Submission to the Productivity Commission's draft report into 'Business Set-up, Transfer and Closure".

Australian Business Register.

Improvements in the government assistance for start-ups

Regarding government assistance programs pursuing social objectives (page 9) and governments improving the effectiveness of advice related to regulation, programs and processes (page 235), the Registrar is considering how it might use data analytics to identify those new businesses that have history of repeatedly becoming insolvent to support the delivery of targeted assistance programs.

The sharing of information on these businesses by government is intended to make it more likely that viable companies would receive assistance resulting in continued trading. This would benefit both small and large companies and those benefits would flow on to creditors (including employees) and shareholders.

In addition to the direct benefits of continued trading, we also expect to see significant indirect benefits as a result of the avoidance of those "knock on" effects that often occur with the collapse of large or significant companies. In particular, the losses that are often inflicted on customers, creditors and suppliers when a company fails, which can ripple out across a sector or region of the economy.

Saving viable companies from insolvency contributes to a strong market in goods and services, both nationally and internationally, and would deliver economic benefits for the country through sustained economic activity, higher levels of employment and tax revenue. It also boosts investor confidence and preserving jobs reduces the likelihood of personal debt problems and reliance on the state for financial support. Small businesses in particular should find themselves less at risk of financial difficulty if the other companies they supply are rescued and can continue to pay their bills.

Early intervention during start-up of these vulnerable businesses is particularly important to non-priority unsecured creditors, such as Taxation authorities, as these may be left empty handed as a result of company insolvency. For these creditors prevention is a far better option.

Over time, this type of data analytics may assist in determining the effectiveness of targeting assistance programs to those businesses that have a history of repeated failure.

Improvements in the detection of phoenix behaviour

Regarding the importance of insolvency reforms consider changes to detect and prevent phoenix activity (page 382), the Registrar is considering how it might use data analytics to identify those new businesses that have a history of repeatedly becoming insolvent to support endeavours to fight illegal phoenix activities.

This new work complements but differs from current phoenix enforcement activities, as it will be a list of newly registered businesses that have a history of repeated failure leaving outstanding obligations, rather than businesses that may have been deemed to have acted illegally. This list would be a tool shared across government to assist with compliance and enforcement functions by providing additional information that the agency may not be able to source independently or in a timely manner.

Validating the identity of company directors

Regarding the recommendation 15.8 that directors must use a Director Identity Number (DIN), I would suggest an alternate method that may meet the desired aim. There are strong informational links between business and company registration processes that may be leveraged. As the vast majority of companies will obtain an ABN for tax purposes, their directors will have provided their TFN details to the ATO. This process may obtain sufficient proof of identity for the purposes of ASIC identifying company directors.