

## Theme: Brewing up Business through co-design and co-production

### Abstract

January 2014 marked the second anniversary of the commencement of the Personal Property Securities Register, described by some as the most significant change in corporate law in more than twenty years.

The development and ongoing operation of the Personal Property Securities Register is an illustration of co-design principles and practice; the culmination of years of planning and policy development by Australian governments (federal, state and territory) together with a wide range of industry bodies, in order to achieve a significant micro-economic reform.

The *Personal Property Securities Act 2009* replaced about 70 pre-existing pieces of federal, state and territory legislation and the development of the Personal Property Securities Register replaced more than 30 federal, state and territory registers.

This submission will provide a history of the development of the Personal Property Securities Register, its function, scope and indications of success and a discussion of the ongoing co-design process used by the Australian Financial Security Authority to ensure a continued high level of fit and functionality.

30 January 2012 saw the culmination of many years of planning and development across Australian governments and in partnership with Australian industry, to reform the legislative base and the operational mechanics relating to personal property securities across Australia.

The development of the *Personal Property Securities Act 2009 (Cth)* and the Personal Property Securities Register (PPSR) is a case study in co-design with a number of unique features.

While 'whole of government' is a term and concept increasingly seen as something to aspire to, the reality of genuinely applying a whole of government approach is complex; particularly when different levels of government and competing priorities are involved.

### The Personal Property Securities Register

The PPSR is an Australian Government national online register of security interests in goods and other personal property which is regularly used by buyers, sellers and financiers.

The PPSR was developed with a number of objectives:

- to streamline existing legislation and registers operating nationally and at state and territory level – to reduce red tape
- to make it easier for Australian businesses to operate
- to enable businesses selling on terms, such as retention of title, or leasing out valuable goods, to register their interest in their goods. Registering an interest in goods which a

business hasn't yet been paid for can help it recover the debt should a customer not pay or become insolvent

- to support businesses to use their existing collateral as a security to seek credit, thereby allowing growth
- to provide a one-stop shop for buyers to check whether the valuable second hand goods they want to buy, are debt-free and safe from repossession. This includes goods such as machinery, equipment, vehicles and stock.

### **The nature of the reform**

In their publication, *Impacts of COAG reforms: Business regulation and VET*<sup>1</sup>, the Productivity Commission made the following key points about the Personal Property Securities reform:

- In 2008, State and Territory governments agreed to refer their legislative powers over personal property securities (PPS) to the Australian Government to establish a national regulatory system for security interests in personal property.
- Despite some delays in implementation, the new laws and register of security interests became operational on 30 January 2012.
- The reforms are likely to lower ongoing compliance and transactions costs faced by businesses in providing, registering and searching PPS by around \$70 million per year.
- The referral of powers is also likely to yield net cost savings to governments in the order of \$1 million per year.
- It is expected these benefits would be realised progressively over the next one to two years and then be ongoing.
- Transitioning to the new system is estimated to be imposing some one-off costs on businesses in the order of \$150 million.
  - These costs are expected to be mainly incurred in the first year of operation.
- The PPS reforms afford the opportunity for the development of new financial products, potentially providing businesses with greater access to secured credit and lowering borrowing costs.

The significance of the PPS reform has been recognised in a number of other reports.

Veda, in their report, *Credit Management in Australia 2012*<sup>2</sup>, stated that 62 per cent of respondents to their survey felt that the introduction of the PPSR had benefited their business. This increased slightly in their 2013 survey to 66 percent.

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<sup>1</sup> Impacts of COAG reforms: Business Regulation and VET, Productivity Commission Research Report, Volume 2 Business Regulation, April 2012

In November 2013<sup>3</sup>, General Counsel for Veda, Olga Ganopolsky, said that:

“Regulatory changes can be disruptive in the short term but the long term benefits are usually acknowledged over time. For instance in the case of the Personal Property Search Register, while there was resistance to it in 2011; the survey reveals that most credit managers have reported benefits to their business, which outweighs the costs and risk involved. Now there is a higher proportion using the PPSR in registering for retention of title for security interests.”

The World Bank in their report, *Doing Business 2013 – Smarter Regulations for Small and Medium-Size Enterprises*, cites the introduction of the Personal Property Securities Register as an example of an initiative taken to strengthen the legal rights of borrowers and lenders in 2011 / 2012.

