let's keep it focused and succeed.

19: Do you agree that a business should disclose whether it is a signatory of a Code and which code they belong to, if any? – **Yes we believe this requirement could be useful as part of the push to change the payment culture. If the information is held on a central portal links to the relevant Codes could be usefully included. The portal and the tenor of the whole initiative round culture change could benefit from being hosted at the CICM site given their responsibility for the Prompt Payment Code.**

20: Do you have concerns about the practice of some suppliers having to pay to be included on supplier lists? If yes, why? --**Yes. Basically it's corporate bribery. There are very big differences in terms of productivity and added value for the economy as a whole between bribing a firm to be on their suppliers' list and on the other co-funding/resourcing innovation or joint ventures to co-create IP/jobs/growth, so let's make that crystal clear. We should outlaw the former and definitely encourage the latter to produce greater collaboration within supply chains, ensuring shared ownership of the co-created benefits.**

21: Do you think that Government should take any action with respect to supplier lists, through this reporting requirement or otherwise? If so, what? -- **Not at all sure but please see 20 above.**

22: Do you agree that companies should report every three months covering at least the whole three month period? – **Yes, but prefer in real time. Please see earlier answers**

23: Is a 30 day period enough time after the end of a quarter to provide a report of this nature? – **Please see earlier answers**

24: Do you agree that companies reporting dates should be aligned with their financial reporting cycle? – **Please see earlier answers**

25: Do you agree that this reporting requirement should not be included in a company's annual accounts but instead have to publish it on their website? If yes, do you think it would be useful for the information to also be released alongside the publication of a company's annual accounts? – **Please see earlier answers**

26: Is The Gazette an appropriate online resource for companies without a website to use for reporting? If no, are there more suitable alternatives? – **Please see earlier answers**

- 27: Do you agree companies should be asked to report consistent with open data principles, if so what should these be? – **Some will see this as highly intrusive. Wouldn't the proposed audit procedure give adequate comfort?**
- 28: How could we make this data as accessible and useful as possible? – **Please see earlier answers.**
- 29: Do you agree that a company director should be responsible for signing off each report? – **Yes, but under the real-time portal solution, the inclusion of the audit procedure will place responsibility with the company's board, which is where ensuring ethical payment practice should reside.**
- 30: Do you agree that breach of this requirement should be sanctionable by a criminal offence? – **This a complicated area. Action should be proportionate.**
- 31: Would you find guidance in complying with this reporting requirement helpful? If yes, who should produce this guidance? – **Yes, probably with the system as outlined in the consultation. The alternative suggested route would be much simpler, because those entering the information would be guided by the interface at each stage. Accountants would be the logical advisers.**
- 32: What comments do you have on our draft Regulations? – **In principle we strongly support the intention to encourage a change in payment culture and the use of proportionate regulation to achieve it. The current framework provides, at the very least, a good starting point for further discussions and further development with appropriately qualified bodies. Such discussions must be wary of the potential to increase the regulatory burden and to become disproportionate.**