

## **Productivity Commission Submission into Competition**

In response to your advertisement in the Sydney Morning Herald on Saturday 10<sup>th</sup> May 2014 I would like to make a submission in relation to the competitiveness of country accounting firms. May I note the country has been a driving force economically in Australia?

I believe that country accounting firms are at a competitive disadvantage due to the current policy being upheld by ASIC in relation to auditing company accounts. This is a matter that has been of great concern for well over ten years. During this time we have seen a decline of company auditors approved nationally from 10,000 to less than 5,000. Company auditing is now almost exclusively the domain of the Big 4 accounting firms. The Institute of Accountants and CPA both seem very comfortable with this arrangement clearly years of lobbying politicians have paid big dividends for the large end of town.

A brief history will indicate this is so. In 2004 I applied to become an auditor with ASIC under the 2,000 hours rule. This case was known as the Murphy v ASIC case and in prominence replaced the Bird v ASIC case. In the process this showed me that there was a clear relationship between ASIC and the Administrative Appeals Tribunal and the big end of town. This case was notorious for a number of issues. Firstly, it appears that I was the first person to attack the ASIC stranglehold on application on this area. Secondly, I was made aware that ASIC's Register of Company Auditors appeared not to have been updated for 10 years and contained on the list many deceased people ranked as active. Thirdly, the strange ruling from the Magistrate which appeared in order to save face for ASIC that auditing self managed superannuation funds was considered insufficient for the purposes of company auditor work experience.

This ruling flies in the face of common sense and almost the day after ASIC were approving new applications based on auditing of self managed superannuation funds for company auditors.

It became clear that ASIC's argument was if we approve Mr Murphy he has the ability to audit BHP and as such we do not think he has the necessary experience. This logic defies Cox's Probability of Logic and means that because Julia Gillard never had experience as being Prime Minister she should therefore not have accepted the role.

Fast forward to 2013 Mr Murphy now applied to ASIC again to be a company auditor Mr Murphy's application sits in ASIC office for well over 6 months while they wonder what to do. Eventually, Mr Murphy is informed by ASIC that they decline his application.

This time Mr Murphy has applied under the supervision method whereby he is supervised by another company auditor. It was suggested to Mr Murphy in 2004 by the barrister that ran

the case for ASIC if he had lost that there was a new law being brought in to assist country based company auditors to apply under as it was very hard in the country to acquire the 2,000 hours of auditing in 5 years due to a limited availability of auditing. The barrister stated categorically that he believed this would now be easier for people to now become a company auditor.

Mr Murphy decided that it was in the nation's interest that he appeal to the Administrative Appeals Tribunal. Mr Murphy was aware that the amount of time that this qualification would take due to his rising age was not going to be that beneficial to him. Further, he held a strong view that he believed a "kangaroo court" was being run by ASIC and the Administrative Appeals Tribunal with the support of the accounting bodies should be forced to make a call. Mr Murphy's actions were designed so that this decision could be put out in the public arena.

In due course Mr Murphy appealed to the Administrative Appeals Tribunal and in doing so was strongly supported by the testimony of Mr David Conallin a company auditor that Mr Murphy had complied with the tenants of the law and so dutifully qualified to carry out any company audit. ASIC opposed this bitterly indeed and bought a number of its staff out for the day to sit in court to send a clear message to the Judge that ASIC were strongly against my registration. At all times Mr Murphy was deemed a fit and proper person and had the academic qualifications. Again in her ruling she said, Mr Murphy application citing the same line from 10 years before that if granted Mr Murphy could audit BHP. Mr Murphy strongly objects to this and intends to lodge another application albeit he does not think that ASIC will entertain it. Mr Murphy has held senior positions Commercial Manager of James Hardie and CSR and believes he could audit BHP.

Mr Murphy however, has no ambition to audit BHP just regional firms which are experiencing considerable difficulty in engaging company registered auditors.

Recently, Mr Murphy applied for special permission from the Minister to audit Australian Eco Retreats Pty Ltd and this was granted by the minister. Mr Murphy would like to point out that he had quoted for the audit \$2,500 which he subsequently had done for free similar quotes were for the amount of \$10,000 on a turnover of approximately \$50,000 for the company. Mr Murphy will allege that ASIC are not upholding the national interest in relation to competition by this closed shop approach. Mr Murphy calls on the Productivity Commission to allow the registration of company auditors on a more fair and equitable basis and believes this registration should be removed from ASIC and from the accounting bodies who appear to have an informal understanding to refuse applications.

Mr Murphy will argue and this argument is based on his knowledge of economics and politics both of which he studied at university that ASIC are restricting supply thereby pushing the demand curve to a level where Mr Murphy believes prices are 3 times more than they ought to be under proper competition.

If we are not to become the “poor white trash of Asia” as Lee Kuan Yew allegedly referred to us 30 years ago then competition must cut across regulation. Regulators for far too long have controlled the level of competition for many areas including this one. Their simple purpose is to eliminate complaints at any cost even the cost of our living standards. They have no future vision for the country other than based on wishing to get home on a Friday night without filling out any paperwork in relation to complaints which may or may not have occurred.

The tragedy of this is that regulators who have the ability to intervene such as in Storm have knowingly stood aside for years before they would act rather than upset the big end of town. As Senator John Williams recently said during the senate hearings on ASIC, he does not wish that the “wimps will oversee our institution”.

Mr Murphy was in the process of discussing his concerns with Mr Robert Oakeshott office just before the federal election. Mr Oakeshott was very helpful and had had discussions with Mr Wayne Swan on this matter and had conveyed to me that he believed two standards of auditing could apply one for large companies with millions of dollars turnover and one for lower turnover companies to allow country auditors to compete. Mr Oakeshott office was horrified by this rule being upheld by ASIC and it came back that he would pursue this matter very strongly. We lost Mr Oakeshott who did not run for election last year and I believe we lost a very strong local member.

Mr Murphy is happy to assist the National Productivity Commission in framing any future legislation in this area and any other areas should they desire.

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