The report also states that:

- Australia’s secured transactions system was strengthened by adopting a new national legal regime governing the enforceability of security interests in personal property and implementing a unified collateral registry.
- Australia was ranked as tenth out of 185 economies that narrowed the regulatory gap in 2011/12, making business regulations more friendly. (The other countries were Singapore; Hong Kong SAR, China; New Zealand; the United States; Denmark; Norway; the United Kingdom; the Republic of Korea and Georgia.)
- Australia was recognised as one of the OECD high income countries where businesses have readily available access to information:

“More than 60% of these economies make it easy to access information in all four regulatory areas covered by the new data. In Australia, Belgium, Denmark, Finland, Sweden and the United States, for example, company registries, property registries, building departments and power distribution utilities all make fee schedules associated with their services available on the internet or through brochures.”

- Australia was identified as one economy that offered electronic registration.
- Australia was ranked fourth in terms of where getting credit is easiest for businesses.
- Australia was identified as one of the countries with the most legal rights for borrowers and lenders.

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<sup>2</sup> Credit Management in Australia, Veda, November 2012

<sup>3</sup> Release of findings from Veda’s 2013 Credit Management Survey at the annual AICM National Conference in Adelaide on 24 October 2013. (<http://www.veda.com.au/insights/veda-tells-trade-credit-market-tougher-times-call-smarter-investigating>)

- Australia was rated in the top ten countries that makes resolving insolvency easy.

Consistent with the criteria used by the World Bank, the high search to registration ratio of over 3:1 signifies the PPSR as a highly effective register. Amongst other things the ratio demonstrates its general accessibility, usefulness and acceptance as a risk management tool within the Australian economy.

### **Core system design elements**

Australia's PPSR is designed to support robust activity with data integrity and accessibility at the core of the technological requirements. With in the order of 25,000 transactions being processed daily on the Register (search and registration), and the PPSR being the only source of security interests over personal property for Australia, maintaining ready access to the PPSR is a key plank to economic activity within Australia.

The system design has from the start been premised on an online transactional basis, a far cry from the manual processes which existed for many of the 40 registers replaced by the PPSR. To support a seamless transition for the heavier users of the prior manual systems (such as the legal fraternity), a manual process was however developed and supported from 'go-live'. Following 16 months of operations and only a low double digit number of registrations (filings) occurring (less than 50 out of a total of approx 3,600,000), the manual service offering was discontinued.

Other key design features which have been developed and enhances through co-design feedback include:-

- Comparable functionality for web user interface and business-to-government (system to system) users
- Effective error messaging for business-to-government users for ease of identification and management of faults
- Production like capability and capacity for web user interface or business-to-government system users to test against and train staff
- Full disaster recovery capability across 2 physically diverse sites
- User authentication with automatic password expiry after a defined period
- Validation of data at the point of entry through connectivity of other entity registers (eg validation of company numbers with ASIC registers, postal address and links to Australian State based systems to validate vehicle information) – minimising user data entry error for both registration and search activity
- Security established to a minimum of Australian Government Information Security Manual standards
- An established and mature 6 monthly enhancement/release cycle with release packages generally including user requested system enhancements (through the co-design process and within the constraints of the current legislative framework), security and operational management elements

### **The co-design approach**

Co-design involves collaborating with and involving the user in the design and development of the solution. This approach informed the development of the PPSR and is still used by the Australian Financial Security Authority in the ongoing management and enhancement of the PPSR.

### **Why did we invest in co-design?**

In order to design and deliver an effective product, it was essential that the end users of the PPSR were informed and engaged and had opportunities to contribute their expertise, knowledge, user requirements and business needs. It was essential at the end of the day, that the PPSR would be reliable, efficient and trusted by those who would depend on it. Investing in co-design made sense. It was also an effective risk management tool. Development of a national register with a strong level of collaboration with industry ensured that not only would the end product meet the needs of industry and business, but it would also support a smooth transition from the previous system to the new national online system.

### **The path of reform**

The commitment to progress and deliver the desired outcomes in relation to personal property securities reform required:

- Australian and state governments to work collaboratively over a number of years and across changes in government
- a partnership approach between Australian governments and the private sector in order to facilitate co-design and a strong investment in the finished product
- the replacement of numerous separate pieces of Australian, state and territory government legislation
- the replacement of numerous pre-existing national, state and territory registers
- the development of a national online register to be available 24/7
- provision for industry to build their own processes to be able to commence transactions immediately the PPSR became operational.

### **In the beginning**

The Attorney-General's Department (AGD) took the lead on driving the policy and legislative change required in order to bring into being the *Personal Property Securities Act 2009* (Cth) and the PPSR. Working in close collaboration throughout the development phase, the Australian Financial Security Authority (AFSA) took responsibility for the operations of the PPSR at its commencement on 30 January 2012.

