

30 September 2014

NZBN Programme
Ministry of Business, Innovation and Employment
PO Box 10729
Wellington 6143

Email to: nzbn@mbie.govt.nz

Dear Sir/Madam

Re: New Zealand Business Number Exposure Draft Bill

1. Background & General Comments

I am writing to you regarding the Government's New Zealand Business Number Exposure Draft Bill (Referred to as the 'draft Bill').

BusinessNZ has previously submitted on the New Zealand Business Number (NZBN) Discussion Document, which we broadly supported. We are pleased to see that our overall comments and views have been taken into account, as now manifested in the draft Bill.

We would also like to take the opportunity to mention the excellent consultation process that has taken place so far on the NZBN. We believe that process will result in legislation that will meet the standard necessary to ensure the NZBN achieves its purposes.

Therefore, apart from the specific points we outline below, BusinessNZ supports the draft Bill going to Select Committee.

Overall Recommendation: That apart from the changes outlined below, the draft Bill proceeds to the Select Committee.

The following outlines our specific comments on parts of the draft Bill.

2. Information Collected for the NZBN Register

BusinessNZ would like to discuss two aspects of information collecting for the NZBN. But before doing so we think it is important that any changes or additions to the draft Bill are made in the context of clause 3 of the draft Bill, the draft Bill's purpose statement:

3 Purpose

The purpose of this Act is to,—

- (a) by introducing a unique identifier for businesses, the not-for-profit sector, and government agencies—
 - (i) facilitate efficient and accurate transactions between businesses, the not-for-profit sector, and government agencies; and
 - (ii) reduce the administrative burden on businesses, the not-for-profit sector, and government agencies; and
- (b) establish a register that allows certain fields of information to be—
 - (i) collected; and
 - (ii) shared with authorised users and the public; and
- (c) protect the security and confidentiality of information provided under the Act and the privacy of individuals in business.

In addition, the draft Bill's commentary paper makes a valid point worth repeating, in that:

The NZBN is primarily a unique identifier for businesses which will facilitate a reduction in compliance costs and facilitate business-to-business transactions. It provides a mechanism for businesses to be identified, but does not provide any kind of quality assurance or any other verification about the status of a business.

In particular, we note that clause 3(b) specifically relates to the NZBN register, where certain fields of information are collected and shared with authorised users and the public. However, the register should also protect the security and confidentiality of information, along with the privacy of individuals in business.

Taking these points into consideration, we now turn to the issues of additional information to be included on the NZBN, as well as the public display of information.

Additional information to be included on the NZBN

Overall, BusinessNZ believes schedule 3 of the draft Bill provides a useful list of information on entities that will be added to the NZBN register, but one question for submitters is whether any other information should be included?

From our perspective, we do not believe there is anything substantial to add to the list, the only suggestion being the number of people employed in an entity, given overall information on an entity is typically filtered by the variables of industry, region and size. Although the other indicators in schedule 3 provide an array of information, there is nothing to indicate the size of the entity, which 'numbers employed' can readily do.

Given an entity's employment numbers can change a number of times every year, to require updating would soon become an imposition on the business community. Instead, one option could be to provide for specific categories, for example based on the Government's *Small Business Sector Report 2014*:

- Zero (0)
- Micro (1-5)
- Small (6-19)
- Small-medium (20-49)
- Medium (50-99)
- Large (100+)

The inclusion of size of entity would mean that those with the information publicly available would provide an instant picture of their employee foothold in New Zealand.

Recommendation: That Part 2 of Schedule 3 also includes employee count by way of summary size groups.

Public display of information

Currently, the only information on an entity that will be mandatorily public is the NZBN and the location identifier (Part 1 of schedule 3). Part 2 of schedule 3 outlines 21 other categories that can be added, but kept private as an initial setting.

BusinessNZ fully appreciates the privacy concerns raised in the commentary paper and elsewhere, particularly in regard to smaller entities such as sole traders. We would not support changes to the draft Bill that meant businesses wishing to protect their privacy could do so because the information has been made publicly available. But, we do not consider that making the location identifier public would cause any privacy issues for smaller entities.

