

Question on Notice from Mr Gorman (page 74 Hansard Friday 29 November 2019)

I would put this on notice: I'd be interested in any further submissions you may wish to make. I'll also be interested in us having a further discussion about this as a committee. If you are not applying the prohibitions of conflict of financial interests, material loans, serving as counsel and providing bookkeeping and accounting services, and you're not applying any of those to Facebook Australia, Netflix Australia and the like, we have a huge problem. So I'd be very interested in you taking that on notice—no more than a page.

Answer

My evidence shows that the Big 4 audit firms have allowed multinational companies to ignore the definition of reporting entity. Audit Transparency Reports also indicate that the Big 4 Firms have determined that the same multinational companies are not public interest entities. It appears that ASIC has failed to challenge the Big 4 audit firms about whether these companies are reporting entities or public interest entities.

It is wrong that multinational companies are escaping from accounting standards and audit independence standards because of a lack of professionalism inside the Big 4 audit firms and a lack of regulatory oversight from ASIC. The multinational companies have businesses that are household names with billions in revenues and hundreds/thousands of employees. Apple Pty Ltd is perhaps the most striking example.

There are various sections of APES 110 Code of Ethics for Professional Accountants (including Independence Standards) where certain requirements only apply if the audit client is a Public Interest Entity. These requirements include the following:

- Audit fees represent more than 15% of total firm fees for two consecutive years (para's R410.4 to R410.6)
- Key audit partners and senior or managing partners of the Firm have joined the audit client (para's R524.6 to R524.8)
- Seven-year limitation for the engagement partner, the individual responsible for the engagement quality review and any other key audit partner (para's R540.5 to R540.20)
- Stricter prohibition on providing accounting and bookkeeping services including preparing financial statements on which the firm will express an audit opinion (para's R601.6 to R601.7)
- Stricter prohibition on providing valuation services (para. R603.5)
- Stricter prohibition on providing tax calculations (para. R604.6)
- Stricter prohibition on providing internal audit services (para. R605.5)
- Stricter prohibition on providing IT systems services (para. R606.5)

New economy companies like Facebook Australia and Netflix Australia are also a problem.

Mercifully, Facebook Australia switched from special purpose accounts to general purpose accounts from FY2016. This change occurred because the Multinational Anti-Avoidance Law "MAAL" forced the Company to recognise that it was a reseller of advertising inventory rather than a service provider to a foreign company in a tax haven. Facebook Australia is not classified as a public interest entity by Ernst and Young.

Netflix Australia did not have an auditor appointed as at September 2019. Netflix Australia did lodge general purpose financial statements with the Australian Taxation Office as a Significant Global Entity for FY2017 and FY2018 but these statements are unaudited.