Throughout the development phase, business and industry stakeholders and owners of the pre-existing registers were closely involved in visualising, planning, shaping and influencing the nature of the new legislation and the resulting PPSR. This was essential for a number of reasons:

- it was important that the Australian Government was well informed of the existing business processes and requirements of key users of the new personal property securities regime in order to build confidence in the new arrangements and to develop a system that would provide the required outcomes to assist business confidence
- businesses needed as much time as possible to prepare for the new regime and to allow for as smooth as possible transition
- business, industry and other stakeholders provided an essential user testing audience, which added to the integrity of the new product in development
- working closely with stakeholders enhanced the level of trust and credibility and provided a genuine sense of transparency and collaboration. It was important for the scheme's success from the first day of operations, that there be no surprises
- a close collaboration with industry bodies and peak associations was critical in building awareness of the new system across the nation and from national and state levels down to individual members and business operators. Industry and peak bodies were also able to take away and test proposed solutions and options and provide an informed and representative view back to government
- the development of the PPSR was not a reform of one existing system. This was a reform of about forty pre-existing national, state and territory registers and around seventy pieces of legislation. A reform of this scale is not a light undertaking and is seldom seen. To attempt this without a strong network of informed and engaged stakeholders would have blighted the goodwill and the ultimately successful delivery of this reform.

### **The co-design process**

With a large and varied range of stakeholders and interests, it was necessary to build a degree of structure and rigour to the co-design work. Initially this consisted of:

- monthly stakeholder forums held to discuss the implementation schedule
- industry special interest group forums were held to discuss particular aspects of the reform, including legal, business process, and data migration
- close collaboration continued with the State, Territory and Commonwealth Registers that transitioned to the PPSR.

These arrangements continued in the transition from pre-commencement to the full operation of the PPSR. The AGD and AFSA worked closely with industry sectors to identify particular information needs and to develop, test and finalise tailored information that would meet the needs of the different sectors.

As business and community understanding of PPSR operations has grown, the nature of stakeholder engagement has evolved to ensure AFSA keeps pace with the needs of those using the register. One example of this is regular and ongoing engagement with stakeholders through three established forums:

- PPS Stakeholder Forum – membership consists of invited representatives from a wide range of Australian peak industry bodies and national associations representing consumers and industry
- PPS Operations Forum – consists of business, consumer and industry representatives nominated by the peak industry bodies and acts as a co-design forum, considering future enhancements to the PPSR and associated business practices
- PPS Technical Forum – brings together representatives from the major user organisations, primarily B2G. This forum discusses technical operational matters including release and performance.

The forums are an integral channel to hear about the user experience directly from those closest to it; industry and peak bodies are effective at voicing the needs of their members and articulating possible solutions and improvements. Having a stakeholder engagement structure with different strata, allows for issues from policy through to detailed technical matters to be covered in a methodical way. The membership of each level is also important, allowing a number of voices and interests to be heard, bringing an intrinsic capacity to identify, challenge, prioritise and pursue management or resolution of issues.

This ongoing engagement enables stakeholders and AFSA to jointly steer the path of enhancements, allowing the Australian Government to deliver a more effective product.

Last year a number of enhancements were made to the PPSR, all of which were in response to feedback from industry and consumer users. For example, in October 2013 a quick search function using a Vehicle Identification Number (VIN) was created to simplify the search process for casual (infrequent) users of the PPSR. Further enhancements scheduled for 2014 have been driven by community and or industry feedback.

Market research is another tool used to gain a greater insight to and understanding of the priorities, understanding and experiences of users of the PPSR. Market research was used in December 2013 to engage with a particularly hard to reach sector – small to medium enterprises (SMEs). This research tested participants' awareness of the PPSR, the value they placed on it as a tool to manage risk, the clarity and meaningfulness of our communication and the ease of use of the PPSR itself.

The research not only provides an insight into language or terminology barriers, or steps in our processes that may be unclear, (although that is valuable in itself); participants have given us

practical and very specific suggestions that would improve our communication and make it easier to complete our processes.

The research allows AFSA to better connect with our clients and stakeholders, to better appreciate their experience and to hear their views – all of which represent opportunities for AFSA to make it easier for people to use our services.

In summary, the development of the PPSR is a significant micro-economic reform that has changed the way businesses and consumers Australia-wide can manage risk in relation to purchasing valuable second-hand goods, protecting their security interest in goods and in securing credit. Not only does Australia now have one overarching system but it is available to all, at relatively low cost and accessible 24/7.

The development and continuing improvement of the PPSR has been the result of a commitment to co-design. Working in collaboration across government and with Australia's industry and consumers, the new personal property securities scheme has ensured an informed and engaged stakeholder base and a product that meets the needs of government, business and consumers.

#### References:

Doing co-design, what, why, with who and how? Penny Hagen & Natalie Rowland,  
<http://uxaustralia.com.au/uxaustralia-2013/doing-codesign>