Paragraph 19 of the commentary paper asks whether any of the information included on the NZBN Register which is currently optional for businesses to display publicly should instead have to be publicly displayed? From our perspective, clause 3(a)(i) and (ii) set out the primary purposes of the draft Bill, so that any additions to the automatic public display of information should take this into account.

Having said that, our general view of what must currently be made public for all NZBNs is so negligible, that if the Bill were to proceed in its current form, there would be little reason to make anything public apart from the NZBN itself. In other words, what specific use could be made of the public information in Part 1 of schedule 3 that might warrant the schedule's inclusion? For instance, an NZBN breakdown by a locational identifier might be useful to certain parties enabling them to establish where certain types of business entity are typically situated in New Zealand. However, over time, users of the NZBN data would not be able to know which NZBNs were still active, so in essence the information would simply be an elongated snapshot of business entities in various regions, at a particular time and as such would probably provide little value.

Instead, we believe that if there is an overwhelming desire by other submitters to increase the information in Part 1 of Schedule 3, then to enhance its usefulness, the information required could also include business status, high level industry classification and date of NZBN registration on top of the location identifier. We believe that the inclusion of these identifiers would not cause any undue issue in relation to businesses being unable to protect their privacy, and would ensure that those analysing the data for whatever reason would work with a much richer dataset.

Recommendation: That if there are overwhelming calls from other submitters, Part 1 of Schedule 3 could include business status, high level business industry classification code(s) and date of NZBN registration.

3. Commencement Date

Part (2) of Clause 2 of the draft Bill states that Clause 34 comes into force on 31 December 2017.

Overall, BusinessNZ is pleased to see that a date has been set for the commencement of the NZBN. However, we view the start of 2018 as still a long time horizon out for government agencies to be required to recognise the NZBN. We appreciate that getting the eight different agencies fully on board will not be without challenge given the different systems in use. Also, we would not want the date brought forward to the extent that insufficient time is provided for a seamless transition from each agency number to the use of the NZBN only.

Having said that, by the time the legislation is passed, the time frame to commencement would be around three years. This does seem a significant time period compared with similar timeframes in the private sector, where coordinated changes among the main players in an industry typically look to a 12-18 month time window.

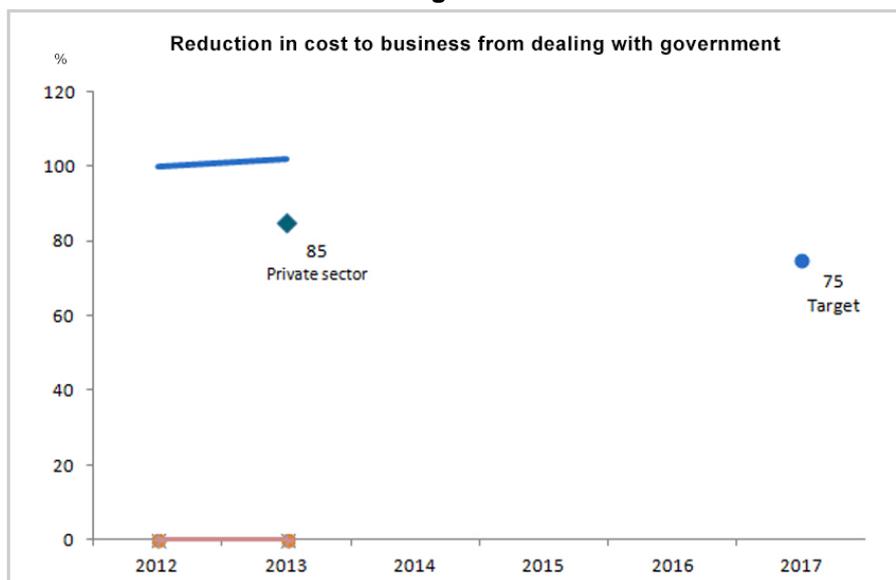
In addition, government has previously indicated a desire to ensure the performance and efficiency of the public sector is improved so that it compares well with the private sector. On this point, it is important to recall that the establishment of the NZBN is at the core of achieving the Result 9 (R9) Programme, namely that *New Zealand businesses have a one-stop online shop for all government advice and support they need to run and grow their business*. As the Government is well aware, R9 is framed by two targets:

- Target one: Business costs from dealing with government will reduce by 25% by 2017, through a year-on-year reduction in effort required to work with agencies.
- Target two: Government services to business will have similar key performance ratings as leading private sector firms by July 2017, and

businesses will be able to contribute to this through an online feedback system from July 2013.

