

Dear Senator Hume,

I'm writing to you in relation to the Proof Committee Hansard for the Senate Economics Legislation Estimates Committee.

The Hansard was released to the public on Wednesday, 30th May 2018, a copy of which I have attached for your reference.

Within the Hansard there are references made to the Four Corners program titled 'Mongrel Bunch of Bastards'.

I was interviewed by Four Corners in relation to this program and my interview was included in the telecast on ABC television on April 9, 2018.

I would ask for clarification in Hansard from Mr Chris Jordan that he was not referring to me in the sections shaded in green in the attached document and that his comments do not relate to me whatsoever.

Thank you in advance for undertaking this clarification.

Your sincerely,



Proof Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

Estimates

(Public) WEDNESDAY, 30 MAY 2018

http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/2b6ffdc4-fa6a-42d5-a3a9-baae0046e498/toc_pdf/Economics%20Legislation%20Committee_2018_05_30_6155.pdf;fileType=application%2Fpdf

Department of the Treasury Australian Taxation Office

[09:03]

CHAIR: I welcome back to the committee the Minister for Finance, Senator the Hon. Mathias Cormann, representing the Treasurer, and Mr Chris Jordan, the Commissioner of Taxation. Minister or Commissioner, would you like to make an opening statement?

Senator Cormann: I don't have one, but the commissioner does.

Mr Jordan: Good morning. I have been looking forward to this opportunity to talk about the important developments in the tax and super systems and, as usual, to provide you with an update about what's going on at the ATO. We're in the process of preparing for tax time 2018, and we're also in the lead-up to the implementation of a number of measures recently announced relating to the black economy, illicit tobacco, illegal phoenix activity, the superannuation guarantee amnesty for employers, work on modernisation of the business registers, and implementation of the single-touch payroll, amongst other things. These recent measures by government show we are continually refreshing our approaches to tax system integrity risks in this very dynamic environment. We see investments like these as a very strong indicator of confidence in our capabilities and ability to deliver results, and we are very proud of that.

We continue to perform well in the large and multinational markets, and we expect that large corporates will pay roughly \$10 billion more in company income tax for the 2018 year than they did in the previous year. Whilst this increase can be attributable to economic growth and commodity price changes, we know that we have contributed to some of this increase from better taxpayer compliance in this market, both voluntary and ATO assisted, which shows that our approaches to the large market are working well.

Five hundred and ninety taxpayers are currently under review or audit as part of the focus on wealthy individuals, including their associated groups, trusts and aggressive tax planning. For this year to the end of March we've raised almost \$1.5 billion in liabilities against wealthy individuals and associated groups.

Another success I wanted to mention since last time is the landmark case in the Supreme Court of New South Wales involving Michael Issakidis, who was sentenced to 10 years and three months for his involvement in the largest prosecuted tax fraud case in Australia's history. His co-conspirator, Anthony Dickson, was originally sentenced to 11 years' jail, but when he appealed that was increased to 14 years, and it's the longest ever jail time for tax fraud and money laundering. Their scheme deliberately absorbed \$450 million of otherwise assessable income through falsely created losses to evade \$135 million in tax. This successful case was a result of us working effectively over a long period of time with other authorities, and it is a good public demonstration that we pursue those who are doing the wrong thing. While these cases are long and complicated, we will not give up, for the benefit of the system and for the benefit of all those people who are doing the right thing.

While we're talking about results of our compliance work, I also want to mention employer compliance with super guarantee obligations. We have nearly doubled our coverage and completion of cases compared with the same period last year. We've contacted nearly 20,000 employers as a result of reviews or audits. We've raised over \$660 million from all our super guarantee casework, compared with around \$480 million last year. We've also issued over 2,800 super guarantee charge director penalty notices, with a combined value of nearly \$275 million in relation to around 2,700 companies. With the ATO having been given funding for the SG task force from 1 July, and the announcement of the proposed 12-month SG amnesty, if ever there were a time to come forward to voluntarily disclose and pay outstanding super guarantee it is now. The SG amnesty is an opportunity to clear up outstanding matters and get things back on the right track.

Moving on to what will be an even bigger focus for us over of the coming year, the black economy. This year, we have already conducted over 6,700 reviews and audits resulting in nearly \$190 million in tax and penalties. We've been very active in areas with a prevalence of cash only and low use of merchant banking facilities, with almost 6,000 businesses visited in Cabramatta, Liverpool, Batemans Bay, Chatswood, Werribee, Glen Waverley, Sunnybank, Toowoomba, Mandurah, Glenelg and north-west Adelaide. It's interesting to note that in these visits we have found the full spectrum of behaviour that we see. From some simply not understanding their employer obligations—not registering for pay as you go, withholding on payments of salaries and not paying superannuation—to some not having proper records, to some not recording all their sales to those with absolutely no records at all. Then some who operate outside the whole system. They're not even registered for GST. They don't even have an ABN. What's interesting, and overwhelmingly when we have been in these locations, is people are willing to share local knowledge of those who appear not to be doing the right thing and, therefore, not operating on a level playing field, including paying cash wages and not recording all sales. It's so true that people want to know that we are holding others to account when they themselves are doing the right thing.

