FAMILY FIRST
Dissenting Report

Inquiry into Private Equity Investment and its Effects on Capital Markets and the Australian Economy

FAMILY FIRST has expressed concern about private equity buyouts and their implications for Australian families.

Private equity deals are often presented as smart business with no consequences for the broader Australian public. FAMILY FIRST disagrees. FAMILY FIRST is concerned that the general public can lose out from the shuffling of money, shares and ownership in private equity takeovers. The public can lose because these deals may mean a loss of tax revenue, a loss of competition in a market and in the most extreme circumstances the failure of a major company.

Last year FAMILY FIRST voted against amendment to tax laws that exempted foreign investors from paying capital gains tax that Australians still have to pay. The amendments are just an encouragement to foreign private equity firms as the new laws allow them to reduce their costs in a takeover.

FAMILY FIRST pointed out that the proposed private equity buyout of Qantas could have cost the Australian public hundreds of millions of dollars in lost tax revenue, placing greater burden on other taxpayers such as families.

Both the Treasury and the Reserve Bank of Australia said they had not made an estimate of the potential loss to tax revenue as a result of private equity takeovers.[1]

Law firm Speed and Stracey made a submission to the inquiry pointing out that the high level of debt in many private equity buyouts means there is a large potential loss to tax revenue:

> In 2005-06 the Australian company tax collected from the 5 selected companies [Coles Myer, Qantas, Tabcorp, Wesfarmers, Woolworths] was $1.2 billion. We estimated that if those companies were taken-over by foreign private equity funds no company tax would be payable - a reduction in company tax collected of $1.2 billion per annum. The greater the number of Australian companies taken-over, the greater the loss of tax. The loss of tax collected occurs because market equity is replaced by a mixture of highly leveraged foreign debt and equity. Interest on the debt is a tax deduction against the earnings of the companies taken-over.[2]

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1 Committee Hansard, 25 July 2007, page 17 and 26 July 2007, page 9.

2 Submission 21, Speed and Stracey Lawyers.

Associate Professor Frank Zumbo from the University of New South Wales also pointed out that there were other risks from private equity takeovers. For example, a takeover or series of takeovers could lead to a substantial lessening of competition in a particular market:

> While the inadequacy of s 50 of the *Trade Practices Act* in preventing a process of anti-competitive creeping acquisitions in a market is not an issue confined to private equity investments, it would appear that some private equity firms are, over time, acquiring individual companies in the same market or related market with the goal of being the dominant or monopoly player in those markets.[3]

There is also the danger that a company may fail from a botched takeover attempt:

> It is this leveraged buyout of major Australian companies by private equity firms that is of potential concern. In particular, it is a proper understanding and management of the risks associated with leveraged buyouts of major companies that is critical to ensuring that the failure of such private equity investments do not have a disproportionately large negative impact on the economy. While it would be unfortunate for any small start company to fail, it may be much more problematic where a major established company fails as the impact may be magnified throughout the economy. Tens of thousands of customers, creditors and employees could be affected by such a failure … Given that the failure of major established companies can have a disproportionate large negative impact on the economy private equity investments associated with leveraged buyouts of such companies may require additional scrutiny and safeguards.[4]

FAMILY FIRST remains concerned about the highly geared nature of many private equity takeovers and is particularly concerned about the tax burden placed on Australian families as a result of foregone tax revenue. Further regulation should be considered in the interests of Australian families.

Senator Steve Fielding
FAMILY FIRST Leader
FAMILY FIRST Senator for Victoria

3 Submission 23, Professor Frank Zumbo, page 14.

4 Submission 23, Professor Frank Zumbo