



Margot James MP

Minister for Small Business, Consumers and Corporate Responsibility  
Department of Business, Energy and Industrial Strategy  
1 Victoria Street  
London  
SQ1H 0ET

Copy sent to the Secretary of State, Department of Business, Energy and Industrial Strategy and to the Head of Small Business Commissioner and Payments, Business to Business Team

Dear Ms James

**Duty to report on payment practices and performance – draft regulations**

We are writing to jointly express our concern at the lack of consideration given to the recommendations and concerns expressed, separately, by us in the draft 'Duty to Report' Regulations issued in December 2016.

Both The 100 group and GC100 have separately expressed support for the government's initiative to improve the transparency of payment terms and to assist small suppliers in receiving payments on time. However, proper consideration needs to be given to the mechanism to achieve this to ensure it is fit for purpose, is cost effective and does not result in an unmanageable reporting burden.

Our joint view is that the proposed requirements are too broad and do not focus on the underlying issue, which is to identify large businesses that do not pay their suppliers in line with agreed payment terms or those whose payment terms are unreasonable.

We do not believe that sufficient assessment of the benefit to small businesses has been undertaken. The figure quoted has not been appropriately analysed to assess who is responsible for the overdue amount, or the reason for it being overdue. It is likely to consist of payments from the whole business community, including large and small UK businesses, government bodies, and overseas companies; and a large proportion of delayed payments would likely be for genuine reasons, such as invoicing errors and genuine disputes. In our experience large businesses are generally well financed, pay invoices to time, and go to significant lengths to behave responsibly. Therefore, we believe it is inappropriate to associate this amount to large businesses withholding payments with no evidence to support this

Furthermore, we understand that impact assessment was based on a sample of fifty companies, which included only two FTSE 100. As such, the result cannot be relied upon as the basis for a meaningful impact assessment. The 100 Group undertook its own research with their membership which resulted in a significantly higher cost of compliance; on a NPV basis the 100 Group's best

estimate of the cost to the FTSE 100 of meeting the proposed requirements is £100 million. The cost to the broader UK business environment is likely to be a multiple of this figure as large UK companies exist outside the FTSE 100. This is a significant increase to the previous cost estimates produced by the BEIS.

Our concerns are set out in more detail in:

- The 100 Group's letters to you dated 4 November 2016, the Secretary of State dated 4 November 2016, and Corinne Brook (BEIS) dated 19 October 2016; and
- GC100's response dated 27 January 2015 to the BIS Consultation Paper – Duty to report on Payment Policies & Practices, subsequent letter to BIS dated 27 March 2015 in response to the Written Statement made by Minister of State for Business, Enterprise and Energy on 20 March 2015, subsequent meeting with the department on 5 May 2015, follow up case studies submitted by Aviva plc and First Group plc, and letter to Hannah Collins (BEIS) dated 29 November 2016.

Overall, our joint view, is that the proposed requirements are disproportionate, will be costly for businesses, and remain open to unhelpful misinterpretations. We strongly recommend that the regulations are revisited and the implementation date be delayed to allow further, more targeted consultation with affected businesses. We would welcome the opportunity to meet with you to discuss the proposals in more detail and work with you to find a way forward which meets BEIS's objectives.

Russ Houlden  
Chairman  
The 100 Group Financial Reporting Committee

Mary Mullally  
Secretary  
GC100

## Who we are

### **The 100 Group:**

The 100 Group represents the finance directors of the FTSE 100, several large UK private companies and some UK operations of multinational groups. Our member companies represent the vast majority of the market capitalisation of the FTSE 100, collectively employing 6.6% of the UK workforce, and in 2016 paid, or generated, taxes equivalent to 13.3% of total UK government receipts. Our overall aim is to promote the competitiveness of the UK for UK businesses, particularly in the areas of tax, reporting, pensions, regulation, capital markets and corporate governance.

### **GC100 Group**

GC100 is the association for the general counsel and company secretaries of companies in the UK FTSE 100. There are currently over 125 members of the group, representing some 82 companies