While we're talking about small businesses, I suppose it is time to mention the recent criticism of the ATO in the ABC, Four Corners and Fairfax Media. This came as quite a surprise to us, because our work over the past few years with the small business community and their representatives has been very constructive and positive, and we've been receiving pleasing feedback direct from clients and their agents. We are a large organisation. We run complex tax and superannuation systems. We have around 17 million tax returns lodged each year, and when you add in the BAS and activity statements, the number of lodgements is over 35 million. In such a large system human error will inevitably result in mistakes being made—however, nothing like the unsubstantiated claim that we get one in 20 things wrong. Based on the numbers I just gave you, that would mean we allegedly get wrong in the vicinity of 830,000 tax returns or 1.75 million lodgements each year. It just can't be.

There is absolutely no evidence for this, but I will say that we could probably be better at acknowledging our real mistakes, apologising, compensating for any actual financial loss and moving on. Having said that, we have very much enhanced our services to help small businesses. In particular we've introduced an after-hours call-back service, the small business newsroom, small business roadshows, community conversations and simplified BAS reporting requirements. We've made regular contact with all the state small business commissioners and other credible representatives and, more recently, introduced the cash-flow management coaching kit, which we white-label for accountants so they can use it with their clients, and we're about to digitise that because of its popularity.

We also promote our benchmarks so a business can compare how it's going against similar businesses, and we have introduced what we call dispute assist. This dispute assist service recognises that some taxpayers whose business may not be going well are also sometimes going through other stressful issues in their lives, such as a family break-up, or physical and mental health issues. This service is for unrepresented taxpayers. Our people are trained to recognise the signs, and we allocate a guide who helps them through the dispute process. As far as we can see this is the first of its kind among tax authorities anywhere in the world, and the feedback on this from the small business community and their representatives has been outstanding.

Like I've said many times before in speeches in here, our job is to collect money from people. Fortunately most people are willing to do the right thing, because the benefits of a functioning tax system are quite evident, especially when you compare Australia to countries where that is not the case, but not everyone does the right thing, and some, when caught out, go to great lengths to criticise the ATO. As I've acknowledged, sometimes the way we go about our job is not perfect either, although we do compare well against other tax authorities around the world. Whilst acknowledging that we are not perfect and we make mistakes, the allegations that were raised in the Four Corners program and surrounding media commentary in the ABC and Fairfax gave a distorted picture of what is happening with and at the ATO—particularly without regard for those who do need to come forward and work with us to resolve issues in a constructive and cooperative way. Scaring or deterring anyone from facing up to their tax obligations and working with us to resolve those issues is simply irresponsible.

Disappointingly, we think the ABC produced a story contrary to the ABC code of practice and ABC editorial policies, where journalism is meant to meet standards that include:

- Independence, integrity and responsibility
- Accuracy
- Impartiality and diversity of perspectives
- Fair and honest dealing

Seriously, how appropriate is it to have the title of the Four Corners program 'Mongrel bunch of bastards'? It is highly offensive and inaccurate. Think of this for a moment: how would the staff of the ABC feel if News Limited splashed across its front pages that the ABC was simply a 'mongrel bunch of bastards'—or if they said the whole of Fairfax is nothing but a 'mongrel bunch of bastards'? I am sure the indignation would be palpable. Why did the ABC think it was okay to call the staff of the ATO a 'mongrel bunch of bastards'?

I can assure you that the people working at the ATO are not mongrels or bastards; they are normal people trying to do a good job for the benefit of the country. They do not systemically destroy small businesses, they do not pick on 100 per cent innocent, vulnerable people, they certainly don't slowly boil people until they are roasted to death, and they most certainly do not just make up debts, add 90 per cent penalties and sell people's homes without their being able to dispute the debt. These are such ridiculous allegations that it beggars belief that the ABC would present them as

somehow the result of an investigation. For a start, you need a court order to seize a property; we can't just sell it from underneath people. Penalties of 90 per cent are extraordinarily rare, typically reserved for organised crime proceeds and severe offshore tax evasion. People don't get up at the ATO in the morning thinking: 'Whom can I destroy today? Whom can I boil to death?'—allegations all made in that program.

Senator Cormann: That's a relief.

Mr Jordan: It's so obvious, but I have to say it. I just don't understand why the ABC would simply pick up a dossier of five or six mostly old cases that were known to us and mostly also known to the Inspector-General of Taxation—compiled by an organisation which stands to make financial gain by scaring small businesses to join it, and small-business people are encouraged to buy different levels of membership with this organisation, including protected membership, which is in effect the purchase of insurance, called tax investigation insurance. I don't understand why an organisation that is purported to have small-business interests at heart wouldn't be focused more on helping small business get it right early and resolve disputes quickly than on selling membership or insurance cover. In our view there was no real investigation by Four Corners; just a regurgitation of some known, fairly extreme cases to achieve an overblown, sensational story.

