

24 June 2009

Hon Nathan Guy
Member of Parliament
The Executive Wing
Parliament Buildings
Wellington

Dear Minister

We are aware that the Government is currently reviewing the Overseas Investment Act 2005. We are aware of the process this review must follow, however I thought I would share some thoughts with you which may assist you in this review of the Act.

I write from the perspective of a company which employs 8000 staff across its 143 outlets in New Zealand. Eighty per cent of these outlets are operated by local franchisees under a licence and lease arrangement; the remaining sites are operated by McDonald's itself. In May, we announced plans to open 30 new restaurants over the next three years, and increase employee numbers to 14,000 by the end of 2011. The Act has an impact on our ability to purchase sites to open new restaurants, and it is for this reason that the Act is important to us.

We share the Government's view that overseas investment can and does play an important role in economic growth and job creation, and that this is particularly important during an economic recession. Our concern however is that the Act makes no allowance for companies which are foreign owned but yet have long-standing operations in a country, which are on benefit to that country.

McDonald's has been operating as a New Zealand company for more than 30 years. We have local management, employ local people and 112 of our restaurants are operated by local franchisees. McDonald's has made significant contributions at a local level over a sustained period of time. However as a result of McDonald's ownership structure, McDonald's is a "foreign controlled company" for the purposes of the Act and, as such, is bound by the provisions of the Act.

We believe that this is putting our contribution to the New Zealand economy at risk.

A recent example was a site in the central North Island which was slightly greater than 0.4 hectares in size. That site adjoined land which was listed as a reserve under the Act, meaning that the site fell within the ambit of the Act. McDonald's, as a "foreign controlled company", had to seek consent under the Act. McDonald's intention was simply to acquire the site for car parking and accessway and then immediately re-sell the excess land. There was no intention to develop that excess land in the interim.

While initially supportive of the purchase, the vendors were not prepared to wait for McDonald's to obtain consent under the Act given the length of time required for the application process and the level of uncertainty surrounding the outcome. For McDonald's, the additional cost, potential delays and amount of information required for the consent were also deterring factors.

As a result, McDonald's decided not to purchase the site, and the restaurant proposed for the area will not be built. Had the restaurant gone ahead, it was estimated to contribute around \$400,000 to locally based suppliers and producers, together with introducing approximately 60 full-time jobs and other ongoing employment staff, suppliers and contractors.

It is our view that this type of situation should not fall within the Act.

In our view, a review of the Act could consider:

- An exemption for companies where that company is purchasing land to develop businesses that employ New Zealanders and support and benefit local suppliers. Companies requesting this exemption should be required to meet certain financial and economic thresholds, and be able to prove that they can continue to meet those criteria over a sustained period of time.
- Reviewing the type and scope of land defined as sensitive under the Act to ensure that only land that is of particular significance or importance to New Zealand is captured, rather than, for example, all land bordering Department of Conservation property as is currently the case. The Act could be updated to refer to a list of property, available from the Overseas Investment Office, which would subsequently reduce the time spent trying to determine whether a particular piece of land falls within the ambit of the Act.
- An exemption where the intention is to subdivide and re-sell part of the land within a certain timeframe, and where the remaining land is smaller than the area prescribed and caught by the Act.
- Adopting a similar approach to that of Australia, whereby companies can apply for annual approval in advance for all sites they are looking to purchase. At the end of each year, the list is reconciled. This approach could be applied to companies which meet specified thresholds or criteria.

McDonald's supports a review of the Act to ensure that New Zealand communities and natural resources are protected and cared for, but also promotes investment in the New Zealand economy by ensuring legislation is not unwieldy or overly cumbersome.

I hope this is of assistance to you as you complete the review the current legislation.

Yours sincerely

Mark Hawthorne
Managing Director
McDonald's Restaurants (NZ) Ltd