

Modernising business registers program: Review of registry fees



Introduction and overview

The NSW Business Chamber (the Chamber) welcomes the opportunity to provide a submission to the Treasury Consultation Paper Modernising Business Registers Program: Review of Registry Fees.

The Chamber is one of Australia's largest business support groups, with a direct membership of 20,000 businesses and providing services to over 30,000 businesses each year. The Chamber works with businesses spanning all industry sectors including small, medium and large enterprises. Operating throughout a network in metropolitan and regional NSW, the Chamber represents the needs of business at a local, State and Federal level.

The Chamber welcomes consideration of registry fees as part of the modernising business registers reform program. Registry fees represent a cost to the small business sector and in early November the Chamber wrote to the Prime Minister to discuss options to relieve businesses of this unnecessary expense (letter at Attachment A).

This submission clarifies the Chamber's views as to how fee relief should be delivered to Australian businesses. In particular, this submission proposes that annual review fees be abolished.

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Why provide fee relief?

The Chamber supports the application of government fees and charges where they reasonably reflect the costs of delivering services and where these costs would otherwise be borne by the taxpayer. In this respect, it is appropriate for ASIC to continue to charge fees in where there is a clear link between the fee and the benefit offered in return.

It appears, however, fees currently charged by ASIC go beyond what is needed to cover ASIC's operational budget and costs. Total fees and charges raised by ASIC for the Commonwealth were \$1.2 billion in 2017-18 while ASIC's total operating expenses were \$400 million.

As the consultation paper notes, registration and annual review fees account for around three quarters of ASIC's total registry fees. The annual review fee, which accounts for 61 per cent of ASIC's registry fees, totalled \$562 million in 2017-18. The annual review fee, incurred at the time a business receives their annual statement, is seen by most businesses as a tax and a further cost burden they are compelled to pay with little, if anything, in return.

ASIC's Industry Funding Model (IFM) has been established to ensure the regulatory services performed by ASIC are paid for by industry in proportion to each industry's contribution to ASIC costs. In this light it is difficult to justify additional fees as part of a user pays framework.

The annual review fee has no regard for the size of business or the potential actions required of ASIC. A proprietary company is obliged to pay the same fee whether it has a turnover of \$200,000 or \$200 million. With equivalent profit margins, this amounts to a smaller business paying a higher effective rate of tax (which is 1,000 times higher in this example). Put simply, the annual review fee fails to satisfy basic principles of equity.

The consultation paper suggests that annual review fees are necessary to incentivise data accuracy and active consideration of business solvency:

"Charging a fee incentivises companies and other entities to keep their data up-to-date. Coupling the annual review with a fee requires the regulated entity to transact with ASIC each year and consider their ongoing solvency. This interaction helps to keep the data held on entities accurate and provides the community with confidence that those entities that remain on the registers are considering their solvency."

Consultation paper, p12

The consultation paper does not make clear how being liable for the fee induces the behavioural changes suggested. The Chamber contends that this is a weak argument in support of the annual review fee and that other reporting frameworks are able to achieve high compliance rates without similar fees. Even if fees had some effect on data integrity, it is likely that it could be achieved with a dramatically reduced fee or alternative mechanism. Late fees (amounting to \$118 million in 2017-18) are probably more effective drivers of compliance and could be similarly linked to an alternative compliance mechanism, one that involves a discounted or nil fee for small businesses.

How to target fee relief

The Chamber maintains that ASIC fees and charges are in excess of cost recovery and there is considerable scope to reduce or abolish fees, particularly for small and medium businesses, while maintaining a user-pays funding model. On information available it appears, it would be possible to abolish the annual review fee and still collect \$265 million more than ASIC's operating expenses.

The Chamber is most concerned about the impact of the annual review fee on small and medium sized companies. As noted above, the Chamber is particularly concerned about the regressive nature of annual review fees and the fact that they are more keenly felt by smaller companies. Businesses choose to incorporate for a range of reasons. Smaller companies who may otherwise look to operate as sole traders or partnerships are being significantly impacted by these fees paying the same amount as some of Australia's largest companies. The current fee structure operates as an initial barrier to incorporation and an ongoing cost pressures that is disproportionately levied on small and medium enterprises.

Reduction in ASIC fees for small and medium companies

ASIC fees operate alongside a vast array of government charges as well as reporting and compliance obligations generated by all tiers of government. The cumulative impact of these costs is significant and due to their smaller scale, they are disproportionately felt by small business.

Recent surveys of business sentiment, including the NSW Business Conditions Survey, suggests cost pressures are increasingly a concern among small business. In addition to pressures such as increasing energy prices, many small businesses must absorb these costs due to increasingly fierce price competition in markets. This puts them at a competitive disadvantage even though they are otherwise viable and efficient enterprises. Fee relief for small business would be a welcome and practical initiative that could alleviate some of the challenges they currently face.

The Chamber recommends halving the current registration cost for companies with a turnover of less than \$5 million per annum. Further to this, the abolition or a 50 per cent discount should be applies to ASICs annual renewal fees for small business with a similar turnover.

Alternative mechanisms (without accompanying fees) could be adopted to maintain data integrity.

Attachment A



13 November 2018

The Hon. Scott Morrison MP
Prime Minister
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Dear Prime Minister

Reducing Company Registration Expense for Australian Small Businesses

As the peak business organisation in NSW, we are pleased that, as Prime Minister, you have taken a number of decisive actions to support Australian small businesses, including the acceleration of tax cuts for small businesses.

As you prepare for the next federal election, we encourage you to keep small businesses at the forefront of your Government's focus. Now, more than ever, it is important that all levels of government work together to implement measures that support small businesses and encourage entrepreneurship. To this end, we have been pleased that you have placed such a focus on the importance of small businesses to the Australian economy and job creation.

In your review and consideration of additional measures aimed at supporting small business growth and sustainability we encourage you to consider either abolishing or reducing ASIC Company Registration Fees.

ASIC currently charges \$488 to register a proprietary company. In addition, on the anniversary date of a company registration ASIC charge an annual fee of \$254 for a standard proprietary company.

Discounting or abolishing these fees for small businesses would be very much welcomed by the small business communities across Australia and, as referred to above, eliminate or reduce a real financial barrier faced by more than a million small businesses.

We look forward to an opportunity to discuss this simple and practical measure with you at your earliest opportunity.

Yours sincerely

A handwritten signature in blue ink, appearing to read "S. Cartwright".

Stephen Cartwright
Chief Executive Officer

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