Figure 1 below shows the progress of achieving the targets thus far. Taking a base of 100 for the effort of dealing with government in 2012, the effort in 2013 was 102. The goal of a 25% reduction in effort by 2017 would require a government score of 75 or lower, which is lower than the current perceived effort of dealing with the private sector. Therefore, if the Government considers the NZBN to be at the core of R9, we are deeply puzzled as to why Part (2) of Clause 2 of the draft Bill states that Clause 34 comes into force on 31 December 2017, which is essentially 6 months after the timeframe deadline for the R9 targets.

Figure 1



Therefore, despite the inherent differences and problems that public sector systems often face by comparison with the private sector regarding change, we believe the commencement period for the NZBN should be brought forward by a significant amount of time. Ideally, we would want the commencement date to be 31 July 2016, which should be viewed as the primary date in which the government agencies required to recognise the NZBN. However, if this is not achievable, then the revised date should be 31 December 2016 at the very latest.

Recommendation: That the timeframe for commencement date be revised to 31 December 2016 at the very latest.

In relation to the issue of commencement for the NZBN, BusinessNZ also has concerns with Clause 34(2)(b), which outlines what a government agency listed in Schedule 6 is not required to do. For instance, it provides an opportunity in which agencies may choose to continue to run their own existing identifier in the background, and not obtain data about the NZBN from the NZBN register. From our perspective, it seems unusual that there is a requirement for a group of agencies that

typically deal with the business community on a day-to-day basis to recognise the NZBN, but are not required to fully embrace the number in their own processes or internal systems, which one would expect these lead agencies to do.

Therefore, BusinessNZ believes that there should be stronger obligations on those agencies outlined in Schedule 6 to recognise the NZBN in both their outward and inward facing systems and processes.

Recommendation: Clause 34 is revised so there are stronger obligations on those agencies outlined in Schedule 6 to recognise the NZBN in both their outward and inward facing systems and processes.

4. Prohibitions & Offences

Clauses 46-50 of the draft Bill outline prohibitions and offences in relation to the NZBN. We note that the question on page 8 of the commentary paper asks whether there are any other prohibitions required, and whether these prohibitions need to be supported by penalties, such as fines.

BusinessNZ believes the draft clauses cover the main areas required for prohibition, and we consider it is important that the prohibitions are supported by penalties, such as fines. Otherwise there would be no incentive to change behaviour that would adversely affect entities. While we have no strong view as to what the fines should be, we would expect both that government would base the level of fines on similar clauses in other areas of legislation, ensuring consistency, and that their amount was significant enough to act as a deterrent.

Recommendation: That prohibitions outlined in the draft Bill are supported by penalties.

5. Rules on Updating Information

Page 8 of the commentary paper for the draft Bill points out that the NZBN legislation does not – and is not proposed to – include any rules requiring businesses to maintain their information on the NZBN register. BusinessNZ agrees. As stated, entities will suffer adverse consequences to their reputation if publicly available information becomes out-of-date, and that will be a motivation to keep it updated. We also agree that it would be worthwhile including a disclaimer on the NZBN website so that users of the website understand that the accuracy of the information may not be completely correct in some instances.

BusinessNZ also supports moves to ensure that the agencies' own rules around maintaining the information will apply to the information on the NZBN register. As the commentary paper points out, it would be unhelpful and confusing for agencies to have their own separate rules about maintaining information compared with the NZBN register.

Recommendation: That updating information on the NZBN is voluntary, and that Government agencies' own rules around maintaining the information will apply to the information on the NZBN register.

Thank you for the opportunity to comment on the draft Bill, and we look forward to further developments.

Kind regards,

A handwritten signature in black ink, appearing to be 'P. O'Reilly', with a long horizontal stroke extending to the right.

Phil O'Reilly
Chief Executive
BusinessNZ