Memo

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Subject: Private business accounts to be made public

Action Required: For information/action

Large Private Companies and Partnerships Accounts to be Made Public Under Proposals by MED

Background

NARGON has compiled this memo as a follow-up to MED's *Statutory Framework for Financial Reporting* Discussion Document.

We wish to ensure that you are aware of the extent of the threat to companies and partnerships posed by MED that "economically significant" private businesses and partnerships must publicly report their annual financial accounts.

The recommendation is that any privately held non-issuer commercial entity (whether a company or a partnership) will be required to file General Purpose Financial Reports (GPFR) each year with the Registrar of Companies. To qualify as large, they must meet two of the following three criteria:

- Total assets of $10 million;
- Consolidated annual revenues of at least $20 million;
- 50 full time equivalent employees.

MED proposed a similar idea in 2005, which was widely rejected by the business community. This led to the Government throwing the idea out even before decisions were made on other proposals.

One difference regarding the current proposal is that MED seek views on introducing grandfathering provisions, where only new or entities that change ownership will be caught under the new provisions.

NARGON's Viewpoint

Like 2005, we believe this is a completely unwelcome proposal that strikes at the heart of what privately held entities are about. We certainly do not want or need the Government to weaken the privacy protections enjoyed by any privately held entity. MEDs inclusion of grandfathering provisions for this review simply delays the inevitable for many entities, as well as creating separate reporting requirements based on the age of the entity.

To assist you in the arguments regarding why the proposals are not justified, we have included below a simple breakdown of the arguments and facts We would strongly encourage you to submit to MED in addition to any submission made by NARGON on this issue in particular and/or contact the Minister of Commerce with your concerns.

Table 1: Analysis

Arguments for	Counter arguments against
Allow shareholders better access to company records	Shareholders already have the power to ensure this, and minor shareholders are able to make their own decision on involvement in the company.
Allow suppliers to better assess risk of credit or commercial arrangements with the revealing company	Usually achieved through commercial-in-confidence arrangements, credit referees and independent credit assessments.
Allow "stakeholders" better information with which to engage with the company	The stakeholders are customers and staff. The starting position ought to be that fiscal information is private / intellectual property. These groups have established mechanisms for ascertaining their engagement with companies.
Allows employees better protection	Employee interests are already protected by the Employment Relations Act.
Reduce cost of credit for revealing company	Usually achieved through commercial-in-confidence arrangements, or company chooses to regard the extra cost as worth paying.
Grandfathering introduced to help alleviate concerns with current entities	Grandfathering is simply delaying the inevitable for many entities (as has been the case in Australia). Also, it does not make sense that there are two reporting requirements simply based on how long an entity has been in existence.
Better alignment with Australia's financial reporting rules.	Any alignment with Australia should only occur when there is a net benefit to New Zealand. There is no attempt to show this.
Will only affect a small number of entities	MED have admitted their own attempts to work out how many will be affected is difficult. However, this is not the point – it is about a legal structure that entities thought they were entering that is key. The number of companies affected should not be a consideration for introducing these changes
	Other arguments against
	Commercial rivals, particularly publicly owned rivals, will see information that assists them in competing with private companies – for example, deciphering business operations and pricing structures
	Private companies will lose their financial privacy right, but will not gain the capital-raising benefits of public ownership
	Owners of businesses lose privacy over what is effectively their personal finances – a privacy accorded to all other individuals, including managers and owners of publicly-held businesses. Many highly mobile individuals will simply move operations offshore in response.
	GPFR are not used to any significant level by potential creditors or credit agencies.

	No attempt by MED to discuss the outcome of the 2005 decision, where the strong weight of submissions rejected MED's attempt to force public filing of financial reports.
	No attempt by MED to quantify the cost of introducing these proposals. Work done in 2005 by NZIER showed a significant net cost to the economy.