Despite the manner in which this story has been created, our response has been to maintain our positive connections with key stakeholders in the small business community, and stay open to hearing feedback. We know this is important. However, in the interests of restoring confidence in the system and in the ATO, we have decided to take the following actions. We are implementing improvements to our administration of the Australian Business Register, the ABR, which we were already proceeding with but will now fast-track. Objections to do with ABN cancellations will be moved to our review and dispute resolution area in a business group managed separately by second commissioner Andrew Mills. This means that reviews of decisions are made independent of the original decision-maker, which is the case now for all objections. We are going to trial an independent review process for certain small business audits from 1 July, with the intention over time that businesses, regardless of size, have access and rights to a fit-for-purpose review prior to the finalisation of an audit. We have asked the Australian National Audit Office to review our whole debt-collection practice. We're also encouraging ideas through groups like our small business stewardship group to ensure a good client experience for small businesses.

Have there been cases we should look into to see how to resolve issues quicker or circuit-break a process that seems to be bogged down? Yes. Is there a systemic problem of abuse of small business? Absolutely not. In fact, our relationship with most small businesses and credible representatives of the small business community is healthy and robust, and none of them in our stewardship groups, including Kate Carnell, the Small Business and Family Enterprise Ombudsman, and state small business commissioners, have raised systemic abuse of small business. In all the scrutiny reviews done in the past five years or so while I have been commissioner, no finding of systemic abuse of small business has been found. This is out of 44 reports, more than 4,700 pages of reports, and that's just from the Inspector-General of Taxation and the Australian National Audit Office; it does not include reviews or inquiries by the House of Representatives Standing Committee on Tax and Revenue or your own Senate inquiries. So none of our consultation processes or Small Business Stewardship Group members and none of the multitude of reviews done on

us have found systemic abuse of small business. However, none of that fact was mentioned on Four Corners.

Since the Four Corners story aired and since the Small Business and Family Enterprise Ombudsman and the Inspector-General of Taxation publicly called on multiple occasions for people to come forward with complaints, a number of approaches have been received, but only 62 actual complaints have emerged since 9 April from all sources—the inspector-general, the Small Business and Family Enterprise Ombudsman and direct to ourselves. The majority of these came direct to us, and we've resolved about half of them already. Many of them have been able to be dealt with wjust one phone call. Again, I reiterate that there has been no systemic issue of abuse found in these complaints. We do take complaints seriously. Inevitably, things do go awry every now and then, and we need to be quicker to acknowledge mistakes or misunderstandings, apologise if necessary, remedy and get things on track.

There is not much more to say, but the various cases you saw reported on Four Corners represent the spectrum of behaviour that we see: those who just don't understand what they're meant to do; those who get in a mess because they leave things too late or long; those who don't pay attention to their admin, put their head in the sand or are struggling without the right help; or, worse, those who are deliberately being evasive.

Let me just explain some of the behaviours we saw in this group of mainly old cases.

Some people claimed significant expenses and did not provide proof of their expenditure, in one case saying the invoices were secret, even though they were given the opportunity a number of times to show the necessary paperwork over a period of time. It would be all too convenient if invoices were secret from the tax office.

In the same case, they couldn't show us the assets that related to these expenses. The assets had apparently been destroyed.

They did not respond to repeated attempts by us to contact them or their agent.

There was abuse of company and trust structures so that they did not pay tax on their income, and expenses were simply concocted and false invoices created.

So what do you expect us to do? Just let it go? Paying tax is not optional when you are in business and you're not a wage and salary earner, so our current strategies are focused on working with viable small businesses to help them and support them in meeting their obligations so they can survive and, hopefully, thrive. As you can appreciate, there are a small number of people who do not meet their obligations or pay the right amount. They resort to game playing and tactics to avoid paying taxes. It is in these circumstances we do need strong powers to be able to bring those kinds of people to account. Australians expect us to. You expect us to. And, by the way, our powers are consistent with tax authorities across the globe. We are no different. Much has been said about our so-called extraordinary powers, but nothing is new in this area and they are typical of the powers of revenue authorities around the world for the reasons I have mentioned.

So, I am, and we are, getting on with our job, rather than getting distracted or overreacting to this story. We will resolve the remaining small number of complaints and move on. We are happy to work with those legitimate representatives of small businesses who have the interests of small business at heart: those people who are in it for the good of the system and, in the interests of helping people and businesses, do the right thing. We are very happy to work with the Small Business and Family Enterprise Ombudsman, the state based small

business commissioners, COSBOA, the minister for small business and, of course, the Inspector-General of Taxation.

Finally, I've appeared before you now for more than five years, openly answering questions as fulsomely and as helpfully as I can. I have made very clear my intentions and commitment to transform the ATO and the tax and super administration in Australia, and have regularly updated you on that progress. This transformation is not a short-term or easy project, but it has been going well and has been recognised as such by many in the community, stakeholders and scrutineers, which include very favourable worldwide comparisons. My officers and I are proud of the work we do, knowing we are not perfect. We are here, open and ready to answer any of your questions. Thank you.

CHAIR: Thank you very much, Mr Jordan. That was a very comprehensive opening statement and, as usual, you seem to have covered an awful lot of the questions that I know a lot of senators wanted to ask. However, there are many questions still to be asked. I just want to confirm that we have you until at least lunchtime?